



FEDERAL REPUBLIC OF NIGERIA

**MINISTRY OF MINES AND STEEL DEVELOPMENT (MMSD)**

**GUIDELINES FOR THE PRODUCTION  
OF  
COMMUNITY DEVELOPMENT AGREEMENT  
IN  
THE SOLID MINERAL SECTOR**

**2014**





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## FOREWORD

The CDA concept has been introduced in the Solid Minerals Sector to promote harmonious and mutually beneficial relationship between the Mining Companies and their host Communities. It has been included in the Nigerian Minerals and mining Act (NMMA), 2007 to forestall, in the Solid Mineral Sector, the repeat of social crises experienced in the Niger-Delta by the Oil Sector, which may undermine the present efforts of the Federal Government aimed at diversifying our monolithic national economy.

In order to facilitate the implementation of the CDA, in a rapidly growing Solid Minerals Sector of our national economy, the Federal Government, through the MMSD has developed a Guideline for use in the Sector. The target audience/users are the Mineral Title Holders; the Mining Community members and other elements of civil society; the CDA documents writers and the general public.

This guideline has been developed, taking into consideration the shortcomings often associated with CDA documents previously submitted to the Ministry by the Mineral Title Holders, which eventually rendered them unacceptable. It is therefore very useful as it will ensure that CDAs produced for the Solid Minerals sector meet the requirements of extant laws.



**Arc. Musa M. Sada, FNIA, FNIMG**  
Honourable Minister of Mines and Steel Development

# CHAPTER ONE

## 1.0 INTRODUCTION

### 1.1 Preamble

The Nigerian Minerals and Mining Act, 2007 stipulates that the Holder of a Mining Lease, Small Scale Mining Lease or Quarry Lease, shall, prior to the commencement of any development activity within the lease area, conclude with the host community, an agreement referred to as a Community Development Agreement (CDA) or other such agreement that will ensure the transfer of social and economic benefits to the Community.

The Community Development Agreement is to be submitted to the Honourable Minister, Ministry of Mines and Steel for evaluation by the Mines Environmental Compliance Department. From experience, however, since the enactment of the Act in 2007, most of the CDA documents submitted to the Ministry do not meet the criteria set by the extant law, and were subsequently denied approval.

This Guideline has therefore been developed in order to raise the standards of CDA development and writing in conformity with the global best practice. The essence is to reverse the past undesirable trend.

### 1.2 Objectives of the Guideline

The Guideline essentially focuses on the following objectives:

- i. To provide the key elements and general contents of the CDA;
- ii. to specify an acceptable structure of the CDA,
- iii. to specify the appropriate consultative and monitoring frameworks for its implementation and
- iv. to specify the means by which the Community may participate in the planning, implementation, management and monitoring of activities carried out under the CDA.

## CHAPTER TWO

### 2.0 THE KEY ELEMENTS OF A GOOD CDA DEVELOPMENT AND THE PROCESSES

Some key elements are prescribed as a standard structure for CDA development. The elements fall within the provisions of the NMMA, 2007 and its Regulations 2011 and are as follows:

#### 2.1 Timeframe and Process:

The preparatory processes of the CDA and engagement of the host Communities should begin prior to mine development and should include necessary clauses for “withdrawal of Agreement”.

#### 2.2 Stakeholder Participation:

The stakeholders should be actively involved (including local government and NGOs) in the identification of their community needs in order to **build local ownership** of CDA components and to ensure effective **links to existing programs and development processes**. Efforts should be made to **engage all stakeholder groups** (including gender equity, and representatives of vulnerable and marginalized groups).

#### 2.3 Capacity of Participating Stakeholders:

The most successful CDAs often emerge where governments and the private sector have invested significant time and effort into **building the capacity of all stakeholders** prior to the start of CDA negotiations. Therefore, it is important that necessary awareness be created for the Community on the nature of the negotiations and their rights, as specified by the law, before negotiations commence.

## 2.4 **Community Identification:**

The identification of “qualified” communities (i.e., those to be included in the CDA negotiation and implementation process) should go **beyond the direct project area**. Those impacted by “transportation routes, supply chains, employment catchment areas, and the use of areas by people from outside the immediate project area (e.g., cultural/traditional land use areas) may be interested stakeholders but they will not necessarily be considered “qualified communities” under a CDA. For the purpose of the CDA, the Host Community shall be determined as per the provision of section 193(5) of the Nigerian Minerals and Mining Regulations, 2011 or as may be amended.

## 2.5 **Community Representation**

Regarding **Community representation**, since all groups should be represented and it is impractical to have every community member at the negotiating table, representatives of qualified communities and specific stakeholders are normally involved, while the broader community remains engaged through activities such as public meetings and focus groups. The issue of who best represents a Community and all of its facets may not always be easy to determine. However, it may be better to work through the Community Heads or established local structure, though these individuals may not fully represent the interests of all groups, and also may not be privy to issues and concerns facing various groups. Nevertheless, communication of information and outcomes back to the broader community is essential. Therefore, for the purpose of the CDA, the signatories to the Agreement, shall be persons freely chosen by the generality of the Community to represent them. As soon as the representatives for the

CDA have been chosen, the head of the Community shall, prior to signing the Agreement, submit to the Ministry, for verification, the full names, addresses and telephone numbers of the representatives of the Community, who shall not be less than 3 or more than 7.

**2.6 Funding of the CDA and the Projects:**

The funding of the CDA and the projects shall be by the Mineral Title Holders as per the extant law and Regulations in Nigeria.

**2.7 Obligation and Responsibility:**

CDA should clearly describe the roles and responsibilities of the parties involved in the Agreement.

**2.8 Grievance and Dispute Resolution Mechanisms:**

An effective grievance mechanism is a key component of a successful CDA. The NMMA, 2007 prescribes that grievances shall be referred to the Minister responsible for Solid Minerals development for resolution, failing which the matter shall be referred to Arbitration under the “Arbitration and Conciliation Act, Laws of the Federal Republic of Nigeria” or any statutory modification thereto.

**2.9 CDA Monitoring**

Monitoring programs should be included in the CDA development process, and should involve representatives of various stakeholder groups. Regular **auditing and reporting** is important and the regularity of these should be agreed to by the parties.



## CHAPTER THREE

### 3.0 PRESCRIBED CONTENTS AND WRITING FORMAT OF THE CDA

#### 3.1 PRESCRIBED CONTENTS OF THE CDA

Section 193 (9) of the NMMR, 2007 outlines the issues that CDA must address. These include:

- a. Programmes for the development of the Community in the areas specified in the Act.
- b. The modalities for monitoring and implementation of the programmes contained in the Agreement;
- c. Environmental protection;
- d. Compensation;
- e. Conflict management or resolution;
- f. Rights of the holder in relation to the mining area;
- g. Renewability of CDA after a period of 5 years
- h. Any other relevant issues.

Section 116 of the NMMA, 2007 also enumerates what the CDA may contain.

These include:

- a) Undertakings with respect to the social and economic contributions that the project will make to the sustainability of such community as contained in Section 116 (2).
- b) addressing all or some of the following issues when relevant to the host community – educational scholarship, apprenticeship, technical training and employment opportunities for the indigenes of the communities;
- c) financial or other forms of contributory support for infrastructural development and maintenance, such as: education, health, or other community services, roads, water and power;

- d) assistance with the creation, development and support to small scale and micro enterprises;
- e) agricultural product marketing; and
- f) methods and procedures of environment and socio-economic management and local governance enhancement.

## **3.2 THE WRITING FORMAT OF THE CDA**

### **3.2.1 The Structure of a CDA**

The CDA shall be presented in 3 parts:

- i. the title page;
- ii. the body and
- iii. the signature sheet(s).

The body shall consists of:

#### **i. The Parties Clause**

This should include the names of the parties involved, their legal representatives and addresses. The date of the agreement should be included.

#### **ii. Recitals**

This should include the negotiations between the parties; the type of the mineral title; mineral of interest; description/location of the proposed mining project site; proposed date of commencement of mining operations.

#### **iii. Definition of key terminologies**

All technical and legal terms should be appropriately defined.

#### **iv. How the Communities and Representatives were determined**

The summary of how the qualified mining communities

were identified and how the representatives were selected should be given.

- v. **Parties Agreement/Covenants under the CDA**  
Under this heading, the aim and objectives of the CDA should be appreciated by statements. This should include the listing of obligations of the two parties under the agreement, its date of commencement and duration of the Agreement, including the understanding of the provision for possible renewals after every 5 years).
- vi. **Consultative and Monitoring Frameworks between the parties**  
This should include how the parties have agreed to meet to discuss the implementation of the CDA. Specifically, who and who attend the meetings, the regularity of the meetings, the venue, its scheduling and how this information is to be communicated to all the interested parties should be stated. From the onset, the Agreement should specify the party that shall facilitate the meeting. Also, the Monitoring mechanism for the Community project should be stated. This should include the formation of Monitoring Committee which shall include the representatives of parties as well as the Ministry of Mines and Steel Development. The regularity of meeting of the Monitoring Committee and mode of reporting, as agreed, should be stated.  
Other specific role of the Community in the implementation of the Community projects should be stated.
- vii. **Lodging of grievances by the parties**  
Any dispute or complaint arising from CDA implementation shall be referred to the Minister for amicable settlement as per the provision of Section 193(4) of the NMMR, 2011.

**viii. Further undertakings by the parties**

Details of further undertakings relating to this Agreement should be included in this section.

**ix. Withdrawal Clauses (Suspension and Termination Processes of Agreement)**

Other agreed conditions for suspension or termination of the Agreement should be stated.

**x. Force Majeure**

What is agreed to constitute “Force Majeure” should be stated. The relief during the Force Majeure and how the notice should be communicated should be stated as agreed.

Other items to be covered in the CDA include:

**xi. Notices**

**xii. Assignment**

**xiii. Arbitration**

**xiv. Indemnity**

**xv. Signing/signatures.**

**3.2.2 The Typing Format of the CDA**

The CDA should be typed in double space, using the Times New Roman as the theme font with font size of 12

**3.2.3 CDA Presentation**

The CDA document should have front and back covers with slide binding. At the front cover, it shall be marked as follows: “COMMUNITY DEVELOPMENT AGREEMENT BETWEEN (NAME OF THE MINERAL TITLE HOLDER) AND THE COMMUNITY OF (NAME OF MINING COMMUNITY AND LOCATION/ADDRESS). Two copies should be submitted with a forwarding letter to:

**The Honourable Minister,  
Ministry of Mines and Steel Development,  
2 Luanda Crescent, off Ademola Adetokunbo Crescent,  
Wuse II, Abuja**

### **3.3 IMPORTANT NOTES FOR GUIDANCE ON CDA DEVELOPMENT AND WRITING**

The following are useful notes to guide the developers and writers of CDA:

- i. The CDA as a development tool should be measurable in nature, its objectives should be specific and the agreed projects/programmes be time bound. It should state the review process to allow the tracking and measurement of development against established and mutually agreed criteria. This process should be recognized as a crucial benefit of CDAs.
- ii. CDA should have clearly defined roles and objectives; otherwise, it may appear to fulfill the role of government and could lead to a dependency on the mining company beyond the intended scope.
- iii. Over the entire CDA development process, and the life of a mining project, it is also important that changes are recognized and captured through a monitoring and evaluation program. Therefore CDA should be designed to respond to changes in stakeholder capacity and characteristics. Development initiatives should be periodically reviewed to ensure that they are still addressing the needs of the communities and the overall objectives of the CDA.
- iv. Since CDA projects are to be funded from the profits made by the Company, their implementation should be staggered through the life of the mining project. However, scheduled programme of implementation should cover a period of 5

years only after which the CDA document could be reviewed.

The process that leads to the CDA is as important as the CDA itself. Hence, the active involvement of all the relevant groups is imperative. Both the Agreement itself and the process of its negotiation have numerous advantages. These include the opportunity to establish better relations with affected communities and other stakeholders; to tie together engagement initiatives and bring multiple stakeholder groups to the negotiating table; to define common priorities and mutually beneficial objectives; and to define the roles and responsibilities of various stakeholders, over the project life, in a way that enables capacity growth and maximizes program effectiveness.

vi. Therefore, based on the reviews of past experiences of CDAs those that are generally believed to be "successful", are those that have achieved a stable base of local support for the project and have contributed to local economic and social development.

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