

# MODEL AGREEMENT

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## EMERGENCY RELIEF CONSIGNMENT TRANSIT AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND \_ [INSERT OFFICIAL NAME OF COUNTRY]

**Recognizing** its responsibility, the Federal Government of Nigeria pursuant to international agreements including those who are members of the United Nations, the World Customs Organization, ECOWAS and other inter-governmental bodies to assist in the rapid transit of relief goods, equipment and disaster relief personnel through Nigeria in the event of emergencies and disasters (both natural and man-made) to assist neighboring states; and

**Recognizing** their equal responsibility [insert official name of country], in accordance with international agreements, wishes to cooperate with Nigeria to speed up movement of relief goods and equipment in the event of emergencies and disasters; and

**Recognizing** their equal responsibility to facilitate the movement of commercial goods across borders in the ordinary course of business that will significantly reduce the potential for man-made disasters, particularly those related to food security; and

**Recognizing** their obligations in declaring a state of emergency to seek to minimize if not prevent the distortion of normal market flows and domestic production that may be caused by the introduction of disaster relief goods, particularly in the case of food and agricultural products; and

**Whereas** National Emergency Management Agency is the primary agency within Nigeria for the coordination of the many Governmental (GOV), inter-governmental (IGO) and non-governmental (NGO) organizations in emergency and disaster relief; and

**Whereas** the Nigeria Customs Service is the primary border agency in Nigeria responsible for the cross border movement of all goods including those goods needed for emergency relief; and

**Whereas** the Nigeria Immigration Service is the primary border agency in Nigeria responsible for the cross border movement of all persons entering or leaving Nigeria including disaster relief personnel; and

**Whereas** under the Treaty of Economic Community of West African States (ECOWAS), Article 29: Member States undertake to protect, preserve and enhance the natural environment of the region and co-operate in the event of natural disasters; and

**Whereas** under ECOWAS agreements are provisions for the free movement of persons, goods and transport that may streamline the response to disasters and prevention of famine; and

**Whereas** the International Convention on the simplification and harmonization of Customs procedures as revised (revised Kyoto Convention), the Customs Convention on the ATA carnet for the temporary admission of goods (ATA Convention), the Convention on Temporary Admission (Istanbul Convention), the Convention on International Civil Aviation (Chicago Convention) and the International Maritime Organization Convention on Facilitation of International Maritime Traffic recommend simplified procedures and other facilitation measures to be applied, inter alia, to the trans-border movement of relief consignments and possessions of disaster relief personnel; and

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**Whereas** paragraph 3 of the Annex to United Nations General Assembly Resolution 46/182 underlines that humanitarian assistance should be provided in accordance with the consent of and in principle on the basis of an appeal by the affected country, and that the sovereignty, territorial integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations; and

**Whereas** paragraph 6 of the said Annex calls upon the States, whose populations are in need of humanitarian assistance, to facilitate the work of inter-governmental and non-governmental organizations in implementing this assistance; and

**Whereas** paragraph 7 of the said Annex urges the States in proximity to emergencies to participate closely with the affected countries in international efforts, with a view to facilitating, to the extent possible, the transit of humanitarian assistance; and

**Whereas** paragraph 28 of the said Annex instructs the United Nations to continue to make appropriate arrangements with interested Governments, inter-governmental and non-governmental organizations to enable it to have more speedy access, when necessary, to their emergency relief capacities, including food reserves, emergency stockpiles and personnel, as well as logistic support; and

**Whereas** paragraph 29 of the said Annex further instructs the United Nations to develop special emergency rules and procedures to enable all organizations to procure quickly emergency supplies and equipment; and

**Whereas** paragraph 30 of the said Annex requests disaster-prone countries to develop special emergency procedures to speed up procurement and deployment of equipment and relief supplies; and

**Whereas** paragraph 4 of United Nations General Assembly Resolution 47/168 calls upon potential donors to adopt necessary measures to increase and speed up their contributions, including setting aside, on a stand-by basis, financial and other resources that can be disbursed quickly to the United Nations system in response to the consolidated appeals of the Secretary General; and

**Whereas** paragraph 8 of the said Resolution requests the Secretary General, after consultations with Governments, to report on ways and means to improve further United Nations capability in the areas of prevention and preparedness in relation to natural disasters and other emergencies, in particular emergencies involving food, medicines, shelter and health care, as provided in General Assembly Resolution 46/182; and

**Whereas** the United Nations Department of Humanitarian Affairs serves as the central focal point in the United Nations with Governments, inter-governmental and non-governmental organizations concerning the United Nations emergency relief operations; and

**Whereas** the Customs Co-operation Council (World Customs Organization) adopted, on 8 June 1970, a Recommendation to speed up the forwarding of relief consignments in the event of disasters; and

**Whereas** Nigeria wishes to contribute to the speedy delivery of international humanitarian assistance to disaster-affected populations and the prevention of famine;

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**Now therefore**, the Federal Government of Nigeria represented by \_\_\_\_\_ and the Government of \_\_\_\_\_ represented by \_\_\_\_\_ hereby agree as follows :

## ARTICLE 1 Definitions

For the purpose of this Agreement the term:

1.1. *"Disaster"* means:

A serious disruption of the functioning of the society, causing widespread human, material, or environmental losses which exceed the ability of affected society to cope using only its own resources. The term covers all disasters irrespective of their cause (i.e both natural and man-made). A Disaster may be formally declared by the Head of State or designate in which the event occurs or by multi-national agreement by the United Nations.

1.2. *"Disaster relief personnel"* means:

Individuals, groups of individuals, teams and constituted units executing delivery of humanitarian assistance within the framework of a United Nations or other national, bilateral or multilateral relief operation.

Examples of disaster relief personnel that can be involved in any particular disaster are:

UN delegates;

Experts on mission for the United Nations;

Emergency response personnel to assist refugees and internally displaced persons;

International Search and Rescue teams;

Medical teams;

Specialized teams provided by foreign and domestic military, civil defense and civil protection organizations (MCDA teams);

United Nations Disaster Assessment and Co-ordination (UNDAC) team;

Government and Non-government agencies registered with the national emergency management agency;

Military forces engaged in relief assistance.

1.3. *"Possessions of disaster relief personnel"* means:

All equipment, provisions, supplies, personal effects and other goods brought for and/or by disaster relief personnel in order to perform their duties and to otherwise support them in living and working in the country of the disaster throughout the duration of their mission.

1.4. *"Relief consignment"* means:

Goods, such as vehicles and other means of transport, foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity, forwarded as aid to those affected by disaster. Relief consignments are not intended for commercial distribution or sale or are they subject to duty and taxes.

1.5. *"Relief operation"* means:

Assistance and/or intervention, by a government or non-government entity, during or after a disaster to meet the life preservation and basic subsistence needs. Relief operations can be of an immediate and short response nature or protracted duration.

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1.6. "Emergency" means:

A sudden and usually unforeseen event that calls for immediate measures to minimize its adverse consequences.

1.7. "Food relief" means:

Food stuffs intended to meet a sudden or protracted food shortage and not intended for commercial distribution/redistribution.

1.8. "Famine prevention/reduction goods" means:

Food stuffs and all goods related to the growth, production, storage and distribution of food for human direct or indirect consumption increasing food security.

1.9. "Emergency Relief Transshipment or Transit" (ERT/T) means:

The transshipment in the national territory or transit through the national customs territory under the customs regime of transit in the most expeditious process possible under the provisions of national customs legislation.

1.9.1 Transshipment is further defined following the definition of the revised Kyoto Convention to mean: "...the Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation."

1.9.2 Transit is further defined following the definition of the revised Kyoto Convention to mean: "...the Customs procedure under which goods are transported under Customs control from one Customs office to another;"

10.10. "Emergency Customs Clearance" means:

The release of goods as defined in Articles 1.4 and 1.7 of this agreement on behalf of the Government of Nigeria Government and its agencies for:

- final export;
- temporary export;
- transshipment, inward clearance, transit under customs control and exit from national territory of goods subject to ERT/T treatment;
- import for free circulation;
- temporary import;
- re import of all goods previously temporarily exported under the provisions of this agreement.

1.11.. "National *Emergency Management Agency*" means:

For Nigeria – National Emergency Management Agency (NEMA)

For \_\_\_\_\_ - \_\_\_\_\_

1.12. "Customs" means:

For Nigeria – Nigeria Customs Service

For \_\_\_\_\_ - \_\_\_\_\_

1.13. "Immigration agency" means:

For Nigeria – Nigeria Immigration Service

For \_\_\_\_\_ - \_\_\_\_\_

## ARTICLE 2

Organizations involved in relief operations

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Included are:

- Governmental (GOV), UN, UN Agencies, Red cross and other inter-governmental (IGO) and non-governmental (NGO) organizations certified by the national emergency relief agency as bona fide participants within the framework of a national relief operation
- Transport carriers approved and certified by the national emergency relief agency owned, contracted by or certified GOV/IGO/NGO for transportation of relief consignment(s) and/or possessions of disaster relief personnel.

## ARTICLE 3

Facilitation measures for relief operations

The Federal Government of Nigeria and the Government of \_\_\_\_\_ agree to:

3.1. With respect to transshipment or transit:

3.1.1. Allow operators, under supervision of the public authorities concerned, to disassemble transshipment cargo including shipments in containers and on pallets, so that they may sort and reassemble shipments for onward carriage without examination, except for reasons of security or in special circumstances, and subject only to simple documentation where required;

3.1.2. Facilitate as fast as possible the carriage in transit of relief consignments

3.1.3 Facilitate as fast as possible persons, their possessions and effects in transit to provide disaster relief;

3.1.4 Primary reference to this Agreement relative to goods is the revised Kyoto Convention with special recognition of the provisions of Specific Annex J, Chapter 5, Relief Consignments and Specific Annex E, Chapter 1, Customs Transit and Chapter 2, Transshipment;

3.1.5 With specific reference to famine prevention and reduction, facilitate to the greatest degree possible the transit of commercial goods using the ordinary transit procedures.

## ARTICLE 4

Application of facilitation measures

The measures in Article 3 shall be applied:

- to relief consignments and possessions of disaster relief personnel sent to disaster affected areas by any of the organizations referred to in Article 2 of this Agreement;
- by Customs for all goods as defined in Articles 1.4 and 1.7 of this agreement at the points of entry and/or exit, whether or not they have been informed by their superior administration of a particular relief consignment and/or possessions of disaster relief personnel.
- by Immigration for all persons as defined in Article 1.2 at the points of entry and/or exit.

## ARTICLE 5

Implementation steps and timelines

The following steps and timelines are mutually agreed to by the Government of Nigeria and the Government of \_\_\_\_\_ to implement the provisions of this Agreement:

5.1 Establishment of internal polices, procedures, and processes

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Parties signatory to this agreement shall within 60 days of the signing of this agreement establish internal policies and procedures commensurate with national legislation for the speedy transit of emergency relief consignments. Policy, procedure and process responsibilities include:

### *5.1.1 Responsibilities of the national emergency management agency*

The designated agency responsible for national emergency response shall, to the greatest extent possible, establish a list of organizations within the country that may be the recipients of emergency relief consignments and potential user of the ERT/T provisions. The national emergency management agency will be responsible to conduct due diligence review of those entities applying for pre-approval for emergency relief operations. The due diligence will include agreement as to how those entities will document validity of shipments that may be subject to ERT/T and identification of personnel engaged in such efforts. They will be responsible to share this list with other parties to this agreement. They will be the primary point of contact between the Governments of this agreement to activate and terminate the ERT/T provisions.

The designated agency responsible for national emergency response shall, validate, particularly in the case of famine prevention/relief goods, that the declaration of a disaster and the request for food relief does not distort normal production and market flows causing further long term harm.

### *5.1.2 Responsibilities of national customs*

The national customs shall be the responsible agency at the national border for the transshipment, inward clearance, transit under customs control and exit from national territory of goods subject to ERT/T treatment.

The national customs shall be the responsible agency for the clearance of accompanying goods as defined in Article 1.3 of this agreement, personnel or persons as defined in Article 1.2 of this agreement transiting the national territory for emergency relief efforts. Clearance of goods, as defined in Article 1.3 shall be on oral declaration only to the greatest extent possible.

The customs shall accept the official notification from the national emergency relief agency as to the specifics of ERT/T goods as the equivalent of a customs guarantee following the principals of the RKC General Annex Standard 5.4.

As a guideline, on arrival at the customs of the country of transit emergency relief consignments as defined in Article 1.4 and 1.7 of this agreement shall be expedited to begin transit within (24 hours) of verification of status as an ERT. Transit processes shall, subject to national conditions, proceed without stoppage wherever practical. Release at point of departure of the transit country shall be accomplished by the national customs within (24 hours) except in documented case of suspected abuse of ERT/T regime.

The national customs at the point of departure shall take responsibility to assist the neighboring country's customs administration in the effective transfer of the goods for the next leg of transit or entry for customs clearance in the neighboring country. The notification to the neighboring county of the intended border crossing shall, where possible, be with at least 24 hour notice of the expected arrival. Where possible the customs of the adjoining countries shall follow the provisions of General Annex

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Transitional Standard 3.4 “At common border crossings, the Customs administrations concerned shall, whenever possible, operate joint controls.”

The customs administrations where goods subject to ERT/T provisions are in transit shall make special provisions for the border clearance of goods outside the normal hours of customs operations and in coordination with the customs of the neighboring country.

Clearance of goods subject to ERT/T shall be on minimal documentation following the provisions of the revised Kyoto Convention General Annex Transitional Standard 3.32 and Specific Annex E, Recommended Practice 7 using commercial documentation including existing manifests as primary documentation for customs clearance.

Clearance of commercial goods related to famine prevention/reduction will also be provided maximized facilitation for transit as may be afforded under national legislation.

### *5.1.3 Responsibilities of national immigration agencies*

The national agency responsible for the entry of persons into the national territory shall grant speedy clearance of persons established as members of a team engaged in emergency relief efforts as defined in Article 1.2 of this agreement. This shall include the transit overland through the country without visa within specified time periods as are reasonable subject to distance and road conditions.

### 5.2 Declaration of Emergency

The President or President in the event of the incapacity or unavailability of the President and by \_\_\_\_\_ for \_\_\_\_\_ or the Acting President in the event of the incapacity or unavailability \_\_\_\_\_ upon the declaration of a state of national emergency shall direct the head of the national emergency management agency to seek mutual assistance under this agreement. The declaration of emergency shall specify:

- 5.2.1 Nature of the emergency and area of impact (i.e. Earthquake and location, crop failure due to drought);
- 5.2.2 Anticipated duration of the state of emergency to the degree predictable.
- 5.2.3 Type of emergency relief goods needed in general terms. (i.e. Medicines, food, temporary shelter.)

### 5.3 International Notification and Ongoing National Coordination

The head of the national emergency management agency of the state declaring the state of emergency shall notify the counterpart government through official channels of the request for ERT/T assistance. Official channel notification shall be interpreted in the widest possible meaning relevant to the state of emergency declared. The notification shall identify:

5.3.1 The authorized recipients of emergency relief consignments

5.3.2 Goods:

5.3.1.1 by end use (i.e. goods for the restricted use of authorized relief participants); or

5.3.1.2 description of goods by HS tariff classification (i.e. HS tariff chapters for food stuffs.)

5.3.3 Any particulars of expected shipments subject to this agreement available at that time.

5.3.4 Updates of particulars of expected shipments subject to this agreement as they become available in a continued speedy manner.

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### 5.4 Acceptance of Notification and ongoing coordination

The head of the national emergency management agency of the state receiving a request for assistance shall be authorized by the President of their country to accept the notification of the request for assistance under this agreement and forthwith notify the requesting state of the receipt and acceptance of the request through official channels. Official channel notification shall be interpreted in the widest possible meaning relevant to the state of emergency declared. Further, the head of the national emergency management agency shall closely coordinate with counterparts in the updating of information to the national customs of expected shipments subject to ERT/T treatment. This may include the delegation to the national customs to directly accept updated information on ERT/T shipments.

### 5.5 Delegation to National Customs

The head of the national emergency management agency shall within a maximum of 24 hours notify the head of national customs of the acceptance of the request for assistance under the emergency relief consignment agreement. The head of the customs shall forthwith notify all customs points of entry (air, sea and land) of the particulars of the request and the designated organizations under the agreement and any know particulars of shipments. The notification to the customs offices shall authorize the speedy clearance for transit of the emergency relief consignments following national pre-established procedures. The national customs shall be responsible for the speedy ERT/T as provided for in national legislation.

### 5.6 Implementation by Customs

The national customs of the transit country shall be responsible for the speedy entry, transshipment or customs transit and departure for goods under the ERT/T agreement.

### 5.7 Implementation by Immigration

The national immigration agency of the transit country shall be responsible for the speedy clearance and temporary admission of persons transiting the national territory to proceed to an emergency relief effort.

### 5.7 Termination of Declaration of Emergency

The President or the Acting President in the event of the incapacity or unavailability of the President and by \_\_\_\_\_ for \_\_\_\_\_ upon the termination of a state of national emergency shall direct the head of the national emergency management agency to notify the country(ies) subject to a request for mutual assistance under this agreement of the termination of the state of emergency. The termination shall commence 30 days from the date of notification to permit all goods currently in transit under the ERT/T to exit the country (ies) of transit. The Declaration of the termination of the State of Emergency shall also be made forthwith to the participants authorized under Article 2 of this agreement and request a complete listing of all already in transit shipments.

### 5.8 International Notification of termination of the state of emergency

The head of the national emergency management agency of the state declaring the state of emergency shall notify the counterpart government (s) through official channels of the termination of the request for ERT/T assistance. Official channel notification shall be interpreted in the widest possible meaning relevant to the state of emergency declared. The notification shall be modified within five days of any ERT/T shipments identified by the authorized participants that are already in transit and expected within the remaining 30 days of the state of emergency.

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## 5.9 Acceptance of Notification of termination of the state of emergency

The head of the national emergency management agency of the state receiving a request for assistance shall be authorized by the President of their country to accept the notification of the termination of the request for assistance under this agreement and forthwith notify the requesting party of the receipt and acceptance of the notice of termination through official channels. Official channel notification shall be interpreted in the widest possible meaning relevant to the state of emergency declared.

## 5.10 Notification to National Customs of termination of the emergency

The head of the national emergency management agency shall within a maximum of 24 hours notify the head of customs of the termination of the state of emergency and the date of termination. The head of the national emergency management agency shall notify the head of the national customs on updates already in progress transits expected within the remaining period up to the termination of the ERT/T termination.

## 5.11 Termination by National Customs of ERT

The head of the customs shall forthwith notify all customs points of entry (air, sea and land) of the particulars of the termination of the request and any supplemental information and any know particulars of shipments still in route. The notification to the customs offices shall set a definitive date for termination of ERT/T procedures. The national customs of the transit country shall be responsible to post notice in accordance with national legislation of the date of termination of acceptance for customs transit for goods under the ERT/T agreement. Goods arriving for transit beyond the termination date will be processed under normal transit provisions commensurate with national legislation.

## ARTICLE 6

### Ad-hoc adjustments

The Federal Government of Nigeria and the Government of \_\_\_\_\_ may conclude ad-hoc adjustments to the present Agreement.

## ARTICLE 7

### Entry into force, amendment and termination

7.1. This Agreement shall enter into force (within 60 days) upon its signature by all parties.

7.2. This Agreement may be amended only by a written instrument signed by all parties.

7.3. This Agreement may be terminated by either party after 90 days of written notice to the other party.

(signature/date blocks)