

**Burns Lake Band
Forest Range Interim Measures Agreement
(the “Agreement”)**

Between:

The Burns Lake Band
As represented by
As represented by its duly elected Chief
(the “Burns Lake Band”)

And

**Her Majesty the Queen in Right of the Province of British
Columbia**
As represented by the Minister of Forests
(the “Government of British Columbia”)

(all of whom are sometimes referred to as the “Parties”,
and each of whom is a “Party” to this Agreement).

Whereas:

- The Burns Lake Band have Aboriginal Interests within their Traditional Territory.
- The Parties wish to enter into an interim measures agreement in relation to forest resource development and related economic benefits arising from this development within the Traditional Territory.
- The Government of British Columbia intends to fulfil any responsibility it has to consult and/or to seek workable accommodation with the Burns Lake Band on forest resource development activities proposed within the Burns Lake Band Traditional Territory that may lead to the potential infringement of the Burns Lake Band Aboriginal Interests.
- The Burns Lake Band have a responsibility to participate in any consultation initiated by the Government of British Columbia or the holder of an agreement under the *Forest Act* (“licensee”), in relation to forest and range resource development activities proposed within the Burns Lake Band

Traditional Territory, that may lead to an infringement of the Burns Lake Band Aboriginal Interests.

- The Parties have an interest in seeking workable interim accommodation of the Burns Lake Band Aboriginal Interests where forest and range development activities are proposed within the Burns Lake Band Traditional Territory that may lead to the potential infringement of the Burns Lake Band Aboriginal Interests.
- The Government of British Columbia and the Burns Lake Band wish to resolve issues relating to forest and range resource development 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:

- 1.1 “Operational Plan” means a Forest Development Plan, Forest Stewardship Plan, Range Stewardship Plans, and Range Use Plans as defined in provincial legislation respecting forest practices and includes forest and range development activities that are carried out pursuant to those plans.
- 1.2 “Operational Decision” means a decision that is made by a person with respect to the statutory approval of a Forest Development Plan, Forest Stewardship Plans, Range Stewardship Plans, and Range Use Plans that has an effect in the Burns Lake Band Traditional Territory.
- 1.3 “Aboriginal Interests” means asserted or proven aboriginal rights and/or aboriginal title.
- 1.4 “Administrative Decision” means a decision made by a Ministry of Forests statutory decision-maker related to forest and range resource development and/or forest and range tenure administration and includes but is not limited to:
 - 1.4.1 Decisions that set or vary Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;
 - 1.4.2 the issuance or subdivision or amendment of a Forest or Range Tenure;
 - 1.4.3 the replacement of Forest or Range Tenures;

- 1.4.4 the transfer or change of control of Forest or Range Tenures and exchange of rights between or among tenure holders;
 - 1.4.5 the disposition of timber volumes arising from undercut decisions on a Forest Tenure;
 - 1.4.6 AAC apportionment and reallocation decisions;
 - 1.4.7 Timber Sale Licence and Timber Licence conversion to other forms of Forest Tenure and Timber Licence term extensions; and
 - 1.4.8 the reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*.
- 1.5 “Forest or Range Tenure” means an agreement issued under the *Forest and Range Acts*.
 - 1.6 “Response Period” means a period of 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 the Burns Lake Band is notified of an Administrative decision or Timber Supply Review process, or in the case of Operation Plan reviews, the date on which Burns Lake Band 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.
 - 1.7 “Traditional Territory” means the Burns Lake Band asserted traditional territory as shown on bold black on the map attached in Appendix A.
 - 1.8 “Licensee” means a holder of a Forest or Range Tenure under the *Forest and Range Acts*.

2.0 Purpose

- 2.1 The purposes of this Agreement are to:
 - 2.1.1 This agreement terminates and replaces the Interim Measures Agreement dated July 15th, 2003 between the Burns Lake Band and the Government of British Columbia as represented by the Minister of Forests (“the former IMA”). The applicable provisions of the former IMA have been incorporated into this Agreement and should there arise a question as to the proper interpretation of a provision in this Agreement that has been incorporated

from the former IMA, that question will be resolved by reference to the wording of this Agreement.

- 2.1.2 Address issues regarding potential aboriginal rights and title raised by the Burns Lake Band in relation to forestry and range decisions;
- 2.1.3 Increase the Burns Lake Band participation in the forest sector;
- 2.1.4 Provide economic benefits to the Burns Lake Band, through a Forest Tenure opportunity and sharing of revenues received by the Government of British Columbia for forest resource development;
- 2.1.5 Provide stability of forest and range resource development and operations on Crown lands within the Burns Lake Band asserted Traditional Territory as outlined in bold black on the attached Appendix "A" during the term of this Agreement, while longer term interests are addressed through other agreements or processes; and
- 2.1.6 Address consultation and to provide an interim workable accommodation, as set out in this Agreement, Burns Lake Band Aboriginal Interests or proven aboriginal rights with regard to any infringements of those Interests or rights that result from Administrative Decisions and/or Operational Plan decisions relating to forest and range resource development within the Traditional Territory during the term of this Agreement.

3.0 Economic Benefits to the Burns Lake Band

The Government of British Columbia will provide one or more of the following economic benefits to Burns Lake Band to address consultation and to provide a workable accommodation in respect of any infringements of the Burns Lake Band Aboriginal Interests including aboriginal title, with regard to Administrative Decisions and any economic component of those interests or rights with regard to Operational Plans relating to forest and range resource development within the Burns Lake Band Traditional Territory during the term of this Agreement.

3.1 Authorization to Amend Forest License A72919

3.1.1 The Minister of Forests invited the Burns Lake Band to apply for a forest license licence of up to 75,000 cubic meters over a period of up to 3 years on August 3, 2003 which resulted in the award of Forest License A72919. After the execution of this Agreement by the parties, the Minister of Forests will authorize the Regional Manager, Northern Interior Region to amend Forest Licence A72919 to add up to 25 000 cubic meters annually for a further period of 2 years.

3.1.2 For greater certainty, the maximum volume that may be available under an amended Forest License A72919 referred to in section 3.1.1 will be up to 125 000 cubic meters over a period of 5 years.

3.2 Invitation to apply for a license

3.2.1 Prior to this agreement expiring in July 18, 2008, but not before July 13, 2007, and as soon after June 5, 2007 as the Minister of Forests determines that there is sufficient volume of timber is available for disposition as a result of the timber reallocation process in the Northern Interior Forest Region, as provided for in the *Forestry Revitalization Act*, the Minister may invite the Burns Lake Band to apply for a Forest Tenure for up to 4,850 cubic meters annually for a period of 5 years in the Lakes Timber Supply Area and in accordance with Section 10 of this Agreement.

3.2.2 A licence entered into as a result of an invitation to apply under this Agreement:

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

3.2.2.2 will contain a term that Burns Lake Band may not divide, subdivide, transfer or otherwise dispose of the licence or an interest in the licence;

3.2.2.3 will not be replaceable, but a further licence may be considered in the final year of any licence entered into as a result of the invitation to apply under this Agreement, provided that the terms of the original licence have been complied with by Burns Lake Band;

- 3.2.2.4 will contain other terms and conditions required by law, including the condition that the Burns Lake Band must comply with this Agreement; and
- 3.2.2.5 will include other terms and conditions as may be required by the regional manager, Northern Interior Forest Region.
- 3.2.3 If the term of the licence entered into as a result of an invitation to apply under this Agreement exceeds the term of this Agreement, then that licence will be referenced in and considered to be an economic benefit that addresses consultation and provides a workable accommodation in respect of any infringement of the Burns Lake Band Aboriginal Interests in any subsequent forestry agreement between the Burns Lake Band and the Government of British Columbia, for the purposes described in Section 3.0.

3.3 Revenue Sharing

- 3.3.1 During the term of this Agreement, the Government of British Columbia will pay to the Burns Lake Band \$44,910 annually for the purposes described in Section 3.0.
- 3.3.2 The funding commitment set out in Section 3.3.1 is subject to the availability of annual appropriations for that purpose by the Government of British Columbia.
- 3.3.3 For the purposes of determining amounts for partial years, one-fourth (i.e. 1/4) 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.
- 3.3.4 Upon signing of this Agreement, the Burns Lake Band will be paid the full revenues for the quarters committed to in the former IMA.
- 3.3.5 The Burns Lake Band will maintain financial records and prepare financial statements of the revenue sharing expenditures in accordance with generally accepted accounting principles for each year of this Agreement.
- 3.3.6 Upon request, the Burns Lake Band will provide an audited statement of the revenue sharing expenditures and will

provide a copy of the audit to the Government of British Columbia.

4.0 Consultation and Accommodation Respecting Operational Plans

- 4.1 The Government of British Columbia agrees to consult with the Burns Lake Band on Operational Plans that may potentially infringe the Burns Lake Band Aboriginal Interests or proven aboriginal rights within the Traditional Territory, except for any economic component of those interests or rights provided for under Section 3.0 of this Agreement.
- 4.2 During the term of this Agreement, the Burns Lake Band agrees that the Government of British Columbia has fulfilled its duties to consult and seek interim workable accommodation with respect to the economic component of potential infringements of the Burns Lake Band Aboriginal Interests in the context of Operational Plan decisions that the Government of British Columbia will make and with respect to the forest and range development activities that occur as a result of those decisions.
- 4.3 The Burns Lake Band agrees to fully participate, as set out in this section in the review of all Operational Plans 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, the Burns Lake Band 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 result from the forest or range development activities within the Traditional Territory, other than the economic component of those Aboriginal Interests addressed under Section 3.0.
- 4.5 Upon receiving the response from the Burns Lake Band as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with the Burns Lake Band any site specific operational impacts on the Burns Lake Band Aboriginal Interests that may occur as a result of proposed forest or range development activities within the Traditional Territory, other than the economic component of those Aboriginal Interests addressed in Section 3.0.

- 4.6 If no response is received from the Burns Lake Band within the Response Period, then the Government of British Columbia may assume that the Burns Lake Band does not intend to respond or participate in the consultation process in respect of the Operational Plan and the 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 all reasonably available information, as well as information it receives from the Burns Lake Band, whether received directly or through a Licensee, and will consider whether concerns identified by the Burns Lake Band have been addressed.

5.0 Consultation and Accommodation Respecting Administrative Decisions

- 5.1 The Government of British Columbia will provide to the Burns Lake Band on an annual basis a list of all proposed Administrative Decisions anticipated within the year, and either upon the request of the Burns Lake Band or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to the Burns Lake Band an updated list.
- 5.2 The Government of British Columbia will meet with the Burns Lake Band at mutually agreed times throughout the year to provide an opportunity for the Burns Lake Band 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.
- 5.3 The Government of British Columbia will include the Burns Lake Band in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the *Forest Act* for the Lakes Timber Supply Areas.
- 5.4 The Burns Lake Band 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 The Parties acknowledge that the public Timber Supply Review processes will be consistent with approved land use plans when higher-level objectives have been established.

- 5.6 If after considering the concerns and comments of the Burns Lake Band, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of the Burns Lake Band 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.
- 5.7 The Government of British Columbia will provide a response to the Burns Lake Band as to how their concerns raised in Section 5.2 have been addressed.
- 5.8 The Burns Lake Band agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 3.0 and the consultation processes in Sections 4.0 and 5.0 of this Agreement, that the Government of British Columbia has fulfilled its duties to seek interim workable accommodation with respect to the economic component of potential infringements of the Burns Lake Band Aboriginal Interests resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.
- 5.9 The Burns Lake Band further agrees that, in consideration of Sections 5.1 to 5.7 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 made by statutory decision makers from time to time during the term of this Agreement that may go beyond the economic component of the Burns Lake Band Aboriginal Interests.

6.0 Stability for Land and Resource Use

The Burns Lake Band will respond immediately 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 the Burns Lake Band members with provincially authorized activities related to forest and range resource development including timber harvesting or other forest and range economic activities occur.

7.0 Dispute Resolution

If a dispute arises between the Government of British Columbia and the Burns Lake Band regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet forthwith to consider the dispute and may attempt to resolve the dispute, failing which, either party shall be at liberty, subject to section 9.3 of this Agreement, to seek relief from the courts.

8.0 Term

- 8.1 This Agreement will take effect on the date that it has been executed by the Parties.
- 8.2 This Agreement will terminate on the occurrence of any of the following events, whichever occurs earliest:
 - 8.2.1 July 18, 2008, unless the term of the Licence entered into as a result of an invitation to apply under this Agreement extends beyond that date; in which case the date on which the Licence expires; or
 - 8.2.2 the coming into effect of a treaty between the Parties or another agreement addressing the same subject matter; or
 - 8.2.3 the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement; or
 - 8.2.4 by mutual agreement of the Parties.

9.0 Suspension or Cancellation of Economic Benefits by the Minister

- 9.1 Without limiting the actions that may be taken by the Minister 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 Forest Tenure(s) entered into as a result of the invitation to apply under this Agreement, if the Minister or a person authorized by the Minister determines that the Burns Lake Band 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 the Burns Lake Band of any alleged contravention of this Agreement that may lead Burns Lake Band to not being in compliance with this Agreement.
- 9.3 If during the term of this Agreement, the Burns Lake Band challenges or supports a challenge to, an Administrative Decision and/or Operational Plan, by way of legal proceedings or otherwise, on the basis that the economic benefits set out in Section 3.0, and the consultation processes set out in Sections 4.0 and 5.0 of this Agreement are not adequate or sufficient to:
- substantially address the Burns Lake Band concerns and to provide interim workable accommodation in respect of any potential infringements of the Burns Lake Band Aboriginal Interests with regard to Administrative Decisions relating to forest or range resource development within the Traditional Territory; or
 - substantially address the economic component of the Burns Lake Band Aboriginal Interests with regard to Operational Plans relating to forest or range resource development 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 3.0.

10. Renewal of the Agreement

- 10.1 Prior to this Agreement terminating in accordance with Section 8.2.1, and subject to Section 10.3, if the terms and conditions of this Agreement are being met, the Government of British Columbia and the Burns Lake Band will seek the necessary authorities and approvals to renew this Agreement.
- 10.2 Any subsequent agreement between the Government of British Columbia and the Burns Lake Band may provide for an opportunity to acquire a Forest Tenure, and/or other economic benefits and other terms and conditions that are agreed to by the Parties.
- 10.3 The revenue sharing set out in this Agreement reflects an amount that the Government of British Columbia is willing to pay, subject to available appropriations, as an interim measure and the Burns Lake Band has agreed to accept as an interim measure for the term of this Agreement.

11.0 Amendment

- 11.1 Any alteration or amendment to the terms and conditions of this Agreement must be in writing and duly executed by both 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

This Agreement and any modification of 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 set out in this paragraph 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.

Government of British Columbia

Deputy Minister
Ministry of Forests
P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Facsimile 1(250) 953-3687

Burns Lake Band

Chief Robert Charlie
Bag 9000
Burns Lake B.C. V0J 1E0
Facsimile 1(250) 692-4214

14.0 Miscellaneous

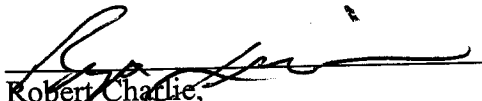
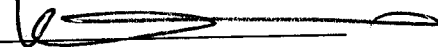
- 14.1 Nothing in this Agreement shall be interpreted in a manner that requires the Government of British Columbia to act in a manner inconsistent with provincial or federal law, or that fetters the statutory discretion of any government decision-maker.
- 14.2 This Agreement is not a treaty or a lands claims agreement within the meaning of Section 25 and 35 of the *Constitution Act*, 1982 and does not define, amend, recognise, 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 the Parties 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 Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute.
- 14.6 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 14.7 This Agreement shall be governed by the applicable laws of British Columbia and Canada.

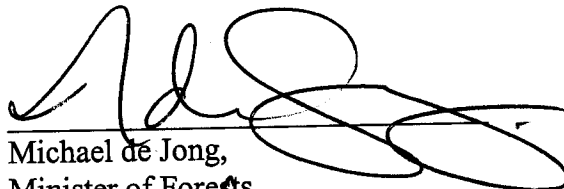
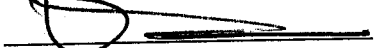
14.8 This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute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

Signed on behalf of:

BURNS LAKE BAND
As represented by:


Robert Charlie,
Chief
Date: MAR 20 2004
Witnessed by 

**FOR HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH COLUMBIA**
As represented by:


Michael de Jong,
Minister of Forests
Date: MAR 20 2004
Witnessed by 

Appendix A

Burns Lake Band Traditional Territory

Scale: 1:1,000,000

