



## Independent Administrator

# Term of Reference for the 7<sup>th</sup> & 8<sup>th</sup> EITI Reports Covering Fiscal Years 2013/14 & 2014/15

### 1. Background

The Extractive Industries Transparency Initiative (EITI) is a global standard that promotes transparency and accountability in the oil, gas and mining sectors. It has a robust yet flexible methodology for disclosing and reconciling company payments and government revenues in implementing countries.

EITI implementation has two core components:

- **Transparency:** oil, gas and mining companies disclose their payments to the government, and the government discloses its receipts. The figures are reconciled by an Independent Administrator, and published in the annual EITI Reports alongside contextual and other information about the extractive sector.
- **Accountability:** a multi-stakeholder group with representatives from government, companies and civil society is established to oversee the process and communicate the findings of the EITI Report, and promote the integration of EITI into broader transparency efforts in that country.

The EITI Standard encourages multi-stakeholder groups to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business. It is a requirement that the MSG approves the terms of reference for the Independent Administrator (requirement 5.2), drawing on the objectives and agreed scope of the EITI as set out in the workplan. The MSG's deliberations on these matters should be in accordance with the MSG's internal governance rules and procedures (see requirement 1.3g). The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner."

It is a requirement that the Independent Administrator is perceived by the multi-stakeholder group to be credible, trustworthy and technically competent (Requirement 5.1). The multi-stakeholder group and Independent Administrator should address any concerns regarding conflicts of interest. The Independent Administrator's report will be submitted to the MSG for approval and made publically available.

The requirements for implementing countries are set out in the EITI Standard<sup>1</sup>. Additional information is available via [www.eiti.org](http://www.eiti.org).

These terms of reference include “agreed upon procedures” for EITI reporting (see section 4) in accordance with EITI Requirement 5.2. The Board has developed these procedures to promote greater consistency and reliability in EITI reporting. The EITI process can be used to complement, assess, and improve existing reporting and auditing systems. The Board recommends that the process relies as much as possible on existing procedures and institutions, i.e., so that the EITI process draws on, complements and critically evaluates existing data collection and auditing systems. In this way, the EITI process has the potential to generate important recommendations to strengthen other oversight systems.

The LEITI is a tripartite partnership, referred to as the Multi-stakeholders Group (MSG) - consisting of representatives of the Government of Liberia, civil society organizations, the private sector, and Liberia's Development partners. The initiative endeavors to ensure transparency over payments made to Government by companies in the concerned sectors and revenues received by the Government. The core activities of LEITI entail regular disclosure, publication and dissemination of both (1) all material payments made by oil, mining agriculture and forestry sectors to the Government, and (2) all material revenues received by the Government from the above-mentioned sectors. For more information, please visit the LEITI Website at [www.leiti.org.lr](http://www.leiti.org.lr).

### ***EITI Implementation in Liberia***

Liberia signed on to the EITI process in April of 2007 and subsequently established as an autonomous agency by an Act of Legislature on July 10, 2009. Liberia became EITI compliant in 2009. Since its involvement into the EITI processes, Liberia has produced 6 EITI Reports covering fiscal years 2007/08 to 2012/13. Liberia extended the scope of the EITI reporting to the forestry and agriculture sectors.

LEITI is a tripartite partnership, reflecting a the Multi-stakeholders arrangement and consisting of representatives of the Government of Liberia, Civil Society Organizations, the Private Sector, and Liberia's Development Partners. The LEITI is governed by an MSG headed by the Minister of Lands, Mines and Energy of the Republic of Liberia. The LEITI has a dedicated Secretariat to implement MSG's policies and run the day-to-day activities of the Agency.

The core-objective of LEITI is to assist in ensuring that all benefits due the Government and

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<sup>1</sup> <http://eiti.org/document/standard>

people of Liberia on account of the exploitation and/or extraction of the country's minerals and other resources are:

- ⊙ Verifiably paid or provided
- ⊙ Duly accounted for; and
- ⊙ Prudently utilized for the benefits of all Liberians and on the basis of equity and sustainability

## **2. Objectives of the assignment**

On behalf of the Government of Liberia and LEITI MSG, the LEITI Secretariat seeks a competent and credible firm, free from conflicts of interest, to provide Independent Administrator services in accordance with the EITI Standard. The objective of the assignment is to produce a combine 7<sup>th</sup> & 8<sup>th</sup> EITI Reconciliation Reports for Liberia; covering the fiscal years July 1, 2013 to June 30, 2014 and July 1, 2014 to June 30, 2015.

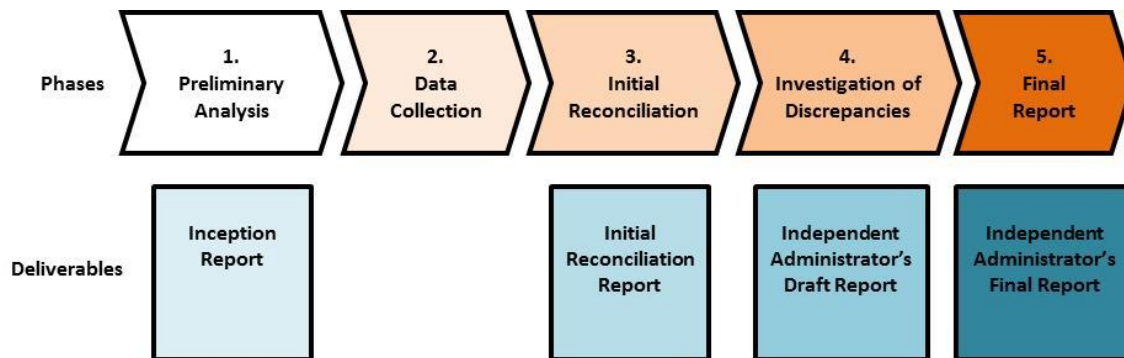
The Administrator shall reconcile and audit

- The amounts paid (payments)
- Revenues data (receipts)
- In-kind contributions
- Track the use of earmarked revenues (revenue tracking)
- Reconcile and audit the fixed component of “amount to be paid” (amount due) for all sectors contained in the reports to be provided based on the disclosure methodology to recommend by the Independent Administrator and approved by the MSG, and valuable contributions (in-kind) data.

## **3. Scope of services, tasks and expected deliverables**

The work of the Independent Administrator has five phases (see figure 1). The Independent Administrator's responsibilities in each phase are elaborated below.

Figure 1 – Overview of the EITI Reporting process and deliverables



Based on 5<sup>th</sup> and 6<sup>th</sup> EITI Reports the MSG's expectation is that the EITI Report will cover the fixed component of "amount due" as applicable across the mining, agriculture, forestry and oil sectors. The Administrator shall also perform in line with the following scope of works or Terms of Reference:

1. Review the Reporting Templates used in preparing the Sixth EITI Report of Liberia and make any and all changes or modifications necessary to accommodate disaggregated reporting of payments ("amount paid" and "amount due"), track use of earmarked revenues and in kind contributions, and ensure that the ultimate LEITI Report is both comprehensive and comprehensible, and also ensure that the existing Reporting Templates be revised to provide for separate data collections for each fiscal period (July 1, 2013 to June 30, 2014 and July 1, 2014 to June 30, 2015) and to comply with the tax codes of Liberia and/or the coding system used by the Liberia Revenue Authority.
2. Submit a combined inception report, containing details of each fiscal period where applicable, to the Multi-stakeholders Steering Group (MSG) within two (2) weeks of the commencement of assignment. The first draft shall be submitted within 60 days from the date of the contract signature for discussions and amendments (as necessary) and shall clearly indicate those companies whose reports are in agreement with the report of the Government, those whose reports are inconsistent with the report of the Government, and those whose reports are missing or incomplete; and submit a second draft report within 15 days of feedback from the MSG on the first draft report; and final draft report within 10 days of feedback from MSG on second draft report.

### **Phase 1 – Preliminary Analysis and Inception Report**

Background: The objective of the first phase of work is to ensure that the scope of the EITI reporting process has been clearly defined, including the reporting templates, data collection procedures, and the schedule for publishing the 7<sup>th</sup> & 8<sup>th</sup> EITI Reports for Liberia. The Independent Administrator is expected to undertake the following tasks:

- 1.1 Review the relevant background information, including the governance arrangements and tax policies in the extractive industries, the findings from any preliminary scoping work, and the conclusions and recommendations from previous EITI Reports and Validations. (A list of relevant documentation is provided as Annex 2).

- 1.1.1 Review the Reporting Templates used in preparing the sixth EITI report of Liberia and make any and all changes or modifications necessary to accommodate disaggregated reporting of payments ("amount paid" and "amount due") and to provide for separate data collections for each fiscal period (July 1, 2013 to June 30, 2014 and July 1, 2014 to June 30, 2015), track use of earmarked revenues and in-kind contributions, and ensure that the ultimate LEITI Report is both comprehensive and comprehensible, and also ensure that the existing Reporting Template be revised to comply with the tax codes of Liberia and/or the coding system used by the Liberia Revenue Authority.
    - 1.1.2 Submit an inception report to the Multi-stakeholders Steering Group (MSG) within two (2) weeks of the commencement of assignment clearly defining the scope of the reconciliation process. The first draft shall be submitted within 60 days from the date of the contract signature for discussions and amendments (as necessary) and shall clearly indicate those companies whose reports are in agreement with the report of the Government, those whose reports are inconsistent with the report of the Government, and those whose reports are missing or incomplete; and submit a second draft report within 15 days of feedback from the MSG on the first draft report; and final draft report within 10 days of feedback from MSG on second draft report.
  - 1.2 The Independent Administrator should work with the MSG to agree on the procedures for incorporating and analyzing contextual and other non-revenue information in the EITI Report. The procedures should ensure that information is clearly sourced and attributed. Additional information on the MSG's proposed approach to collating contextual information is attached in annex 1 of the Terms of Reference, including any specific tasks that the Independent Administrator is expected to undertake in this regard.
  - 1.3 The Independent Administrator should review the payments and revenues to be covered in the 7<sup>th</sup> and 8<sup>th</sup> EITI Reports for Liberia in line with EITI Requirement 4. The inception report should clearly indicate the MSG's decisions on:
    - The definition of materiality and thresholds, and the resulting revenue streams to be included in accordance with Requirement 4.1(b).
    - The sale of the state's share of production or other revenues collected in-kind in accordance with Requirement 4.1(c).
    - The coverage of infrastructure provisions and barter arrangements in accordance with Requirement 4.1(d).
    - The coverage of social expenditure in accordance with Requirement 4.1(e).
    - The coverage of transportation revenues in accordance with Requirement 4.1(f).
    - The level and type of disaggregation of the EITI Report in accordance with Requirement 5.2(e).

- 1.4 The Independent Administrator should review the companies and government entities that are required to report in accordance with EITI Requirement 4.2. The inception report should :
- Identify and list the companies that make material payments to the state and will be required to report in accordance with Requirement 4.2(a) and in confirmative with the inception report.
  - Identify and list the government entities that receive material payments and will be required to report in accordance with Requirement 4.2(a).
  - Identify any barriers to full government disclosure of total revenues received from each of the benefit streams agreed in the scope of the EITI report, including revenues that fall below agreed materiality thresholds (Requirement 4.2(b)).
  - Confirm the MSG’s position on disclosure and reconciliation of payments to and from state owned enterprises in accordance with Requirement 4.2(c).
  - Confirm the MSG’s position on the materiality and inclusion of sub-national payments in accordance with Requirement 4.2(d).
  - Confirm the MSG’s position on the materiality and inclusion of sub-national transfers in accordance with Requirement 4.2(e).
- 1.5 The Independent Administrator should provide advice to the MSG on the reporting templates based on the agreed benefit streams to be reported and the reporting entities (1.3–1.4 above). It is recommended that the templates include a provision requiring companies to report “any other material payments to government entities” above an agreed threshold.
- 1.6 The Independent Administrator should provide advice to the MSG in examining the audit and assurance procedures in companies and government entities participating in the EITI reporting process in accordance with Requirement 5.2(b). This includes examining the relevant laws and regulations, any reforms that are planned or underway, and whether these procedures are in line with international standards.
- 1.7 The Independent Administrator should provide advice to the MSG on what information the MSG should require to be provided to the Independent Administrator by the participating companies and government entities to assure the credibility of the data in accordance with Requirement 5.2(c). The Independent Administrator should then employ his /her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and government reporting entities. The Independent Administrator should document the options considered and the rationale for the assurances to be provided. Where deemed necessary by the Independent Administrator and the multi-stakeholder group, assurances may include:

- Requesting sign-off from a senior company or government official from each reporting entity attesting that the completed reporting form is a complete and accurate record.
- Requesting a confirmation letter from the companies' external auditor that confirms that the information they have submitted is comprehensive and consistent with their audited financial statements. The MSG may wish to phase in any such procedure so that the confirmation letter may be integrated into the usual work program of the company's auditor. Where some companies are not required by law to have an external auditor and therefore cannot provide such assurance, it should be clearly identified, and any reforms that are planned or underway should be noted.
- Request that government reporting entities obtain an attestation of the accuracy of the government's disclosures from the Auditor General.

The Independent Administrator should exercise judgment and apply appropriate international professional standards<sup>2</sup> in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report.

- 1.8 The Independent Administrator should provide advice to the MSG on agreeing appropriate provisions relating to safeguarding confidential information.
- 1.9 The Independent Administrator should document the results from the inception phase in an inception report for consideration by the MSG addressing points 1.1 – 1.9 above. Where necessary the inception report should highlight any unresolved issues or potential barriers to effective implementation, and possible remedies for consideration by the MSG.

## **Phase 2 – Data Collection**

- 2.1 The most common procedure is that the Independent Administrator is mandated by the MSG to distribute the reporting templates and collect the completed forms and associated supporting documentation, as well as any other contextual or other information requested to be collected by the MSG, directly from the participating reporting entities. The government typically provides contact details for the reporting entities and assists the Independent Administrator in ensuring that all reporting entities participate fully.
- 2.1.1 Consistent with guidelines provided by the Multi-stakeholder Group of LEITI and prior to submitting the Reporting Templates (to include In-kind Contribution templates and other quasi-fiscal expenditures such as public infrastructure) to the reporting stakeholders, the Administrator shall first obtain from the LEITI Multi-stakeholders Steering Group ("Group") a formal advice or notice regarding the followings:
- Final approval of the Reporting Template.

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<sup>2</sup> For example, ISA 505 relative to external confirmations; ISA 530 relative to audit sampling; ISA 500 relative to audit evidence; ISRS 4400 relative to the engagement to perform agreed-upon procedures regarding financial information and 4410 relative to compilation engagements.

- The agreed date for transmitting to and receiving completed Reporting Templates from reporting stakeholders, and any penalty for failure or delay to submit report or respond to subsequent queries.
- 2.1.2 The Administrator shall conduct at least one workshop geared towards talking-through the process of completing the templates, highlighting challenges experienced by stakeholders in completing templates for the Sixth Report, defining payment/revenue streams, and providing contact details that reporting stakeholders may use to obtain assistance or clarification in connection with completing the Templates.
  - 2.1.3 The Administrator shall ensure that report of each company is duly signed by the authorized officer of the company and attested to by the external auditor of the company stating that the report is fair and accurate. Similarly, the report of the Government reporting entities shall be signed by the head of the reporting agency or ministry and attested to by the General Auditing Commission (GAC) or the external auditor of the agency/ministry.
  - 2.1.4 Collecting and/or receiving from the reporting stakeholders all completed templates with appropriate supporting documentation verifying (1) the fixed component of amount ought to be paid (“amount due”) from reporting companies by Government and “amount payable” to Government by reporting companies (2) “amount paid or received as appropriate by companies and government.
  - 2.2 The Independent Administrator may be tasked to provide advice on ensuring that the request for data includes appropriate guidance to the reporting entities, and on where to seek additional information and support.
  - 2.3 The Independent Administrator is mandated to contact the reporting entities directly to clarify any information gaps or discrepancies.

### **Phase 3 – Initial Reconciliation and Initial Reconciliation Report**

- 3.1 The Independent Administrator should compile a database with the data provided by the reporting entities and present data for each fiscal period in a combined report (single booklet) separated by a divider arranged in order of fiscal year.
- 3.2 The Independent Administrator should comprehensively reconcile the information disclosed by the reporting entities, identifying any discrepancies (including offsetting discrepancies) in accordance with the agreed scope.
  - 3.2.1 The Administrator shall clearly indicate in the report the materiality thresholds and aggregate the report by section based on these thresholds by each fiscal year.
  - 3.2.2 Conducting a preliminary examination of all submissions received from the reporting stakeholders to determine that the report of the Government and the individual or



consolidated reports of the companies are in agreement or have any inconsistency.

- 3.2.3 Auditing all payments and revenue data submitted (applying internationally accepted auditing standards), irrespective of whether or not discrepancies exist, particularly with regards to the amount paid by companies and receipts issues by Government.
- 3.2.4 Relevant revenue data to be analyzed includes but is not limited to: national state-owned companies' production entitlements, profits taxes, royalties, dividends, bonuses, license fees, rental fees and other considerations for licenses and concessions as well as any other significant payments of material benefit to the Government of Liberia.
- 3.3 The Independent Administrator should prepare an initial reconciliation report based on the reported (unadjusted) data for consideration by the MSG in accordance with the agreed scope.
  - 3.3.1 Capture data as entailed in the New EITI Standard requirement 4: 4.1(d)(e).
- 3.4 With respect to contextual information and other data collected by the Independent Administrator or provided to the Independent Administrator by the government or MSG: the Independent Administrator will compile the data collected by the government, MSG, or reporting entities and prepare an initial report based on the reported contextual and other information in the format agreed by the MSG for reporting.
  - 3.4.1 Conduct a mapping exercise of the flow of revenue from the Extractive Industries/companies to government agencies or special accounts and the national consolidated revenue account.
  - 3.4.2 Design a revenue tracking template for line ministries and agencies at different stages of the value chain – flow of funds.
  - 3.4.3 A mapping of the flow of revenues from line ministries and agencies and the budget and other special accounts to expenditure units/cost centers or projects.
  - 3.4.4 Review the extent to which revenue from the extractive industry can be linked to public investments/expenditures, specifically indicating which extractive industry revenues, whether cash or in-kind are recorded in the national budget.
  - 3.4.5 Identify areas in which reconciliation is feasible, i.e. there is perfect symmetry between the paying and receiving entities, and areas in which only a unilateral disclosure by the receiving or disbursing entity is necessary.
  - 3.4.6 The report will map out the economic footprint of extractive industries on the Liberian economy, including, but not limited to:
    - The size of the extractive industries in absolute terms and as a percentage of GDP including an estimate of informal sector activity.
    - Exports from Extractive industries in absolute terms and as a percentage of total exports.

- Employment in the extractive industries in absolute terms and as a percentage of the total employment.
- Key regions/ Areas where production is concentrated.

#### **Phase 4 – Investigation of Discrepancies and Draft Independent Administrator’s Report**

- 4.1 The Independent Administrator is mandated to contact the reporting entities in seeking to clarify any discrepancies in the reported data.
- 4.1.1 Upon receiving templates from the Government and each of the companies, the Administrator shall: i) send to the Government copies of all reports received from each of the companies regarding payments reportedly made to the Governments; and ii) send to each of the companies a copy of the Government’s Report of revenues reportedly received from each and all of them.
- 4.1.2 The report should also capture data as required by the New EITI Standard 2013, requirement 3: 3.6(a)(b)(c), 3.7(a)(b), 3.8(a)(b)(c), 3.10(a)(b)(c)(d), 3.11(a)(b)(c), and 3.12(b).
- 4.1.3 Where 3.9(a) & (b) exist, the Administrator shall indicate a link to such information in the Report; otherwise, the report should include actual data required by Requirement 3.9(b).
- 4.1.4 The report should also capture data as required by the New EITI Standard 2013, requirement 4: 4.1(d)(f)-i, ii, iii, iv, v, (d)(e).
- 4.2 The Independent Administrator should prepare a draft Independent Administrator’s Report that comprehensively reconciles the information disclosed by the reporting entities, identifying any discrepancies, and reports on contextual and other information requested by the MSG.
- 4.2.1 Where applicable, the report should clearly contain:
- Total production volumes and the value of production by commodity, and, when relevant, by state/region, and
  - Total export volumes and the value of exports by commodity, and, when relevant, by state/region of origin.
- 4.3 The draft Independent Administrator’s report should:
- describe the methodology adopted for the reconciliation of company payments and government revenues, and demonstrate the application of international professional standards
  - Include a description of each revenue stream, related materiality definitions and thresholds (Requirement 4.1).

- Include an assessment from the Independent Administrator on the comprehensiveness and reliability of the data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
  - Based on the government's disclosure of total revenues as per Requirement 4.2(b), indicate the coverage of the reconciliation exercise.
  - Include an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report (Requirement 5.3(d)).
  - Document whether the participating companies and government entities had their financial statements audited in the financial year(s) covered by the EITI Report. Any gaps or weaknesses must be disclosed. Where audited financial statements are publicly available, it is recommended that the EITI Report advises readers on how to access this information (Requirement 5.3(e)).
- 4.4 Where previous EITI Reports have recommended corrective actions and reforms, the Independent Administrator should comment on the progress in implementing those measures (Requirement 5.3(e)).
- 4.5 The Independent Administrator is encouraged to make recommendations on strengthening the Terms of Reference for Independent Administrator services in accordance with the EITI Standard for the attention of the EITI Board.

### **Phase 5 – Final Independent Administrator’s Report**

- 5.1 The Independent Administrator should produce electronic data files that can be published together with the combined final report presented year-by-year in a single booklet, separated by a divider.
- 5.1.1 The Final Report shall be accompanied by the Administrator's Opinion of:
- The materiality or immateriality of inconsistencies found in, between or among the reports;
  - How the inconsistencies were reconciled or resolved;
  - The completeness of the data in relation to the total corporate presence in the relevant sectors; and
  - The overall integrity of the LEITI Report;
  - The Auditor will be expected to include in his proposals a work and time schedule.

- Reliability of data.

5.2 Following approval by the MSG, the Independent Administrator is mandated to submit summary data from the 7<sup>th</sup> & 8<sup>th</sup> EITI Reports for Liberia, in a format acceptable to the LEITI, electronically, for onward submission to the International Secretariat.

The Independent Administrator will publish/make public their final report only upon the instruction of the MSG. The MSG will endorse the report prior to its publication. Where stakeholders, other than the Independent Administrator, wish to include additional comments in, or opinions on, the EITI Report, the authorship should be clearly indicated.

5.3 The report of the Independent Administrator shall be published by the LEITI Secretariat to a wider audience, including the EITI International, in publicly accessible, comprehensive and comprehensible manner.

#### **4. Qualification requirements for Independent Administrators**

The reconciliation of company payments and government revenues must be undertaken by an Independent Administrator applying international professional standards (requirement 5.1). It is a requirement that the Independent Administrator is perceived by the MSG to be credible, trustworthy and technically competent. Bidders must follow (and show how they will apply) the appropriate professional standards for the reconciliation / agreed-upon-procedures work in preparing their report.

The Independent Administrator will need to demonstrate:

- Expertise and experience in the oil, gas and mining, forestry and agriculture sectors in Liberia.
- Expertise in accounting, auditing and financial analysis.
- A track record in similar work. Previous experience in EITI reporting is not required, but would be advantageous.
- The auditor should be willing to carry out the audit services at the Offices of the Liberia Extractive Industries Transparency Initiative (LEITI).
- At the end of the audit, the auditor will submit 10 (ten) certified copies of the audit report to the Secretariat of the Liberia Extractive Industries Transparency Initiative (LEITI).

In order to ensure the quality and independence of the exercise, Independent Administrators are required, in their proposal, to disclose any actual or potential conflicts of interest, together with commentary on how any such conflict can be avoided.

#### **5. Reporting requirements and time schedule for deliverables**

The assignment is expected to commence on February 17, 2016, culminating in the finalization of the 7<sup>th</sup> & 8<sup>th</sup> EITI Reports for Liberia. The proposed schedule is set out below:

Signing of contract	February 15, 2016
Inception period	February 17 – March 16, 2016
Inception report	March 23, 2016
Data collection & initial reconciliation	March 24 – April 23, 2016
Initial reconciliation report	May 1, 2016
Draft report	May 16, 2016
Final report	June 6, 2016

The schedule of payments shall be as follows:

1. 20% following contract signing
2. 30% following delivery of the inception report
3. 20% following delivery of the draft report
4. 30% following MSG approval and publication of the report