

Module 4

Step 3: Collective Decision Making and Reaching Consent

Introduction: This module sheds light on the project's grievance redressal mechanism that needs to be widely publicized among the communities for hassle-free resolution of their grievances during project implementation. Further, it also elaborates on community discussions and negotiations with the project representatives and the outcomes of their collective decision-making, whether to give or withhold consent. In case the communities agree with the project's mandate, this module provides guidance on how to take their consent in the form a signed agreement, which is legally binding on either of the parties, i.e. the indigenous communities and the project representatives.

3.1 Discuss the project's Grievance Redressal Mechanism with the Communities

The communities may have concerns or grievances that may arise throughout the project's lifetime. It is important that we have a mechanism to address the affected communities' concerns and complaints.

- Identify if any grievance redressal mechanism already exists with the indigenous communities. Tell them the project has developed an indicative mechanism and that they may discuss among themselves and provide their feedback for improvising it based on the local needs and circumstances.
- Present the mechanism. **[Please refer to Annexure 1]**
- Say " Despite the good intentions and optimal efforts to create a positive impact on your lives, there are chances of disputes or conflicts between us, which, if resolved at the earliest would not hamper the momentum of project activities. We believe that you would also want a mechanism, where you can voice your concerns or issues regularly and have them sorted promptly. To ensure this, we have already developed an initial design of a grievance mechanism. If interested, you may have a look at it. In case you already have one customary mechanism and choose to follow it, you may do so, since it will be more relevant and meaningful. If you do not have any internal mechanism like this, we may discuss upon what we have designed and we can jointly work on developing a clear and understandable mechanism that is accessible to all segments of the affected communities".
- You need to put adequate emphasis to the following points while explaining the project's grievance mechanism:

- Who can raise complaints (affected communities);
- Where, when, and how community members can file complaints;
- Who is responsible for receiving and responding to complaints, from communities;
- What sort of response complainants may expect from the project, including timing of response.

Note to the Facilitators:

- **No Cost to the Affected Communities** - While discussing with the communities about the proposed grievance redressal mechanism, inform the communities that they can file complaints free of cost.
- **Emphasize that the mechanism is flexible and open to amendments** - Explain to the communities that there will be continuous periodic analysis of communities' concerns with their participation and that they will jointly agree on modifications, if any, to be made to the established mechanism.

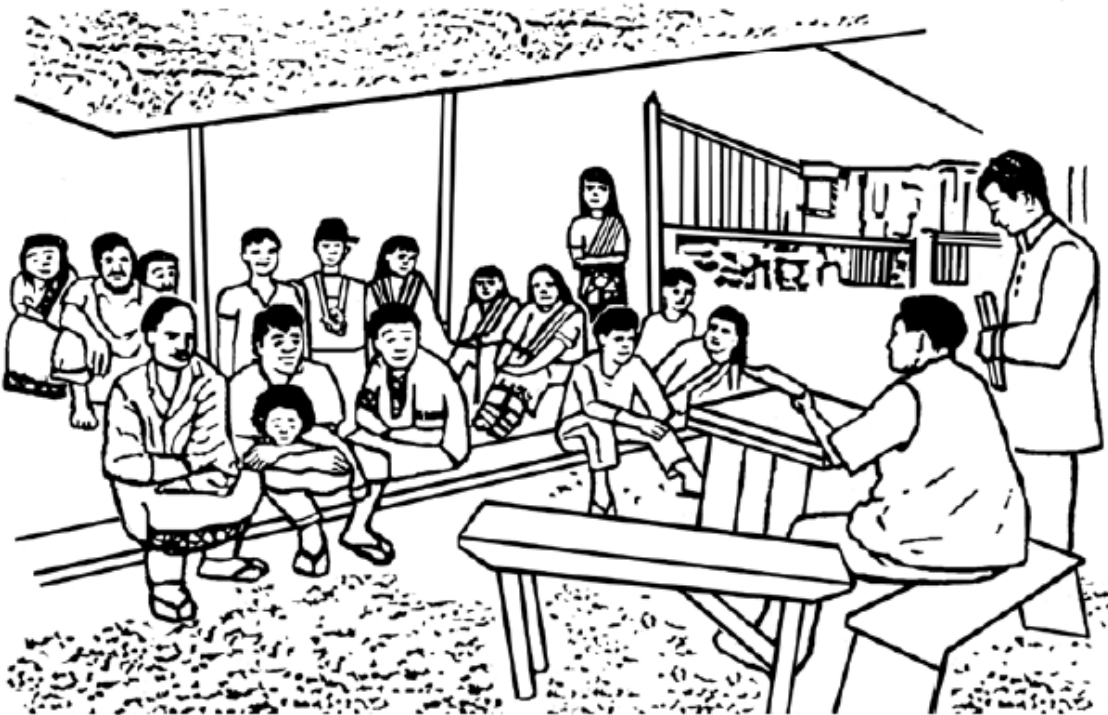
3.2 Community deliberations and discussion among themselves:



- Independent and thorough deliberation by members of indigenous communities after disclosure of the information is prerequisite to the process of collective decision-making process.
- Give them time and space to deliberate and discuss among themselves until they have gained confidence to undertake their collective decision. This will allow them to raise questions that are unanswered and to bring out unresolved issues or particular concerns arising from the consultations.
- Be ready to provide clarifications and address any of their key questions, opinions, concerns of the communities.
- Say” Now, since we have explained about the project and the steps involved in its implementation, in detail, we request your consent, if you all are in agreement with the proposed project. However, in case of any apprehensions about this project, you are not obliged to make decisions, if you are not completely sure. We are more than willing to clarify your queries, doubts or concerns. You may reject, partially accept or choose not to give an opinion on this proposal. Also, you may take as much time as you need to discuss and come to a conclusion whether you would like to go with this project or not. The decision is completely yours. If you are not convinced and wish to reject, you may note that we would not go ahead with the project activities in your landscape without your full free consent. However, after giving consent, you may wish to withdraw consent at any

point of time, if you feel that the project activities are not aligned with your interests and priorities.”

3.3 Communities to decide freely if they want to enter into negotiations:



- After internal discussions and deliberations among communities', they decide if they want to enter into negotiations or not.
- The negotiations can be on the terms and conditions under which the project will be planned, implemented, monitored and evaluated.
- Give them ample time to discuss and decide. If the indigenous communities mutually decide that they do not want to enter into any further consultations and negotiations, stop further consultations with them and withdraw from their villages.
- Otherwise, enter into negotiations with the communities, if they have expressed their willingness to participate further in the engagement process of the project
- During negotiations, ask the communities what activities are acceptable and the non-negotiables. This will help the project plan its activities accordingly and stay away from "off-limits".

Note to the Facilitators:

- Consultations with communities does NOT mean that you have their consent for the project. They are simply claiming their right to obtain information about the project.
- Do not force them to enter into negotiations before they are ready to do so. Let them decide how they want to negotiate and finally make a decision as a community.

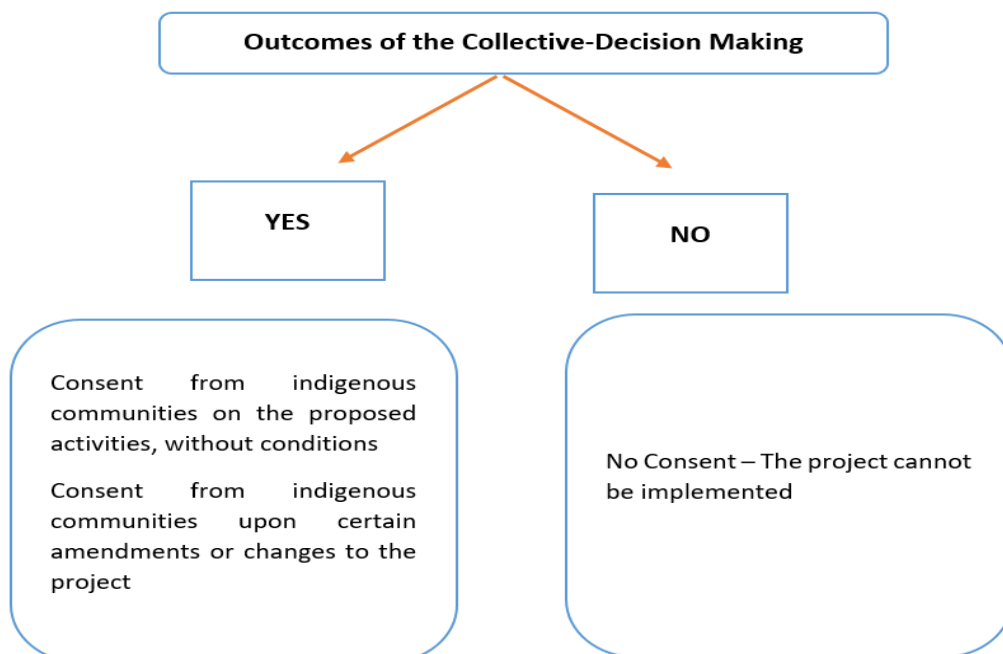
3.4 Agree on how to agree - Decide on the form and method for collective decision-making:

- Allow indigenous communities to decide their own mechanisms and processes of decision-making that they will follow in arriving at a decision of either consent or no consent.
- Agree with them on how agreement will be reached within the communities. Pay attention to any customary modes of seeking consensus and decision-making
- Discuss the criteria for validity of the agreement. For example, validity may depend on the proportion of the community that was present for the decision, the number of votes or the extent of representation from different groups within the community (such as women, youth, the rural poor or migrants).

3.5 Allow communities to undertake collective-decision making process



- Give communities' members the time and space to decide collectively, based on the implications of the project activities from their own perspectives, interest, welfare and aspirations.
- Do not pressurize the communities to communicate their decisions soon. The time should be enough for them to thoroughly discuss among themselves before they take any decision.
- As a facilitator, ensure that decision-making process is inclusive with active participation of women and other socially marginalized groups, if any, and gives them a chance to express their views and put forth their concerns.



3.5.1 Consent from the indigenous communities on the proposed activities, without conditions

- If the indigenous communities decide to say “YES” to the project, make sure that the agreement you enter into with these communities is recorded in writing and legally binding on either of the parties. It will include the conditions under which these communities give their consent to the proposed project.
- Share the draft agreement with the communities [**Please refer to Annexure**] and take their concurrence or inputs/ suggestions on the same. Please note that this template is in a rudimentary shape and may need to be further improvised based on the local needs and requirements.
- During this process, you should respect any customary modes of decision-making and consensus-seeking of communities like a show of hands, the signing of a document witnessed by a third party, performing a ritual ceremony that makes the agreement binding, and so forth.

Note to the Facilitators:

Conflicting Opinions within Indigenous Communities

- Please note that there could be strong opposition within and between indigenous communities which reflects absence of consent. You need to understand their concerns and ensure that they are adequately represented and discussed with other communities to arrive at a mutually agreeable decision.
- You as a facilitator could suggest and facilitate the community members’ involved to discuss it among themselves and come to a consensus. Even if there are views or positions that run counter to those of majority, as long as those with opposing views agree to abide or respect the position of majority, then this is considered as a consensus and a consent decision.
- In case the communities fail to reach a consensus among themselves to decide whether to go with the project or not, the project has to refrain from implementation in those areas until a mutual consensus is reached between all the communities. As a project, you need to respect and uphold the collective voice, views and interests of all the indigenous groups so that a mutual consensus is reached among all the communities in the project village.

3.5.2: Consent from the indigenous communities upon certain amendments or changes.

- In certain instances, communities may have some reservations over different aspects of the project. Their consent to the project will be subject to certain modifications.
- **Be flexible** - When a community is opposed to certain parts of a project, try to establish which parts are acceptable to the community and which parts need to be adapted or abandoned. Be open to modifying certain components of the project, so that they are more satisfactory to all parties
- **Approach negotiations cooperatively** - You need to bear in mind that negotiation is not about winning or losing – it is about cooperating so that all parties can achieve at least some of their objectives
- Listen to all their concerns and issues patiently and try offering solutions. Clarify which areas in the project can be negotiated and the non-negotiables.
- Give communities ample time to decide on the renegotiated project proposal.
- Once the communities are ready to give their consent to the project, ensure that the negotiated terms and conditions are incorporated into an agreement, which is binding on either of the parties.

3.5.3: No consent, the project cannot be implemented

- In a scenario where indigenous communities say “NO” to the project, remember that the project cannot proceed ahead with implementation.
- Respect their right as communities to reject the project proposal. Do not try to immediately renegotiate with them.
- However, you may ask the communities to indicate under what conditions they would be prepared to consider the proposal again. If the communities agree to explain why they withheld their consent, it may be possible to revise the proposal until it is acceptable.
- Beware that the communities are not obliged to explain their reasons for withholding their consent.
- You may say, “We immensely thank all of you for your sparing you valuable time to listen to us. We respect your decision of not going with this project. As a project, we always look at analyzing why certain things do not happen as desired, which will help us in taking informed decisions in future. In this regard, we would like to know the reasons behind rejecting the proposed project so that necessary amendments can be made accordingly and presented before you again for your consent”.

- If the communities are unwilling, you must respect their right to refuse any renegotiations.

Documentation:

Document the proceedings of the meeting in the following ways:



- Record proceedings of the of the meeting
- Take photographs, audio, and video recording of the meeting
- Consent agreement with mutually agreed upon terms and conditions signed by the representatives of indigenous communities and the project

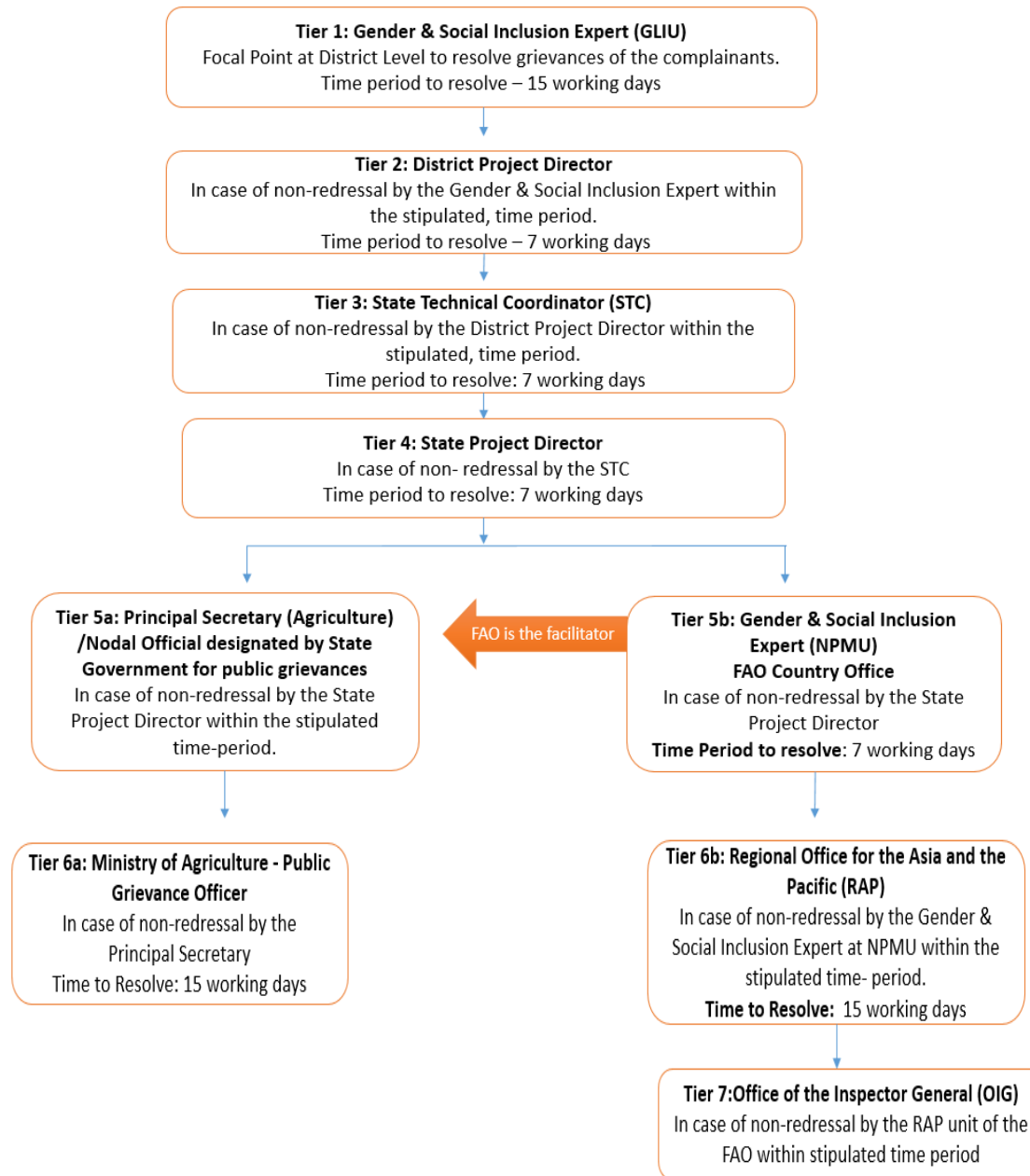
Annexure 1: Grievance Redressal Mechanism

Explain to indigenous communities that the project's grievance redressal mechanism offers the following advantages:

- Say “the project’s grievance redressal mechanism provides you with the advantage of a locally based, simplified, and mutually beneficial way to settle issues that are within the framework of the Green-Ag project. It is not intended to complement, nor replace any existing formal channels for managing grievances (e.g., judiciary).
- Say “ it also provides readily accessible means to address your concerns and you need not incur any additional costs for this. It is a socially inclusive mechanism with equal access to women and other disadvantaged groups in the society. The staffing of the grievance mechanism includes female staff in the form of Gender and Social Inclusion Experts at the district level and the national level, who are aware and sensitive to the role of women in local society and the issues they face”.
- Also, say “You can communicate your grievances through variety of channels (e.g., phone, letter, email, website, meeting, face-face etc.). We will acknowledge your complaint in no less than two weeks with a unique complaint number, a timeline for response, and the name designation and telephone number of the employee to be contacted for all future correspondence.
- Make it clear to the communities that only the following complaints are eligible for redressal under project’s redressal mechanism.
 - The complaint pertains to the project
 - The complaint is not anonymous. However, the complainant’s name will be kept confidential if he or she so requests.
- Further add “regardless of the outcomes, a response shall be provided to all the complainants. It can be either oral or written, depending on whether the grievance was received orally or in writing. It will also include a clear explanation of why this response is being proposed and what the complainant’s choices are, given the proposed response. The communication of the proposed response shall normally occur within 7-15 working days from receipt of a complaint.
- Say “The designated Grievance Officer from the project shall review the situation with the complainant, post implementation and see whether any modification of the response might meet the concerns of the complainant, the project, and other stakeholders.

If not, the GRM staff shall inform the complainant about other alternatives that may be available, including the use of judicial or other administrative mechanisms for recourse.

- Emphasize to the communities that if they are not satisfied with the response received, they may take up the case with the next higher-level officer. The GRM officer at this level will look into the complaint and seek a report from lower level official immediately, gauge the appropriateness of response and in case of any inadequacies take appropriate steps to address the grievance within a span of 7 working days.
- Explain to the communities "There is a clearly laid down governance structure for the project's grievance mechanism with details on procedures, and personnel involved in handling and resolving complaints. It is a multi-tiered structure with individuals at different levels of project implementation acting as focal points for redressal of grievances". **Refer to the following flow-chart** while explaining to the communities.



A MUTUAL AGREEMENT

Between the Green-Ag Project Representatives and Communities' Representatives in the <Village Name>

The GEF-6 funded Green-Ag project and the Indigenous Peoples <names of the various tribes> through this statement jointly declare their intent to collaboratively implement the Green-Ag project in the <Village Name>.

This Agreement recognizes the role of a partnership between **the representatives of local Indigenous Peoples <names of various tribes>, and the GEF-6 funded Green-Ag project, who are the signatories to the agreement**, for the purpose of the implementation of project activities which would result in overall sustainable development of the indigenous communities living in the <Village>.

The FPIC process is the result of joint efforts, talks, and consultations between local indigenous communities and the project representatives. It should be noted that the State Agriculture Department, Mizoram and the District Administration of <Name of the district> are the key facilitators of this process, beginning <mention the date of commencement of FPIC activities in the village>. Thus, the three stakeholders have been involved in the developing modalities for FPIC implementation and thereby undertake to continue cooperation during its implementation and in close interface with the indigenous communities in the project village.

The Parties:

- respect each other and recognize that each of the Parties has its own views, opinions, and tasks
- respect the priority right of the local Indigenous People to use the resources of fauna and flora and their growing aspiration for self-governance and control over the environment of their native habitat
- respect the distinctive spiritual ties of the indigenous Peoples to their land and the paramount importance of the preservation and protection of their habitat as a precondition for their ethnic survival and development
- recognize that implementation of project activities would affect local peoples' native habitat, customary way of life, economic activities, and crafts
- take into account the need for informed consultations with the local communities in the spirit of the FPIC process.
- recognize the local Indigenous Peoples' right to define their sustainable development priorities

- acknowledge the fact that the project-affected Indigenous Peoples live in <village name> in vulnerable geological and climatic conditions without a well-developed infrastructure, facing acute social and economic problems related to the preservation and development of traditional economic activities and sustenance of their culture and language
- appreciate the aspiration of Green-Ag project, to undertake project interventions within the areas of the project-affected villages, to contribute to the development of the indigenous communities
- assume obligations and take decisions based on the principles of equal partnership, transparency, and prompt notification and rely on a joint responsibility with each other through constant interactions.

1. Agreement Objectives:

This Agreement has been undertaken to coordinate the Parties' efforts to implement the Green-Ag project in the <Village> and to bolster their cooperation to enhance the sustainable economic, social, and cultural development of the Indigenous People through participatory consultative process and soliciting their prior consent before the commencement of project objectives in the <village name>. The various objectives under this agreement are:

- To share relevant information on project's nature, mandate, positive and possible negative effects and mitigation measures as well as opportunities for project benefits with project-affected communities and their representatives in a culturally appropriate manner
- To seek community suggestions for making the proposed project interventions and various action plans more effective, appropriate and acceptable to them
- To incorporate the opinions and concerns of the affected communities (also those of marginalized communities like women, youth and elderly) into project design, implementation and monitoring activities
- To obtain the consent of affected communities before the commencement of project activities in a free transparent and inclusive manner
- To halt the project activities in those areas, where consent has been withdrawn by the communities at the subsequent stages of giving their consent.

2. Subject of the Agreement

The subject of this Agreement is the collaboration between the Green-Ag project representatives and the affected indigenous peoples on following issues:

- Independent Verification Mechanism –
(Details will be included as mutually agreed upon by the (Project Representatives and the affected indigenous people through their chosen representatives))
- Agreed feedback and complaints mechanism
(This will go as appendix once the feedback and complaints mechanism is mutually agreed by both the Parties (Project Representatives and the affected indigenous people through their chosen representatives))

3. Areas of Cooperation:

(To be filled based on the consultations and negotiations with the communities)

4. Non-Negotiable Areas

(To be filled based on the consultations and negotiations with the communities)

5. Liabilities of the Parties

(Need Inputs from the project team and the reviewers of the document)

6. Particular Terms and Conditions

This Implementation Agreement also provides for the following:

6.1. Holding of regular (at minimum annual) meetings between the project representatives and the community representatives for considering the issues directly related to the subject hereof.

6.2. Any amendments and supplements hereto may only be made by mutual consent of the Parties in the form of a protocol to be signed by both the Parties

6.3. In the event it is desired by the Parties, additional Agreements may be adopted by mutual consent of all the Parties.

7. Validity and Termination of the Agreement

7.1 This Agreement has been made on <date> and shall take effect as soon as signed by both the Parties and is valid throughout the project duration until and unless there are any amendments to it

7.2. This Agreement has been made in <local language> and English, one copy in each language for each of the Parties. In the event of any discrepancy between the Nepali and the English texts of this Agreement, the English text shall prevail.

7.3 The indigenous communities may withdraw their consent at any stage of the project implementation if it is observed that the project activities are not in accordance with their customary practices and the signed agreement.

7.3. This Agreement may be terminated by mutual consent of the Parties at any point of time, during the project implementation.

8. Signature of the Parties

As attested to by their signatures below, each of the Parties commits to carrying out the terms of this Implementation Agreement:

Project Representatives	Representatives of the Communities in <Village Name>