

**Nazko Band
Forest and Range Agreement
(the "Agreement")**

**Between:
Nazko Band**

As represented by
Chief Delores Alec, Councillor Kirby Boyd, and Councillor Jerry Laurent

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")

(collectively the "Parties")

Whereas:

- **Nazko has Aboriginal Interests within its Traditional Territory.**
- **The Parties wish to enter into an interim measures agreement in relation to forest and range resource development and related economic benefits arising from this development within Nazko's Traditional Territory.**
- **The Government of British Columbia intends to fulfil any responsibility it has to consult and to seek workable accommodation with Nazko on forest and range resource development activities proposed within Nazko Traditional Territory that may lead to the infringement of Nazko's Aboriginal Interests.**
- **Nazko has a responsibility to the extent they consider their Aboriginal Interests may be affected to participate in any consultation initiated by the Government of British Columbia in relation to forest and/or range resource development activities proposed within Nazko Traditional Territory, that may lead to an infringement of Nazko's Aboriginal Interests.**
- **The Parties have an interest in seeking workable interim accommodation of Nazko's Aboriginal Interests where forest and/or range development activities are proposed within the Nazko Traditional Territory that may lead to the infringement of Nazko's Aboriginal Interests.**

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- The Government of British Columbia and the Nazko 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, Woodlot licence Plan, Range Use Plan, or Range Stewardship Plan or any plans that may supersede these plans as a result of statutory changes that have an effect in Nazko's Traditional Territory.
- 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 Plan, Woodlot License Plan, Range Use Plan or Range Stewardship Plan that has an effect in Nazko's Traditional Territory.
- 1.3 "Aboriginal Interests" means asserted aboriginal rights and/or aboriginal title.
- 1.4 "Administrative Decision" means one or more of the following decisions made by a person under the *Forest Act* or *Range Act*.
 - Decisions that set or vary Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure;
 - The issuance, subdivision or amendment of a Forest Tenure or Range Tenure;
 - Animal Unit Month adjustments to Range Tenures;
 - the replacement of forest and/or Range Tenures;
 - the transfer or change of control of Forest and/or Range Tenures, including any associated reductions in AAC with respect to Forest Tenures, and exchange of rights between or among tenure holders;
 - The disposition of timber volumes arising from undercut decisions on a Forest Tenure;
 - AAC apportionment and reallocation decisions;
 - Timber Sale Licence and Timber Licence conversion to other forms of Forest Tenure and Timber Licence term extensions; and,
 - The reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act*.

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- 1.5 **“Forest Tenure” means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.**
- 1.6 **“Range Tenure” means an agreement granting rights over Crown range as defined in the *Range Act*.**
- 1.7 **“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 Nazko is notified of an Administrative decision or Timber Supply Review process, or in the case of Operational Plan reviews, the date on which Nazko receives the plan to be reviewed. Where an emergency operation arises and/or expedited salvage has to occur, the Response Period, unless waived by the Minister of Forests, will be 10 days from Nazko receiving notice. Nazko may apply to the appropriate decision maker for an extension to this Response Period if a potential conflict with its Aboriginal Interests is identified and more time is required to resolve the conflict.**
- 1.8 **“Traditional Territory” means the Nazko asserted traditional territory as shown on bold black on the map attached in Appendix A.**
- 1.9 **“Licensee” means a holder of a Forest Tenure or a Range Tenure.**

2.0 Purpose

The purposes of this Agreement are to:

- 2.1 **Increase Nazko’s opportunity for participation in the forest sector.**
- 2.2 **Provide economic benefits to Nazko through a forest tenure opportunity and the sharing of revenues received by the Government of British Columbia from forest resource development.**
- 2.3 **Address consultation and to provide an interim workable accommodation, as set out in this Agreement, with regard to any infringements of Nazko’s Aboriginal Interests that result from Administrative Decisions and/or Operational decisions relating to forest or range resource development within the Nazko’s Traditional Territory, during the term of this Agreement.**
- 2.4 **Provide a period of stability to forest and range resource development on Crown lands within Nazko’s Traditional Territory during the term of this Agreement, while longer term interests are addressed through other agreements or processes.**

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3.0 Economic Benefits to Nazko

During the term of this Agreement, the Government of British Columbia will adopt the consultation processes set out in sections 4 and 5 of this Agreement and will provide the following economic benefits to Nazko to address consultation and to provide an interim workable accommodation, as set out in this Agreement, in respect of any infringements of Nazko's Aboriginal Interests or proven aboriginal rights that result from Administrative Decisions and/or Operational Decisions relating to forest or range resource development within Nazko's Traditional Territory.

3.1 Forest Tenure

After the execution of this agreement by the Parties and after the Minister has determined that sufficient volume of timber is available for disposition to Nazko, in part as a result of the implementation of the *Forestry Revitalization Act*, the Minister will invite Nazko to apply under section 47.3 of the *Forest Act* for a non-replaceable forest licence (the "licence") for up to 15,800 cubic meters annually in the Quesnel Timber Supply Area.

3.1.1 For greater certainty, the maximum volume that may be available under the licence referred to in Section 3.1 will be up to 79,000 cubic meters over five years.

3.1.2 An invitation to apply for a licence (an "invitation") and any licence entered into as a result of an invitation will be subject to the policies, regulations and statutes of British Columbia as amended from time to time.

3.1.3 An invitation:

3.1.3.1 will be subject to a condition that prior to Nazko making an application for the licence, Nazko must contact and work together with Ministry of Forests personnel to assist in identifying the location of an operating area for the licence, which to the extent that it is operationally feasible will be within the Traditional Territory.

3.1.4 A licence entered into as a result of an invitation

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

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- 3.2.5 Nazko 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, Nazko will conduct an audit of the revenue sharing expenditures to confirm that the benefits provided continue to meet the objectives of the Agreement 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 Nazko on Operational Plans that may potentially infringe Nazko's Aboriginal Interests or proven aboriginal rights within the Traditional Territory, except for any economic component of those interests or rights that the Parties agree are addressed by the economic benefits provided for under Section 3.0 of this Agreement.**
- 4.2 During the term of this Agreement Nazko agrees that the consultation process described in Section 4.0 and 5.0 is adequate to allow the Government of British Columbia to fulfil its consultation duties with respect to the potential infringements of Nazko's Aboriginal Interests or proven aboriginal rights in the context of Operational Decisions that the Government of British Columbia will make and any forest practices or range practices that may be carried out under an Operational Plan in Nazko's Traditional Territory.**
- 4.3 During the term of this Agreement Nazko agrees that the Government of British Columbia has sought interim workable accommodation with respect to the economic component of potential infringements of Nazko's Aboriginal Interests or proven aboriginal rights in the context of Operational Decisions that the Government of British Columbia will make and any forest practices or range practices that may be carried out under an Operational Plan in Nazko's Traditional Territory.**
- 4.4 Nazko 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.**
- 4.5 In reviewing and responding to an Operational Plan submitted to them, Nazko 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 or proven aboriginal rights that may result from the forestry or range**

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development activities within the Traditional Territory, other than the economic component of those Interests or rights that the Parties agree are addressed by the economic benefits provided for under Section 3.0.

- 4.6 Upon receiving the response from Nazko as specified in Section 4.4, the Government of British Columbia and/or the Licensee will discuss and attempt to resolve with Nazko any site specific operational impacts on Nazko's Aboriginal Interests or proven aboriginal rights that may occur as a result of proposed forest and/or range 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.
- 4.7 If no response is received from Nazko within the Response Period, then the Government of British Columbia may assume that Nazko 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.
- 4.8 In making a final decision on an Operational Plan, the Government of British Columbia will fully consider information it receives from Nazko, whether received directly or through a Licensee, and will consider whether concerns identified by Nazko have been addressed.
- 4.9 The Government of British Columbia will ensure a response is provided to Nazko as to how their concerns raised in Section 4.6 have been addressed.
- 4.10 If the Parties disagree as to whether site specific concerns raised by Nazko have been adequately resolved through the consultation process, the Parties may agree to employ other appropriate approaches to assist in reaching resolution including all resolution processes valid under current legislation and regulations.

5.0 Consultation and Accommodation Respecting Administrative Decisions

- 5.1 The Government of British Columbia will provide to Nazko 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 Nazko or when the Government of British Columbia becomes aware of other proposed Administrative Decisions, will provide to Nazko an updated list.

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- 5.2 The Government of British Columbia will meet with Nazko at mutually agreed times throughout the year to provide an opportunity for Nazko 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 or proven aboriginal rights within the Traditional Territory.**
- 5.3 The Government of British Columbia will include Nazko in public Timber Supply Review processes that will lead to AAC determinations made pursuant to Section 8 of the Forest Act for the Quesnel, Prince George, and Williams Lake Timber Supply Areas and Tree Farm Licence 05.**
- 5.4 Nazko agrees to fully participate to the extent that they consider their Aboriginal Interests may be affected, within the Response Period, in public Timber Supply Review processes by providing all reasonably available information about their Aboriginal Interests or proven aboriginal rights 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 Nazko, the statutory decision maker is of the opinion that an Administrative Decision creates a potential infringement of Nazko's Aboriginal Interests or proven aboriginal rights 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 Nazko as to how their concerns raised in Section 5.2 have been addressed.**
- 5.8 Nazko agrees that in consideration of the economic benefits provided by the Government of British Columbia in Section 3.0 and adherence to the consultation processes in Sections 4.0 and 5.0 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 Nazko's Aboriginal Interests or proven aboriginal rights resulting from Administrative Decisions made by statutory decision makers from time to time during the term of this Agreement.**

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- 5.9 Nazko 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 process with respect to potential infringements of their Aboriginal Interests or proven aboriginal rights 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 Nazko's Aboriginal Interests or proven aboriginal rights.**

6.0 Stability for Land and Resource Use

- 6.1 Nazko will respond at the earliest opportunity 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 Nazko members which are contrary to the stated purpose of this agreement set out in Section 2.4, and which may obstruct with provincially authorized activities related to forestry and/or range resource development including timber harvesting or other forestry economic activities occur.**

7.0 Dispute Resolution

- 7.1 If at any time, one Party considers that the obligations of the agreement are not being met, they will inform the other Party as soon as possible. In any event, the Parties agree to meet every six months or as necessary to review the performance of the Parties under the Agreement.**
- 7.2 If a dispute arises between the Government of British Columbia and Nazko 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.**
- 7.3 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.**

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:**

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- five years from the date this Agreement is executed; or
- the coming into effect of an interim agreement or an incremental agreement relating to forestry and range resource development between the Parties negotiated under the BC Treaty Process or otherwise or,
- the coming into effect of a treaty between the Parties; or,
- the mutual agreement of the Parties; or
- the date on which the Government of British Columbia cancels the economic benefit(s) under this Agreement pursuant to Section 9.0.

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 Nazko 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 Nazko of any alleged contravention of this Agreement that may lead to Nazko being determined to not be in compliance with this Agreement.**
- 9.3 If, during the term of this Agreement, Nazko 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 3.0, and the consultation processes set out in Sections 4.0 and 5.0 of this Agreement are not adequate or sufficient to**
- 9.3.1 provide adequate consultation, to substantially address Nazko's concerns and to provide an interim workable accommodation in respect of any potential infringements of Nazko's Aboriginal Interests or proven aboriginal rights with regard to Administrative Decisions relating to forest and/or range resource development within the Traditional Territory, or**
- 9.3.2 substantially address the economic component of Nazko's Aboriginal Interests or proven aboriginal rights with regard to Operational Decisions relating to forest and/or range resource development within the Traditional Territory,**

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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.

- 9.4 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 this Agreement terminating in accordance with Section 8.2., and subject to Section 10.3, if the terms and conditions of this Agreement are being met, the Government of British Columbia and Nazko will seek the necessary authorities and approvals to renew this Agreement, subject to modifications agreed to by the parties.
- 10.2 Any subsequent forestry agreement between the Government of British Columbia and Nazko 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.
- 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 Nazko has agreed to accept as an interim measure for the term of this Agreement.

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

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

Nazko Band

Chief Delores Alec
Nazko Band Government
469B Anderson Drive
Quesnel, BC V2J 5J4
Telephone: (250) 992-9085
Facsimile: (250)-992-7982

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** Nothing in this Agreement shall be interpreted in a manner that precludes Nazko from seeking to prove any Aboriginal Interest in court.
- 14.4** Subject to Section 9.3, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 14.5** 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.

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- 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 will have been executed by the Nazko Band upon the Agreement being signed by the signatories with authorization of the Band Council by Band Council Resolution at a duly convened meeting of the Band Council.
- 14.10 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:

**NAZKO BAND
GOVERNMENT**

**GOVERNMENT OF
BRITISH COLUMBIA**

Delores Alec
Chief Delores Alec

Mar 23/04
Date

Michael de Jong
Minister of Forests

Apr. 24 2004
Date

Kirby Boyd
Councillor Kirby Boyd

Mar. 23/04
Date

[Signature]
Witness

Apr 24/04
Date

Jerry Laurent
Councillor Jerry
Laurent

Mar. 23/04
Date

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Witness

MAR. 23/04
Date

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NAZKO BAND TRADITIONAL TERRITORY

--- TRADITIONAL TERRITORY BOUNDARY



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TROUT LAKE (EUCHINKO)

BAEZAOKO

NAZKO

QUESNEL

QUESNEL TSA

WILLIAMS LAKE TSA

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