
SCHEDULE C SHARED DECISION MAKING FRAMEWORK

Shared Decision Making Framework

This Schedule outlines a model for Shared Decision Making for Land and Resource Decisions that will assist the Parties in meeting their goals under this Reconciliation Agreement.

1.0 Definitions

In this Schedule:

“**Applicant**” means a person, corporation, or entity, or their agent that has submitted an Application requiring a Land and Resource Decision other than decisions under the BC *Environmental Assessment Act*, S.B.C. 2002, c. 43 or activities regulated by the Oil and Gas Commission;

“**Application**” means a proposal submitted by an Applicant to a Provincial Agency for a Land and Resource Decision, other than decisions under the BC *Environmental Assessment Act* or activities regulated by the Oil and Gas Commission;

“**Decision-maker**” means the person or body authorized respectively by each Party to make decisions regarding Applications;

“**Provincial Agency**” means the provincial ministry or agency that has authority to manage the review and consideration of an Application for a Land and Resource Decision;

“**Representatives**” means the representatives appointed by British Columbia and the Gitanyow for the purposes of this Schedule; and

“**Wilp Sustainability Director**” means the central point of contact for the Gitanyow Nation that carries out duties identified in the Engagement Framework.

2.0 Responsibilities of the Parties

2.1. The Parties will develop, implement and, on an on-going basis review the Shared Decision Making Framework, and may agree to make changes thereto from time to time in accordance with the amendment procedure set out in this Reconciliation Agreement.

2.2. For Land and Resource Decisions that may affect the interests of multiple First Nations including Gitanyow, the Parties, if they both agree to do so, may pursue opportunities for coordinated engagement involving one or more of those First Nations.

- 2.3. The Parties will ensure that their respective Representatives in the Shared Decision Making Framework will have the necessary authority to carry out their responsibilities as set out in this Reconciliation Agreement.
- 2.4. The Parties will use the Engagement Framework and annual work plan to guide engagement on Land and Resource Decisions.
- 2.5. The Parties shall periodically review and as appropriate make improvements to the Engagement Framework in accordance with Agreement Section 23.10 and this Schedule C Section 3.5.

3.0 The Joint Resources Governance Forum

- 3.1. The Parties will establish the Joint Resources Governance Forum (“JRGF”) composed of senior Representatives of the Gitanyow and Representatives of British Columbia.
- 3.2. The JRGF will be comprised of three Representatives appointed by each of the Parties.
- 3.3. The members of the JRGF are accountable to their respective Parties for their decisions in accordance with the Reconciliation Agreement.
- 3.4. The JRGF will meet on an as needed basis but not less than annually. The JRGF may jointly select a facilitator to assist in its work.
- 3.5. The JRGF’s responsibilities include:
 - (a) monitoring progress on the implementation of this Reconciliation Agreement, and making recommendations respecting potential amendments thereto;
 - (b) addressing issues, problem-solving, and dispute resolution functions as set out in this Schedule.
 - (c) overseeing the implementation of the Shared Decision Making Framework, including:
 - i. development of an annual workplan for engagement on strategic level discussions and Land and Resource Decisions anticipated in the coming year;
 - ii. monitoring the effectiveness and efficiency of consultation processes under the Engagement Framework;.and
 - iii. amendments to the Engagement Framework in accordance with Agreement Section 23.10.
 - (d) making recommendations respecting the establishment, implementation, and potential amendment of the land use designations, Land Use Zones,

and Management Objectives, other legal mechanisms, and/or matters as may be agreed to by the Parties;

- (e) making recommendations respecting specific Land and Resource Decisions as set out in the Engagement Framework including, but not limited to, the AAC for the Gitanyow Lax'yip; and major tenuring decisions;
- (f) establishing working groups to support and carry out implementation activities under the Agreement; and
- (g) other strategic level land and resource management matters referred to the JRGF by agreement of the Parties.

- 3.6. The JRGF will operate on a consensus basis.
- 3.7. Where the JRGF is unable to reach consensus on an issue, the issue will be addressed in accordance with dispute resolution procedures in Section 8.4 to 8.7 of this Schedule.
- 3.8. Should the JRGF not reach consensus, following implementation of dispute resolution procedures, the respective positions of the members will be forwarded to the decision makers for each Party with reasons provided as to why there is not a consensus between the two Parties with respect to the decision.
- 3.9. Gitanyow and British Columbia Representatives to the Joint Resources Council will support the JRGF in a technical capacity as directed by the JRGF.
- 3.10. If the issues with respect to the implementation of this Reconciliation Agreement are not resolved by the JRGF, the dispute resolution procedures in Agreement section 20.0 may be applied.

4.0 Joint Resources Council

- 4.1. The Joint Forestry Council from the Gitanyow Forestry Agreement will be reconstituted as the Joint Resources Council ("JRC") under this Reconciliation Agreement and will be responsible for technical and operational matters including but not limited to the following:
 - (a) review of Applications, collection of information and the conduct of necessary analysis to provide informed input to decision-makers to the extent that the JRC is assigned these roles in the Engagement Framework;
 - (b) making recommendations respecting specific Land and Resource Decisions as set out in the Engagement Framework;
 - (c) providing technical support to the JRGF;
 - (d) responding to requests of the JRGF;

- (e) consider the Application and/or proposed Land and Resource Decision;
 - (f) develop mutually acceptable recommendations to decision-makers on Land and Resource Decisions; and
 - (g) other matters agreed to by the Parties or directed by the JRGF.
- 4.2. The JRC will operate on a consensus basis in recommendations it makes. Where consensus is not reached, either Party may refer the matter to the JRGF for resolution.
- 4.3. The Parties' decision-makers will review and consider recommendations made by the JRC.

ENGAGEMENT FRAMEWORK

5.0 Engagement Process

- 5.1. The Parties have developed an Engagement Framework, attached as Appendix 1 to this Schedule, that:
- (a) provides for consultation about and collaborative development of recommendations regarding Applications that may impact Gitanyow Aboriginal Rights within the Gitanyow Lax'yip;
 - (b) is guided by the Gitanyow Lax'yip Land Use Plan set out in Schedules A and B;
 - (c) establishes levels that reflect a range of potential impacts on Gitanyow Lax'yip and appropriate engagement with Gitanyow, including categorization of Applications in accordance with the engagement levels, and criteria for determining engagement processes for Applications;
 - (d) guides the Parties in allocating their effort commensurate with the impact of the Land and Resource Decision on Gitanyow's Aboriginal Rights;
 - (e) results in a net reduction in the volume of Applications being reviewed and the total amount of time devoted to Application review by the Parties by concentrating efforts on those decisions with the greatest potential impact on Gitanyow Aboriginal Rights;
 - (f) includes a category of engagement that will amount to deep consultation for Land and Resource Decisions that are likely to significantly impact Gitanyow interests within the Lax'yip including but not limited to:
 - i. those parcels of land which have been set aside in treaty negotiations as proposed Treaty Settlement Lands ("TSL") in the 1998 offer of British Columbia and Canada;

- ii. decisions with respect to those lands set aside as OGMA's under the Land Use Plan; and
 - iii. other major resource decisions not pursuant to the British Columbia *Environmental Assessment Act*.
- (g) sets out milestones for the Parties to assess the effectiveness of the Engagement Framework.
- 5.2. The JRGF will, within (4) months of the Effective Date, develop the implementation plan for the Engagement Framework.
- 5.3. Prior to the development and approval of the Engagement Framework, the review of Applications was based on current provincial policies and the Gitanyow Lax'yip Land Use Plan related to consultation and accommodation or other interim arrangements agreed to by the Parties.
- 5.4. For greater certainty, the Parties agree that the Engagement Framework does not apply to Land and Resource Decisions made pursuant to the British Columbia *Environmental Assessment Act* or to activities regulated by the Oil and Gas Commission.

6.0 Providing Information to Support Effective Engagement

- 6.1. The Parties are committed to informing the holders of existing tenures in the Gitanyow Lax'yip and Applicants, and prospective Applicants where possible, of the Reconciliation Agreement including:
 - (a) the Reconciliation Agreement itself and any attachments thereto;
 - (b) the Gitanyow Lax'yip Land Use Plan and associated Management Objectives, Land Use Zones and related maps; and
 - (c) other information that those Applicants and existing tenure holders may wish to consider when submitting Applications.

7.0 Annual Engagement Workplan

- 7.1. The JRGF will meet on a periodic basis, but not less than annually, for the purpose of reviewing anticipated and reasonably foreseeable Applications and Land and Resource Decisions over the following 12 months and developing a work plan that improves the Engagement Framework including:
 - (a) identifying potential improvements to the Engagement Framework;
 - (b) reviewing and where agreed improving criteria for setting engagement levels;
 - (c) where practicable, grouping or proactively scheduling Applications and/or Land and Resource Decisions; and

- (d) to review the objectives and the process of decision making within the Engagement Framework.
- 7.2. JRGF annual work planning may at the request of either Party include discussion regarding anticipated strategic or policy initiatives that may affect the Gitanyow Lax'yip.
- 7.3. The JRGF annual work plan will:
- (a) identify the scope of topics and considerations to be addressed through joint technical work to support informed decision-making;
 - (b) propose a schedule of meetings;
 - (c) identify the affected Wilp and participating Provincial Agencies with respect to prospective Applications;
 - (d) set out how the information-sharing between the Applicant and the Gitanyow will be coordinated with the engagement process between the Parties; and
 - (e) provide for government-to-government engagement through the JRGF or otherwise to consider the outcomes of technical analysis and review, and
 - (f) to make recommendations to the Parties' respective Decision-makers, as the case may be, regarding the Land and Resource Decisions.

8.0 Dispute Resolution

- 8.1. The Parties are committed to resolving disputes that may arise in the implementation of the Engagement Framework and will make best efforts to resolve disputes in accordance with the procedures set out in this section.
- 8.2. If despite reasonable efforts Representatives of the JRC are unable to reach consensus on a matter of substance related to a particular recommendation within agreed-to timelines as set out in the Engagement Framework, either Party may request the commencement of a dispute resolution process.
- 8.3. Within 10 days of a request under Section 8.2, the Parties will:
- (a) exchange, in writing, a full description of the substantive issue that is unresolved, and any proposed specific actions that could be taken to address the issue; and
 - (b) convene a technical meeting specifically to discuss the written descriptions and attempt to resolve the issue(s) and reach agreement on recommendations.

- 8.4. If a dispute remains unresolved after the steps taken in Section 8.3 the matter may be referred to JRGF by either Party. Within 10 days of such a referral, JRGF members (or a designated subgroup) will review information on the outstanding points of disagreement, identify the interests of the Parties related to the issue and make best efforts to develop a solution that meets the interests of both Parties.
- 8.5. In addition to Section 8.4, the Parties may:
- (a) seek independent advice from recognized subject matter experts;
 - (b) use alternative dispute resolution measures such as non-binding facilitation and/or mediation; or
 - (c) refer the matter for review and recommendation by a selected group of senior representatives of each of the Parties.
- 8.6. If a dispute remains unresolved after the steps set out in Sections 8.3 and 8.4, the Parties will include a summary of the dispute resolution process and the outstanding points of disagreement in the Shared Engagement Record, together with any Consensus Recommendations and engagement will be considered complete.
- 8.7. Following the exchange of information in Section 8.6 each Party will review recommendations provided in Section 8.3 and 8.4 and other relevant information including the outcome of any additional processes under 8.5 and may proceed with a decision in accordance with its laws, policies and decision making process.
- 8.8. Either Party shall have the right to challenge the decision-maker's decision through legal process.
- 8.9. The JRGF shall recommend to the decision-maker that, in making the Land and Resource Decision, he/she shall consider all relevant information provided under this process and, in the context of its decision shall:
- (a) identify the nature and scope of the Gitanyow Aboriginal Rights in issue in relation to the contemplated decision;
 - (b) based on Gitanyow strength of claim, determine whether the contemplated action potentially adversely affects Gitanyow Aboriginal Rights;
 - (c) if the contemplated action potentially adversely affects Gitanyow Aboriginal Rights, determine how serious the potentially adverse effects are;
 - (d) if the contemplated action potentially adversely affects Gitanyow Aboriginal Rights, determine what accommodation, if any, is appropriate;

- (e) set out the recommendations, if any, provided by either of the Parties for mitigation of the potentially adverse impacts, that the statutory Decision-maker took into consideration and the reasons why any recommendations have been rejected; and
- (f) inform Gitanyow in writing of the Land and Resource Decision and how Gitanyow's Aboriginal Rights were addressed. More particularly, if the statutory decision-maker has determined that the contemplated action potentially adversely affects Gitanyow Aboriginal Rights, the statutory decision-maker shall set out any accommodation including mitigation measures taken and the reasons for either not accommodating or only partly accommodating Gitanyow Aboriginal Rights.

9.0 Implementation

- 9.1. Within four (4) months of the Effective Date the Parties will complete the Engagement Framework.
- 9.2. Items to be addressed in the Engagement Framework will include:
 - (a) a work plan and schedule to address Applications anticipated under the Engagement Framework;
 - (b) Terms of Reference for the JRGF;
 - (c) Terms of Reference for the JRC;
 - (d) development of the Engagement Framework referred to in Section 5.1; and
 - (e) a schedule setting out milestones for the Parties to assess the effectiveness of the Engagement Framework.

APPENDIX 1 TO SCHEDULE C GITANYOW ENGAGEMENT FRAMEWORK

This Appendix includes an Engagement Framework for Applications for Land and Resource Decisions developed and agreed to by the Parties in accordance with Agreement Section 13 and Schedule C Section 5.1.

The Engagement Framework was formally agreed to by the Parties and has an Implementation Date of April 23, 2013.

1. Definitions

1.1. In this Appendix:

“Consensus Recommendation”: means a recommendation developed by the Parties in accordance with the Engagement Framework, where there is no substantive disagreement on the recommendation and while either Party may have concerns about specific aspects of the proposal, both Parties support providing the recommendation to the Decision-makers;

“Dispute Resolution”: means the processes by which representatives of the Parties seek to resolve disputes respecting the interpretation or implementation of the Agreement or a Land and Resource Decision(s), as set out in Schedule C, Section 8 of the Agreement;

“Early Engagement”: means discussions, information sharing, and other work related to a Proposed Project undertaken by Gitanyow and the Potential Applicant before a related Application has been submitted to or accepted by British Columbia;

“Government to Government”: means formal opportunities for bilateral discussions between the Parties which seek to resolve land use and resource management issues and includes the bilateral discussions between the Parties held pursuant to the Reconciliation Agreement which seek to foster a cooperative relationship amongst the Parties related to land use and resource policy, planning and management, including implementation of the Reconciliation Agreement;

“Implementation Date”: means the date of April 23, 2013 when the Parties formally approved and began implementing the Engagement Framework;

“Potential Applicant”: means a person, corporation, or entity, or their agent that intends to submit an Application requiring a Land and Resource Decision;

“Proposed Project”: means a lands and resources activity contemplated by a Potential Applicant before an Application has been submitted to or accepted by British Columbia;

“Representatives”: means the individuals who undertake Engagement on behalf of the Provincial Agencies and Gitanyow under this Engagement Framework;

“Shared Engagement Record”: means the single document created by the Representatives during engagement and provided to Decision-makers for their consideration at the conclusion of the engagement process; and

“Strategic Topic”: means a land or resource matter of interest to either Party, other than Applications, which may be brought forward for discussion at the JRGF pursuant to Appendix 1 Section 9.

2. Scope

- 2.1. The Parties agree that this Engagement Framework will apply only to those Applications where engagement is initiated on or after the Implementation Date, except where otherwise agreed.
- 2.2. For those Applications where engagement is underway as of the Implementation Date, the Representatives will complete engagement following standard Provincial procedures.
- 2.3. For greater certainty, the Parties agree that this Engagement Framework does not apply to Applications where engagement, following standard Provincial procedures, was concluded prior to the Implementation Date.

3. Engagement Level Descriptions

- 3.1. The engagement levels set out in this Engagement Framework are described as follows:
 - a) Summary of Non-Referral Activity: Information regarding Land and Resource Decisions made by British Columbia, as described in Appendix 2 – Gitanyow Activity Table, will be summarised annually and provided to the JRGF for discussion. Trends and issues observed in association with these activities may, by agreement of the JRGF, be addressed through amendments to the Engagement Framework or through other appropriate means;
 - b) Level 1 Pre-Notification: Information regarding an Application is shared with Gitanyow before British Columbia makes a Land and Resource Decision. Gitanyow respond within a short time-frame and, if in agreement with Level 1, providing readily available information on Gitanyow’s Aboriginal Rights in the Application area and an indication that Level 1 is acceptable, after which no further engagement is required. If

Gitanyow feel that the Application requires further discussion, there is an opportunity to elevate the engagement level;

- c) Level 2 –Standard: Information regarding an Application is shared with Gitanyow before British Columbia makes a Land and Resource Decision. Discussions occur between the Representatives via phone, e-mail or in-person with the intent of reaching Consensus Recommendations within a streamlined timeframe using information available within the Application. Either Party may propose to change the engagement level by providing a reasonable rationale for the change;
- d) Level 3 – Complex/Deep: Information is shared with Gitanyow before British Columbia makes a Land and Resource Decision and the process includes all of the same components a Level 2 but with a longer timeframe allowed for the Parties to undertake discussions and attempt to develop Consensus Recommendations. Discussions may involve the JRC who may, by agreement, recommend that additional information relevant to the Application be gathered by the Parties and/or the Applicant. Either Party may propose to change the engagement level by providing a reasonable rationale for the change, however, elevations to Level 4 will only proceed by agreement of the JRGF Co-Chairs as described in this Appendix 1, Section 6.1 d; and
- e) Level 4 –Special: (JRGF only) Proceeds only by agreement of the JRGF Co-Chairs as described in this Appendix 1, Section 6.1 d). The Parties meet to develop the engagement process, including information-sharing, discussion steps and timelines. The engagement process includes all of the elements of Level 3 and may also address both specific (technical) and broader (non-technical) accommodation, revenue-sharing and economic opportunities, collaborative management or other topics as agreed by the JRGF. A Level 4 process may also include joint assessments or other studies that the Parties agree to undertake as needed or coordination with other assessment processes as may be required by Provincial statute.

3.2. At all engagement levels, collaborative efforts are made to encourage Early Engagement between Potential Applicants and Gitanyow.

3.3. The Parties agree to the engagement level timeframes described in Table A below.

Table A: Engagement Level Timeframes

Process Step	Description	Default Maximum Timeframes (number of business days)			
		Engagement Level			
		1	2	3	4

<i>Early Engagement</i>	Gitanyow provides a summary of Early Engagement outcomes to British Columbia (where the Applicant or Potential Applicant has provided a copy of the Application or information describing a Proposed Activity).	10	15	20	30
STEP 1	Engagement request with information package and engagement level proposal.	0	0	0	0
STEP 2	Gitanyow review package and provide initial response regarding engagement level.	5	5	10	5
STEP 3	Reach agreement on engagement level or, for Level 4, the Engagement process.	5	3	5	40
STEP 4	Gitanyow prepare and provide a response package focusing on consistency/inconsistency with the Gitanyow Land Use Plan and recommendations for mitigation/avoidance/accommodation.	0	15	20	TBD
STEP 5	Engagement discussions, attempt to develop Consensus Recommendations, complete the Shared Engagement Record and provide recommendations to Decision- makers.	0	7	20	TBD
Total Maximum Engagement Timeframe (excluding Dispute Resolution & Early Engagement)		10	30	55	45+
STEP 6 – Dispute Resolution (if required)		n/a	10-20+	10-20+	10-20+

- a) If a Party is unable to carry out engagement steps within the timeframes defined in Table A, the Representative may notify the other Representative of the reasons for the inability to meet the timeframe and propose an alternate timeframe. The Representatives may, by mutual agreement, extend the timeframe for that step and will act reasonably in agreeing to extension requests.
- b) If at the end of a mutually agreed extended timeframe, the requesting Party has still not carried out the steps, the other Party may proceed without further engagement efforts.
- c) Gitanyow will be notified if the Application is withdrawn or cancelled, and engagement on the Application will end.

4. Information Sharing Standard Across All Engagement Levels

4.1. The Parties agree to ensure an agreed-upon standard of information sharing across all engagement levels. Information regarding Applications and Potential Projects will include the following:

- a) Accurate and legible maps, in electronic format, and printed copies as appropriate
- b) Spatial data where available (e.g. shape files, Geomark, etc.)

- c) Project name
 - d) Applicant name
 - e) Applicant contact information (subject to applicable Provincial confidentiality provisions)
 - f) Description of project – description of proposed activity, including location, nature, and duration
 - g) British Columbia’s initial assessments of potential impacts to Gitanyow Aboriginal Rights, including references to relevant and applicable sections of the Gitanyow Land Use Plan
 - h) Record of Early Engagement activities where applicable
 - i) Management plans when applicable
- 4.2. Engagement Level Timeframes identified in Table A will commence once Gitanyow has received all of the available information listed in this Appendix 1, Section 4.1.

5. Overview of Early Engagement Process with Potential Applicants

- 5.1. The Parties will encourage Applicants or Potential Applicants to contact Gitanyow, and to share project information directly with Gitanyow. Where Applicants or Potential Applicants do contact Gitanyow and share project information directly with Gitanyow before or at the same time as the Application, the outcomes of Early Engagement will inform the consultation process.
- 5.2. The purpose of Early Engagement is to:
- a) allow for the maximum amount of time possible for Gitanyow to review information regarding the Proposed Project to more meaningfully assess its consistency with the Gitanyow Huwilp Land Use Plan;
 - b) allow for earlier opportunities for the Potential Applicant to address, if they choose to do so, any of Gitanyow’s concerns or recommended changes to Proposed Projects;
 - c) provide a transparent and predictable process, including specified timelines, for Potential Applicants to engage effectively with Gitanyow; and
 - d) encourage positive working relations between Gitanyow and the Potential Applicant.
- 5.3. The Parties will inform Potential Applicants at the earliest possible date of:
- a) the Agreement;

- b) the Gitanyow Land Use Plan; and
 - c) the Shared Decision Making Approach between the Parties.
- 5.4. The Parties agree that a Provincial Agency may request an Applicant to undertake specific procedural aspects of the Engagement process, such as notification and sharing information. Provincial Representatives will make reasonable efforts to notify Gitanyow of the Provincial Agency request in a timely manner.
- 5.5. Actions undertaken by an Applicant under this Appendix 1, Sections 5.2 and 5.4 may be relied upon by BC in seeking to fulfill its consultation obligations in relation to Gitanyow, but do not release BC from its consultation obligations or its responsibility to ensure the processes outlined in this Agreement are fulfilled.

6. Overview of Engagement Process initiated by BC

6.1. Initiation of Engagement:

- a) Upon receipt of an Application, and prior to initiating engagement Levels 2 or 3, a Provincial Agency will inform the Applicant of the Shared Decision Making approach between the Parties and will encourage the Applicant to contact Gitanyow, and to share Application information directly with the Gitanyow.
- b) A Provincial Agency will initiate engagement on an Application, or group of related Applications, by providing to Gitanyow an information package that includes the Shared Engagement Record and the information described in this Appendix 1, Section 4.1.
- c) Level 4 Engagement may be initiated before or after an Application has been received by British Columbia, by either Party providing notice to the JRGF Co-Chairs of a Proposed Project or Application that may meet the criteria for Level 4 Engagement.
- d) Within ten (10) business days of receiving notice under this Appendix 1, Section 6.1c) or 6.2g), the JRGF Co-Chairs will review the Proposed Project or Application together, decide whether it should proceed at Level 4 Engagement and, if so, a timeline for initiating engagement activities. If the JRGF co-chairs are unable to reach agreement that engagement should proceed at Level 4, they may alternately agree to any of the following options:
 - i. Default to Level 3 engagement,
 - ii. Level 3 engagement with an extended timeline,
 - iii. Level 4 engagement with a confined timeline, or
 - iv. Initiate Dispute Resolution.

6.2. Determination of Engagement Level

- a) The Representatives will refer to the Engagement Level Criteria described in Appendix 2 to Schedule C for guidance in determining the proposed engagement level for all types of Applications or Proposed Projects. Appendix 2 is not intended to limit the use of discretion of the Representatives when determining an appropriate engagement level.
- b) Upon receiving an information package provided by a Provincial Agency initiating engagement, Gitanyow will respond, within the specified timelines in Table A (Step 2), by:
 - i. confirming completeness of the information package as specified in this Appendix 1, Section 4.1; and
 - ii. returning the Shared Engagement Record either indicating agreement with the proposed engagement level or providing a rationale to change the engagement level.
- c) In the event that Gitanyow confirms that Level 1 is appropriate, no further engagement is required.
- d) Where Gitanyow proposes to reduce the engagement level, engagement will proceed at the lower level.
- e) Where Gitanyow proposes to elevate the engagement level from Level 1 to Level 2 or from Level 2 to Level 3, and provides a reasonable written rationale for the proposed change, the higher engagement level will ensue.
- f) Where Gitanyow proposes to elevate an engagement level by more than one level, and provides a reasonable written rationale for the proposed change, the JRC co-chairs will be notified and will, within 5 business days, determine the appropriate engagement level.
- g) Where Gitanyow proposes to elevate the engagement level to Level 4, and provides a reasonable written rationale for the proposed change, the JRGF Co-Chairs will be notified and will proceed as described in this Appendix 1, Section 6.1d).
- h) If Gitanyow do not confirm an engagement level within the timeframes described in Table A (Step 2), engagement will continue at the level initially proposed by British Columbia.
- i) The Parties may agree to change the engagement level during the engagement process as new information relevant to the Application becomes available.

6.3. Engagement: Information Sharing Process for Level 2 and Level 3

- a) Gitanyow will review information provided by a Provincial Agency and, within the timelines specified in Table A (Step 4), will return the Shared Engagement Record to the identified Provincial Representative with the following information added:
 - i. an analysis of consistency and/or inconsistency with the Gitanyow Lax'yip Land Use Plan and preliminary proposed options to address inconsistencies with the Gitanyow Lax'yip Land Use Plan; and
 - ii. a description of additional Gitanyow Aboriginal Rights which may be impacted by the Application(s) and preliminary proposed options to address such impacts.
- b) If Gitanyow do not provide a response within the allotted timeframe:
 - i. the Provincial Agency may proceed without further Engagement efforts but will give full consideration to relevant known information respecting Gitanyow Aboriginal Rights, as reflected in the Gitanyow Lax'yip Land Use Plan ;and
 - ii. a written notice outlining the results of the decision and a description of the tenure term and conditions will be provided to Gitanyow.

6.4. **Engagement: Level 4 Process**

- a) Upon the JRGF Co-Chairs agreeing to a Level 4 Engagement process following the notification in this Appendix 1, Section 6.1c), the Provincial JRGF Co-Chair will ensure that the following information relevant or related to the Proposed Project or Application is shared with Gitanyow as soon as available.
 - i. the location and the nature of the proposed activity
 - ii. the types of provincial authorizations that may be required
 - iii. the Provincial Agencies that may be involved
 - iv. All other information listed in this Appendix 1, Section 4.1
- b) The JRGF Co-Chairs will convene an initial meeting, or may establish a working group under its guidance, to discuss:
 - i. initial views on the potential impacts of the Application, including potential impacts on Gitanyow Aboriginal Rights;

- ii. initial views on the Proposed Project's consistency with the Gitanyow Lax'yip Land Use Plan.
 - iii. initial views on the potential benefits of the Application to Gitanyow and others;
 - iv. information requirements and measures to support ongoing information sharing;
 - v. work planning to develop an engagement process respecting the Application, including coordinating to avoid duplication, harmonize timing and achieve synergies with relevant technical review processes including Mine Development Review Committees, Environmental Assessment committees and Clean Energy Project teams.
- c) The total timeframe from initiation of Level 4 Engagement and reaching agreement on a Level 4 Engagement process is 45 business days.
- d) In developing a work plan and engagement process for a Level 4 Application, the Parties will be guided by the following principles:
- i. all permits and authorizations under consideration by Provincial Agencies required to support the Application will be addressed through one overarching engagement process;
 - ii. engagement will be structured to enable phased permitting and bundling of decisions at engagement levels consistent with the provisions for Levels 1, 2 and 3.
- e) For clarity, where a Proposed Project is subject to an environmental assessment as provided for under the *Environmental Assessment Act*, the purpose of Level 4 Engagement at the JRGF or through a working group is to enable engagement on authorisations other than the environmental assessment certificate and to deal with issues that are beyond the scope of the environmental assessment process.

6.5. Engagement: Efforts to Develop Consensus Recommendations for Levels 2, 3 and 4.

- a) During development of the Shared Engagement Record in the Information-Sharing step, the Representatives will review available and relevant information, and will engage in discussions, appropriate to the engagement level, during which they will make all reasonable efforts to reach Consensus Recommendations respecting the Application(s).
- b) The Representatives will attempt to provide Consensus Recommendations within prescribed timeframes using methods appropriate to the agreed engagement level as described in this Appendix 1, Section 3.1.

- c) In developing Consensus Recommendations, the Representatives will consider and, where appropriate, seek to address some or all of the following:
 - i. applicable Gitanyow Aboriginal Rights and Ayookxw;
 - ii. the purposes of the Agreement;
 - iii. applicable provincial laws, and policies;
 - iv. compatibility with the Gitanyow Lax'yip Land Use Plan;
 - v. potential environmental, social and economic effects or benefits; and
 - vi. other relevant issues as mutually agreed by the Parties.

- d) At any stage in the engagement process, if consensus is reached, Consensus Recommendations will be forwarded to the decision-makers as described in this Appendix 1, Section 7.1below.

- e) If engagement does not result in Consensus Recommendations within the Step 5 timelines described in Table A:
 - i. either Party may initiate the Dispute Resolution process in this Appendix Section 8;
 - ii. initiation of the Dispute Resolution process must occur within the Table A Step 5 timelines; or
 - iii. where the Parties agree not to trigger Dispute Resolution, a description of Consensus Recommendations, as well as the Parties' respective individual recommendations where they were not able to achieve consensus, will be forwarded to the decision-makers.

- f) When strategic issues are identified that the Representatives agree are beyond the scope of engagement regarding a specific Application or package of Applications:
 - i. the matter may be brought forward to the JRGF;
 - ii. engagement on the specific Application or package of Applications will continue within the timeframes originally agreed and will not be held up pending the outcomes of the JRGF discussions; and
 - iii. outcomes of the JRGF discussions, where resolution is reached, will inform and guide future engagement on similar Applications.

- g) Upon conclusion of engagement discussions, Representatives will complete the Shared Engagement Record including Consensus

Recommendations as well as the Parties' respective recommendations where they were not able to achieve consensus, such recommendations to be provided to respective Decision-makers in accordance with this Appendix 1, Section 7.1.

- h) Unless an issue is referred to Dispute Resolution, the engagement process is complete when the Representatives provide to the decision makers their Consensus Recommendations as well as the Parties' respective individual recommendations where they are unable to achieve consensus.

7. Decision and Follow-Up

- 7.1. Each Party is responsible for providing information to its decision-maker(s) which will include the agreed upon Consensus Recommendations as well as the Parties' respective recommendations where they were not able to achieve consensus as recorded in the Shared Engagement Record.
- 7.2. The Parties agree that after engagement has been completed, each Party will consider all relevant information and recommendations related to each Application as recorded in the Shared Engagement Record and will proceed to make its own decision respecting the Application.
- 7.3. The provincial decision-makers will provide in writing to Gitanyow the outcome of all Land and Resource Decisions that affect Gitanyow Lax'yip as follows:
 - a) for decisions that are subject only to Summary of Non-Referral Activity, follow-up will be provided to Gitanyow and the JRGF annually in a batched format;
 - b) for decisions that are subject to Level 1 Pre-Notification, post-decision follow-up will be provided to Gitanyow in writing using the Shared Engagement Record. Post-decision follow-up may be batched on a semi-annual basis to allow for greater efficiencies and streamlining;
 - c) for decisions that adopt all Consensus Recommendations pursuant to this Engagement Framework, written notice outlining the results of the decision and a description of the tenure term and conditions will be provided to Gitanyow. No reasons for the decision will be required.
 - d) for decisions that do not adopt Consensus Recommendations pursuant to this Engagement Framework:
 - i. prior to a decision being made, the provincial decision-maker will provide to Gitanyow and to the JRGF Co-Chairs, a written summary of the proposed decision, an explanation of how Gitanyow concerns have been considered and why a Consensus Recommendation is not being adopted;

- ii. Gitanyow may table their written concerns within 7 business days of receiving the written summary in (i);
 - iii. the provincial decision-maker will respond accordingly to Gitanyow's written concerns prior to the final decision being made; and
 - iv. a letter outlining the results of the decision and a description of the tenure term and conditions will be provided to Gitanyow.
- e) where the Parties were not able to generate Consensus Recommendations for all issues, written notice will be provided to Gitanyow outlining the results of the decision, a description of the tenure term and conditions, and a description of the criteria that have influenced the decision; and
 - f) the JRC will track Consensus Recommendations that are not adopted and will report them to the JRGF as a component of the annual Engagement Framework monitoring report.

8. Dispute Resolution Process

- 8.1. Where the Parties are unable to develop a Consensus Recommendation or set of Consensus Recommendations under Section 6.5 of this Engagement Framework, either Party may initiate the Dispute Resolution Process set out in Article 8 of Schedule C to the Reconciliation Agreement.

9. Engagement Process for Strategic Topics

- 9.1. The Parties agree that an engagement process is needed to address Strategic Topics and agree to work together to develop such a process after the Renewal Date.
- 9.2. Prior to the development of an engagement process for Strategic Topics, either Party may request engagement on a Strategic Topic, by submitting a request in writing to the JRGF Co-Chairs that includes a summary of the topic and a proposed engagement process to advance discussions on that topic.

10. Roles and Responsibilities of the Parties

- 10.1. The role of the Representatives is to act as the primary point of contact for engagement on Applications.
- 10.2. The Parties agree that all correspondence related to the Engagement Framework will go through one central point of contact at Gitanyow: The Wilp Sustainability Director.
- 10.3. The Role of the Joint Resources Council is:
 - a) monitoring and analysis of Engagement Framework implementation;

- b) performance reporting to the JRGF in accordance with the Joint Resources Council Terms of Reference;
 - c) assisting with Dispute Resolution processes; and
 - d) Forming issue-specific working groups as directed by the JRGF.
- 10.4. The role of the Joint Resources Governance Forum in the engagement process is:
- a) initiating and leading Level 4 engagement;
 - b) leading the Dispute Resolution process;
 - c) Reviewing performance reports provided by the Joint Resources Council and providing direction on adjustments or improvements; and
 - d) making revisions to the Engagement Framework as needed and agreed to by the Parties.
- 10.5. The role of the decision-makers is to review the outcomes of engagement as summarized in the Shared Engagement Record and to ensure that the outcomes of Land and Resource Decisions are provided in accordance with section this Appendix 1, Section 7.

APPENDIX 2 TO SCHEDULE C TOOLS FOR SETTING ENGAGEMENT LEVELS

Preamble

Engagement levels suggested in the Gitanyow Activity Table contained in this Annex are intended to apply in the majority of cases (≈75%), but may be modified up or down if there are site-specific details related to potential impacts to Gitanyow Aboriginal Rights that warrant the change. If an Application is generally believed to be consistent with the Gitanyow Lax'yip Land Use Plan, but no supporting documentation is provided or where an Application is inconsistent but has provided clear mitigative measures, there would be no up or down modification and the appropriate engagement level would be as shown in the Gitanyow Activity Table.

It is the intention of the Parties that up and down modification of levels is a joint, consensus-based determination. During the initial implementation period, the number and nature of up and down modifications will be tracked to assist in finalizing the Engagement Framework and the accompanying Activity Table. Additional up and down modifiers may be developed and incorporated throughout the initial implementation Period, by decision of the Joint Resources Council.

Examples of possible up and down modifiers include, but are not limited to:

Potential Up Modifiers

- Application or Proposed Project is inconsistent with Gitanyow Lax'yip Land Use Plan. If a major inconsistency exists (for example logging in Ecosystem Networks, industrial activities within 1000 metres of canyon dwelling goat winter range, etc), Level may be elevated to Level 3.
- Areas of significant known Gitanyow cultural and sustenance use or other Gitanyow Aboriginal Rights for which management direction is not already provided in the Gitanyow Lax'yip Land Use Plan. (References may include records from previous engagements, existing database systems, or spatially referenced "Cultural Sites" under the *Gitanyow Policy Manual for Management of Cultural Heritage Resources, 2009 and any further subsequent versions.*)
- Areas of known high archaeological value or known archaeological features. (References may include the Provincial RAAD or spatially referenced "Cultural Sites" under the *Gitanyow Policy Manual for Management of Cultural Heritage Resources, 2009 and any further subsequent versions.*)
- Cumulative effects modifier (i.e. multiple small applications in a small area) which can shift density of development/roads, or with ancillary impacts – for example, the final development may be relatively low impact, but the infrastructure creation (i.e. vegetation removal/road building) may have immediate short term (and larger scale) level of impacts which delay recovery/restoration. This modifier would *not* apply to activities that have cumulative effects tools built into their planning processes (e.g. forestry activities under Forest Stewardship Plans or where landscape level objectives exist).
- Proximity of an Application or Proposed Project to Gitanyow communities.

Potential Down Modifiers

- Application or Proposed Project is consistent with Gitanyow Lax'yip Land Use Plan. Accompanying documentation is required, including a summary of correlation to all relevant sections of the Land Use Plan, and how the activity or Proposed Project meets Management Objectives.
- Higher level planning - Watershed Plan, Lake Management Plan, OCP, Zoning; reviewed through referral; (i.e. referral may be deferred/eliminated if Gitanyow have provided input to higher level planning exercises and implementation/enforcement)/ Environmental Assessment completed; reviewed through referral/technical committee. Level down modification will only occur where Gitanyow concurs that all concerns and interests were adequately addressed through previous higher level planning.
- Consistent with plans where previous engagement with Gitanyow occurred, completed, in place and supported by approval agencies (e.g. Forest Stewardship Plans, Range Stewardship Plans and Woodlot Licence Plans, Community Forest Agreements, Provincial Parks Plans, access management plans or guidelines). Level down modification will only occur where Gitanyow concurs that all concerns and interests were adequately addressed through previous engagement processes.