SECTION 6

TERMS OF REFERENCE FOR INDEPENDENT ADMINISTRATOR SERVICES FOR THE 2022-2023 SOLID MINERALS INDUSTRY REPORT

APPROVED BY THE NSWG ON….

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1. BACKGROUND

The Extractive Industries Transparency Initiative (EITI) is a global standard for improving transparency and accountability in the oil, gas, and mining sectors.

EITI implementation has two core components:

- Transparency: Oil, gas and mining companies disclose information about their operations, including payments to the government, and the government discloses its receipts and other relevant information on the industry. The figures are reconciled by an Independent Administrator and published annually alongside other information about the extractive industries in accordance with the EITI Standard.
- Accountability: A Multi-Stakeholder group (NSWG) with representatives from government, companies and civil society is established to oversee the process and communicate the findings of the EITI reporting and promote the integration of EITI into broader transparency efforts in that country.

The EITI Standard encourages MSGs 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. The requirements for implementing countries are set out in the EITI Standard[1]. In June 2023, a new EITI standard was introduced. This report will be produced based on the updated requirements of the new standard. Additional information on EITI is available at www.eiti.org .

It is a requirement that the NSWG approves the terms of reference for the Independent Administrator (Requirement 4.9.iii), in drawing on the objectives and agreed scope of the EITI as set out in the NSWG's work plan. The NSWG's deliberations on these matters should be in accordance with the NSWG's internal governance rules and procedures (see requirement 1.4.b). The EITI requires an inclusive decision-making process throughout implementation, with each constituency being treated as a partner.

[1] The EITI Standard 2019

It is a requirement that the Independent Administrator be perceived by the NSWG to be credible, trustworthy, and technically competent (Requirement 4.9.b.ii). The NSWG and Independent Administrator should address any concerns regarding conflicts of interest. The EITI Report prepared by the Independent Administrator will be submitted to the NSWG for approval and made publicly available in accordance with Requirement 7.1.

These terms of reference for EITI reporting (see section 4) are in accordance with EITI Requirement 4.9.b.iii. The international EITI Board has developed these procedures to promote greater consistency and reliability in EITI reporting. The EITI process should be used to complement, assess, and improve existing reporting and auditing systems. The Board recommends that the process rely as much as possible on existing procedures and institutions, 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.

EITI implementation in Nigeria

Nigeria signed up to the EITI in 2003, implementation began on 16th February 2004 when Nigeria Extractive Industries Transparency Initiative (NEITI) was established as part of the overall economic reform programme agenda of the Obasanjo Administration at the time. For details of Nigeria's sign up to the EITI, the functions, methods, processes, and benefits of NEITI, please visit our website www.neiti.gov.ng

In 2007, the implementation of EITI in Nigeria was strengthened by the signing of the NEITI Act 2007, making Nigeria the first country to back EITI implementation with a law. The NEITI Act 2007 is today a reference point in all advocacies, public agitation, and demand for transparency in the extractive sector in Nigeria.

Since then, NEITI has conducted several cycles of oil, gas and solid minerals EITI reports. The most recent being the 2021 reports. NEITI is in full compliance with requirement 4.8 of the EITI Standard on data timeliness. NEITI also conducts a Fiscal Allocation and Statutory Disbursement audit.

The strategy for the implementation of the EITI in Nigeria by the NSWG is detailed in the NEITI Strategic Plan for 2022 - 2026. This was prepared in full consideration of the Government's priorities as documented in the Economic Recovery and Growth Plan (ERGP) 2017 - 2020, the revised in the Nigeria Economic Sustainability Plan 2020. Furthermore, it takes into account the 8-point agenda introduced by President Bola Ahmed Tinubu's administration, which commenced on May 29, 2023. This agenda is rooted in eradicating poverty, stimulating economic growth, generating employment opportunities, fostering inclusivity across various dimensions, especially concerning youth and women, and staunchly combating corruption. Notably, these agenda items closely resonate with the primary principle underpinning the 2023 EITI standard. For further insights, additional information can be accessed via the EITI Principles.

The NSWG also continuously updates its annual work program to reflect current government priorities, the most current of which is documented in section 7.2 of the 2023 – 2025 Medium Term Expenditure Framework and Fiscal Strategy Paper.

3. OBJECTIVES

On behalf of the Federal Government of Nigeria and NSWG, the Nigeria Extractive Industries Transparency Initiative [NEITI] seeks a competent and credible firm free from conflict of interest to provide Independent Administrator services in accordance with the NEITI Act 2007 and the EITI Standard. The objective is to promote transparency and sustainable growth in the solid mineral sector . The report shall be titled;

"NEITI Solid Mineral Industry Report – 2022"

"NEITI Solid Mineral Industry – 2023" and will have the theme

UNLEASHING POTENTIAL OF THE SOLID MINERAL SECTOR:
Assessing the implementation of the Nigeria Mining Road Map".

The key objectives and work to be undertaken by the Independent Administrator include:

I. To report on all aspects of the regulatory framework for the solid mineral industry: including the legal framework, fiscal regime, roles of government entities and reforms, laws, and regulations relating to addressing corruption risks in the solid mineral sector,

II. To provide an overview of the statutory procedures for awards and transfers of licenses and assess if these procedures are followed in practice,
III. To disclose comprehensive information on property rights to mineral licenses and leases,
IV. To disclose an overview of the exploration activities in the solid mineral sector highlighting its potential, recent, ongoing, and planned significant exploration activities,
V. To disclose information about mineral production levels and a valuation of extractive output. Furnish comprehensive reports detailing mineral production, utilization, and storage on a project-specific basis within the sector. This encompasses the documentation of transactions conducted by solid mineral companies in Nigeria, alongside a thorough account of the measures undertaken to oversee and authenticate production accuracy,

VI. To disclose information on mineral export quantities, assess the value of exports, and report on the steps taken to monitor and verify the accuracy of export data from the sector.
VII. To disclose greenhouse gas (GHG) emissions from the solid mineral sector, produce an overview of Nigeria's national energy transition commitments, policies, and plans as they pertain to the extractive sector. Provide recommendations if such commitments are not in place, Identify and describe carbon pricing mechanisms, such as carbon taxes or emissions trading schemes, relevant to the extractive sector.
VIII. Disclose proposed or actual material payments associated with carbon pricing, Identify if any and disclose material subsidies associated with energy transition reforms and other types of subsidies in the extractive sector. Consult the Global Subsidies Initiative for supplementary contextual insight
IX. To disclose comprehensively, all company payments and government revenues from the solid mineral sector to the required level of disaggregation while adhering to NSWG approved data quality assurance procedures
X. To disclose information on revenue management and distribution, highlighting subnational transfers and revenue sustainability,
XI. To disclose information on Social Payments: Provide a detailed breakdown of company(s) social payments, both voluntary and mandatory, to affected communities. Disaggregate the data by gender and economic status, accounting for marginalized groups.

XII. To disclose information on Employment Data: Collect, collate, and present employment data at different occupational levels, including average earnings by gender, to provide insights into workforce dynamics within the sector.

XIII. To disclose information the extractive company(s) and community(s) consultation policies, laws, regulations, or contracts highlighting the ethos guiding extractive community free, prior, and informed consent (FPIC) in Nigeria. Detail the consultation processes at all stages of exploration, development, and production between companies and mineral extraction communities.

XIV. Track Funds Utilization: Track the utilization of funds meant for the development of the Solid Minerals Sector. Focus areas include the Natural Resources Development Fund, Solid Minerals Development Fund (SMDF), MMSD's Min-Diver Programme, and Solid Minerals Development Funds under the Small and Medium Industries Equity Investment Scheme (SMIEIS) operated through Bank of Industry (BOI).

XV. To disclose information on companies social and environmental contributions including assessing their compliance to legal and contractual obligations to undertake social and environmental expenditures,

xvi. To disclose information on the contribution of the solid mineral sector to the economy,

xvii. To conduct the assignment in a manner, which is insightful, and of such integrity as to be reasonably relied upon by the NSWG, and

xviii. To make observations and recommendations that will support policymaking. This involves incorporating suggestions from previous reports and formulating suggestions for any emerging matters encountered during the execution of the task.

In achieving these objectives, the Independent Administrator shall acquaint and adhere to the NEITI Act 2007, EITI Standard, all relevant statutes and regulations, international treaty obligations, and ethical standards (without limitation to the aforesaid) efficient performance of the Works.

4. SCOPE OF WORK

The Independent Administrator shall:

1. Produce a scoping report that will inform the NSWG's decision on the scope of the 2022 and 2023 EITI Report.

2. The independent Administrator will study and propose enhancements, as needed, to the current data collection templates, data quality assurance steps, and reporting frameworks intended for use by both public and private entities subject to this audit. These proposals will be presented for approval by the NSWG.

3. Validate, analyze, and reconcile financial, volumetric (production data), and associated information concerning identified revenue flows, as well as any other transactions that could impact these flows among the Extractive Industry Companies in the solid minerals sector (referred to as "Company" or "Companies").

4. Determine the conformity of payments with relevant legislation.

5. Verify the appropriateness of payments in relation to mineral royalties, profit taxation, and mineral rights.

6. Reconcile financial transactions reported by companies and government, as per the scope set out herein;

7. Examine audited financial statements for alignment between Companies and Government records.

8. Report on balances payable/ receivable at the end of the audit period for identified financial flows;

9. Include a description of the process of computing and recording all revenue streams.

10. The IA to describe the method utilized for computing and documenting each revenue stream, highlighting any deviations from prevailing laws, regulations, guidelines, or established protocols, and outlining the extent and constraints of the assessment conducted.

11. Review the capital investment to determine if the amortization and the depreciation declared are correct and have not reduced the amount of taxable profits of the Companies;

12. Perform the audit of operational cost to assess if the deduction claims were incurred and correspond to legitimate operational expenses; determine and publish summaries of final tax and cost audits.

13. Analyze the tax deductions claimed by the Companies in the sector for the purpose of identifying and reporting any improper claims.

14. Reconcile the data collected to ascertain any disparity between the governments' reported templates and aggregated Companies' reporting templates.

15. Report on policies related to ASM with information on planned or ongoing reforms. Also, provide and estimate if informal sector activity on ASM.

16. Report on illegal mining activities and abandoned mine sites and make recommendations thereof.

16. Build upon the analysis, findings, and recommendations of the previous audits and provide a report on the status of remediation issues.

17. Obtain all information on social and environmental expenditures as mandated by law, and non-mandatory social expenditures incurred by each operator,

18. Evaluate the scope and impact of social and environmental expenditures directed towards designated beneficiaries, encompassing women and marginalized groups.

19. Provide an analysis of the alignment between actual expenditures by companies and their contractual obligations.

20. Evaluate the significance and efficacy of environmental payments and propose a transparent method for disclosing and potentially reconciling these payments to NSWG. Share information, if accessible, about social and gender

impact assessments in impacted communities. If such assessments are lacking, outline steps taken to conduct these assessments and any pertinent recommendations.

21. The Independent Administrator will offer an overview of the management and oversight of environmental rehabilitation funds.

22. The Independent Administrator shall review the basis for new concessions (especially the non-technical basis for license award e.g., affected community consultation and consent), existing concessions, current title holders including all the beneficial owners (where applicable), types of titles held, coordinates and award procedures (including dates of application and award) to make comments on adherence or deviation from the set procedures and provide appropriate recommendations

23. Provide information on the management and impact of mining and quarrying operations on the environment, including information about GHG emissions.

24. Review the activities of MIREMCOs as it affects the environment in all the regions.

25. Propose a data quality assessment methodology for the approval of NSWG.

- The methodology should be comprehensive and systematic, and it should be able to assess the quality of data across all dimensions, including accuracy, completeness, consistency, timeliness, and relevance.

- The methodology should be documented in a clear and concise manner, and it should be easy to understand and use.

26. Provide in the final reconciliation report an outline of the data quality standards employed, the techniques utilized for evaluating data quality, and the outcomes of the data quality evaluation. The explanation should culminate in a conclusive determination by the Independent Administrator regarding the data and information's quality utilized for the report

27. Provide information about companies' anticorruption policies and corruption risk mitigation efforts.

28. Provide information on additional specific tasks as outlined in the table on Page 26-27

29. Provide recommendations for establishing standardized reporting methodologies that elevate industry-wide reporting, sector analysis, and transparency.

31. The Independent Administrator's final deliverable will be titled –

"UNLEASHING POTENTIAL OF THE SOLID MINERAL SECTOR:

Assessing the implementation of the Nigeria Mining Road Map".

32. The Independent Administrator shall offer, to the extent applicable and/or necessary, recommendations for improvements He finds or believes may improve the sector's efficiency or the effectiveness of Government procedures for managing the sector, or any other such matter the Independent Administrator may consider pertinent.

33. Upon approval of the Final Report by the NSWG, the Independent Administrator shall print twenty (20) copies of the final report, complete and submit the underlisted templates.

a) Transparency Template

b) Summary Data Template.

5. SERVICES, TASKS AND EXPECTED DELIVERABLES

The IA's activities will be structured into six (6) conceptual phases, as depicted in figure 1. These phases may exhibit overlap and potential iterations between them. The specific responsibilities of the IA during each phase are detailed as follows:

Figure 1 – Overview of the EITI Reporting process and deliverables

<u>**Phase 0 - Scoping and Scoping Study**</u>

<u>Objective:</u> Scoping work aims to identify what the EITI Report should cover to meet the EITI Standard requirements. Scoping sets the basis for producing a timely, comprehensive, reliable, and understandable EITI Report.

It involves looking at issues such as the fiscal period to be reported, the contextual information that should be part of the EITI Report, reviewing the types of assurances that are needed for ensuring that the data submitted by reporting entities is credible, determining which revenue streams from solid mineral sector are significant, and consequently which companies and government entities should be required to report. Scoping may also investigate likely gaps or issues that may be particularly challenging to include in the EITI Report to identify options, solutions, and recommendations for an appropriate reporting methodology for consideration by NSWG to address the objectives outlined in the EITI work plan.

Phase 1 – Preliminary Analysis and Inception Report

Objective: The purpose of the inception phase is to confirm that the materiality decisions taken by the NSWG for this EITI report is clearly defined. It is also to ensure the adequacy and comprehensiveness of reporting templates (for quantitative data) and other data collection tools (for qualitative data), establish data collection procedures, convene a preliminary engagement with the covered entities to present reporting templates and communicate data collection procedures, and agree the schedule for publishing the EITI Report.

The IA is expected to undertake the following tasks during the inception phase:

1.1 Review the scope agreed by the NSWG for the Report including the materiality definitions agreed, and any other findings from the scoping work.

1.2 Review the conclusions and recommendations from the most recent NEITI Solid Mineral Industry Report and most recent EITI Validation Assessment (Attached as appendix).

1.3 On the basis of the scoping report, 1.1, and 1.2, produce an inception report that:

1.3.1 Includes a statement of materiality confirming the decisions on the payments and revenues to be covered in the EITI Report in accordance with Requirement 4.1, including:

- The definition of materiality and thresholds, and the resulting revenue streams to be included in accordance with Requirement 4.1(a) and disaggregated in accordance with Requirement 4.7.
- The sale of the state's share of production or other revenues collected in-kind in accordance with Requirement 4.2.

- The coverage of infrastructure provisions and barter arrangements in accordance with Requirement 4.3.
- The coverage of transportation revenues in accordance with Requirement 4.4.
- Disclosure and reconciliation of payments to and from state owned enterprises in accordance with Requirement 4.5.
- The materiality and inclusion of direct sub-national payments in accordance with Requirement 4.6.
- The materiality and inclusion of sub-national transfers in accordance with Requirement 5.2.
- The level and type of disaggregation of the EITI Report in accordance with Requirement 4.7.
- The coverage of social expenditure and environmental payments in accordance with Requirement 6.1.
- The coverage of quasi-fiscal expenditures in accordance with Requirements 6.2.

1.3.2 Includes a statement of materiality confirming the NSWG's decisions on the companies and government entities that are required to report, including:

- The companies that make material payments to the state and will be required to report in accordance with Requirement 4.1(a).
- The government entities, including any and sub-national government entities, that receive material payments and will be required to report in accordance with Requirement 4.1, 4.2, 4.4, 4.5 and 4.6.
- 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.

1.3.3 Based on the examination of the audit and assurance procedures in companies and government entities participating in the EITI reporting process, confirm what information participating companies and government entities are required to provide to the IA to assure the credibility of the data in accordance with Requirement 4.9.

The IA should exercise judgement and apply appropriate international professional standards in developing a procedure that provides a sufficient basis for a comprehensive and reliable EITI Report. The IA should 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 governments.

Where deemed necessary by the IA, 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 Administrator that confirms that the information they have submitted is comprehensive and consistent with their audited financial statements.

- Where relevant and practicable, requesting that government reporting entities obtain a certification of the accuracy of the government's disclosures from their external Administrator or equivalent. When government entities are not subject to audits or equivalent assurance, this must be clearly identified.

The inception report should document the options considered and the rationale for the assurances to be provided.

1.4 Review and update the data collection templates for adequacy and comprehensiveness, in accordance with scope established in the Inception Report.

1.5 Identify data collection tools and/or strategies for the collection of qualitative data.

1.6 Support engagement with government agencies to present reporting templates and communicate data collection procedures as well as any procedures or provisions relating to safeguarding confidential information.

Phase 2 - Aggregate contextual (non-revenue) information for the sector

Objective: The purpose of this phase is to aggregate contextual (non-revenue) information for the sector including the legal and institutional framework underpinning: fiscal regime, contract and license allocation, revenue collection, revenue management and distribution, social, and economic spending.
The IA is expected to undertake the following tasks during this phase:

2.1. Review the contextual information to be provided in the EITI Report documenting what is publicly available through relevant Government websites, the NEITI website and any other relevant credible website(s).

2.2 Collect information that is not publicly available utilising tools and/or strategies identified in 1.5.

2.3 Prepare a report of non-revenue information, summary of which will be included in the Solid Mineral Report (along with links to publicly available information) and details used to update the non-revenue information on the NEITI Website.

This Report will include:

2.3.1. A description of the legal framework and fiscal regime governing the Solid Mineral sector including fiscal regime and the level of fiscal devolution, a description of the relevant laws and regulations (including laws related to preventing corruption), a description of the different types of contracts and licenses that govern the exploration and exploitation of solid mineral, and the roles and responsibilities of government institutions.

2.3.2. An overview of the national energy transition commitments, policies, and plans that are relevant to the extractive sector.

2.3.3. An overview of any government reforms planned or underway, in respect of issues in 2.3.1 and 2.3.2 above.

2.3.4. A description of the process for transferring or awarding of licenses and leases.

2.3.5. Where there is a transfer or award of licenses or leases in the period, information about the recipient(s) of the license that have been awarded or transferred. Including a list of the recipient(s) of any transferred license or lease and a list of all applicants and awardees in the license award and their respective dates of application.

2.3.6. A description of the register of licenses and the information contained therein, identifying any gaps in publicly available information according to Requirement 2.3(b).

2.3.7. Where gaps are identified in 2.3.6, document any legal or practical barriers preventing comprehensive disclosure.

2.3.8. A description of the Government's policy on disclosure of contracts and licenses.

2.3.9. An overview of which contracts and licenses are publicly available including links to those contracts and licenses.

2.3.10. An overview of beneficial ownership disclosure including definitions of key terms, legal provisions for disclosure, actual disclosure practices. It should also include a description of how to access publicly available data.

2.3.11. An assessment of the comprehensiveness and accuracy of publicly available beneficial owner data from the CAC, MCO and NEITI to determine if all companies covered have the required data according to Requirement 2.5 (d) publicly available and identify gaps to BO data.

2.3.12. A description of any planned or ongoing significant exploration activities, including data on proven mineral reserves.

2.3.13. A description of the methods for calculating production volumes and the existing mechanisms to monitor and verify the accuracy of production data including an assessment of the reliability of publicly available production data.

2.3.14. A description of the sources and methods for calculating export volumes and the existing mechanisms to monitor and verify the accuracy of export data including an assessment of the comprehensiveness and reliability of publicly available export data.

2.3.15. An overview of the budgeting process of the Government including links to publicly available information on budgeting, expenditure, and audit reports

2.3.16. A description of the revenues from the sector that are captured in the national budget and those that are not. Where there are those not recorded in the national budget, the allocation and value for each should be noted including links to relevant financial reports as applicable.

2.3.17. An overview of the relevant legal provisions and administrative rules governing environmental impact management in the solid mineral sector in accordance with Requirement 6.4 (a)

2.3.18. An overview of the size of the solid mineral sector in absolute terms and as a percentage of GDP.

2.3.19. An overview of total government revenues generated by the solid mineral sector in absolute terms and as a percentage of total revenues.

2.3.20. A description of the process of transfer between the national and subnational government entities of revenues from the sector that are mandated by the national Constitution, statute, or other revenue sharing mechanism.

2.3.21. An overview of the assumptions underpinning forthcoming years in the budget cycle and the proportion of future fiscal revenues expected from the sector.

2.3.22. An overview of the relevant legal provisions and administrative rules governing environmental impact management in the solid minerals sector in accordance with Requirement 6.4 (a) and (c) and (e).

2.3.23. An overview of exports from the solid mineral sector in absolute terms and as a percentage of total exports.

2.3.24. An overview of employment in the public and private sectors of the sector in absolute terms and as a percentage of total employment disaggregated according to Requirement 6.3.

Phase 3– Data collection

Objective: The purpose of this phase of work is to collect the data for the EITI Report in accordance with the scope confirmed in the Inception Report. The NSWG and national secretariat will provide contact details for the reporting entities and assist the IA in ensuring that all reporting entities participate fully.

The IA is expected to undertake the following tasks during the data collection phase:

3.1 Collect production and revenue data from covered entities and make preliminary analysis before validation of data submitted by all reporting entities. NEITI will assist the IA in ensuring compliance by the covered entities.

3.2 Collect all other data with specific reference to Requirements 2.3, 2.5, 3.4, 4.3, 4.4, 4.5, 4.6, 4.10 (a and b), 5.1 (a and b), 5.2 (a), 5.3 (a and b), 6.1, 6.2, and 6.3.

3.3 Ensure that the data quality procedure established in the Inception Report is followed comprehensively.

3.4 Identify and collect all supporting documentation directly from the participating reporting entities, and

3.5 Advice on other mechanisms or methods to ensure that appropriate safeguards are in place to protect the integrity of the process.

Phase 4 – Initial reconciliation

Objective: The purpose of this phase is to complete an initial compilation and reconciliation of the revenue and production data with a view to identify any gaps or discrepancies to be further investigated.

4.1 The IA shall compile company level production, payment and revenue data provided by the reporting entities.

4.2 The IA shall comprehensively reconcile the information disclosed by the reporting entities, identifying any discrepancies (including offsetting discrepancies) in accordance with the agreed scope and any other gaps in the information provided (e.g., assurances).

4.3 The IA shall investigate any discrepancies to a margin of 0.5% of each total revenue stream.

4.4 The IA shall contact the reporting entities directly to clarify any information gaps or discrepancies

4.5 The IA shall compile a database with all data collected from all reporting entities

Phase 5 – Investigation of Production/Financial discrepancies and Draft Audit Report

Objective: The purpose of this phase is to investigate any discrepancies identified in the initial reconciliation, and to produce a draft EITI Report that reconciles production and financial data and explains any discrepancies above the margin of error determined by the NSWG, where applicable. During this phase, the IA shall contact the reporting entities and seek to clarify any discrepancies in the reported data. The insights derived through this endeavor will contribute to the NSWG's evaluation of non-material deviations from existing regulations and guidelines across the physical, procedural, and financial aspects of the report.

PHYSICAL FLOWS

Licensing/Production arrangements

i. <u>Licensing and Contract Transparency</u>

The Ministry of Mines and Steel Development and/or the MCO shall provide the Independent Administrator with comprehensive information on the procedures applied in the award of mining titles in the period this determines the procedures to be adopted in allocating cadastral units to operators. Such information shall include guidance notes. The Independent Administrator shall review the procedures and comment on them from a transparency and propensity to optimize revenue to Nigeria angle.

The Independent Administrator shall obtain the following from MCO a statement of:

- A comprehensive listing of Companies that carried mining/quarry at any time within the period, detailing (for each):
  - I. Name of company
  - II. QL / ML reference
  - III. Location of operation
- All payments committed (including the schedule for payment)
- The amounts received from each company
- Amounts considered by MCO to be due as of 31st December 2022 but not paid as of that date.
- Highlight any lapses and special concessions granted in the process and provide recommendations thereof.
- Copies of all Community Development Agreements (CDAs) signed by companies for the period under review.
- Weightings applied to the financial and technical criteria considered for license awards and transfers

- Confirming the standardized (proforma) nature of all categories of mining licenses/leases.

<u>The Independent Administrator shall obtain from MID:</u>

- Production of each operation (broken down to the level of each field) for each month in the period.
- Royalty paid on each operation (broken down to the level of each field) for each month in the period.
- A concise statement of the definition of "production" as used by MID in preparing the foregoing analysis.
- Each Company and the relevant covered entity shall provide the requisite monthly calculations to the Independent Administrator.

Review of Management and Control over Measurement of Solid Minerals Production.

i. The Independent Administrator shall request information from sector organizations about relevant sites and facilities to update and deepen understandings gained as part of previous audits and assess technical facilities and operational procedures as they apply in the period from a mining industry perspective.

ii. The Independent Administrator shall not repeat work carried out in connection with previous audits except to the extent necessary to identify changes. Reports into the quality of controls and the status of systems shall draw on work carried out in prior audits and shall be updated to take account of changes that have occurred since that time.

iii. The Independent Administrator shall review sector progress up to the date of the audit in designing and implementing enhanced measurement arrangements for Solid Minerals flows.

iv. The Independent Administrator shall review measurement procedures and comment on their suitability.

The Process of Pricing.

i. The Independent Administrator shall undertake a review of the procedures for (price) rate setting of Solid Minerals to ensure that income to the Federation is realized in a manner consistent with market conditions.

ii. The Independent Administrator shall:
   - Analyze the pricing of all the grades of Solid Minerals on a test basis (meaning, an evaluation by the Independent Administrator that the established procedures had been followed, and conducting a reasonable test of actual prices secured relative to scheduled prices); and
   - Comment on whether Nigeria succeeded in realizing revenues from solid minerals in a manner consistent with market conditions;

iii. The Independent Administrator is not obligated to re-evaluate price-setting systems utilized or the terms and conditions pertaining to the price setting.

FINANCIAL FLOWS

The financial flows shall be confirmed by agreement with the respective flows reported by the recipient entity.

I. The Independent Administrator shall perform additional verification if:

   - The corresponding entity does not confirm a transaction; or
   - Additional procedures have been specified in these Terms of Reference.

II. In the event a transaction is not confirmed (whether as to amount or as to existence) by the corresponding Companies, the Independent Administrator shall perform such additional work as it considers necessary, such as:

   - Requesting relevant parties to produce evidence that the transaction occurred;
   - Requesting other relevant documentation from the respective entities;
   - Requesting a paying entity to commission a trace through the banking system; or

- Reporting to the client its findings, or lack thereof, accordingly.

III. In the event that a payment transaction takes place by one Company on behalf of another, the transaction shall be reported only by the Company that makes the payment.

IV. Suppose a transaction was made on its behalf by a different entity. In that case, the Companies must jointly notify the Independent Administrator that this occurred and request a special template on which it may be reported.

V. Financial Flows of the Federation, specifically:

- The OAGF and CBN shall provide the data required and requested by the Independent Administrator to confirm receipt of payments from Companies.

- The Independent Administrator shall validate that:

    I. The financial streams agreed with the amounts paid by Companies; and

    II. The amounts were received into an account under the control of the Federation's Accountant General and for the Federation's account.

VI. The Independent Administrator shall verify the reconciliation to third-party statements of bank accounts maintained by the CBN and designated as Federation accounts into which payments from the sector are received.

- The Independent Administrator shall present a clear description of the flow of funds into and out of the Federation account in respect of Income to the Federation;

Review of Systems and Procedures.

I. The Independent Administrator shall conduct a review of the systems and procedures utilized by the Companies for purposes of calculating, recording, processing, and settling financial transactions. The Independent

Administrator shall leverage insights and findings garnered in this regard from the conduct of the financial audit for (calendar years 2020 & 2021) previous audits for purposes of conducting the financial audit for the period.

II. The Independent Administrator shall update the record of systems applicable to financial flows, including recording all material changes that occurred or were imposed upon such systems and procedures on or before 31 December 2022 and 31 December 2023.

III. The Independent Administrator's review of the applicable systems and processes shall be based upon:

- The procedures used by paying entities for determining the timing of payment;
- The procedures used by paying entities for determining the amount of the payment;
- The procedures used by receiving entities for tracking the identity of the payer and to what the payment related pertained;
- The procedures used by receiving entities for confirming whether the amount was correct; and
- The procedures used by either entity for confirming that their respective records of mutual payments and receipts are consistent.

Confirmation of Amounts Paid / Payable

I. The Independent Administrator shall seek confirmation from each party to an identified financial flow (i.e., payers and recipients) as to the amounts paid and received in the period, the amounts accrued but not paid/received at the beginning and end of the period, and any known disputes affecting the aforesaid figures.

II. The Independent Administrator shall not be required to seek confirmations from State Governments and FCT regarding the financial amounts they received.

III. The Independent Administrator shall reconcile payments made to / by Companies to payments received by / paid by Government.

IV. The Independent Administrator shall undertake additional verification work regarding certain transactions to report on whether those transactions were made in accordance with respective legislation and regulations and on a timely basis. Relevant transactions concerned include:

- Royalty;
- Company Income Tax - if material.

V. The Independent Administrator shall verify a sample focusing on key compliance issues and considering the significance of the financial amounts involved and shall make general observations to the extent supported by available evidence.

VI. The Independent Administrator shall obtain information from Companies as to financial balances at the beginning and end of each calendar year regarding significant financial flows. Companies shall confirm that these balances agree with their books and records and shall make such available for verification at the Independent Administrator's option. The Independent Administrator shall compile a report on:

- Balances shown by paying entities as payable at each relevant date
- New liabilities accruing in each year
- Amounts paid in each year

And shall summarize the movements in the fashion of a control account

VII. The Independent Administrator shall report in full upon the data and findings, including matters arising, the comments provided by the respective companies and conclusions, and instances of over-or underpayment of amounts due to the Federation.

Validation of Royalty Liabilities.

I. The Independent Administrator shall request from selected Companies copies of all computations of all amounts that were paid or should have been paid in the period and all supporting documents necessary to evidence that the calculation of Royalty was in accordance with amounts produced, reconcilable with quantities utilized, exported, or sold in Nigeria, and reconcilable with the audited accounts of the Company for the period;

II. The Independent Administrator shall undertake a test check that the information provided is in accordance with the audited financial statements and the general ledger of the Company; and

III. The Independent Administrator shall report any amount of Royalty that has been over or underpaid.

Validation of Company Income Tax.

I. The Independent Administrator shall if the sums involved are material:

- Request from selected Companies of all computations of all amounts that were paid or should have been paid in the period and all supporting documents necessary to evidence that the calculation of Company Income Tax (CIT) was in accordance with relevant laws, reconcilable (through detailed and reasoned explanations at each account head) with the audited accounts of the Company for the period;

- Undertake a test to check that the information provided is in accordance with the audited financial statements and the general ledger of the Company.

II. The Independent Administrator shall report any amount of CIT that has been over or underpaid.

GOVERNANCE PROCESS

Ministry of Mines and Steel Development (MMSD).

The Independent Administrator shall:

- Review the procedures operated by MID with respect to:

  I. Ensuring that Nigeria receives the Royalty to which it is entitled under law;
  II. Controlling the calculation of royalty payable;
  III. Controlling that Royalty payments are made when due and actions are taken when payments are not made when due.

- The Independent Administrator shall compare the records of MID with the records of the Accountant General of the Federation with regard to Royalty paid in the period and present a statement of any differences, which represent recording differences and not payment differences (the record of the Central Bank of Nigeria, being regarded as the record of payment and the record of the Accountant General.)

- MID shall provide the Independent Administrator a statement of arrears of royalty payments.

- The Independent Administrator shall report instances of royalty that should have been paid that has not been paid, including instances of error or discrepancy in recording or non-payment.

- The Independent Administrator shall ensure adequate correlation between the work on financial flows and the physical audit.

- Review the procedures operated by MECD with respect to:
  I. Report and document the status of MIRENCO and the Environmental Rehabilitation Fund

Mining Cadastre Office (MCO)

- The Independent Administrator shall review the extant regulations and report compliance or otherwise with respect to:
    - i. Transfers
    - ii. Consolidations
    - iii. Revocation of Mining Titles

- The Independent Administrator shall report Annual Service Fees that should have been paid in 2021; provide an estimation of unrealized revenue, and proffer recommendation(s) for recovery.

Federal Inland Revenue Service (FIRS).

The Independent Administrator shall:

- Review tax officials' examination and queries resulting in additional assessment and trace it to the collection unit to ensure that required notices of assessments are raised;

- Report on the level of investigation of Companies' self-assessments by FIRS;

- Reconcile taxes raised by assessment units with the collection unit and confirm that payments have been received for taxes due;

- Review a sample of tax files to ensure compliance as regards payment of taxes, answering of tax queries, discharges of tax liabilities.

Office Of The Accountant General Of The Federation (OAGF)

- The Independent Administrator shall review the systems and procedures to ensure that the amounts due to the Federation are properly identified, received on a timely basis, and duly accounted for.

- The Independent Administrator shall assess progress in establishing the OAGF in managing sector flows to the Federation.

- Based on the Government's disclosure of total revenues as per the Companies the
  Independent Administrator should indicate the coverage of the reconciliation exercise

ADDITIONAL SPECIFIC TASKS

In addition to previous outlines in past NEITI reports, the table below highlights further information/tasks necessary for this report. The goal is to create an analytical, informative, data-driven report that yields pertinent policy and strategic outcomes.

1 Contact the reporting entities to clarify the causes of any significant discrepancies or other gaps in the reported data, document as appropriate, and to collect additional data from the reporting entities concerned.

2 The financial data should be disaggregated to the level of detail agreed by the NSWG and in accordance with requirement 4.7. The draft EITI Report shall also:

a) describe the methodology adopted for the reconciliation of company payments and government revenues and demonstrate the application of international professional standards.

b) include a description of all revenue streams, related materiality definitions and thresholds (Requirement 4.1).

c) include an assessment of whether payments are made as at when due clearly identifying reasons for delays if any and outstanding amounts per revenue stream as at the time of reporting.

d) include a list of all companies, projects and government entities covered in the report

e) include a description of the process of computing and recording all revenue streams.

f) include an assessment from the IA on the process adopted for the computation and recording of each revenue stream, noting any deviations from extant laws, regulations, guidelines or established processes and the limitations of the assessment provided.

g) include an assessment from the IA on the comprehensiveness and reliability of data presented, including an informative summary of the work performed by the IA and the limitations of the assessment provided.

h) include an assessment of whether all companies and government entities within the agreed scope of the report, provided the requested information, identifying any gaps or weaknesses in reporting to the IA, 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.

i) document whether the participating companies and government entities had their financial statements audited in the financial year(s) covered by the EITI Report, documenting any gaps or weaknesses to disclosure. Where audited financial statements are publicly available, the EITI Report should inform readers on how to access this information.

3 Where previous EITI Reports have recommended corrective actions and reforms, the IA should comment on the progress in implementing those measures.

4 The IA should make recommendations for strengthening the reporting process in the future, including any recommendations regarding audit practices and reforms needed to bring them in line with international standards, and where appropriate, recommendations for other extractive sector reforms related to strengthening the impact of implementation of the EITI on natural resource governance. The IA is encouraged to collaborate with the NSWG in formulating such recommendations.

5. Data Analysis:

- Provided detailed analysis of data received from MCO and MID on all payments made and received, and •

- Detailed analysis of export data received from Customs Service (NCS).

6. Provide a comprehensive analysis of liabilities of companies as regards export payment, royalty, and tax payments including an outline of the basis of computation.

7. Provide the status of implementation of the Nigerian Mining Roadmap and Mindiver Project from 2016 to 2022 i.e., status update to include achievement/milestones met, implementation issues/challenges, gaps and challenges.

8. Make clear, concise, relevant and strong findings/recommendations. These findings/recommendations are to be built on field experience, data obtained from covered entities, engagement with NEITI secretariat.

9. Conduct a thorough and detailed analysis of the report's issues. Include well-labeled tables within the report, each directly correlated to specific issues highlighted by the IA. As these tables will contribute to shaping the IA's findings and eventual recommendations in a coherent manner.

10. Submit a preliminary EITI Report to the NSWG for review, encompassing a thorough reconciliation of data disclosed by reporting entities. Highlight any disparities and include additional data requested by the NSWG for their input and comments.

11. The IA may make recommendations on strengthening the Terms of Reference for Independent Administrator services in accordance with the EITI Standard for the attention of the NSWG.

12. The IA is expected to make recommendations particularly addressing the underlisted:

- The potential impact of a review of the NMMA 2007 and subsequently NMMR2011 on revenue mobilization in the solid mineral sector.

Phase 6 - Final Report

Objective: The purpose of this phase is to ensure that any comments by the NSWG on the draft report have been considered and incorporated in the final EITI Report.

6.1 The Independent Administrator will submit the final EITI Report to the NSWG. The NSWG will endorse the report prior to its publication and will oversee its publication. Where stakeholders other than the Independent Administrator decide to include additional comments in, or opinions on, the EITI Report, the authorship should be clearly indicated.

6.2 The Independent Administrator shall produce electronic data files (in PDF, Microsoft Word, CSV & Excel) published together with the EITI Report.

6.3 Following approval by the NSWG, the Independent Administrator is mandated to submit summary data template from the EITI Report electronically to the International Secretariat according to the standardized reporting format available from the International Secretariat website.

6.4 The Independent Administrator shall also populate and submit to the MSG electronically, the Transparency Template available from the International Secretariat website.

6.5 Considering the dynamic nature of the Solid Mineral Industry, the Independent Administrator may be required to report on specific issues that may arise during the Audit.

6.6 The Independent Administrator shall take appropriate measures to ensure that the Report is comprehensible. This includes ensuring that the report has high levels of readability, legibility, and usability. The NSWG may wish to request that the report be edited by a professional copy-editor and/or be designed by a professional graphical designer.

6.7 The Independent Administrator shall submit to the national secretariat all available data gathered during reconciliation, including the contact information of all institutions contacted during the reporting process.

6.8 The Independent Administrator shall provide machine-readable files and/or code or tag "Audit Reports and data files".

6.9 The NSWG shall endorse the Audit Report before its publication. The authorship should be reflected where stakeholders wish to include additional comments or opinions on the Audit Report.

DATA MANAGEMENT

I. The IA shall develop a systematic approach to data management that facilitates the comparison and where necessary, reconciliation of financial transactions between payer and recipient.

II. The upgraded or newly designed transaction templates shall be completed on a cash basis except where otherwise specified by the IA.

III. On a limited basis, the IA shall review the proposed templates with a sample of Companies and other stakeholders to confirm their suitability for the purposes intended.

IV. The IA shall determine an activity timetable with each Company, and both the IA and the Company shall endeavor to recognize each other's constraints.

V. Without regard to the foregoing provision, the agreed timetable shall be consistent with the IA's reporting obligations, as set forth herein.

QUALIFICATION REQUIREMENTS FOR INDEPENDENT ADMINISTRATORS

It is a requirement that the NSWG regards the IA Administrator to be credible, trustworthy, and technically competent. The IA will need to demonstrate:

I. Expertise and experience in the solid minerals sector in Nigeria. The team should have the following; Mining Engineers, Policy Analysts, Mining governance experts.

II. Expertise in accounting, tax, auditing, and financial analysis.

III. A track record in similar work and preferably proven experience with the EITI.

IV. Expertise in business report writing/ editorial, use of infographics.

To ensure the quality and independence of the exercise, IA 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.

REPORTING SCHEDULE

The assignment is expected to commence on [date], culminating in the finalization of the Audit Report by [date].

MILESTONES	DATE
1. Signing of contract	Effective from the date of signing of the contract s. Month (M)
2. Inception report	M + 2 Weeks
3. Data collection, validation& initial reconciliation	M + 10 Weeks
4. Reconciliation report	M + 15 Weeks
5. Draft report	M + 18 Weeks
6. Final Draft Report (Financial, Physical, and Process) with Findings, Recommendations, Trend Analysis, EITI Summary Data template 2.0, and Transparency template. The Appendices shall be in Open excel format (For approval by NEITI NSWG after a presentation by the I.A.)	M + 24 Weeks

CONFIDENTIALITY

I. The IA shall enter into such agreements with each Company as may be necessary concerning the confidentiality and protection of the confidentiality of covered entities, provided that the Independent Administrator shall not thereby limit its reporting to NEITI.

II. The IA is not responsible for and shall assume no liability for the NEITI's management or disclosure of data, including confidential information, shared with NEITI after being presented to the NEITI.

III. The IA shall require all its personnel to individually execute confidentiality agreements that meet all terms and conditions established between the IA and the Companies, as prescribed in the preceding section.

CLIENT'S INPUT AND COUNTERPART PERSONNEL

The NSWG has responsibility for overseeing the deployment of the Initiative. The NSWG typically meets in Abuja, Nigeria, once each quarter.

The IA is to participate in Board meetings for purposes of providing oral and written updates pertaining to the status of the engagement. These updates are to address milestones achieved, significant findings to date, challenges being encountered, tactical work plans for the forthcoming period and requests for assistance from the Board.

The IA's representative may be accompanied by other Personnel as necessary, including work stream leaders from either or both the IA or Sub-IA.

The Client shall give the Independent Administrator at least 3 days' notice of the date and time of the meeting.