

**CEMENT & CONCRETE WELFARE FUND  
TRADING PARTNER AGREEMENT**

THIS TRADING PARTNER AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the WELFARE FUND OF THE CEMENT & CONCRETE WORKERS (“Covered Entity”) and \_\_\_\_\_ [insert name and taxpayer id number] (“Trading Partner”) and provides the terms and conditions which govern the registration and conduct for Electronic Data Interchange (“EDI”) Transactions between the parties.

**WHEREAS**, Trading Partner intends to conduct certain health care related transactions with Covered Entity in electronic form; and

**WHEREAS**, Trading Partner agrees to conduct these transactions according to the provisions set forth in this agreement.

**NOW, THEREFORE**, Covered Entity and Trading Partner agree as follows:

**I. DEFINITIONS**

1. “Agreement” shall mean this document.
2. “Data” shall mean a formalized representation of specific facts or concepts suitable for communication, interpretation or processing by people or by automatic means.
3. “Data Transmissions” shall mean the transfer or exchange of Data between the Covered Entity and Trading Partner by means of an Information System which is compatible for that purpose, and including without limitation, EDI transmissions, pursuant to the terms and conditions set forth in this Trading Partner Agreement.
4. “Electronic Data Interchange” or “EDI” shall mean the exchange of business documents from application to application in a federally mandated format.
5. “HHS Transaction Standard Regulation” shall mean the Code of Federal Regulations at Title 45, Sections 160 and 162 and any future amendments thereto.
6. “Individual” shall mean the person who is the subject of the Information and has the same meaning as the term “individual” defined by 45 C.F.R. 164.501.
7. “Information” shall mean any health information provided by or made available by Covered Entity to Trading Partner and has the same meaning as the term “health information” as defined by 45 C.F.R. 160.102.

8. “Lost” or “Indecipherable Transmission” shall mean a Data Transmission which is never received by or cannot be processed to completion by the receiving party in the format or composition received because it is garbled or incomplete, regardless of how or why the message was rendered garbled or incomplete.

9. “Parties” shall mean Covered Entity and Trading Partner.

10. “Secretary” shall mean the Secretary of Health & Human Services and any other officer or employee of the Department of Health & Human Services to whom the authority involved has been delegated.

## **II. TERM**

The term of this Agreement shall commence as of the date it is executed by Trading Partner and received by Covered Entity. This Agreement shall expire when all of the Information provided by Covered Entity to Trading Partner is destroyed or returned to Covered Entity.

Termination or expiration of this Agreement shall not relieve either Party of its obligations under this Agreement and under applicable federal and state laws and regulations pertaining to the privacy and security of Individual Identifiable Health Information along with its obligations regarding the confidentiality of proprietary information.

## **III. OBLIGATIONS OF THE PARTIES**

1. The mutual obligations of the Parties include:

(a) EDI/EFT Data Transmission Accuracy: The Parties will take reasonable care to ensure that Data Transmissions are timely, complete, accurate and secure. Each party shall take reasonable precautions to prevent unauthorized access to the other Party’s operating system, Data Transmissions and the contents of any file transmitted either to or from either Party.

(b) Transmission Format: All standard transactions conducted between the Parties shall use medical data code sets, data elements and formats specified by the HHS Transaction Standards. All other Data Transmissions, if any, shall be conducted between the Parties using code sets, etc. as specified by Covered Entity.

(c) Incorporation of Modifications to HHS Transaction Standards: Trading Partner agrees and understands that from time to time, the Secretary may modify and set compliance dates for HHS Transaction Standards. Trading Partner agrees to incorporate by reference into this Agreement any such modifications or changes. In addition, Trading Partner agrees to comply with any Provider, Plan, Employer or Individual Unique Identifier as may be issued by HHS in a timely manner.

(d) Testing: Each Party will test and cooperate with the other Party in testing each Party's operating system to ensure the accuracy, timeliness, completeness and confidentiality of each Data Transmission.

(e) Data Transmission Security: The Parties will each employ security measures necessary to protect data and Data Transmissions between them pursuant to the HHS Transaction Standards.

(f) Security Access Codes: The Security Access Codes that Covered Entity issues to Trading Partner will, when affixed to Data Transmissions, be legally sufficient to verify the identity of the transmitter and to authenticate the Data Transmission, thereby establishing the Data Transmission's validity.

(g) Costs: Each Party is responsible for all costs, charges or fees it may incur by transmitting electronic transactions to, or receiving electronic transactions from, the other Party.

## 2. Trading Partner Obligations

(a) No Changes: Trading Partner hereby agrees that for the Information, it will not change any definition, data condition or use of a data element or segment as proscribed in the HHS Transaction Standard Regulation.

(b) No Additions: Trading Partner hereby agrees that for the Information, it will not add any data elements or segments to the maximum denied data set as proscribed by the HHS Transaction Standard Regulation.

(c) No Unauthorized Uses: Trading Partner hereby agrees that for the Information, it will not use any code or data elements that are either marked "not used" in the HHS Transaction Standard's implementation specifications or are not in the HHS Transaction Standard's implementation specifications.

(d) No Changes to Meaning or Intent: Trading Partner hereby agrees that for the Information, it will not change the meaning or intent of any of the HHS Transaction Standard's implementation specifications.

(e) No Copying: Trading Partner hereby agrees that it will not copy, reverse engineer, publish, distribute, alter or use Data or Data Transmissions for any purpose other than for which Covered Entity has specifically authorized Trading Partner.

(f) Confidentiality: Trading Partner hereby agrees to protect and maintain the confidentiality of Security Access Codes that Covered Entity may issue to Trading Partner.

(g) Business Associates: Trading Partner hereby agrees to require any of its Business Associates to abide by the obligations set for in this Agreement, even though Business Associate shall not be a signatory to this Agreement.

3. Covered Entity Obligations

(a) Data Availability: Covered Entity hereby agrees to make available to Trading Partner, via electronic means, Data and Data Transmissions for which this Agreement grants Trading Partner access or authorization, or as provided by applicable law.

#### **IV. CONFIDENTIALITY & SECURITY**

1. Data Security: Both Parties will maintain reasonable security procedures to prevent unauthorized access to Data, Data Transmissions, Security Access Codes, Files, Source Documents and Covered Entity's Operating System. Each Party shall immediately notify the Other Party of any unauthorized attempt to obtain access to or otherwise tamper with the categories of Information identified above.

(a) Confidential Health Information: Each Party will comply with all applicable Privacy Statutes and Regulations to maintain the confidentiality of participant's individual health information.

(b) Proprietary Information: Each Party will treat the other Party's Proprietary Information obtained or learned in connection with this Agreement as confidential and will not use the other Party's Proprietary Information for their own commercial benefit or for any other purpose not authorized in this Agreement. Each Party will safeguard the other Party's Proprietary Information against unauthorized disclosure and use.

(c) Notice of Unauthorized Disclosure and Use: Each Party will promptly notify the other Party of any unlawful or unauthorized use or disclosure of Confidential Health Information which disclosure may have an impact on the other Party or the Proprietary Information that comes to the Parties' attention.

2. Operating System's Security: Each Party will develop, implement and maintain appropriate security measures for its own Operating System. Each Party's security measures will include, at a minimum, the requirements and implementation features as set forth in all applicable HHS implementation regulations.

#### **V. MISCELLANEOUS**

1. Property Rights: The Information shall be and remain the property of Covered Entity. Trading Partner agrees that it has no right or title to the Information.

2. Choice of Law: This Agreement shall be governed by the laws of the State of New York and all applicable federal laws.

3. Binding Nature and Assignment: This Agreement is binding on the Parties hereto and their successors and assigns, but neither Party may assign this Agreement without the prior written consent of the other Party.

4. Notices: Written notice under this Agreement shall be provided to the Parties at the addresses appearing at the conclusion of this Agreement. Either party may at any time change its address for notification purposes by mailing a notice stating the change and setting forth the new address to the other Party.
  
5. Dispute Resolution: The Parties will work together in good faith for a reasonable period of time to resolve any dispute or alleged breach of this Agreement prior to resorting to litigation.
  
6. Amendment: This Agreement may not be changed or modified except by an instrument in writing signed by both Parties.
  
7. Force Majeure: Each Party shall be excused from performance for any period of time during this Agreement that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control and without its fault or negligence. Such acts include, without limitation, Acts of God, civil disturbance, labor disputes, earthquakes, floods or other natural disasters.
  
8. No Agency: Nothing in this Agreement will place the Parties in a relationship whereby either is the principal or agent of the other Party or has the authority to bind the other in any way.
  
9. Severability: If any provision of this Agreement is held or declared to be illegal, invalid or unenforceable, the remainder of the Agreement will continue in full force and effect.
  
10. Entire Agreement: This Agreement constitutes the entire understanding between the Parties and supersedes and cancels all previous written or oral communications between the Parties.

Agreed to Accepted By:

CEMENT & CONCRETE-WELFARE FUND  
(Covered Entity)

\_\_\_\_\_  
(Trading Partner)

\_\_\_\_\_  
By: SILVANA BALDO, Fund Manager  
Address: 35-30 Francis Lewis Blvd., Flushing,  
New York 11358

\_\_\_\_\_  
By: Name:  
Address:

**Notice: Trading Partner must complete both the Trading Partner Agreement and Registration Form to begin the electronic transfer of data with the Cement & Concrete Welfare Fund.**