

THIS AGREEMENT made as of the _____ day of _____, 2005

BETWEEN

**The Lil'wat Nation also known as Mount Currie Indian Band
as represented by its Chief and Council**

(hereinafter called "Lil'wat")

AND

**Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Forests**

(hereinafter called the "Government of British Columbia")

(collectively the "Parties")

Whereas:

- A. The Lil'wat asserts that it has existed in, and used and occupied lands and water within it's Traditional Territory from time immemorial.
- B. The Parties wish to enter into an interim accommodation agreement in relation to forest and/or range resource development activities within the Traditional Territory in order to seek workable interim accommodation where proposed forest and range activities may lead to infringements of Lil'wat's Aboriginal Interests.
- C. The Government of British Columbia intends to fulfil any responsibility it has to consult and to seek workable accommodation with the Lil'wat on forest and/or range resource development activities proposed within the Traditional Territory that may lead to the infringement of the Lil'wat's Aboriginal Interests for the term of the interim accommodation agreement.
- D. Lil'wat agrees to participate in any consultation initiated by the Government of British Columbia or a Licensee, in relation to forest and/or range resource development activities proposed within the Traditional Territory, that may lead to an infringement of Lil'wat's Aboriginal Interests.

- E. The Government of British Columbia and the Lil'wat wish to resolve issues relating to forest and/or range resource development activities where possible through negotiation as opposed to litigation.

Therefore the Parties agree as follows:

1.0 Definitions

For the purposes of this Agreement, the following definitions apply:

"Aboriginal Interests" means asserted and/or proven aboriginal rights and/or aboriginal title.

"Allowable Annual Cut" (AAC) means the allowable rate of timber harvest from a specified area of land. The Chief Forester sets the AAC for timber supply areas and tree farm licences in accordance with section 8 of the *Forest Act*.

"Administrative Decision" means one or more of the following decisions made by a person under forestry legislation:

- the decision setting or varying the Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;
- the issuance, consolidation, subdivision or amendment of a Forest Tenure;
- the replacement or extension of a Forest Tenure or Range Tenure;
- the adjustment of Animal Unit Month to a Range Tenure;
- the disposition of volumes of timber arising from undercut decisions on a Forest Tenure;
- the conversion of a Timber Sale Licence to another form of Forest Tenure;
- the issuance of a Special Use Permit; and,
- the establishment of an interpretative forest site, recreation site and/or recreation trail.

"Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.

"Invitation" means a letter sent to the Lil'wat from the Minister of Forests requesting the Lil'wat to submit an application for a specified forest tenure pursuant to this Agreement.

"Licensee" means a holder of a Forest Tenure or a Range Tenure.

"Minister" means the Minister of Forests for the Province of British Columbia.

"Operational Decision" means a decision that is made by a person with respect to the statutory approval of a Forest Development Plan, a Forest Stewardship Plan, a Range Use Plan, a Range Stewardship Plan, or a Woodlot Licence Plan, that has an effect in the Traditional Territory.

"Operational Plan" means a Forest Development Plan, Forest Stewardship Plan, a Range Use Plan, a Range Stewardship Plan, or a Woodlot Licence Plan that has an effect in the Traditional Territory.

"Range Tenure" means an agreement entered into under the *Range Act*.

"Response Period" means a period of up to 60 days from initiation of the processes set out in Sections 4 and 5 of this Agreement, where the initiation date is the date on which Lil'wat is notified of an Administrative Decision or Timber Supply Review process, or in the case of Operational Plan reviews, the date on which Lil'wat receives the plan to be reviewed. Where an emergency operation arises and/or expedited salvage has to occur, the Response Period will be shortened accordingly, but will not be less than the time period for advertising Operational Plans for those operations. The Parties may mutually agree to extend the Response Period at any time.

"Statutory Decision Maker" means a Ministry of Forests decision maker with authority to make decisions given to him/her under provincial forestry legislation.

"Traditional Territory" means the Lil'wat asserted traditional territory as shown on bold black on the map attached in Appendix A.

2.0 Purpose

The purposes of this Agreement are to:

- 2.1 Increase the Lil'wat's opportunity for participation in the forest sector.
- 2.2 Provide economic benefits to the Lil'wat through a forest tenure opportunity and the sharing of revenues received by the Government of British Columbia from forest resource development activities.
- 2.3 Address consultation and to provide an interim workable accommodation as set out in this Agreement, with regard to any infringements of Lil'wat's Aboriginal Interests that result from

Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory, during the term of this Agreement.

- 2.4 Provide a period of stability to forest and/or range resource development activities on Crown lands within the Traditional Territory during the term of this Agreement, while longer-term interests are addressed through other agreements or processes.

3.0 Economic Benefits to Lil'wat

During the term of this Agreement, the Government of British Columbia will adopt the consultation processes set out in Sections 4.0 and 5.0 of this Agreement and will provide the following economic benefits to Lil'wat to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements of Lil'wat's Aboriginal Interests that result from Administrative Decisions and/or Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory.

3.1 Forest Tenure

- 3.1.1 Upon the execution of this Agreement, the Minister will invite Lil'wat to apply for an 18,000 cubic meter non-replaceable forest licence within the Soo Timber Supply Area.
- 3.1.2 Upon the execution of this Agreement by the Parties, and after the Minister has determined that sufficient volume of timber is available for disposition to Lil'wat as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite Lil'wat to apply under section 47.3 of the *Forest Act* for a non-replaceable forest licence (the "licence") for up to 54,500 cubic meters annually in the Soo Timber Supply Area. For greater certainty, the maximum volume that may be available under this licence is up to 272,500 cubic meters over 5 years.
- 3.1.3 Any Invitations to apply for a licence and any licences entered into as a result of the Invitations to apply under this Agreement will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.
- 3.1.4 Any Invitations will be subject to a condition that prior to Lil'wat making an application for the licence, the Lil'wat will contact the Ministry of Forests and work jointly to identify the

operating area for the licences. If possible, the operating area will be within the Traditional Territory within the Soo Timber Supply Area.

3.1.5 Any licences entered into as a result of any Invitations to apply under Section 3.1 of this Agreement will:

3.1.5.1 be for a term of no longer than 5 years, as determined by the Minister;

3.1.5.2 contain other terms and conditions required by law, including the condition that Lil'wat must comply with this Agreement;

3.1.5.3 may not dispose of the licences or an interest in the licences except in accordance with Section 54(4) of the *Forest Act*; and,

3.1.5.4 include other terms and conditions as may be required by the Regional Manager.

3.1.6 Subject to:

3.1.6.1 the Government of British Columbia and Lil'wat entering into another interim accommodation agreement providing for an Invitation to apply for a licence; and,

3.1.6.2 the Minister determining that there is sufficient volume of timber available for disposition to Lil'wat,

the Minister may invite Lil'wat to apply for a subsequent licence under the *Forest Act* for a term that would commence after the expiry of this Agreement.

3.1.7 The timber volumes included in this Agreement will not set a precedent for timber volumes that may be included in future accommodation agreements.

3.1.8 The Parties acknowledge that the Lil'wat's objective is to pursue a licence of 70,000 m³/year. If volume becomes available for disposition to meet Lil'wat's objectives within the Traditional Territory, the Parties will meet to discuss in a reasonable manner, whether there are opportunities

available to meet Lil'wat's objective of attaining 70,000 m3/year.

3.2 Revenue Sharing

- 3.2.1 During the term of this Agreement, the Government of British Columbia will pay to Lil'wat approximately \$908,735 annually for purposes described in Section 3.0.
- 3.2.2 The funding commitment set out in Section 3.2.1 is subject to the availability of annual appropriations for that purpose by the Government of British Columbia.
- 3.2.3 For the purposes of determining amounts for partial years, one-fourth of the annual amount will be used for each fiscal quarter or part thereof that the Agreement is in effect. Payments will be made quarterly.
- 3.2.4 Upon signing of this Agreement, the Lil'wat will be paid the full revenues for the quarter starting October 1, 2004 to December 31, 2004 with subsequent payments being made at the end of each quarter.
- 3.2.5 Lil'wat will maintain financial records and prepare financial statements in accordance with generally accepted accounting principles for each year of this Agreement.
- 3.2.6 Upon request, Lil'wat will conduct an audit of the revenue sharing expenditures and will provide a copy of the audit to the Government of British Columbia.

4.0 Consultation and Accommodation Regarding Operational Plans

- 4.1 The Government of British Columbia agrees to consult with Lil'wat on Operational Plans that may potentially infringe Lil'wat's Aboriginal Interests within the Traditional Territory, except for any economic component of those interests that the Parties agree are addressed by the economic benefits provided for under Section 3 of this Agreement.
- 4.2 During the term of this Agreement, Lil'wat agrees that the Government of British Columbia has fulfilled its duties to consult and to seek interim workable accommodation with respect to the economic component of potential infringements of Lil'wat's Aboriginal

Interests in the context of Operational Decisions that the Government of British Columbia will make and any forest practices that may be carried out under an Operational Plan in the Traditional Territory.

- 4.3 Lil'wat agrees to fully participate, as set out in this section, in the review of all Operational Plans dealing with forest development within the Traditional Territory provided to them by the Government of British Columbia, and by Licensees.
- 4.4 In reviewing and responding to an Operational Plan submitted to them, Lil'wat will, within the Response Period, provide the party that supplied the plan to them with all reasonably available information that will identify any potential impacts to their Aboriginal Interests that may occur as a result of proposed forest and/or range resource development activities within the Traditional Territory, other than the economic component of those Interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0.
- 4.5 Upon receiving the response from Lil'wat as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with Lil'wat any site specific operational impacts on Lil'wat's Aboriginal Interests that may occur as a result of proposed forest and/or range resource development activities within the Traditional Territory, other than the economic component of those Aboriginal Interests that the Parties agree are addressed by the economic benefits provided for under Section 3.0.
- 4.6 If no response is received from Lil'wat within the Response Period, then the Government of British Columbia may conclude that Lil'wat does not intend to respond or participate in the consultation process in respect of the Operational Plan and that a decision on the Operational Plan may proceed.
- 4.7 In making a final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Lil'wat, whether received directly or through a Licensee, and will consider whether concerns identified by Lil'wat have been addressed.
- 4.8 The Government of British Columbia will provide a response to Lil'wat as to how their concerns raised in Section 4.4 and 4.5 have been addressed.
- 4.9 The Parties will meet at mutually agreed times during the term of the Agreement to discuss the implementation of the consultation process outlined in Section 4.

5.0 Consultation and Accommodation Respecting Administrative Decisions

- 5.1 The Government of British Columbia will provide to Lil'wat on an annual basis a list of all proposed Administrative Decisions anticipated within the year that will have an effect in the Traditional Territory, and either upon the request of Lil'wat or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Lil'wat an updated list.
- 5.2 The Government of British Columbia will meet with Lil'wat at mutually agreed times throughout the year to provide an opportunity for Lil'wat to make known to representatives of the Government of British Columbia their concerns and comments relative to the effect of the Administrative Decision(s) on their Aboriginal Interests within the Traditional Territory.
- 5.3 The Government of British Columbia will include Lil'wat in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Soo Timber Supply Area, the Lillooet Timber Supply Area and Tree Farm Licence #38.
- 5.4 Lil'wat agrees to fully participate, within the Response Period, in public Timber Supply Review processes by providing all reasonably available information about their Aboriginal Interests within the Traditional Territory potentially affected by AAC determinations to be made pursuant to Section 8 of the *Forest Act*.
- 5.5 If after considering the concerns and comments of Lil'wat, the Statutory Decision Maker is of the opinion that an Administrative Decision creates a potential infringement of Lil'wat's Aboriginal Interests that is not adequately addressed by the economic benefits provided by the Government of British Columbia in Section 3.0, the Statutory Decision Maker will seek to address the concerns and comments in the Administrative Decision or through the process in Section 4.0 of this Agreement.
- 5.6 The Government of British Columbia will provide a response to Lil'wat as to how their concerns raised in Section 5.2 have been addressed.
- 5.7 Lil'wat agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 3 and adherence to the consultation processes in Sections 4 and 5 of this Agreement, the

Government of British Columbia has fulfilled its duties to consult and to seek an interim workable accommodation with respect to the economic component of potential infringements of Lil'wat's Aboriginal Interests resulting from Administrative Decisions.

- 5.8 Lil'wat further agrees that, in consideration of Sections 5.1 to 5.7 of this Agreement, and adherence to the consultation processes in Sections 4 and 5 of this Agreement, the Government of British Columbia has, for the purposes of this Agreement, developed an adequate consultation and interim workable accommodation process with respect to potential infringements of their Aboriginal Interests resulting from Administrative Decisions that may go beyond the economic component of Lil'wat's Aboriginal Interests.

6.0 Stability for Land and Resource Use

- 6.1 Lil'wat will respond within a reasonable timeframe to any discussions initiated by the Government of British Columbia and will work co-operatively to assist in resolving any issues that may arise where acts of intentional interference by Lil'wat members with provincially authorized activities related to forest and/or range resource development activities including timber harvesting or other forestry economic activities occur.

7.0 Dispute Resolution

- 7.1 If a dispute arises between the Parties regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.
- 7.2 If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Government of British Columbia and Lil'wat.
- 7.3 The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

8.0 Term

- 8.1 This Agreement will take effect on the date on which the last Party has executed it.

8.2 This Agreement will terminate on the occurrence of the earliest of any of the following events:

8.2.1 five years from the date this Agreement is executed; or,

8.2.2 the coming into effect of a treaty between the Parties;
or,

8.2.3 the mutual agreement of the Parties; or

8.2.4 upon written notice of withdrawal from this Agreement by either Party, which will take effect 90 days following receipt of the notice by the other Party; or

8.2.5 the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 9.0.

8.3 If this Agreement is terminated in accordance with Section 8.2. then the Minister may terminate the economic benefits under this Agreement.

9.0 Suspension or Cancellation of Economic Benefits by the Minister

9.1 Without limiting the actions that may be taken by the Minister of Forests or by the Government of British Columbia, the Minister or a person authorized by the Minister may suspend or cancel revenue sharing payments and the licence(s) entered into as a result of the invitation under this Agreement, if the Minister or a person authorized by the Minister determines that Lil'wat is not in compliance with this Agreement.

9.2 Prior to taking any action referred to in Section 9.1, the Government of British Columbia will provide notice to Lil'wat of any alleged contravention of this Agreement that may lead Lil'wat being determined to not be in compliance with this Agreement.

9.3 If, during the term of this Agreement, Lil'wat challenges or supports a challenge to, an Administrative Decision and/or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions/plans, by way of legal proceedings or otherwise, on the basis that the economic benefits set out in Section 3, and the consultation processes set out in Sections 4 and 5 of this Agreement are not adequate or sufficient to:

9.3.1 provide adequate consultation, to substantially address Lil'wat's concerns and to provide an interim workable accommodation in respect of any potential infringements of Lil'wat's Aboriginal Interests with regard to Administrative

Decisions relating to forest and/or range resource development activities within the Traditional Territory, or

- 9.3.2 substantially address the economic component of Lil'wat's Aboriginal Interests with regard to Operational Decisions relating to forest and/or range resource development activities within the Traditional Territory,

then, without limiting any other remedies that may be available to the Government of British Columbia, the Government of British Columbia may suspend or cancel the economic benefits set out in Section 3.

- 9.4 For greater certainty, Section 9.3 does not prevent Lil'wat from pursuing challenges or supporting challenges to Operational Decisions on the basis that the cultural aspects of it's Aboriginal Interests have not been adequately addressed without triggering a possible suspension or cancellation of the economic benefits set out in Section 3.
- 9.5 If the Minister or a person authorized by the Minister cancels any economic benefits as a result of this Agreement, then this Agreement may be terminated.

10.0 Renewal of the Agreement

- 10.1 Prior to terminating this Agreement in accordance with Section 8.2., if the terms and conditions of this Agreement are being met and subject to Section 3.2.2, the Government of British Columbia and Lil'wat will meet to discuss the possibility of renewal of this Agreement.
- 10.2 Any subsequent forestry agreement between the Government of British Columbia and Lil'wat may provide for an opportunity to acquire a licence, and/or other economic benefits, as well as other terms and conditions that are agreed to by the Parties.

11.0 Amendment of Agreement

- 11.1 Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
- 11.2 Either Party may request the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.

12.0 Entire Agreement

- 12.1 This Agreement and any amendment to it constitute the entire Agreement between the Parties with respect to the subject matter of this Agreement.

13.0 Notice

- 13.1 Any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement, will be in writing and will be effective if delivered, sent by registered mail, or transmitted by facsimile to the address of the other Party as in this section of the Agreement.
- 13.2 Any notice or other communications will be deemed to have been given on the date it is actually received, if received before 4:00 p.m. If received after 4:00 p.m., it will be deemed to have been received on the next business day.
- 13.3 The address of either Party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia
Deputy Minister
Ministry of Forests
P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Telephone (250) 387-3656
Facsimile (250) 953-3687

Lil'wat
Chief and Council
Mount Currie Indian Band
P.O. Box 605
Mount Currie, BC V0N 2K0
Telephone: (604) 894-6145
Facsimile: (604) 894-6163

14.0 Miscellaneous

- 14.1 Nothing in this Agreement shall be interpreted in a manner that requires the Government of British Columbia to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any government decision-maker.
- 14.2 This Agreement is not a treaty or a lands claims agreement within the meaning of section 25 and 35 of the Constitution Act, 1982 and does not recognise, define, amend, affirm, deny or limit any priorities afforded to aboriginal rights, including aboriginal title, or treaty rights, other than as provided in this Agreement.
- 14.3 Subject to Section 9.3, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 14.4 This Agreement shall not be interpreted as addressing any potential infringements other than potential infringements that may result from decisions contemplated by this Agreement during the term of this Agreement. Nothing in this Agreement shall be interpreted to authorize any infringement that may occur following the termination of this Agreement.
- 14.5 This Agreement does not address or affect any claims by the Lil'wat arising from past interference with its Aboriginal Interests or any future treaty settlement related to an aboriginal right and title claim.
- 14.6 Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.
- 14.7 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.8 The applicable laws of British Columbia and Canada shall govern this Agreement.

14.9 This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

Signed on behalf of:

Lil'wat Nation

Date: Jan 26, 2005

Chief Leonard Andrew
Chief Leonard Andrew on behalf of Chief and Council

[Signature]
Witness

Signed on behalf of:

Government of British Columbia

Date: Feb. 7, 2005

[Signature]
Michael de Jong
Minister of Forests

[Signature]
Witness

**APPENDIX A
LIL'WAT NATION TRADITIONAL TERRITORY**

Figure 2 Map of Lil'wat Traditional Territory Prepared by Creekside Resources Inc. Lil'wat First Nation, February 5, 2003

