# **MEMORANDUM OF UNDERSTANDING**

# **BETWEEN**

# **CWG PLC**

# **AND**

# **FEDERAL DEPARTMENT OF COOPERATIVES**

This Memorandum of Understanding (“MOU”) is made this ………day of ….…………2017

**BETWEEN**

**CWG PLC,** a public limited company duly registeredunder the laws of the Federal Republic of Nigeria having its principal place of business at Block 54A, Plot 10 Adebayo Doherty Road, Off Admiralty Way, Lekki Phase 1, Lagos (hereinafter referred to as “CWG” whichexpression shall where the context so admits include its successors-in-title and assigns on one hand)

**And**

**FEDERAL DEPARTMENT OF COOPERATIVES** a Department under the Ministry of Agriculture established by Cooperative Development Act CAP C27 LFN 2004 has its office situate at the 4th Floor, NAIC House Plot 570 Cadastral Zone, Central Area Abuja , (hereinafter referred to as “FDC” which expression shall where the context so admits include its successors-in-title and assigns on the other hand)

CWG and FDC are hereinafter collectively referred to as the “Parties” and individually a “Party”.

**WHEREAS**:

1. CWG PLC is a leading provider of Information and Communication Technology solutions services across West, Central, and Eastern Africa. Our cloud services aims at enabling Africa’s SMEs grow without acquiring expensive infrastructure.
2. FDC is a department under the Ministry of Agriculture which business is including but not limited to the formulation of policies for the development of cooperatives; Coordination of intergovernmental and interstate cooperative activities; Research, as well as Co-operative education and training and promotion of effective participation of cooperatives in the primary sectors of the economy such as agriculture, industry, commerce, finance etc. including cooperative activities involving women, youth and the physically challenged groups.
3. The Parties have decided to explore the possibility of providing software solutions for cooperatives societies across Nigeria for cooperative registration for the purpose of Census and other Value Added Solutions such as electronic payment, Mobile application, OTP Management etc .(“the Solution or Platform”).

NOW THEREFORE, the Parties hereby agree as follows:

1. **APPOINTMENT OF IT CONSULTANT**

The Parties agree that there shall be an IT consultant appointed by the FDC who shall be responsible for technical assessment (including functional and security) of the Platform, application Testing – Stress, Security and functional, conducting and managing the UAT and providing innovative inputs to improve the solution.

1. **DUTIES OF CWG**
   * 1. CWG shall be responsible for developing, deploying and maintenance of the platform
     2. CWG shall absorb costs associated with website hosting
     3. CWG shall pay the license fee required to build the platform – Database, Programming tools, etc.
     4. CWG shall invest in the Infrastructure required to deploy and manage the platform
     5. CWG shall be responsible to train FDC team on the solution and its support.
     6. CWG shall implement approved changes on the platform
2. **DUTIES OF FDC**
   * 1. FDC shall responsible for brand marketing and publications required to drive market penetration
     2. FDC shall ensure the cooperatives register through the solution
     3. FDC shall be responsible for training the cooperatives on how to use the platform
     4. FDC shall be provide support to the cooperatives
3. **JOINT RESPONSIBILITIES**

CWG and FDC shall designate a project manager, each to oversee the solution the implementation of the solution. The project managers shall serve as the principal coordinators between both parties

**6. PAYMENT TERMS**

In consideration of the services to be provided, FDC agrees to pay a total sum of N20, 000,000 (Twenty Million Naira) (exclusive of VAT and net of applicable withholding taxes) (“the Implementation Fee”) as the as cost of the Implementation (designing, developing and deploying) of the online census solution.

Prior to commencement of services by CWG, the FDC shall issue an engagement letter to CWG to commence implementation of the solution and make an advance payment of 100% of the implementation fee.

The Parties agree that N13, 000,000 (Thirteen Million Naira) which shall be 65% of the Implementation fee shall be paid to CWG by FDC and N7,000,000 (Seven Million Naira) which shall be 35% of the Implementation fee shall be paid to the IT consultant.

The parties agree that there shall be a fee paid by every cooperative society that uses the platform (such   
 fee to be decided at a later date) and such fees shall be divided amongst the parties and the IT consultant   
 as follows:

An amount equal to 20% of the sum stated in clause……………….above shall be   
paid to CWG

An amount equal to 40% of the sum stated in clause……………….above shall be

paid to FDC

An amount equal to 30% of the sum stated in clause……………….above shall be

paid to the State Apex/State Division

An amount equal to 10% of the sum stated in clause……………….above shall be

paid to the IT Consultant

**7**. **DURATION AND TERMINATION**

This MOU shall take effect from the ………………day………………. 2017 and remain in force for a period of Two (2) years and shall be renewable for further terms of One (1) year each or a further term suitable to the parties .subject to the terms and conditions as the Parties may agree, except otherwise terminated by either party.

Either party may terminate this MOU at any time by presenting valid reason for the termination and after giving 60 (sixty) days’ written notice of termination to the other Party.

The termination of this MOU under any circumstance shall in no way prejudice any rights or obligations of the Parties already due and accrued prior to the termination or expiration of the MOU.

**8.** **INDEPENDENCE OF PARTIES**

Nothing in this MOU is intended to establish or authorize either Party to act as a partner, agent, legal representative, joint venture, franchisee, employee, or servant of the other for any purpose, without the authorization and consent of that other Party. Neither Party shall make any contract, agreement, warranty, or representation on behalf of the other Party, or incur any debt or other obligation in the other Party's name, or act in any manner which has the effect of making that Party the apparent agent of the other. Neither Party shall assume liability for, or be deemed liable as a result of any such action by the other Party.

**9. CONFIDENTIALITY**

The Parties acknowledge that all materials and information provided by a Party (Disclosing Party) to the other Party (Receiving Party) or which will come into the Receiving Party’s possession or knowledge in the course of this MOU, shall be considered the Disclosing Party’s confidential information. “Confidential information”, for the purposes of this MOU, means all information, written or oral, disclosed directly or indirectly by the Disclosing Party or by any of its affiliates or Representatives, to the Receiving Party or any of its employees, affiliates, agents or Representatives, through any means of communication.

The Receiving Party acknowledges that the Confidential Information provided to it by the Disclosing Party is the sole property of the Disclosing Party, and agrees that unauthorised disclosure of such information to, or use by third parties, either during or after the term of this MOU, will cause irreparable damage to the Disclosing Party. The Receiving Party also agrees to use its best efforts to hold the Confidential Information in the strictest confidence, and not to make use of it, except for the performance of its obligations under this MOU.

The Receiving Party’s undertakings and obligations under this Clause shall not apply to any Confidential Information which:

Is or becomes generally known to the public through no action on the part of the Receiving Party.

Is generally disclosed to third parties by the Disclosing Party without restriction on such

third parties.

Is approved for release by the written authorization of the Disclosing Party; or

Is required to be disclosed by virtue of an order of a court of competent jurisdiction, or   
a regulatory requirement, or by virtue of the provision of any written law in force, PROVIDED THAT the Receiving Party shall give the Disclosing Party at least ten (10) days’ notice before disclosing the information.

Upon the termination of this MOU or at any other time upon request by the Disclosing   
Party, the Receiving Party shall promptly deliver to the Disclosing Party all such Disclosing Party’s confidential information in the possession or under the control of the Receiving Party.

Both parties shall comply with all applicable confidentiality undertakings agreed upon and refrain from any action that may be prejudicial to or adversely affect CWG, the FDC and/or their standing, reputation or goodwill.

**10. INTELLECTUAL PROPERTY RIGHTS**

Save as expressly stated herein, this MOU does not in any way constitute a grant of license to any Party, with respect to the rights of the other Party regarding any inventions, software, marks, technical drawings, charts, source code, operation manual, ideas, techniques, concepts, methodologies and technical know-how (hereinafter collectively referred to as “intellectual Property”) developed and/or created by that Party. Each Party shall retain its own intellectual property rights.

**11. UTMOST GOOD FAITH**

The Parties hereby undertake and agree to act in utmost good faith at all times in all their dealings with each other, and not to, in any manner whatsoever, circumvent or undermine the interest of the other Party in connection with the terms of the MOU, and the revenues accruable therefrom.

It is further agreed and understood that each Party operates its own distinct business and carries out its own mandates and duties, whether statutory or otherwise, and will from time to time inform each other of any conflict which it believes might arise between its own business, mandate, or functions and the Project.

Nothing in this MOU shall be understood or construed as limiting or preventing CWG from   
entering into similar arrangement(s) as per this MOU, with any third party for the purpose of implementing a similar Project as contemplated herein.

**12. INDEMNITY AND LIMITATION OF LIABILITY**

Notwithstanding the foregoing, either Party shall, at its own expense, defend, indemnify, and hold the other Party and its officers, directors, agents, employees, and consultants harmless for damages, liabilities, claims, losses, costs, demands, suits, actions, and reasonable expenses, including but not limited to reasonable attorneys' fees and settlement costs, arising out of or in relation to any third party suits or claims brought against the indemnified Party, as a direct consequence of the indemnifying Party's breach of any of the terms of this MOU, any applicable law, third party intellectual property rights, or as a result of the Indemnifying Party’s gross negligence or willful misconduct, or arising out of any damage to property or personal injury or death, caused by the indemnifying Party or any of its Affiliates, officers, directors, agents, and employees

Save as expressly provided in this MOU, in no event shall either Party be liable to the other for any incidental or consequential damages or loss of revenues, whether foreseeable or not, occasioned by any default hereunder or any other cause. To the maximum extent permitted by any applicable law, neither Party makes any warranty, whether express or implied, either in fact or by operation of law.

**13. PUBLICITY**

Neither Party shall make any public announcement or any press release regarding this MOU without the prior written consent of the other Party.

**14. GOVERNING LAW AND DISPUTE RESOLUTION**

This MOU shall be governed by and interpreted in accordance with the laws of the Federal Republic of Nigeria.

The Parties shall endeavor to amicably settle any dispute that may arise in relation to this MOU. Any dispute or disagreement arising under or in connection with this MOU, which is not settled within thirty (30) calendar days (or such longer period as may be mutually agreed upon by the Parties) from the date that either Party notifies the other in writing that such dispute or disagreement exists, shall be referred to arbitration in accordance with the provisions of the Arbitration and Conciliation Act, LFN 2004 and any subsidiary law or Rules thereto.

The seat of the Arbitration shall be in FCT Abuja and the Arbitration proceedings shall be presided over by one Arbitrator jointly appointed by the Parties. Where the Parties fail to agree on the sole Arbitrator to be appointed, either Party may apply to the Chairman OF The Chartered Institute of Arbitration (UK branch) ,to appoint the sole Arbitrator for the Parties. The arbitration award shall be final and binding on the Parties

**15. FORCE MAJEURE**

15.1 If either party is temporarily unable by reasons of force majeure to meet any of its obligations under this MOU, and if such party gives written notice of the event within thirty (30) days after its occurrence, such obligations of the party as it is unable to perform by reason of the event shall be suspended for as long as the inability continues.

15.2 The term “force majeure” as used herein shall mean; any acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, wars blockades, insurrection, riots, epidemics, lightening, floods, washouts, civil disturbances, explosions and other similar events not within the control of either party and which, by the exercise of due diligence, neither party is able to overcome.

**16. NOTICES**

All notices and other communications made hereunder shall be in writing and in English Language, and shall be deemed to have been duly given upon receipt, if delivered in person or by courier with confirmation of the delivery, to the Parties respective addresses as provided in this MOU; or by email to the Parties’ respective email addresses. In addition, each Party agrees to designate a contact person who will be responsible for the coordination of each Party’s obligations under this MOU. These persons will be responsible for ensuring the smooth coordination of the Parties’ relationship under this MOU.

**For CWG :**

**CWG PLC**

Block 54A, Plot 10

Adebayo Doherty Road

Off Admiralty Way

Lekki Phase 1, Lagos

**Attention: Chief Technical Officer**

**For FDC:**

**FEDERAL DEPARTMENT OF COOPERATIVES**

4th Floor, NAIC House Plot 570 Cadastral Zone

Central Area Abuja

**Attention:…………………………………..**

**17. MISCELLANEOUS CLAUSES**

17.1 Representation and Warranties. Each Party represents and warrants to, and agrees with the other that it has the right, power and authority (including all necessary corporate and statutory approvals) to enter into and perform its obligations under this MOU Each Party further warrants that it has obtained, and will maintain at its own cost, all consents, permissions, authorizations and/or licenses necessary to enable it perform its obligations under this MOU.

17.2 Assignment. Neither Party shall, without the written consent of the other, and which shall not be unreasonably withheld, assign its rights and obligations under this MOU to any third party. Any purported assignment by either Party not in compliance with the provisions of this MOU shall be null and void.

17.3 Entire Agreement. This MOU and each subsequent amendments or additions as may be agreed in writing by the Parties, constitute the entire understanding between the Parties and supersedes any previous understanding, commitment or representation concerning its subject matter. This MOU shall not be amended or modified in any way, and none of its provisions shall be waived, except same shall be mutually agreed in writing by the Parties.

17.4 Severability. If any one or more of the provisions contained in this MOU or any document executed in connection herewith shall be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired; provided, however, that in such case the Parties agree to use their reasonable best efforts to achieve the purpose of the invalid provision by a new legally valid stipulation.

17.5 Waiver. No delay or omission by either Party in exercising any right under this MOU will operate as a waiver of that or any other right. A waiver given on any one occasion shall only be effective in that instance and will not be construed as a bar to or waiver of any right on any other occasion. No waiver shall be effective unless it is in writing and signed by the Party giving same.

**IN WITNESS WHEREOF** the Parties have executed this MOU by their respective authorized representatives in the manner below the day and year first above written.

**THE SEAL OF THE FEDERAL DEPARTMENT OF COOPERATIVES IS AFFIXED TO THIS MOU IN THE PRESENCE OF:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**AUTHORISED SIGNATORY AUTHORISED SIGNATORY**

**THE COMMON SEAL OF CWG PLC IS AFFIXED TO THIS MOU IN THE PRESENCE OF:**

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**AUTHORISED SIGNATORY AUTHORISED SIGNATORY**