



FEDERAL REPUBLIC
OF NIGERIA

**MINISTRY OF SOLID
MINERALS DEVELOPMENT
(MSMD)**

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



**REVISED
2023**





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ABBREVIATIONS

MSMD – Ministry of Solid Minerals Development
NMMA, 2007 – Nigerian Minerals and Mining Act, 2007
NMMR, 2011 – Nigerian Minerals and Mining Regulations 2011
MIREMCO – State Mineral Resources and Environmental Management
Committee
CDA – Community Development Agreement
MTHs – Mineral Title Holders
CSOs – Civil Society Organizations
NGOs – Non-Governmental Organizations
PWDs – People with Disabilities
MEC – Mines Environmental Compliance

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 MSMD 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.



Mr Dele Alake

Honourable Minister of Solid Minerals Development

DEFINITION OF TERMS

Host Communities: Use the definition in Section 193(5) of the Nigerian Minerals & Mining Regulations, 2011.

Impacted Communities: Communities outside the mining lease area, quarry lease area, and small scale mining lease area but otherwise impacted by the activities/operation of the mineral title holder and located within a 5km radius.

Stakeholder: A person, group, or organization with a vested interest, or stake in the decision making and activities of an organization, community, or project. They include for the purpose of a CDA.

- a. Women groups
- b. Youth groups
- c. People with Disability
- d. The elderly
- e. Representative of the Ministry of Solid Minerals Development
- f. Mineral Title Holders
- g. Community leaders
- h. Representatives of the State and Local Governments
- i. Civil Society Organizations working in the Community.
- j. MIREMCO
- k. And other relevant groups

CHAPTERS

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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 Solid Minerals Development 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 practices.

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
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 of 2011 and are as follows:

2.1 Timeframe and Process:

The preparation process of the CDA and engagement of host communities should begin prior to mine development for new projects and prior to expiration of an existing CDA for projects already in operation. The duration of CDA is five (5) years.

2.2 Stakeholder Participation:

The stakeholder should be actively involved 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.

2.3 Capacity of Participating Stakeholders:

The most successful CDAs often emerge where government, private sector, and the civil society 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 host 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 host 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 host 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 of the CDA have been chosen, the head of the Community shall, prior to signing the Agreement, submit to the Ministry, for verification, as a stand-alone document a letter of

introduction from the Community Head on the palace letter headed paper, or any letter headed paper used by the recognized community leader, addressed to the Honourable Minister of Solid Minerals Development forwarding the names, address, title/position, phone numbers and signature/thumbprint specimen of the Signatories while also attaching the minutes of the meeting wherein these Signatories were freely selected or elected, who shall not be less than 3 or more than 7. It is required that minutes of meeting of the Community reflecting the deliberations and signed attendance sheets should be forwarded along with the signed list of selected signatories

2.6 Funding of the CDA Process and the Projects:

The funding of the CDA process and the projects shall be by the Mineral Title Holders as per the extant law and Regulations in Nigeria. However, if the Community decides to engage a lawyer, the fees of the lawyer shall be borne by the Community

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 Mediation Act CAP A18 of Laws of the Federation of Nigeria 2004” or any statutory modification thereto.

2.9 CDA Implementation and Monitoring:

Implementation and monitoring programs should be included in the CDA development process. The implementation and monitoring committee should involve representatives of all stakeholder groups. Regular **monitoring and reporting** is important and the regularity of these should be agreed to by the parties. In pursuant to this, annual report should be submitted to the Ministry of Solid Minerals Development not later than the end of 1st Quarter of the following year.

CHAPTER THREE

3.0 CDA Development Process

To ensure the CDA achieves its objectives, some key consultation meetings are recommended:

3.1 Commencement Meeting

This is the first formal meeting between mineral title holders and host community to discuss the CDA, understand the process, and timeline. If community is ready, their request can be presented at this meeting, the guideline for CDA development is also shared with both parties at this meeting for better understanding and management of expectations.

3.2 Negotiation Meeting

This is the second meeting after initial presentation of the requests from host community, the MTH must have gone through and decided on what can be done. The negotiation affords both parties to agree on a common front. This negotiation must not necessarily be concluded at the first attempt.

3.3 Completion Meeting

After agreeing on the content of the CDA, the draft CDA is presented here to both parties to agree on the content. Once that is done, the draft should be sent to the Ministry for review before date is fixed for signing.

3.4 CDA Signing Ceremony

This is the signing ceremony where both parties append their signatures to the CDA after which it is submitted to the Ministry for approval. The signing ceremony is an indication that the parties have duly negotiated their respective obligations under

CHAPTER FOUR

4.0 PRESCRIBED CONTENTS AND WRITING FORMAT OF THE CDA

4.1 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 implementation and monitoring 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 –
 - Employment opportunities for the indigenes of the communities;
 - Education: Educational Scholarship, technical training, Construction of Schools etc.

- Vocational Training and Empowerment – Apprenticeship and Skill Acquisition, Livelihood training for women and special needs persons, assistance with the creation, development and support to small scale and micro enterprises.
- Health: Provision of Health Facilities and services.
- Social Amenities – Water, Roads, power etc.
- Financial or other forms of contributory support to other community services
- Provision of market

4.2 THE WRITING FORMAT OF THE CDA

4.2.1 The Structure of a CDA

The CDA shall be presented in 4 parts:

- i. Title page (should include provision for signature AND seal of the Legal representative that prepared the agreement)
- ii. Commencement
- iii. Body and
- iv. Execution

The Commencement shall consist of:

i. The Parties Clause

This should include the names of the parties involved, their addresses and the date of the agreement.

ii. Recitals

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

iii. Definition of Key Terminologies

All technical and legal terms should be appropriately defined.
The body shall consist of:

i. How the Communities and Representatives were determined

The summary of how the mining host communities were identified and how the representatives were selected should be given.

ii. Parties Agreement/Covenants under the CDA

Under this heading, the aim and objectives of the CDA should be stated. 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 should be clearly spelt out.

iii. Consultative and Monitoring Frameworks

This should include how the parties have agreed to meet to discuss the implementation of the CDA. Specifically, who and who should 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. The regularity of meeting of the Monitoring Committee and mode of reporting, as agreed, should be stated. *To be valid, the*

representative of MEC Department must be in attendance at the meetings. Other specific roles 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 resolved by the Parties through mediation, failing which any of the parties can refer it to the Minister for amicable settlement under the provision of Section 116(4) of NMMA, 2007 and Section 193(4) of the NMMR, 2011.

Upon the failure of the Minister to resolve it, the matter shall be referred to arbitration/ Federal High Court for further resolution.

viii. Further Undertakings by the Parties.

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

ix. Suspension and Termination Processes of Agreement

The Agreement shall be suspended or terminated by any of the conditions stated in the Guideline.

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

Those who should receive notices and the address

xiv. Indemnity

In the case of Mineral Title transfer, the successor to the MT shall indemnify the original title holder from all subsisting obligations

xv. Execution

xvi. “Endorsement by the Commissioner for Oaths”.

xvii. “Clear and coloured Pictures taken during the signing”.

xviii. Provision should be made for Jurat or interpreter's name,
phone number and signature where one is engaged.

4.2.2 The Typing Format of the CDA

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

4.2.3 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 Solid Minerals Development,
2 Luanda Crescent, off Ademola Adetokunbo Crescent,
Wuse II, Abuja.**

4.2.4 A CDA shall be terminated for the following reasons:

- Frustration (Bankruptcy, winding-up of company, Revocation of License, illegal stoppage of work, strike etc.)
- Force Majeure (Flood, Natural Disaster, Storm etc.)
- Government Policy

4.3 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 and allow the tracking and measurement of development against established and mutually agreed criteria benefits of CDAs. 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.
- v. 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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