

'Namgis First Nation - British Columbia Decision-making Agreement



'NAMGIS
FIRST NATION



**BRITISH
COLUMBIA**

**'Namgis First Nation - British Columbia
Joint Decision-Making Agreement**

Dated for reference [TBD]

BETWEEN:

His Majesty the King in Right of the Province of British Columbia,
as represented by the Minister of Forests and the Minister of
Indigenous Relations and Reconciliation

(the "**Province**")

AND:

'Namgis First Nation, an Indigenous governing body as defined in
section 1(1) of the *Declaration on the Rights of Indigenous Peoples*
Act (the "**Declaration Act**"), an aboriginal people, as that term is
used in section 35 of *The Constitution Act, 1982, Schedule B to the*
Canada Act 1982 (UK) ("**Constitution Act, 1982**"), and a band
within the meaning of that term as defined in section 2(1) of the
Indian Act, as represented by its Chief and Council

("**'Namgis'**)

(individually a "**Party**" and collectively the "**Parties**")

WHEREAS:

- A. 'Namgis is an aboriginal people, as that term is used in the *Constitution Act, 1982*, who has used and occupied the lands and waters of its Territory, as shown in Schedule "A", since time immemorial pursuant to its laws, customs, and traditions.
- B. 'Namgis holds and exercises Title and Rights, responsibilities, and authorities in relation to the lands, waters, and resources of its Territory and has never ceded or surrendered its Title and Rights to its Territory to any Crown government and continues to assert and exercise its Title and Rights to its Territory.
- C. The Province, as the Crown government responsible for regulating land use and forestry, is committed to acting honourably when making decisions affecting 'Namgis Territory or 'Namgis Title and Rights and is committed to advancing reconciliation with 'Namgis.
- D. To advance reconciliation with Indigenous peoples in what is now British Columbia, the Province introduced the *Draft Principles that Guide the Province of British Columbia's*

Relationship with Indigenous Peoples on May 22, 2018 (the “**Draft 10 Principles**”) to help guide the Province on a path of respect, partnership, and collaboration, as the Province implements the *United Nations Declaration on the Rights of Indigenous Peoples* (the “**Declaration**”) and the *Truth and Reconciliation Commission of Canada: Calls to Action*.

- E. In keeping with its commitment to implement the Declaration, the Province enacted the Declaration Act on November 28, 2019.
- F. The Declaration Act’s purposes are to affirm the application of the Declaration to the laws of British Columbia, to contribute to the implementation of the Declaration, and to support the affirmation of, and development of relationships with, Indigenous governing bodies.
- G. While the articles of the Declaration benefit from being read comprehensively, and without limiting the application of the Declaration to the work under this Agreement:
 - (1) Article 19 states that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”.
 - (2) Article 32(2) states that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”.
 - (3) Article 37 (1) states that “Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements”.
 - (4) Article 39 states that “Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration”.

- H. 'Namgis and the Province have been fostering and advancing reconciliation in a manner consistent with the honour of the Crown, the Declaration, and 'Namgis' right of self-governance through various agreements and mechanisms:
- (1) In June 2018, 'Namgis and the Province signed a Letter of Understanding establishing a consent-based process consistent with the Declaration to reach consensus recommendations on provincial finfish tenures in the Broughton Area.
 - (2) In January 2021, 'Namgis and the Province signed a memorandum of understanding (the "**MOU**") establishing a government-to-government process for producing consensus recommendations for:
 - (a) a modernized land use plan (the "**MLUP**") for the Upper and Lower Nimpkish Landscape Units;
 - (b) management options for implementing measures to protect and preserve values and interests agreed by the parties; and/or
 - (c) other potential processes for addressing land use planning issues in the Territory. [NTD: to be updated if MLUP is given legal effect before execution.]
 - (3) In June 2021, 'Namgis and the Province signed a Letter of Intent (the "**LOI**") to negotiate a Forestry Reconciliation Agreement. Through the LOI, 'Namgis and the Province agreed, among other things, that:
 - (a) the parties would use good faith efforts to execute the Forestry Reconciliation Agreement in a manner consistent with the Declaration and the Declaration Act;
 - (b) the negotiations of the Forestry Reconciliation Agreement would be informed by the MLUP and the TFL 37 Forest Landscape Plan (FLP) Pilot (the "**Forestry Pilot**") being developed by 'Namgis and the licensee holding TFL 37 and supported by the office of the Chief Forester; and
 - (c) 'Namgis and the Province may discuss and consider the use of shared or joint decision-making to address 'Namgis' interests related to high-level forestry land use objectives for implementation under provincial legislation.

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- (4) In September 2025, consistent with the Pilot Charter, the Province received the following outputs from the Forestry Pilot:
- (a) a draft Forest Landscape Plan (the “**Pilot FLP**”) for TFL 37 to be considered, and if appropriate, established;
 - (b) recommendations addressing cooperative decision-making between ‘Namgis and the Province and ‘Namgis and the licensee as well as improvements to the FRPA.
- I. The Province acknowledges that the exercise of a statutory power of decision under the *Forest Act*, the FRPA, or other legislation authorizing land use activities has the potential to cause serious adverse impacts on ‘Namgis Title and Rights and has the potential to trigger the Crown’s duty to consult ‘Namgis.
- J. Section 7 of the Declaration Act enables the Lieutenant Governor in Council to authorize the Province to negotiate, and enter into agreements, with Indigenous governing bodies for the exercise of a statutory power of decision to be done jointly by the Province and an Indigenous governing body.
- K. Sections 2.51, 2.52, 2.53, and 2.54 of the FRPA allow, both the Minister and the Chief Forester, as applicable, to jointly exercise statutory powers of decision or statutory powers for FLP Decisions or FOP Decisions with an Indigenous governing body where a decision-making agreement has been entered into in respect of FLP Decisions or FOP Decisions.
- L. As a first step to implement new decision-making processes in ‘Namgis Territory, the Lieutenant Governor in Council issued Order in Council No. 180 on April 8, 2024 to authorize the Minister of Indigenous Relations and Reconciliation and the Minister to negotiate a Decision-making Agreement with ‘Namgis with respect to the Forest Landscape Area for:
- (1) Joint Decisions with the Chief Forester for the establishment, amendment, extension, and cancellation of FLPs under the FRPA; and
 - (2) Joint Decisions with the Minister for the approval, amendment, and extension of FOPs in accordance with the FRPA.
- M. This Agreement is another mechanism by which the Parties are advancing Reconciliation in a manner consistent with the honour of the Crown, the Declaration, and ‘Namgis Title and Rights, including ‘Namgis’ right of self-governance.
- N. This Agreement is a partial, incremental, step towards fulfilling the Provinces’ commitments in the LOI, the MOU, and the Pilot Charter and the realization of ‘Namgis’

right to self-determination, including the right of self governance, with respect to forestry decisions in 'Namgis Territory.

- O. 'Namgis and the Province intend that this Agreement is an agreement related to the exercise of a statutory power of decision jointly by 'Namgis as an Indigenous governing body and the Province under the Declaration Act and the FRPA.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

PART 1 - DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, the following definitions apply:

"Agreement" means this Decision-making Agreement, dated for reference [xxx], 2025, including all its parts, Schedules, and appendices, as amended from time to time in accordance with its terms;

"Annual Budget" means the budget described in section 14.2 of this Agreement;

"Annual Funding Agreement" means the funding agreement for the upcoming fiscal year described in section 14.3 of this Agreement;

"Board" means the Forest Practices Board continued under section 136 of the FRPA;

"Business Day" means a day, other than a Saturday or a Sunday, December 24th to and including January 1st, or a statutory holiday in the province of British Columbia;

"Chief Forester" means the chief forester appointed under the *Ministry of Forests and Range Act*, RSBC 1996, c. 300;

"Commission" means the Forest Appeals Commission continued under section 140.1 of the FRPA;

"Confidential Information" means any information provided orally, or in writing, by a Party under this Agreement to the other Party that is identified in writing as being confidential, but does not include information that is already in the public domain, or information already in the possession of the receiving Party without the receiving Party having an obligation to treat that information as confidential;

"Constitution Act, 1982" means *The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c. 11;

"Decision-making Agreement" has the same meaning as it does in section 2.5(1) of the FRPA;

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“Declaration” means the *United Nations Declaration on the Rights of Indigenous Peoples*;

“Declaration Act” means the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c. 44;

“Draft 10 Principles” means the *Draft Principles that Guide the Province of British Columbia’s Relationship with Indigenous Peoples* introduced by the Province on May 22, 2018;

“Draft FLP” means an FLP prepared in accordance with Schedule C;

“Effective Date” means the date on which this Agreement is signed by the authorized representatives of the Parties, and is published in the British Columbia Gazette;

“FLP” means a Forest Landscape Plan, as that term is used in s. 2.21 of the FRPA;

“FLP Decisions” means those statutory decisions listed and described in section 6.6 of this Agreement;

“FLP Joint Decision Maker” means the individual identified by the Province under section 6.1 of this Agreement or the individual identified by ‘Namgis under section 6.2 of this Agreement;

“FLP TAC” means the FLP technical advisory committee described in section 6.18;

“FOP” means a Forest Operations Plan as that term is used in the FRPA;

“FOP Decisions” means those statutory decisions listed and described in section 7.6;

“FOP Joint Decision Maker” means the individual identified by the Province under section 7.1 of this Agreement or the individual identified by ‘Namgis under section 7.2 of this Agreement;

“FOP TAC” means the FOP technical advisory committee described in section 7.14;

“Forest Act” means the *Forest Act*, RSBC 1996, c. 157;

“Forest Landscape Area” or **“FLA”** means the geographic area described in Schedule B to which this Agreement applies;

“Forestry Pilot” means the pilot undertaken by ‘Namgis and the current holder of TFL 37 and which produced the Pilot FLP and recommendations addressing cooperative decision-making between ‘Namgis and the Province and ‘Namgis and the licensee as well as improvements to the FRPA;

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“FRPA” means the *Forest and Range Practices Act*, SBC 2002, c. 69;

“Joint Decision” means an FLP Decision or an FOP Decision;

“Joint Decision Maker” means an FLP Joint Decision Maker or an FOP Joint Decision Maker;

“Leadership” means, for the Province, the Assistant Deputy Minister of Forests and the Assistant Deputy Minister of Indigenous Rights and Reconciliation and means, for ‘N̓amgis, two individuals who are elected and/or hereditary leaders in ‘N̓amgis’ government. For greater certainty, Leadership cannot include an individual who is a Joint Decision Maker, a member of the Management Committee, a member of either the FLP TAC or FOP TAC, or a member any body or committee established pursuant to this Agreement;

“LOI” means the Letter of Intent signed by ‘N̓amgis and the Province between June 16 and August 5, 2021, for the purpose of negotiating a reconciliation agreement addressing forestry issues within ‘N̓amgis Territory;

“Major Amendment” means any amendment that is not a Minor Amendment;

“Management Committee” means the management committee described in Part 8;

“Minister” means the minister responsible for FRPA;

“Minor Amendment” means a clerical edit or amendments authorized under sections 6.14, 6.21, or 7.17;

“N̓amgis Official” means:

- (1) any officer, director, agent, employee, public official, or representative of ‘N̓amgis;
- (2) any person representing ‘N̓amgis on the FLP TAC, FOP TAC, the Management Committee, or any other body or committee established pursuant to this Agreement; or
- (3) any person acting as a Joint Decision Maker on behalf of ‘N̓amgis;

“N̓amgis Territory” or “Territory” means the territory shown in Schedule A, including the lands, water, and resources of that territory;

“N̓amgis Title and Rights” or “Title and Rights” means ‘N̓amgis’ asserted or determined aboriginal rights, including aboriginal title and self-governance rights, recognized and affirmed under section 35 of the *Constitution Act, 1982*;

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“Party” means ‘Nāmgis or the Province, according to the context, and **“Parties”** means both of them;

“Pilot Charter” means the pilot charter for the Forestry Pilot executed by ‘Nāmgis, the licensee for TFL 37, and the Chief Forester in September 2021;

“Pilot FLP” means the draft Forest Landscape Plan produced through the Forestry Pilot;

“Principles” those principles described in Part 3 of this Agreement;

“Provincial Official” means:

- (1) any minister, public official, employee, contractor, agent, or representative of the Province;
- (2) any person representing the Province on the FLP TAC, FOP TAC, the Management Committee, or any other body or committee established pursuant to this Agreement; or
- (3) any person acting as a Joint Decision Maker pursuant to any enactment of the Province;

“Senior Leadership” means, for the Province, the Deputy Minister of Forests and the Deputy Minister of Indigenous Rights and Reconciliation and means, for ‘Nāmgis, two individuals who are elected and/or hereditary leaders in ‘Nāmgis’ government. For greater certainty, Senior Leadership cannot include an individual who is a Joint Decision Maker, a member of Leadership, a member of the Management Committee, a member of either the FLP TAC or FOP TAC, or a member of any other body or committee established pursuant to this Agreement; and

“TFL 37” means Tree Farm Licence 37.

1.2 In this Agreement:

- (a) “includes” and “including” are not intended to be limiting;
- (b) the recitals and headings are inserted for convenience of reference only, do not form part of this Agreement and are not intended to define, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
- (c) any reference to a statute includes all regulations made under that statute and any amendments or replacement of that statute or its regulations;

- (d) all references to any government, governmental body, or other regulatory body or authority will be construed as a reference to any amended or successor government, governmental body, or other regulatory body or authority;
- (e) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*;
- (f) there will be no presumption that doubtful expressions, terms, or provisions in this Agreement are to be resolved in favour of any Party;
- (g) in the calculation of time under this Agreement, if the time for doing an act falls or expires on a day that is not a Business Day, the time is extended to the next Business Day; and
- (h) “meet” and “meeting” means a discussion, whether in-person, by phone, or online.

1.3 All provisions of this Agreement are to be read and interpreted in manner:

- (a) that advances and fosters reconciliation between ‘Namgis and the Province;
- (b) in a manner consistent with the Principles described in Part 3 of this Agreement; and
- (c) in a manner consistent with the honour of the Crown.

1.4 The following Schedules, and their appendices, are incorporated into and form part of this Agreement:

- Schedule A** Map of ‘Namgis Territory
- Schedule B** Map of the Forest Landscape Area
- Schedule C** FLP Preparation Process
- Schedule D** FLP Decision-making Process
- Schedule E** FOP Decision-making Process

PART 2 - PURPOSES

2.1 The purposes of this Agreement are to:

- (a) advance and foster reconciliation between 'Namgis and the Province by implementing aspects of 'Namgis' right of self-governance over the lands, waters, and resources of 'Namgis Territory, in a manner consistent with the *Constitution Act, 1982*, the honour of the Crown, the Declaration, the Declaration Act, and the FRPA; and
- (b) further commitments made in the LOI and the Pilot Charter to implement the Declaration by entering into a Decision-making Agreement between 'Namgis and the Province which sets out the processes that 'Namgis and the Province will use to make Joint Decisions pursuant to Declaration Act and the FRPA.

PART 3 - PRINCIPLES

3.1 The following Principles will govern the implementation, maintenance, and preservation of this Agreement:

- (a) This Agreement advances the longstanding and special relationship between 'Namgis and the Province by recognizing, advancing, and implementing aspects of 'Namgis' right of self-governance over the lands, waters, and resources of its Territory. This Agreement will be implemented in a manner consistent with the honour of the Crown by, among other things:
 - (i) the Province upholding the honour of the Crown by conducting itself with honour and integrity in performing its obligations under this Agreement, including construing terms of the Agreement generously and complying with them scrupulously while avoiding any breach of them; and
 - (ii) the Parties working together in good faith consistent with the honour of the Crown to implement, maintain, and preserve this Agreement using clear, transparent, open, and honest communications between the Parties and their representatives.
- (b) This Agreement contributes to the implementation of the Declaration through decision-making processes designed to obtain 'Namgis' free, prior, and informed consent for FLP and FOP Decisions. This Agreement will be implemented in a manner consistent with the Declaration by, among other things:
 - (i) decision-making processes will be based on clear, accurate, complete, transparent, and timely information about FLP Decisions or FOP Decisions and their potential impacts prior to any Joint Decision;

- (ii) the FLPs and FOPs established, approved, amended, or extended pursuant to this Agreement will articulate the conditions on which 'Namgis has given its free, prior, and informed consent to FLP Decisions and FOP Decisions; and
 - (iii) the Province honouring the conditions of 'Namgis' free, prior, and informed consent by making good faith efforts to ensure any FLPs and FOPs established, approved, amended, or extended pursuant to this Agreement are duly implemented.
- (c) This Agreement aims to foster sustainable and balanced forestry management in 'Namgis Territory consistent with 'Namgis values. Sustainable, and balanced forestry management will be achieved by, among other things:
 - (i) achieving current and future environmental, land, and water use goals;
 - (ii) protecting and preserving lands and resources within 'Namgis Territory for past, current, and future 'Namgis cultural and traditional uses;
 - (iii) informing decision-making process with best practices for forestry management, the best available information, including Western science and 'Namgis traditional knowledge; and
 - (iii) fostering economically sustainable forestry development in 'Namgis Territory.

PART 4 - IMPLEMENTATION OF DECISION-MAKING PROCESSES

- 4.1 The Parties acknowledge that, from time to time, implementing this Agreement may require a Party to obtain internal authorizations or approvals, to put in place policies, procedures, and guidance, or to take other measures to give effect to this Agreement and the processes established by it. Each Party agrees that it will:
 - (a) respect the internal processes of the other Party when working to achieve any necessary measures to implement this Agreement; and
 - (b) work in good faith to obtain and put into effect all necessary measures to give effect to this Agreement in a timely manner.
- 4.2 The Parties share a goal of continually improving the decision-making processes that they will undertake pursuant to this Agreement and, accordingly, from time to time, the Parties may establish processes to review, and indicators to assess, how the processes are working and discuss potential improvements that could be made to those processes.

PART 5 - JOINT DECISION MAKERS

- 5.1 Each Party will identify its own Joint Decision Maker for any decision-making processes for a Joint Decision by notifying the other Party in writing, provided that the identification of any Joint Decision Maker is consistent with this Agreement, the internal governance processes of the identifying Party, and all applicable laws and regulations.

PART 6 - FOREST LANDSCAPE PLANS

The FLP Joint Decision Makers

- 6.1 In accordance with 2.21 of the FRPA, the FLP Joint Decision Maker for the Province will be the Chief Forester.
- 6.2 The FLP Joint Decision Maker for 'Namgis will be the person that 'Namgis identifies through written notice to the Province.
- 6.3 Consistent with section 6.2 above, 'Namgis, will identify an FLP Joint Decision Maker within 15 Business Days of the Effective Date.
- 6.4 The FLP Joint Decision Makers will complete the training set out in sections 15.1 and 15.2, as applicable, of this Agreement.
- 6.5 The FLP Joint Decision Makers will be supported by the FLP TAC whose qualifications and appointment will be consistent with Schedule D and its appendices.

Powers of the FLP Joint Decision Makers

- 6.6 The FLP Joint Decision Makers will exercise the following powers jointly:
- (a) the power to establish an FLP by issuing an order under section 2.21(1) of the FRPA;
 - (b) the power extend an FLP by issuing an order under section 2.3(1) of the FRPA;
 - (c) the power to issue an order amending an FLP;
 - (d) the power to issue an order cancelling an FLP;
 - (e) the power to issue an order under section 2.32(1) of the FRPA to require the submission of plans, studies, analyses or information for the purpose of preparing or amending an FLP; and
 - (f) the power to prepare a report under section 2.31 of the FRPA.

- 6.7 During the term of this Agreement, the Chief Forester will not make any FLP Decisions related to the Forest Landscape Area unless the Chief Forester and 'Namgis have jointly agreed to that FLP Decision in accordance with the appropriate decision-making processes established by this Agreement.
- 6.8 For greater certainty, the requirement for 'Namgis and the Province to jointly make any FLP Decision applies to any decision or activity that would require the Chief Forester to contemplate if the Chief Forester should exercise that power, or not, and how to exercise that power.

Requirements and Objectives of an FLP

- 6.9 Any FLP established pursuant to this Agreement must meet the requirements of section 2.28 of the FRPA.
- 6.10 In addition to those objectives set out in section 2.22 of the FRPA, the following 'Namgis objectives must be considered in the preparation of an FLP within the Forest Landscape Area:
- (a) the achievement of future forest outcomes through adaptive management processes and monitoring, including the avoidance or mitigation of unintended cumulative effects; and
 - (b) connected planning, where multiple values are considered across planning scales.

Process for Preparing an FLP

- 6.11 The FLP Joint Decision Makers will use the process described in Schedule C to this Agreement for the purpose of preparing a Draft FLP.
- 6.12 The FLP Joint Decision Makers will follow all processes and apply all criteria set out in this Agreement and Schedule C when preparing a Draft FLP.
- 6.13 When preparing a Draft FLP, the FLP Joint Decision Makers may, as they jointly decide, issue an order under section 2.32(1) of the FRPA requiring the submission of plans, studies, analyses, or information.

Amendments to Schedule C

- 6.14 From time to time, the Parties may amend Schedule C by agreement in writing, provided any amendment is consistent with this Agreement and all applicable laws, including statutes, regulations, and common law.

FLP Joint Decision-making Process

- 6.15 When making any FLP Decision, the FLP Joint Decision Makers will use the decision-making process set out in Schedule D.
- 6.16 For any FLP Decision, the FLP Joint Decision Makers will consider the FLP Recommendations presented to them as a result of the processes set out in Schedule D, but will not be bound by any FLP Recommendations and will be free to act within the statutory powers associated with the applicable FLP Decision.
- 6.17 The FLP Joint Decision Makers will, as necessary, produce one written rationale for any FLP Decision.

FLP Technical Advisory Committee

- 6.18 The Parties will establish an FLP TAC in accordance with Schedule D and its appendices.
- 6.19 The Parties will rely on the FLP TAC to assist with the implementation of the processes agreed to in section 6.15 and set out in Schedule D.
- 6.20 The Parties may not delegate any FLP Decisions, or any other of either Party's powers, authorities, or responsibilities under this Agreement to the FLP TAC or any of its members.

Amendments to Schedule D

- 6.21 From time to time, the Parties may amend Schedule D by agreement in writing, provided that any amendment is consistent with this Agreement and all applicable including statutes, regulations, and common law.

Monitoring, Compliance, and Enforcement of FLP Decisions

- 6.22 The Province will be responsible for the monitoring, compliance, and enforcement of all FLP Decisions. Consistent with the Principles of this Agreement, the Province acknowledges and agrees that any monitoring, compliance, and enforcement that the Province may undertake regarding any FLP Decision engages its duty to make good faith efforts to ensure FLP Decisions are duly implemented.
- 6.23 The Province will consult with 'Namgis on any contemplated enforcement decision related to an FLP Decision as required by section 35 of the *Constitution Act, 1982*.
- 6.24 The Province will share any monitoring of the implementation of any FLP Decision with 'Namgis through the Management Committee.

Application of Administrative Law

- 6.25 The Parties agree that all decision-making processes for FLP Decisions will be implemented in accordance with administrative law.

PART 7 - FOREST OPERATIONS PLAN

The FOP Joint Decision Makers

- 7.1 In accordance with section 2.39 and 2.40 of the FRPA, the FOP Joint Decision Maker for the Province will be the Minister or the Minister's delegate.
- 7.2 The FOP Joint Decision Maker for 'Namgis will be the person that 'Namgis identifies through written notice to the Province.
- 7.3 Consistent with section 7.2 above, 'Namgis will identify an FOP Joint Decision Maker within 10 Business Days of the establishment of the first FLP in accordance with this Agreement.
- 7.4 The FOP Joint Decision Makers will complete the training set out in sections 15.1 and 15.2, as applicable, of this Agreement.
- 7.5 The FOP Joint Decision Makers will be supported by the FOP TAC whose qualifications and appointment will be consistent with Schedule E and its appendices.

Powers of FOP Joint Decision Makers

- 7.6 The FOP Joint Decision Makers will exercise the following powers jointly:
- (a) the power under section 2.38(3) of the FRPA to relieve a person from the requirements under section 2.38(1) and (2) of the FRPA for the purposes of resubmitting an FOP or an amendment to an FOP;
 - (b) the power under section 2.45(4) of the FRPA to exempt a person from a requirement under section 2.45(1) of the FRPA to amend an FOP;
 - (c) the power under section 2.39 of the FRPA to approve an FOP or approve an amendment to an FOP;
 - (d) the power under section 2.43 of the FRPA to extend the term of an FOP; and
 - (e) the power under section 112 of the FRPA to impose, remove, or vary conditions in respect of an approval of an FOP or of an amendment to an FOP.

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- 7.7 During the term of this Agreement, the Minister, or the Minister's delegate, will not make any FOP Decisions related to the Forest Landscape Area unless the Minister and 'Namgis have agreed to that FOP Decision in accordance with the appropriate decision-making processes established by this Agreement.
- 7.8 For greater certainty, the requirement for 'Namgis and the Province to jointly make any FOP Decision applies to any decision or activity that would require the Minister, or the Minister's delegate, to contemplate if the Minister should exercise the power, or not, and how to exercise that power.

Requirements of an FOP

- 7.9 Consistent with section 2.54(3) of the FRPA, the criteria set out in section 2.39(1)(a) to (c) and section 2.4(1)(a) to (c) of the FRPA apply to the exercise of the statutory power of decision related to the approval or amendment of an FOP in accordance with this Agreement.
- 7.10 Consistent with section 2.54(4) of the FRPA, section 2.39(2) to (4) of the FRPA applies, with the necessary changes, to the imposition of conditions in respect of an approval of an FOP or of an amendment to an FOP in accordance with this Agreement.

FOP Joint Decision-making Processes

- 7.11 When making any FOP Decision, the FOP Joint Decision Makers will use the decision-making process set out in Schedule E.
- 7.12 The FOP Joint Decision Makers will consider the FOP Recommendations presented to them as a result of the processes set out in Schedule E, but will not be bound by any FOP Recommendations and will be free to act within the statutory powers associated with the applicable FOP Decision.
- 7.13 The FOP Joint Decision Makers will, as necessary, produce one written rationale for any FOP Decision.

FOP Technical Advisory Committee

- 7.14 The Parties will establish an FOP TAC in accordance with Schedule E and its appendices.
- 7.15 When making any FOP Decision, the FOP Joint Decision Makers will rely on the FOP TAC to assist with the implementation of the processes agreed to in section 7.11 and set out in Schedule E.

- 7.16 The Parties may not delegate any FOP Decisions, or any other of either Party's powers, authorities, or responsibilities under this Agreement to the FOP TAC or any of its members.

Amendments to Schedule E

- 7.17 From time to time, the Parties may amend Schedule E by agreement in writing, provided that any amendment is consistent with this Agreement and all applicable laws, including statutes, regulations, and common law.

Monitoring, Compliance, and Enforcement of FOP Decisions

- 7.18 The Province will be responsible for the monitoring, compliance, and enforcement of all FOP Decisions. Consistent with the Principles of this Agreement, the Province acknowledges and agrees that any monitoring, compliance, and enforcement that the Province may undertake regarding any FOP Decision engages its duty to make good faith efforts to ensure FOP Decisions are duly implemented.
- 7.19 The Province will consult with 'Namgis on any contemplated enforcement decision related to any FOP Decision as required by section 35 of the *Constitution Act, 1982*.
- 7.20 The Province will share any monitoring of the implementation of any FOP Decision with 'Namgis through the Management Committee.

Application of Administrative Law

- 7.21 The Parties agree that all decision-making processes for FOP Decisions will be implemented in accordance with administrative law.

PART 8 - THE MANAGEMENT COMMITTEE

- 8.1 The Parties establish and will maintain the Management Committee according to the terms set out in this Part 8 of this Agreement.
- 8.2 The role of the Management Committee is to:
- (a) oversee the implementation of this Agreement and its Schedules, including any decision-making processes established by those Schedules;
 - (b) oversee and supervise the FLP TAC, the FOP TAC, and any other working bodies or committees established pursuant to this Agreement and its Schedules;
 - (c) assist in resolving any disputes arising in the FLP TAC, the FOP TAC, or other bodies established pursuant to this Agreement or its Schedules;

- (d) assist in developing and approving policies, procedures, and terms of reference according to this Agreement and its Schedules;
 - (e) report to the Joint Decision Makers and the Parties on the implementation of this Agreement; and
 - (f) exercise any other powers, responsibilities, or duties assigned to it pursuant to this Agreement and its Schedules.
- 8.3 The Management Committee will comprise an equal number of representatives from the Province and 'Namgis and each Party may, as necessary, appoint a co-chair.
- 8.4 Either Party may change its representatives on the Management Committee, including its appointed co-chair, by notifying the other Party in writing, provided the appointment is consistent with this Agreement and all applicable laws, including statutes, regulations, and common law.
- 8.5 Neither Party may appoint a person to the Management Committee who is also:
- (a) an FLP Joint Decision Maker or an FOP Joint Decision Maker;
 - (b) a member of the FLP TAC or the FOP TAC;
 - (c) a member of Leadership;
 - (d) a member of Senior Leadership; or
 - (e) a member of any other body established pursuant to this Agreement.
- 8.6 The Management Committee will:
- (a) meet as necessary to oversee and supervise the implementation of the decision-making processes established by the Schedules; and
 - (b) meet as necessary to oversee the implementation of this Agreement; and
 - (c) will meet not less than two times a year regarding the implementation of this Agreement.

PART 9 - CONSULTATION WITH OTHER ABORIGINAL PEOPLES

- 9.1 The Province will remain solely responsible for discharging the Crown's duty to consult and accommodate any aboriginal people other than 'Namgis on any FLP Decision any FOP Decision, and any Crown conduct associated with the approval, establishment, amendment, extension, monitoring, compliance, or enforcement of any FLP Decision or FOP Decision made in accordance with this Agreement.
- 9.2 No conduct undertaken by 'Namgis pursuant to this Agreement, including any Joint Decision made in accordance with this Agreement, may be construed by the Province, or any other party, as 'Namgis acknowledging, recognizing, or admitting any aboriginal right asserted or claimed by any other aboriginal people.

PART 10 - REVIEW OF JOINT DECISIONS

Review of an FOP Decision

- 10.1 Where a person who is subject to an FOP Decision pursuant to section (c)) of this Agreement requests a review of that FOP Decision in accordance with section 80(1) of the FRPA, the FOP Joint Decision Makers who made the FOP Decision in accordance with this Agreement must review the FOP Decision.
- 10.2 A review carried out under section 10.1 of this Agreement must be done in accordance with sections 2.54(6), 2.54(7), 80(2), 80(3), and 80(5) of the FRPA.
- 10.3 For greater certainty, the Minister may not designate the power to conduct a review pursuant to section 80(1) of the FRPA to the sole discretion of any other person employed in the ministry and all reviews under section 10.1 of this Agreement will be carried out jointly by 'Namgis and the Province using, as necessary, processes established in Schedule E to this Agreement.

Board may require review of a Joint Decision

- 10.4 Where the Board first receives the consent of the person who is the subject of an FOP Decision under section (c)) of this Agreement, the Board may require a review of the FOP Decision by the FOP Joint Decision Makers pursuant to section 81(1) of the FRPA.
- 10.5 A review carried out under section 10.4 of this Agreement must be done in accordance with section 81 of the FRPA.

Appeal to the Commission by a person who is the subject of a Joint Decision

- 10.6 Sections 82, 83, 83.1, and 84(1) of the FRPA apply to an FOP Decision made pursuant to section (c)) of this Agreement.

Judicial Review of a Joint Decision

- 10.7 If a Party is served with a petition or application seeking judicial review of a Joint Decision, the Parties will cooperate, as appropriate, in responding to that petition or application for judicial review.

Joint Retainer of Legal Counsel

- 10.8 Where a Joint Decision is subject to an appeal to the Commission or a judicial review, the Parties may jointly retain legal counsel to act on their behalf.
- 10.9 The Parties will share the costs of any jointly retained legal counsel according to any agreement reached at the time of retaining that legal counsel.

PART 11 - CONFIDENTIAL INFORMATION

- 11.1 The Parties acknowledge and agree that this Agreement is not confidential and that it will be published in the British Columbia Gazette, pursuant to section 7(4) of the Declaration Act.
- 11.2 The Parties also acknowledge and agree that, to give effect to the decision-making processes set out in this Agreement, a Party may wish to share Confidential Information with the other Party.
- 11.3 If, in implementing this Agreement or undertaking decision-making processes in accordance with this Agreement, a Party shares Confidential Information with the other Party:
- (a) the Party receiving the Confidential Information will, subject to subsections (b), (c) and (d), maintain the confidentiality of that information and not publish, release, or disclose the Confidential Information;
 - (b) the Party receiving the Confidential Information may disclose it to its employees and professional advisors who are required to know the Confidential Information when acting on behalf of, or advising, that Party, provided that those employees or advisors agree to adhere to the confidentiality provisions of this Agreement; and

- (c) the Party receiving the Confidential Information may disclose the Confidential Information:
 - (i) with the written consent of the other Party;
 - (ii) if it is required to do so by law; or
 - (iii) where the Confidential Information is or becomes publicly known in circumstances that do not involve a breach of this Agreement.
- 11.4 If a Party receives a request under, or are required by, any applicable law to disclose Confidential Information, then the Party who received the request for, or notice of a requirement of, disclosure will:
- (a) notify the other Party of the request for, or requirement of, disclosure;
 - (b) provide the other Party with the opportunity to express their views regarding the disclosure of any Confidential Information, and discuss any lawful actions that the Parties may wish to take to resist the potential disclosure; and
 - (c) notify the other Party of the disclosure of Confidential Information that will be released pursuant to the request for, or requirement of, disclosure in advance of that disclosure.
- 11.5 The Parties further acknowledge and agree that during decision-making processes established by this Agreement, 'Namgis may provide the Province with culturally sensitive information about 'Namgis Title and Rights or the traditional use of its Territory, and that if 'Namgis notifies the Province in writing that any information is culturally sensitive, whether that culturally sensitive information was provided orally or in writing, the Parties will treat all culturally sensitive information as Confidential Information and as information the disclosure of which could be harmful to the interests of an Indigenous people in accordance with section 18.1 of the *Freedom of Information and Protection of Privacy Act*, RSBC 1996, c 165.

PART 12 - LEGISLATIVE AND REGULATORY CHANGES

- 12.1 The Province agrees that, except where notice cannot be provided for reasons of emergency or confidentiality, before introducing, amending, repealing, or replacing legislation, or before a regulation is approved by the Lieutenant-Governor-in-Council, that may affect any of 'Namgis' rights, powers, or obligations in accordance with this Agreement, the Province will notify 'Namgis in writing of the proposed legislation or regulation, and that written notice will include the nature and purpose of the proposed legislation or regulation.

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- 12.2 If the Province does not notify 'Namgis in accordance with section 12.1 for reasons of emergency or confidentiality, when the legislation has been introduced to the Legislative Assembly, or the regulation has been deposited with the Registrar of Regulations, the Province will immediately notify 'Namgis in writing of the legislation or regulation, and that written notice will include the nature and purpose of the proposed legislation or regulation.
- 12.3 If, within 30 days of a notice provided in accordance with section 12.1 or 12.2, 'Namgis makes a written request to the Province to discuss the proposed legislation or regulation, then the Parties will:
- (a) discuss the effect of the legislation or regulation, if any, on any of 'Namgis' rights, powers, or obligations in accordance with this Agreement; and
 - (b) if necessary, in a manner consistent with the longstanding, special relationship between 'Namgis and the Province, the honour of the Crown, and the Principles, make good faith efforts to negotiate measures to preserve the aspects of 'Namgis' right of self-governance implemented by this Agreement.
- 12.4 The Parties acknowledge that nothing in this Part 12 is intended to:
- (a) interfere with the Province's legislative process or delay the enactment of a Provincial law; or
 - (b) limit any consultation or engagement 'Namgis may be entitled to on proposed legislation or regulations pursuant to the Declaration Act, the *Constitution Act*, 1982, or any other Canadian law.
- 12.5 Unless the Province agrees otherwise, 'Namgis will retain the information provided in accordance with sections 12.1, 12.2 or 12.3 in strict confidence until such time, if ever, the draft legislation is given first reading in the Legislative Assembly or the regulation is deposited with the Registrar of Regulations, as applicable.

PART 13 - SUBSEQUENT MANDATES

- 13.1 In a manner consistent with the LOI and subject to obtaining required mandates in accordance with section 7 of the Declaration Act, the Parties will discuss and may agree to other joint and consent-based decision-making processes for other land and resource decisions in 'Namgis Territory.
- 13.2 If the Parties obtain mandates and reach agreement on other joint or consent-based decision-making processes, the Parties may amend this Agreement accordingly.

PART 14 - CAPACITY FUNDING

- 14.1 The Province will be responsible for the costs incurred by 'Namgis in implementing this Agreement, and the decision-making processes implemented pursuant to it, including reasonable costs for:
- (a) 'Namgis' Joint Decision Makers, 'Namgis' members of any working groups or committees established pursuant to this Agreement;
 - (b) any experts, consultants, or advisors required to assist 'Namgis, 'Namgis' Joint Decision Makers, or 'Namgis' members of working groups or committees established pursuant to this Agreement; and
 - (c) any training required by sections 15.1 and 15.2 of this Agreement.
- 14.2 Each year, as part of their required meetings, the Management Committee will determine and agree on the amount of funding required for 'Namgis to implement this Agreement, and its decision-making processes implemented pursuant to it, including the costs, if any, related to sections 14.1(a), (b) or (c), for the upcoming fiscal year (the **"Annual Budget"**).
- 14.3 Each year, following the determination of the Annual Budget, the Parties will enter into a funding agreement through which the Province will honour its commitment in section 14.1 to be responsible for costs incurred by 'Namgis in implementing this Agreement and to provide the capacity funding 'Namgis requires for that that fiscal year as agreed to by the Management Committee in the applicable Annual Budget (the **"Annual Funding Agreement"**).

PART 15 - TRAINING

- 15.1 The Province agrees that it will make available training similar to what the Province provides to provincial statutory decision makers to any 'Namgis Joint Decision Maker, any 'Namgis FLP TAC members, and any 'Namgis FOP TAC members.
- 15.2 'Namgis agrees that it will make available training regarding 'Namgis' traditions, customs, laws, and decision-making processes relevant to the decision-making processes established by this Agreement to any provincial Joint Decision Maker, any provincial FLP TAC members, and any provincial FOP TAC members.

PART 16 - GEOGRAPHICAL SCOPE

- 16.1 This Agreement applies only to FLP Decisions and FOP Decisions made in relation to the Forest Landscape Area.

PART 17 - COMMUNICATIONS WITH THE PUBLIC, STAKEHOLDERS, AND LICENSEES

- 17.1 The Parties agree that before publishing any public communications or media releases regarding this Agreement, or any decision made pursuant to this Agreement, the Parties will agree to the content, timing, and means of publication of any public statements or media releases.
- 17.2 The Parties agree that any communications undertaken in a manner consistent with the Schedules to this Agreement will satisfy the requirements of section 17.1.
- 17.3 Notwithstanding section 17.1, the Parties acknowledge the requirement for this Agreement to be published in the British Columbia Gazette as required by section 7(4) of the Declaration Act.

PART 18 - EFFECTIVE DATE

- 18.1 The term of this Agreement will commence and this Agreement will take effect on the date that this Agreement is:
- (a) signed by the authorized representatives of both 'Namgis and the Province; and
 - (b) published in the British Columbia Gazette in accordance with section 7(4) of the Declaration Act.

PART 19 - DISPUTE RESOLUTION

- 19.1 The Parties agree that when taking any actions in accordance with Part 19 of this Agreement, they will each make good faith efforts consistent with the longstanding, special relationship between them, the honour of the Crown, and the Principles, to resolve the dispute according to the terms of this Part 19 so that they may preserve this Agreement.

Dispute Resolution for Decision Making Processes Established Pursuant to this Agreement

- 19.2 The Parties agree that any dispute occurring in any decision-making process established pursuant to a Schedule to this Agreement will be resolved according to the dispute resolution process established in the applicable Schedule.
- 19.3 The Parties agree that no Schedule may be amended to include a dispute resolution process that would interfere with, limit, or fetter any of the powers, duties, or responsibilities held by any FLP Joint Decision Maker or any FOP Joint Decision Maker under this Agreement or under the applicable laws of their respective governments.

Dispute in Relation to Interpretation or Implementation this Agreement

- 19.4 The Parties agree that sections 19.4 to 19.7 will govern any dispute regarding the interpretation or implementation of this Agreement, other than a dispute occurring in any decision-making process established to a Schedule to this Agreement.
- 19.5 If a dispute arises in respect of the interpretation or implementation of this Agreement or any applicable laws or regulations, the Parties will refer the dispute to the Management Committee and the Management Committee will attempt to resolve the dispute in a reasonable time.
- 19.6 If the Management Committee is unable to resolve the dispute in a reasonable time, they may refer the dispute to Leadership so they may attempt to resolve the dispute and preserve this Agreement.
- 19.7 In the event Leadership is unable to resolve a dispute pursuant to 19.6, the Parties may agree to refer the dispute to a mutually agreed-upon facilitator, mediator, or arbitrator with each Party paying its own costs of the facilitation, mediation, or arbitration and one-half of the costs of the facilitator, mediator, or arbitrator.

PART 20 - TERMINATION

- 20.1 The Parties will work together to avoid termination and preserve this Agreement, and when doing so in accordance with Part 20 of the Agreement, they act diligently to make good faith efforts consistent with the longstanding, special relationship between them, the honour of the Crown, and the Principles.
- 20.2 This Agreement may be terminated if:
- (a) the Parties have executed a replacement agreement implementing 'Namgis' right of self-governance that replaces and supersedes this Agreement;
 - (b) the Parties agree in writing to terminate this Agreement; or
 - (c) the Parties have been unable to resolve a dispute after having attempted to resolve that in accordance with Part 19 and have further attempted to preserve this Agreement in accordance with this Part 20.
- 20.3 If the Parties have been unable to resolve a dispute in accordance with Part 19 of the Agreement, a Party may notify the other Party of its intent to terminate the Agreement, through a written notice that includes a detailed explanation of the reasons for the proposed termination.

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- 20.4 Within 30 Business Days of delivery of a written notice in accordance with section 20.3, Leadership will meet to discuss the reasons for the proposed termination and seek to resolve the dispute so as to preserve this Agreement.
- 20.5 If Leadership addresses the reasons for the proposed termination to the satisfaction of each Party, as confirmed in writing by the Parties, this Agreement will not be terminated.
- 20.6 If Leadership is unable to resolve the dispute described in the written notice of proposed termination, then within 30 Business Days of Leadership being unable to resolve the dispute, Senior Leadership will meet to discuss the reasons for the proposed termination and seek to resolve the dispute so as to preserve this Agreement..
- 20.7 If the Senior Leadership addresses the reasons for the proposed termination to the satisfaction of each Party, as confirmed in writing by the Parties, this Agreement will not be terminated.
- 20.8 If the Senior Leadership is unable to address the reasons for the proposed termination within 10 Business Days of Senior Leadership being unable to resolve the dispute, or such other time period as the Parties may agree to in writing, the Party who provided the notice to terminate in accordance with section 20.3 may, at any time, provide a final notice in writing to the other Party of termination this Agreement and this Agreement will terminate 10 Business Days after the delivery of the final notice of termination.
- 20.9 In attempting to address the reasons for the proposed termination, the Parties may consider the use of third parties, such as facilitators, mediators, or arbitrators, provided any engagement of third parties is consistent with this Agreement and Part 19 of this Agreement in particular.
- 20.10 Unless terminated in accordance with this Part 20, this Agreement will remain in effect as long as any FLP established pursuant to this Agreement remains in effect.
- 20.11 If this Agreement is terminated pursuant to sections 20.2 or 20.8, then Part 11, Part 14, sections 10.1, 10.2, 10.3, 10.4, 20.11, 21.7, 21.8, 21.9, 21.10, 22.5, 22.6, 22.7, 22.8, 22.9, 22.10, 22.11, 22.12, and 22.13 will survive termination.

PART 21 - LEGAL RESPONSIBILITIES

Relationship of Parties

- 21.1 The Province is not an agent of 'Namgis for any purpose related directly or indirectly to this Agreement.

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- 21.2 'Namgis is not an agent of the Province for any purpose related directly or indirectly to this Agreement.

Compliance with Laws

- 21.3 The Province will:

- (a) comply with all applicable laws in carrying out its duties and obligations and exercising its rights and privileges in accordance with this Agreement; and
- (b) ensure that Provincial Officials comply with all applicable laws in carrying out their duties and obligations on behalf of the Province in accordance with this Agreement.

- 21.4 'Namgis will:

- (a) comply with all applicable laws in carrying out its duties and obligations and exercising its rights and privileges in accordance with this Agreement; and
- (b) ensure that 'Namgis Officials comply with all applicable laws in carrying out their duties and obligations on behalf of 'Namgis in accordance with this Agreement.

Compliance with this Agreement

- 21.5 Any decision of the Joint Decision Makers in respect of a Joint Decision will be made in accordance with the terms of this Agreement.

Conflict of Interest

- 21.6 'Namgis and the Province each confirm that they have established, and will continue to maintain and enforce, conflict of interest rules applicable to 'Namgis Officials and Provincial Officials, respectively, comparable to those generally accepted for other Indigenous or provincial governments respectively.

- 21.7 The Province will ensure that no Provincial Official obtains or is entitled to enjoy any personal benefits related directly or indirectly to this Agreement.

- 21.8 'Namgis will ensure that no 'Namgis Official obtains or is entitled to enjoy any personal benefits related directly or indirectly to this Agreement.

No Assumption of Liability for the Acts of the Other Party

- 21.9 The Province is not responsible or liable for the acts, omissions, negligence, malfeasance, or misfeasance of 'Namgis or any 'Namgis Official related directly or indirectly to this Agreement.

- 21.10 'Namgis is not responsible for or liable for the acts, omissions, negligence, malfeasance, or misfeasance of the Province or any Provincial Official related directly or indirectly to this Agreement.

PART 22 - GENERAL PROVISIONS

Representations and Warranties

- 22.1 'Namgis represents and warrants to the Province, with the intent and understanding that these representations and warranties will be relied on by the Province in entering into this Agreement, that:
- (a) it has the legal power, capacity, and authority to enter into this Agreement on its own behalf and on behalf of 'Namgis members;
 - (b) it has taken all necessary actions and has obtained all necessary approvals to enter into this Agreement for and on behalf of 'Namgis members; and
 - (c) this Agreement is a valid and binding obligation upon it.
- 22.2 The Province represents and warrants to 'Namgis, with the intent and understanding that these representations and warranties will be relied on by 'Namgis in entering into this Agreement, that:
- (a) it has the authority to enter into this Agreement;
 - (b) it has taken all necessary actions and has obtained all necessary approvals to enter into this Agreement; and
 - (c) this Agreement is a valid and binding obligation upon it.

Legal Advice

- 22.3 The Parties confirm that they have each had the full opportunity to review the terms and conditions of this Agreement and each has sought independent legal advice with respect to the terms and conditions.
- 22.4 Nothing in this Agreement will be construed as in any way limiting the position either of the Parties may take in any process or proceeding, except as expressly set out herein.

Section 35 of the Constitution Act, 1982

- 22.5 This Agreement does not constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982*.

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- 22.6 While the Province acknowledges that 'Namgis holds Title and Rights within its Territory, neither this Agreement nor any acts performed in connection with it, are to be used, construed, or relied on by anyone as evidence or admission of the nature, scope, content of any aboriginal title and rights or any Crown title and rights.
- 22.7 The implementation of this Agreement according to its terms constitutes the means by which the Province will fulfill the procedural and information sharing obligations associated with the duty to consult 'Namgis in respect of any Joint Decisions made pursuant to this Agreement.
- 22.8 For greater certainty, section 22.7 does not capture Crown actions or decisions that are not Joint Decisions, including enforcement of Joint Decisions.
- 22.9 Nothing in this Agreement prohibits or precludes either Party from relying on this Agreement, or acts performed in furtherance of it, as evidence of whether or not the Crown has fulfilled its constitutional duty to consult and accommodate 'Namgis with respect to FLP Decisions or FOP Decisions.
- 22.10 'Namgis will not initiate or participate in any legal proceeding that challenges a Joint Decision by the Joint Decision Makers on the basis that the Province has failed to fulfil its duty to consult 'Namgis, or on the basis that any Joint Decision established or approved pursuant to this Agreement unjustifiably infringes 'Namgis Title and Rights, provided that:
- (a) the Joint Decision was made in accordance with this Agreement; and
 - (b) the Province has complied with the terms of this Agreement.
- 22.11 For greater certainty, section 22.10 does not prohibit, preclude, or prejudice 'Namgis' right to:
- (a) initiate or participate in legal proceedings challenging other forestry decisions by the Province not made under this Agreement; or
 - (b) initiate or participate in legal proceedings seeking redress for impacts to 'Namgis Title or Rights caused by forestry activities in 'Namgis Territory.
- 22.12 This Agreement does not address monetary compensation for past, current, or future impacts to 'Namgis Title and Rights caused by forestry activities, or any other activities, in 'Namgis Territory. The Parties agree that this Agreement, and any Joint Decisions made pursuant to it, will not prejudice 'Namgis' ability to seek redress through the Parties' ongoing work in accordance with the LOI or any other future negotiations between the Parties.

- 22.13 Nothing in this Agreement derogates or abrogates from any of 'N̓amgis' Title and Rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

Notices

- 22.14 Except as expressly set out herein, any notice, document, or communication required or permitted to be given hereunder will be in writing and delivered by hand or facsimile to the Party to which it is to be given as follows:

To the Province:

[TBD]

To 'N̓amgis:

[TBD]

or to such other address in Canada as either Party may in writing advise. Any notice, document or communication will be deemed to have been given on the Business Day when delivered or when transmitted with confirmation of transmission by facsimile, or e-mail, if done so during or before normal business hours in the city of the addressee and if after such normal business hours the Business Day next following.

Amendments in Writing

- 22.15 Subject to the requirements of the Declaration Act, this Agreement may be amended from time to time by the Parties in writing as follows:
- (a) any Major Amendments to this Agreement, by agreement of the Minister of Forests and the Minister Indigenous Relations and Reconciliation on behalf of the Province after having obtained any required mandates or approvals in accordance with s. 7 of the Declaration Act and 'N̓amgis after having obtained any approvals required by 'N̓amgis' laws and governance processes; and
 - (b) any Minor Amendments to this Agreement, by agreement of the Minister of Forests and the Minister of Indigenous Relations and Reconciliation on behalf of the Province and by agreement of 'N̓amgis.

Periodic Review of Agreement

- 22.16 The Parties agree to periodically review, at least every two years, the implementation of this Agreement to determine if this Agreement and its structures and processes are effective and achieving the purposes set out in section 2.1 and upholding this Agreement's Principles.

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- 22.17 Where following a review pursuant to 21.16, the Parties agree that improvements should be made to this Agreement, the Parties will work together to determine what improvements are necessary and how to implement those improvements, including any agreed upon amendments to this Agreement.

Invalidity

- 22.18 If any part of this Agreement is void or unenforceable at law:
- (a) the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Agreement had been executed without the invalid part; and
 - (b) subject to required approvals the Parties will negotiate and attempt to reach agreement on a replacement for the part declared or held invalid with a view to achieving the Parties' intent as expressed in this Agreement.

Appropriation

- 22.19 Notwithstanding any other provision of this Agreement, and pursuant to section 28 of the *Financial Administration Act*, the payment of money by the Province pursuant to this Agreement is subject to:
- (a) there being sufficient money available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any fiscal year, or part thereof when such payment may be required, to make that payment, and
 - (b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure in accordance with any appropriation referred to in 12.01(a).

Execution in Counterparts

- 22.20 This Agreement may be entered into by each of the Parties signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other by facsimile, or e-mail, transmission. All executed counterparts taken together will constitute one agreement.

Assignment

- 22.21 Unless the Parties otherwise agree, this Agreement and any rights or obligations in accordance with this Agreement may not be assigned, in whole or in part.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

Signed on behalf of:
'Namgis Nation

Victor Isaac
Elected Chief Councillor

Witness of 'Namgis Nation signature

Signed on behalf of:
Government of British Columbia

Honourable Ravi Parmar
Minister of Forests

Witness of Minister's signature

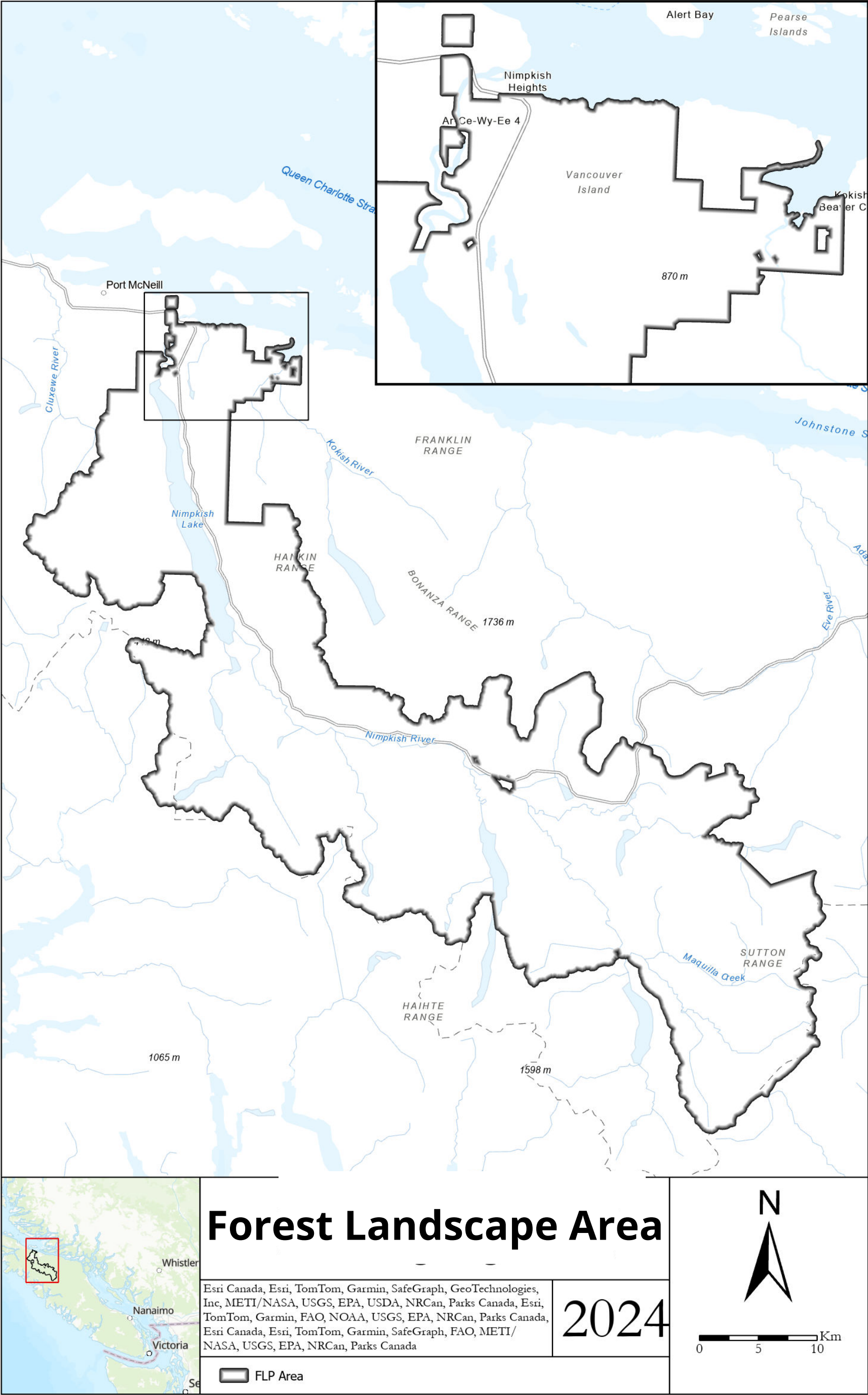
Honourable Spencer Chandra Herbert
Minister of Indigenous Relations and
Reconciliation

Witness of Minister's signature

Schedule A – Map of 'Namgis Territory



Schedule B – Forest Landscape Area



Schedule C – FLP Preparation Process

Part 1: Purpose

1. In accordance with section 6.11 of this Agreement, the purpose of this Schedule C is to establish a process for preparing a Draft FLP.

Part 2: Initial Draft FLP

2. The Parties agree that the Pilot FLP will be considered the initial Draft FLP for the purposes of establishing the first FLP under this Agreement
3. The Parties acknowledge that in accordance with sections 104 and 105 of the *Forests Statutes Amendment Act, 2021*, section 2.24 to 2.27 and section 2.51(4) and (5) of the FRPA do not apply in respect of the initial Draft FLP described in section 2 of this Schedule.

Part 3: Subsequent Draft FLPs

4. The Parties agree that for any subsequent FLP establishment decision after the first FLP establishment decision made under this Agreement, they will agree in writing to a collaboration process for preparing a Draft FLP to replace this Schedule C before initiating any preparation of a Draft FLP.
5. The Parties agree that any FLP preparation process agreed to in accordance with section 4 above will include provisions for the FLP Joint Decision Makers to jointly exercise the statutory power in s. 2.32 of the FRPA to issue an order requiring a person to:
 - (a) prepare and submit to the FLP Joint Decision Makers plans, studies, or analyses; and
 - (b) obtain and submit to the FLP Joint Decision Makers information.
6. The Parties agree that if they agree in writing to a collaboration process for preparing subsequent Draft FLPs, then sections 2.23 to 2.27 of FRPA will not apply to 'Namgis in relation to any FLPs prepared in accordance with that agreed collaboration process and established by an order made in accordance with this Agreement.

Schedule D - FLP Decision-making Processes

Part 1: Purpose

1. In accordance with section 6.11 of this Agreement, the purpose of this Schedule D is to establish a process for jointly assessing and making FLP Decisions.

Part 2: The FLP TAC

2. The Parties hereby establish the FLP TAC and each Party will appoint its members to the FLP TAC according to Appendix 1 to this Schedule D.
3. The FLP TAC established by this Agreement and Schedule D, acting under the supervision of the Management Committee, will support and assist the FLP Joint Decision Makers in making any FLP Decision.
4. At all times, the FLP TAC will be comprised by an equal number of representatives from 'Namgis and the Province.
5. At all times, 'Namgis' representatives on the FLP TAC will collectively have all the qualifications described in Appendix 1 to this Schedule D.
6. At all times, the Province's representatives on the FLP TAC will collectively have all the qualifications described in Appendix 1 to this Schedule D.
7. A person appointed as an FLP Joint Decision Maker under this Agreement cannot also be appointed to the FLP TAC.
8. A Party may change any person it has appointed to the FLP TAC by notifying the other Party in writing, provided any such change in membership to the FLP TAC is consistent with sections 4 to 7 of this Schedule D and its Appendix 1.
9. During its work supporting the FLP Decision Makers on any proposed FLP Joint Decision, members of the FLP TAC may be assisted by experts or advisors internal to their respective organizations or contractors hired by their respective organizations who are bound by the same confidentiality provisions as contained in this Agreement.
10. The FLP TAC may seek out the assistance, direction, or guidance of the Management Committee for its work supporting and assisting the FLP Joint Decision Makers, including in reaching FLP Recommendations on a proposed FLP Decision.

Part 3: Governance of the FLP TAC and FLP Decision-making Process

11. Acting in accordance with this Agreement, the Management Committee will supervise and oversee the FLP TAC in its work supporting and assisting the FLP Decision Makers for any proposed FLP Decision, including, as necessary, assisting the FLP TAC in preparing FLP Recommendations and obtaining the guidance of the FLP Decision Makers.

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12. From time to time, the Management Committee may require the FLP TAC to provide it with verbal or written updates on FLP decision-making processes, including, but not limited to, updates work plans, schedules, budgets, policies, or procedures.
13. The FLP Joint Decision Makers may:
 - (a) amend Appendix 1 to this Schedule D in writing, including:
 - (i) changes to the number of persons necessary to comprise the FLP TAC;
 - (ii) changes to the responsibilities and qualifications of the members of the FLP TAC; or
 - (b) develop policies and procedures related to the processes which support the FLP Decision Makers make an FLP Decision, or changes to any such existing policies or procedures.

Part 4: FLP TAC Review of Draft FLP for Establishment

14. If the Management Committee has determined that a Draft FLP is ready for review by the FLP TAC, the Management Committee will instruct the FLP TAC to review and assess that Draft FLP according to this Schedule D.
15. Within 10 Business Days of the Management Committee agreeing that a Draft FLP is ready to be reviewed by the FLP TAC for establishment, the Management Committee will agree on a work plan, which may include a schedule and budget, for the FLP TAC to review the Draft FLP for establishment under the FRPA.
16. The FLP TAC members will collaboratively prepare FLP Recommendations for the FLP Joint Decision Makers on the adequacy of the Draft FLP for establishment by the FLP Joint Decision Makers, considering, as applicable among other relevant considerations:
 - (a) if the Draft FLP meets the requirements set out in sections 2.22 and 2.28 of the FRPA and the objectives set out in section 6.10 of this Agreement, as applicable; and
 - (b) if the FLP Joint Decision Makers should jointly exercise their statutory power under s. 2.32 of the FRPA to require a person to:
 - (i) prepare and submit plans, studies, or analyses to the FLP Joint Decision Makers; or
 - (ii) obtain and submit information to the FLP Joint Decision Makers.
17. The FLP TAC will brief the Management Committee on the FLP Recommendations when it has completed its review of the Draft FLP.

18. After being briefed by the FLP TAC on the proposed FLP Recommendations, the Management Committee may:

- (a) approve the FLP TAC briefing the FLP Joint Decision Makers on the FLP Recommendations according to this Schedule D; or
- (b) advise the FLP TAC to reconsider the proposed FLP Recommendations.

Part 5: Delivery of the FLP Recommendations to the FLP Decision Makers

19. The FLP TAC will brief the FLP Joint Decision Makers on the FLP Recommendations after the Management Committee's approval made in accordance with section 18.

20. When briefing the FLP Joint Decision Makers, the FLP TAC may be assisted by members of the Management Committee or any advisors that may be required.

21. After being briefed by the FLP TAC on the proposed FLP Recommendations, the FLP Joint Decision Makers may direct the FLP TAC to:

- (a) prepare written FLP Recommendations for the FLP Joint Decision Makers' consideration; or
- (b) reconsider the proposed FLP Recommendations.

22. If the FLP Joint Decision Makers have directed the FLP TAC to prepare written FLP Recommendations, the FLP TAC will prepare and deliver written FLP Recommendations to the FLP Decision Makers according to their directions.

23. The written FLP Recommendations may, as appropriate, include:

- (a) the proposed FLP;
- (b) reasons for the FLP Recommendations, including as appropriate, identification of options, implications, issues, avoidance and mitigation measures, conditions, or other considerations;
- (c) any reports on consultation with First Nations, including the Province's assessment of the sufficiency of such consultation;
- (d) any reports on public or stakeholder engagement, including the FLP TAC's assessment of the sufficiency of such engagement; and
- (e) any other information that the FLP TAC or the Management Committee, acting reasonably, believes will assist the FLP Decision Makers.

Part 6: The Joint Establishment Decision-making Process

24. Upon receipt of the written FLP Recommendations, the FLP Joint Decision Makers will jointly determine if:
- (a) the FLP Joint Decision Makers are prepared to move to a joint decision; or
 - (b) they require further information from the FLP TAC and accordingly direct the FLP TAC to provide that information in writing or through a verbal briefing.
25. When considering the FLP Recommendations, the FLP Joint Decision Makers may, acting consistently with this Agreement, seek the advice of the FLP TAC, the Management Committee, or other advisors as necessary.
26. If the FLP Joint Decision Makers have approved the proposed FLP for establishment, FLP Decision Joint Makers, with the assistance of the Management Committee or the FLP TAC will prepare:
- (a) as necessary, the written reasons for approving the proposed FLP Decision;
 - (b) any order required for the FLP establishment; and
 - (c) any required notices, including for publication in the Gazette in accordance with s. 2.21 of the FRPA.

Part 7: Extension of the Term of an FLP

27. At least two years before the expiry of any FLP established under this Agreement, the Management Committee will instruct the FLP TAC to:
- (a) consider if an FLP should be extended; and
 - (b) prepare FLP Recommendations on a possible extension according to any schedule and budget provided by the Management Committee.
28. At any time before two years before the expiry of an FLP, a Party may request that the other Party consider if they jointly wish to request that the FLP Decision Makers consider extending an FLP by making a written request to the Management Committee.
29. Within 10 Business Days of receiving a written request made in accordance with section 27, the Management Committee may instruct the FLP TAC to:
- (a) consider if an FLP established under this Agreement should be extended; and
 - (b) prepare FLP Recommendations on the proposed extension in accordance with any schedule and budget provided by the Management Committee.

30. Having reviewed the FLP Recommendations the FLP TAC prepared in accordance with section 27 or section 29, if the FLP Joint Decision Makers, acting jointly, decide that an FLP established under this Agreement should be extended, they will:

- (a) confirm their decision in writing, including:
 - (i) any necessary written reasons; and
 - (ii) the term of the extension, which cannot exceed a 5-year period in accordance with s. 2.3(2) of the FRPA;
- (b) have any required notices or orders prepared; and
- (c) instruct the FLP TAC to deliver the necessary notices as set out in s. 2.33 of the FRPA.

31. Having reviewed the FLP Recommendations the FLP TAC prepared in accordance with section 27, if the FLP Joint Decision Makers, acting jointly, decide that an FLP should not be extended, and must be replaced, then they will cause a draft FLP to be prepared in accordance with Schedule C of this Agreement.

Part 8: Amendments to an FLP

32. At any time, a Party may request that the other Party consider if they jointly wish to request that the FLP Decision Makers consider amending any FLP established under this Agreement by making a written request to the Management Committee.

33. Within 30 Business Days of receiving a written notice in accordance with section 32, the Management Committee may instruct the FLP TAC to:

- (a) consider if the FLP should be amended; and
- (b) prepare FLP Recommendations for the FLP Joint Decision Makers, including any recommended amendments, according to any schedule and budget provided by the Management Committee.

34. Having reviewed the FLP Recommendations the FLP TAC prepared in accordance with section 33, if the FLP Joint Decision Makers, acting jointly, decide that an FLP should be amended, they will:

- (a) confirm their decision in writing, including any necessary reasons for their decision;
- (b) have any required amendments to the FLP prepared in writing;
- (c) have any required notices or orders prepared; and
- (d) instruct the FLP TAC to deliver the necessary notices as set out in s. 2.33 of the FRPA.

35. Prior to taking the steps required in section 34, the FLP Joint Decision Makers, acting jointly, may request:

- (a) the FLP TAC consider whether to recommend that the FLP Joint Decision Makers should jointly exercise their statutory power under s. 2.32 of the FRPA to require a person to:
 - (i) prepare and submit plans, studies, or analyses to the FLP Joint Decision Makers; or
 - (ii) obtain and submit information to the FLP Joint Decision Makers.
- (b) the FLP TAC carry out any necessary public engagement regarding the proposed amendment; and
- (c) the FLP TAC prepare written FLP Recommendations regarding the proposed amendment which may, as appropriate, include:
 - (i) the draft amendment;
 - (ii) reasons for the FLP Recommendations, including as appropriate, identification of options, implications, issues, or considerations;
 - (iii) any reports on consultation with First Nations including the Province's assessment of the sufficiency of such consultation;
 - (iv) any reports on public or stakeholder engagement, including the FLP TAC's assessment of the sufficiency of such engagement; or
 - (v) any other information that the FLP TAC or the Management Committee, acting reasonably, believes will assist the FLP Joint Decision Makers.

Part 9: Cancellation of an FLP

36. At any time, a Party may request that the other Party consider if they jointly wish to request that the FLP Decision Makers consider cancelling an FLP by making a written request to the Management Committee.

37. Within 30 Business Days of a notice under section 36 being received, the Management Committee may instruct the FLP TAC to:

- (a) consider if an FLP should be cancelled; and
- (b) prepare FLP Recommendations for the FLP Joint Decision Makers according to any schedule and budget provided by the Management Committee.

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38. Having reviewed the FLP Recommendations the FLP TAC prepared in accordance with section 37, if the FLP Joint Decision Makers, acting jointly, decide that an FLP should be cancelled, they will:

- (a) confirm their decision in writing, including any necessary reasons for their decision;
- (b) have any required notices or orders prepared; and
- (c) instruct the FLP TAC to deliver the necessary notices as set out in s. 2.33 of the FRPA.

Part 10: Report on FLPs

39. Within 10 Business Days of the conclusion of the Reporting Period for an FLP, the Management Committee will instruct the FLP TAC to prepare a draft FLP Report according to any schedule and budget agreed to by the Management Committee.
40. Within one year of the conclusion of the Reporting Period, the FLP TAC will present a draft FLP Report to the Management Committee for its review.
41. Subject to any concerns being raised by the Management Committee during its review of the draft FLP Report, the FLP TAC will then present the draft FLP Report to the FLP Joint Decision Makers for their approval within 18 months of the conclusion of the Reporting Period.
42. Following the approval of the FLP Report by the Joint Decision Makers, the Province will publish the FLP Report in accordance with the requirements of s. 2.31 of the FRPA.
43. The FLP TAC may request the assistance of the Management Committee in developing the FLP Report, including whether to make a recommendation in accordance with section 44, and may, subject to the Management Committee's approval, seek the advice of other advisors as necessary.
44. When developing the FLP Report in accordance with this Part 10, the FLP TAC may recommend that the FLP Joint Decision Makers jointly exercise their statutory power under s. 2.32 of the FRPA to require a person to:
- (a) prepare and submit plans, studies, or analyses to the FLP Joint Decision Makers;
or
 - (b) obtain and submit information to the FLP Joint Decision Makers.

Part 11: Consultation with First Nations other than 'Namgis

45. Consistent with Part 9 of this Agreement, the Province will remain responsible for discharging the duty to consult and accommodate any First Nations on any proposed FLP Decisions.

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46. The Province will, acting through the Management Committee, advise 'Namgis when, in the Province's view, consultation with other First Nations is required and will share with 'Namgis its draft consultation plan, based on the form attached as Appendix 2 to this Schedule, will, to the extent possible and subject to section 48:
- (a) advise 'Namgis of the anticipated timelines for consultation with other First Nations;
 - (b) include in its consultation plan any information or materials regarding the proposed FLP Decision that 'Namgis wishes to share with the First Nations being consulted; and
 - (c) consider 'Namgis' concerns, if any, regarding the disclosure of information or materials to other First Nations that, in 'Namgis' view, could compromise 'Namgis' interests in relation to its Title and Rights.
47. The Province will provide 'Namgis with a copy of the completed consultation plan prior to commencing consultation.
48. The Parties acknowledge any consultation plan must be implemented in a manner consistent with the Province's duty to consult and accommodate, as appropriate, in accordance with the common law and the provisions of applicable First Nations' treaties or consultation agreements.
49. For greater certainty, the Parties may, acting through the Management Committee, discharge the obligation in section 46 to discuss communication, engagement, or consultation with other First Nations when preparing a work plan in accordance with section 15 of this Schedule D.

Part 13: Communication with Stakeholders

50. The Management Committee will approve any communication regarding a proposed FLP Decision to potentially affected stakeholders, including any interested licensees. For greater certainty, the Management Committee may approve routine communication with, and information gathering from, potentially affected stakeholders, including interested licensees, through the approval of a work plan created in accordance with section 15.

Part 14: Dispute Resolution

51. If the FLP Joint Decision Makers are unable to reach consensus on an FLP Decision, the FLP Joint Decision Makers will attempt to resolve the lack of consensus and when doing so, they will conduct themselves in a manner consistent with section 19.1 of this Agreement. When attempting to resolve the lack of consensus, the FLP Decision Makers may seek assistance or information from the FLP TAC, the Management Committee, or third-party subject matter experts engaged on a confidential basis.

52. If the FLP Joint Decision Makers remain unable to resolve a lack of consensus after following the process in section 51 of this Schedule D, they may engage, on confidential basis, a facilitator to assist them in achieving consensus provided that the facilitator's assistance is provided in a manner that will not interfere with, limit, or fetter any of the powers, duties, or responsibilities held by either FLP Joint Decision Maker under this Agreement or under the applicable laws of their respective governments.

Part 12: Requirement to keep Records of an FLP Decision

53. The Parties agree that the Province will remain solely responsible for the requirement to keep records of any FLP Decision and FLP Report in accordance with s. 2.34 of the FRPA and that the Province will provide 'Namgis with a copy of all records of any FLP Decision or any FLP Report.

Part 13: Interpretation of Schedule D

54. In this Schedule D, the following definitions apply:

- (a) **"FLP Recommendations"** means recommendations prepared by the FLP TAC for the FLP Joint Decision Makers' consideration of any FLP Decision;
- (b) **"FLP Report"** means the report required by s.2.31(2) of the FRPA; and
- (c) **"Reporting Period"** means the period described in s. 2.31(1) of the FRPA.

Appendix 1 to Schedule D – FLP Technical Advisory Committee

1. The Province's FLP TAC Members will be those persons the Province identifies through written notice to 'Namgis, provided those persons collectively have the qualifications set out in section 3 below and the identification of those persons is consistent with this Agreement.
2. 'Namgis FLP TAC Members will be those persons 'Namgis identifies through written notice to the Province, provided those persons collectively have the qualifications identified in section 5 below and the identification of those persons is consistent with this Agreement.
3. The Province and 'Namgis will provide written notice of their respective FLP TAC Members to each other within 15 days of the Effective Date.
4. The Province's FLP TAC Members must collectively possess the below qualifications:
 - (a) at least one Registered Professional Forester (RPF); or
 - (b) at least one Registered Forest Technologist (RFT).
5. The 'Namgis FLP TAC Members must collectively possess the below qualifications:
 - (a) at least one Registered Professional Forester (RPF); or
 - (b) at least one Registered Forest Technologist (RFT).
6. At all times, the FLP TAC Members will collectively have the qualifications described in sections 4 and 5.

Appendix 2 to Schedule D - TEMPLATE FORM: CONSULTATION PLAN

[text in square brackets contains drafting notes or fillable fields. Action all text in square brackets. All text in square brackets must be removed from the final version]

[Date]
Overview
Information Intended for Sharing: [Insert technical description of proposal included in initial engagement letter]
Anticipated Consultation Initiation: [Date] Anticipated Consultation Conclusion: [Date]

Consultation Plan			
First Nation	Nature of Asserted Right	Agreement	Initial Response Period
[First Nation A]	[ex. Rights]	[N/A]	[ex. "60 days"]
[First Nation B]	[ex. Title]	[FCRSA]	
[First Nation C]		[SEA]	
Information Required From Management Committee:			
<ul style="list-style-type: none">Any information 'Namgis wishes to share with the First Nations being consultedAny concerns 'Namgis may have regarding the disclosure of information or materials to other First Nations			
[Summarize information or materials based on discussion with Management Committee]			

Schedule E - FOP Decision-making Processes

Part 1: Purpose

1. In accordance with section 7.5 of this Agreement, the purpose of this Schedule E is to establish the processes for assessing, approving, and if required, reviewing FOP Decisions.

Part 2: The FOP TAC

2. The Parties hereby establish the FOP TAC and each Party appoints the persons named in Appendix 1 to the FOP TAC.
3. The FOP TAC established by this Agreement and this Schedule E, acting under the supervision of the Management Committee, will support and assist the FOP Joint Decision Makers in making any proposed FOP Decision.
4. At all times, the FOP TAC will comprise an equal number of representatives from 'Namgis and the Province.
5. At all times, 'Namgis' representatives on the FOP TAC will collectively have all qualifications described in Appendix 1 to this Schedule C.
6. At all times, the Province' representatives on the FOP TAC will collectively have all the qualifications described in Appendix 1 to this Schedule C.
7. A person appointed as either an FLP Joint Decision Maker or an FOP Joint Decision Maker under this Agreement cannot be appointed to the FOP TAC.
8. A Party may change any person it has appointed to the FOP TAC by notifying the other Party in writing, provided any such change in membership to the FOP TAC is consistent with sections 4 to 7 of this Schedule C and Appendix 1 to this Schedule E.
9. During its work supporting the FOP Joint Decision Makers on any proposed FOP Decision, members of the FOP TAC may be assisted by experts or advisors internal to their respective organizations or contractors hired by their respective organizations who are bound by the same confidentiality provisions as contained in this Agreement.
10. The FOP TAC may seek out the assistance, direction, or guidance of the Management Committee for its work supporting and assisting the FOP Joint Decision Makers, including in reaching FOP Recommendations on a proposed FOP Decision.

Part 3: Governance of the FOP TAC and FOP Decision-making Process

11. Acting in accordance with this Agreement, the Management Committee will supervise and oversee the FOP TAC in its work supporting and assisting the FOP Joint Decision Makers for any proposed FOP Decision, including, as necessary, assisting the FOP TAC in

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preparing FOP Recommendations on a proposed FOP Decision and obtaining the guidance of the FOP Decision Makers.

12. From time to time, the Management Committee may require the FOP TAC to provide it with verbal or written updates on FOP Decision making processes, including, but not limited to, updated work plans, schedules, budgets, policies, or procedures.

13. The FOP Joint Decision Makers may:

- (a) amend Appendix 1 to this Schedule E in writing, including:
 - (i) changes to the number of persons necessary to comprise the FOP TAC; and
 - (ii) changes to the responsibilities and qualifications of the members of the FOP TAC; or
- (b) establish written policies and procedures related to the processes which support the FOP Decision Makers in considering a FOP Decision, or changes to any such existing policies or procedures.

Part 4: Receipt of Proposed FOP and Completeness Review

14. When the Province receives an electronic copy of a proposed FOP, it will immediately forward that electronic copy of the proposed FOP to 'Namgis.

15. Within 30 days of receipt of a proposed FOP, the Province will conduct a Completeness Review of that proposed FOP considering section 2.36 of the FRPA and sections 4.03 to 4.23, 4.29, and 4.37, as applicable, of the Forest Planning and Practices Regulation.

16. When conducting the Completeness Review, the Province will copy 'Namgis on any communication to the Applicant which confirms that:

- (a) the proposed FOP includes all the information and documentation required by the Forest Planning and Practices Regulation; or
- (b) the Applicant needs to submit missing information or documentation.

17. After the Province has conducted the Completeness Review for the proposed FOP, the Province will:

- (a) notify the Management Committee in writing that the proposed FOP is complete and ready for the FOP TAC to review; and
- (b) provide the Management Committee with electronic copies of any documentation that the Province used in determining the completeness of the proposed FOP.

18. For greater certainty, when undertaking the Completeness Review, the Province will not conduct any part of the Consistency Review to determine if the proposed FOP satisfies any of the requirements listed below in section 20.

Part 5: Consistency Review

19. Within 10 Business Days of the Province having notified the Management Committee, in accordance with section 17(a) that the submission for the proposed FOP is complete, the Management Committee will agree on a work plan, which may include a schedule and budget, for the FOP TAC to conduct the Consistency Review.
20. The FOP TAC Members will work collaboratively to prepare FOP Recommendations for the FOP Joint Decision Makers on the adequacy of the proposed FOP for approval by the FOP Joint Decision Makers, considering, as applicable to the proposed FOP, among other relevant considerations:
- (a) if the proposed FOP meets the requirements set out in sections 2.36 and 2.37 of the FRPA, as applicable;
 - (b) if the Applicant has complied with sections 2.38(1) and (2) of the FRPA;
 - (c) if the Applicant has given sufficient consideration to:
 - (i) matters raised by First Nations during engagement under section 2.38(1)(a) of the FRPA and avoidance or mitigation measures to address impacts to First Nations' aboriginal interests; and
 - (ii) comments received from the public under section 2.38(1)(b) of the FRPA;
 - (d) if the proposed FOP is inconsistent with any governing FLP in accordance with sections 2.4(2) and (3) of the FRPA;
 - (e) if the proposed FOP, despite inconsistency with a governing FLP, can be approved in accordance with section 2.4(1) of the FRPA;
 - (f) if the FOP Joint Decision Makers should impose, remove, or vary conditions in respect of the proposed FOP or amendment to the FOP in accordance with section 112 of the FRPA, including but not limited to a condition regarding the deactivation of a road in accordance with sections 2.39(2) and (3) of the FRPA and section 4.41 of the Forest Planning and Practices Regulation;
 - (g) if the Minister should request that the Applicant resubmit their proposed FOP and, if so, if the FOP Joint Decision Makers should jointly exercise their powers under section 2.38(3) of the FRPA to relieve that person from the requirements

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under sections 2.38(1) and (2) of the FRPA for the purposes of resubmitting the proposed FOP Decision;

- (h) sections 2.41 and 2.42 of the FRPA;
 - (i) if the FOP Joint Decision Makers should exercise their powers under section 2.43(2) of the FRPA to extend the term of the FOP;
 - (j) if the FOP Joint Decision Makers should exercise their powers under section 2.45(4) of the FRPA to exempt a person from a requirement to amend an FOP under section 2.45(1) of the FRPA; or
 - (k) if the proposed FOP satisfies all legal requirements including any applicable laws and any applicable regulations, including the Forest Planning and Practices Regulation.
21. When conducting the Consistency Review, the FOP TAC may, subject to the Management Committee's approval and supervision, and subject to section 24 below, engage the Applicant on the proposed FOP.
22. The Management Committee may, as necessary, authorize the FOP TAC to engage external experts to jointly assist the FOP TAC in resolving issues that may arise in consideration of the proposed FOP
23. When the FOP TAC has completed the Consistency Review and prepared the FOP Recommendations, the FOP TAC will brief the Management Committee on the FOP Recommendations.
24. After being briefed by the FOP TAC on the FOP Recommendations, the Management Committee may:
- (a) approve the FOP TAC engaging the FOP Joint Decision Makers on the FOP Recommendations according to this Schedule E; or
 - (b) direct the FOP TAC to reconsider the FOP Recommendations.

Part 6: Delivery of the FOP Recommendations to the FOP Joint Decision Makers

25. If the Management Committee, in accordance with section 24, has approved the FOP TAC engaging the FOP Joint Decision Makers on the proposed FOP Recommendations, then the FOP TAC will brief the FOP Joint Decision Makers on the FOP Recommendations.
26. When briefing the FOP Joint Decision Makers, the FOP TAC may be accompanied or assisted by members of the Management Committee or any advisors that may be required.

27. After being briefed by the FOP TAC on the FOP Recommendations, the FOP Joint Decision Makers may direct the FOP TAC to:
- (a) prepare written FOP Recommendations for the FOP Decision Makers' consideration; or
 - (b) reconsider the FOP Recommendations.
28. If the FOP Joint Decision Makers have directed the FOP TAC to prepare written FOP Recommendations, the FOP TAC will prepare and deliver written FOP Recommendations to the FOP Joint Decision Makers according to their direction.
29. The written FOP Recommendations may, as applicable, include:
- (a) the proposed FOP;
 - (b) reasons for the FOP Recommendations, including as appropriate, identification of options, implications, issues, avoidance and mitigation measures, conditions, or other considerations;
 - (c) any reports on consultation with First Nations, including the Province's assessment of the adequacy of such consultation;
 - (d) any reports on public, or stakeholder, engagement, including the FOP TAC's assessment of the sufficiency of such engagement and the Applicant's response to it; or
 - (e) any other information that the FOP TAC or the Management Committee, acting reasonably, believes will assist the FOP Joint Decision Makers.

Part 7: The Joint Decision-making Process

30. Upon receipt of the written FOP Recommendations, the FOP Joint Decision Makers will jointly determine if the FOP Joint Decision Makers:
- (a) are prepared to move to a Joint Decision; or
 - (b) require further information or analysis from the FOP TAC.
31. When considering the FOP Recommendations, the FOP Joint Decision Makers may, acting consistently with this Agreement, seek the advice of the FOP TAC, the Management Committee, or other advisors as necessary.

32. If the FOP Joint Decision Makers have approved the FOP, then the FOP Joint Decision Makers, with the assistance of the Management Committee or the FOP TAC, will, as necessary, prepare any required:

- (a) written reasons;
- (b) orders or
- (c) notices.

Part 8: Extension of the Term of an FOP

33. If the Province receives an application to extend an FOP approved under this Agreement, the Parties will use the processes described in Parts 3, 4, 5, and 6 of this Schedule E, as applicable, to make a Joint Decision on the proposed extension.

34. When working collaboratively, in accordance with Parts 3, 4, 5, and 6 of this Schedule E, to prepare FOP Recommendations on a proposed extension, the FOP TAC must consider the requirements of section 2.43 of the FRPA in addition to any other relevant considerations, including any considerations identified in section 20 of this Schedule E.

Part 9: Amendments to an FOP

Mandatory amendments to an FOP

35. When a Mandatory Amendment is required to an FOP under section 2.45(1) of the FRPA, the Parties will, as applicable, use the decision-making process described above in Parts 3, 4, 5, and 6 of this Schedule E to make a decision on the Mandatory Amendment.

36. Where a Mandatory Amendment is required under FRPA, the Parties will, on their own initiative, or on the request of the holder of an FOP, consider whether to exempt a person from a requirement to amend an FOP under section 2.45(1) of the FRPA in accordance with section 2.45(4) of the FRPA.

37. If more than one FOP has been approved under this Agreement and either Party believes that a Cumulative Impacts Amendment is required to an FOP, that Party will raise the issue with the Management Committee so that the Parties may discuss if they wish the FOP Joint Decision Makers to consider the need for a Cumulative Impacts Amendment.

38. Within 30 days of the Parties raising the potential need for a Cumulative Impacts Amendment in accordance with section 37, the Management Committee will consider the need for a Cumulative Impacts Amendment and, if necessary, may instruct the FOP TAC to prepare FOP Recommendations for the FOP Joint Decision Makers on the need

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for a Cumulative Impacts Amendment according to any schedule or budget provided by the Management Committee.

39. Having reviewed the FOP Recommendations prepared by the FOP TAC prepared in accordance with section 38, if the FOP Joint Decision Makers, acting jointly, decide that a Cumulative Impacts Amendment may be necessary, the FOP Joint Decision Makers will instruct the FOP TAC to provide the holder of the FOP an opportunity to be heard with respect to the potential Cumulative Impacts Amendment in accordance with section 4.48(3) of the Forest Planning and Practices Regulation.
40. After engaging with the holder of the FOP, the FOP TAC will prepare the FOP Recommendations for the FOP Joint Decision Makers on the need for a Cumulative Impacts Amendment, including any potential amendment, following the process described in section 26 and Part 6 above.
41. If the FOP Joint Decision Makers, acting jointly, decide that a Cumulative Impacts Amendment is necessary, then, with the assistance of the Management Committee or the FOP TAC, they will, as necessary, prepare any required:
 - (a) written reasons;
 - (b) orders; or
 - (c) notices.

Non-mandatory Amendments

42. If the Province receives a Proposed Amendment to an FOP, the Province will immediately notify the FOP TAC and the Management Committee of that Proposed Amendment and provide the FOP TAC and the Management Committee with a copy of all submissions made by the holder of the FOP.
43. Within 10 days of receiving a Proposed Amendment, the FOP TAC will meet to consider if the Proposed Amendment requires approval under section 4.45 of the Forest Planning and Practices Regulation and prepare FOP Recommendations for the FOP Joint Decision Makers following the process described in section 26 and Part 6 above.
44. Within 20 days of receiving a Proposed Amendment, the FOP Joint Decision Makers will decide if the Proposed Amendment requires approval under section 2.39 of the FRPA.
45. If the FOP Joint Decision Makers, acting jointly, decide that an approval is required, then the FOP Joint Decision Makers, with the assistance of the Management Committee or the FOP TAC, will, as applicable, use the decision-making process described above in Parts 3, 4, 5 and 6 of this Schedule E, to make a Joint Decision on the Proposed Amendment, and, as necessary, will prepare any required:
 - (a) written reasons;
 - (b) orders; or

(c) notices.

Part 10: Review of an FOP Decision

46. The FOP Joint Decision Makers may only review an FOP Decision under section 80 of the FRPA if they are satisfied that there is evidence that was not available at the time of the original FOP Decision.
47. If, within three weeks of the date of notice of determination of an FOP Decision under section 2.39 of the FRPA, the person who is subject to that FOP Decision requests a review of that decision in accordance with section 80 of the FRPA, then the Management Committee will instruct the FOP TAC to:
- (a) determine if there is evidence that was not available at the time of the original FOP Decision; and
 - (b) if there is evidence that was previously unavailable, review that FOP Decision and prepare FOP Recommendations regarding that decision for the FOP Joint Decision Makers.
48. When reviewing the FOP Decision, the FOP Joint Decision Makers may only consider:
- (a) evidence that was not available at the time of the original FOP Decision;
 - (b) the record pertaining to the original FOP Decision; and
 - (c) the FOP TAC's FOP Recommendations produced in accordance with section 47.
49. The FOP Joint Decision Makers will have the same discretion with respect to their review of the FOP Decision as the FOP Joint Decision Makers had when they made the original FOP Decision.
50. The FOP Joint Decision Makers may extend the time limit for requesting a review under section 80 of the FRPA before or after the expiry of that time limit.

Part 10: Consultation with First Nations other than 'Namgis

51. Consistent with Part 9 of the Agreement, the Province will remain responsible for discharging the duty to consult and accommodate any First Nations on any proposed FOP Decision.
52. The Province will, acting through the Management Committee, advise 'Namgis when, in the Province's view, consultation with other First Nations is required and when preparing its consultation plan, in the form attached as Appendix 2 to this Schedule, will, to the extent possible and subject to section 54:
- (a) advise 'Namgis of the anticipated timelines for consultation with other First Nations;

**Draft for Consultation dated October 3, 2025. Subject to change based on consultation.
Subject to mandates and approvals from the Parties.**

- (b) include in its consultation plan any information or materials regarding the proposed FOP Decision that 'Namgis wishes to share with the First Nations being consulted; and
 - (c) consider 'Namgis concerns, if any, regarding the disclosure of information or materials to other First Nations that, in 'Namgis' view, could compromise 'Namgis' interests in relation to 'Namgis Title and Rights.
53. The Province will provide 'Namgis with a copy of the completed consultation plan prior to commencing consultation.
54. The Parties acknowledge any consultation plan must be implemented in a manner consistent with the Province's duty to consult and accommodate, as appropriate, in accordance with the common law and the provisions of applicable First Nations' treaties or consultation agreements.
55. For greater certainty, the Parties may, acting through the Management Committee, discharge the obligation in section 52 to discuss communication, engagement, or consultation with other First Nations when preparing a work plan in accordance with section 19 of this Schedule E.

Part 11: Communications with the Applicant

56. The Management Committee will approve any communication with a holder of FOP regarding a proposed FOP Decision. For greater certainty, the Management Committee may approve routine communication with, and information gathering from a holder of a FOP through the approval of a work plan created in accordance with section 19.

Part 12: Communications with Stakeholders

57. The Management Committee will approve any communication regarding a proposed FOP Decision to potentially affected stakeholders. For greater certainty, the Management Committee may approve routine communication with, and information gathering from, potentially affected stakeholders through the approval of a work plan created in accordance with section 19.

Part 13: Dispute Resolution

58. If the FOP Joint Decision Makers are unable to reach consensus on an FOP Decision, the FOP Joint Decision Makers will attempt to resolve the lack of consensus, and when doing so, they will conduct themselves in a manner consistent with section 19.1 of this Agreement. When attempting to resolve the lack of consensus, the FOP Decision Makers may seek assistance or information from the FOP TAC, the Management Committee, or third-party subject matter experts engaged on a confidential basis.
59. If the FOP Joint Decision Makers remain unable to resolve a lack of consensus after following the process in section 58 of this Schedule E, they may engage, on a confidential basis, a facilitator to assist them in achieving consensus provided that the facilitator's

assistance is provided in a manner that will not interfere with, limit, or fetter any of the powers, duties, or responsibilities held by either FOP Joint Decision Maker under this Agreement or under the applicable laws of their respective governments.

Part 14: Interpretation of this Schedule E

60. In this Schedule E, the following definitions apply:

- (a) **“Applicant”** means a person who submitted a proposed FOP;
- (b) **“Completeness Review”** means the review the Province will complete in accordance with Part 4 of this Schedule E to ensure that any proposed FOP has all the elements required by section 2.36 of the FRPA and sections 4.03 to 4.23, 4.29, and 4.37, as applicable, of the Forest Planning and Practices Regulation;
- (c) **“Consistency Review”** means the review the FOP TAC will undertake in accordance with Part 5 of this Schedule E to determine if a proposed FOP Decision meets the requirements for potential approval by the FOP Joint Decision Makers;
- (d) **“Cumulative Impacts Amendment”** means an amendment required under section 4.48 of the Forest Planning and Practices Regulation to address the cumulative impact of the multiple FOPs;
- (e) **“FOP Recommendations”** means recommendations prepared by the FOP TAC for the FOP Joint Decision Makers’ consideration of any FOP Decision;
- (f) **“Mandatory Amendment”** means an amendment required by section 2.45(1) of the FRPA and includes Cumulative Impacts Amendment; and
- (g) **“Proposed Amendment”** means a request to amend a FOP approved under this Agreement in accordance with s. 2.39 of the FRPA.

Appendix 1 to Schedule E – FOP Technical Advisory Committee Qualifications

1. The Province's FLP TAC Members will be those persons the Province identifies through written notice to 'Namgis, provided those persons collectively have the qualifications set out in section 4 below and the identification of those persons is consistent with this Agreement.
2. 'Namgis FOP TAC Members will be the persons 'Namgis identifies through written notice to the Province, provided those persons collectively have the qualifications identified in section 5 below and the identification of those persons is consistent with this Agreement.
3. The Province and 'Namgis will provide written notice of their respective FOP TAC Members to each other within 10 days of the establishment of the first FLP pursuant to this Agreement.
4. The Province's FOP TAC Members must collectively possess the below qualifications:
 - (a) at least one Registered Professional Forester (RPF); or
 - (b) at least one Registered Forest Technologist (RFT).
5. The 'Namgis FOP TAC Members must collectively possess the below qualifications:
 - (a) at least one Registered Professional Forester (RPF); or
 - (b) at least one Registered Forest Technologist (RFT).
6. At all times, the FOP TAC Members will collectively have the qualifications described in sections 4 and 5.

Appendix 2 to Schedule E - TEMPLATE FORM: CONSULTATION PLAN

[text in square brackets contains drafting notes or fillable fields. Action all text in square brackets. All text in square brackets must be removed from the final version]

[Date]
Overview
Information Intended for Sharing: [Insert technical description of proposal included in initial engagement letter]
Anticipated Consultation Initiation: [Date] Anticipated Consultation Conclusion: [Date]

Consultation Plan			
First Nation	Nature of Asserted Right	Agreement	Initial Response Period
[First Nation A]	[ex. Rights]	[N/A]	[ex. "60 days"]
[First Nation B]	[ex. Title]	[FCRSA]	
[First Nation C]		[SEA]	
Information Required From Management Committee:			
<ul style="list-style-type: none">Any information 'Namgis wishes to share with the First Nations being consultedAny concerns 'Namgis may have regarding the disclosure of information or materials to other First Nations			
[Summarize information or materials based on discussion with Management Committee]			