

BRITISH COLUMBIA FERRY SERVICES INC.

CAPITAL MARKETS PLATFORM

MASTER TRUST INDENTURE

Dated as of May 19, 2004

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MASTER TRUST INDENTURE

THIS MASTER TRUST INDENTURE is made as of May 19, 2004

BETWEEN:

BRITISH COLUMBIA FERRY SERVICES INC., a
corporation continued and existing under the laws of the Province
of British Columbia,

("BC Ferries")

- and -

COMPUTERSHARE TRUST COMPANY OF CANADA, a
trust company existing under the laws of Canada and authorized to
carry on the business of a trust company in all of the provinces and
territories of Canada,

(the "Trustee")

WHEREAS BC Ferries wishes to borrow money by creating and issuing bonds and other debt securities and to enter into credit facility agreements, swaps and other hedging instruments and engage in other forms of borrowing, all of the foregoing to be secured in the manner set forth in this Indenture (as defined below);

AND WHEREAS BC Ferries, under the laws relating thereto, is duly authorized to create, issue and secure the Bonds (as defined below) to be issued as herein provided;

AND WHEREAS BC Ferries has done and performed all things necessary to make the Bonds, when issued by BC Ferries and authenticated by the Trustee as provided in this Indenture, legal, valid and binding obligations of BC Ferries with the benefits and subject to the terms of this Indenture and to create and perfect the Security (as defined below) as security for the payment of the principal, interest and all other amounts owing in respect of the Bonds and all other amounts that may be owing under this Indenture;

AND WHEREAS BC Ferries intends to issue Bonds, either as direct evidence of indebtedness or as collateral security for indebtedness and financial obligations of BC Ferries, in Series (as defined below), each Series of Bonds to be issued pursuant to a Supplemental Indenture (as defined below) pursuant to which the terms and conditions of Bonds of such Series shall be set out;

AND WHEREAS the Trustee has agreed to act as trustee with respect to the Bonds on the terms and conditions set out herein;

AND WHEREAS the foregoing recitals are made as representations and statements of fact by BC Ferries and not by the Trustee.

NOW THEREFORE THIS MASTER TRUST INDENTURE WITNESSES that in consideration of the premises, covenants and agreements herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party) the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Indenture and in any supplements or amendments hereto and in the Bonds and any certificate, opinion or other document herein or therein mentioned unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the following meanings, respectively:

“**Acknowledgement Agreement**” means an agreement, substantially in the form annexed as Schedule F, between the Province, BCTFA, BC Ferries and the Trustee, for and on behalf of the Bondholders, providing for, among other things, an acknowledgement of the rights of the Trustee, for and on behalf of the Bondholders, under this Indenture, as such agreement may be amended from time to time.

“**Additional Indebtedness**” means on any date on or after the date hereof:

- (a) an agreement entered into by BC Ferries or a Designated Subsidiary on that date pursuant to which an obligation may be incurred;
- (b) an obligation created, incurred or assumed by BC Ferries or a Designated Subsidiary on that date, other than an obligation created, incurred or assumed pursuant to an agreement entered into by BC Ferries or a Designated Subsidiary before that date if such prior obligation already comprises Borrowings of BC Ferries or such Designated Subsidiary; or
- (c) the redesignation by BC Ferries on that date of all or part of a Credit Facility, such that it ceases to be a Restricted Credit Facility,

provided:

- (d) the agreement, obligation or redesignation causes an increase in Borrowings at the time it is entered into, created, incurred, assumed or redesignated, and is not an agreement or obligation between BC Ferries and a Designated Subsidiary or between Designated Subsidiaries; and
- (e) as a result, the Borrowings of BC Ferries or a Designated Subsidiary (reduced by the balances, if any, then held in any Series Sinking Funds) increase on that date.

“**Additional Indebtedness Test**” means the requirements for incurring Additional Indebtedness set out in Section 6.5, provided that the application of the Additional Indebtedness Test in accordance with Sections 5.13, 5.14, 6.8, 6.9 and 6.10 shall be made assuming the Additional Indebtedness is on the same terms and conditions as those set out in this Indenture, the term of

the Additional Indebtedness is 10 years and the interest rate is the rate payable on a Government of Canada Bond with a term of 10 years plus 150 basis points.

“**Additional Security**” means any Designated Subsidiary Guarantee, Leasehold Mortgage, Real Property Mortgage, Security Agreement and other security agreements excluding this Indenture which may be issued, granted or established from time to time by BC Ferries, any Designated Subsidiary or any other Person to or in favour of the Trustee for the purpose of providing security for the obligations of BC Ferries to the Trustee and the Bondholders hereunder or under the Bonds or for the purpose of providing security for the obligations of any Person to the Trustee in respect of the guarantee by such Person of the obligations of BC Ferries to the Trustee and the Bondholders hereunder or under the Bonds.

“**Adverse Rating Effect**” means at any time:

- (a) the withdrawal of a rating, or reduction below the then current rating, for any outstanding Obligation Bonds by any Rating Agency which, at such time, has a current rating on any such outstanding Obligation Bonds; or
- (b) the placement of BC Ferries or any outstanding Obligation Bonds on credit watch (other than with positive implications) or an adverse change in the credit outlook for BC Ferries or any outstanding Obligation Bonds by any such Rating Agency;

provided that an Adverse Rating Effect shall be deemed not to have occurred so long as BC Ferries and all outstanding Obligation Bonds have ratings of at least A- with a stable outlook or the equivalent thereof by each of the Rating Agencies rating the Bonds.

“**Affiliate**” of any specified Person means any company of which that Person beneficially owns or controls, directly or indirectly, Voting Shares carrying more than 10% of the voting rights attached to all voting securities of such company for the time being outstanding.

“**Attributable Indebtedness**” in respect of a Sale-Leaseback Transaction or a Lease-Leaseback Transaction means, as at the time of determination, the amount of Capital Lease Obligations under such lease where such lease is a Capital Lease or the amount of the Capitalized Operating Lease Obligations under such lease where such lease is a Capitalized Operating Lease.

“**Authorized Newspapers**” means not fewer than two newspapers or financial journals customarily published (except in the case of legal holidays) at least once a day for at least five days in each calendar week, one of which is published in the English language and is of general circulation in Vancouver, British Columbia and Toronto, Ontario (a current example of which is the Globe & Mail) and the other of which is published in the French language and is of general circulation in Montreal, Quebec (a current example of which is La Presse).

“**Authorized Officer**” means:

- (a) with respect to BC Ferries, the President and Chief Executive Officer, any Executive Vice President, the Vice President, Corporate Affairs, General Counsel and Corporate Secretary, the Treasurer or any other senior officer so designated

by a certificate signed by any of them and filed with the Trustee for so long as such designation shall be in effect; and

- (b) with respect to the certification of any provision of the articles or of a resolution of BC Ferries or any other document filed by the Corporate Secretary or an Assistant Corporate Secretary in his or her capacity as such officer or of which he or she has custody on behalf of BC Ferries, the President and Chief Executive Officer, any Executive Vice President, the Vice President, Corporate Affairs, General Counsel and Corporate Secretary or an Assistant Corporate Secretary.

“**Bank**” means a Canadian chartered bank listed in Schedule I to the *Bank Act* (Canada), a Canadian chartered bank listed in Schedule II to the *Bank Act* (Canada) which has a standalone credit rating (not relying on any guarantee or other credit enhancement by any affiliate, unless such guarantee or credit enhancement is actually provided, and provided that any such affiliate has its head office in a member state of the Organisation for Economic Co-operation and Development) of at least A- or the equivalent thereof by at least two of the Rating Agencies for its long term senior debt or, if no bank meeting the foregoing criteria exists, any other financial institution approved by a Majority Resolution of the Bondholders.

“**Bankruptcy**” means any re-organization, arrangement, composition, re-adjustment, liquidation, dissolution, winding-up, termination of existence or declaration of bankruptcy or insolvency of a Person or similar relief under any present or future law relating to bankruptcy, insolvency or other relief for or against debtors.

“**BC Ferries**” means British Columbia Ferry Services Inc., a corporation continued, organized and existing under the laws of the Province of British Columbia and includes any permitted successor corporation.

“**BCFA**” means the B.C. Ferry Authority.

“**BCTFA**” means the BC Transportation Financing Authority, a Crown Corporation.

“**Bond**” means any evidence of indebtedness of BC Ferries authenticated and delivered by the Trustee under and pursuant to this Indenture, whether such evidence of indebtedness is an Obligation Bond or a Pledged Bond hereunder.

“**Bondholder**” or “**holder**” or words of similar import, when used with reference to a Bond, means any Person who is, at the relevant time, the Person whose name is entered in one of the registers referred to in Article 3 for any Outstanding Bond, including any Person in whose name a Pledged Bond is registered as trustee, security holder or in another fiduciary capacity.

“**Bondholder’s Certificate**” means a certificate executed by a Bondholder pursuant to Section 9.16 or Section 10.6(b) that specifies the matters therein required and signed, in the case of a Bondholder that is a corporation, by any authorized officer of such corporation.

“**Bondholders’ Request**” means an instrument requesting the Trustee to take or refrain from taking some action or proceeding as specified therein, signed in one or more counterparts by the holder or holders of Bonds representing not less than 25% of the principal amount of all Bonds

then Outstanding, a resolution certified as duly passed by holders of Outstanding Bonds representing more than 50% of the votes cast in respect of such resolution at a meeting or, if so provided in any Supplemental Indenture relating to a Series of Bonds, passed by the holder or holders of Bonds of that Series then Outstanding satisfying the requirements of the relevant Supplemental Indenture, which resolution is in full force and effect on the date of such certification.

“**Book Debts**” means all debts, accounts, claims, monies and choses in action which are now due, owing or accruing due or which may hereafter become due, owing or accruing due to BC Ferries or any Designated Subsidiary, including accounts receivable and proceeds from any business interruption insurance and from any parking or concession contract, lease or sublease entered into by BC Ferries or any Designated Subsidiary.

“**Borrowing**” means (without duplication), with respect to any Person at any time, whether recourse is to all or a portion of the assets of such Person and whether or not contingent:

- (a) every obligation for borrowed money;
- (b) subject to Section 2.9(b), every obligation evidenced by bonds, debentures, notes or other similar instruments;
- (c) every reimbursement obligation with respect to letters of credit, letters of guarantee, bankers’ acceptances or similar instruments:
 - (i) due or owing, where such instruments have been issued as assurance of performance of obligations (except for other Borrowings) in the ordinary course of business; and
 - (ii) whether or not due or owing, where such instruments have been issued in any other circumstance;
- (d) Purchase Money Obligations;
- (e) Capital Lease Obligations;
- (f) Capitalized Operating Lease Obligations;
- (g) every obligation issued or assumed as the deferred purchase price of property or services (but excluding trade accounts payable or expenses incurred in the ordinary course of business), net of payments and prepayments and only to the extent that such property has been delivered or such services provided;
- (h) all obligations under any conditional sale or other title retention agreements with respect to any property;
- (i) every Swap Agreement relating to the hedging of a Borrowing, provided that for purposes of determining the amount of Borrowings outstanding at any time in respect of such Swap Agreement, there shall be included as Borrowings the net

amount (positive or negative) that would be carried in the accounts of such Person at that time with respect to such agreements as a liability in accordance with GAAP;

- (j) the maximum amount of every obligation of the type referred to in paragraphs (a) to (h) above that may be available to such Person pursuant to any agreement or instrument (other than any undrawn amount under any Restricted Credit Facility) whether or not the conditions precedent to availability under such agreement or instrument have been met; and
- (k) Guarantees by such Person of obligations of any other Person of the type referred to in this definition,

in each case expressed in Canadian Dollars and, with respect to any amount which is expressed in any other currency, the Canadian Dollar amount thereof shall be the Fluctuating Cdn. \$ Equivalent thereof at that time; provided, however, that Borrowings shall not include Subordinated Debt, any Borrowings between BC Ferries and its Designated Subsidiaries or between Designated Subsidiaries or any liability for deferred income Taxes.

“**Business Day**” means any day on which banks are generally open for business in the cities of Vancouver and Toronto, other than Saturday, Sunday or any statutory or civic holiday in either of these cities.

“**Canada Yield Price**” in relation to any Bond being redeemed means the price, calculated at 11:30 a.m. (Toronto time) on the fifth Business Day preceding the Redemption Date, which is that price which will provide a yield to maturity on such Bond (determined from the Redemption Date), expressed as a rate per annum, compounded semi annually and calculated in accordance with generally accepted financial practice, equal to the Government of Canada Yield plus that number of basis points specified in the Supplemental Indenture authorizing such Bonds;

“**Canadian Dollars**” and “**Cdn. \$**” means the currency of Canada.

“**Capital Lease**” means any lease of property of any nature of a Person which, in accordance with GAAP, is required to be classified and accounted for on the balance sheet of such Person as an asset.

“**Capital Lease Obligations**” means the obligations of a Person to pay rent or other amounts under a lease which is classified and accounted for as a Capital Lease on the balance sheet of such Person and, for purposes of this Indenture, the amount of such obligations shall in each case be the capitalized amount thereof, but excluding rent which is prepaid under the Ferry Terminal Leases as at the date of this Indenture.

“**Capitalized Operating Lease**” means a lease of a Vessel, a major component of a Vessel or a lease of a Ferry Terminal Property or an Other Ferry Terminal Property, in each case where the original term of the lease and any mandatory renewals is five years or more and where such lease is not a Capital Lease.

“Capitalized Operating Lease Obligations” means the capitalized obligation of a Person to pay rent or similar amounts (including taxes on rent or similar amounts, but excluding amounts determined by BC Ferries, acting reasonably, to be allocable to other taxes, utilities and operating costs) under a Capitalized Operating Lease, the amount of such capitalized obligation to be determined by deeming any such Capitalized Operating Lease (notwithstanding its accounting treatment under GAAP) to be a Capital Lease for the purposes of this calculation, but excluding rent which is prepaid under the Ferry Terminal Leases as at the date of this Indenture.

“CDS” means The Canadian Depository for Securities Limited and its successors.

“Central Government Obligation” means any obligation of or unconditionally guaranteed as to principal and interest by the central government of a country which is denominated in the currency of that country, or in the case of Canada, which is denominated in the currency of Canada or in the currency of the United States of America.

“Claims” means any and all claims, liabilities, demands, losses, damages, actions and causes of action of any kind or nature, including, without limitation, expenses, costs and legal fees on a solicitor and client basis.

“Coastal Ferry Business” means the ownership and leasing (as tenant or lessee) and operation of the Vessels and Ferry Terminal Properties used in the BC Ferry System (as defined in the Coastal Ferry Services Contract) and any other coastal ferry route between two terminals in British Columbia.

“Coastal Ferry Business Book Value” means the net book value of the fixed assets of BC Ferries and its Designated Subsidiaries used in the Coastal Ferry Business.

“Coastal Ferry Services Contract” means the contract so titled, made as of the 1st day of April, 2003 between the Province as represented by the Minister of Transportation and BC Ferries, as it may be amended or supplemented from time to time.

“Collateral” means all of the property and assets of BC Ferries and any Designated Subsidiaries and all proceeds thereof, and any reference to **“Collateral”** shall be deemed to be a reference to **“Collateral or any part thereof”** except where otherwise specifically provided.

“Consolidated Net Income” means, for any relevant period, the net income or net loss reported in the quarterly and annual consolidated statement of income included in the consolidated financial statements of BC Ferries most recently issued or, if not issued, approved by its Board of Directors, prepared in accordance with GAAP.

“Core Business” means the following businesses and services:

- (a) the management, operation, maintenance, repair and development of ferry terminals;
- (b) the acquisition, management, operation, maintenance and repair of vessels to provide ferry services; and

- (c) such other business or service which, in the opinion of BC Ferries, acting reasonably, is related, ancillary or complementary to the businesses and services set forth in paragraphs (a) and (b) above.

“Core Business Book Value” means the net book value of the fixed assets of BC Ferries and its Designated Subsidiaries used in the Core Business.

“Costs of Issuance” means any amount payable or reimbursable, directly or indirectly, by BC Ferries and related to the authorization, offering, sale, issuance and delivery of Bonds or the entering into of any agreement or instrument secured by a Bond, including but not limited to travel and other expenses of any director, officer or employee of BC Ferries in connection with the authorization, offering, sale, issuance and delivery of such Bonds or the entering into of such agreement or instrument, printing costs, costs of preparation and reproduction of documents, filing, registration and recording fees, fees and charges of any trustee, fees payable for listing the Bonds on a securities exchange, legal fees and disbursements, fees and disbursements of any consultant, consulting engineer or Independent Accountant, fees and disbursements of other consultants and professionals, costs of credit ratings, fees and charges for preparation, execution, transaction and safekeeping of Bonds, credit facility charges (other than repayment of principal, payment of interest, commitment fees, annual fees or similar amounts) and underwriting and agency fees and commissions (whether payable as such or reflected in a discount to the purchase price of a Bond).

“Counsel” means a barrister and solicitor or attorney (other than a barrister and solicitor or attorney who is an employee of BC Ferries) or firm of barristers and solicitors or attorneys, in each case selected by BC Ferries and satisfactory to the Trustee, acting reasonably.

“Counsel’s Opinion” and **“Opinion of Counsel”** means a written opinion of Counsel.

“Credit Facility” means a Letter of Credit, a line of credit (revolving or non-revolving), a standby purchase agreement, a bond insurance policy, a surety bond or other financial instrument which obligates a third party to pay or provide funds to, or at the direction of, BC Ferries or a Fiscal Agent and in relation to which a related Pledged Bond is issued pursuant to a Supplemental Indenture.

“Crown Corporation” means a corporation which is a “government corporation” under the *Financial Administration Act* (British Columbia) as the definition of “government corporation” reads at the date of this Indenture.

“DBRS” means Dominion Bond Rating Service Limited and its successors and, if such corporation shall no longer perform the functions of a securities rating agency, DBRS shall mean any other nationally recognized securities rating agency designated by BC Ferries.

“Debt Service” means, at any date, the sum of the Net Interest Amount, the Total Principal Reduction Amount and Rent for the one year period ending on that date.

“Debt Service Coverage Ratio” means, on any date, the ratio of (a) EBITDAR less Income Taxes to (b) Debt Service, calculated on a consolidated basis for BC Ferries and its Designated Subsidiaries for the four Fiscal Quarters ending on the last day of the most recent Fiscal Quarter

for which quarterly or annual financial statements are issued or are required to have been issued by BC Ferries or have been approved by the Board of Directors of BC Ferries.

“Debt Service Reserve Fund” means the Fund so designated, established and funded as provided in Section 4.1 and in any Supplemental Indenture and includes all money and Permitted Investments therein or to the credit thereof, and all proceeds of any of the foregoing.

“Default” means any event which with the giving of notice or the lapse of time or both would constitute an Event of Default.

“Depository” means, with respect to Bonds of any Series issuable in the form of one or more Global Bonds, a clearing agency (registered, if required, under the securities legislation governing such Series) that is designated to act as depository for such Bonds pursuant to the provisions of the Supplemental Indenture authorizing such Series of Bonds.

“Designated Subsidiary” means each Wholly Owned Subsidiary which has been designated by BC Ferries in accordance with Section 6.10 as a Designated Subsidiary, but for greater certainty does not include a Wholly Owned Subsidiary in respect of which such designation as a Designated Subsidiary has been withdrawn by BC Ferries in accordance with Section 6.10.

“Designated Subsidiary Guarantee” means the guarantee by a Designated Subsidiary of the due and punctual performance of all obligations of BC Ferries under this Indenture and the Supplemental Indentures, substantially in the form attached hereto as Schedule A with such changes as the Trustee may approve, acting reasonably, and relying solely upon an Opinion of Counsel that such changes are not materially prejudicial to the interests of the Bondholders.

“Discretionary Expenditures” means any expenditure by BC Ferries or any Designated Subsidiary which is not an expenditure in the ordinary course of business in relation to operating costs, maintenance capital expenditures, taxes, Rent or payment of Debt Service as it becomes due.

“Distribution” by a Person means:

- (a) any dividend or distribution on or in respect of the shares of such Person (including any payment in connection with any merger or consolidation) to the direct or indirect holders of its shares (except dividends or distributions payable solely in shares or in options, warrants or other rights to purchase shares, and except dividends or distributions payable by a Designated Subsidiary to BC Ferries or another Designated Subsidiary);
- (b) any purchase, redemption, acquisition or retirement for value with respect to any shares of such Person or any direct or indirect parent of such Person (except purchases, redemptions, acquisitions or retirements for value with respect to any shares of a Designated Subsidiary); and
- (c) any payments made on account or in respect of any Subordinated Debt.

“**EBITDAR**” means, for any relevant period and without duplication, the Consolidated Net Income for such period,

plus:

- (a) the net loss of Non-Designated Subsidiaries deducted in calculating Consolidated Net Income;
- (b) the aggregate consolidation adjustments that were deducted in calculating Consolidated Net Income in respect of transactions between Non-Designated Subsidiaries and, as the case may be, BC Ferries or Designated Subsidiaries;
- (c) Net Interest Amount;
- (d) Income Taxes;
- (e) amounts deducted in calculating Consolidated Net Income in respect of depreciation and amortization of BC Ferries and Designated Subsidiaries;
- (f) amounts deducted in calculating Consolidated Net Income in respect of Rent payable by BC Ferries and Designated Subsidiaries;
- (g) cash dividends received by BC Ferries and Designated Subsidiaries from Non-Designated Subsidiaries which have not otherwise been included in Consolidated Net Income;
- (h) non-cash items deducted in calculating Consolidated Net Income in respect of write-downs of Vessels and losses realized on the disposition of Vessels to the extent such losses were deducted in calculating Consolidated Net Income;
- (i) amounts deducted in calculating Consolidated Net Income in respect of extraordinary items of BC Ferries and Designated Subsidiaries; and
- (j) amounts deducted in calculating Consolidated Net Income in respect of interest on Subordinated Debt;

minus:

- (k) the net income of and any other amount relating to Non-Designated Subsidiaries added in the calculation of Consolidated Net Income, other than cash dividends received by BC Ferries and its Designated Subsidiaries;
- (l) the aggregate consolidation adjustments that were added in calculating Consolidated Net Income in respect of transactions between Non-Designated Subsidiaries and, as the case may be, BC Ferries or Designated Subsidiaries;
- (m) non-cash items added in calculating Consolidated Net Income in respect of write-ups of Vessels and proceeds of disposition of Vessels in excess of their respective

book value to the extent such excess was added in calculating Consolidated Net Income; and

- (n) amounts added in calculating Consolidated Net Income in respect of extraordinary items of BC Ferries and Designated Subsidiaries;

all of which shall be calculated in accordance with GAAP unless otherwise expressly described.

“**Emergency Meeting**” has the meaning ascribed thereto in Section 9.21.

“**Event of Default**” has the meaning ascribed thereto in Section 10.1.

“**Expropriation**” means a compulsory taking of privately owned property pursuant to a power of expropriation, compulsory acquisition, compulsory purchase, condemnation, eminent domain or any similar power exercised by a government, any political subdivision thereof, any authority or agency therein or any other person having the power to expropriate.

“**Extraordinary Resolution**” means a resolution duly passed at a meeting (including an adjourned meeting) of the Bondholders duly convened for the purposes and held in accordance with the provisions of Article 9 and passed by the holder or holders of Outstanding Bonds of all Series affected by the subject matter of the resolution representing not less than 66 2/3% of the votes cast in respect of such resolution at such meeting, and, if so provided in any Supplemental Indenture related to a Series, passed by the holder or holders of Bonds of that Series then Outstanding satisfying the requirements of the relevant Supplemental Indenture, which resolution is in full force and effect on the date of such certification. “**Extraordinary Resolution**” also means a resolution passed as such by an instrument in writing in accordance with Section 9.14.

“**Ferry Terminal Leases**” means the leases entered into by BC Ferries as tenant pursuant to the Master Agreement with respect to certain Ferry Terminal Properties, as they may be amended or supplemented from time to time.

“**Ferry Terminal Properties**” means those properties leased to BC Ferries under the Ferry Terminal Leases and any other real property from time to time acquired or leased by BC Ferries or any Designated Subsidiary for use as a ferry terminal for the purposes of operating the Coastal Ferry Business.

“**Fiscal Agent**” means the Trustee, the depositories of the Funds or Accounts required under this Indenture or any sub-account thereof or any Paying Agent or any or all of them, as may be appropriate.

“**Fiscal Quarter**” means, with respect to BC Ferries, a three month period commencing on April 1, July 1 and October 1 of each calendar year and January 1 in the succeeding calendar year and ending on June 30, September 30 and December 31 of the same calendar year and March 31 of the succeeding calendar year, or such other fiscal quarter as BC Ferries may adopt by the giving of notice thereof to the Trustee, and “**Fiscal Quarter End**” means the last day of a Fiscal Quarter.

“**Fiscal Year**” means, with respect to BC Ferries, a 12 month period commencing on April 1 of each calendar year and ending on March 31 of the next calendar year, or such other fiscal year as BC Ferries may adopt by giving notice thereof to the Trustee, and “**Fiscal Year End**” means the last day of a Fiscal Year.

“**Fluctuating Cdn. \$ Equivalent**” means, as of any particular date, with reference to any amount (the “**Original Amount**”) expressed in a currency other than Canadian Dollars (the “**Original Currency**”), an amount expressed in Canadian Dollars which would be required to buy the Original Amount of the Original Currency using the noon rate of the Bank of Canada for the purchase of the Original Currency with Canadian Dollars on that date or any equivalent rate published by the Bank of Canada as a successor or similar rate.

“**Forecast Debt Service**” means, at any date, the amount, determined by BC Ferries, acting reasonably and using reasonable assumptions, and set out in an Officer’s Certificate pursuant to Section 4.1, of the sum of the Gross Interest Obligations and the Principal Reduction Amount for a particular Series of Bonds or for all Obligation Bonds, as the context may require, for such period as the context may require, ending on the date specified in such Officer’s Certificate.

“**Fully Funded**” means, as at any date:

- (a) in respect of any Series Reserve Account, that such Series Reserve Account is funded to the maximum level required for such Series Reserve Account as at such date under this Indenture or any Supplemental Indenture; and for greater certainty:
 - (i) if any funds have been withdrawn from such Series Reserve Account, such Series Reserve Account will not be regarded as Fully Funded unless such Series Reserve Account has been and remains Fully Replenished as at such date; and
 - (ii) if, as a consequence of an event or circumstance occurring on or prior to such date, BC Ferries is required under the terms of any Supplemental Indenture to increase the amount to be held in such Series Reserve Account, such Series Reserve Account will not be regarded as Fully Funded until the amount of such increase has been deposited to such Series Reserve Account, whether or not the period within which BC Ferries is required to make such deposit has expired;
- (b) in respect of the Debt Service Reserve Fund:
 - (i) that all Series Reserve Accounts are Fully Funded as at such date; and
 - (ii) either that the amount in the Debt Service Provision Account (as defined in Section 4.1(b)(ii)) as at such date is not less than the amount required under Section 4.1(b)(ii), or that BC Ferries has no obligation as at such date to make any deposit to the Debt Service Provision Account pursuant to Section 4.1(b)(ii); and

- (c) in respect of any Series Sinking Fund, that such Series Sinking Fund is funded to the maximum level required for such Series Sinking Fund as at such date under this Indenture or any Supplemental Indenture.

“**Fully Replenished**” has the meaning ascribed in Section 4.1(b)(i) in respect of a Series Reserve Account, and has the meaning ascribed in Section 4.1(b)(iii) in respect of the Debt Service Reserve Fund.

“**Fund**” or “**Account**” means any fund, reserve fund or account required to be established pursuant to this Indenture.

“**GAAP**” means Canadian generally accepted accounting principles, but subject to Section 1.10.

“**General Sinking Fund**” means the General Sinking Fund which may be created and established pursuant to Section 4.2 and any applicable Supplemental Indenture and includes all money and Permitted Investments therein or to the credit thereof and all proceeds of any of the foregoing.

“**Global Bond**” means a Registered Bond that evidences all or part of the Bonds of any Series and bears the legend set forth in Section 3.4 or a legend to substantially the same effect as may be specified for such Series pursuant to the provisions of the Supplemental Indenture authorizing such Series.

“**Government of Canada Bond**” means a non-callable Government of Canada bond issued in Canadian dollars with interest payable semi-annually, not in advance.

“**Government of Canada Yield**” means, on any date, the then current mid-market yield to maturity on such date expressed as a rate per annum, assuming semi-annual compounding, which a Government of Canada Bond would yield if issued in Canadian dollars in Canada at 100% of its principal amount on such date with a term to maturity equal to the remaining average life of the Bonds being redeemed. The Government of Canada Yield with respect to any proposed redemption shall be determined as at a given date by two Investment Dealers selected by BC Ferries, who shall confer as to such determination and shall report jointly to BC Ferries and the Trustee the percentage figure they have agreed upon or, failing such agreement, the arithmetic average of the respective percentages determined by each; such agreed percentage or average, as the case may be, shall be the Government of Canada Yield for the purpose of calculating the Canada Yield Price in relation to the redemption of such Bonds.

“**Governmental Approvals**” means any authorization, order, permit, approval, grant, licence, consent, right, privilege, certificate or the like which may be issued or granted by law or by rule, regulation, policy or directive of any Governmental Authority now or hereafter required in connection with the business, properties or assets of BC Ferries or any Designated Subsidiary, including in connection with the use, management, maintenance, operation and repair of any of the Ferry Terminal Properties or Vessels by BC Ferries or its Designated Subsidiaries, the creation of the Lien Hereof or the implementation of any capital improvements.

“**Governmental Authority**” means any international, federal, provincial, state, municipal or local government, parliament, legislature, council, regulatory authority, bureau, regulatory body,

department, agency, commission, court or other law, order, regulation, bylaw, policy or rule-making entity having jurisdiction on behalf of any nation or state or province or other subdivision thereof or any municipality, district or other subdivision thereof.

“**Gross Interest Obligations**” means, without duplication, with respect to any period, the total amount of (a) interest, fees and other amounts accrued as or in the nature of interest on Borrowings (including Capital Leases) by BC Ferries and its Designated Subsidiaries in that period, in accordance with GAAP, (b) amounts paid or payable by BC Ferries or any Designated Subsidiary in that period in respect of Swap Agreements included in Borrowings to the extent such amounts reflect a swap or hedge in respect of interest (including the currency of payment of interest) on Borrowings; but excluding (v) any amount which constitutes Rent, (w) any rent which has been prepaid under Ferry Terminal Leases as at the date of this Indenture (x) interest on Subordinated Debt, (y) legal, consultant’s and other costs (but excluding commitment or similar fees) incurred in the ordinary course of business in connection with the negotiation and documentation of transactions by which such Borrowings are incurred and (z) any make-whole premium on the redemption of any Borrowing which is not amortized over the term of any subsequent Borrowing in accordance with GAAP; provided that for the purpose of calculating Forecast Debt Service for a particular Series of Bonds, “Gross Interest Obligations” shall be the total amount of interest, fees and other amounts accrued on or in the nature of interest on such Series of Bonds for the relevant period.

“**Gross Interest Receivables**” means, with respect to any period, the total amount of interest, fees and other amounts accrued as revenue of BC Ferries or a Designated Subsidiary in that period on the credit balance of any Fund or Account (provided such Fund or Account is Fully Funded) and any amounts received or receivable by BC Ferries or a Designated Subsidiary in respect of Swap Agreements included in Borrowings to the extent such amounts reflect a swap or hedge in respect of interest obligations (including the currency of payment of interest).

“**GST**” means the tax presently levied under Part IX of the *Excise Tax Act* (Canada), as amended or substituted from time to time.

“**Guarantee**” by any Person means any obligation (other than an endorsement in the ordinary course of business of negotiable instruments for deposit or collection) of such Person guaranteeing, or in effect guaranteeing, any Borrowings or other obligation of any other Person (the “**primary obligor**”) in any manner, whether directly or indirectly, including any obligation incurred through an agreement, contingent or otherwise, by such Person:

- (a) to purchase such Borrowings or obligation or any property or assets constituting security therefor;
- (b) to advance or supply funds (i) for the purchase or payment of such Borrowings or obligation, (ii) for the purpose of maintaining working capital, net worth or other balance sheet condition of the primary obligor, or (iii) otherwise to advance or make available funds for the purchase or payment of such Borrowings or obligation;

- (c) to lease property or to purchase securities or other property or services primarily for the purpose of assuring the owner of such Borrowings or obligation of the ability of the primary obligor to make payment of the Borrowings or obligation; or
- (d) otherwise to assure or indemnify the owner of the Borrowings or obligation of the primary obligor against loss in respect thereof.

For the purposes of all computations made under this Indenture, a Guarantee in respect of any Borrowings shall be deemed, without duplication, to be equal to the principal amount of such Borrowings and any capitalized interest thereon (and any other amount which becomes due and owing) which has been guaranteed, and a Guarantee in respect of any other obligation or liability shall be deemed to be Borrowings equal to the maximum aggregate amount of such obligation or liability unless the Guarantee provides for a maximum liability (whether or not with interest on unpaid amounts thereunder), in which case the Guarantee shall be deemed to be equal to such maximum liability.

“Improvements” means any building, facility, structure or utility situated or to be situated on, in or under the Ferry Terminal Properties or any part thereof, together with all erections, improvements, pavements, landscaping, filled foreshore, infrastructure, Marine Structures, fixed plant, fixed machinery, fixed equipment and all other fixtures and fixed assets now or hereafter located on, in or under the Ferry Terminal Properties or any part thereof, and without regard to who installed or made them.

“Income Taxes” means amounts deducted in calculating Consolidated Net Income in respect of income taxes of BC Ferries and Designated Subsidiaries.

“Indenture”, **“hereto”**, **“herein”**, **“hereof”**, **“hereby”**, **“hereunder”** and similar expressions refer to this Indenture and not to any particular article, section, subsection, paragraph, subparagraph or other portion thereof, and include any and every instrument ancillary hereto or in implementation hereof, including any Supplemental Indenture which amends this Indenture or under which Bonds are issued, and the expressions **“Article”**, **“Section”** and **“Paragraph”**, followed by a number, unless otherwise stated, mean and refer to the specified article, section or subsection of this Indenture.

“Independent Accountant” means a nationally recognized firm of chartered accountants selected by BC Ferries and licensed to practise in the Province of British Columbia, which may be BC Ferries’ auditors.

“Investment” means any investment, in cash or by delivery of property, made directly or indirectly in any Person whether by acquisition of securities, indebtedness or other obligations or by loan, advance, capital contribution, granting of financial assistance or otherwise; provided, however, that “Investment” shall not include a routine investment in property to be used or consumed in the ordinary course of business.

“Investment Dealer” means any of CIBC World Markets Inc., BMO Nesbitt Burns Inc., RBC Dominion Securities Inc. and TD Securities Inc., and their respective successors, and any other

recognized investment dealer who is a member of the Investment Dealers' Association of Canada or any successor association.

“Lease-Leaseback” means an arrangement under which any property or asset is leased by BC Ferries or any Designated Subsidiary to a Person other than BC Ferries or a Designated Subsidiary which (for consideration) leases or otherwise gives or grants the right to use such property or asset to BC Ferries or any Designated Subsidiary, regardless of the accounting treatment of such arrangement.

“Leasehold Mortgage” means a charge, mortgage, pledge, security interest, assignment, sublease, deed of trust or similar instrument pursuant to which BC Ferries or any Designated Subsidiary charges, mortgages, pledges or grants a security interest in, or assigns, subleases or grants an equitable interest in its leasehold interest in and to, any Ferry Terminal Lease in favour of the Trustee, which shall be in substantially the form attached hereto as Schedule B with such changes as the Trustee may approve, acting reasonably, and relying solely upon an Opinion of Counsel that such changes are not materially prejudicial to the interests of the Bondholders.

“Letter of Credit” means an unconditional, irrevocable letter of credit issued by a Bank.

“Leverage Ratio” means, on any date, the ratio of aggregate Borrowings to the sum of aggregate Borrowings and consolidated shareholders' equity of BC Ferries and its Designated Subsidiaries, calculated on a consolidated basis for BC Ferries and its Designated Subsidiaries on the last day of the most recent Fiscal Quarter for which quarterly or annual financial statements are issued, or are required to have been issued, by BC Ferries or have been approved by the Board of Directors of BC Ferries.

“Lien” means any mortgage, lien, pledge, assignment, charge, security interest, title retention agreement intended as security, hypothec, execution, seizure, attachment, garnishment or other similar encumbrance.

“Lien Hereof” means each and every Lien constituted by or pursuant to this Indenture including, without limiting the generality of the foregoing, the Liens granted by BC Ferries in favour of the Trustee on behalf of the Bondholders pursuant to Section 5.1, and each and every Lien constituted from time to time by or pursuant to any and all Supplemental Indentures, in any manner whatsoever created.

“Major Ferry Terminal Property” means any Ferry Terminal Property used to provide ferry transportation services on a Major Route.

“Major Route” means any route described as a “Major Route” in the Coastal Ferry Services Contract (including Schedule “A” to that contract), as from time to time amended, but in any event including routes between any two of the Ferry Terminal Properties located at Tsawwassen, Swartz Bay, Duke Point, Departure Bay and Horseshoe Bay.

“Major Vessel” means any Vessel designated by BC Ferries, acting reasonably, as a Vessel which is principally used on one or more Major Routes, taking into account seasonal rotation, maintenance rotation and interchangeability of Vessels which may be used for temporary service on a route.

“Majority Resolution” means a resolution duly passed at a meeting (including an adjourned meeting) of the Bondholders duly convened for the purposes and held in accordance with the provisions of Article 9 and passed by the holder or holders of Outstanding Bonds of all Series affected by the subject matter of the resolution representing more than 50% of the votes cast in respect of such resolution at such meeting, and, if so provided in any Supplemental Indenture related to a Series, passed by the holder or holders of Bonds of that Series then Outstanding satisfying the requirements of the relevant Supplemental Indenture, which resolution is in full force and effect on the date of such certification. **“Majority Resolution”** shall also mean a resolution passed as such by an instrument in writing in accordance with Section 9.14.

“Marine Structures” means dolphins, floating leads, wingwalls, transfer decks, trestles, docks, ramps and associated structures and equipment on the Ferry Terminal Properties or any part thereof.

“Master Agreement” means the agreement dated for reference April 1, 2003 and effective March 31, 2003 made between the BCTFA, BC Ferries, the Province as represented by Land and Water British Columbia Inc. and the Province as represented by the Minister of Transportation with respect to, *inter alia*, the entering into of the Ferry Terminal Leases, as amended by an agreement dated April 1, 2003 and as further amended and supplemented from time to time.

“Material Contracts” means:

- (a) the Coastal Ferry Services Contract;
- (b) the Master Agreement;
- (c) the Ferry Terminal Leases in respect of the Major Ferry Terminal Properties;
- (d) the Acknowledgement Agreement; and
- (e) any other contract which may be so designated in a Supplemental Indenture.

“Material Third Party Contract” means any Third Party Contract (as defined in Section 6.11(j)) in relation to which, if BC Ferries, a Designated Subsidiary or BCF Partnership/JV (as defined in Section 6.10) defaults thereunder (either directly or by reason of a cross default under any other Third Party Contract with the same Counterparty (as defined in Section 6.11(j)), or if the Counterparty defaults thereunder, such default would result in the Province being entitled to declare a Route Termination for a Major Route, a Minor System Termination or a Full System Termination (each as defined in the Acknowledgement Agreement).

“Moody’s” means Moody’s Investors Service, Inc., and its successors and assigns, and if such corporation shall no longer perform the functions of a securities rating agency, “Moody’s” shall mean any other nationally recognized rating agency designated by BC Ferries.

“Net Interest Amount” means, with respect to any period, the Gross Interest Obligations for such period less the Gross Interest Receivables for such period or, in the case of prospective

calculations, the estimated Gross Interest Obligations for such period less the estimated Gross Interest Receivables for such period.

“**Non-Designated Subsidiary**” means any Subsidiary of BC Ferries which is not a Designated Subsidiary.

“**Non-Disturbance Agreement**” means a non-disturbance agreement given by the Trustee in favour of any Subtenant in accordance with Section 5.15, substantially in the form attached as Schedule C.

“**Notice of Default**” has the meaning given to it in the Acknowledgment Agreement.

“**Notice of Pending Default**” has the meaning given to it in the Acknowledgment Agreement.

“**Obligation Bond**” means a Bond issued as direct evidence of the indebtedness of BC Ferries to the holder thereof.

“**Offer to Purchase**” means an offer by BC Ferries to purchase up to the principal amount of a Series of Obligation Bonds on the terms and subject to the conditions specified in Section 3.24 and in the Supplemental Indenture authorizing such Series.

“**Officer’s Certificate**” means a certificate, conforming to the requirements of Section 1.12, signed by an Authorized Officer or, in respect of a certificate delivered pursuant to Sections 6.10(c) and (e), signed by two Authorized Officers.

“**Other Contracts**” means all present and future contracts and agreements to which BC Ferries or any Designated Subsidiary is a party, but excluding the Material Contracts.

“**Other Ferry Terminal Property**” means real property from time to time acquired or leased by BC Ferries or any Designated Subsidiary for use as a ferry terminal for a purpose other than operating the Coastal Ferry Business.

“**Outstanding**” has the meaning ascribed thereto in Section 1.13.

“**Paying Agent**” means any bank or trust company or other Person designated as a paying agent for a Series in any Supplemental Indenture and its successor or successors appointed in the manner provided herein or in such Supplemental Indenture.

“**Payment Date**” means any date on which payment of principal or interest on a Bond is payable in accordance with its terms and the terms of the applicable Supplemental Indenture.

“**Permitted Borrowings**” means:

- (a) a Restricted Credit Facility;
- (b) Borrowings other than any Restricted Credit Facility which are incurred, or the proceeds of which are used, to renew, extend, repay, redeem, purchase, refinance or refund (each, a “**refinancing**”, and “**refinance**” and “**refinanced**” shall have

corresponding meanings) any Borrowings of BC Ferries or any Designated Subsidiary outstanding on the date of this Indenture or permitted to be incurred pursuant to this Indenture, provided that:

- (i) the Borrowing (a “**new Borrowing**”) which is incurred to refinance a particular Borrowing (the “**existing Borrowing**”) shall not exceed the amount of the existing Borrowing which is so refinanced, plus the expenses of BC Ferries or the Designated Subsidiary incurred in connection with such refinancing (but excluding any make-whole or other premium); and
- (ii) either:
 - (A) the refinancing occurs not more than two years before the maturity date of the existing Borrowing; or
 - (B) the term and average life of the new Borrowing are at least as long as the remaining term and average life of the existing Borrowing, and the present value of all principal and interest payments under the new Borrowing (discounted at the interest rate on the existing Borrowing), plus the amount of any make-whole or other premium payable upon repayment of the existing Borrowing, is less than or equal to the principal of and accrued interest on the existing Borrowing immediately prior to the repayment of the existing Borrowing.

“**Permitted Investments**” means:

- (a) Canadian dollar deposits with or promissory notes, bills of exchange or other debt securities of or unconditionally guaranteed or accepted by the Government of Canada or by any province of Canada or by a Bank (provided that in the case of a bank under Schedule II to the Bank Act such deposits, notes, bills of exchange or other debt securities have the benefit of any guarantee or other credit enhancement described in the definition of “Bank”);
- (b) interest bearing deposits or certificates of deposit or similar arrangements having a remaining term to maturity not greater than one year with, or discount debt obligations having a remaining term to maturity not greater than one year issued, accepted or guaranteed by, any bank, trust company or other regulated deposit taking institution in Canada, the long term debt of which has a rating of at least A- or the equivalent thereof for such debt by one of the Rating Agencies, if such debt is rated by only one of the Rating Agencies, or in any other case, by at least two of the Rating Agencies; and
- (c) indebtedness of any issuer (including any corporation) with a remaining term to maturity not to exceed one year, the long term debt of which has a rating of at least A- or the equivalent thereof for long term debt by one of the Rating

Agencies, if such debt is rated by only one of the Rating Agencies, or in any other case, by at least two of the Rating Agencies, or the short term debt of which is rated in one of the highest three sub-categories for short term debt by one of the Rating Agencies, if such debt is rated by only one of the Rating Agencies, or in any other case, by at least two of the Rating Agencies.

“**Permitted Liens**” means the following:

- (a) the Security;
- (b) Capital Leases made in accordance with the terms of this Indenture;
- (c) Liens for Taxes, assessments or governmental charges, incurred in the ordinary course of business that are not yet due and payable or the validity of which is being actively and diligently contested in good faith by BC Ferries or a Designated Subsidiary, provided that BC Ferries or a Designated Subsidiary has established on its books reserves considered by it and its auditors to be adequate for such Lien, or all enforcement proceedings have been stayed in respect of such Lien or provision for payment has been made in accordance with paragraph (m) below;
- (d) a Pledged Bond to secure a Separate Secured Obligation, provided that the aggregate contingent liabilities under all outstanding letters of credit secured by such Pledged Bonds may not, at any time, exceed the amount equal to 3% of the consolidated shareholders’ equity of BC Ferries and its Designated Subsidiaries, calculated on a consolidated basis for BC Ferries and its Designated Subsidiaries on the last day of the most recent Fiscal Quarter for which quarterly or annual financial statements are issued, or are required to have been issued, by BC Ferries or have been approved by the Board of Directors of BC Ferries;
- (e) construction, mechanics’, carriers’, warehousemen’s and materialmen’s Liens (whether or not registered against title to any Real Property) and, insofar as such Lien relates to a Ferry Terminal Property, to the extent that the existence of any such Lien would not constitute a default under the Ferry Terminal Leases, provided the obligations secured by such Liens are paid by BC Ferries or any Designated Subsidiary in the ordinary course of business having regard to generally accepted commercial practices;
- (f) Liens arising from court or arbitral proceedings, provided that the claims secured thereby are being contested in good faith by BC Ferries or any of its Designated Subsidiaries, execution thereon has been stayed and continues to be stayed, the Trustee is furnished with sufficient security to protect its interest, and such Liens do not, in the aggregate, materially detract from the value of the Collateral or materially impair the use thereof in the business of BC Ferries and its Designated Subsidiaries;

- (g) good faith deposits made in the ordinary course of business to secure the performance of bids, tenders, contracts, leases, surety, customs or performance bonds and other similar obligations (other than for the payment of Borrowings);
- (h) deposits to secure public or statutory obligations or in connection with any matter giving rise to a Lien described in paragraph (f) above;
- (i) deposits of cash or securities in connection with any appeal, review or contestation of any Lien or any matter giving rise to a Lien described in paragraphs (c), (e), (g) or (h) above;
- (j) security given by BC Ferries or any of its Designated Subsidiaries to a public or private utility or common carrier or Governmental Authority, when required by such utility or common carrier or Governmental Authority in connection with the operations of BC Ferries or any of its Designated Subsidiaries, in the ordinary course of its business and not pursuant to any Material Contract, which individually and in the aggregate do not materially detract from the value of the asset concerned or materially impair its use in the operation of the business of BC Ferries and its Designated Subsidiaries;
- (k) Liens in respect of vacation pay, workers' compensation, unemployment insurance or similar statutory obligations, provided the obligations secured by such Liens are paid by BC Ferries or any of its Designated Subsidiaries on or prior to the due dates thereof;
- (l) the reservation in any original grants from the Crown of any land or interest therein and statutory exceptions to or defects in title which are acceptable to BC Ferries, acting reasonably, and which do not materially detract from the value of the Real Property or materially impair its use in the operation of the business of BC Ferries or its Designated Subsidiaries;
- (m) any Lien, other than a construction or builder's Lien, payment of which has been provided for by deposit with the Trustee of an amount in cash, or the obtaining of a surety bond or letter of credit satisfactory to the Trustee, sufficient in either case to pay or discharge such Lien or payment of which has been provided for upon other terms satisfactory to the Trustee;
- (n) any Lien to secure a Purchase Money Obligation, provided that:
 - (i) the Lien attaches solely to the property or assets acquired or purchased and accessions or other rights (including rights to use land and contractual rights of owners) related to or concerning such property or assets;
 - (ii) at the time of acquisition of such property or assets, the aggregate principal and other amounts remaining unpaid on all indebtedness or Borrowings secured by Liens on such property or assets whether or not assumed by BC Ferries or a Designated Subsidiary does not exceed an amount equal to the total purchase price of such property or assets;

- (iii) all such indebtedness and Borrowings shall have been incurred within the limitations of this Indenture and any Supplemental Indenture; and
- (iv) the Purchase Money Obligation is not otherwise secured by the Security or any other Lien on property of BC Ferries or a Designated Subsidiary;

and includes any extension, renewal or replacement of any Purchase Money Obligation permitted herein in respect of the same property or assets subject to such Lien in conjunction with the extension, renewal and refinancing of the indebtedness and Borrowings secured thereby, provided that:

- (v) such Lien shall attach solely to the same such property or assets; and
- (vi) such extension, renewal or refinancing of such indebtedness and Borrowings shall be without increase in the principal remaining unpaid as of the date of such extension, renewal or refinancing;
- (o) easements, rights of way, servitudes, restrictive covenants, encroachment agreements or other similar rights in real property granted to or reserved or taken by other Persons in the ordinary course of business which, in the aggregate, do not materially detract from the value of the Real Property or materially interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries;
- (p) the rights reserved to or vested in any municipality or governmental or other public authority by any statutory provision or by the terms of any lease, license, franchise, grant or permit affecting the Real Property to terminate any such lease, license, franchise, grant or permit or to require annual or other periodic payments as a condition to the continuance thereof, if the exercise of the right to terminate or of the right to require payments would not materially detract from the value of the Real Property or materially interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries;
- (q) zoning and building by-laws and ordinances, municipal by-laws and regulations and other restrictions as to the use of the Real Property which, in the aggregate, do not materially detract from the value of the Real Property or materially interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries;
- (r) any subdivision agreements, development permits and other agreements with municipalities or statutory authorities affecting the development or use of the Real Property, including amendments, extensions, renewals, replacements or substitutions thereof or thereto from time to time, provided such agreements or permits do not materially detract from the value of the Real Property or materially interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries;
- (s) encumbrances respecting encroachments by facilities on adjacent lands over the Real Property which are permitted by the owner of the Real Property and which,

in the aggregate, do not materially detract from the value of the Real Property or materially interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries;

- (t) leases, licences or rights to use and occupy the Real Property other than Ferry Terminal Properties, and security of tenure and non disturbance agreements, in each case in the ordinary course of business, and any encumbrance of any nature whatsoever charging the interests of Persons in any of the foregoing other than the interest of BC Ferries or a Designated Subsidiary therein;
- (u) all existing easements, restrictive covenants and other similar interests in land, security of tenure and non-disturbance agreements granted appurtenant to any of such agreements, in each case in the ordinary course of business, and any encumbrance of any nature whatsoever charging the interest of Persons under any of such agreements, easements, restrictive covenants, security of tenure or non-disturbance agreements, other than the interest of BC Ferries or any Designated Subsidiary therein;
- (v) all present and future Permitted Subleases and all present and future sub-subleases and sub-sublicenses that are permitted under the Ferry Terminal Leases and which relate to any premises that are subject matter of any such Permitted Sublease, all of which do not materially detract from the value of the applicable Ferry Terminal Property or materially interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries, whereby BC Ferries or any Designated Subsidiary or any of its subtenants gives any other Person a right (other than an easement or a right in the nature of an easement or right of way) to use or occupy the whole or any part of any of the premises at any of the Ferry Terminal Properties, and all present and future easements, restrictive covenants and other similar interest in lands, and security of tenure and non-disturbance agreements, granted appurtenant to such Permitted Sublease, sub-sublease or sub-sublicense, in each case in the ordinary course of business and to the extent permissible under the Ferry Terminal Leases, and any encumbrance of any nature whatsoever charging the interest of Persons under any of such Permitted Subleases, sub-subleases, sub-sublicenses, easements, restrictive covenants or security of tenure or non-disturbance agreements, other than the interest of BC Ferries or any Designated Subsidiary therein;
- (w) any and all statutory Liens of any nature whatsoever claimed or held by Her Majesty in Right of Canada, the Province, or by any other Governmental Authority under or pursuant to any applicable legislation, statute or regulation;
- (x) governmental or municipal directions, deficiency notices and work orders filed or affecting the Ferry Terminal Properties or other real property (i) where the cost of rectifying the same will not in the aggregate be in excess of \$10,000,000, or (ii) where BC Ferries is diligently proceeding to rectify the same and BC Ferries has satisfied the Trustee, acting reasonably, that BC Ferries has available sufficient funds;

- (y) an insurance trust or other similar agreement relating to any real property or vessel owned or leased by a third party but in which BC Ferries or any Designated Subsidiary has a contingent or residual interest;
- (z) any Fund or Account (or Security, including by way of any Fund or Account or Letter of Credit in lieu thereof) established in any Supplemental Indenture authorizing the issuance of, or pursuant to any agreement or instrument in respect of Borrowings secured by, a Pledged Bond which is in lieu of a Series Reserve Account for such Pledged Bond; and
- (aa) any other Lien which the Trustee approves in writing as a Permitted Lien, provided that in giving any such approval, the Trustee shall be entitled to rely on a Counsel's Opinion (which in turn may rely, to the extent deemed appropriate by Counsel giving such opinion, on an opinion or certificate of an Independent Accountant or other independent professional advisor) to the effect that such other Lien would not materially adversely affect the Security intended to be created hereby, nor the compliance by BC Ferries with all of its covenants and obligations hereunder;

provided that nothing in this Indenture (including Section 6.5(d)) shall in and of itself cause the Lien Hereof to be subordinated to any such Permitted Lien.

“Permitted Sublease” means any Sublease permitted by the Ferry Terminal Leases, provided that the terms and conditions of such Sublease are consistent with good business practices exercised by prudent landlords at the time such Sublease is entered into.

“Person” includes an individual, partnership, trust, trustee, executor, administrator, legal personal representative, government, governmental body or authority, corporation or other incorporated or unincorporated entity.

“Pledge” means, in respect of a Bond, a pledge, deposit or delivery of such Bond or other agreement between BC Ferries and a Bondholder in respect of such Bond, in each case made in accordance with Section 2.9, and **“Pledged Bond”** means a Bond which is subject to a Pledge.

“Premium” means, with respect to a Bond at a particular time, the excess (if any) of the then applicable Redemption Price (if any) of such Bond over the principal amount of such Bond.

“Principal Reduction Amount” means, with respect to any period, the total amount of principal paid or payable on Borrowings or, for the purposes of calculating the Forecast Debt Service for a particular Series of Bonds, the total principal paid or payable in respect of such Series of Bonds by BC Ferries and its Designated Subsidiaries in that period, including imputed principal in respect of Capital Leases, and including any mandatory deposit or contribution to a Sinking Fund in that period, but excluding (a) any principal payment in any period in respect of a Borrowing which, by its terms, is payable in a single instalment upon maturity; (b) any principal payment which is the last payment in a series of amortizing payments the amount of which is materially greater than the amount of the payments in such series in respect of a Borrowing which matures in such period, provided that an amount equal to what would otherwise have been the next

payment in the series of amortizing payments shall be included; (c) any amount which constitutes Rent; and (d) any rent which has been prepaid under the Ferry Terminal Leases as at the date of this Indenture.

“**Pro Forma Basis**” means a recalculation of historical financial information for a period to give effect to a specified event, and for such purposes such specified event shall be deemed to have taken place at the beginning of such period.

“**Province**” means Her Majesty the Queen in Right of the Province of British Columbia.

“**PST**” means the tax presently levied under Part 2 of the *Social Service Tax Act* (British Columbia), as such tax may be amended or substituted from time to time.

“**Purchase Date**” means, with respect to any Bonds to be purchased by the Province, the date set forth for purchase of such Bond in the relevant notice of purchase given pursuant to Section 3.25 of this Indenture and any applicable Supplemental Indenture.

“**Purchase Money Obligation**” means any Borrowing representing any unpaid part of, or incurred or assumed to pay the whole or any part of, the cost of acquisition, development or construction of any property or asset acquired by BC Ferries or any Designated Subsidiary and intended to be used in carrying on the business of BC Ferries or any Designated Subsidiary and any expenditures made for accessions thereto, if such Borrowing is incurred or assumed within six months after the acquisition, development or construction of such property or asset and BC Ferries, acting reasonably, determines such Borrowing to be of financial advantage to BC Ferries.

“**Purchase Price**” means

- (a) with respect to any Obligation Bonds to be purchased by the Province pursuant to Section 3.25, the greater of the Canada Yield Price and the outstanding principal amount of such Bonds at the Purchase Date plus accrued and unpaid interest to the Purchase Date; and
- (b) with respect to any Pledged Bonds to be purchased by the Province pursuant to Section 3.25, the lesser of the amount described in Sections 2.9(b)(i) and (ii) plus accrued and unpaid interest to the Purchase Date;

unless in any such case the Supplemental Indenture authorizing the relevant Series of Bonds provides for a calculation of the Redemption Price for such Bonds (and in that event the Purchase Price for such Bonds shall be equal to the Redemption Price for such Bonds calculated as provided in such Supplemental Indenture as if the Purchase Date were the redemption date for such Bonds).

“**Rating Agencies**” means Moody’s, Standard & Poor’s, DBRS and any other nationally recognized credit rating agency approved by an Extraordinary Resolution and specified in a Supplemental Indenture, and “**Rating Agency**” means any one of them.

“**Real Property**” means all freehold and leasehold real property held from time to time by BC Ferries or a Designated Subsidiary (including the Ferry Terminal Properties) and all interests therein, including all rights of way, licences or rights of occupation, easements or other similar rights in connection with such freehold or leasehold real property.

“**Real Property Mortgage**” means a mortgage and charge of any Real Property, substantially in the form, *mutatis mutandis*, of the Leasehold Mortgage, or in such other form as the Trustee may approve, acting reasonably, and relying solely upon an Opinion of Counsel that such form is sufficient to create a fixed and specific charge on the Real Property to be charged.

“**Receiver**” means any receiver or receivers in respect of any or all of the Collateral appointed pursuant to this Indenture or by a court having jurisdiction, and such term shall be deemed to include a receiver or a receiver-manager.

“**Redemption Date**” means, with respect to any Bonds to be redeemed, in whole or in part, the date set forth for redemption of such Bonds in the notice of redemption given pursuant to Section 3.18 of this Indenture and any applicable Supplemental Indenture.

“**Redemption Price**” means, with respect to any Bonds to be redeemed, in whole or in part, the price calculated in accordance with the provisions of the Supplemental Indenture authorizing the Series of Bonds to be redeemed.

“**Refunding Bonds**” means any Bonds, whether issued in one or more Series, authenticated and delivered which are issued to repay, or in exchange for, existing Borrowings evidenced or secured by Bonds, and which at the time of issue constitute “Permitted Borrowings” under paragraph (b) of the definition thereof.

“**Registered Bonds**” means Bonds registered as to principal and interest.

“**Rent**” means, with respect to any period, obligations in the nature of a principal reduction or interest which would be payable on any Capitalized Operating Lease if such lease were accounted for as a Capital Lease, but excludes any rent which has been prepaid under the Ferry Terminal Leases as at the date of this Indenture.

“**Restricted Credit Facility**” means a Credit Facility or part thereof entered into by BC Ferries or a Designated Subsidiary and exclusively allocated by BC Ferries or such Designated Subsidiary, as the case may be, for the repayment of the principal amount of any Borrowings or to secure the repayment thereof and designated as a “Restricted Credit Facility” by BC Ferries by written notice to the Trustee.

“**Sale-Leaseback**” means an arrangement under which title to any property or asset, or an interest therein, is transferred by BC Ferries or any Designated Subsidiary to a Person other than BC Ferries or a Designated Subsidiary which (for consideration) leases or otherwise gives or grants the right to use such property or asset or interest therein to BC Ferries or any Designated Subsidiary, whether or not in connection therewith the transferor also acquires a right or is subject to an obligation to re-acquire the property, asset or interest, and regardless of the accounting treatment of such arrangement.

“**Secured Period**” means the period of time commencing on the date of this Indenture and continuing until the latest date specified in a Supplemental Indenture under which obligations of BC Ferries exist.

“**Security**” means the security created by this Indenture and the Additional Security.

“**Security Agreement**” means a security agreement given by BC Ferries or any Designated Subsidiary in favour of the Trustee substantially in the form attached hereto as Schedule D with such changes as the Trustee may approve, acting reasonably, and relying solely upon an Opinion of Counsel that such changes are not materially prejudicial to the interests of the Bondholders.

“**Separate Secured Obligations**” means any:

- (a) Swap Agreement entered into in accordance with this Indenture and which is not a Borrowing; and
- (b) letter of credit issued in accordance with this Indenture and which is not a Borrowing.

“**Series**” means that Bond or those Bonds authenticated and delivered pursuant to a Supplemental Indenture and designated as a series therein.

“**Series Reserve Account**” means an Account maintained within the Debt Service Reserve Fund for a specified Series of Bonds pursuant to Section 4.1(a) or 4.1(h) and the Supplemental Indenture in respect of the relevant Series of Bonds and includes all money, Letters of Credit and Permitted Investments therein or to the credit thereof, and all proceeds from any of the foregoing.

“**Series Sinking Funds**” means each Series Sinking Fund created and established pursuant to Section 4.2 and the applicable Supplemental Indenture and includes all money and Permitted Investments therein or to the credit thereof and all proceeds of any of the foregoing.

“**Ship Mortgage**” means a ship mortgage in statutory form in favour of the Trustee with respect to all Vessels owned by BC Ferries or any Designated Subsidiary, substantially in the form attached hereto as Schedule G with respect to each such Vessel with such changes or in such other form as the Trustee may approve, acting reasonably, and relying solely upon an Opinion of Counsel that such changes have been mandated by statute or where the ship mortgage to be delivered is governed by a jurisdiction other than Canada, that such form is sufficient to create a fixed and specific charge on the Vessel in such jurisdiction.

“**Sinking Funds**” means, collectively, all of the Series Sinking Funds and the General Sinking Fund created from time to time.

“**Special Resolution**” means a resolution in writing duly passed at a meeting (including an adjourned meeting) of the Bondholders duly convened for the purposes and held in accordance with the provisions of Article 9 and passed by the holder or holders of Outstanding Bonds of all Series affected by the subject matter of the resolution representing not less than ninety percent of the votes cast in respect of such resolution at such meeting, and, if so provided in any

Supplemental Indenture related to a Series, passed by the holder or holders of such other percentage of the principal amount of the Bonds of that Series then Outstanding as may be specified in such Supplemental Indenture, which resolution is in full force and effect on the date of such certification. “**Special Resolution**” shall also mean a resolution passed as such by an instrument in writing in accordance with Section 9.14.

“**Standard & Poor’s**” means Standard & Poor’s Ratings Service and its successors and assigns and, if such corporation shall no longer perform the functions of a securities rating agency, Standard & Poor’s shall mean any other nationally recognized securities rating agency designated by BC Ferries.

“**Subleases**” means all present and future leases, agreements to lease, subleases and agreements to sublease any part of any Real Property, including the Ferry Terminal Properties, and all present and future licences (but excluding all easements, rights of way and servitudes), made by or on behalf of BC Ferries or any Designated Subsidiary, whereby BC Ferries or any Designated Subsidiary as lessor, sublessor, or licensor gives any other Person a right to use or occupy any part of any Real Property, including the Ferry Terminal Properties, in each case for the time being in effect and all present and future guarantees and indemnities in respect of all or any of the obligations of any Tenant under any Sublease and arrangements with a similar purpose for any other Person to take over all or part of the balance of the term of any Tenant under any Lease, and all revisions, alterations, modifications, amendments, changes, extensions, renewals, replacements and substitutions thereof or therefor.

“**Subordinated Debt**” means indebtedness for borrowed money owing by BC Ferries to any Person which is fully subordinated and postponed to all Outstanding Bonds whether such Bonds are Outstanding at the time such indebtedness is incurred or are issued any time thereafter, is unsecured, permits any payment in respect thereof (including principal and interest) to be made if, and only if, the amount of such payment could then be made as a Distribution under Section 6.7 of this Indenture (but not, for greater certainty, where there is a Default or Event of Default under this Indenture or a default under any other indebtedness defined as “senior indebtedness” in the terms of such Subordinated Indebtedness), permits payment of interest to be deferred by BC Ferries for at least 27 months and precludes any action to enforce rights of the holder in the event of a default on such indebtedness for a period of 36 months following such event of default or during the continuance of any Event of Default.

“**Subsidiary**” of BC Ferries at any time means any corporation of which more than fifty percent of the Voting Shares of which are beneficially owned, directly or indirectly, by BC Ferries and the financial statements of which would be consolidated with those of BC Ferries in accordance with GAAP.

“**Subtenant**” means any Person (other than BC Ferries or a Designated Subsidiary) now or hereafter having any right of use or occupancy of any part of the Real Property, including the Ferry Terminal Properties, under a Sublease in force from time to time.

“**Supplemental Indenture**” means an indenture supplemental to this Indenture entered into by BC Ferries with the Trustee and effective as provided in Article 8.

“**Swap Agreement**” means every obligation with respect to hedging money or currency, or the hedging or fixing of the cost of goods used in the ordinary course of business, pursuant to fuel, interest rate and/or currency exchange agreements or other agreements relating to the hedging or fixing of the cost of goods used in the ordinary course of business, so long as such obligations are settled by the payment of money and not delivery of goods.

“**Taxes**” means all taxes, fees, grants-in-lieu of taxes, payments-in-lieu of taxes, rates, duties and assessments (including local improvement, frontage, water, snow and sewer taxes and rates), impost charges or levies, whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every nature or kind whatsoever and whether in existence on the date of this Indenture or not, including federal, provincial, state, local or foreign income, capital, profits, excise, real or personal property, sales (including PST), withholding, social security, occupation, use, services, value added (including GST), license, net worth, payroll, franchise, severance, stamp, transfer, registration, premium, windfall, environmental, customs duties, unemployment, disability, or any similar taxes imposed by any taxing authority and any fines, penalties, interest and costs relating thereto that are lawfully levied, imposed, rated, charged or assessed (collectively, “Imposed”) against BC Ferries or a Designated Subsidiary from time to time by any taxing authority, whether federal, provincial, state, municipal, school or otherwise and includes any taxes or other amounts which are Imposed instead of, or in addition to, any such taxes (whether in existence at the date of this Indenture or not).

“**Total Principal Reduction Amount**” means, for any period, the total of all Principal Reduction Amounts in that period.

“**Trustee**” means Computershare Trust Company of Canada or its successors and assigns hereafter appointed in the manner provided in this Indenture.

“**Vessels**” means the vessels and their various major components owned or leased by BC Ferries, or any of its Designated Subsidiaries.

“**Voting Shares**” means shares of any class or classes, the holders of which are entitled at such time to vote for the election of the corporate directors (or Persons performing similar functions).

“**Wholly Owned Subsidiary**” of BC Ferries at any time means a corporation of which all of the shares are beneficially owned, directly or indirectly, by BC Ferries.

“**Written Order of BC Ferries**” or “**Written Request of BC Ferries**” means a written order or request of BC Ferries signed in the name of BC Ferries by an Authorized Officer and may consist of one or more instruments so executed.

1.2 Publication

In this Indenture, unless the context otherwise requires, any publication to be made under the provisions of this Indenture in successive weeks or on successive dates may be made in each instance upon any Business Day of the week and need not be made in the same Authorized Newspapers for any or all of the successive publications but may be made in different Authorized Newspapers. If, because of the temporary or permanent suspension of the publication or general circulation of any of the Authorized Newspapers or for any other reason, it

is impossible or impractical to publish any notice pursuant to this Indenture in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of such notice.

1.3 Number and Gender

Words importing the singular number include the plural and vice versa and words importing gender shall include all genders.

1.4 Invalidity, etc.

Each of the provisions contained in this Indenture is distinct and severable and a declaration of invalidity, illegality or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision of this Indenture.

1.5 Headings, etc.

The division of this Indenture into Articles, Sections, Paragraphs and Subparagraphs, the inclusion of a table of contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Indenture.

1.6 Governing Law

This Indenture and the Bonds shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, and shall be treated in all respects as British Columbia contracts.

1.7 Jurisdiction

Subject to the provisions of any Supplemental Indenture, BC Ferries agrees, and the Trustee agrees for itself and each Bondholder, that any legal action or proceeding with respect to this Indenture shall be brought by the Trustee or such Bondholder (to the extent permitted hereunder) in the courts of the Province of British Columbia, and such courts shall have exclusive jurisdiction to deal with all matters relating to the interpretation of, or enforcement of rights under this Indenture. Nothing in this Section 1.7 shall affect the right of the Trustee to enforce any judgment obtained against BC Ferries in any jurisdiction in which any Collateral may be situate, or to enforce any rights hereunder against any Collateral in any such jurisdiction.

1.8 References

Except as otherwise specifically provided, reference in this Indenture to any contract, agreement or any other instrument shall be deemed to include references to the same as varied, amended, supplemented or replaced from time to time and reference in this Indenture to any enactment including, without limitation, any statute, law, by-law, regulation, ordinance or order, shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time.

1.9 Currency

Subject to the provisions of any Supplemental Indenture, all monetary amounts referred to in this Indenture are in lawful money of Canada.

1.10 Generally Accepted Accounting Principles

All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles as now or hereafter established by the Canadian Institute of Chartered Accountants or any successor thereto consistently applied by BC Ferries, and all financial data submitted pursuant to this Indenture shall be prepared in accordance with such principles. Notwithstanding the foregoing, if (a) any changes in the accounting principles applied by BC Ferries from those in effect on the date of this Indenture are hereafter required or permitted by the rules, regulations, pronouncements and opinions of the Canadian Institute of Chartered Accountants or any regulatory body having jurisdiction in the matter; (b) such changes are adopted by BC Ferries with the agreement of its auditors; and (c) such changes result in a change in the method of calculation of any of the financial covenants, standards or terms in or relating to the terms hereof, BC Ferries agrees to enter into discussions with the Trustee to consider the amendment of such provisions so as to equitably reflect such changes with a desired result that the criteria for evaluating the financial condition of BC Ferries shall be the same. No change in such accounting principles that would affect the method of calculation of any of the financial covenants, standards or terms shall be given effect in such calculations until such provisions are amended in a manner approved in an Extraordinary Resolution of the Bondholders to so reflect such changes in such accounting principles. Unless otherwise specified in this Indenture, all calculations under this Indenture shall be based on the consolidated financial information of BC Ferries and its Subsidiaries.

1.11 Actions on Days Other than Business Days

Except as otherwise specifically provided herein or in any Bond, where any payment is required to be made or any other action is required to be taken on a particular day and such day is not a Business Day and, as a result, such payment cannot be made or action cannot be taken on such day, then such payment shall be made or such action shall be taken on the first Business Day after such day.

1.12 General Provisions as to Certificates, Opinions, etc.

- (a) Each Officer's Certificate, Counsel's Opinion, Written Order of BC Ferries, Written Request of BC Ferries or certificate of an Independent Accountant required under or referred to in this Indenture or otherwise furnished in connection with this Indenture shall specify the Section under which such document is being made and, other than a Written Order of BC Ferries or a Written Request of BC Ferries, shall include:
 - (i) a statement by the Person giving the evidence that he or she has read, or after making due inquiry, examination or investigation, has full knowledge

of, and understands the provisions of this Indenture relating to, the matters referred to therein; and

- (ii) a statement that such Person has made such examination or investigation as he or she believes necessary to enable him or her to make the statements or give the opinions contained or expressed therein.
- (b) Whenever the delivery of a certificate, opinion, direction, order or report is a condition precedent to the taking of any action by the Trustee under this Indenture, the truth and accuracy of the facts and opinions stated in such document shall in each case be conditions precedent to the right of BC Ferries to have such action taken.
- (c) Any Counsel's Opinion may be based, insofar as it relates to factual matters, upon information with respect to BC Ferries which is in the possession of such counsel, or upon the certificate of an Authorized Officer unless such Counsel knows that the certificate with respect to the matters upon which his or her certificate or opinion may be based as aforesaid is erroneous.
- (d) Without limiting the generality of the foregoing, upon the reasonable demand of the Trustee, BC Ferries shall furnish the Trustee with evidence in such form as the Trustee may reasonably require as to compliance with any condition relating to any action required or permitted to be taken by BC Ferries under this Indenture.

1.13 Meaning of "Outstanding" for Certain Purposes

Every Bond certified and delivered by the Trustee under a Supplemental Indenture shall be deemed to be "Outstanding" until it shall be cancelled or delivered to the Trustee for cancellation or monies for the payment thereof shall be set aside or deemed to be paid as provided in Article 13, provided that:

- (a) where a new Bond has been issued in substitution for, exchange of or in lieu of a Bond which has been lost, stolen or destroyed, only one of them shall be counted for the purpose of determining the aggregate principal amount of Bonds Outstanding or the aggregate principal amount of Bonds in such Series Outstanding;
- (b) Bonds which have been partially redeemed or purchased shall be deemed to be Outstanding only to the extent of the unredeemed portion of the principal amount thereof;
- (c) Bonds in respect of which the Payment Date for redemption has passed and the applicable redemption moneys (including all interest, if any, accrued thereon to the Payment Date and any interest, if any, payable after such Payment Date) have been paid by BC Ferries to the Paying Agent, in trust, shall be deemed not to be Outstanding;

- (d) Bonds in respect of which the maturity date has passed and the applicable moneys (including all interest, if any, accrued thereon to the maturity date) have been paid by BC Ferries to the Paying Agent, in trust, shall be deemed not to be Outstanding;
- (e) for the purposes of any provision of this Indenture entitling holders of Outstanding Bonds to vote, sign consents, requisitions or other instruments or take any other action under this Indenture, Bonds owned directly or indirectly, legally or equitably by BC Ferries or any of its Affiliates shall be disregarded except that:
 - (i) for the purpose of determining whether the Trustee shall be protected in relying on any such vote, consent, requisition or other action, only the Bonds in respect of which the Trustee has received an Officer's Certificate from BC Ferries specifying such Bonds as being owned, directly or indirectly, legally or equitably, by BC Ferries or any of its Affiliates shall be so disregarded; and
 - (ii) Bonds so owned which have been pledged in good faith other than to BC Ferries or an Affiliate shall not be so disregarded if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds in its discretion free from the control of BC Ferries and its Affiliates.

1.14 Meaning of Reinvestment

For the purposes of sections 5.13, 5.14 and 6.8, the phrase "reinvested within twelve months of receipt of such proceeds" (or such variations upon such phrase as the context may indicate) shall mean that whenever BC Ferries or a Designated Subsidiary (collectively the "**Recipient**") receives proceeds as a result of a disposition, Expropriation or insured loss, the Recipient will be deemed to have reinvested such proceeds (or, if applicable, a part of such proceeds) within 12 months of receipt of such proceeds if:

- (a) the Recipient expends all or part of such proceeds for the purpose required hereby within 12 months after receipt of such proceeds;
- (b) the Recipient enters into an agreement or agreements to expend all or part of such proceeds on normal commercial terms for such agreements for the purpose required hereby within 12 months after receipt of such proceeds, whether or not such proceeds are actually expended in such 12 month period;
- (c) the Recipient expends an amount equal to all or part of such proceeds or enters into an agreement or agreements to expend an amount equal to all or part of such proceeds on normal commercial terms for such agreements for the purpose required hereby during or after the event giving rise to the proceeds and before the receipt of such proceeds; or

- (d) the Recipient expends an amount equal to all or part of such proceeds or enters into an agreement or agreements to expend an amount equal to all or part of such proceeds prior to the event giving rise to the proceeds where such expenditure or agreement relates directly to a planned but not yet completed replacement for the asset with respect to which the event giving rise to proceeds has occurred.

For all purposes hereunder the word “proceeds” does not imply an obligation to trace or segregate cash, nor limit amounts treated as “proceeds” or “reinvested” by reason of the time of the receipt thereof, provided however that such proceeds must be set aside in cash or Permitted Investments pending their expenditure in the manner set out above or have been used to temporarily repay outstanding Borrowings under terms which permit the amount so repaid to be reborrowed.

1.15 Schedules

The following is a list of the schedules which are attached to and form part of this Indenture:

Schedule A- Form of Designated Subsidiary Guarantee

Schedule B - Form of Leasehold Mortgage and Floating Charge on Real Property

Schedule C - Form of Non-Disturbance Agreement

Schedule D - Form of Security Agreement

Schedule E - Forms of Designation and Withdrawal of Designation of Designated Subsidiary

Schedule F - Form of Acknowledgement Agreement

Schedule G - Form of Ship Mortgage

ARTICLE 2 - CAPITAL MARKETS PLATFORM BORROWINGS

2.1 Establishment of Capital Markets Platform

There is hereby established a facility designated as the “Capital Markets Platform” in order to provide a framework for Borrowings which are necessary, useful or convenient to permit BC Ferries to carry out the purposes described in this Indenture and any Supplemental Indenture. The aggregate principal amount of Bonds which may be issued under this Indenture is unlimited. All Bonds issued under a Supplemental Indenture and at any time Outstanding shall, subject to any Sinking Fund provisions and the provisions relating to Series Reserve Accounts, rank *pari passu* and be equally and rateably secured with all other Outstanding Bonds, with the same right, lien and entitlement with respect to the Collateral without preference, priority or distinction between Bonds on account of the date or dates or the actual time or times of the issuance or maturity of the Bonds. Each Bond of a particular Series shall in all respects be equally and rateably secured with all other Bonds of such Series and shall have the same right, lien and entitlement hereunder established for the benefit of such Series of Bonds.

2.2 Form of Bonds

All Bonds shall be issued in Series and shall be issued pursuant to a Supplemental Indenture authorizing such Series. Bonds may be issued:

- (a) by way of Obligation Bonds to directly evidence the Borrowings of BC Ferries to the holder thereof as evidenced thereby; or
- (b) by way of Pledged Bonds to be held by the holder thereof as continuing collateral security for the Borrowings or Separate Secured Obligations of BC Ferries as is specified in the instrument of Pledge pursuant to which such Bond is Pledged.

2.3 Purpose of Bonds

Subject to the provisions restricting the issue of Additional Indebtedness, BC Ferries may issue Bonds from time to time, without limitation as to amount except as may be provided herein or in any Supplemental Indenture, for the purposes of financing or refinancing or providing security for the financing or refinancing of:

- (a) Borrowings incurred by BC Ferries and the repayment thereof;
- (b) the initial establishment and funding from time to time of any Funds or Accounts contemplated herein or in any Supplemental Indenture;
- (c) any other purposes related or ancillary to the business of BC Ferries from time to time;
- (d) payment of the Costs of Issuance; and
- (e) costs and expenses relating to the refunding, redeeming or defeasance of any Bonds previously issued under any Supplemental Indenture.

2.4 Issuance and Delivery of Bonds

- (a) All Bonds shall be under the seal of BC Ferries or a facsimile thereof (which shall be deemed to be the seal of BC Ferries) and all Bonds shall be signed (either manually or by facsimile signature) by any Authorized Officer holding office at the time of signing. A facsimile signature upon any of the Bonds shall for all purposes of this Indenture be deemed to be the signature of the individual whose signature it purports to be and to have been signed at the time such facsimile signature is reproduced and notwithstanding that any individual whose signature, either manual or in facsimile, may appear on the Bonds is not at the date of this Indenture or at the date of the Bonds or at the date of certification and delivery thereof, an Authorized Officer of BC Ferries, such Bonds shall be valid and binding upon BC Ferries and entitled to the security of this Indenture.
- (b) After their authorization by a Supplemental Indenture, Bonds of any Series may be executed by BC Ferries in accordance with Section 2.4(a) and delivered to the

Trustee for certification and authentication and, upon compliance by BC Ferries with the requirements, if any, set forth in such Supplemental Indenture, as applicable, and with the requirements of Section 2.5 and, in the case of Refunding Bonds, Section 2.6, the Trustee shall thereupon authenticate and deliver such Bonds to or upon the order of BC Ferries in accordance with Section 3.13.

2.5 Conditions Precedent to Delivery of Any Series

All Bonds shall be executed by or on behalf of BC Ferries, certified by or on behalf of the Trustee and delivered by the Trustee to BC Ferries or upon its Written Order, upon delivery to the Trustee of:

- (a) a copy, certified by an Authorized Officer, of a resolution of the board of directors of BC Ferries authorizing the issuance of such Bonds;
- (b) a Counsel's Opinion (without the repetition of previous Counsel's Opinions) to the effect that:
 - (i) BC Ferries had the right and power to enter into this Indenture and has the right and power to enter into the Supplemental Indenture authorizing such Series, which in the case of the first Obligation Bonds and Pledged Bonds issued hereunder shall be in the form of a resolution authorizing the execution of the Supplemental Indentures in relation to such Bonds;
 - (ii) this Indenture and such Supplemental Indenture have been duly and lawfully entered into by BC Ferries, are in full force and effect and are valid and binding upon BC Ferries and enforceable in accordance with their terms (subject only to applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and limitations arising from equitable principles and other usual and customary exceptions);
 - (iii) this Indenture creates a valid Lien on the Collateral, to the extent possible and subject to the terms hereof, and BC Ferries, and if applicable, each Designated Subsidiary, has complied with the provisions of Sections 5.9 and 5.10, provided that in giving such Counsel's Opinion the author may rely on an Officer's Certificate as to factual matters and may assume such Officer's Certificate to be true and complete, in the absence of knowledge on the part of such author that such assumption is incorrect or unless such Officer's Certificate is deficient on its own terms; and
 - (iv) upon the execution, certification, authentication and delivery thereof, the Bonds of such Series shall have been duly and validly authorized and issued in accordance with the constating documents of BC Ferries, this Indenture and such Supplemental Indenture and shall constitute valid and binding obligations of BC Ferries, enforceable in accordance with their terms (subject only to applicable bankruptcy, insolvency or similar laws

affecting the enforcement of creditors' rights generally and limitations arising from equitable principles and other usual and customary exceptions);

- (c) a Written Order of BC Ferries as to the delivery of such Series:
 - (i) stating in the case of Registered Bonds or Global Bonds, the names and addresses of the holders or Depositary, as the case may be;
 - (ii) stating the aggregate principal amount to be issued and the date and place of delivery of such Series;
 - (iii) certifying that no Event of Default has occurred and is continuing under this Indenture and that the issuance of such Series will not result in an Event of Default under this Indenture; and
 - (iv) certifying that the issuance of such Series will not result in a default or event of default under the Material Contracts;
- (d) a duly executed copy of the Supplemental Indenture authorizing the Bonds of such Series which shall specify:
 - (i) the currency of payment and Series designation of such Bonds and, if applicable, any maximum principal amount of the Bonds of such Series;
 - (ii) the date or dates, and the maturity date or dates, of the Bonds of such Series, or the manner of determining such dates, it being expressly acknowledged that Bonds which are payable on demand may be issued;
 - (iii) the interest rate or rates or discount rate or rates to be borne by the Bonds of such Series or the manner of determining such rate or rates, and the payment dates for interest on Bonds of such Series;
 - (iv) if applicable, the manner of dating, numbering and lettering the Bonds of such Series;
 - (v) the Paying Agent or Paying Agents and the place or places of payment of the principal, Premium (if any) on and Redemption Price of, and interest on, the Bonds of such Series or the manner of appointing and designating the same;
 - (vi) if applicable, the terms of any Sinking Fund established for the Bonds of such Series;
 - (vii) if applicable, the redemption or repurchase prices and the redemption or repurchase terms for the Bonds of such Series, or the manner of determining such price and terms and the manner of selecting the Bonds to be redeemed or repurchased;

- (viii) if applicable and so determined by BC Ferries, provisions for the sale of the Bonds of such Series;
 - (ix) the forms of the Bonds of such Series and of the Trustee's certificate of authentication;
 - (x) whether such Bonds are Obligation Bonds or Pledged Bonds;
 - (xi) if applicable, any special voting requirements applicable to the Bonds of such Series; and
 - (xii) any other provision deemed advisable by BC Ferries which does not conflict with the provisions hereof;
- (e) in the case of Pledged Bonds, a duly executed copy of the related Pledge and of every agreement (but if such agreement has previously been provided to the Trustee in respect of other Pledged Bonds of a Series, or if such agreement is an agreement which contemplates subsequent draws, requests for advances, confirmations, or transaction requests pursuant thereto, such agreement, or such draws, requests for advances, confirmations or transaction requests, need not be provided to the Trustee) secured by such Pledged Bonds and a Counsel's Opinion to the effect that:
- (i) BC Ferries has the right and power to enter into the Pledge and each such agreement;
 - (ii) the Pledge and each such agreement have been duly authorized, executed and delivered by BC Ferries, are in full force and effect and are valid and binding upon BC Ferries and enforceable in accordance with their terms (subject only to applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and limitations arising from equitable principles and other usual and customary exceptions); and
 - (iii) the Pledge complies with the provisions of Section 2.9;
- (f) if such Bonds create Additional Indebtedness, an Officer's Certificate certifying with respect to such Additional Indebtedness as required under Section 6.5 and providing a calculation of the ratios set out in Sections 6.5(b) and (e), and certifying the purpose or purposes for which the proceeds of such Series are to be used and such other matters as required herein;
- (g) if any Bondholders' approval is required by the terms of this Indenture for the issuance of such Series, an Officer's Certificate stating that such approval has been obtained; and
- (h) such further documents and monies as are required by the provisions of Article 8 or any Supplemental Indenture.

2.6 Additional Conditions Precedent to Delivery of Refunding Bonds

In addition to the documents required by Section 2.5, the Trustee shall have received prior to authenticating and delivering any Refunding Bonds:

- (a) if a redemption of Bonds is to be effected, due notice of redemption of all the Bonds to be refunded and the redemption date or dates, if any, upon which such Bonds are to be redeemed;
- (b) if a redemption of Bonds is to be effected, a certificate of an Independent Accountant stating either:
 - (i) the amount of money (which may include all or a portion of the proceeds of the Refunding Bonds to be issued) required in order to pay when due the applicable Redemption Price of the Bonds to be refunded, which amount shall be deposited at or about the time of the issue of the Refunding Bonds with the Trustee; or
 - (ii) the amount of non-callable or non-redeemable Central Government Obligations in the currencies of the Bonds to be refunded, the principal of and interest on which when due (without reinvestment thereof), together with the monies (which may include all or a portion of the proceeds of the Refunding Bonds to be issued), if any, which shall be deposited at or about the time of the issue of the Refunding Bonds with the Trustee, required in order to pay when due the applicable Redemption Price of the Bonds to be refunded;
- (c) if any Refunding Bonds are to be exchanged for Bonds, a copy of the Extraordinary Resolution of Bondholders sanctioning the exchange of the Bonds for the Refunding Bonds; and
- (d) an Officer's Certificate stating the purpose or purposes for which the proceeds (if any) of such Series are to be used and the amount of such proceeds to be used for each such purpose, and certifying the Refunding Bonds constitute "Permitted Borrowings" under paragraph (b) of the definition thereof.

2.7 Application of Proceeds of Bonds

The proceeds, including accrued interest, of any Series shall be applied by BC Ferries in accordance with the certificate delivered to the Trustee pursuant to Section 2.5(f) in the case of Bonds which are not Refunding Bonds and in accordance with the certificate delivered to the Trustee pursuant to Section 2.6(d) in the case of Refunding Bonds.

2.8 Terms

Each Series of Bonds shall bear the terms provided for in the Supplemental Indenture authorizing that Series.

2.9 Mandatory Provisions of Pledged Bonds

Each Pledged Bond shall be subject to the following conditions and restrictions, which shall be set out in the Pledge related to such Pledged Bond and shall be referenced or legended in such Pledged Bond:

- (a) such Pledged Bond shall not be transferable or negotiable except to an assignee of all of the Borrowings or Separate Secured Obligations secured by such Pledged Bond or to an assignee or successor of the facility or security agent or other Person in a similar capacity in respect of the Borrowings or Separate Secured Obligations secured by such Pledged Bond and only in conjunction with an assignment of the related Pledge or the entering into by the assignee of a Pledge complying with this Section 2.9;
- (b) notwithstanding the principal amount of such Pledged Bond, or the rate of interest expressed to be payable thereon, or that such Pledged Bond may be expressed to be payable on demand, such Pledged Bond shall constitute an obligation of BC Ferries to the holder thereof or other Persons in whose favour the Borrowings or Separate Secured Obligations secured by such Pledged Bond are owed only to the extent of the lesser of:
 - (i) the outstanding Borrowings (other than any undrawn amount under a Credit Facility) or Separate Secured Obligations (as the case may be), provided, however, that for the purposes of this Section 2.9(b)(i):
 - (A) the amount of any contingent liability under an outstanding letter of credit, letter of guarantee, bankers' acceptance or similar instruments shall be considered to be a Borrowing or, where an outstanding letter of credit does not qualify as a Borrowing, a Separate Secured Obligation; and
 - (B) the net marked to market value of a Swap Agreement which would be payable by BC Ferries or a Designated Subsidiary to a counterparty to such Swap Agreement shall be deemed to be a Borrowing or, where a Swap Agreement does not qualify as a Borrowing, a Separate Secured Obligation (but disregarding the netting of any rights or obligations of the parties to such Swap Agreement, or their Affiliates, in accordance with any other Swap Agreement which does not constitute a Borrowing or a Separate Secured Obligation); and
 - (ii) the principal amount of such Pledged Bond and interest accrued thereon; provided, however, that no Pledged Bond shall be deemed to have been redeemed only by reason of BC Ferries having no indebtedness or liability to the Persons in whose favour any Borrowings are secured by any such Pledge at any time while a Pledged Bond is so Pledged,

and shall be payable only in accordance with the payment provisions applicable to the relevant Borrowings or Separate Secured Obligations;

- (c) notwithstanding the principal amount of such Pledged Bond, the holder or holders thereof shall, for the purposes of establishing a quorum under Sections 9.4(a) and (b), be deemed to hold Bonds, and shall only be entitled to that number of votes at any meeting of Bondholders or in respect of any Special Resolution or Extraordinary Resolution to which the holder of an Obligation Bond would be entitled, in a principal amount equal to the lesser of:
 - (i) the outstanding Borrowings (other than any undrawn amount under a Credit Facility) or Separate Secured Obligations (as the case may be) secured by such Pledged Bond at the time of calculation, provided, however, that for the purposes of this Section 2.9(c)(i):
 - (A) the amount of any contingent liability under an outstanding letter of credit, letter of guarantee, bankers' acceptance or similar instruments shall be considered to be a Borrowing or, where an outstanding letter of credit does not qualify as a Borrowing, a Separate Secured Obligation;
 - (B) in respect of a Swap Agreement (whether such Swap Agreement qualifies as a Borrowing or as a Separate Secured Obligation):
 - (1) where no Event of Default has occurred or, if occurred, that Event of Default has been waived or cured in accordance with this Indenture, the amount deemed to be Outstanding in respect of such Swap Agreement to a counterparty shall be such amount as may be determined in accordance with the relevant Supplemental Indenture or Pledge but not to exceed the net marked to market value of such Swap Agreement which would be payable by BC Ferries or a Designated Subsidiary to such counterparty (but disregarding the netting of any rights or obligations of the parties to such Swap Agreement, or their Affiliates, in accordance with any other Swap Agreement which does not constitute a Borrowing or a Separate Secured Obligation); and
 - (2) following the happening of an Event of Default and where such Event of Default has not been waived or cured in accordance with this Indenture, the amount deemed to be Outstanding shall be the net amount which would be payable by BC Ferries or a Designated Subsidiary upon early termination of such Swap Agreement in accordance with its terms; and

- (ii) the principal amount of such Pledged Bond and interest accrued thereon;
- (d) all of the rights of the holder or holders of such Pledged Bond may be divisible with respect to all of the Borrowings or Separate Secured Obligations secured by such Pledged Bond, provided that such rights, other than voting rights, may only be exercised by the holder of the Pledged Bond or its agent and that voting rights relating to the Pledged Bond may only be exercised by the holder thereof or any Person or Persons duly appointed as proxy for voting such Pledged Bond; and
- (e) upon the termination of all Credit Facilities, Swap Agreements or any other Borrowings which are secured by a Pledged Bond and the payment of all amounts outstanding under such Borrowings or Separate Secured Obligations, the holder of such Pledged Bond shall deliver the Pledged Bond to the Trustee for cancellation by the Trustee in accordance with Section 3.12.

ARTICLE 3 - GENERAL TERMS AND PROVISIONS OF BONDS

3.1 Bonds Generally

Subject to the provisions of Section 3.3, each Bond shall be entitled “BC Ferries Capital Markets Platform Bond” or such other title as may be specified for such Series designation and shall bear such additional letter or number of a Series designation as shall be provided for in the Supplemental Indenture authorizing the Series of such Bonds. Bonds of any one Series shall be substantially identical except as to denominations and as may otherwise be provided in the Supplemental Indenture authorizing such Bonds. Interest payable on any Bonds in respect of any period that commenced on a date that is not the day immediately following a Payment Date for such Bonds or ends on a date that is not a Payment Date for such Bonds shall be the amount determined by multiplying the amount of interest payable in a calendar year by a fraction, the numerator of which is the number of days elapsed in such period for which interest is payable and the denominator of which is 365 or (in the case of a leap year) 366, as the case may be. Interest upon the principal of each Bond shall cease to accrue from the maturity date of such Bond unless payment of such principal shall be improperly withheld or refused upon due presentment and surrender of such Bond at the appropriate place on or after such maturity date. Subject to the provisions of the Supplemental Indenture authorizing a Series of Bonds interest shall be payable on all amounts of principal and interest which are not paid when due or the payment of which has not been provided for when due, at the same rate of interest as is payable prior to such failure on the outstanding principal amount of such Series.

3.2 Payment Dates

Principal and interest, if any, on any Series shall become due on the dates specified for the payment thereof in the Supplemental Indenture authorizing such Series.

3.3 Legends

The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Indenture as may be necessary

or desirable to comply with the rules of any securities exchange or regulatory authority, or otherwise, as may be determined by BC Ferries prior to the authentication and delivery thereof.

3.4 Form of Legend for Global Bonds

Unless otherwise specified in the Supplemental Indenture authorizing a Series, every Global Bond of such Series authenticated and delivered by the Trustee shall bear a legend in substantially the following form or in such other form as may be required by the Depository:

THIS BOND IS A GLOBAL BOND WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF CDS & CO. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE CANADIAN DEPOSITORY FOR SECURITIES LIMITED (CDS) TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE IS ISSUED IN RESPECT THEREOF IS REGISTERED IN THE NAME OF “CDS & CO”, OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS (AND ANY PAYMENT IS MADE TO CDS & CO, OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED HOLDER HEREOF, CDS & CO, HAS AN INTEREST HEREIN.

3.5 Place and Medium of Payment

Principal and interest with respect to any Series shall be payable in the currency specified in the Supplemental Indenture authorizing such Series. Subject to the provisions of the Supplemental Indenture authorizing such Series:

- (a) the principal of any Bond of a Series shall be payable at the principal office of the Trustee designated in the Supplemental Indenture if the Trustee acts as a Paying Agent for such Series or, at the option of the holder, at the principal office of any other Paying Agent (if any) designated in the Supplemental Indenture, upon presentation and surrender of such Bond, provided that where the Trustee does not act as the Paying Agent, the Paying Agent shall notify the Trustee of the aggregate payments made in respect of Global Bonds on any Payment Date;
- (b) interest and principal in respect of Registered Bonds shall be payable only to those Bondholders reflected in the register of Bondholders on the record date designated in the Supplemental Indenture;
- (c) as the interest on Registered Bonds becomes due (except in the case of payment of interest at maturity or on redemption which shall be paid on presentation and surrender of such Bonds for payment and except as hereinafter provided in this Section 3.5(c)) BC Ferries shall, at least five days prior to each Payment Date,

forward, or cause to be forwarded by prepaid ordinary mail, to the holder for the time being, or, in the case of joint holders, to whichever of such joint holders is named first in the appropriate register maintained by BC Ferries for such purpose, at his or her address appearing in such register, a cheque drawn on a Bank for such interest (less any tax required by law to be deducted), payable to the order of such holder or holders and negotiable at par at each of the places at which interest upon such Bonds is payable. The delivery to the postal authorities of such cheque shall satisfy and discharge the liability for the interest upon such Bonds to the extent of the sums represented thereby (plus the amount of any tax deducted as aforesaid) unless such cheque is not paid on presentation. In the event of the non-receipt of such cheque by such registered holder or the loss or destruction thereof, BC Ferries, upon being furnished with reasonable evidence of such non-receipt, loss or destruction and indemnity in amount and form reasonably satisfactory to it, shall issue or cause to be issued to such holder a replacement cheque for the amount of such cheque; and

- (d) BC Ferries, in lieu of forwarding or causing to be forwarded any cheque in payment of principal or interest:
 - (i) where banking law and practice permits, may make such payments by electronic funds transfer on the Payment Date; or
 - (ii) may agree in writing with any holder of Bonds to make payment to or to the order of such holder at any place at which such payment is due and shall provide a certified copy of, or relevant extract from, any such agreement to the Trustee,

and in each such case BC Ferries may make all such payments by pre-authorized transfer payments or other form of electronic payments acceptable to the Trustee and the holder of the Bond. In the case of joint Bondholders, payment by such medium shall be made to the account of the Bondholder named first in the appropriate register maintained by BC Ferries.

3.6 Forms and Denominations

The Bonds of each Series may be issued in the form of Registered Bonds, a Global Bond or in such other form as may from time to time be customary, in each case as specified in the Supplemental Indenture authorizing such Series. The definitive Bonds of each Series shall be in substantially the form set forth in the Supplemental Indenture authorizing such Series. The Bonds of each Series may be issued in such denomination or denominations as may be specified in the Supplemental Indenture authorizing such Series. In the absence of any provisions in such Supplemental Indenture specifying the denomination or denominations of such Series, the Bonds of such Series shall be in denominations of \$5,000.00 or any integral multiple thereof.

3.7 **Interchangeability of Bonds**

- (a) Subject to the provisions hereof and the Supplemental Indenture authorizing a Series, Registered Bonds of such Series, at the option of the registered holder thereof upon reasonable notice and surrender thereof at the principal office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by such registered holder or his or her duly authorized attorney, and upon payment by such registered holder of any charges which BC Ferries or the Trustee may make as provided in Section 3.9, may be exchanged for an equal aggregate principal amount of Registered Bonds of the same Series, maturity and interest rate, in any other authorized denomination or denominations.
- (b) BC Ferries shall execute and the Trustee shall authenticate and deliver all Bonds necessary to carry out the exchanges contemplated in this Section 3.7. Subject to Section 3.9, all Bonds surrendered for exchange shall be cancelled by the Trustee.

3.8 **Negotiability, Transfer and Registry**

- (a) Notwithstanding any other provision of this Indenture, Pledged Bonds shall not be negotiable instruments.
- (b) BC Ferries shall cause to be kept by and at the principal office of the Trustee in the City of Vancouver or at such other place or places (if any) as BC Ferries may designate with the approval of the Trustee, by the Trustee or such other registrar as BC Ferries may appoint or at such other place or places (if any) as may be specified in any Supplemental Indenture, registers (the registers maintained for such purposes in such office and at such other place or places being herein sometimes collectively referred to as the “**register**”) in which, subject to such reasonable regulations as BC Ferries or the Trustee or such other registrar may prescribe, shall be entered the names and addresses of the holders of Registered Bonds and particulars of the Bonds held by them. The Trustee is hereby appointed registrar for the purpose of registering Registered Bonds and transfers thereof as herein provided.
- (c) No transfer of a Registered Bond shall be valid unless made on one of the registers therefor by the registered holder thereof or his or her executors, administrators or other legal representatives or by his or her attorney duly appointed by an instrument in writing in form and execution satisfactory to the Trustee or other registrar, upon surrender of such Bond together with a written instrument of transfer satisfactory to the Trustee or other registrar and duly executed by such registered holder or such legal representatives or such duly authorized attorney and upon compliance with such reasonable requirements as the Trustee or other registrar may prescribe and upon payment by (or on behalf of) such registered holder of any charges which BC Ferries or the Trustee may make as provided in Section 3.9. Upon the surrender for registration of transfer of any such Registered Bond, BC Ferries shall execute and the Trustee shall authenticate and deliver, at the option of the transferee and subject to the

provisions of the Supplemental Indenture authorizing such Bonds, a new Registered Bond, registered in the name of the transferee, of the same aggregate principal amount, Series, maturity and interest rate as the surrendered Bond. Subject to Section 3.8(a), after the appropriate form of transfer is lodged with the Trustee or other registrar and upon compliance with all other conditions in that regard required by this Indenture, any applicable Supplemental Indenture or applicable law, the transferee of a Registered Bond shall be entitled to be entered on the register as the holder of such Bond free from all equities or rights of set-off or counterclaim between BC Ferries and his or her transferor or any previous holder of such Bond, save in respect of equities of which BC Ferries is required to take notice by statute or by order of a court of competent jurisdiction, and all Persons may act accordingly.

- (d) BC Ferries and each Fiscal Agent may deem and treat the Person in whose name any Registered Bond is registered as the absolute owner thereof, for all purposes, and neither BC Ferries nor any Fiscal Agent shall be affected by any notice to the contrary. Payment of, or on account of, the principal, Premium or Redemption Price, if any, of any Registered Bond, or the interest on such Bond, shall be made only to, or upon the order of, the registered holder thereof. All such payments shall be valid and effective to satisfy and discharge the liability upon such Bond in respect of such principal, Premium, Redemption Price or interest to the extent of the sum or sums so paid.
- (e) The following provisions apply to Global Bonds:
 - (i) Each Global Bond authenticated under any Supplemental Indenture shall be registered in the name of the Depository designated for such Global Bond or a nominee thereof and delivered to such Depository or a nominee thereof or custodian therefor, and each such Global Bond shall constitute a single Bond for all purposes of this Indenture. None of BC Ferries, the Trustee or any other Paying Agent shall have any responsibility or liability for any aspects of the records relating to or payments made by any Depository on account of the beneficial interest in any Global Bond. Except as provided in this Section 3.8(e), owners of beneficial interests in any Global Bond shall not be entitled to have Bonds registered in their names, shall not receive or be entitled to receive Bonds in definitive form and shall not be considered owners or holders thereof under this Indenture. Nothing in this Indenture or in any Supplemental Indenture shall prevent the owners of beneficial interests in Global Bonds from voting such Bonds using duly executed proxies.
 - (ii) Notwithstanding any other provision in this Indenture other than a provision referred to in Section 3.8(e)(ii)(C), no Global Bond may be exchanged in whole or in part for definitive Registered Bonds, and no transfer of a Global Bond in whole or in part may be registered in the name of any Person other than the Depository for such Global Bond or a nominee thereof, unless:

- (A) such Depository:
 - (1) has notified BC Ferries that it is unwilling or unable to continue as Depository for such Global Bond; or
 - (2) has ceased to be a clearing agency (registered, if required, under the securities legislation governing such Global Bond) or otherwise ceased to be eligible to be a depository;

and BC Ferries and the Trustee have been unable to appoint a qualified replacement Depository within 90 days;

- (B) there shall have occurred and be continuing an Event of Default and a Bondholder's Request has been made to the Depository and to the Trustee for the issuance of definitive Registered Bonds; or
- (C) there shall exist such circumstances, if any, in addition to or in lieu of the foregoing as have been specified for this purpose in the Supplemental Indenture authorizing such Global Bond.

- (iii) Subject to paragraph 3.8(e)(ii), any exchange of a Global Bond for Bonds which are not Global Bonds may be made in whole or in part in accordance with the provisions of Section 3.11(b), *mutatis mutandis*. All such Bonds issued in exchange for a Global Bond or any portion thereof shall be registered in such names as the Depository for such Global Bond shall direct and shall be entitled to the same benefits and subject to the same terms and conditions (except insofar as they relate specifically to Global Bonds) as the Global Bond or portion thereof surrendered upon such exchange.
- (iv) Every Bond authenticated and delivered upon registration of transfer of a Global Bond, or in exchange for or in lieu of a Global Bond or any portion thereof, whether pursuant to this Section 3.8(e) or otherwise, shall be authenticated and delivered in the form of, and shall be, a Global Bond, unless such Bond is registered in the name of a Person other than the Depository for such Global Bond or a nominee thereof or any replacement Depository approved by BC Ferries and the Trustee.

3.9 Regulations with Respect to Exchanges and Transfers

In all cases in which the privilege of exchanging Bonds or registering the transfer of Bonds is exercised, BC Ferries shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Indenture. Subject to Section 3.11(b), all Registered Bonds surrendered for exchange or registration of transfer shall forthwith be cancelled by the Trustee. For every exchange or registration of transfer of Bonds, whether temporary or definitive, BC Ferries or the Trustee, as a condition precedent to the privilege of making such exchange or registration of transfer, may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of

transfer. No charge shall be made to the holder in connection with such exchange or registration of transfer to pay the cost of preparing each new Bond issued upon such exchange or registration of transfer. Any such charge shall be borne by BC Ferries. Neither BC Ferries nor the Trustee shall be required to exchange or register the transfer of Bonds of any Series for a period of 10 days next preceding a Payment Date for the Bonds of such Series or, in the case of any proposed redemption of Bonds of any Series, for a period of 10 days next preceding any selection of Bonds of such Series to be redeemed or thereafter until the first publication or mailing of any notice of redemption.

3.10 Bonds Mutilated, Defaced, Destroyed, Stolen or Lost

In case any Bond shall become mutilated or defaced, or be destroyed, stolen or lost, BC Ferries shall, subject to applicable law, execute, and thereupon the Trustee, at its principal office, shall authenticate and deliver a new Bond of like date and tenor as the Bond so mutilated, defaced, destroyed, stolen or lost, in exchange and substitution for such mutilated or defaced Bond upon surrender and cancellation thereof, or in lieu of and substitution for such destroyed, stolen or lost Bond, upon filing with the Trustee evidence satisfactory to BC Ferries and the Trustee in their discretion that such Bond has been destroyed, stolen or lost and proof of ownership thereof, and upon furnishing BC Ferries and the Trustee with an indemnity in amount and form satisfactory to them in their discretion and complying with such other reasonable terms and conditions as BC Ferries and the Trustee may prescribe and paying such reasonable charges and expenses as BC Ferries and Trustee may incur in connection therewith. All mutilated or defaced Bonds surrendered to the Trustee pursuant to this Section 3.10 shall be cancelled by it. Any new Bond authenticated and delivered pursuant to this Section 3.10 shall be entitled to all the benefits of this Indenture and the Security equally and rateably in accordance with the terms of this Indenture with any and all other Bonds.

3.11 Preparation of Definitive Bonds and Temporary Bonds

- (a) Pending the preparation and delivery to the Trustee of definitive Bonds of any Series, BC Ferries may execute in lieu thereof (in the same manner as is provided in Section 2.4 but subject to the provisions, conditions and limitations set forth in this Section 3.11) and, upon the Written Request of BC Ferries, the Trustee shall authenticate and deliver one or more temporary Bonds which are printed, lithographed, typewritten or otherwise produced, in such form and in any authorized denomination substantially of the tenor of the definitive Bonds in lieu of which such temporary Bonds are issued and with such appropriate omissions, insertions, substitutions and other variations as the Trustee or any Authorized Officers executing such temporary Bonds may approve, such approval to be conclusively evidenced by the execution thereof by BC Ferries (in the manner provided in Section 2.4) and the authentication and delivery thereof by the Trustee. Any such temporary Bonds shall entitle the holders thereof to definitive Bonds in any authorized denomination when the same are prepared and ready for delivery. The aggregate principal amount of temporary Bonds of any Series authenticated and delivered by the Trustee shall not exceed the aggregate principal amount of Bonds of such Series authorized by the Supplemental Indenture authorizing such Series.

- (b) Within a reasonable time after the issuance of any temporary Bonds, BC Ferries shall cause to be prepared the appropriate definitive Bonds for delivery to the holders of such temporary Bonds. After the preparation of definitive Bonds of a Series, the temporary Bond or Bonds of such Series shall be exchangeable for definitive Bonds of such Series upon surrender of such temporary Bond or Bonds at the principal office of the Trustee or at the principal office of any other Paying Agent, without charge to the holder thereof. Upon surrender of any such temporary Bond, BC Ferries shall execute and the Trustee shall authenticate and deliver in exchange for all or any part of such temporary Bond, one or more definitive Bonds of the same Series, of any authorized denomination and of like tenor and for an aggregate principal amount equal to the aggregate principal amount of the temporary Bond or part thereof that is being exchanged for such definitive Bond or Bonds and if part only of such temporary Bond is being exchanged for such definitive Bond or Bonds, together with such temporary Bond with the reduction of the principal amount thereof endorsed thereon or on a schedule annexed thereto by the Trustee or such Paying Agent or together with a new temporary Bond or Bonds, executed by BC Ferries and authenticated and delivered by the Trustee, of the same Series, of any authorized denomination and of like tenor and for an aggregate principal amount equal to the remaining principal amount of the surrendered temporary Bond or Bonds. Upon the exchange of the entire principal amount of a temporary Bond for definitive Bonds or for definitive Bonds together with new temporary Bonds, the temporary Bond so exchanged shall be cancelled. Until exchanged for definitive Bonds, the temporary Bond or Bonds of any Series shall in all respects be entitled to the same benefits and Security under this Indenture as definitive Bonds of such Series.

3.12 Cancellation and Destruction of Bonds

All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds purchased by BC Ferries, shall thereupon be cancelled promptly. No Bonds shall be authenticated in lieu of or in exchange for any Bonds cancelled as provided in this Section 3.12 except as expressly permitted under this Indenture. Bonds so cancelled may at any time be incinerated, shredded or otherwise destroyed by the Trustee, when directed in writing by BC Ferries, in accordance with its ordinary business practice, who shall execute a certificate of incineration, shredding or destruction in duplicate by the signature of one of its authorized officers describing the Bonds so incinerated or otherwise destroyed and one executed certificate shall be filed with BC Ferries and the other executed certificate shall be retained by the Trustee.

3.13 Authentication

- (a) The Bonds of any Series shall bear thereon a certificate of authentication, substantially in the form set forth in the Supplemental Indenture authorizing such Series, executed manually by the Trustee. No Bond shall be issued or, if issued, shall be obligatory or entitle the holder to any right or benefit under this Indenture or shall be valid or obligatory for any purpose until such certificate of

authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon the Bonds of any Series executed by or on behalf of BC Ferries shall be conclusive evidence as against BC Ferries that the Bonds so authenticated have been duly executed, authenticated and delivered under this Indenture and the Supplemental Indenture authorizing such Series and are valid and binding obligations of BC Ferries and that the holder thereof is entitled to the benefits of this Indenture and the Security.

- (b) The certificate of the Trustee on Bonds shall not be construed as a representation or warranty by the Trustee as to the validity of this Indenture or of the Bonds (except the due certification thereof and any other warranties implied by law) or as to the performance by BC Ferries of its obligations under this Indenture and the Trustee shall in no respect be liable or answerable for the use made of the Bonds or any of them or of the proceeds thereof.

3.14 Registers Open for Inspection

The registers mentioned in Section 3.8 shall at all reasonable times be open for inspection by BC Ferries, the Trustee or any Bondholder (including, without limitation, any Person who has a beneficial interest in a Pledged Bond or Global Bond and who provides a sworn affidavit confirming such beneficial ownership). Every registrar (including the Trustee) shall from time to time when requested to do so in writing by BC Ferries or by the Trustee furnish BC Ferries or the Trustee with a list of the names and addresses of holders of Bonds entered on the register kept by such registrar and showing the principal amount and serial numbers of the Bonds held by each such holder. Every registrar (including the Trustee) shall, from time to time when requested in writing by a Bondholder (including, without limitation, any Person who has a beneficial interest in a Pledged Bond or Global Bond and who provides a sworn affidavit confirming such beneficial ownership), at the expense of the Bondholder, furnish the Bondholder with a list of the names and addresses of holders of Bonds or any Series thereof entered on the register kept by such registrar and showing the principal amount and serial numbers of the Bonds held by such holders. Notice of such request shall be provided by the registrar (including the Trustee) to BC Ferries.

3.15 Right to Redeem

Bonds of a Series may be subject to redemption prior to maturity at such times, to the extent and in the manner provided herein and in any Supplemental Indenture authorizing the issuance thereof. Bonds of any Series which are redeemable before their maturity shall be redeemable in accordance with their terms and, unless otherwise provided in the Supplemental Indenture authorizing the issuance of such Series, in accordance with Sections 3.17 to 3.22, inclusive.

3.16 Election to Redeem

The right of BC Ferries to elect to redeem the whole or any part of any Bonds of any Series shall be established in accordance with the Supplemental Indenture authorizing such Series. In the case of any redemption of Bonds (a) prior to the expiration of any applicable restriction on such redemption provided in the terms of such Bonds or elsewhere in this Indenture or in the

applicable Supplemental Indenture; or (b) pursuant to an election of BC Ferries that is subject to a condition specified in the terms of such Bonds, BC Ferries shall furnish the Trustee with an Officer's Certificate evidencing compliance with such restriction or condition.

3.17 Bonds to Be Redeemed

- (a) Unless otherwise specified in a Supplemental Indenture, if less than all the Bonds of any Series are to be redeemed, the Bonds of the Series to be redeemed shall be redeemed on a pro rata basis in accordance with the principal amount of the Outstanding Bonds of such Series held by a Bondholder.
- (b) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Bonds shall relate, in the case of any Bonds redeemed or to be redeemed only in part, to the portion of the principal amount of such Bonds which has been or is to be redeemed.

3.18 Notice of Redemption

- (a) Notice of redemption shall be given by or on behalf of BC Ferries in the manner provided in Section 7.2 to the holders of Bonds of any particular Series to be redeemed not less than 30 nor more than 60 days prior to the Redemption Date. All notices of redemption shall state:
 - (i) the Redemption Date;
 - (ii) the Redemption Price, including the Premium, if any, or if the Redemption Price is to be calculated on the basis of the Canada Yield Price, the date of determination of the Canada Yield Price for the Bonds to be redeemed;
 - (iii) subject to Section 3.17, if less than all the Outstanding Bonds of that Series are to be redeemed, the identification (and, in the case of partial redemption, the principal amount) of the particular Bonds to be redeemed;
 - (iv) that on the Redemption Date, the Redemption Price will become due and payable upon each such Bond to be redeemed;
 - (v) the place or places where such Bonds being redeemed are to be surrendered for payment of the Redemption Price; and
 - (vi) that interest shall cease to accrue on the portion of the Bonds to be redeemed as of the Redemption Date.
- (b) For the purpose of this Section 3.18, if the Bonds of a Series are issued in book entry only form, notice to the Depository shall constitute notice to the holders of the Bonds.

3.19 Deposit of Redemption Price

- (a) Except for Bonds issued only in global form, on or before 8:00 a.m. (Vancouver time) on any Redemption Date, BC Ferries will deposit with the Trustee an amount in immediately available funds sufficient to pay the Redemption Price of, and accrued interest on, all the Bonds which are to be redeemed on that date.
- (b) For Bonds issued only in global form, BC Ferries will, on or before 8:00 a.m. (Vancouver time) on any Redemption Date, pay the Redemption Price to the Trustee with instructions to pay the Depository in accordance with the book entry only system of the Depository and provide written notice to the Trustee that such payment has been made.

3.20 Bonds Payable on Redemption Date

Notice of redemption having been given as aforesaid, the Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price, and from and after such date, unless BC Ferries shall default in the payment of the Redemption Price, such Bonds shall cease to bear interest and shall be void. Upon surrender of any such Bond for redemption in accordance with said notice, such Bond shall be paid by BC Ferries at the Redemption Price; provided, however, that, unless otherwise specified, instalments of interest on Bonds whose stated maturity is on or prior to the Redemption Date shall be payable according to their terms and the provisions of Section 3.5.

3.21 Bonds Redeemed in Part

Any Bond (including a Global Bond) which is to be redeemed only in part shall be surrendered at the principal office of the Trustee or any other Paying Agent (with, if BC Ferries or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to BC Ferries and the Trustee duly executed by, the holder thereof or its attorney, duly authorized in writing) and BC Ferries shall execute and the Trustee shall certify and deliver to the holder of such Bond without service charge a new Bond or Bonds of the same Series (including a Global Bond, as applicable), of any authorized denomination or denominations as requested by such holder, in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered.

3.22 Mandatory Sinking Fund Redemption

Bonds of a Series may be subject to a mandatory sinking fund redemption and shall be redeemed at such times to the extent and in the manner provided in the Supplemental Indenture authorizing the issuance of such Series and providing for the establishment of a Sinking Fund for such purposes.

3.23 Purchase for Cancellation

BC Ferries may purchase in any public market or by tender or by private agreement any Bonds for cancellation, if BC Ferries is not in default hereunder.

3.24 Offer to Purchase

Unless otherwise specified in the Supplemental Indenture authorizing a Series:

- (a) any Offer to Purchase shall be governed by and effected in accordance with a written notice (the “**Offer**”) sent by BC Ferries to the Bondholders of the relevant Series;
- (b) at least 15 Business Days (or such shorter period as is acceptable to the Trustee) prior to the mailing of the Offer, BC Ferries will notify the Trustee of BC Ferries’ obligation to make the Offer to Purchase and the Offer will be mailed by BC Ferries or, at BC Ferries’ request, by the Trustee, in the name and at the expense of BC Ferries;
- (c) for so long as the Bonds forming the subject matter of the Offer to Purchase are evidenced by Global Bonds registered in the name of the Depository designated for such Global Bond (or a nominee thereof), notwithstanding anything to the contrary contained in this Indenture or any Supplemental Indenture, any Offer to Purchase shall be governed by and effected pursuant to the rules and procedures of such Depository;
- (d) the Offer shall specify at least the following:
 - (i) the Sections of this Indenture and the relevant Supplemental Indenture pursuant to which the Offer to Purchase is being made;
 - (ii) unless otherwise required by applicable law, an expiration date (the “**Expiration Date**”) of the Offer to Purchase which shall, subject to any contrary requirements of applicable law, be not fewer than 30 days or more than 60 days after the date of such Offer;
 - (iii) a purchase date (the “**Offer Purchase Date**”) falling no later than five Business Days after the Expiration Date;
 - (iv) the aggregate principal amount of the Bonds offered to be purchased pursuant to the Offer to Purchase (including, if less than 100%, the manner by which such amount has been determined) (the “**Purchase Amount**”);
 - (v) the purchase price (the “**Offer Purchase Price**”) to be paid by BC Ferries for each \$1,000 aggregate principal amount of Bonds accepted for purchase, or the basis on which the Offer Purchase Price will be calculated;
 - (vi) that the Bondholder may tender all or any portion of the Bonds held by such Bondholder and that any portion of a Bond tendered must be tendered in an integral multiple of \$1,000 principal amount;

- (vii) the place or places where Bonds are to be surrendered for tender pursuant to the Offer to Purchase;
- (viii) that interest on any Bond not tendered pursuant to the Offer to Purchase will continue to accrue;
- (ix) that on the Offer Purchase Date, the Offer Purchase Price will become due and payable upon each Bond being accepted for payment pursuant to the Offer to Purchase and that interest thereon shall cease to accrue on and after the Offer Purchase Date;
- (x) that each Bondholder electing to tender a Bond pursuant to the Offer to Purchase will be required to surrender such Bond at the place or places specified in the Offer prior to the close of business on the Expiration Date (such Bond being, if BC Ferries or the Trustee so require, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to BC Ferries and the Trustee, duly executed by the Bondholder thereof or its agent duly authorized in writing);
- (xi) that Bondholders will be entitled to withdraw all or any portion of Bonds tendered if BC Ferries (or its Paying Agent) receives, not later than the close of business on the Expiration Date, a facsimile transmission or letter setting forth the name of the Bondholder, the principal amount and the certificate number (if any) of the Bond tendered by the Bondholder and a statement that such Bondholder is withdrawing all or a portion of such tender;
- (xii) that if Bonds in an aggregate principal amount in excess of the Purchase Amount are tendered and not withdrawn pursuant to the Offer to Purchase, BC Ferries shall purchase Bonds having an aggregate principal amount equal to the Purchase Amount on a pro rata basis (with such adjustments as may be deemed appropriate so that only Bonds in denominations of \$1,000 or integral multiples thereof shall be purchased);
- (xiii) that if Bonds in an aggregate principal amount less than or equal to the Purchase Amount are duly tendered and not withdrawn pursuant to the Offer to Purchase, BC Ferries shall purchase all such Bonds;
- (xiv) that in the case of any Bondholder whose Bond is purchased only in part, BC Ferries shall execute, and the Trustee shall authenticate and deliver to the Bondholder of such Bond without service charge, a new Bond of any authorized denomination as requested by such Bondholder, in an aggregate principal amount equal to and in exchange for the unpurchased portion of the Bond tendered by such Bondholder.

3.25 Right of Province to Purchase Bonds

The Province shall have the right at any time to purchase all, but not less than all, of the Bonds at the Purchase Price. Any such purchase shall be subject to the following terms:

- (a) Notice of purchase shall be given by or on behalf of the Province in the manner provided in Section 7.2 to the holders of Bonds of any particular Series to be purchased not less than 30 nor more than 60 days prior to the Purchase Date. All notices of purchase shall state:
 - (i) the Purchase Date;
 - (ii) the Purchase Price, or the method of calculation thereof in accordance with the provisions set out in the relevant Supplemental Indenture;
 - (iii) that on the Purchase Date, the Purchase Price will become due and payable upon each such Bond to be purchased;
 - (iv) the place or places where such Bonds being purchased are to be surrendered for payment of the Purchase Price; and
 - (v) that interest shall cease to accrue on the Bonds to be purchased as of the Purchase Date.

For the purpose of this Section 3.25(a), if the Bonds of a Series are issued in book entry only form, notice to the Depository shall constitute notice to the holders of the Bonds.

- (b) The Province will:
 - (i) except for Bonds issued only in global form, on or before 8:00 a.m. (Vancouver time) on any Purchase Date, deposit with the Trustee an amount in immediately available funds sufficient to pay the Purchase Price of, and accrued interest on, all the Bonds which are to be purchased on that date; and
 - (ii) for Bonds issued only in global form, on or before 8:00 a.m. (Vancouver time) on any Purchase Date, pay the Purchase Price to the Depository in accordance with the book entry only system of the Depository and provide written notice to the Trustee that such payment has been made.
- (c) Notice of purchase having been given as aforesaid, the Purchase Price shall become due and payable by the Province to the Bondholders on the Purchase Date.

ARTICLE 4 - ESTABLISHMENT OF ACCOUNTS

4.1 Establishment of and Disbursements from Debt Service Reserve Fund

- (a) For each Series of Obligation Bonds, BC Ferries shall establish a segregated and separate account at a single branch of a Bank in Victoria or Vancouver in the name and under the control of the Trustee, in trust, designated as a “Series Reserve Account”. The Debt Service Reserve Fund shall be comprised of the aggregate of all Series Reserve Accounts established under this Section 4.1(a) and under Section 4.1(h). Upon the first issuance of Obligation Bonds under this Indenture, BC Ferries shall deposit or cause to be deposited into the Series Reserve Account for the Obligation Bonds so issued, an amount of money or a Letter of Credit in favour of the Trustee (or a combination of money and Letter of Credit) equal to six months of Forecast Debt Service or such greater amount as may be specified in the Supplemental Indenture authorizing such Series of Obligation Bonds. To the extent that the Debt Service Reserve Fund is Fully Funded and a Series Reserve Account has a balance in excess of that amount required to ensure that the Debt Service Reserve Fund is Fully Funded, BC Ferries may withdraw such excess.
- (b) BC Ferries shall, save as provided hereunder, at all times maintain six months of Forecast Debt Service for all Series of Obligation Bonds in the Debt Service Reserve Fund. BC Ferries shall fund each Series Reserve Account with not less than the amounts specified in this Section 4.1 and in the Supplemental Indenture authorizing the applicable Series of Bonds at the time of the issuance of such Series of Bonds. To the extent that funds are otherwise unavailable to meet Debt Service payments in respect of a Series of Obligation Bonds, BC Ferries (or the Trustee pursuant to Section 4.1(f)) may use the funds in the relevant Series Reserve Account to pay Debt Service for such Series of Obligation Bonds. In such event, BC Ferries shall cause the Debt Service Reserve Fund to be Fully Replenished with all due diligence and prior to the making of any Discretionary Expenditures, and in any event shall cause the Debt Service Reserve Fund to be Fully Replenished by no later than the end of the 12 month period which commences on the date of the first withdrawal made by BC Ferries or the Trustee from any Series Reserve Account. When the Debt Service Reserve Fund is Fully Replenished, such 12 month cure period shall recommence upon the next following withdrawal from any Series Reserve Account. BC Ferries is required to cause the Debt Service Reserve Fund to be Fully Replenished in the following manner:
 - (i) each Series Reserve Account from which funds have been withdrawn shall be replenished by the deposit to such Series Reserve Account of an amount equal to the amount of the funds so withdrawn, and upon the deposit of such amount such Series Reserve Account shall be regarded as Fully Replenished;

(ii) an amount shall be deposited to a separate trust account with the Trustee (the “**Debt Service Provision Account**”) equal to the aggregate of the Gross Interest Obligations and the Total Principal Reduction Amount for all Series of Obligation Bonds that would be due on the later of:

(A) the first day after a withdrawal from a Series Reserve Account on which all Series Reserve Accounts from which funds have been withdrawn are Fully Replenished for all of that day; and

(B) the date on which the deposit to the Debt Service Provision Account is made,

calculated as if the Gross Interest Obligations and the Total Principal Reduction Amount accrued on a daily basis;

(iii) the Debt Service Reserve Fund shall be regarded as Fully Replenished on the first day after a withdrawal from any Series Reserve Account on which all Series Reserve Accounts from which funds have been withdrawn are Fully Replenished for all of that day and the amount in the Debt Service Provision Account is not less than the amount required under Section 4.1(b)(ii);

(iv) after the date on which the Debt Service Reserve Fund is Fully Replenished, any amount in the Debt Service Provision Account may be withdrawn by BC Ferries and used to pay Debt Service in respect of any Obligation Bonds, without any obligation to make a further deposit to the Debt Service Provision Account unless there is a subsequent withdrawal from a Series Reserve Account for a Series of Obligation Bonds, whereupon BC Ferries shall again be required to replenish the Debt Service Reserve Fund as provided in this Section 4.1(b);

(v) without relieving BC Ferries of its obligation to cause the Debt Service Reserve Fund to be Fully Replenished with all due diligence, BC Ferries shall, in priority to all other Series Reserve Accounts, replenish the Series Reserve Account or the Series Reserve Accounts which, relative to all other Series Reserve Accounts, have the greatest deficiency requiring replenishment from time to time, where such deficiency shall be measured (on an ongoing basis and for each dollar deposited to any Series Reserve Account) as a percentage calculated by dividing the amount required to be replenished in each Series Reserve Account (such amount not to exceed, for such purpose, the amount equal to 12 months Forecast Debt Service for the Series of Obligation Bonds to which such Series Reserve Account relates) by the amount required to be held in such Series Reserve Account in order for such Series Reserve Account to be Fully Replenished (such amount not to exceed, for such purpose, an amount equal to 12 months Forecast Debt Service for the Series of Obligation Bonds to which such Series Reserve Account relates); provided that where:

- (A) any Series Reserve Accounts have the same greatest deficiency, or no Series Reserve Account has a greater deficiency than any other Series Reserve Account requiring replenishment, all such Series Reserve Accounts shall be replenished on a pro rata basis; and
 - (B) if all Series Reserve Accounts which, at such date, require 12 months or less of Forecast Debt Service in order to be Fully Funded have been Fully Replenished, all remaining Series Reserve Accounts shall be replenished in proportion to the aggregate remaining deficiency in all such remaining Series Reserve Accounts.
- (c) Funds may be drawn from each Series Reserve Account in the Debt Service Reserve Fund to pay Debt Service on the particular Series of Obligation Bonds for which such Series Reserve Account has been established on the final Payment Date for such Series of Obligation Bonds.
 - (d) The determination of Forecast Debt Service for each Series of Obligation Bonds shall be made by BC Ferries at the date of issuance of each such Series of Obligation Bonds, and BC Ferries shall deliver an Officer's Certificate to the Trustee setting out such determination as at the date of issuance of such Series of Obligation Bonds.
 - (e) Any monies held in the Debt Service Reserve Fund shall be held in cash or invested in Permitted Investments as directed in writing to the Trustee by or on behalf of BC Ferries from time to time in accordance with Section 4.4.
 - (f) Assets in each Series Reserve Account shall be used by the Trustee for the exclusive purpose of making payments of principal, interest, fees and other amounts due on the Series of Obligation Bonds for which such Series Reserve Account has been established, to the extent directed in writing by BC Ferries or in any event to the extent that such payments have not been made by BC Ferries when due.
 - (g) Where any amount of the Debt Service Reserve Fund is deposited as a Letter of Credit in accordance with Section 4.1(a), such Letter of Credit shall be payable upon written demand by the Trustee certifying that such payment is to be applied in accordance with Section 4.1(f) or that a replacement Letter of Credit was not delivered to the Trustee as required by this Section 4.1(g). Any such Letter of Credit shall either not expire for so long as any Bonds are Outstanding or, if issued for a shorter term, no later than 10 Business Days before its expiry, BC Ferries shall deposit a replacement Letter of Credit or deposit cash to the Debt Service Reserve Fund in an amount not less than the shortfall caused or which would otherwise be caused by such expiry.
 - (h) A Series Reserve Account may be established for a Series of Pledged Bonds in the manner provided in the Supplemental Indenture authorizing the issuance of

such Series of Pledged Bonds, and Sections 4.1(a) to (g), inclusive, shall apply to any such Series Reserve Account, *mutatis mutandis*, subject to the terms of the Supplemental Indenture authorizing the issue of such Series of Pledged Bonds.

- (i) Notwithstanding the foregoing, BC Ferries shall not be required to establish a Series Reserve Account for any Series of Obligation Bonds if all Bonds of such Series mature on or within one year from date of issue.

4.2 Establishment of and Disbursements from Sinking Funds

- (a) BC Ferries may, pursuant to a Supplemental Indenture, establish one or more segregated and separate accounts at a single branch of a Bank in Victoria or Vancouver in the name and control of the Trustee, in trust, and subject to the Lien Hereof, each designated as a “Series Sinking Fund” with respect to any Series of Obligation Bonds to be governed by the terms of this Indenture and the applicable Supplemental Indenture(s) providing for such Series Sinking Funds or designated as the “General Sinking Fund” (collectively, the “**Sinking Funds**”).
- (b) Any monies held in the Sinking Funds shall be held in cash or invested in Permitted Investments.
- (c) Assets in any Series Sinking Fund shall be applied by the Trustee exclusively for the payment of principal amounts due on the applicable Series of Obligation Bonds for which the Series Sinking Fund was established or for the purchase for cancellation of the applicable Series of Obligation Bonds for which the Series Sinking Fund was established, in each case, in accordance with the terms of the Supplemental Indenture authorizing the issuance of the applicable Series of Obligation Bonds.
- (d) Assets in the General Sinking Fund established pursuant to a Supplemental Indenture shall be applied by the Trustee exclusively for the payment on a pro rata basis (based on the principal amounts then outstanding on the Bonds) of the principal amounts due on all Bonds outstanding from time to time.

4.3 Administration of Accounts and Funds

All money and Permitted Investments held by BC Ferries, any Fiscal Agent or any other Person which are required to be segregated under this Indenture or any Supplemental Indenture in any Fund or Account shall be accounted for and held separate and apart from all other money and securities of BC Ferries, any Fiscal Agent or any other Person, as the case may be. All money and Permitted Investments held in an Account or Fund and any undrawn availability under a Restricted Credit Facility shall be applied, used and withdrawn solely for the purposes authorized in this Indenture and any Supplemental Indenture and, until so applied, used and withdrawn, shall be held by BC Ferries, any Fiscal Agent or any other Person, as the case may be, for such purposes and subject to the terms of this Indenture and any Supplemental Indenture.

4.4

General Regulations as to Permitted Investments

- (a) All money held in the Debt Service Reserve Fund and the Sinking Fund(s) shall be held in cash or invested in Permitted Investments as directed by BC Ferries or any person to whom BC Ferries has delegated authority to give such directions. Any written direction by or on behalf of BC Ferries to the Trustee as to the investment of funds forming part of any Fund or Account held by the Trustee shall be in writing and shall be provided to the Trustee no later than 9:00 a.m. (Vancouver time) on the day on which the investment is to be made. Any such direction received by the Trustee after 9:00 a.m. (Vancouver time) shall be deemed to have been given prior to 9:00 a.m. (Vancouver time) on the next Business Day. Nothing herein shall prevent BC Ferries from making investments in cash or Permitted Investments in a Fund or Account held by the Trustee in accordance with standard procedures agreed to by the Trustee for the making of such investments by BC Ferries on behalf of the Trustee.
- (b) Permitted Investments purchased using money in the Debt Service Reserve Fund or the Sinking Fund(s) shall be deemed at all times to be a part of the Debt Service Reserve Fund or the Sinking Fund(s). Permitted Investments so purchased shall be sold on commercially reasonable terms, upon the written direction to the Trustee by an Authorized Officer, whenever it shall be necessary so to do in order to provide monies to make any withdrawal or payment from the Debt Service Reserve Fund or the Sinking Fund(s). Permitted Investments in which money held in the Debt Service Reserve Fund or the Sinking Fund(s) has been invested shall mature not later than the respective dates, as estimated and directed by or on behalf of BC Ferries, when money from the Debt Service Reserve Fund or the Sinking Fund(s) shall be needed. For the purposes of any such investment, a Permitted Investment shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such Permitted Investment. The Trustee shall have no responsibility or liability to anyone in respect of any such estimate by BC Ferries.
- (c) In calculating the amount in the Debt Service Reserve Fund or the Sinking Fund(s), obligations maturing within the three-year period next succeeding the date of calculation shall be valued at their amortized value, and obligations maturing more than three years following the date of calculation shall be valued at the lower of their amortized value or their market value.
- (d) For purposes of this Indenture, the amortized value means par, if the obligation was purchased at par. When used with respect to an obligation purchased at a premium above or a discount below par, the amortized value shall be determined by linear interpolation between the purchase price on the date of purchase and par on the maturity date.

ARTICLE 5 - SECURITY

5.1 Grant of Security by BC Ferries

BC Ferries hereby covenants and agrees with the Trustee for the benefit of the Trustee and the Bondholders that it will, concurrently with execution of this Indenture, grant to and in favour of the Trustee, its successors and assigns:

- (a) subject to the Permitted Liens which by their nature would have priority over a fixed mortgage and charge, fixed mortgages and charges of the Vessels owned by BC Ferries in the form of a Ship Mortgage and shall, within 10 Business Days of subsequently acquiring any additional Vessel, execute and deliver to the Trustee a fixed mortgage and charge on such Vessel in the form of a Ship Mortgage;
- (b) subject to the Permitted Liens which by their nature would have priority over a fixed mortgage and charge and the reservation of the last day of leasehold terms as herein provided, fixed mortgages and charges of the Ferry Terminal Leases in the form of a Leasehold Mortgage and shall, within 10 Business Days of entering into an additional Ferry Terminal Lease or leasing or acquiring other real property for use by BC Ferries as a ferry terminal for the purposes of the Coastal Ferry Business, execute and deliver to the Trustee a fixed mortgage and charge in the form of a Leasehold Mortgage or a Real Property Mortgage as appropriate in the circumstances. Subject to Section 5.10, such mortgages and charges or any notice thereof will not be registered in any British Columbia Land Title Office or elsewhere unless a Default or Event of Default occurs and is continuing and the Trustee is directed to do so by a Bondholders' Request;
- (c) subject to the Permitted Liens which by their nature would have priority over a fixed mortgage and charge, a security interest granted pursuant to the Security Agreement in all of BC Ferries' present and future right, title and interest in and to all present and after-acquired personal property of BC Ferries including, without limitation:
 - (i) subject to the reservation of the last day of leasehold terms as herein provided, all Goods, Chattel Paper, Securities, Documents of Title, Instruments, Accounts, Money and Intangibles as these terms are defined in the *Personal Property Security Act* (British Columbia);
 - (ii) all Book Debts and sources of revenues including, without limitation, all rights to receive payment of fees, terminal charges and terminal rentals, concession revenues, parking revenues, lease revenues and any business interruption insurance proceeds (to the extent insurance proceeds may be charged) or advisory or management fees;
 - (iii) all assets held in the Debt Service Reserve Fund or Sinking Fund(s) including, without limitation, all Permitted Investments and Restricted Credit Facilities now or hereafter forming part thereof; and

- (iv) all Material Contracts and Other Contracts; and
- (d) subject to the Permitted Liens which by their nature would have priority over a fixed mortgage and charge and the reservation of the last day of leasehold terms as provided therein, a security interest pursuant to a security agreement as and by way of a floating charge to and in favour of the Trustee, its successors and assigns, in all of BC Ferries present and future right, title and interest in and to all Real Property and personal property, rights, assets and undertaking of whatsoever nature, kind or description and wheresoever situate including Vessels (other than those parts of the Collateral which from time to time are effectively and validly made subject to the Lien Hereof pursuant to Sections 5.1(a), 5.1(b) or 5.1(c)) now owned or hereafter acquired by BC Ferries.

5.2 Reservation of Last Day of Leasehold Terms

The last day of the term of each of the Ferry Terminal Leases and any other lease now held or hereafter acquired by BC Ferries as lessee is and shall be excepted out of the Lien Hereof, but BC Ferries shall stand possessed of the reversion remaining in the last day of the term of each of the Ferry Terminal Leases and any other lease in trust for the Trustee (subject to the right of redemption herein contained) to assign the same to any Person who may hereafter acquire the residue of the term of each of the Ferry Terminal Leases and any other lease, and BC Ferries hereby grants to the Trustee power to appoint another trustee in its place and hereby irrevocably appoints the Trustee its attorney to assign and convey the residue of the term of each of the Ferry Terminal Leases and any other lease as the Trustee may decide.

5.3 Equal and Rateable Security

The Security is for the equal and rateable benefit and security of all Bondholders and the Trustee, without any preference or priority of any Bond over any other Bond (except as to any money or Central Government Obligations held pursuant to Section 13.2 for the purpose of defeasing a Series of Bonds and to the priority of payments after default made in accordance with the provisions of Section 10.2(b) and Section 10.6); provided, however, that any Series Reserve Account or Series Sinking Fund shall be first for the equal and rateable benefit and security of Bonds of the Series for which the Series Reserve Account or Series Sinking Fund was established, and only after all amounts owing in respect of such Bonds have been paid in full, for the equal and rateable benefit and security of all other Bonds.

5.4 Effective Date of Security

The Security shall be effective as of the date of this Indenture whether or not any Bonds are issued under any Supplemental Indenture, or any monies secured by such Bonds are advanced, before or after or at the same time as the execution of this Indenture. The attachment of the Security has not been postponed and the Security shall attach to any particular Collateral as soon as BC Ferries has rights in such Collateral.

5.5 Trustee Not Liable on BC Ferries' Agreements

This Indenture is made on the express condition that BC Ferries shall remain liable to observe and perform all the terms and provisions of all agreements now or hereafter subject to the Lien Hereof to the same extent as if this Indenture had not been executed and BC Ferries shall indemnify and save harmless the Trustee and the Bondholders with respect thereto.

5.6 Power of Attorney

BC Ferries hereby constitutes and appoints the Trustee, or a receiver appointed by or at the request of the Trustee, as the agent of BC Ferries, and any officer of the Trustee or receiver as the attorney of BC Ferries with full power of substitution, in the place of BC Ferries and in the name and on behalf of BC Ferries or in its own name upon the occurrence of an Event of Default, and at any time thereafter if the Event of Default shall then be continuing, to execute, deliver and do all such acts, deeds, leases, documents, transfers, demands, conveyances, assignments, contracts, assurances, consents, financing statements and things as BC Ferries has herein agreed to execute, deliver and do as may be required by the Trustee to give effect to this Indenture or in the exercise of any rights, powers or remedies hereby or thereby conferred on the Trustee, and generally to use the name of BC Ferries in the exercise of all or any of the rights, powers or remedies hereby or thereby conferred on the Trustee, including, without limitation, the right to bring actions for and in the name of BC Ferries, the right to disburse or make payments from the Debt Service Reserve Fund or the Sinking Fund(s) and the right to exercise the rights of BC Ferries under the Collateral including, without limitation, the Material Contracts, and to cure any defaults thereunder. This appointment, coupled with an interest, shall not be revoked by the Bankruptcy or termination of the existence of BC Ferries or for any other reason.

5.7 Prohibitions on Assignment

- (a) If any lease, agreement, license or permit contains a clause which provides in legal effect that it cannot be encumbered in the manner herein provided without the consent or approval of the other party or parties thereto, then the effectiveness of the Lien Hereof (*vis-à-vis* such party only and in respect to such lease, agreement, license or permit only) shall be conditional upon such consent or approval having been obtained. BC Ferries shall use its best efforts to obtain such consent or approval forthwith, and the Lien Hereof, while effective as against BC Ferries and all other Persons immediately, shall be effective against such other party as soon as the required consent or approval is given, or deemed or required to be given, whichever shall first occur; and in the meantime, BC Ferries shall stand possessed thereof in trust for the Trustee.
- (b) Nothing in Section 5.7(a) or elsewhere in this Indenture shall be construed as limiting the rights of the Trustee or any Receiver to rely upon provisions in any agreement or instrument subject to the Lien Hereof where such provisions are more favourable to the Trustee or a Receiver than those contained herein (notwithstanding any inconsistency herewith), nor as requiring the Trustee or any Receiver to comply with any restrictions of the nature referred to in Section 5.7(a)

in connection with any realization on the Security where such compliance is not otherwise required by the law relating to realization of security.

5.8 Receipt Not Deemed Payment

In no case shall the receipt of moneys by the Trustee from releases or other dealings with the Security or from insurance be deemed to be a payment on account of the Bonds nor shall the Lien Hereof be affected by reason of such receipt except as herein expressly provided.

5.9 Additional Security Documents

- (a) Promptly after the designation of any Designated Subsidiary pursuant to Section 6.10(c), such Designated Subsidiary shall, and BC Ferries shall cause such Designated Subsidiary to, execute and deliver to the Trustee, Ship Mortgages, Leasehold Mortgages, Real Property Mortgages and other security agreements similar to those described in Section 5.1 as collateral security for the due payment of all principal, interest and any other amounts outstanding under its Designated Subsidiary Guarantee.
- (b) BC Ferries shall, and shall cause any Designated Subsidiary to, forthwith, and from time to time, take such action and execute and deliver to the Trustee on behalf of the Bondholders such agreements, conveyances, deeds and other documents and instruments which are necessary or advisable for giving the Trustee a valid Lien, ranking on a first priority basis (subject only to Permitted Liens and to applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and limitations arising from equitable principles and other usual and customary exceptions acceptable to the Trustee), upon any of the Collateral to secure the payment of all principal, interest and other amounts outstanding under the Bonds and the performance of all obligations of BC Ferries and the Designated Subsidiaries to each of the Bondholders and the Trustee from time to time, under and in respect of each Bond and this Indenture.
- (c) Upon receipt of a Bondholders' Request, the Trustee shall obtain an Opinion of Counsel to determine if the enactment or amendment of any applicable laws or regulations after the date hereof would have an adverse effect on the enforceability or priority of the Security granted by BC Ferries or any Designated Subsidiary. If, in the Opinion of Counsel, such laws or regulations as enacted or amended would have an adverse effect on the enforceability or priority of the Security, the Trustee may register this Indenture and any Leasehold Mortgage or Real Property Mortgage against title to lands owned or leased by BC Ferries or such Designated Subsidiary, provided the Trustee has first given BC Ferries 15 Business Days prior notice (which notice shall include an executed copy of the Opinion of Counsel). All registration and other costs incurred in respect of such registration shall be immediately paid or reimbursed by BC Ferries.

5.10 Registration and Counsel's Opinion

- (a) Subject to Section 5.10(b), BC Ferries shall, from time to time, at its own expense:
- (i) record, file, enter or register or cause to be recorded, filed, entered or registered, this Indenture, all Supplemental Indentures, all Additional Security and all other instruments of further assurance (including financing statements) without delay, where necessary or advisable in perfecting, preserving or protecting the Security and the rights of the Bondholders and the Trustee hereunder or thereunder for such action to be taken, and under the provisions of all statutes providing for the registration of security interests in the Province of British Columbia, or in any other jurisdiction if in the Opinion of Counsel such registration in such other jurisdiction is necessary to preserve and protect the Security hereby created;
 - (ii) renew or cause to be renewed the recordings, filings or registrations required by this Section 5.10 from time to time as and when required to maintain the perfection and priority of the Security;
 - (iii) promptly after the execution of this Indenture, furnish the Trustee with a Counsel's Opinion that the provisions of this Section 5.10 have been complied with, such opinion to set out in reasonable detail the steps taken to comply with this Section 5.10 and the steps necessary to maintain the perfection and priority of the Security; and
 - (iv) deliver or exhibit to the Trustee, on demand, certificates or other forms of confirmation acceptable to the Trustee establishing such registration or recording, and renew the same from time to time, if such renewal is necessary in Counsel's Opinion to preserve or protect the Security hereby created.

If BC Ferries fails to perform its obligations under this Section 5.10, the Trustee may, in its discretion, perform any such obligation capable of being performed by it at the expense of BC Ferries.

- (b) Subject to Section 5.9(c), the Trustee and the Bondholders shall not register this Indenture, any mortgage and charge or any notice thereof in any British Columbia Land Title Office or in any other register in any other jurisdiction of interests in real property unless:
- (i) a Default or Event of Default occurs and is continuing; and
 - (ii) the Trustee is directed to so register such Security by a Bondholder's Request.

If the above conditions are satisfied, the Trustee shall immediately register this Indenture and any mortgages and charges against title to the Ferry Terminal Leases and other real property owned or leased by BC Ferries or Designated Subsidiaries in the relevant British Columbia Land Title Office and in any other register of real property interests in any other jurisdiction if in the Opinion of Counsel such registration in such other jurisdiction is necessary to preserve and protect the Security hereby created and all registration and other costs incurred in respect of such registration shall be immediately paid or reimbursed by BC Ferries.

5.11 Possession and Use Prior to Enforcement

Until the Lien Hereof shall have become enforceable and the Trustee shall have determined or become bound to enforce the same, BC Ferries shall, subject, however, to the express terms and conditions contained herein, be entitled to:

- (a) possess, operate, manage, use, improve and enjoy the Collateral and to freely control the conduct of the business and operations of BC Ferries in the same manner, to the same extent and with the same effect, except as provided herein, as though this Indenture had not been made; and
- (b) do all or any of the things which BC Ferries is entitled to do and shall at any time and from time to time do all or any of the things which BC Ferries is required to do pursuant to the terms of any of the Material Contracts or the Other Contracts or the security constituting Permitted Liens.

5.12 Release Provisions

In addition to the powers conferred under this Article 5 and notwithstanding that any of the provisions in this Indenture may deal with or apply to any of the matters or things which the Trustee is by this Section 5.12 authorized to do or concur in, the Trustee shall from time to time, upon the application and at the cost and expense of BC Ferries and without consent of the Bondholders, do or concur in doing any of the following things:

- (a) release any of the Security over any asset or property which in the opinion of BC Ferries, as evidenced by an Officer's Certificate, is obsolete to BC Ferries or has become unfit or unnecessary or no longer required for use in connection with the operation of the Coastal Ferry Business;
- (b) release the Security upon the termination or expiration of the Secured Period;
- (c) subordinate any of the Security in relation to assets or property which are or become subject to the Permitted Liens described in paragraphs (g), (h), (i) (but only to the extent that such Permitted Lien has priority over the Lien Hereof), (j) (but not in relation to any Permitted Lien in favour of a common carrier), (n), (o), (r) and (z) of the definition of "Permitted Liens"; or

- (d) release any of the Security in relation to any asset or property which is sold, leased, licensed or otherwise disposed of in accordance with Section 6.8 (but only if the Officer's Certificate accompanying the request of BC Ferries or any Designated Subsidiary in this respect confirms compliance with the provisions of Section 6.8), provided that such release of any asset is property sold, leased, or licensed or otherwise disposed of shall only be granted to the extent required in order to permit performance by BC Ferries or the Designated Subsidiary of its obligations in relation to such transaction and no release shall be provided of the Security in relation to any proceeds accruing to BC Ferries or the Designated Subsidiary from such transaction.

Each request by BC Ferries of the Trustee under this Section 5.12 shall be accompanied by an Officer's Certificate setting forth details of the matters or things which the Trustee is requested to do or concur in, and confirming that at the time of such request, there is no Event of Default which has occurred and is continuing.

5.13 Expropriation

- (a) BC Ferries, upon obtaining knowledge of the institution of any Expropriation in respect of all or substantially all of the Collateral used by BC Ferries and its Designated Subsidiaries in the Coastal Ferry Business, shall immediately notify the Trustee of such pending proceedings. If all or substantially all of such Collateral is taken in or by any such Expropriation proceedings, the award or compensation payable to BC Ferries, net of any reasonable third party expenses, shall be paid to the Trustee and shall be held and disposed of by the Trustee in accordance with the provisions of Section 5.13(b). If all or substantially all of such Collateral is at any time or from time to time taken or removed by the exercise of any power of Expropriation, the Trustee and BC Ferries shall cooperate so as to ensure the maximum return to them as a result of such Expropriation, and the Trustee shall release the property so taken upon receipt by and deposit with the Trustee of the compensation for such property (except to the extent that tenants may be entitled thereto whether under the terms of a Sublease, by operation of law or otherwise). In any proceedings for the taking of all or substantially all of such Collateral by the exercise of any of the aforesaid powers, the Trustee and the Bondholders may be represented by Counsel.
- (b) If all or substantially all of the Collateral used by BC Ferries and its Designated Subsidiaries in the Coastal Ferry Business, or all or substantially all of the Collateral used by BC Ferries and its Designated Subsidiaries in the Coastal Ferry Business, shall be subject to an Expropriation then the Trustee shall be entitled to take all steps and sign all documents necessary to have the proceeds of any such Expropriation paid over or assigned to the Trustee. The proceeds of such Expropriation will be applied by the Trustee to the redemption, on a pro rata basis, of all Obligation Bonds (or, where required by the terms of the Supplemental Indenture authorizing a Series of Obligation Bonds, to fund an Offer to Purchase, on a pro rata basis, Obligation Bonds of such Series instead of the redemption of Obligation Bonds of such Series) and, if so specified in the

Supplemental Indenture relating to a Series of Pledged Bonds, the Pledged Bonds of that Series (it being acknowledged that this Section 5.13(b) shall in no way restrict or prejudice any rights or remedies of the Trustee or the Bondholders by virtue of such Expropriation constituting an Event of Default under Section 10.1(m)).

- (c) In the event of an Expropriation (other than an Expropriation described in Section 5.13(b)) of Collateral used by BC Ferries and its Designated Subsidiaries in the Coastal Ferry Business, the aggregate book value of which is more than 25% of the Coastal Ferry Business Book Value, or in the event of an Expropriation of a Major Vessel or a Major Ferry Terminal Property, the proceeds of any such Expropriation must be reinvested in the Coastal Ferry Business to the extent that such reinvestment is necessary for BC Ferries to comply with the Coastal Ferry Services Contract, and any proceeds remaining after such mandatory reinvestment may be reinvested by BC Ferries in the Coastal Ferry Business in its discretion. To the extent that any Expropriation proceeds are not reinvested in the Coastal Ferry Business (whether such reinvestment is mandatory or discretionary) within 12 months after such proceeds are received, then:
- (i) if such unreinvested proceeds exceed 10% of the Coastal Ferry Business Book Value, the unreinvested proceeds must be applied by the Trustee to the redemption, on a pro rata basis, of all Obligation Bonds (or, where required by the terms of the Supplemental Indenture authorizing a Series of Obligation Bonds, to fund an Offer to Purchase, on a pro rata basis, all Obligation Bonds of such Series instead of the redemption of the Obligation Bonds of such Series) and, if so specified in the Supplemental Indenture relating to a Series of Pledged Bonds, the Pledged Bonds of that Series; or
 - (ii) if such unreinvested proceeds are less than or equal to 10% of the Coastal Ferry Business Book Value, and BC Ferries would be unable to meet the Additional Indebtedness Test if it were to borrow an amount equal to such unreinvested proceeds, the unreinvested proceeds must be applied by BC Ferries to prepay outstanding Borrowings selected by BC Ferries, such prepayment to occur by redemption or partial redemption of one or more Series of Obligation Bonds selected by BC Ferries (or, where the terms of the Supplemental Indenture for a Series so selected require, to fund an Offer to Purchase, on a pro rata basis, the Obligation Bonds of such Series instead of the redemption of Obligation Bonds of such Series) or by prepayment of other Borrowings selected by BC Ferries;

provided that BC Ferries will not be required to apply unreinvested proceeds to the redemption or funding of an Offer to Purchase Obligation Bonds or the prepayment of other Borrowings if, at the time such redemption, Offer to Purchase or prepayment would otherwise be required, the Leverage Ratio is less than 60% or if such unreinvested proceeds are less than or equal to 10% of the Coastal Ferry Business Book Value and BC Ferries would be able to meet the

Additional Indebtedness Test if it were to borrow an amount equal to such unreinvested proceeds.

- (d) In the event of an Expropriation (other than an Expropriation described in Section 5.13(b) or (c)) of Collateral of BC Ferries and its Designated Subsidiaries, the aggregate book value of which is more than 25% of the Core Business Book Value, the proceeds of such Expropriation may be reinvested by BC Ferries in the Core Business in its discretion. To the extent that any Expropriation proceeds are not reinvested in the Core Business within 12 months after such proceeds are received, then:
- (i) if such unreinvested proceeds exceed 10% of the Core Business Book Value, the unreinvested proceeds must be applied by the Trustee to the redemption, on a pro rata basis, of all Obligation Bonds (or, where required by the terms of the Supplemental Indenture authorizing a Series of Obligation Bonds, to fund an Offer to Purchase, on a pro rata basis, all Obligation Bonds of such Series instead of the redemption of the Obligation Bonds of such Series) and, if so specified in the Supplemental Indenture relating to a Series of Pledged Bonds, the Pledged Bonds of that Series; or
 - (ii) if such unreinvested proceeds are less than or equal to 10% of the Core Business Book Value, and BC Ferries would be unable to meet the Additional Indebtedness Test if it were to borrow an amount equal to such unreinvested proceeds, the unreinvested proceeds must be applied by BC Ferries to prepay outstanding Borrowings selected by BC Ferries, such prepayment to occur by redemption or partial redemption of one or more Series of Obligation Bonds selected by BC Ferries (or, where the terms of the Supplemental Indenture for a Series so selected require, to fund an Offer to Purchase, on a pro rata basis, the Obligation Bonds of such Series instead of the redemption of Obligation Bonds of such Series) or by prepayment of other Borrowings selected by BC Ferries;

provided that BC Ferries will not be required to apply unreinvested proceeds to the redemption or funding of an Offer to Purchase Obligation Bonds or the prepayment of other Borrowings if, at the time such redemption, Offer to Purchase or prepayment would otherwise be required, the Leverage Ratio is less than 60% or if such unreinvested proceeds are less than or equal to 10% of the Coastal Ferry Business Book Value and BC Ferries would be able to meet the Additional Indebtedness Test if it were to borrow an amount equal to such unreinvested proceeds.

5.14 Insurance Proceeds

- (a) In the event of damage or destruction to a Major Vessel or a Major Ferry Terminal Property, any proceeds of insurance payable in respect of such damage or destruction must be reinvested by BC Ferries or the Designated Subsidiary in

the Coastal Ferry Business, to the extent that such reinvestment is necessary for BC Ferries to comply with the Coastal Ferry Services Contract, and any proceeds remaining after such mandatory reinvestment may be reinvested by BC Ferries in the Coastal Ferry Business in its discretion. To the extent that any insurance proceeds are not reinvested in the Coastal Ferry Business (whether such reinvestment is mandatory or discretionary) within 12 months after such proceeds are received, then:

- (i) if such unreinvested proceeds exceed 10% of the Coastal Ferry Business Book Value, the unreinvested proceeds must be applied by the Trustee to the redemption, on a pro rata basis, of all Obligation Bonds (or, where required by the terms of the Supplemental Indenture authorizing a Series of Obligation Bonds, to fund an Offer to Purchase, on a pro rata basis, all Obligation Bonds of such Series instead of the redemption of the Obligation Bonds of such Series) and, if so specified in the Supplemental Indenture relating to a Series of Pledged Bonds, the Pledged Bonds of that Series; or
- (ii) if such unreinvested proceeds are less than or equal to 10% of the Coastal Ferry Business Book Value, and BC Ferries would be unable to meet the Additional Indebtedness Test if it were to borrow an amount equal to such unreinvested proceeds, the unreinvested proceeds must be applied by BC Ferries to prepay outstanding Borrowings selected by BC Ferries, such prepayment to occur by redemption or partial redemption of one or more Series of Obligation Bonds selected by BC Ferries (or, where the terms of the Supplemental Indenture for a Series so selected require, to fund an Offer to Purchase, on a pro rata basis, the Obligation Bonds of such Series instead of the redemption of Obligation Bonds of such Series) or by prepayment of other Borrowings selected by BC Ferries;

provided that BC Ferries will not be required to apply unreinvested proceeds to the redemption or funding of an Offer to Purchase Obligation Bonds or the prepayment of other Borrowings if, at the time such redemption, Offer to Purchase or prepayment would otherwise be required, the Leverage Ratio is less than 60% or if such unreinvested proceeds are less than or equal to 10% of the Coastal Ferry Business Book Value and BC Ferries would be able to meet the Additional Indebtedness Test if it were to borrow an amount equal to such unreinvested proceeds.

- (b) In the event of any other damage to or destruction of assets of BC Ferries and its Designated Subsidiaries, BC Ferries may receive any proceeds of insurance payable in respect of such damage and destruction and apply them in its discretion provided that BC Ferries is then in material compliance with the Coastal Ferry Services Contract and the proceeds are not required to be reinvested in the Coastal Ferry Business to assure continued material compliance by BC Ferries with the Coastal Ferry Services Contract, failing which BC Ferries shall use such proceeds

for the purpose of complying with the Coastal Ferry Services Contract and may thereafter apply any remaining portion of such proceeds in its discretion.

5.15 Non-Disturbance Agreement

Unless a Default or an Event of Default has occurred and is continuing, the Trustee is hereby authorized and directed to execute and deliver a Non-Disturbance Agreement in respect of any Permitted Sublease, or an agreement *mutatis mutandis* in the form of a Non-Disturbance Agreement in relation to any lease or licence permitted in accordance with Sections 6.8(b)(ii)(E) and 6.10(a)(ii), upon receipt of a Written Request of BC Ferries; provided that as a condition precedent to such execution and delivery, the Trustee must be provided with and shall be entitled to rely upon an Officer's Certificate which certifies that:

- (a) the Sublease which is the subject matter of such Non-Disturbance Agreement is a Permitted Sublease or the lease or licence which is the subject matter of such agreement is a lease or licence permitted in accordance with Sections 6.8(b)(ii)(E) or 6.10(a)(ii), as the case may be ;
- (b) a true copy of such Permitted Sublease, or lease or licence (as the case may be), is attached thereto; and
- (c) no Default or Event of Default has occurred and is continuing.

5.16 Purchaser Need Not Inquire

No purchaser in good faith of property purported to be released hereunder, and no registrar of any property charged hereunder, shall be bound to ascertain the authority of the Trustee to execute the release or to inquire as to any facts required by the provisions hereof for the exercise of such authority nor shall any purchaser of any other property or registrar be under any obligation to ascertain or inquire into the occurrence of any event on which such sale is hereby authorized.

5.17 Rights Cumulative

No power, right or discretion conferred by this Article 5 upon the Trustee is intended to be exclusive of any other power, right or discretion but each and every such power, right and discretion shall be cumulative, and the exercise of any one or more of such powers, rights or discretion, or any combination of them from time to time, shall not be deemed to exhaust the right of the Trustee to exercise such powers, rights or discretion, or combination of them, thereafter from time to time.

ARTICLE 6 - COVENANTS

6.1 Covenants of BC Ferries

BC Ferries hereby covenants and agrees with the Trustee as set out in Section 6.2 to Section 6.13, inclusive, for the benefit of the Trustee and the Bondholders, with effect from the date of this Indenture and for so long as any amount payable under this Indenture or any of the

Bonds is Outstanding or BC Ferries has any obligations under this Indenture, but subject to Section 6.14.

6.2 General Covenants

- (a) *To Pay Principal and Interest.* BC Ferries shall duly and punctually pay or cause to be paid to every Bondholder, without deduction or set-off, the principal of and interest and any other amounts due on the Bonds on the dates, at the places, in the monies and in the manner mentioned herein, in any Supplemental Indenture and in the Bonds.
- (b) *Compliance with Laws.* BC Ferries shall, and shall cause each Designated Subsidiary to, at all times comply with all material requirements of any applicable law.
- (c) *Equality of Security.* BC Ferries shall issue all Bonds, regardless of Series, date of issuance and date of sale or pledge, on the basis that such Bonds shall be secured by the Lien Hereof.
- (d) *Payments Made Directly by BC Ferries.* If any payment is made by BC Ferries to any registered Bondholder or to the Depositary, other than pursuant to Borrowings secured by a Pledged Bond, BC Ferries shall provide written notice to the Trustee on the date such payment is made confirming that such payment has been made.
- (e) *Notice of Event of Default.* BC Ferries shall notify the Trustee of any Event of Default promptly upon its becoming aware of the occurrence thereof (but only where a director or senior officer of BC Ferries has knowledge of such Event of Default or has knowledge of facts which a reasonable person would, in the circumstances, understand to give rise to such an Event of Default) as well as of the steps being taken to remedy such Event of Default.
- (f) *Inspection.* If so required by a Bondholder's Request, BC Ferries shall, and shall cause each Designated Subsidiary to, permit, from time to time, upon reasonable notice and during normal business hours, the Trustee or its agents or advisors to inspect the non-confidential books and records of BC Ferries; and shall make available to the Trustee or its agents or advisors copies of non-confidential contracts, agreements, plans, reports, audits and other documents material to the carrying out of the Coastal Ferry Business and that part of the Core Business conducted by BC Ferries or any Designated Subsidiary as the Trustee or the Bondholders may reasonably request in the form of a Bondholder's Request delivered after the issue of a Notice of Pending Default (and while the default specified therein is unremedied) or delivered at a time when BC Ferries would be unable to meet the Additional Indebtedness Test for a Borrowing of \$1.00.
- (g) *Financial Reporting.* BC Ferries shall provide to the Trustee:

- (i) copies of quarterly unaudited consolidated financial statements of BC Ferries and of BC Ferries and its Designated Subsidiaries only within 60 days of the end of each of the first three Fiscal Quarters of each Fiscal Year;
- (ii) copies of annual audited consolidated financial statements of BC Ferries and of BC Ferries and its Designated Subsidiaries only, within 120 days of the Fiscal Year End; and
- (iii) if so required by a Bondholders' Request delivered after the issue of a Notice of Pending Default (and while the default specified therein is unremedied), or delivered at a time when BC Ferries would be unable to meet the Additional Indebtedness Test for a Borrowing of \$1.00, such other non-confidential financial and operating reports and statements as may reasonably be requested by the Trustee on behalf of the Bondholders (such financial information to be provided on a consolidated basis for BC Ferries and its Designated Subsidiaries) within a reasonable time.

provided, however, that if financial statements of BC Ferries are required to be filed with any securities regulatory authority and will be publicly available from such authority or will be otherwise publicly disclosed, BC Ferries shall not be required to deliver such publicly available financial statements to the Trustee.

- (h) *Compliance Certificate.* BC Ferries shall deliver to the Trustee, upon filing of the quarterly financial statements and annual financial statements of BC Ferries with a securities regulatory authority or the delivery of such financial statements to the Trustee, as required by Section 6.2(g), an Officer's Certificate setting out:
 - (i) the amounts required to be included in, and the amounts actually deposited, in the Debt Service Reserve Fund (and in each Series Reserve Account) and the Series Sinking Funds as at such Fiscal Quarter End or Fiscal Year End, as the case may be, and the amounts allocated to each such Fund during such period; and
 - (ii) the determination of the Debt Service Coverage Ratio and the Leverage Ratio as at such Fiscal Quarter End or Fiscal Year End, as the case may be;

and shall include in such Officer's Certificate a certification that BC Ferries is in compliance with the provisions of this Indenture and of each Supplemental Indenture then in effect.

- (i) *Taxes.* BC Ferries shall, and shall cause each Designated Subsidiary to, from time to time, pay or cause to be paid all Taxes lawfully levied, assessed or imposed upon or in respect of its property or any part thereof or upon its income and profits as and when the same become due and payable and to withhold and remit any amounts required to be withheld by it from payments due to others and remit

such amounts to any government or agency thereof and it will exhibit or cause to be exhibited to the Trustee, when requested, the receipts and vouchers establishing such payment and will duly observe and conform to all applicable requirements of any Governmental Authority relative to any of the property or rights of BC Ferries or such Designated Subsidiary and all covenants, terms and conditions upon or under which any such property or rights are held; provided, however that BC Ferries and its Designated Subsidiaries shall have the right to contest in good faith and diligently by legal proceedings any such Taxes and during such contest, may delay or defer payment or discharge thereof; provided further that BC Ferries will be deemed to be in compliance with this covenant if any unpaid amounts arise from a reassessment if such unpaid amounts are paid within the time allowed for payment under the terms of the reassessment.

- (j) *Insurance.* BC Ferries shall, and shall cause each Designated Subsidiary to, maintain in force such policies of insurance issued by insurers or reinsurers of recognized standing (including property insurance and comprehensive general liability insurance) in such amounts and on such terms as are customarily held by passenger and vehicle ferry operators and in accordance with applicable laws. The Trustee shall be listed as an additional insured in all such liability policies. BC Ferries shall cause its insurers to provide the Trustee with at least that number of days prior notice of any proposed cancellation of any such policy of insurance as mandated under applicable legislation, and BC Ferries shall use reasonable efforts to cause its insurers to provide the Trustee with at least 30 days notice of such cancellation. The Trustee shall, after providing BC Ferries with at least 10 days prior notice (or, if less than 30 days' notice of cancellation is given, such prior notice as is approximately equal to one-third of the notice period for cancellation), be entitled to take such actions (including payment of any premiums) at BC Ferries' expense as may be necessary to remedy the default of BC Ferries or its Designated Subsidiary and maintain the policy of insurance.
- (k) *Further Assurances.* BC Ferries shall, and shall cause each Designated Subsidiary to, make and execute, or cause to be made and executed, any and all such further indentures, acts, deeds, conveyances, assignments or assurances as may be reasonably required for carrying out the intention of this Indenture, and for the better assuring and confirming unto the holders of the Bonds of the rights and benefits provided in this Indenture or any other agreement relating to any Bonds.
- (l) *Name Change.* BC Ferries shall notify the Trustee in writing within 10 days of the occurrence of any change of name of BC Ferries or any Designated Subsidiary.
- (m) *Existence.* Except as otherwise specifically permitted in this Indenture, BC Ferries shall, and shall cause each Designated Subsidiary to, maintain its corporate existence provided that any Designated Subsidiary may be wound up into BC Ferries or any other Designated Subsidiary.

- (n) *Books and Records.* BC Ferries shall, and shall cause each Designated Subsidiary to, maintain proper books and records in accordance with good accounting practice and GAAP.
- (o) *Defend Title.* BC Ferries shall, and shall cause each Designated Subsidiary to, defend the title of the Collateral against the claims and demands of all Persons, other than lawful claims and demands of the Trustee and holders of Permitted Liens.
- (p) *Office for Servicing Bonds.* BC Ferries shall at all times maintain an office in Vancouver, British Columbia, where Bonds may be presented for payment or where Bonds may be presented for registration, registration of transfer or exchange, and where notices, demands and other documents may be served upon BC Ferries in respect of the Bonds or this Indenture. BC Ferries hereby appoints each Paying Agent as its agent to maintain such agencies for the payment or redemption of Bonds.

6.3 Limitation on Liens, Negative Pledge

Except for Permitted Liens, BC Ferries shall not, and shall not permit any Designated Subsidiary to, create, incur, assume or suffer to exist any Liens on, of or upon its undertaking or any of its property or assets, whether now owned or hereafter acquired, or upon any income or profits therefrom.

6.4 Limitation on Guarantees and Investments

BC Ferries shall not, and shall not permit any Designated Subsidiary to, create any Guarantee (other than a Designated Subsidiary Guarantee) or make any Investment (other than a Permitted Investment), in each case in a Person that is not BC Ferries or a Designated Subsidiary, unless:

- (a) at the time such Guarantee or Investment is made, the aggregate amount of such Guarantees and Investments made by BC Ferries and its Designated Subsidiaries (including the proposed Guarantee or Investment) made pursuant to this Section 6.4(a) is not more than 10% of the shareholders' equity on a consolidated basis for BC Ferries and its Designated Subsidiaries, determined in accordance with the most recent financial statements issued by or approved by the Board of Directors of BC Ferries;
- (b) at the time such Guarantee or Investment is made, BC Ferries could make a Distribution in accordance with Section 6.7 and the Leverage Ratio, calculated on a Pro Forma Basis and taking into account the proposed Guarantee or Investment, would not exceed 75%; or
- (c) prior to the creation of such Guarantee or the making of such Investment, at least two Rating Agencies confirm that the creation of such Guarantee or the making of such Investment will not have an Adverse Rating Effect.

6.5 Limitation on Additional Indebtedness

BC Ferries shall not, and shall not permit any Designated Subsidiary to, create, incur, assume or suffer to be created, incurred or assumed any Additional Indebtedness other than Permitted Borrowings unless the following conditions are satisfied and BC Ferries has provided an Officer's Certificate to the Trustee certifying such matters:

- (a) no Default or Event of Default has occurred and is continuing at the time of, or would occur as a consequence of, such Additional Indebtedness having been created, incurred or assumed;
- (b)
 - (i) the Debt Service Coverage Ratio as at the date of incurrence of such Additional Indebtedness (but before giving effect to the incurrence of such Additional Indebtedness) is at least 1.5:1; and
 - (ii) the Debt Service Coverage Ratio, calculated on a Pro Forma Basis and taking into account the proposed Additional Indebtedness and the application or use of the proceeds therefrom (with respect to such proceeds, taking into account only EBITDAR derived from the use of such proceeds which BC Ferries reasonably expects to be sustainable), would be at least 1.5:1 for the 12 month period ending on the Fiscal Quarter End of the most recently completed Fiscal Quarter for which financial statements have been issued by, or have been approved by the Board of Directors of BC Ferries;
- (c) the Debt Service Reserve Fund and any Series Sinking Funds (after reflecting any deposits to be made substantially concurrently with the issuance of such proposed Additional Indebtedness) are Fully Funded on the date of incurrence of such Additional Indebtedness;
- (d) any Additional Indebtedness ranks no higher than pari passu with the Bonds; provided, however, that Additional Indebtedness secured by Permitted Liens shall not for the purpose of this Section 6.5(d), be deemed to rank higher than pari passu with the Bonds; and
- (e)
 - (i) if the common shares of BC Ferries are not wholly owned by BCFA, the Province or any Crown Corporation, the Leverage Ratio will not exceed 75%; and
 - (ii) if the common shares of BC Ferries are wholly owned by BCFA, the Province and/or any Crown Corporation, the Leverage Ratio will not exceed 90% (if such Additional Indebtedness is incurred at any time prior to April 1, 2006) or 85% (if such Additional Indebtedness is incurred at any time on or after April 1, 2006), all as calculated on a Pro Forma Basis taking into account the application or use of the proceeds of such proposed Additional Indebtedness, using reasonable assumptions which are stated in the Officer's Certificate to be reasonable.

6.6 Subordinated Debt

BC Ferries may issue Subordinated Debt only if:

- (a) immediately after the issuance of such Subordinated Debt, the aggregate principal amount of all Subordinated Debt then outstanding would be less than 5% of the net book value of the fixed assets of BC Ferries and its Designated Subsidiaries; or
- (b) in any other case, at least two Rating Agencies have confirmed that the issuance of such Subordinated Debt would not have an Adverse Rating Effect.

6.7 Limitation on Distributions

BC Ferries shall not, and shall not permit any Designated Subsidiary to, make any Distributions unless:

- (a) the Debt Service Reserve Fund is Fully Funded;
- (b) no Default or Event of Default has occurred and is continuing, or would occur after giving effect to the Distribution;
- (c) if, at the time of the Distribution, the common shares of BC Ferries are not wholly owned by BCFA:
 - (i) for the 12 months ending on the most recently completed Fiscal Quarter for which financial statements have been issued by, or have been approved by the Board of Directors of, BC Ferries, the Debt Service Coverage Ratio is 1.5:1 or greater and the Leverage Ratio does not exceed 75% as at such Fiscal Quarter End; and
 - (ii) for the 12 months commencing on the day after the most recently completed Fiscal Quarter for which financial statements have been issued by, or have been approved by the Board of Directors of, BC Ferries, after giving effect to the Distribution and on the basis of reasonable and prudent projections, assumptions and hypotheses as set out in an Officer's Certificate, the projected Debt Service Coverage Ratio for such period is 1.5:1 or greater and the Leverage Ratio will not exceed 75% for such period; and
- (d) if, at the time of the Distribution, the common shares of BC Ferries are wholly owned by BCFA:
 - (i) for the 12 months ending on the most recently completed Fiscal Quarter for which financial statements have been issued by, or have been approved by the Board of Directors of, BC Ferries, the Debt Service Coverage Ratio is 1.3:1 or greater and the Leverage Ratio does not exceed 90% as at such Fiscal Quarter End (if the Distribution is made at any time prior to April 1, 2006) or 85% as at such Fiscal Quarter End (if the Distribution is made at any time on or after April 1, 2006); and

- (ii) for the 12 months commencing on the date after the most recently completed Fiscal Quarter for which financial statements have been issued by, or have been approved by the Board of Directors of, BC Ferries, after giving effect to the Distribution and on the basis of reasonable and prudent projections, assumptions and hypotheses as set out in an Officer's Certificate, the projected Debt Service Coverage Ratio for such period is 1.3:1 or greater and the Leverage Ratio will not exceed 90% for such period (if the Distribution is made at any time prior to April 1, 2006) or 85% for such period (if the Distribution is made at any time on or after April 1, 2006).

6.8 Restrictions on Sale, Lease, etc.

- (a) BC Ferries shall not, and shall not permit any Designated Subsidiary to, sell, lease, license or otherwise dispose of any assets to a Person which is not BC Ferries or a Designated Subsidiary, other than:
 - (i) inventory and consumables or other similar assets disposed of in the ordinary course of business;
 - (ii) where the proceeds of disposition of such assets are reinvested in the Core Business or the Coastal Ferry Business (provided that BC Ferries is in material compliance with the provisions of the Coastal Ferry Services Contract) within 12 months after disposition;
 - (iii) obsolete capital assets disposed of for fair market value or sold to the Province pursuant to a purchase option or right under sections 7.02 or 7.04 of the Coastal Ferry Services Contract;
 - (iv) dispositions of assets for fair market value, or to the Province pursuant to a purchase option or the stranded vessel purchase right under the Coastal Ferry Services Contract other than in the circumstances set out in Subparagraph 6.8(a)(v) below, where:
 - (A) immediately following the disposition, BC Ferries would meet the Additional Indebtedness Test if it were to borrow an amount equal to such proceeds of disposition; or
 - (B) the net proceeds are used to permanently prepay outstanding Borrowings selected by BC Ferries, such prepayment to occur by prepayment or redemption (or, where required by the terms of the Supplemental Indenture authorizing a Series of Obligation Bonds, to fund an Offer to Purchase, on a pro rata basis, all Obligation Bonds of such Series instead of the defeasance or prepayment of Obligation Bonds on such Series) and, if so specified in the Supplemental Indenture relating to a Series of Pledged Bonds, the Pledged Bonds of that Series within 12 months of disposition of

such assets, provided that during such 12 month period, such proceeds have been set aside in cash or Permitted Investments for such prepayment or purchase or have been used to temporarily repay outstanding Borrowings under terms which permit the amount so repaid to be reborrowed;

- (v) disposition of all or substantially all of the Vessels pursuant to the exercise by the Province of its option to purchase upon the occurrence of an event of default under the Coastal Ferry Services Contract, if the proceeds are applied by BC Ferries to the redemption, on a pro rata basis, of all Obligation Bonds (or, where required by the terms of the Supplemental Indenture authorizing a Series of Obligation Bonds, to fund an Offer to Purchase, on a pro rata basis, all Obligation Bonds of such Series instead of the redemption of Obligation Bonds on such Series) and, if so specified in the Supplemental Indenture relating to a Series of Pledged Bonds, the Pledged Bonds of that Series as soon as practicable but in any event within 35 days of receipt of funds by BC Ferries from the Province (it being acknowledged that this Section 6.8(a)(v) shall in no way restrict or prejudice any rights or remedies of the Trustee or the Bondholders by virtue of the event of default under the Coastal Ferry Services Contract constituting an Event of Default under Section 10.1(f); or
- (vi) any assets other than those disposed of under the terms of Subparagraphs 6.8(a)(i) to (v) above and having an aggregate value not exceeding, in any 12 month period, 3% of the net book value of the fixed assets of BC Ferries and its Designated Subsidiaries on the most recent audited consolidated financial statements of BC Ferries;

provided that no sale, lease, license or other disposition of assets by BC Ferries or a Designated Subsidiary (other than any sale, lease, license or other disposition made in good faith pursuant to Sections 6.8(a)(i) and (iii)) shall be permitted if a Default or Event of Default exists or would exist as a result of such sale, lease, license or other disposition of assets.

- (b) Notwithstanding the provisions of Section 6.8(a):
 - (i) BC Ferries shall not (save as provided in this Section 6.8(b)) voluntarily sell, lease, license or otherwise dispose of its interests in any of the Major Ferry Terminal Properties;
 - (ii) BC Ferries and its Designated Subsidiaries may:
 - (A) grant easements, rights of way, servitudes, restrictive covenants, encroachment agreements or other similar rights in real property in the ordinary course of business which, in the aggregate, do not materially detract from the value of the Real Property or materially

interfere with the ordinary conduct of the business of BC Ferries or its Designated Subsidiaries;

- (B) adjust boundaries in accordance with the terms of the relevant Ferry Terminal Lease;
- (C) sell Real Property and at or prior to the same time acquire other real property, or exchange Real Property for other real property, where such other real property is of a similar type, function and utility, has reasonable access to public roads and is of substantially similar fair market value, provided that BC Ferries would be able, after such sale and acquisition or exchange, to meet its obligations under the Coastal Ferry Services Contract;
- (D) acquire or dispose of rights ancillary to their leasehold interests; and
- (E) grant leases or licences of their Real Property (including premises in, or any part thereof), provided that:
 - (1) leases or licences of any Major Ferry Terminal Property pursuant to this Section 6.8(b)(ii)(E) may concern only premises in, or part of, such Major Ferry Terminal Property which do not, in relation to the utility and importance of such premises or portion, constitute materially the whole of such Major Ferry Terminal Property;
 - (2) in the opinion of BC Ferries (acting reasonably):
 - i) the use of such Real Property in accordance with such lease or licence is ancillary, complementary or reasonably related to the business of operating a Ferry Terminal Property pursuant to the Coastal Ferry Business; and
 - ii) such lease or licence, or any default thereunder or termination thereof, cannot be expected to have a material adverse effect on the ordinary movement of passengers and cargo on such Real Property pursuant to the Coastal Ferry Business or the validity or enforceability of the Security in relation to the balance of the Collateral;
 - (3) BC Ferries would be able, notwithstanding such lease or licence (or any default thereunder or termination thereof), to meet its obligations under the Coastal Ferry Services Contract; and

- (4) the terms of such lease or licence are consistent with an arm's length transaction and in good faith, such as a prudent owner of similar property would from time to time enter into in the normal course of its business, having regard to all relevant factors and leasing and licensing practices at the time each of the leases or licences is entered into.
- (c) For the purposes of this Section 6.8 and Section 6.10(a)(ii), where BC Ferries disposes of an interest in any asset by way of lease or licence the value of the asset so disposed of or the proceeds of disposition, as the case may be, shall be deemed to be the lower of:
 - (i) the net book value of the asset (or portion of such asset, if capable of determination) so disposed of; and
 - (ii) the net present value of all royalties, licence fees or rentals payable to BC Ferries in consideration for such disposition (discounted at the Government of Canada Yield for a Government of Canada Bond having a term of ten years plus 150 basis points) and where any such royalties, licence fees or rentals, or any portions thereof, are determined as a percentage of revenue, income or profit BC Ferries shall reasonably estimate the amount of such revenue, income or profit.

6.9 Amalgamation, Consolidation and Merger

- (a) BC Ferries shall not, and shall not permit any Designated Subsidiary to, amalgamate or consolidate with or merge into another corporation (other than BC Ferries or a Designated Subsidiary) unless:
 - (i) on a Pro Forma Basis, BC Ferries (or, in the case of the amalgamation, merger or consolidation of BC Ferries, the successor corporation) would have complied with this Indenture and the Supplemental Indentures and would meet the Additional Indebtedness Test for a Borrowing in the amount of \$1.00;
 - (ii) no Default or Event of Default exists or would exist as a result thereof;
 - (iii) in the case of the amalgamation, merger or consolidation of BC Ferries, the successor corporation is a corporation organized and existing under the laws of Canada or a province thereof or a state of the United States of America and such corporation expressly assumes the due and punctual payment of the principal of (and Premium, if any, on) and interest on the Bonds and the due and punctual performance and observance of all the covenants and conditions of this Indenture to be performed by BC Ferries by a Supplemental Indenture satisfactory to the Trustee, executed and delivered to the Trustee by such corporation;

- (iv) in the case of the amalgamation, merger or consolidation of a Designated Subsidiary with a corporation other than BC Ferries or another Designated Subsidiary, the successor corporation is a Subsidiary, has been designated as a Designated Subsidiary and has executed and delivered to the Trustee a Designated Subsidiary Guarantee and the security required to be executed and delivered pursuant to Section 5.9; and
 - (v) BC Ferries has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel that such amalgamation, merger or consolidation and, in the case of an amalgamation, merger or consolidation of BC Ferries, that the assumption by the successor corporation of the obligations of this Indenture complies with the provisions of this Section 6.9(a).
- (b) In case of any such amalgamation, merger or consolidation of BC Ferries and upon any such assumption by the successor corporation, such successor corporation shall succeed to and be substituted for BC Ferries, with the same effect as if it had been named herein as the party of the first part. Such successor corporation thereupon may cause to be signed, and may issue either in its own name or in the name of BC Ferries, any or all of the Bonds issuable hereunder which shall not have been signed by BC Ferries and delivered to the Trustee and, upon the written order of such successor corporation delivered to the Trustee and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall certify and shall deliver any Bonds which previously would have been signed and delivered by the Authorized Officers of BC Ferries to the Trustee for certification, and any Bonds which such successor corporation thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Bonds so issued shall in all respects have the same legal rank and benefit under this Indenture as the Bonds previously issued in accordance with the terms of this Indenture. Such changes in phraseology and form (but not in substance) may be made in the Bonds thereafter to be issued as may be appropriate.

6.10 Conduct of Business and Designated Subsidiaries

- (a) BC Ferries shall only carry on the Coastal Ferry Business itself or through a Designated Subsidiary or through unincorporated joint ventures or partnerships in which all the joint venturers or partners are BC Ferries or one or more Designated Subsidiaries (each, a "**BCF Partnership/JV**"); provided that:
 - (i) nothing in this Section 6.10 shall prevent BC Ferries or any Designated Subsidiary or BCF Partnership/JV from entering into contracts with third parties, unincorporated joint ventures with third parties ("**Third Party Joint Ventures**") or partnerships with third parties ("**Third Party Partnerships**"), in each case other than with Non-Designated Subsidiaries, for the purpose of or with respect to carrying on any part of the Coastal Ferry Business, subject to Sections 6.11(j) to (n), inclusive; and

- (ii) without limiting Section 6.10(a)(i) and notwithstanding the provisions of Section 6.8(a), BC Ferries and its Designated Subsidiaries may grant leases or licences of any Vessel (including space thereon or any facilities or portion thereof but excluding propulsion, navigation or other essential marine equipment), provided that:
 - (A) in the opinion of BC Ferries (acting reasonably):
 - (1) the use of such Vessel in accordance with such lease or licence is ancillary, complementary or reasonably related to the business of operating a Vessel pursuant to the Coastal Ferry Business; and
 - (2) such lease or licence, or any default thereunder or termination thereof, cannot be expected to have a material adverse effect on the ordinary movement of passengers and cargo on such Vessel pursuant to the Coastal Ferry Business, the operation of the Vessel pursuant to the Coastal Ferry Business or the validity or enforceability of the Security in relation to the balance of the Collateral;
 - (B) BC Ferries would be able, notwithstanding such lease or licence (or any default thereunder or termination thereof), to meet its obligations under the Coastal Ferry Services Contract; and
 - (C) the terms of such lease or licence are consistent with an arm's length transaction and in good faith, such as a prudent owner of similar property would from time to time enter into in the normal course of its business, having regard to all relevant factors and leasing and licensing practices at the time each of the leases or licences is entered into, provided that if such lease or licence is in respect of an entire Vessel, its terms shall include provisions obliging the lessee or licensor to make payment, without prepayment (other than deposits in respect of default), of the relevant rentals, royalties or fees (the "**Receivables**") in periodic amounts over the term of such lease or licence and provided further that:
 - (1) where such periodic amounts are fixed, no such individual periodic amount (but excluding any payments due upon default or deposits in respect thereof) shall be greater than twice the amount calculated by dividing the aggregate Receivables payable under the lease or licence (but excluding any payments due upon default or deposits in respect thereof) by the number of dates for payment of such Receivables; and

- (2) where such periodic amounts are variable, the quantum of such individual periodic amounts (but excluding any payments due upon default) shall be determined by reference to usage, results of operations, inflation or some other commercially relevant variable (or combination of variables), provided that such arrangements are not designed to result in an accelerated payment schedule.
- (b) BC Ferries and its Designated Subsidiaries may carry on business or activities comprised in the Core Business.
- (c) BC Ferries may designate any Wholly Owned Subsidiary as a Designated Subsidiary if:
 - (i) BC Ferries has given notice to the Trustee in the form of Part 1 of Schedule E that it is designating such Wholly Owned Subsidiary as a Designated Subsidiary; and
 - (ii) such Wholly Owned Subsidiary has executed and delivered to the Trustee a Designated Subsidiary Guarantee, the Security required in Section 5.9 and such other documents in connection therewith as the Trustee may reasonably require.
- (d) BC Ferries shall carry on business or activities outside of the Core Business only indirectly through a Person which is not a Designated Subsidiary.
- (e) BC Ferries may withdraw the designation of a Subsidiary as a Designated Subsidiary only if upon such withdrawal:
 - (i) on a Pro Forma Basis, BC Ferries and any remaining Designated Subsidiaries would comply with this Indenture and the Supplemental Indentures;
 - (ii) BC Ferries would meet the Additional Indebtedness Test for a Borrowing in the amount of \$1.00;
 - (iii) no Default or Event of Default exists or would exist as a result thereof;
 - (iv) such Subsidiary would not have a continuing Investment in the shares of any other Designated Subsidiary or a continuing ownership or leasehold interest in any assets used in the Coastal Ferry Business;
 - (v) the revenues, expenses, assets and liabilities of such Subsidiary will be segregated for purposes of preparation of financial statements in accordance with Section 6.2(g), from those of BC Ferries and the remaining Designated Subsidiaries; and

- (vi) BC Ferries has given notice to the Trustee in the form of Part 2 of Schedule E.
- (f) Each notice to the Trustee given under this Section 6.10 shall be signed by two Authorized Officers of BC Ferries.
- (g) BC Ferries shall not, and shall not permit any Designated Subsidiary to, enter into any contract, lease or other agreement with any Subsidiary which is not a Designated Subsidiary or other Person not dealing at arm's length with BC Ferries or such Designated Subsidiary except on terms consistent with an arm's length transaction.
- (h) BC Ferries shall not permit any Designated Subsidiary to incur Borrowings other than from BC Ferries or any other Designated Subsidiary; provided, however, that such Designated Subsidiary may incur Borrowings for a facility for working capital or other normal course operating purposes, Purchase Money Obligations, Capital Leases and Capitalized Operating Lease Obligations, provided such Borrowings are otherwise in compliance with this Indenture.

6.11 Material Contracts and Other Contracts

- (a) BC Ferries will pay all monies payable pursuant to the Material Contracts as and when they become due and payable and shall comply in all material respects with the covenants, obligations and agreements of BC Ferries contained in the Material Contracts.
- (b) BC Ferries will not enter into an agreement to amend, delete or waive any material provision of any Material Contract, including, without limitation, any of the following:
 - (i) any voluntary termination, cancellation or surrender of any Material Contract by BC Ferries;
 - (ii) any surrender by BC Ferries of any part of the lands or premises leased to BC Ferries under a Ferry Terminal Lease for any Major Ferry Terminal Property;
 - (iii) any amendment to or modification of any of the Material Contracts which would shorten the term of the relevant Material Contract; or
 - (iv) any amendment to the definitions of "Option to Purchase" in the Coastal Ferry Services Contract, or any amendment of the circumstances under which the Option to Purchase may be exercised as set forth in Section 8.02 and 7.02 of the Coastal Ferry Services Contract;

unless BC Ferries has delivered to the Trustee an Officer's Certificate to the effect that after such agreement is effective, such changes, taken as a whole, cannot in the opinion of BC Ferries, acting reasonably, be expected to materially adversely

affect the interest of the Bondholders or the Security, or the ability of BC Ferries to operate the Coastal Ferry Business. Notwithstanding any other provision of this Section 6.11(b), BC Ferries may not amend the definition of “Vessel Purchase Price” in the Coastal Ferry Services Contract to decrease such amount. BC Ferries may amend, delete or waive any provision of any Other Contract in its discretion and without the necessity of delivering the Officer’s Certificate described in this Section 6.11(b).

- (c) BC Ferries will ensure that any Lien affecting the Collateral complies with the provisions of the Material Contracts and is a Permitted Lien under this Indenture.
- (d) BC Ferries will not do or permit anything to be done the doing of which, or refrain from doing anything the omission of which, will impair or tend to impair the rights in respect of this Indenture or will be grounds for declaring a forfeiture of or terminating or permitting the termination of any of the Material Contracts.
- (e) BC Ferries will promptly deliver to the Trustee copies of all agreements referred to in Section 6.11(b) and any other agreement which amends any of the Material Contracts or, where such material is publicly available, notice that such material is available.
- (f) BC Ferries will promptly give written notice to the Trustee of:
 - (i) the receipt by BC Ferries of any Notice of Pending Default; or
 - (ii) the occurrence of any event of default by BC Ferries under any Material Contract and any other event that would entitle a third party to terminate a Material Contract (but only where a director or senior officer of BC Ferries has knowledge of such event of default or right of termination or has knowledge of facts which a reasonable person would, in the circumstances, understand to give rise to such an event of default or right of termination).

Each notice pursuant to this Section 6.11(f) shall be accompanied by an Officer’s Certificate setting forth details of the occurrence referred to therein and what action BC Ferries has taken and proposes to take with respect thereto.

- (g) BC Ferries will, and will cause each Designated Subsidiary to, ensure that any outsourcing agreement entered into after the date hereof which is significant to the ongoing operation of its business (other than outsourcing agreements relating to parking, advertising, retail services and food services) includes an acknowledgement by the counterparty in favour of BC Ferries or the Designated Subsidiary, in its own capacity and as agent for and on behalf of the Trustee, that:
 - (i) the counterparty will give a copy of any notice of default under the such outsourcing agreement to the Trustee at the same time as such notice is given to BC Ferries or the Designated Subsidiary;

- (ii) the interest of BC Ferries or the Designated Subsidiary in such outsourcing agreement is charged and assigned to the Trustee; and
 - (iii) the counterparty will accept performance by the Trustee, a receiver, a receiver and manager or trustee in bankruptcy of BC Ferries or the Designated Subsidiary as performance by BC Ferries or the Designated Subsidiary or, with the consent of the counterparty, acting reasonably, their respective assigns under such outsourcing agreement.
- (h) BC Ferries will, and will cause each Designated Subsidiary to, ensure that any Capital Lease, Capitalized Operating Lease or Purchase Money Obligation of a Vessel (including, for greater certainty, any major components thereof) entered into after the date hereof includes an acknowledgement by and agreement of the lessor or lender in favour of BC Ferries or the Designated Subsidiary as the case may be, in its own capacity and as agent for and on behalf of the Trustee that:
- (i) the lessor or lender will give a copy of any notice of default under the Capital Lease, Capitalized Operating Lease or Purchase Money Obligation to the Trustee at the same time as such notice is given to the lessee or borrower;
 - (ii) the interest (including a right of acquisition as described in Section 6.11(h)(iv)) of BC Ferries or the Designated Subsidiary, as the case may be, in the Capital Lease, Capitalized Operating Lease or Purchase Money Obligation is charged and assigned to the Trustee;
 - (iii) the lessor or lender will accept performance by the Trustee, a receiver, a receiver and manager or trustee in bankruptcy of the lessee or borrower as performance by the lessee or borrower or, with the consent of such lessor or lender, acting reasonably, their respective assigns under the Capital Lease, Capitalized Operating Lease or Purchase Money Obligation; and
 - (iv) in relation to any such Capital Lease or Capitalized Operating Lease to which a Major Vessel is subject, each of BC Ferries, or the relevant Designated Subsidiary, and the Trustee (but, in the case of the Trustee, only after an Event of Default) will, following the occurrence of an event of default thereunder and up to the date of termination thereof, have the right to acquire, on commercial terms determined by BC Ferries, acting reasonably, any Major Vessel subject to such Capital Lease or Capitalized Operating Lease.
- (i) In relation to any Capital Lease, Capitalized Operating Lease or Purchase Money Obligation to which a Major Vessel is subject, BC Ferries shall use reasonable commercial efforts to ensure that the terms of such Capital Lease, Capitalized Operating Lease or Purchase Money Obligation will oblige the lessor or lender to give the Trustee, a receiver, a receiver and manager or trustee in bankruptcy a period of time to cure defaults of BC Ferries or the Designated Subsidiary under

the Capital Lease, Capitalized Operating Lease or Purchase Money Obligation (which period of time shall be of a duration which, in the opinion of BC Ferries, acting reasonably, is reasonable and such period shall commence upon the expiry of the time given to BC Ferries or the Designated Subsidiary, as the case may be).

- (j) BC Ferries will not, and will not permit any Designated Subsidiary or BCF Partnership/JV to, permit any Person (including a Third Party Joint Venture or a Third Party Partnership but not including any Designated Subsidiary or BCF Partnership/JV) to:
- (i) operate a Vessel on a Designated Ferry Route (as defined in the Coastal Ferry Services Contract);
 - (ii) make a Vessel available to BC Ferries or a Designated Subsidiary or a BCF Partnership/JV, if not pursuant to a Capital Lease, Capitalized Operating Lease or Purchase Money Obligation, for use on a Designated Ferry Route; or
 - (iii) operate a Ferry Terminal Property used for a Designated Ferry Route;
- (collectively, “**Third Party Arrangements**”) unless in any such case the following requirements are met:
- (iv) any Third Party Arrangement shall be contained in a contract (a “**Third Party Contract**”) between BC Ferries or a Designated Subsidiary or BCF Partnership/JV, on the one hand, and the relevant Person (including any Third Party Joint Venture or Third Party Partnership), on the other hand (the “**Counterparty**”);
 - (v) any Third Party Contract shall:
 - (A) provide that each of BC Ferries, or the relevant Designated Subsidiary or BCF Partnership/JV (as the case may be) and the Trustee (but, in the case of the Trustee, only after an Event of Default), will have the right to terminate the Third Party Contract on commercial terms determined by BC Ferries, acting reasonably, upon default or other act or omission by the Counterparty which results in a breach of or default under the Coastal Ferry Services Contract or any Ferry Terminal Lease by BC Ferries or any Designated Subsidiary or BCF Partnership/JV;
 - (B) provide that upon termination of a Third Party Contract, BC Ferries or the relevant Designated Subsidiary or BCF Partnership/JV will have the right to acquire, on commercial terms determined by BC Ferries, acting reasonably, any Vessel used or made available for use on a Designated Ferry Route pursuant to the Third Party Contract (in this Section 6.11(j)(v)(B), a “**Right to Acquire**”), provided that BC Ferries or the relevant Designated

Subsidiary or BCF Partnership/JV shall not be required to have a Right to Acquire a particular Vessel if either:

- (1) BC Ferries determines, acting reasonably, that BC Ferries can comply with the Coastal Ferry Services Contract without the particular Vessel, whether by reason of Vessels which are on order or are available elsewhere in BC Ferries' fleet; or
 - (2) the particular Vessel is a Minor Route Vessel (as defined in the Acknowledgement Agreement), and the directly attributable revenue for all Minor Routes (as defined in the Acknowledgement Agreement) on which Vessels are used which are subject to Third Party Contracts not containing a Right to Acquire (other than by reason of Section 6.11(j)(v)(B)(1)) does not exceed 25% of the directly attributable revenue for all Minor Routes (and for this purpose, directly attributable revenue shall be determined based on the then most recently completed fiscal year of BC Ferries); and
- (C) include an acknowledgement by and agreement of the Counterparty in favour of BC Ferries or the Designated Subsidiary or BCF Partnership/JV, as the case may be, in its own capacity and as agent for and on behalf of the Trustee, that:
- (1) the Counterparty will give a copy of any notice of default under the Third Party Contract to the Trustee at the same time as such notice is given to BC Ferries or the Designated Subsidiary or BCF Partnership/JV;
 - (2) the interest (including the Right to Acquire) of BC Ferries or the Designated Subsidiary or BCF Partnership/JV, as the case may be, in the Third Party Contract is charged and assigned to the Trustee;
 - (3) the Counterparty will accept performance by the Trustee, a receiver, a receiver and manager or trustee in bankruptcy of BC Ferries or the Designated Subsidiary or BCF Partnership/JV as performance by BC Ferries or the Designated Subsidiary or BCF Partnership/JV or, with the consent of the Counterparty, acting reasonably, their respective assigns under the Third Party Contract; and
- (vi) BC Ferries shall use reasonable commercial efforts to ensure that the terms of any Material Third Party Contract will oblige the Counterparty to give the Trustee, a receiver, a receiver and manager or trustee in

bankruptcy a period of time to cure defaults of BC Ferries or the Designated Subsidiary or BCF Partnership/JV under the Third Party Contract (which period of time shall be of a duration which, in the opinion of BC Ferries, acting reasonably, is reasonable and such period shall commence upon the expiry of the time given to BC Ferries or the Designated Subsidiary or BCF Partnership/JV, as the case may be).

- (k) BC Ferries, a Designated Subsidiary or a BCF Partnership/JV must either legally and beneficially own all title to a Vessel used on a Designated Ferry Route or have no legal and beneficial title in such a Vessel, provided that, without derogating from Section 6.11(h), nothing in this Section 6.11(k) shall preclude BC Ferries, a Designated Subsidiary or a BCF Partnership/JV from concluding a lease with respect of a major component of Vessel.
- (l) A Third Party Partnership or Third Party Joint Venture which operates a Vessel on a Designated Ferry Route or makes a Vessel available to BC Ferries, a Designated Subsidiary or a BCF Partnership/JV for use on a Designated Ferry Route must not incur, assume or have any Borrowings.
- (m) BC Ferries shall not grant security by way of a Pledged Bond to secure any Borrowings (or any Guarantee of such Borrowings) in respect of a Vessel owing to any owner or lessor of a Vessel, whether or not the Vessel is used in the Coastal Ferry Business.
- (n) Any BCF Partnership/JV shall be treated for all purposes of this Indenture as a Designated Subsidiary.

6.12 Sale-Leaseback, Lease-Leaseback

BC Ferries shall not, and shall not permit any Designated Subsidiary to, enter into any Sale-Leaseback or Lease-Leaseback transactions unless BC Ferries is able to satisfy the requirements of Section 6.5 in respect of the Attributable Indebtedness for such Sale-Leaseback or Lease-Leaseback, as the case may be.

6.13 Swap Agreements

BC Ferries shall not, and shall not permit any Designated Subsidiary to, enter into any Swap Agreement which is not for the purpose of hedging indebtedness (including interest and currency exposure), anticipated indebtedness, the cost of acquisition of Vessels or parts of Vessels or equipment, other assets or operating expenditures (including fuel and currency requirements) incurred in the normal course of business.

6.14 Secured Period

Upon the expiry of the Secured Period, BC Ferries shall not be required to comply with any term, covenant or other obligation under this Indenture, save and except as otherwise required by any Supplemental Indenture.

6.15 Existing Leased Vessels and Unregulated Routes

- (a) Nothing contained in this Indenture, or in any Supplemental Indenture, shall prevent BC Ferries from performing any of its obligations from time to time in accordance with:
 - (i) the Capital Leases in respect of the Vessels “Queen of Surrey” and “Queen of Oak Bay”, upon the terms of such Capital Leases as constituted at the date of this Indenture; and
 - (ii) its contracts with the operators of any Unregulated Routes (as defined in the Coastal Ferry Services Contract), upon the terms of such contracts as constituted at the date of this Indenture.
- (b) Notwithstanding anything in this Indenture, or in any Supplemental Indenture, nothing contained in the Capital Leases or contracts referred to in Section 6.15(a) as at the date of this Indenture shall constitute a default by BC Ferries in accordance with this Indenture.

ARTICLE 7 - NOTICE

7.1 Notice to BC Ferries

Any notice, demand or other document to BC Ferries under this Indenture shall be valid and effective if delivered or sent by facsimile, or mailed, postage prepaid, addressed to BC Ferries, as follows:

British Columbia Ferry Services Inc.
1112 Fort Street
Victoria, British Columbia
V8V 4V2

Attention: Executive Vice President, Finance
& Chief Financial Officer

Fax number: 250-388-0616

with copies to:

Attention: Vice President, Corporate Affairs,
General Counsel & Corporate Secretary

Fax number: 250-380-3958

and to

Attention: Treasurer

Fax number: 250-388-0616

and, except as provided in this Section 7.1, shall be deemed to have been given at the time of delivery, receipt of confirmation of sending by facsimile or on the fifth Business Day after mailing. Any notice made by delivery or sent by facsimile on a day other than a Business Day, or after 4:00 p.m. (Vancouver time) on a Business Day, shall be deemed to be received on the next following Business Day. BC Ferries may from time to time notify the Trustee of a change in address or facsimile number which thereafter, until changed by like notice, shall be the address or facsimile number of BC Ferries for all purposes of this Indenture.

7.2 Notice to Bondholders

Any notice, demand or other document to the Bondholders under this Indenture shall be valid and effective if it is delivered, sent by facsimile or mailed postage prepaid, addressed to such holders, at their addresses or facsimile numbers, if any, appearing in any of the registers referred to in Section 3.8 and, except as provided in this Section 7.2, shall be deemed to have been received at the time of delivery or sending by facsimile or on the fifth Business Day after mailing. Any notice made by delivery or sent by facsimile on a day other than a Business Day, or after 4:00 p.m. (Vancouver time) on a Business Day, shall be deemed to be received on the next following Business Day. All notices to joint holders of any Bond may be given to whichever one of the holders thereof is named first in the registers hereinbefore mentioned, and any notice so given shall be sufficient notice to all holders of such Bond. In the event of a postal disruption, notice to Bondholders shall be given or sent by other appropriate means. Any accidental error, omission or failure in giving or delivering or mailing such notice or the non-receipt of any such notice by a Bondholder shall not invalidate or otherwise prejudicially affect any act, action or proceeding.

7.3 Notice to the Trustee

Any notice, demand or other document to the Trustee under this Indenture shall be valid and effective if:

- (a) sent by facsimile to:

Computershare Trust Company of Canada
510 Burrard Street
Vancouver, B.C.
V6C 3B9

Attention: Corporate Trust Manager
Fax No. 604 685-4079

or

- (b) mailed, postage prepaid or delivered to:

Computershare Trust Company of Canada
510 Burrard Street
Vancouver, B.C.
V6C 3B9

Attention: Corporate Trust Manager
Fax No. 604 685-4079

in each case to the attention of “Corporate Trust Manager” and, except as provided in this Section 7.3, shall be deemed to have been given at the time of delivery or receipt of a confirmation of sending by facsimile or on the fifth Business Day after mailing. Any notice made by delivery or sent by facsimile on a day other than a Business Day, or after 4:00 p.m. (Vancouver time) on a Business Day, shall be deemed to be received on the next following Business Day. The Trustee may from time to time notify BC Ferries of a change in address or facsimile number which thereafter, until changed by like notice, shall be the address or facsimile number of the Trustee for all purposes of this Indenture.

7.4 Postal Service Interruption

In the case of disruption in postal services in Canada, any notice given under Section 7.1 or 7.3 if mailed, shall be deemed not to have been given until it is actually delivered.

ARTICLE 8 - SUPPLEMENTAL INDENTURES

8.1 Provision for Supplemental Indentures

From time to time, subject to the authorization of its directors, BC Ferries and the Trustee may, subject to the provisions of this Indenture, and they shall, when so directed by this Indenture or any Supplemental Indenture, execute and deliver by their proper officers, deeds or instruments supplemental or ancillary hereto, which thereafter shall form part hereof, for any one or more or all of the following purposes:

- (a) charging as and by way of a Lien to or in favour of the Trustee any property now owned or hereafter acquired by BC Ferries described in Section 5.1;
- (b) giving effect to any resolution passed as provided in Article 9;
- (c) authorizing one or more Series and, in connection therewith, specify and determine the matters and things referred to in Section 2.4 and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with this Indenture;
- (d) adding to or altering the provisions hereof in respect of the registration and transfer of Bonds; making provision for the issue of Bonds of denominations other than those provided for in this Indenture or in any Supplemental Indenture and for the exchange of Bonds of different denominations; and making any

modification in the forms of the Bonds provided that, in an Opinion of Counsel, the rights of the Bondholders are not prejudiced thereby;

- (e) making any addition to, deletion from or alteration of the provisions of this Indenture or any Supplemental Indenture which BC Ferries may deem necessary or advisable and which, in the Opinion of Counsel, does not materially and adversely affect the interests of the Bondholders and, in the Opinion of Counsel, does not prejudice the rights of the Trustee hereunder;
- (f) adding to the limitations or restrictions herein or in the Bonds, specifying further limitations or restrictions, thereafter to be observed, in connection with the Collateral; and adding to the covenants of BC Ferries herein contained for the protection of the Bondholders or adding to the Events of Default herein specified; provided that such further limitations, restrictions, covenants or Events of Default are not, in the Opinion of Counsel, prejudicial to the interests of the Bondholders;
- (g) making any addition to, deletion from or alteration of the provisions of this Indenture or any Supplemental Indenture or the Bonds that, in the Opinion of Counsel, are necessary in order to reflect or comply with applicable law; or
- (h) the correction or rectification of any ambiguity, any defective or inconsistent provision, any manifest error or any clerical omission herein; provided, however, that in the Opinion of Counsel, the rights of the Trustee and of the Bondholders are not prejudiced thereby.

8.2 Correction of Manifest Errors

BC Ferries and the Trustee may correct typographical, clerical and other manifest errors in this Indenture, any Supplemental Indenture or the Bonds provided that such correction shall in an Opinion of Counsel in no way prejudice the rights of the Trustee or of the Bondholders hereunder, and BC Ferries and the Trustee may execute all such documents as may be necessary to correct such errors.

8.3 General Provisions

- (a) This Indenture shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provision of this Article 8 and Article 9. Any such modification or amendment adopted in contravention of the rights of any Bondholder shall be ineffective as to that Bondholder. Nothing in this Article 8 and Article 9 shall affect or limit the right or obligation of BC Ferries to adopt, make, do, execute, acknowledge or deliver any indenture, resolution, act or other instrument pursuant to the provisions of Section 6.2(k) or the right or obligation of BC Ferries to execute and deliver to any Fiscal Agent any instrument which elsewhere in this Indenture it is provided shall be delivered to said Fiscal Agent.
- (b) Any Supplemental Indenture referred to and permitted by Section 8.1 shall become effective only on the conditions, to the extent and at the time provided in

such Supplemental Indenture. The copy of every Supplemental Indenture delivered to the Trustee shall be accompanied by a Counsel's Opinion stating that such Supplemental Indenture has been duly and lawfully adopted in accordance with the provisions of this Indenture, is authorized or permitted by this Indenture, and is valid and binding upon BC Ferries and enforceable in accordance with its terms, subject to usual and customary exceptions.

- (c) The Trustee is hereby authorized to enter into any Supplemental Indenture permitted by Section 8.1 and to make all further agreements and stipulations which may be required or permitted to be made by the Trustee pursuant to any such Supplemental Indenture, and the Trustee, in taking such action, shall be fully protected in relying on an Opinion of Counsel that such Supplemental Indenture is authorized or permitted by the provisions of this Indenture.
- (d) No Supplemental Indenture shall change or modify any of the rights or obligations of any Fiscal Agent without its written assent thereto.

8.4 Supplemental Indentures to Prevail

Where any of the provisions of this Indenture are supplemented, modified or amended by the provisions of any Supplemental Indenture which authorizes a Series of Bonds, the provisions of this Indenture shall be read as so supplemented, modified or amended with respect to all Bonds of such Series. In the event of a conflict or inconsistency between any provision of this Indenture as so supplemented, modified or amended and any other provision of this Indenture, such other provision of this Indenture shall be deemed to have been so supplemented, modified or amended to the extent necessary to remove all such conflict or inconsistency, but only with respect to Bonds issued pursuant to such Supplemental Indenture.

ARTICLE 9 - AMENDMENTS; RESOLUTIONS OF BONDHOLDERS

9.1 Right to Convene Meeting

The Trustee may at any time and from time to time and shall, on receipt of a Written Request of BC Ferries or a Bondholders' Request and upon receiving funding and being indemnified to its reasonable satisfaction by BC Ferries or by the Bondholders signing such Bondholders' Request, as the case may be, against the costs that may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Bondholders. In the event of the Trustee failing within 10 days after receipt of any such Bondholders' Request to give notice convening such meeting, BC Ferries or such Bondholders, as the case may be, may convene such meeting. Every such meeting of Bondholders shall be held in the City of Vancouver, the City of Victoria or at such other place as may be approved or determined by the Trustee.

9.2 Notice

At least 10 but not more than 45 days' notice of any meeting shall be given to the Bondholders in the manner provided in Article 7 and a copy thereof shall be sent to each of the Trustee and BC Ferries in the manner set out in Article 7 unless the meeting has been called by it. The notice shall state the time when and the place where the meeting is to be held and set out the general

nature of the business to be transacted thereat. It is not necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 9.

9.3 Chair of Meeting

An individual, who need not be a Bondholder, nominated in writing by the Trustee shall be chair of the meeting, and if no Person is so nominated, or if the Person so nominated is not present within 30 minutes from the time fixed for the holding of the meeting, the Bondholders present in person or by proxy shall choose an individual present to be chair.

9.4 Quorum

Unless otherwise provided in this Indenture, at any meeting of Bondholders:

- (a) a quorum shall consist of one or more Bondholders present in person or by proxy and representing more than 50% of the total principal outstanding in respect of the Outstanding Bonds;
- (b) in the case of a meeting of the Bondholders of a Series of Bonds, a quorum shall consist of one or more Bondholders of such Series present in person or by proxy and representing more than 50% of the total principal outstanding in respect of the Outstanding Series of Bonds; and
- (c) if a quorum of the Bondholders is not present within 30 minutes from the time fixed for holding the meeting, such meeting, if convened by the Bondholders or on a Bondholders' Request, shall be dissolved; but in any other case, the meeting shall be adjourned without notice to the same day in the next week (unless such day is not a Business Day in which case it shall stand adjourned to the next following Business Day thereafter) at the same time and place, unless the chair appoints some other place, day or time, of which not less than seven days' notice shall be given in the manner provided in Article 7. At the adjourned meeting, the Bondholders present in person or by proxy shall constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they do not represent 50% of the total principal outstanding in respect of the Outstanding Bonds or Outstanding Series of Bonds, as the case may be.

9.5 Power to Adjourn

The chair of any meeting at which a quorum of the Bondholders is present may, with the consent of the Bondholders present, adjourn such meeting and no notice of such adjourned meeting need be given except such notice, if any, as the meeting so adjourned may resolve.

9.6 Poll

On every resolution proposed to be passed as an Extraordinary Resolution or a Special Resolution and on any other question submitted to a meeting when demanded by the chair or by

any Bondholder acting in person or by proxy, a poll shall be taken in such manner as the chair directs.

9.7 Voting

Each Bondholder present in person or represented by proxy shall be entitled to one vote in respect of each \$1,000.00 of principal outstanding in respect of Outstanding Bonds of which it is then the holder. A proxy need not be a Bondholder. In the case of joint registered holders of a Bond, any one of them present in person or represented by proxy at the meeting may vote in the absence of the other or others; but if more than one of them is present in person or represented by proxy, they shall vote together in respect of the Bonds of which they are joint registered holders. In the case of a Global Bond, the Depositary may appoint or cause to be appointed a Person or Persons as proxies and shall designate the number of votes entitled to each such Person, and each such Person shall be entitled to be present at any meeting of Bondholders and shall be the Persons entitled to vote at such meeting in accordance with the number of votes set out in the Depositary's designation. Subject to the provisions of Section 9.8, in the case of Bonds held by a Person other than an individual, an officer or representative of such Person may vote the Bonds held by it unless there shall be more than one officer or representative of such Person present at the meeting, and those officers or individuals present do not agree on how the Bonds may be voted, in which case a written proxy shall be required to determine who may vote the Bonds and how such Bonds are to be voted.

9.8 Regulations

The Trustee, or BC Ferries with the approval of the Trustee, may from time to time make and vary such regulations as it shall think fit providing for and governing:

- (a) the voting by proxy by holders of Registered Bonds and the form of the instrument appointing a proxy, which shall be in writing or any other such manner as the Trustee may request or accept (including televoting), and the manner in which the same shall be executed, and for the authority to be provided by any Person signing a proxy on behalf of a Bondholder;
- (b) the deposit of the instruments appointing proxies at such place or places as the Person convening the meeting may in the notice convening the meeting direct, and the time before the holding of the meeting or adjourned or postponed meeting at which the same shall be deposited; and
- (c) the deposit of such instruments appointing proxies at some place or places other than the place at which the meeting is to be held and for particulars of such instruments to be mailed, cabled, telegraphed, telecopied or sent by other means of communication before the meeting to BC Ferries or to the Trustee at the place where the same is to be held, and that proxies so deposited may be voted upon as though the instruments themselves were produced at the meeting.

Any regulations so made shall be binding and effective and votes given in accordance therewith shall be valid and shall be counted. Except as aforesaid and as provided in such regulations, the

only Persons who shall be recognized at any such meeting as the holders of Bonds or as entitled to be present and vote at any such meeting shall be Persons who produce at the meeting Registered Bonds.

9.9 BC Ferries and Trustee May Be Represented

BC Ferries and the Trustee, by their respective officers, directors and employees, and the legal advisors of BC Ferries, the Trustee and the Bondholders may attend any meeting of the Bondholders, but shall have no vote as such.

9.10 Powers Exercisable by Extraordinary Resolution

Subject to Sections 9.17 and 9.18 and Article 10 and in addition to all other powers conferred upon them by other provisions of this Indenture or law, at a meeting of the Bondholders, the Bondholders shall have the following powers, exercisable from time to time by Extraordinary Resolution only:

- (a) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Bondholders or the Trustee or either of them against BC Ferries or against its undertaking and assets or any part thereof, whether such rights arise under this Indenture, the Bonds or otherwise, provided that the rights or obligations of the Trustee under this Indenture may not be modified, abrogated, altered or compromised without the prior consent of the Trustee;
- (b) power to direct or authorize the Trustee to exercise or refrain from exercising any power, right, remedy or authority given to it by this Indenture or the Bonds in any manner specified in such Extraordinary Resolution;
- (c) power to waive and direct the Trustee to waive any Default or Event of Default on the part of BC Ferries in complying with any provision of this Indenture or the Bonds and to annul and to direct the Trustee to annul any declaration made by the Trustee pursuant to Article 10, either unconditionally or upon any conditions specified in such Extraordinary Resolution;
- (d) power to sanction the exchange of Bonds for, or the conversion of Bonds into, bonds, debentures, notes or any other securities or obligations of BC Ferries or any other body corporate or other entity formed or to be formed and power to sanction the distribution in specie to Bondholders of assets of BC Ferries or such bonds, debentures, notes, shares, warrants or other securities or obligations;
- (e) power to repeal, modify or amend any Extraordinary Resolution previously passed by the Bondholders;
- (f) power to remove the Trustee and appoint a new Trustee, subject to Section 12.12;
- (g) power to establish and dissolve a committee, and to provide for the appointment of members thereof, to consult with the Trustee and to delegate to such committee

(subject to such limitations, if any, as may be prescribed in the Extraordinary Resolution) all or any of the powers that the Bondholders can exercise by Extraordinary Resolution under Sections 9.10(a) to (f), inclusive. Such committee shall consist of such number of Persons as prescribed in the Extraordinary Resolution establishing it and, unless otherwise provided, the members need not themselves be Bondholders. Subject to the Extraordinary Resolution establishing it and providing for the appointment of members thereof, every such committee may elect its chairperson and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number, the manner in which it may act and its procedure generally and such regulations may provide that the committee may act at a meeting at which a quorum is present or by resolution signed by a majority of members thereof or the number of members thereof necessary to constitute a quorum, whichever is the greater. All acts of any such committee within the authority delegated to it shall be binding upon all Bondholders and the Trustee. Neither the committee nor any member thereof nor the Trustee shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith. Any such committee shall be indemnified by BC Ferries and any claims made thereunder shall rank in priority to other amounts due hereunder (other than to the Trustee). In addition, any such committee may cause BC Ferries to acquire insurance to reasonably protect the committee members against liabilities that might be incurred in acting as members of such committees;

- (h) power to sanction any scheme for the arrangement, reconstruction, reorganization or recapitalization of BC Ferries or for the consolidation, amalgamation or merger of BC Ferries into or with any other corporation; and
- (i) power to file and prove a claim or debt against BC Ferries in any proceedings involving BC Ferries and to generally act for and on behalf of the Bondholders in any such proceedings and to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any shares or securities of BC Ferries.

9.11 Powers Cumulative

Any one or more of the powers and any combination of the powers of this Indenture stated to be exercisable by the Bondholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the right of the Bondholders to exercise such powers thereafter from time to time.

9.12 Minutes

Minutes of all resolutions and proceedings at every meeting of the Bondholders shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee at the expense of BC Ferries, and any such minutes, if signed, by the chairperson of the meeting at

which resolutions were passed or proceedings had, or by the chairperson of the next succeeding meeting of the Bondholders, shall be prima facie evidence of the matters therein stated and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes shall have been made shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had, to have been duly passed and had.

9.13 Binding Effect of Resolutions

Every Majority Resolution, Extraordinary Resolution or Special Resolution passed in accordance with the provisions hereof at a meeting of Bondholders or by an instrument in writing in lieu of a meeting of Bondholders shall be binding upon all Bondholders and each Bondholder and the Trustee (subject to the provisions for its funding and indemnity herein contained) shall be bound to give effect accordingly to every such Majority Resolution, Extraordinary Resolution or Special Resolution or instrument in writing.

9.14 Instruments in Writing

All actions that may be taken and all powers that may be exercised by the Bondholders by Majority Resolution, Extraordinary Resolution or Special Resolution may also be taken and exercised by an instrument in writing signed in one or more counterparts by Bondholders representing more than 50% of the total principal outstanding in respect of the Outstanding Bonds for a Majority Resolution, not less than 66 $\frac{2}{3}$ % of the total principal outstanding in respect of the Outstanding Bonds for an Extraordinary Resolution and not less than 90% of the total principal outstanding in respect of the Outstanding Bonds for a Special Resolution and the expressions “Majority Resolution”, “Extraordinary Resolution” and “Special Resolution” when used in this Indenture include an instrument so signed.

9.15 Series Approval

- (a) If in the Opinion of Counsel delivered to the Trustee, any business to be transacted at any meeting, or any action to be taken or power to be exercised by instrument in writing under Section 9.14, does not adversely affect the rights of the holders of Bonds of one or more Series under this Indenture and the Security, the provisions of this Article 9 shall apply as if the Bonds of such Series were not Outstanding and no notice of any such meeting need be given to the holders of Bonds of such Series. Without limiting the generality of the forgoing, a proposal to modify or terminate any covenant or agreement which by its terms is effective only so long as Bonds of a particular Series are Outstanding or which is enacted for the exclusive benefit of the holders of Bonds of one or more particular Series or which affects the terms of repayment of only one or more particular Series or the Sinking Fund or Series Reserve Account established for the benefit of one Series shall be deemed not to adversely affect the right of the holders of Bonds of any other Series.
- (b) If in the Opinion of Counsel delivered to the Trustee, any business to be transacted at a meeting of Bondholders, or any action to be taken or power to be exercised by instrument in writing under Section 9.14, would affect the rights of

the holders of Bonds of one or more Series under this Indenture and the Security in a manner different from the holders of Bonds of any other Series (as to which such Counsel's Opinion shall be binding on all Bondholders, the Trustee and BC Ferries for all purposes hereof) then:

- (i) reference to such fact, indicating each Series so affected, shall be made in the notice of such meeting; and
- (ii) the holders of Bonds of a Series so affected shall not be bound by any action taken at such meeting or by instrument in writing under Section 9.14 unless in addition to compliance with the other provisions of this Article 9:
 - (A) at such meeting:
 - (1) there are present in person or by proxy holders of Bonds representing more than 50% of the total principal outstanding in respect of the Outstanding Bonds of such Series, subject to the provisions of this Article 9 as to quorum at adjourned meetings; and
 - (2) the resolution is passed by the affirmative vote of the holders of Bonds of such Series representing not less than 66 $\frac{2}{3}$ % of the total principal outstanding in respect of the Outstanding Bonds of such Series voted on the resolution at such meeting; or
 - (B) in the case of action taken or power exercised by instrument in writing under Section 9.14, such instrument is signed in one or more counterparts by the holders of Bonds representing not less than 66 $\frac{2}{3}$ % of the total principal outstanding in respect of the Outstanding Bonds of such Series.

9.16 Determination of Borrowings Outstanding Under Pledged Bonds

In order to determine the total outstanding Borrowings secured by any Pledged Bonds (for purposes only of the definitions of "Majority Resolution", "Extraordinary Resolution" and "Special Resolution" and for the purposes of Sections 9.4 and 9.7), each Bondholder shall deliver to the Trustee, within five Business Days of receipt of a written request from the Trustee (or such shorter time as set out in Section 9.21(c)), a Bondholder's Certificate setting forth the total principal outstanding secured by any Pledged Bond as of the date specified in such written request and the Trustee shall deliver all such Bondholder's Certificates to BC Ferries and shall make the same available for inspection by any Bondholder for a period of three Business Days after the expiry of the time stated to provide the same in the written request. If any Bondholder fails to provide the Trustee with a Bondholder's Certificate setting forth such Bondholder's total principal outstanding as aforesaid within the time stated in the written request (such Bondholder being referred to in this Section 9.16 as a "**Defaulting Bondholder**"), the Trustee shall for

purposes of any determination required at such time consider such Defaulting Bondholder's Borrowings secured by the Pledged Bond to be the amount as stated by BC Ferries in an Officer's Certificate delivered to the Trustee. If, within the time allotted for examination of the Bondholder's Certificates, neither a Bondholder nor BC Ferries objects to the amount of the total principal outstanding set forth in any Bondholder's Certificate, then the Trustee may rely on such Bondholder's Certificates as conclusive and act thereon, or to the extent applicable, on such Officer's Certificate. If any Bondholder or BC Ferries disputes the amount of the principal outstanding set forth in any Bondholder's Certificates, the Trustee shall be entitled to independently determine directly or by an independent auditor or financial consultant the amount of the principal outstanding secured by the Pledged Bond in respect of the disputed Bondholder Certificate(s) and such determination, absent manifest error, shall be conclusively binding on the Bondholders and BC Ferries.

9.17 Deemed Consent of Bondholders

Notwithstanding the provisions of Section 9.10 and the other provisions of this Indenture, if a Bondholder is entitled to and does, in a Bondholder's Request, request the Trustee to proceed to realize upon the Security and to enforce its rights as set forth in Article 10, then, unless such Bondholder rescinds such request, the remaining Bondholders shall be deemed to have consented to such Bondholders' Request, including, without limitation, the Bondholder's Request directing and controlling the actions of the Trustee, not inconsistent with the provisions hereof as the Bondholder making such Bondholder's Request or the Trustee may reasonably require in order to give effect to and to implement such request; provided that notwithstanding any such Bondholder's Request, the Bondholders generally may direct and control the actions of the Trustee in realizing upon the Security and enforcing its rights hereunder, as provided in this Indenture.

9.18 Special Resolution

Notwithstanding any other term of this Indenture, a Special Resolution shall be required in order to amend directly or indirectly or otherwise vary:

- (a) the definitions of "Majority Resolution", "Extraordinary Resolution", "Event of Default" and "Special Resolution" set out in Section 1.1;
- (b) any power exercisable by a written direction of a Bondholder or a Bondholders' Request;
- (c) the grant of Security provided or granted to the Trustee by BC Ferries pursuant to Article 5 (other than Security provided or granted for the benefit of one Series only);
- (d) any provision of this Indenture which expressly requires a Special Resolution;
- (e) the *pari passu* ranking of the Bonds as provided for in this Indenture;
- (f) Section 10.3 or 10.5;

- (g) Section 9.17 or this Section 9.18; and
- (h) any reduction of the Secured Period.

9.19 Exclusion of Bonds

Bonds owned or held by or for the account of BC Ferries shall be deemed not to be Outstanding for the purposes of this Article 9 or other action or any calculation of Outstanding Bonds provided for in this Article 9, and BC Ferries shall not be entitled with respect to such Bonds to vote, give any consent or take any other action provided for in this Article 9. At the time of any vote, consent or other action taken under this Article 9, BC Ferries shall furnish the Trustee with an Officer's Certificate upon which the Trustee may rely, describing all Bonds to be so excluded.

9.20 Notation of Bonds

Bonds authenticated and delivered after the effective date of any action taken pursuant to Article 8 or this Article 9 may and, if the Trustee so determines, shall bear a notation by endorsement or otherwise in form approved by BC Ferries and the Trustee as to such action, and upon demand of the holder of any Bond Outstanding at such effective date and presentation of his or her Bond for that purpose at the principal office of the Trustee or upon any exchange or registration of transfer of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such exchange or registration of transfer by the Trustee as to any such action. If BC Ferries or the Trustee shall so determine, new Bonds so modified as in the opinion of BC Ferries to conform to such action shall be prepared, authenticated and delivered, and upon demand of the holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

9.21 Emergency Meetings

- (a) Subject to Section 10.11, in the event that the Trustee has received Notice of Default or in any other circumstance in which the Trustee deems it advisable, and upon being funded and indemnified by the Bondholders to its reasonable satisfaction, the Trustee shall forthwith call an emergency meeting of Bondholders (an "**Emergency Meeting**") to consider the course of action to be taken pursuant to the applicable Ferry Terminal Lease or the Coastal Ferry Services Contract, as the case may be, or Section 10.4(a)(xi). Notwithstanding Section 9.2, only five Business Days' notice of any Emergency Meeting shall be given to the Bondholders in the manner provided in Section 7.2. Such notice shall state the time when and the place where the Emergency Meeting is to be held and set out in general terms the nature of the business to be transacted thereat.
- (b) Notwithstanding the time period set out in Section 9.4(c), in the event a quorum of the Bondholders is not present within 30 minutes from the time fixed for holding the Emergency Meeting, the meeting shall be adjourned without notice for 48 hours at the same time and place (unless such day is not a Business Day in which case it shall stand adjourned to the next following Business Day). Except

as provided in this Section 9.21, all of the provisions of Section 9.4 shall apply to an Emergency Meeting *mutatis mutandis*.

- (c) Notwithstanding the time period set out in Section 9.16, in the event of an Emergency Meeting, each Bondholder shall deliver to the Trustee within 48 hours of notice of such meeting, a Bondholders' Certificate required in accordance with Section 9.16.

ARTICLE 10 - DEFAULT AND REMEDIES

10.1 Events of Default

Each of the following events shall constitute an "Event of Default":

- (a) payment of the principal or Redemption Price, if any, owing in respect of any Bond shall not be made when due and any such default continues for a period of five Business Days;
- (b) payment of any instalment of interest or other amount (other than principal or Redemption Price) owing in respect of any Bond shall not be made when due and any such default continues for a period of five Business Days;
- (c) if any representation and warranty made by BC Ferries in this Indenture shall be untrue in any material respect on the date hereof or the date upon which it was given and such misrepresentation continues for a period of 30 days after written notice thereof by the Trustee; provided, however, that in the case of any such misrepresentation which can be cured by due diligence but which cannot be cured within the 30 day period, the time to cure shall be extended for such period as may be necessary to remedy the misrepresentation with all due diligence so long as BC Ferries is diligently curing such default;
- (d) failure to keep the Debt Service Reserve Fund Fully Funded and such failure continues beyond the cure period permitted in Section 4.1 or such other period as may be specified for a Series in the Supplemental Indenture with respect to such Series;
- (e) if BC Ferries or any Designated Subsidiary shall fail, refuse or default in the observance or performance of any other covenant or agreement contained in this Indenture (except for those referred to in Section 10.1(a), (b), (d) and (f)) and such default continues for a period of 30 days after written notice thereof by the Trustee; provided, however, that in the case of any such default which can be cured by due diligence but which cannot be cured within the 30 day period, the time to cure shall be extended for such period as may be necessary to remedy the default with all due diligence so long as BC Ferries or its Designated Subsidiary, as the case may be, is diligently curing such default;
- (f) if a Notice of Default is delivered to BC Ferries by the Province or the BCTFA in respect of the Coastal Ferry Services Contract or a Ferry Terminal Lease for a

Major Ferry Terminal Property or Notices of Default are delivered to BC Ferries by the Province in respect of Ferry Terminal Leases for Ferry Terminal Properties which, in the aggregate, represent 10% of the net book value of all assets represented by the Ferry Terminal Properties or are used for routes which, in the aggregate, represent 10% of the directly attributable revenues of BC Ferries and its Designated Subsidiaries on a consolidated basis in respect of the Coastal Ferry Business;

- (g) if a default by BC Ferries, a Designated Subsidiary or BCF Partnership/JV (as defined in Section 6.10) occurs under any Material Third Party Contract; provided that if a separate curative period which satisfies the criteria in Section 6.11(j)(vi) is available to the Trustee, a receiver and a receiver and manager under such Material Third Party Contract (in this Section 10.1(g), a “**Trustee/receiver curative period**”), a default by BC Ferries or a Designated Subsidiary or a BCF Partnership/JV under such Material Third Party Contract shall not constitute an Event of Default under this Section 10.1(g) unless such default has not been rectified prior to the commencement of the Trustee/receiver curative period;
- (h) if a default by BC Ferries or a Designated Subsidiary occurs under any Capital Lease, Capitalized Operating Lease or Purchase Money Obligation to which a Major Vessel is subject; provided that if a separate curative period which satisfies the criteria in Section 6.11(i) is available to the Trustee, a receiver and a receiver and manager under such Capital Lease, Capitalized Operating Lease or Purchase Money Obligation (in this Section 10.1(h), a “**Trustee/receiver curative period**”), a default by BC Ferries or a Designated Subsidiary under such Capital Lease, Capitalized Operating Lease or Purchase Money Obligation shall not constitute an Event of Default under this Section 10.1(h) unless such default has not been rectified prior to the commencement of the Trustee/receiver curative period;
- (i) commencement of proceedings for Bankruptcy of BC Ferries or the suspension of BC Ferries’ operations, unless BC Ferries is actively and diligently contesting such proceedings and such proceedings are lifted or stayed within 60 days of their commencement;
- (j) commencement of proceedings for:
 - (i) Bankruptcy of one or more Designated Subsidiaries (any one or more of which owns or own a Major Vessel, is or are the lessee or lessees under a Ferry Terminal Lease for a Major Ferry Terminal Property or collectively have assets exceeding 10% of the net book value of the fixed assets or directly attributable revenues exceeding 10% of the revenue of BC Ferries and its Designated Subsidiaries as shown on the most recent financial statement of BC Ferries), or

- (ii) the suspension of the operations of one or more of such Designated Subsidiaries,

unless such Designated Subsidiary or Designated Subsidiaries (as the case may be) is or are actively and diligently contesting such proceedings and such proceedings are lifted or stayed within 60 days of their commencement;

- (k) the making by BC Ferries of an assignment for the benefit of its creditors, or if BC Ferries petitions or applies to any court or tribunal for the appointment of a receiver or trustee for itself or for any substantial portion of its property, or commences any proceeding relating to itself under any bankruptcy, insolvency or reorganization of debt law or statute of any jurisdiction, or by any act indicates its consent or approval to such proceeding which is material to the conduct of its business, or suffers any receivership or trusteeship to remain undischarged for 45 days, or if BC Ferries becomes bankrupt or unable to pay its debts as they become due or is declared bankrupt;
- (l) the making by one or more Designated Subsidiaries (any one or more of which owns or own a Major Vessel, is or are the lessee or lessees under a Ferry Terminal Lease for a Major Ferry Terminal Property or collectively have assets exceeding 10% of the net book value of the fixed assets or directly attributable revenues exceeding 10% of the revenues of BC Ferries and its Designated Subsidiaries as shown on the most recent financial statement of BC Ferries) of an assignment for the benefit of its respective creditors, or if such a Designated Subsidiary petitions or applies to any court or tribunal for the appointment of a receiver or trustee for itself or for any substantial portion of its property, or commences any proceeding relating to itself under any bankruptcy, insolvency or reorganization of debt law or statute of any jurisdiction, or by any act indicates its consent or approval to such proceeding which is material to the conduct of its business, or suffers any receivership or trusteeship to remain undischarged for 45 days, or if such a Designated Subsidiary becomes bankrupt or unable to pay its debts as they become due or is declared bankrupt;
- (m) if all or substantially all of the assets of BC Ferries and its Designated Subsidiaries, or all or substantially all of the assets used by BC Ferries and its Designated Subsidiaries in the Coastal Ferry Business, are taken pursuant to an Expropriation;
- (n) if BC Ferries or a Designated Subsidiary defaults in any payment obligation contained in any agreement or indenture (other than this Indenture) by which it is bound relating to any Borrowing in an aggregate amount equal to or greater than \$10,000,000, and such default continues beyond any applicable grace period; provided, however, that if BC Ferries or the Designated Subsidiary has contested the validity of such demand in good faith and/or is diligently curing such default during such applicable grace period, and such default shall be remedied or cured by BC Ferries or such Designated Subsidiary or waived by the holder of holders of such Borrowings within a ten day period from the end of such applicable grace

period and no exercise of any remedy on default has been taken under such agreement or indenture, the Event of Default resulting from such default will be deemed likewise to have been remedied, cured or waived;

- (o) if BC Ferries or a Designated Subsidiary is in default (other than a payment default described in Section 10.1(n)) under any term or provision of any agreement or indenture related to Borrowing equal to or greater than \$10,000,000 and as a result of such default the lender has accelerated or demanded immediate payment of amounts due under such agreement or indenture; or
- (p) if the holder of any Subordinated Debt commences proceedings to enforce payment of the Subordinated Debt in accordance with the terms of the Subordinated Debt.

10.2 Acceleration on Default

- (a) If any Event of Default shall occur and be continuing, the Trustee may in its discretion and shall upon receipt of a Bondholders' Request, subject to the provisions of Section 10.3:

- (i) declare the principal of, Premium, and interest on all Bonds then Outstanding and other monies secured hereby to be due and payable (a "Declaration of Acceleration") and the same shall forthwith become immediately due and payable to the Trustee; and
- (ii) declare the Lien Hereof and the Security to be enforceable,

and the same shall forthwith become immediately enforceable, anything herein or therein to the contrary notwithstanding, and BC Ferries shall forthwith pay to the Trustee for the benefit of the Bondholders the principal of and accrued and unpaid interest and interest on amounts in default on such Bonds and all other monies secured hereby, together with any applicable Premium for the Outstanding Bonds calculated from the date upon which payment is demanded pursuant to this Section 10.2.

- (b) Upon the amounts described in Section 10.2(a) being declared or otherwise becoming due and payable, the balance in the Series Sinking Funds, Debt Service Reserve Fund and any other Fund or Account (unless otherwise stipulated in the Supplemental Indenture authorizing such other Fund or Account), shall be applied as follows:
 - (i) the balance in each Series Reserve Account shall be applied to the repayment of amounts due, first for interest, and then for principal, including interest on amounts overdue, and then for any Premium, if any, and interest thereon, in respect of the Bonds of the related Series;

- (ii) the balance in each Series Sinking Fund shall be applied to the repayment of principal due and payable, if any, in respect of the Bonds of the related Series;
- (iii) any amounts remaining in any Fund or Account shall be applied to the repayment, rateably and proportionately and in the order or priority set out below to the Bondholders of the amounts due in respect of:
 - (A) interest (save to the extent provided below);
 - (B) principal, including interest on amounts overdue; and
 - (C) Premium, if any, and interest thereon, until all amounts owing under the Bonds have been fully repaid; and

the surplus, if any, of such monies shall be paid to BC Ferries or its assigns.

10.3 Waiver of Default/Cure

If an Event of Default has occurred, the Bondholders by Extraordinary Resolution may instruct the Trustee to waive the Event of Default and the Trustee shall thereupon waive the Event of Default or annul such declaration or both upon such terms and conditions as such Bondholders prescribe; provided that no act or omission by the Trustee or of the Bondholders shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

If an Event of Default has occurred and prior to a declaration by the Trustee under Sections 10.2(a)(i) or (ii) BC Ferries or a Designated Subsidiary shall cure the default giving rise to the Event of Default, such default shall cease to exist and such Event of Default shall cease to exist for every purpose of this Indenture.

10.4 Remedies in Case of Default

- (a) Subject to Section 10.3 and to the provisions of any Extraordinary Resolution that may be passed by the Bondholders as hereinafter provided, whenever the Lien Hereof shall have become enforceable and so long as it shall remain enforceable, in addition to the rights and remedies provided in this Section 10.4, the Trustee may, in its discretion, and shall upon receipt of a Bondholders' Request given within the time periods prescribed in this Indenture and upon receiving funding and an indemnity satisfactory to it against all costs, expenses and liabilities to be incurred, proceed to protect and enforce its rights and the rights of the Bondholders under this Indenture and the Security by such appropriate private or judicial proceedings as the Trustee shall deem most effectual to protect and enforce such rights. Without limiting the generality of the foregoing, if an Event of Default has occurred and is continuing (or in the case of Sections 10.4(a)(xi) and (xii)(xi) a Default has occurred and is continuing), the Trustee may and shall upon receipt of a Bondholder's Request given within the time periods prescribed

in this Indenture and upon receiving funding and an indemnity satisfactory to it against all costs, expenses and liabilities to be incurred, subject to Section 10.3 and the provisions of any Extraordinary Resolution, exercise during and for such period of time as such Event of Default or Default is continuing, but for greater certainty, for no additional period of time thereafter, one or more of the following powers:

- (i) proceed to realize on the Security and to enforce the rights of the Trustee and of the Bondholders:
 - (A) by enforcing the Lien Hereof and the Security,
 - (B) by exercising any rights and privileges of BC Ferries under any or all of the Material Contracts or the Other Contracts;
 - (C) by taking possession of the Collateral; or
 - (D) by retaining or realizing upon the Debt Service Reserve Fund, the Series Sinking Funds, and any other Fund or Account;
- (ii) appoint or apply to any court having jurisdiction for the appointment of a Receiver only during and for such period of time as the Event of Default is continuing and for no additional period of time thereafter, as agent for BC Ferries with full power of attorney as set out in Section 5.6 to exercise all rights and remedies available to the Trustee hereunder;
- (iii) give notice of the Security to any Person obligated to pay any debt or liability comprising part of the Collateral and may also direct such Person to make all payments on account of any such debt or liability to the Trustee. BC Ferries acknowledges that any payments received by BC Ferries from such Persons after notification of the Security to such Persons after the occurrence of an Event of Default shall be received and held by BC Ferries in trust for the Trustee and shall be forthwith paid to the Trustee upon request;
- (iv) take such steps as it considers desirable to maintain, preserve or protect the Collateral, including the authority to borrow or raise money on behalf of BC Ferries, without compliance with Section 6.5, on the security of the Collateral for the purpose of paying for the maintenance, preservation or protection of the Collateral notwithstanding any restriction on Additional Indebtedness under this Indenture;
- (v) enforce any rights of BC Ferries in respect of the Collateral, in any manner permitted by law but subject to the terms of the Material Contracts;
- (vi) charge on its own behalf and pay to others all reasonable amounts for expenses incurred and for services rendered including, without limiting the generality of the foregoing, reasonable advisory, legal and accounting fees

and expenses, in connection with the exercise of rights and remedies of the Trustee hereunder;

- (vii) make such other payments as are required to protect the rights of the Bondholders including, without limitation, the payment of insurance premiums, the payment of operating and maintenance expenses and the performance of the obligations of BC Ferries under the Material Contracts and the Other Contracts and, in every such case, the amounts so paid together with all costs, charges and expenses incurred in connection therewith, including interest thereon at such rate as the Trustee deems appropriate acting reasonably, shall be added to and form part of the obligations hereby secured;
 - (viii) commence an action or proceeding to enforce the right of the Bondholders to require BC Ferries to receive and collect revenues adequate to carry out its covenants and agreements as to such revenues and to require BC Ferries to carry out any other covenant or agreement with the Bondholders and to perform its duties under this Indenture, and the Material Contracts and the Other Contracts;
 - (ix) exercise its rights under Section 5.6;
 - (x) commence an action to enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders;
 - (xi) take such action as necessary to cure any defaults of BC Ferries under the Material Contracts, pursuant to the terms of the Acknowledgment Agreement, and the Other Contracts; and
 - (xii) register this Indenture as the Trustee or Bondholders may consider to be necessary or desirable against title to any or all of the assets or property of BC Ferries.
- (b) Subject to the provisions of this Indenture, the Trustee may:
- (i) grant extensions of time;
 - (ii) take and perfect or abstain from taking and perfecting security;
 - (iii) give up securities;
 - (iv) accept compositions or compromises;
 - (v) grant releases and discharges; and
 - (vi) release any part of the Collateral or otherwise deal with the Collateral as the Trustee sees fit without prejudice to the liability of BC Ferries to the Trustee or the Trustee's rights hereunder.

- (c) The Trustee shall not be liable or responsible for any failure to seize, collect, realize or obtain payment with respect to the Collateral and shall not be bound to institute proceedings or to take other steps for the purpose of seizing, collecting, realizing or obtaining possession or payment with respect to the Collateral or for the purpose of preserving any rights of the Trustee, BC Ferries, or any other Person in respect of the Collateral.
- (d) BC Ferries shall cooperate with the Trustee and shall facilitate by all legal means the actions of the Trustee hereunder and shall not interfere with carrying out the powers hereby granted.
- (e) Unless and until it has been required to do so under the terms hereof, the Trustee shall not be bound to give any notice or do or take any act, action or proceeding by virtue of the powers conferred on it hereby; nor shall the Trustee be required to take notice of an Event of Default or a Default other than in payment of any monies required by any provision hereof to be paid to it, unless and until such time as the Trustee has actual knowledge of, or has received written notice of, such Event of Default or a Default, and in the absence of actual knowledge or any such notice and subject as aforesaid, the Trustee may conclusively assume that BC Ferries is not in default hereunder.
- (f) In the exercise of any remedy herein contained, the Trustee shall in no event be obliged to marshal the Security in favour of any other creditor of BC Ferries and BC Ferries waives any right that it may have to require the Trustee to so marshal security. BC Ferries further renounces all benefits of discussion and division.
- (g) At such time as there is no longer an Event of Default, the Trustee shall, and shall cause any Receiver appointed by the Trustee to be the agent of BC Ferries to, return possession of the Collateral to BC Ferries and shall, at the cost of BC Ferries, take such other steps and execute such notices and directions as may be required by BC Ferries in connection therewith.
- (h) In carrying out its rights and remedies under this Indenture and the Security the Trustee shall have the right upon reasonable notice to BC Ferries to enter its premises in order to have access to and to use, without charge, all computers, records, books, accounts, agreements and related documentation and shall have the right to copy any agreements, books, records, accounts and other documentation necessary for the Trustee to exercise its rights and remedies hereunder.

10.5 Enforcement by Bondholders

No Bondholder shall have any right to institute any action or proceeding or to exercise any other remedy authorized by this Indenture or by law or by equity for the purpose of enforcing payment of principal or interest or of realizing on the Security, or by reason of jeopardy of the Security, or for the execution of any trust or power hereunder, unless the requisition, funding and indemnity referred to in Sections 10.4 and 12.20(h) have been tendered to the Trustee and the Trustee shall

have failed to act within a reasonable time thereafter; in such case but not otherwise, any Bondholder acting on its own behalf and on behalf of all other Bondholders shall be entitled to take proceedings in any court of competent jurisdiction such as the Trustee might have taken under Section 10.4; it being understood and intended that no one or more Bondholders shall have any right in any manner whatsoever to affect, disturb or prejudice the Security by its or their action, or to enforce any right hereunder or under any Bond except subject to the conditions and in the manner herein provided, and that all powers and trusts hereunder shall be exercised and all proceedings at law shall be instituted, had and maintained by the Trustee, except only as herein provided, and in any event for the equal benefit of all Bondholders.

10.6 Trustee's Discretion and Calculation of Amounts Payable

- (a) Whenever monies are to be applied by the Trustee pursuant to the provisions of this Article 10, monies shall be applied by the Trustee at such times, and from time to time, as the Trustee shall determine pursuant to the terms of this Indenture, having due regard to the amount of such monies available for application and the likelihood of additional monies becoming available for such application in the future. The Trustee may retain such amounts as it deems appropriate for such purposes as may be required to preserve and protect the Security and to ensure compliance with the Material Contracts and the Other Contracts. The deposit of such monies with the Paying Agents, or otherwise setting aside such monies in trust for any proper purpose, shall constitute proper application by the Trustee and the Trustee shall incur no liability whatsoever to BC Ferries, to any Bondholder or to any other Person for any delay in applying any such monies, so long as the Trustee acts with reasonable diligence, having due regard for the circumstances and ultimately applies the same in accordance with such provisions of this Indenture as may be applicable at the time of application by the Trustee. Whenever the Trustee shall exercise its rights hereunder in applying such monies, it shall fix the date upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate for the fixing of any such date.
- (b) For purposes of the provisions of Sections 2.9 and 9.7 and this Article 10, the amount due on any Pledged Bond shall be equal to the lesser of the face amount of such Pledged Bond and the aggregate amount secured by the Pledged Bond (including accrued and unpaid interest thereon) at such time expressed in Canadian Dollars. For purposes of determining such aggregate amount owing, the Trustee may rely on a Bondholder's Certificate delivered pursuant to Section 9.16 setting forth in detail the aggregate amount owing by BC Ferries from time to time for which the Pledged Bond was pledged to such Bondholder.
- (c) Payment of any Bond pursuant to this Article 10 shall be made to the Bondholder upon presentation of such Bond and any such Bond thereby paid in full shall be surrendered or otherwise a memorandum of such payment shall be endorsed thereon, but the Trustee may in its discretion dispense with presentation and

surrender or endorsement upon such indemnity being given as the Trustee shall deem sufficient.

- (d) For any amounts expressed in other than Canadian Dollars, the Canadian Dollar amount thereof shall be the Fluctuating Cdn. \$ Equivalent at that time.

10.7 Termination of Proceedings

In case any proceedings taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, then in every such case BC Ferries, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

10.8 Possession of Bonds by Trustee Not Required

All rights of action under this Indenture or under any of the Bonds enforceable by the Trustee, may be enforced by it without the possession of any of the Bonds appertaining thereto or the production thereof at the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the holders of such Bonds, subject to the provisions of this Indenture.

10.9 Remedies Not Exclusive

No single remedy herein conferred upon or reserved to the Trustee or to the Bondholders by this Indenture is intended to be exclusive of any other remedy or remedies herein conferred, and each and every such remedy shall be cumulative.

10.10 No Waiver of Default

No delay or omission by the Trustee or by any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein and every power and remedy given by this Indenture to the Trustee and the holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

10.11 Notice to Bondholders and BC Ferries

The Trustee shall give to the Bondholders notice of each Event of Default under this Indenture known to the Trustee within 10 Business Days after knowledge of the occurrence thereof, unless such Event of Default shall have been remedied or cured or necessary monies provided therefor before the giving of such notice. The Trustee shall give to BC Ferries notice of any event which, with the giving of notice or lapse of time or both, would become an Event of Default forthwith upon knowledge of the occurrence of such event.

ARTICLE 11 - REMEDY OF DEFAULT UNDER FERRY TERMINAL LEASES AND THE COASTAL FERRY SERVICES CONTRACT

11.1 Remedy

After receipt of a Notice of Default, the Trustee may, upon a Bondholders' Request, remedy the cause of such Notice of Default and proceed to exercise any and all other rights and remedies available to it under the applicable Ferry Terminal Lease, the Coastal Ferry Services Contract or the Acknowledgement Agreement, as the case may be, and such acts will not in and of themselves result in the acceleration of the principal and accrued and unpaid interest under the Bonds. The foregoing rights of the Trustee under the Ferry Terminal Leases, the Coastal Ferry Services Contract and the Acknowledgement Agreement are in addition to and not in substitution of, and may be exercised in conjunction with, any and all of the rights and remedies available to the Trustee and the Bondholders under this Indenture.

ARTICLE 12 - CONCERNING THE FISCAL AGENTS AND THE TRUSTEE

12.1 Trustee

The Trustee hereunder to be appointed shall at all times be a trust company authorized to carry on business in all of the provinces and territories of Canada, and authorized by law to perform all the duties imposed upon it by this Indenture.

12.2 Appointment and Acceptance of Duties of Paying Agents

BC Ferries shall appoint one or more Paying Agents for the Bonds of a Series in the Supplemental Indenture authorizing such Bonds or shall appoint such Paying Agent or Paying Agents by indenture or resolution of BC Ferries adopted or entered into prior to the authentication and delivery of such Bonds, and may at any time or from time to time appoint one or more other Paying Agents in the manner and subject to the conditions set forth in Section 12.16 for the appointment of a successor Paying Agent. The Trustee may be appointed and may act as a Paying Agent. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by written instrument of acceptance executed and delivered to BC Ferries and the Trustee.

12.3 Funds Held in Trust and Security Therefor

All monies held by any Fiscal Agent, as such, at any time pursuant to the terms of this Indenture shall be and hereby are assigned, transferred and set over unto such Fiscal Agent in trust for the purposes and upon the terms and conditions of this Indenture. Each Fiscal Agent shall acknowledge such trust for the benefit of the Trustee. Subject to the provisions of Sections 4.1 and 4.2 as to investment of monies held hereunder, all monies held by any Fiscal Agent, as such, may be deposited by such Fiscal Agent in its banking department or with such other banks or trust companies as may be designated by BC Ferries in accordance with the requirements hereof, including an Affiliate of or related party to the Trustee or another Fiscal Agent.

12.4 Responsibility of Fiscal Agents

No Fiscal Agent shall be required to make any representations as to the validity or sufficiency of this Indenture or any Supplemental Indenture or of any Bonds issued thereunder or in respect of the Security created by this Indenture or any Supplemental Indenture, and no Fiscal Agent shall incur any responsibility in respect thereof. The Trustee shall, however, be responsible for its representation contained in its certificate on the Bonds. No Fiscal Agent shall be under any responsibility or duty with respect to the application of any monies paid to BC Ferries or to any other Fiscal Agent. No Fiscal Agent shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof until it has received sufficient funding therefor and been properly indemnified in respect thereof, nor to risk, expend or advance any of its own monies or otherwise incur financial liability. No Fiscal Agent shall be liable in connection with the performance of its duties hereunder except for its own negligence or default. Neither the Trustee nor any Paying Agent shall be under any responsibility or duty with respect to the application of any monies paid to any one of the others. The recitals of fact herein and in the Bonds shall be taken as the statements of BC Ferries and the Trustee shall have no responsibility for the correctness of the same.

12.5 Evidence on which Fiscal Agents May Act

Each Fiscal Agent shall be protected in acting and relying upon any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. Each Fiscal Agent may, at BC Ferries' expense in accordance with Section 12.19, consult with counsel (who may, to the extent permitted by the terms of this Indenture and any applicable Supplemental Indenture, be counsel to BC Ferries), accountants, appraisers, engineers or other experts or advisors as it reasonably requires for determining and discharging its duties and administering the trusts hereunder and the opinion, advice of or information obtained from such counsel, accountants, appraisers or other experts or advisors shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. Whenever any Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Indenture or under any Supplemental Indenture, including payment of monies out of any Fund or Account, such matter (unless other evidence in respect thereof be herein or therein specifically prescribed) may be deemed to be conclusively proved and established by an Officer's Certificate and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Indenture or under any Supplemental Indenture, but in its discretion the Fiscal Agent may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable. Except as otherwise expressly provided in this Indenture or in any Supplemental Indenture, any request, order, notice, consent, opinion, direction or other instrument required or permitted to be furnished pursuant to any provision hereof or thereof by BC Ferries to any Fiscal Agent shall be sufficiently executed if executed in the name of BC Ferries by an Authorized Officer.

12.6 Compensation and Expenses

BC Ferries shall pay to each Fiscal Agent from time to time reasonable compensation for all services rendered under this Indenture, any Supplemental Indenture or the Security, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its legal counsel, and other experts or advisors not regularly in its employ, agents and employees incurred in the interpretation of, or the performance of its powers and duties under this Indenture, any Supplemental Indenture, or the Security, and the Fiscal Agents shall have a lien therefor on any and all monies at any time held by or under this Indenture, any Supplemental Indenture, or the Security on a *pari passu* basis in priority to the Bonds. BC Ferries further agrees to indemnify and save each Fiscal Agent and its directors, officers and employees harmless against any liabilities which it may incur in the exercise and performance of its powers and duties under this Indenture which are not due to its negligence or default.

12.7 Permitted Acts and Functions

Any Fiscal Agent may become the owner of any Bonds, with the same rights it would have if it were not such Fiscal Agent. To the extent permitted by law, any Fiscal Agent may act as depositary for, and permit any of its 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 Bondholders or to effect or aid in any reorganization, arrangement or readjustment of debt arising from the enforcement of the Bonds or this Indenture or any Supplemental Indenture, whether or not any such committee shall represent the holders of a majority in principal amount of the Bonds then Outstanding.

12.8 Third Party Interests

BC Ferries shall hereby be deemed to have represented to the Trustee that, save as described in this Indenture, or any Supplemental Indenture, any account to be opened by, or interest in held by, the Trustee in connection with this Indenture, for or to the credit of BC Ferries, shall, at the time that such account is opened or interest acquired but only to the extent that BC Ferries has knowledge, either:

- (a) not be intended to be used by or on behalf of any third party; or
- (b) be intended to be used by or on behalf of a third party, in which case BC Ferries agrees to complete and execute forthwith a declaration in the Trustee's prescribed form as to the particulars of such third party at the time that such account is opened or such interest acquired.

12.9 Resignation of Trustee

Subject to Section 12.10, the Trustee may at any time resign and be discharged of the duties and obligations created by this Indenture by giving not less than 60 days' written notice to the Bondholders and BC Ferries and, if requested by BC Ferries, by publishing notice thereof in the Authorized Newspapers, specifying the date when such resignation shall take effect. Such resignation shall take effect only upon the appointment of a successor Trustee as provided in Section 12.12.

12.10 Anti-Money Laundering and Anti-Terrorism Legislation

The Trustee shall retain the right not to act and shall not be liable for refusing to act if, due to a lack of information or for any other reason whatsoever, the Trustee, in its sole judgment, determines that such act might cause it to be in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline. Further, should the Trustee, in its sole judgment, determine at any time that its acting under this Indenture has resulted in its being in non-compliance with any applicable anti-money laundering or anti-terrorist legislation, regulation or guideline, it shall have the right to resign on 10 days written notice to BC Ferries, provided that:

- (a) the Trustee's written notice shall describe the circumstances of such non-compliance; and
- (b) if such circumstances are rectified to the Trustee's satisfaction within such 10 day period, then such resignation shall not be effective.

12.11 Removal of Trustee

The Trustee shall be removed by BC Ferries if at any time so requested by a Bondholders' Request. Except during the continuance of a Default or an Event of Default, BC Ferries may remove the Trustee for such cause (which shall include the inability to reach agreement on the Trustee's fees) as shall be determined in the sole discretion of BC Ferries by filing with the Trustee an instrument to such effect signed by an Authorized Officer and delivered to the Trustee not less than 60 days prior to the effective date of the removal.

12.12 Appointment of Successor Trustee

- (a) In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged as bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, BC Ferries covenants and agrees that it shall thereupon appoint a successor Trustee. BC Ferries shall notify the Bondholders of such appointment and may publish notice of any such appointment made by it in the Authorized Newspapers, such publication to be made within 20 days after such appointment.
- (b) If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 12.12 within 45 days after the Trustee shall have given to BC Ferries written notice, as provided in Section 12.9 or after a vacancy in the office of the Trustee shall have occurred by reason of its removal or inability to act or its bankruptcy or insolvency, the Trustee, at BC Ferries expense, or the holder of any Bond may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

- (c) Any Trustee appointed under the provisions of this Section 12.12 in succession to the Trustee shall be a trust company meeting the requirements of Section 12.16(a).

12.13 Transfer of Rights and Property to Successor Trustee

Any successor Trustee appointed under this Indenture shall execute, acknowledge and deliver to its predecessor Trustee and BC Ferries a written instrument of acceptance respecting such appointment and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all monies, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee, but the Trustee ceasing to act shall nevertheless, at the request of BC Ferries or of the successor Trustee, and upon payment for any outstanding fees and expenses, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required to more fully and certainly vest and confirm in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any property held by it under this Indenture, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from BC Ferries be required by such successor Trustee to more fully and certainly vest in and confirm to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by BC Ferries. Any such successor Trustee shall promptly notify the Paying Agents of its appointment as Trustee.

12.14 Merger, Consolidation or Assignment

Any company into which any Fiscal Agent may be merged or converted or with which it may be amalgamated or consolidated or any company resulting from any merger, conversion, amalgamation or consolidation to which it shall be a party or any company to which any Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company which is qualified to be a successor to such Fiscal Agent under Section 12.12 or 12.16, as the case may be, and shall be authorized by law to perform all the duties imposed upon it by this Indenture, shall be the successor to such Fiscal Agent without the execution or filing of any paper or the performance of any further act, anything herein to the contrary notwithstanding. In such circumstances, the Fiscal Agent shall take all necessary actions to perfect and maintain the Security.

12.15 Adoption of Authentication

In case any of the Bonds contemplated to be issued under this Indenture and any Supplemental Indenture shall have been authenticated but not delivered, any successor Trustee may adopt the certificate or authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated, and in case any of such Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force in which it is anywhere in such Bonds or in this Indenture or any Supplemental Indenture provided that the certificates of the Trustee shall have.

12.16 Resignation or Removal of Paying Agents and Appointment of Successors

- (a) Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture or any Supplemental Indenture by giving at least 60 days' written notice to BC Ferries and Trustee. Any Paying Agent may be removed at any time, except during the continuance of a Default or an Event of Default, by an instrument to such effect filed with such Paying Agent and the Trustee and signed by an Authorized Officer of BC Ferries. Any successor Paying Agent shall be appointed by BC Ferries and shall be a bank or trust company meeting the requirements of Section 12.1 and having, on a consolidated basis with its parent corporation, a combined capital, surplus and retained earnings in excess of \$50,000,000, or otherwise acceptable to the Bondholders by a Majority Resolution, and willing and able to accept the office of Paying Agent on reasonable and customary terms and authorized by law to perform all of the duties imposed upon it by this Indenture.
- (b) In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any monies held by it as Paying Agent to its successor, or if there be no successor then appointed, to the Trustee. In the event that for any reason there shall be no Paying Agent at any time, the Trustee shall act as such Paying Agent.

12.17 Evidence of Signatures of Bondholders and Ownership of Bonds

- (a) Any request, consent or other instrument which this Indenture or any Supplemental Indenture may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing. Proof of the fact and date of the execution by any Bondholder or his or her attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgements of deeds to be recorded in the jurisdiction in which he or she purports to act, that the Person signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the Person or Persons executing any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a Person purporting to be the president or vice president of such corporation with a corporate seal affixed and attested by a Person purporting to be its secretary or an assistant secretary. The Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable.
- (b) The ownership of Registered Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registers referred to herein. Any request, consent or vote of the owner of any Bond shall

bind all future owners of such Bond in respect of anything done or suffered to be done by BC Ferries or any Fiscal Agent in accordance therewith.

12.18 Preservation and Inspection of Documents

All documents received by any Fiscal Agent under the provisions of this Indenture or any Supplemental Indenture shall be retained in its possession and shall be subject at all reasonable times to the inspection of BC Ferries, any other Fiscal Agent and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

12.19 Indemnification of Fiscal Agents

In addition to and without limiting any other protection of the Fiscal Agents hereunder or otherwise by law, BC Ferries shall indemnify and save harmless the Fiscal Agents (including, without limitation, the Trustee or other Fiscal Agents appointed hereunder) and their directors, officers and employees from and against any and all liabilities, losses, claims, damages, penalties, actions, suits, demands, levies, costs, expenses and disbursements, including any and all reasonable legal and advisory fees and disbursements of whatever kind or nature, which may at any time be suffered by, imposed on, incurred by or asserted against the Fiscal Agents, (whether groundless or otherwise), howsoever arising from or out of any act, omission or error of the Fiscal Agents, in connection with acting as Trustee or Fiscal Agent hereunder, provided the Fiscal Agents have acted without bad faith and negligence and have not wilfully misconducted themselves. Notwithstanding any other provision hereof, this indemnity shall survive the removal or resignation of any Fiscal Agent, the discharge of this Indenture and the termination of any trust created hereby.

12.20 Additional Provisions

- (a) The Trustee will not be required to give any bond or security in respect of the execution of the trusts and powers on this Indenture or otherwise in respect of the premises.
- (b) The Trustee and any person related to the Trustee will not be appointed a receiver or receiver and manager or liquidator of all or any part of the assets or undertaking of BC Ferries.
- (c) Nothing herein contained will impose on the Trustee any obligation to see to, or to require evidence of, the registration or filing (or renewal thereof) of this Indenture or any Supplemental Indenture.
- (d) The Trustee shall not be bound to give notice to any person of the execution hereof.
- (e) The Trustee shall not incur any liability or responsibility whatever or be in any way responsible for the consequences of any breach by BC Ferries of any obligation herein contained or of any act of any director, officer, employee or agent of BC Ferries.

- (f) The Trustee, in its personal or any other capacity, may buy, lend upon and deal in the securities issued by BC Ferries and generally may contract and enter into financial transactions with BC Ferries or any related corporation without being liable to account for any profit made thereby.
- (g) The Trustee represents to BC Ferries that at the time of execution and delivery of this Indenture to the best of its knowledge, no material conflict of interest exists in the Trustee's role as a fiduciary under this Indenture and agrees that in the event of a material conflict of interest arising hereafter it shall, as soon as practicable but in any event, within 90 days after ascertaining that it has such a material conflict of interest, either eliminate the same or resign its trusts hereunder to a successor Trustee approved by BC Ferries. If any such material conflict of interests exists or hereafter shall exist, the validity and enforceability of this Indenture shall not be affected in any manner whatsoever by reason thereof.
- (h) The obligation of the Trustee to commence or continue any act, action or proceeding for the purpose of enforcing any rights of the Trustee or the holders hereunder shall be conditional upon the Bondholders furnishing, when required by notice in writing by the Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Trustee to protect and hold harmless the Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof. None of the provisions contained in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless funded and indemnified as aforesaid.

12.21 Trustee's Rights under Ferry Terminal Leases and Coastal Ferry Services Contract

- (a) Any Notices of Pending Default, Notices of Default or notices material to the interests of the Bondholders received by the Trustee in accordance with any of the Ferry Terminal Leases or the Coastal Ferry Services Contract shall be promptly provided to the Bondholders in accordance with Section 7.2 of this Indenture.
- (b) Forthwith upon receiving a Notice of Default in respect of any of the Ferry Terminal Leases or the Coastal Ferry Services Contract which requires or permits the Trustee to take any action on behalf of the Bondholders, the Trustee shall call an Emergency Meeting to seek instructions from the Bondholders in accordance with Section 9.21.
- (c) The Trustee shall not be required to take or commence any act, action or proceeding pursuant to any Notice of Default without timely receipt of a Bondholders' Request or an Extraordinary Resolution and sufficient funding and indemnity satisfactory to it against all costs, charges, expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.

12.22 Privacy Laws

The parties acknowledge that federal and/or provincial legislation that addresses the protection of individuals' personal information (collectively, "**Privacy Laws**") applies to obligations and activities under this Indenture. Despite any other provision of this Indenture, neither party shall take or direct any action that would contravene, or cause the other to contravene, applicable Privacy Laws. BC Ferries shall, prior to transferring or causing to be transferred personal information to the Trustee, obtain and retain required consents of the relevant individuals to the collection, use and disclosure of their personal information, or shall have determined that such consents either have previously been given upon terms upon which the parties can rely or are not required under the Privacy Laws. The Trustee shall ensure that its services hereunder comply with Privacy Laws. Specifically, the Trustee agrees:

- (a) to have a designated chief privacy officer;
- (b) to maintain policies and procedures to protect personal information and to receive and respond to any privacy complaint or inquiry;
- (c) to use personal information solely for the purposes of providing its services under or ancillary to this Indenture and not to use it for any other purpose except with the consent of or direction from BC Ferries or the individual involved;
- (d) not to sell or otherwise improperly disclose personal information to any third party; and
- (e) to employ administrative, physical and technological safeguards to reasonably secure and protect personal information against loss, theft, or unauthorized access, use or modification.

12.23 Trustee not Liable

The Trustee shall not be liable or in any way responsible for the consequence of any breach by BC Ferries of any of its covenants herein or contained in any of the Material Contracts or Other Contracts, or for or by reason of any failure or defect of, title to, or any encumbrance upon, the Collateral, or for any breach by any party of its obligations under the Material Contracts or Other Contracts, provided the Trustee has acted without bad faith or negligence and has not wilfully misconducted itself; provided further that nothing in this Section 12.23 shall preclude any person from obtaining a declaratory judgment or an order for specific performance in respect of the obligations of the Trustee under this Indenture and with respect to the Bonds.

ARTICLE 13 - DEFEASANCE

13.1 Defeasance

- (a) If payment of all principal of, Premium, if any, and interest on all Outstanding Bonds in accordance with their terms and this Indenture is made, or is provided for in accordance with Section 13.2(a), and if all other sums payable by BC Ferries hereunder or thereunder (including any and all fees and expenses of all

Fiscal Agents including the Trustee) shall be paid or provided for, then, subject to the further provisions of this Sections 13.1(a) and 13.2, BC Ferries shall be promptly and fully discharged and released from any and all of its obligations in respect of this Indenture and all Outstanding Bonds, and the Collateral shall be promptly released from the Security, and all Funds and Accounts shall be paid to BC Ferries in each case on the date the conditions set forth in Section 13.2 are satisfied (hereinafter, “**defeasance**”). For this purpose, such defeasance means that BC Ferries shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Bonds, which shall thereafter be deemed to be “Outstanding” only for the purposes of Section 13.3 and the other sections of this Indenture referred to in this Section 13.1(a)(i), and to have satisfied all its other obligations under such Bonds and this Indenture insofar as such Bonds are concerned (and the Trustee at the expense of BC Ferries shall execute and deliver to BC Ferries all such instruments as may be necessary to evidence such discharge and satisfaction) except for the following obligations which shall survive until otherwise terminated or discharged hereunder:

- (i) the rights of holders of Outstanding Bonds to receive, solely from the trust fund described in Section 13.2 and as more fully set forth in Section 13.2, payments in respect of the principal of, Premium, if any, and interest on such Bonds when such payments are due;
 - (ii) BC Ferries’ rights of redemption (to the extent such Bonds are redeemable in accordance with their terms) and obligations with respect to such Bonds under Sections 3.7, 3.8, 3.9, 3.10 and 6.2(p).
 - (iii) the Province’s right to purchase the Bonds in accordance with Section 3.25;
 - (iv) the rights, powers, trusts, duties and immunities of each Fiscal Agent hereunder and under the Supplemental Indentures and the obligations of BC Ferries under Section 12.6;
 - (v) the indemnity under Section 12.19; and
 - (vi) this Article 13.
- (b) If payment of all principal of, Premium, if any, and interest on all Outstanding Bonds of a particular Series in accordance with their terms, this Indenture and the Supplemental Indenture authorizing such Series is made, or is provided for in accordance with Section 13.2, and if all other sums payable by BC Ferries hereunder or thereunder with respect to such Series shall be paid or provided for, then, subject to the further provisions of this Section 13.1(b) and Section 13.2, BC Ferries shall be promptly and fully discharged and released from any and all of its obligations in respect of the Supplemental Indenture authorizing such Series and all Outstanding Bonds of such Series, and the Security shall promptly cease to be for the benefit and security of the holders of such Series of Bonds, and any

relevant Series Reserve Account or Series Sinking Fund shall be paid to BC Ferries in each case on the date the conditions set forth in Section 13.2 are satisfied (hereinafter, “**Series defeasance**”). For this purpose, such Series defeasance means that BC Ferries shall be deemed to have paid and discharged the entire indebtedness represented by the Outstanding Bonds of such Series, which shall thereafter be deemed to be “Outstanding” only for the purposes of Section 13.3 and the other Sections of this Indenture referred to in this Section 13.1(b), and to have satisfied all its other obligations under such Bonds and the Supplemental Indenture authorizing such Series insofar as such Bonds are concerned (and the Trustee at the expense of BC Ferries shall execute and deliver to BC Ferries all such instruments as may be necessary to evidence such discharge and satisfaction) except for the following obligations which shall survive until otherwise terminated or discharged hereunder:

- (i) the rights of holders of such Bonds to receive, solely from the trust fund described in Section 13.2 and as more fully set forth in Section 13.2, payments in respect of the principal of, Premium, if any, and interest on such Bonds when such payments are due;
- (ii) BC Ferries’ rights of redemption (to the extent such Series of Bonds is redeemable in accordance with its terms) and obligations with respect to such Bonds under Sections 3.7, 3.8, 3.9, 3.10 and 6.2(p);
- (iii) the Province’s right to purchase the Bonds in accordance with Section 3.25;
- (iv) the rights, powers, trusts, duties and immunities of the Trustee hereunder and of each Fiscal Agent under the Supplemental Indenture authorizing such Series with respect to such Series and obligations of BC Ferries under Section 12.6 with respect to each such Fiscal Agent;
- (v) the indemnity under Section 12.19; or
- (vi) this Article 13.

13.2 Providing for Payment of Bonds

Payment of all Outstanding Bonds or all Outstanding Bonds of a particular Series may be provided for by complying with the following conditions:

- (a) BC Ferries shall have irrevocably deposited or caused to be deposited with the Trustee (or another trustee satisfying the requirements of Section 12.1 who shall agree to comply with the provisions of this Article 13 applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the holders of such Bonds, money in the currency of such Bonds or non-callable Central Government Obligations which are in the currency of such Bonds and which through the scheduled payment of principal and interest (without reinvestment thereof) in

respect of such Central Government Obligations in accordance with their terms shall provide, either alone or in combination with such money and not later than the due date of any payment of principal of, Premium, if any, or interest on such Bonds, money in the currency of such payment and in an amount sufficient (after deducting any taxes payable on the income or capital gain generated on any amounts invested), in the opinion of an Independent Accountant expressed in a certificate delivered to the Trustee, to pay and discharge when due, whether at maturity or upon fixed redemption dates, the principal of and Premium, if any, on such Bonds and interest on such Bonds on the applicable interest payment dates, and BC Ferries shall have irrevocably instructed the Trustee or other Paying Agent or Fiscal Agent (or such other trustee), in writing, to apply such money and/or proceeds of such Central Government Obligations to such payments with respect to such Bonds. Before making such a deposit, BC Ferries may give to the Trustee a notice of its election to redeem all of such Bonds, to the extent redeemable in accordance with their terms, which notice shall be irrevocable. Such irrevocable notice of redemption, if given, shall be given effect in applying the foregoing. If any such Bonds are not subject to redemption within 45 days after the making of such a deposit, at the time of making such a deposit, BC Ferries shall give to the Trustee, in form satisfactory to it, irrevocable instructions to notify the holders of such Bonds that payment of such Bonds has been provided for pursuant to this Article 13;

- (b) BC Ferries shall have delivered to the Trustee an Opinion of Counsel to the effect that the holders of such Bonds shall not recognize a gain or loss for Canadian or United States federal income tax purposes as a result of such deposit, defeasance (or Series defeasance, as the case may be) or discharge and shall be subject to Canadian and United States federal income tax on the same amount, in the same manner and at the same time as would have been the case if such deposit, defeasance (or Series defeasance, as the case may be) and discharge had not occurred;
- (c) no Default or Event of Default shall have occurred and be continuing on the date such deposit is made;
- (d) BC Ferries shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for relating to the defeasance (or Series defeasance, as the case may be) under Section 13.1 and this Section 13.2 have been satisfied; and
- (e) BC Ferries shall have delivered to the Trustee an Officer's Certificate stating that, after the deposit is made, BC Ferries is not insolvent and that there is no intent to confer a benefit on the beneficiaries of the trust.

13.3 Deposit to Be Held in Trust

All money and Central Government Obligations (including the proceeds thereof) deposited with the Trustee (or other trustee referred to in Section 13.2) pursuant to Section 13.2 in respect of all

Outstanding Bonds or all Outstanding Bonds of a particular Series shall be held in trust and applied by the Trustee (or such other trustee, as the case may be), in accordance with the provisions of such Bonds, this Indenture and the applicable Supplemental Indentures, to the payment, either directly or through any Fiscal Agent as the Trustee (or such other trustee, as the case may be) may determine, to the holders of such Bonds, when due, of all sums due and to become due in respect of the principal of, premium, if any, and interest on such Bonds.

13.4 Reinstatement

If the Trustee or any Fiscal Agent is unable to apply any money, any Central Government Obligations or the proceeds thereof in accordance with Section 13.3 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then BC Ferries' obligations under this Indenture, the applicable Supplemental Indentures and all Outstanding Bonds or all Outstanding Bonds of the applicable Series shall be revived and reinstated as though no deposit had occurred pursuant to Section 13.2, until such time as the Trustee or such Fiscal Agent is permitted to apply all such money, Central Government Obligations and proceeds in accordance with Section 13.3; provided, however, that if BC Ferries makes any payment of principal of, premium, if any, or interest on any such Bond following the reinstatement of its obligations, BC Ferries shall be subrogated to the rights of the holders of such Bond to receive such payment from the money, Central Government Obligations and proceeds thereof held by the Trustee.

13.5 Indemnity

BC Ferries shall pay and indemnify the Trustee (or other trustee referred to in Section 13.2) against all Taxes, fees or other charges imposed on or assessed against the Central Government Obligations deposited pursuant to Section 13.2 or the principal and interest received in respect thereof.

ARTICLE 14 - ACKNOWLEDGMENT AGREEMENT AND PROVINCIAL COVENANTS

14.1 Acknowledgment Agreement

Each Bondholder, by acquiring an interest in a Bond, authorizes and directs the Trustee to enter into the Acknowledgment Agreement with the Province as duly authorized representative of such Bondholder.

14.2 Remedies Under Coastal Ferry Services Contract

Each of the parties hereby acknowledge and agree that this Indenture is the trust deed referred to in Section 2.04 of the Coastal Ferry Services Contract and that the remedies of the Province set out in Section 14.02 of the Coastal Ferry Services Contract shall be subject to the terms of this Indenture and the Acknowledgment Agreement.

ARTICLE 15 - MISCELLANEOUS

15.1 Funds Held for Particular Bonds

- (a) The amounts held by any Fiscal Agent for the payment of the interest, principal or redemption price or accrued interest or any other amount due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the holders of the Bonds entitled thereto, and for the purposes of this Indenture and the applicable Supplemental Indentures such interest, principal, redemption price or other amount, after the due date thereof, shall no longer be considered to be unpaid.
- (b) If all Outstanding Bonds shall have been defeased in accordance with Article 13, at the request of BC Ferries all monies held by any Paying Agent shall be paid over to BC Ferries as its absolute property and free from the Security.
- (c) Anything in this Indenture to the contrary notwithstanding, any monies held by a Fiscal Agent in trust for the payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption shall, at the written request of BC Ferries, be repaid by the Fiscal Agent to BC Ferries, as its absolute property and free from the Security, and the Fiscal Agent shall thereupon be released and discharged, but, before being required to make any such payment to BC Ferries, BC Ferries shall notify the relevant Bondholders and shall cause to be published at least twice, at an interval or not less than seven days between publications, in the Authorized Newspapers notice that said monies remain unclaimed and that, after a date named in said notice, which date shall be not less than 10 nor more than 20 days after the date of the first publication of such notice, the balance of such monies then unclaimed shall be returned to BC Ferries.

15.2 No Recourse under Indenture or on Bonds

All covenants, stipulations, promises, agreements and obligations of BC Ferries contained in this Indenture shall be deemed to be the covenants, stipulations, promises, agreements and obligations of BC Ferries and not of any member, director, officer, employee, agent or representative of BC Ferries in its or his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on or any other amount owing in respect of the Bonds or for any claim based thereon or on this Indenture against any member, director, officer, employee, agent or representative of BC Ferries or any natural Person executing the Bonds.

15.3 Judgment Currency

- (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder to a holder or holders of any Bonds or to the Trustee from the currency in respect of which any such Borrowings are owed (the “**Original**

Currency”) into the currency in which a court of competent jurisdiction may render judgment in connection with any litigation relating to the payment of the Borrowings under this Indenture (the “**Judgment Currency**”), BC Ferries agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Trustee could purchase the Original Currency with the Judgment Currency on the Business Day preceding that on which final judgment is paid or satisfied.

- (b) The obligations of BC Ferries in respect of any sum due in the Original Currency from it to a holder or holders of any Bonds or to the Trustee shall, notwithstanding any judgment in any Judgment Currency, be discharged only to the extent that on the Business Day following receipt by a holder or holders of any Bonds or by the Trustee of any sum adjudged to be so due in such Judgment Currency, such holder or holders or the Trustee may in accordance with normal banking procedures purchase the sum due in the Original Currency with the amount awarded in the judgment in the Judgment Currency. If the amount so purchased in the Original Currency is less than the sum originally due to a holder or holders of any Bonds or to the Trustee in the Original Currency, BC Ferries agrees, as a separate obligation and notwithstanding any such judgment, to indemnify each of such holders or the Trustee against such loss and if the amount so purchased in the Original Currency exceeds the sum originally due to a holder or holders of any Bonds or to the Trustee in the Original Currency, each of such holders or the Trustee agree to remit such excess to BC Ferries.

15.4 Indexing

The amounts set forth in paragraph (x) of the definition of Permitted Liens and Sections 10.1(n) and 10.1(o) shall be adjusted each year on the anniversary of the date of this Indenture by the CPI Index. The CPI Index for such purpose shall be the All Items Consumer Index published monthly by Statistics Canada (Catalogue No. 62-001-XPR), provided that if, after the date of this Indenture (a) the All Items Consumer Index should cease to be published, or (b) BC Ferries or the Trustee notifies the other of them that the basis of calculation of the All Items Consumer Index has changed materially or (c) BC Ferries or the Trustee notifies the other of them that, due to a change in circumstances, the All Items Consumer Index is no longer representative of the rate of inflation then, in any such circumstances, the Trustee shall specify such other official information or index as may be available and shall determine the date from which such revised index shall take effect for such purposes.

15.5 Counterparts

This Indenture may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

15.6 Effective Date

This Indenture shall take effect immediately upon its execution by BC Ferries and the Trustee.

IN WITNESS WHEREOF the parties hereto have executed these presents under their respective corporate seals and the hands of their proper officers in that behalf.

BRITISH COLUMBIA FERRY SERVICES INC.

By: (Signed) "Robert P. Clarke"
Executive Vice President, Finance
and Chief Financial Officer

COMPUTERSHARE TRUST COMPANY OF CANADA

By: (Signed) "Luce Lafontaine"
Professional

By: (Signed) "Nicole H. Clement"
General Manager

SCHEDULE A

FORM OF DESIGNATED SUBSIDIARY GUARANTEE

This Guarantee dated as of [insert] is made by _____ (the “**Guarantor**”) to and in favour of Computershare Trust Company of Canada (the “**Trustee**”), as trustee for the benefit of or on behalf of the Bondholders under the Indenture hereinafter referred to.

WHEREAS:

- A. British Columbia Ferry Services Inc. (“**BC Ferries**”) has entered into a master trust indenture with the Trustee dated as of May 19, 2004 (such indenture, including any Supplemental Indentures, as from to time amended, supplemented or otherwise modified or restated is called the “**Indenture**”);
- B. BC Ferries has designated the Guarantor as a Designated Subsidiary under the Indenture;
- C. It is a condition of the designation of the Guarantor as a Designated Subsidiary under the Indenture that the Guarantor execute and deliver this Guarantee to and in favour of the Trustee; and
- D. BC Ferries may from time to time increase the aggregate principal amount of Indebtedness secured under the Indenture.

In consideration of the payment of the sum of One Dollar (\$1.00) in lawful money of Canada by the Trustee to the Guarantor and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Guarantor hereby covenants, declares, and agrees as follows:

- 1. **Guarantee** - The Guarantor hereby irrevocably and unconditionally guarantees the due and punctual performance of all obligations of BC Ferries under or pursuant to the Indenture to the Trustee and the holders of any Bonds now or hereafter existing, including the due and punctual payment whether at maturity or on demand, of all amounts payable under the Indenture and the Bonds and, in the case of any Pledged Bond, all amounts payable under any agreements which are secured by such Pledged Bond, for principal (Premium, if any), interest, bonus, fees, expenses, indemnity or otherwise, and any and all reasonable out-of-pocket expenses (including counsel fees and disbursements) incurred by the Trustee or any holder or holders of Bonds or any receiver or other Person acting on their behalf enforcing any of its rights under this Guarantee (such obligations being herein called the “**Guaranteed Obligations**”).
- 2. **Absolute Liability** - The Guarantor guarantees that the Guaranteed Obligations will be paid and performed strictly in accordance with the terms of the Indenture and the Bonds. The liability of the Guarantor under this Guarantee shall be absolute and unconditional irrespective of:

- (a) the lack of validity or enforceability of any terms of the Indenture or the Bonds or any security granted to the Trustee by BC Ferries, the Guarantor or any other Person or Persons pursuant to the terms of the Indenture or any agreements or instruments of BC Ferries, the Guarantor or of such other Persons in respect of the Guaranteed Obligations (such agreements being collectively the “**Supporting Agreements**”) or otherwise;
 - (b) any contest by BC Ferries or any other Person as to the amount of the Guaranteed Obligations or the validity or enforceability of any terms of the Indenture, the Bonds or the Supporting Agreements or the priority of any security granted to the Trustee by BC Ferries, the Guarantor or any other Person or Persons pursuant to the terms of the Indenture, the Supporting Agreements or otherwise;
 - (c) any defence, counter-claim or right of set-off available to BC Ferries;
 - (d) any extension of the time or times for payment of the Guaranteed Obligations or any other indulgences the Trustee or any holder or holders of Bonds may grant to BC Ferries;
 - (e) any dealings with any security which the Trustee or any holder or holders of Bonds may in the future hold pursuant to the terms and conditions of the Indenture, the Bonds, any mortgage or other security agreement (a “**Security Document**”), the Supporting Agreements or otherwise, including the taking and giving up of securities, the accepting of compositions and the granting of releases and discharges;
 - (f) the assignment of all or any part of the benefits of this Guarantee;
 - (g) any modification or amendment of, or supplement to, the Guaranteed Obligations, the Indenture, the Bonds, or any Supporting Agreement including any assignment or assumption of the rights and obligations of the Trustee, any holder or holders of Bonds under the Indenture or the Bonds and any increase in the principal, the rates of interest or other amounts payable under the Indenture or the Bonds;
 - (h) any bankruptcy or insolvency of BC Ferries; or
 - (i) any other circumstance which might otherwise constitute a defence available to BC Ferries, a guarantor or any other Person in respect of the Guaranteed Obligations, or of the Guarantor in respect of this Guarantee.
3. **Impairment of Security** - Any loss, impairment, release or discharge of any security received by the Trustee, the holders or a holder of any Bonds from BC Ferries, the Guarantor or any other Person pursuant to the provisions of the Indenture, the Bonds, any Security Document or any Supporting Agreements shall not discharge pro tanto or limit or lessen the liability of the Guarantor under this Guarantee.
4. **Amount of Guarantee Obligation** - Any account settled or stated by or between the Trustee and BC Ferries or, if any such account has not been so settled or stated

immediately before demand for payment under this Guarantee, any account thereafter stated by the Trustee shall, in the absence of manifest error, be accepted by the Guarantor as conclusive evidence of the amount of the Guaranteed Obligations which, at the date of the account so settled or stated, is due or remains unpaid by BC Ferries to the Trustee or to any holder or holders of Bonds.

5. **Payment on Demand** - The Guarantor shall, in accordance with the terms of the Indenture, make payment to the Trustee for and on behalf of the holders of any Bonds of the amount of the Guaranteed Obligations forthwith after demand therefor is made in writing to it, and such demand shall be deemed to have been effectively made if notice thereof is given to BC Ferries in accordance with Section 7.1 of the Indenture. The indebtedness of the Guarantor hereunder shall bear interest from the date of such demand to the date of payment thereof in full at the rate or rates of interest applicable to the Guaranteed Obligations under and calculated in the manner provided in the Indenture.
6. **Subrogation and Repayment** - Upon receipt by the Trustee of any payments on account of liability under this Guarantee, whether by realization on security or otherwise, the Guarantor shall not be entitled to claim repayment against BC Ferries until the claims of the Trustee and the holders of any Bonds against BC Ferries have been paid in full. In the event BC Ferries shall make any composition with creditors or scheme of arrangement, the Trustee and the holders of any Bonds shall have the right to rank in priority to the Guarantor for their full claims in respect of the Guaranteed Obligations and receive all dividends or other payments in respect thereof until their claims in respect of the Guaranteed Obligations have been paid in full, and the Guarantor shall continue to be liable, less any payments made by or on behalf of the Guarantor, for any balance which may be owing to the Trustee or the holders or a holder of any Bonds by BC Ferries. In the event of the valuation by the Trustee or the holders of any Bonds of any of their security or the retention thereof by the Trustee or such holders or both, such evaluation or retention, or both, shall not, as between the Trustee, the holders or a holder of any Bonds and the Guarantor, be considered as a purchase of such security, or as payment or satisfaction or reduction of the Guaranteed Obligations or any part thereof. If any amount shall be paid to the Guarantor on account of any subrogation rights at any time when all the Guaranteed Obligations shall not have been paid in full, such amount shall be held in trust for, and is absolutely assigned to the benefit of the Trustee for and on behalf of the holders of any Bonds and shall forthwith be paid to the Trustee for and on behalf of such holders to be credited and applied upon the Guaranteed Obligations, whether matured or unmatured.
7. **No Prejudice to the Trustee** - The Trustee and the holders or a holder of any Bonds shall not be prejudiced in any way in the right to enforce any provision of this Guarantee by any act or failure to act on the part of BC Ferries. The Trustee and the holders or a holder of any Bonds may, at any time and from time to time, without any consent of or notice to the Guarantor and without impairing or releasing the Guarantor from its obligations hereunder:

- (a) change the amount, manner, place or terms of payment or change or extend time of payment of, or renew or alter, the Guaranteed Obligations, including, without limitation, an increase in the amount of the Guaranteed Obligations;
 - (b) release any Person liable in any manner under or in respect of the Guaranteed Obligations;
 - (c) exercise or refrain from exercising any rights against BC Ferries or the Guarantor or any other Person; and
 - (d) apply to the Guaranteed Obligations any sums from time to time received.
8. **Rights to Set-Off** - To the fullest extent permitted by law, the Guarantor shall make payments hereunder without regard to any defence, counter-claim or right of set-off available to it.
9. **No Recourse** -The Guarantor shall have no recourse against the Trustee, the holders or a holder of any Bonds for any invalidity, non-perfection or unenforceability of any security held by the Trustee, the holders or a holder of any Bonds or for any irregularity or defect in the manner or procedure by which the Trustee, the holders or a holder any Bonds realizes on such security.
10. **Continuing Guarantee** - This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, the holders or a holder of any Bonds upon the insolvency, bankruptcy or reorganization of BC Ferries or otherwise, all as though such payment had not been made.
11. **Supplemental Security** - This Guarantee is in addition, without prejudice and supplemental to all other guarantees and securities held, or which may hereafter be held, by or for the Trustee, the holders or a holder of any Bonds.
12. **Representations** - The Guarantor represents and warrants as follows:
- (a) the Guarantor is a corporation duly incorporated and organized and is validly existing under the laws of [insert] and is duly registered to carry on business and is in good standing in all jurisdictions where the Guarantor carries on business;
 - (b) the Guarantor has full corporate right, power and authority to enter into and perform its obligations under this Guarantee and any security given in respect hereof, and has full corporate right, power and authority to own and operate its properties and to carry on its business as now conducted;
 - (c) the execution and delivery of this Guarantee have been duly authorized by all necessary action by the Guarantor and this Guarantee constitutes a legal, valid and binding obligation of the Guarantor enforceable against it in accordance with its terms (subject only to usual and customary exceptions) and the execution, delivery and performance by the Guarantor of this Guarantee and the performance

by the Guarantor of its obligations hereunder, do not and will not conflict with or result in a breach of any of the terms, conditions or provisions of:

- (i) the charter documents or by-laws of the Guarantor;
 - (ii) any law applicable or binding on the Guarantor; or
 - (iii) any contractual restriction binding on or affecting the Guarantor or its properties the breach of which would have a material adverse effect on the business or assets of the Guarantor, or the ability of the Guarantor to perform any of its obligations under this Guarantee or on the priority, effectiveness or enforceability of this Guarantee or any security in respect of this Guarantee; or
- (d) result in, or require or permit:
- (i) the imposition of any lien, charge, mortgage, pledge, security interest or other encumbrance whatsoever, in or with respect to the property, assets or undertaking of the Guarantor, except pursuant to security for the benefit of the Trustee and the Bondholders; or
 - (ii) the acceleration of the maturity of any indebtedness of the Guarantor or any of its subsidiaries, under any contractual provision binding on or affecting the Guarantor or such subsidiary.
13. **Covenants** – So long as any amount in respect of the Guaranteed Obligations is or remains outstanding, the Guarantor covenants to observe and perform each of the covenants contained in Article 6 of the Indenture, to the extent applicable to a Designated Subsidiary.
14. **Headings, etc.** - The division of this Guarantee into sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation hereof.
15. **Governing Law** - This Guarantee shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.
16. **Successors, etc.** - This Guarantee shall extend to and enure to the benefit of the Trustee and the holders of any Bonds and their respective successors and assigns and shall be binding upon the Guarantor and its successors and permitted assigns. This Guarantee shall not be assigned by the Guarantor without the Trustee's prior written consent. All rights of the Trustee and the holders or a holder of any Bonds hereunder shall be assignable in accordance with the terms of the Indenture.
17. **Notices** - All notices hereunder to the Guarantor shall be given and shall be effective as set out in Section 7.1 of the Indenture.

18. **Defined Terms** - Terms used in this Guarantee have the respective meanings attributed to such terms in the Indenture, unless otherwise defined herein.
19. **Attornment/Service** - The Guarantor hereby irrevocably submits to the non-exclusive jurisdiction of any British Columbia court in any action or proceeding arising out of or relating to this Guarantee, and hereby irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such British Columbia court. The Guarantor hereby irrevocably waives, to the fullest extent it may effectively do so, the defence of an inconvenient forum to the maintenance of such action or proceeding. The Guarantor hereby irrevocably appoints BC Ferries at its address and to the attention of the officer referred to in Section 7.1 of the Indenture as its agent to receive on behalf of the Guarantor service of copies of the summons and complaint and any other process which may be served in any such action or proceeding. Such service may be made by delivering a copy of such process to the Guarantor in care of such agent and the Guarantor hereby irrevocably authorizes and directs such agent to accept such service on its behalf. The Guarantor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Section shall affect the right of the Trustee or the holders or a holder of any Bonds to serve legal process in any other manner permitted by law or affect the right of the Trustee or the holders or a holder of any Bonds to bring any action or proceeding against the Guarantor or its property in the courts of other jurisdictions.
20. **Judgment Currency**
- (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder to the Trustee or the holders or a holder of any Bonds from the currency in respect of which any Guaranteed Obligations are owed to the Trustee or the holders or a holder of any Bonds (the “**Original Currency**”) into the currency in which a court of competent jurisdiction may render judgment in connection with any litigation relating to the payment of the Guaranteed Obligations under this Guarantee (the “**Judgment Currency**”), the Guarantor agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall, be that at which in accordance with normal banking procedures the Trustee could purchase the Original Currency with the Judgment Currency on the business day preceding that on which final judgment is paid or satisfied.
- (b) The obligations of the Guarantor in respect of any sum due in the Original Currency to the Trustee or the holders or a holder of any Bonds hereunder shall, notwithstanding any judgment in any Judgment Currency, be discharged only to the extent that on the business day following receipt by the Trustee or the holders or a holder of any Bonds of any sum adjudged to be so due in such Judgment Currency, the Trustee may in accordance with normal banking procedures purchase the sum due in the Original Currency with such sum adjudged to be due in such Judgment Currency. If the amount of the Original Currency so purchased is less than the sum originally due to the Trustee or the holders or a holder of any Bonds in the Original Currency, the Guarantor agrees, as a separate obligation and

notwithstanding any such judgment, to indemnify the Trustee and holders of any Bonds and each of them against such loss and if the amount of the Original Currency so purchased exceeds the sum originally due to the Trustee or the holders or a holder of any Bonds in the Original Currency, the Trustee or the holders of any Bonds and each of them agree to remit such excess to the Guarantor.

- 21. **Acknowledgment of Receipt/Waiver** - The Guarantor acknowledges receipt of an executed copy of this Guarantee and of the Indenture. The Guarantor waives, to the extent permitted by law, the right to receive a copy of any financing statement, financing change statement or verification statement registered with or issued by any personal property registry or other official body in connection with this Guarantee or any mortgage or other security agreement executed by the Guarantor in respect hereof.

IN WITNESS WHEREOF the Guarantor has duly executed this Guarantee and affixed its corporate seal under the hands of its proper officers duly authorized for the purpose thereof as of the date first above written.

[NAME OF GUARANTOR]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

SCHEDULE B

**FORM OF LEASEHOLD MORTGAGE AND FLOATING CHARGE ON REAL
PROPERTY**

SCHEDULE C
FORM OF NON-DISTURBANCE AGREEMENT

SCHEDULE D
FORM OF SECURITY AGREEMENT

SCHEDULE E

**FORMS OF DESIGNATION AND WITHDRAWAL OF
DESIGNATION OF DESIGNATED SUBSIDIARY**

Part 1: Form of Designation

Pursuant to Section 6.10(c) of the master trust indenture dated as of May 19, 2004 between British Columbia Ferry Services Inc. (“BC Ferries”) and Computershare Trust Company of Canada (the “Trustee”) as amended and supplemented from time to time, BC Ferries hereby designates the following Subsidiary as a “Designated Subsidiary”:

[Name of Subsidiary]

DATED effective this [insert]

BRITISH COLUMBIA FERRY SERVICES INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

Part 2: Form of Withdrawal of Designation

Pursuant to Section 6.10(e) of the master trust indenture dated as of May 19, 2004 between British Columbia Ferry Services Inc. (“BC Ferries”) and Computershare Trust Company of Canada (the “Trustee”) as amended and supplemented from time to time, BC Ferries hereby withdraws the following Subsidiary as a “Designated Subsidiary”:

[Name of Subsidiary]

DATED effective this [insert]

BRITISH COLUMBIA FERRY SERVICES INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE F
FORM OF ACKNOWLEDGEMENT AGREEMENT

SCHEDULE G
FORM OF SHIP MORTGAGE