



DISTRIBUTION: SUBCONTRACTOR / CG SCHMIDT, INC. / FIELD / FILE

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Building Contractor Registration #852822

www.cgschmidt.com

Exp. 04/10/13

SUBCONTRACT

(Short Form)

Date: _____ **Subcontract Number:** _____

Project: _____ **CGS Superintendent:** _____

Project Owner: _____ **CGS Project Manager:** _____

Project Address: _____ **Project Architect:** _____

SUMMARY OF TERMS

THIS SUBCONTRACT ("Subcontract") is made as of the above date between CG Schmidt, Inc., 11777 West Lake Park Drive, Milwaukee, WI 53224 ("CGS"), and the following subcontractor ("**Subcontractor**"):

Subcontractor Name: _____

Subcontractor's Authorized Representative: _____

E-mail: _____

Address: _____

Telephone: _____

Fax: _____

Mobile: _____

For the following portion of the Project activities (the "**Work**"):

All site inspection; labor, supervision and administration; materials, tools, equipment, and related storage and shipping; licenses, permits, taxes and royalties; shop drawings and other submittals necessary for the _____.

See Exhibit A for Scope of Work Clarifications, if applicable.

Subcontract Amount: \$ _____ **Phase:** _____

Payment Retainage: _____ %

Application for Payment Submittal Date: _____ day of each month

Labor Rates for Changes (including overhead and profit): _____

Submittal of Exhibit C-1 Affidavit Required: Yes: _____ No: _____

This Subcontract is subject to the Wisconsin Department of Workforce Development Prevailing Wage laws, including without limitation Wis. Stats. §§ 66.0903, 66.0904, 103.49 and 103.50, as applicable, and all related provisions of the Wisconsin Administrative Code (collectively, the "Prevailing Wage Laws"). With the submission of the final Subcontractor Application for Payment (and as a pre-condition to Subcontractor's receipt of final payment), Subcontractor shall complete

Project Name
Subcontractor Name
Subcontract Number



and submit to CGS an original notarized affidavit certifying compliance with the Prevailing Wage Laws, on the form required by the Wisconsin Department of Workforce Development.

1. **Subcontract Documents.** The Subcontract between CGS and the Subcontractor includes all the terms and conditions of this Subcontract, including all of its Exhibits; the Project general, supplemental, and any special conditions; the Project design drawings, specifications and all addenda issued prior to the date of this Subcontract; and all the terms and conditions of the Agreement between CGS and Project Owner (the **"Prime Agreement"**) applicable to the Subcontractor's Work, including, but not limited to, any contract documents identified in that Prime Agreement and the Project Manual (collectively, the **"Subcontract Documents"**). This Subcontract supersedes all prior bidding, proposals, negotiations and/or agreements, written or oral, between Subcontractor and CGS. Subcontractor agrees that its Work will comply with the requirements of the Subcontract Documents. In the event of any inconsistencies between the terms of this Subcontract and the terms of the other Subcontract Documents, within or between parts of the Subcontract Documents, or between the Subcontract Documents and applicable laws, statutes, ordinances, building codes, rules and regulations, Subcontractor shall provide the better quality or greater quantity of Work and comply with or conform its Work to the most stringent legal or contractual requirements.
2. **Performance of the Work.** Subcontractor's Work shall be performed in accordance with all federal, state, local and other applicable codes, laws, rules, regulations and ordinances. The Subcontractor shall, at its expense, make all field measurements necessary to prepare, and shall promptly furnish, all submittals, including shop drawings, product data, samples and any other information or certifications required by the Subcontract Documents so as to cause no delay in the Project. Subcontractor shall supply a sufficient number of competent workers to complete the Work as required in the Subcontract Documents, and shall maintain good control and discipline over them, including proper supervision on site while Work is being performed. Subcontractor shall cooperate with CGS and other contractors, subcontractors, and workers at the Project Site, including the Project Owner's workers and representatives, in the scheduling and performance of the Project, and shall not injure, damage or interfere with their performance of the Project. Subcontractor shall attend jobsite meetings as may be required by CGS to report on the progress of their Work.
3. **Schedule.** Time is of the essence of this Subcontract. Subcontractor will commence its Work upon notification from CGS, and proceed with a sufficient workforce, supervision, materials, tools and equipment to ensure the efficient and timely completion of the Work in accordance with the schedule established by CGS for the Project in accordance with the Subcontract Documents and any additional schedule requirements as outlined in Exhibit A, if applicable. If approved by CGS in writing, the time for Subcontractor's completion of the Work shall be extended by the length of delays caused by causes beyond Subcontractor's reasonable control.
4. **Labor Compliance.** Subcontractor agrees that while performing Work activities covered by CGS' labor agreements, Subcontractor will also have in effect a written labor agreement with the union which is a party to CGS' labor agreements and that has jurisdiction in the Project site area over the pertinent classifications of the Work, and Subcontractor shall abide by the terms and conditions of such labor agreement. Upon Subcontractor's request, CGS will provide a list of all pertinent labor agreements that are applicable to this Project.
5. **Safety.** Subcontractor shall perform all Work on the Project in a safe and responsible manner in strict compliance with all local, state and federal health and safety laws and statutes. Subcontractor shall observe and abide by the health and safety rules and policies established by CGS for the Project. CGS shall have the right to dismiss Subcontractor's workers from the jobsite for any unsafe work acts it may observe. If the Subcontractor encounters any pre-existing hazardous substances, Subcontractor shall immediately stop Work in the area and immediately advise CGS of the condition.
6. **Payments.** Each month by the date identified in the Summary of Terms, Subcontractor shall submit to CGS a fully completed "Subcontractor Application for Payment" in the form attached to this Subcontract as Exhibit C. If requested by CGS and within seven (7) days after receipt of any progress payment from CGS, Subcontractor shall submit to CGS a corresponding completed "Subcontractor Affidavit Regarding Unconditional Partial Waiver, Release of Lien and/or Bond Rights & Indemnity" (**"Affidavit"**) in the form attached to this Subcontract as Exhibit C-1. With the submission of the final Subcontractor Application for Payment, a "Subcontractor Affidavit Regarding Unconditional Full & Final Waiver, Release of Lien and/or Bond Rights & Indemnity" (**"Affidavit"**) document in the form attached to this Subcontract as Exhibit C-2 must be completed, executed and attached. CGS shall pay Subcontractor in amounts equal to the percentage of Work completed. CGS shall be entitled to withhold any amount deemed necessary: (i) to ensure Subcontractor's correction of defective or incomplete portions of the Work; (ii) to cover any loss or damage, to the extent caused by the Subcontractor, to the Project Owner, CGS or others to whom CGS may be liable; or (iii) to cover Subcontractor's failure to pay for labor, materials, equipment or services furnished in connection with the Work required by the Subcontract.
7. **Indemnification.** To the fullest extent permitted by law, Subcontractor shall indemnify, defend and hold harmless CGS, CGS' other subcontractors, the Project Owner, the Project Architect, and their respective officers, directors, consultants, employees, and agents (collectively, **"Indemnitees"**) from all claims, citations, penalties, forfeitures, judgments, losses, damages, and other expenses of any nature, including but not limited to incidental damages, consequential damages, liquidated damages, reasonable attorneys' fees and costs of collection and appeal, arising from or attributable to bodily injury, damage to real or personal property (other than the Work itself), Project delays, cost overruns, or any other harm or injury of any nature, caused in whole or in part by any fault, negligence, or reckless or intentional acts or omissions of Subcontractor, its sub-subcontractors, its suppliers, or any of its employees, consultants, or agents in the performance of the Work or anyone for whose acts such persons may be liable. Subcontractor's duty to indemnify the Indemnitees expressly extends to claims, citations, penalties, forfeitures, judgments, losses, damages, and other expenses of any nature arising from bodily injury, damage to real or personal property (other than the Work itself), Project delays, cost overruns, or any other harm or injury of any nature, caused in part by an Indemnitees' own negligence, provided that the bodily injury, damage to real or personal property (other than the Work itself), Project delays, cost overruns, or other harm or injury also is caused in whole or in part by any fault, negligence, or reckless or intentional acts or omissions of Subcontract, its sub-subcontractors, its suppliers, or any of its employees, consultants, or agents in the performance of the Work.
8. **Insurance.** Subcontractor shall comply with all the terms and conditions relating to insurance as set forth in Exhibit B hereto, which is incorporated herein by reference.
9. **Warranty.** Subcontractor guarantees its Work against defects in materials and/or workmanship for the period(s) otherwise called for in the Subcontract Documents or for twenty-four (24) months, whichever is longer, from the date of the written acceptance of the Project by the Project Owner. Subcontractor further warrants that: (1) materials and equipment furnished under this Subcontract will be new and of good quality unless otherwise required or permitted by the Subcontract Documents; (2) the Work will be free from defects not inherent in the quality required or

permitted; and (3) materials required by the Subcontract Documents to be of a designated manufacturer or specific brand name will be produced by the manufacturer and/or are of the designated specific brand and that they are genuine and non-counterfeit. Subcontractor shall within twenty-four (24) hours of receipt of notice from CGS of a failure or defect commence to repair or replace any such failure or defect at its own cost. If Subcontractor fails to remedy any such failure or defect, CGS shall have the right to replace, repair or otherwise remedy the failure or defect and backcharge Subcontractor for any amounts due or to become due to Subcontractor from CGS for the Project or otherwise.

10. Termination.

10.1 Termination for Cause. If Subcontractor:

- .1 fails to comply with the requirements of this Subcontract;
- .2 fails to perform the Work to the quality standard required under the Subcontract Documents;
- .3 has a proceeding filed by or against it under any bankruptcy, liquidation, reorganization, adjustment of debt, insolvency, dissolution, receivership, or similar federal or state law or statute; and/or
- .4 causes delays in its own Work or interferes with CGS' or others' timely completion of the Project,

then CGS may, without prejudice to any other remedy CGS might have, terminate this Subcontract for cause if Subcontractor has not commenced to correct and does not continue thereafter to diligently cure such default within two (2) days after written notice from CGS. If Subcontractor does not either timely start or diligently continue correction, then CGS may give written notice that this Subcontract is terminated for cause, Subcontractor's Work on the Project site shall cease, and no further payment of the Subcontract Amount shall be made until after the Project is completed. CGS may take possession of any of Subcontractor's materials, tools, equipment or information at the Project site to complete the Work. Any reasonable costs CGS incurs, plus ten percent (10%) for its overhead and administration, to a) complete the unfinished portion of the Work; b) address any other harm caused by Subcontractor to CGS, other Project trades, the Project Owner, Project Architect or third parties; and/or c) pay for liquidated or other damages arising from Subcontractor's failure to comply with the requirements of this Subcontract, from Subcontractor's failure to perform the Work to the quality standards required under the Subcontract Documents, and/or from Subcontractor's delay in its own Work or interference with CGS' or others' timely completion of the Project, will be deducted from any amount due or to become due Subcontractor by CGS on this Project or otherwise. If there is a remainder due for Subcontractor's correctly performed Work to the date of termination after this deduction has been made, it will be paid to the Subcontractor. If the cost of completion, damages and/or remedying harm exceeds the remainder of the Subcontract Amount, Subcontractor shall pay CGS the additional amount upon written demand by CGS providing evidence of the costs incurred and the balance owed. Any tools, equipment or unused materials not already paid for by the Project Owner shall be returned to the Subcontractor upon completion of the Work by CGS.

10.2 Termination for Convenience. CGS shall have the right to terminate this Subcontract for its convenience or due to conditions beyond CGS' control without any liability to Subcontractor, except that Subcontractor will be entitled to payment for that portion of its Work properly completed at date of termination. Subcontractor shall not receive, and hereby expressly waives, all other consequential, incidental, special or other damages, lost profits, extended or home office overhead, lost opportunity, re-stocking fees or any other losses it may sustain or incur arising out of termination of this Subcontract by CGS.

11. Flow-Down Compliance. Subcontractor shall comply with the requirements of the Subcontract Documents. Subcontractor further agrees to assume toward CGS the obligations and responsibilities, including any administrative and procedural duties, that CGS assumes toward the Project Owner under the Prime Agreement to the extent applicable to its Work. Subcontractor shall similarly bind its sub-subcontractors and suppliers to comply with the Subcontract Documents' requirements applicable to the portion of the Work they perform or supply.

12. Miscellaneous. This Subcontract may not be amended or modified except in writing executed by both parties. Neither party shall assign this Subcontract or portions thereof, or sell or assign the proceeds of this Subcontract, without the prior consent of the other party, which shall not be unreasonably withheld. Neither an assignment nor consent thereto will relieve the assigning party from its obligations under this Subcontract unless expressly permitted by the other party in writing. Interpretation of this Subcontract shall be governed by the laws of the State of Wisconsin, excluding choice of law provisions that might permit application of another jurisdiction's laws.

Exhibit A

BETWEEN CG SCHMIDT, INC.
AND

Subcontract No. -

SUPPLEMENTAL TERMS

Attached to and forming a part of that certain Subcontract agreement for between and CGS:

1. Contract:

The Subcontractor specifically:

- .1 Agrees that a certificate of insurance and additional insured endorsements are to be submitted to coi@cgschmidt.com prior to commencement of the Subcontractor's Work at the Project site. Hard copies will NOT be accepted. The certificate of insurance is to list the required additional insured, including the Project Owner, Project Architect and CGS.

2. Safety:

The Subcontractor specifically:

- .1 Acknowledges that all OSHA and CGS safety policies will be enforced by Subcontractor. CGS' Project Manager, CGS' Superintendent, Foreman or Safety Director may have any Subcontractor/Supplier's employee removed from the Project site if they refuse to follow instruction as to safety or work flow.
- .2 Agrees that its employees will wear hard hats and safety glasses at all times. Warning vests or other suitable garments marked with or made of reflective or high visibility material will be required for all personnel at all times or until otherwise directed by the CGS Project team. Personal protective equipment will be utilized when necessary and as required by all relevant OSHA standards relating to their Work.
- .3 Agrees that MSDS information on all products and materials to be used on site or supplied to the site is to be submitted to CGS' Project Manager prior to the commencement of Work.
- .4 Agrees that the six foot (6') tie-off rule applies for all trades unless other adequate fall protection accommodations are provided.

3. Performance:

The Subcontractor specifically:

- .1 Agrees that its employees will park their vehicles as directed by CGS' Project Manager or Superintendent.
- .2 Agrees the Project site is a non-smoking campus. Smoking will be limited to personal vehicles only. Workers will receive one (1) warning. If a worker is observed to smoke a second time outside their vehicle they may be removed from the Project site.
- .3 Agrees that no radios will be allowed on the Project site.
- .4 Agrees that no foul language is to be used on the Project site. Any worker using foul language will receive one (1) warning. If they use foul language a second time, they will be removed from the Project site.

4. Summary of Contract and Scope of Work:

Exhibit B

**BETWEEN CG SCHMIDT, INC.
AND**

Subcontract No. -

SUBCONTRACT INSURANCE REQUIREMENTS

Attached to and forming a part of that certain Subcontract agreement for between and CGS:

- 1. Insurance Coverage.** Subcontractor shall maintain without interruption at all times during the progress of the Work, including the warranty period, insurance furnished by companies licensed to do business in the state where the Project is being constructed and rated by AM Best at A- or better, or as otherwise acceptable to CGS. The coverage must be primary and not excess over, or contributory with, any other insurance held by CGS, the Project Owner, Project Architect or other trades on the Project.

NOTE: Failure to comply with these insurance requirements may result in delayed payment and/or Subcontractor's termination for cause.

Minimum insurance coverage and limits shall be no less than the following, except that if the Subcontract Documents specify higher or greater coverage, Subcontractor shall furnish it:

COVERAGE

LIMITS

.1 Workers' Compensation

Per Statute

.2 Employers Liability

\$100,000 Each Accident/Injury
\$100,000 Each Employee
\$500,000 Policy Limit Disease

.3 Commercial General Liability

Provide current edition of ISO CG 00 01

\$1,000,000 Per Occurrence
\$2,000,000 General Aggregate (Per Project – Per Location)
\$2,000,000 Products / Completed Operations Aggregate
\$1,000,000 Electronic Data Liability
\$1,000,000 Personal & Advertising Injury (Contractual Liability
Exclusion - Deleted)

.4 Automobile Liability

\$1,000,000 Each Occurrence (owned, non-owned and hired vehicles)

.5 Umbrella Provide the following limits unless otherwise required by the Subcontract Documents:

Each Occurrence & In Aggregate

Curtain Wall Subcontractors	\$5,000,000
Electrical Subcontractors	\$5,000,000
HVAC Subcontractors	\$5,000,000
Fire Protection Subcontractors	\$5,000,000
Plumbing Subcontractors	\$5,000,000
Structural Steel Subcontractors	\$5,000,000
Elevator Subcontractors	\$5,000,000
Cranes 100 Ton and Larger, Temporary Hoisting Facilities	\$5,000,000
All other Subcontractors	\$1,000,000

COVERAGE MEETING ALL REQUIREMENTS MUST BE CONTINUED FOR A MINIMUM PERIOD OF TWO (2) YEARS FOLLOWING PROJECT SUBSTANTIAL COMPLETION.

- 2. Certificates of Insurance.** Prior to commencement of Subcontractor's field operations at the Project site, certificates of insurance conforming to the terms of this Subcontract must be delivered to CGS, via coi@cgschmidt.com. The certificate of insurance must utilize the most current Acord Form. All of Subcontractor's insurance policies required herein shall contain a provision that coverages and limits afforded thereunder shall not be canceled, or materially changed, and that restrictive modifications shall not be added prior to policy expiration without notice to CGS. CGS shall have the right to examine any policy required under this Subcontract. Authorization is hereby granted to CGS to withhold payments to the Subcontractor or to exercise any other remedy provided under the Contract Documents until CGS receives such properly executed certificate of insurance. CGS' receipt of a non-conforming certificate of insurance without objection as to its terms, or failure to collect such certificate, shall not waive or limit Subcontractor's obligations to provide insurance compliant with the terms of this Subcontract.
- 3. Additional Insureds.** Subcontractor's commercial general, automobile and umbrella liability insurance shall name CGS, the Project Owner, Project Architect, and any others required by the Subcontract Documents, as additional insureds on a primary and non-contributory basis. Subcontractor's Work must be covered on an additional insured endorsement attached to the policy currently in force. A copy of the endorsement must accompany the certificate of insurance furnished to CGS by Subcontractor. Acceptable endorsement forms include CG 20 10 (11/85); CG 20 37 (10/01) used in

Project Name
Subcontractor Name
Subcontract Number



combination with CG 2010 (10/01); CG 2010 (7/04) used in combination with CG 2037 (7/04); or such other endorsement(s) that provides equivalent coverage as may be approved in advance of performance of Subcontractor's Work in writing by CGS.

4. **Coverage Term.** If Subcontractor's commercial general liability insurance coverage is provided on a claims-made basis, the policy date or retroactive date shall predate this Subcontract. The termination date of all policies required under this Article and any applicable extended reporting period(s) shall be no earlier than the termination date of coverages required to be maintained after final payment under the Subcontract Documents. Completed operations coverage shall be maintained for a period of two (2) years following Project substantial completion, or such longer period as required under the Subcontract Documents.
5. **Sub-Subcontractor Insurance.** The Subcontractor shall obtain equivalent insurance coverage from each of Subcontractor's sub-subcontractor(s) before permitting them to perform any of the Work on the Project site, unless express written consent is provided by CGS, which consent shall not be unreasonably withheld. If requested by CGS, Subcontractor shall forward sub-subcontractor's certificate of insurance to CGS. It is understood and agreed that authorization is hereby granted to CGS to withhold payments to the Subcontractor until CGS receives such properly executed certificate of insurance requested from any sub-subcontractor(s).
6. **Non-Limitation.** It is understood and agreed that the insurance coverages and limits required above shall not limit the extent of the Subcontractor's responsibilities and liabilities specified in the Subcontract Documents or by law.
7. **Equipment Insurance.** CGS may furnish, erect or provide equipment, appurtenances and devices, motorized or otherwise, at the Project site. Should Subcontractor use such items, the Subcontractor agrees to insure against any claims of injury or damage caused by them and their use while in Subcontractor's care, custody or control. This coverage must name CGS as an additional insured party. Physical damage insurance against damage to the items themselves shall be on an actual cash value basis. Subcontractor shall also insure, by endorsement, rider or otherwise, its own materials, tools and equipment from theft, damage or loss on the Project site.
8. **Insurance of Stored Materials.** It is the obligation of the Subcontractor to adequately arrange property insurance for materials provided, including while in transit and/or temporarily stored offsite covering financial interests of Subcontractor, CGS and Project Owner as applicable at time of any loss. Such property insurance shall not have a deductible higher than \$5,000 without written consent of CGS.
9. **Waiver of Subrogation.** Subcontractor waives any rights of subrogation against CGS and its insurers. A waiver of subrogation, by endorsement or otherwise in writing, in favor of CGS and its insurers shall be included with proof of Subcontractor's commercial general, automobile, umbrella, workers' compensation/employers' liability, and equipment insurance coverages. Subcontractor hereby waives all rights against CGS, its insurers and those required to be named as additional insureds for Subcontractor's losses covered and/or paid by the proceeds of insurance maintained by Subcontractor under this Agreement. The Subcontractor shall require sub-subcontractor(s) to provide similar waivers in writing to CGS.
10. **Professional Liability Insurance.** To the extent Subcontractor furnishes Professional Services as part of its Work, Subcontractor shall maintain, or cause its professional designers to maintain, professional liability insurance with limits of \$2,000,000 per occurrence and in the aggregate, or such higher amounts as the Subcontract Documents provide, and having a deductible no greater than \$50,000. This insurance will cover the professional designers and all persons for whose acts they are liable, against liabilities arising out of or in connection with acts, errors or omissions in their performance of Professional Services for the Project. A company that is licensed to do business in the state where the Project is located shall furnish the professional liability insurance. This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from the following: habitational or residential operations, mold and/or microbial matters and/or fungus and/or biological substances, and punitive, exemplary or multiplied damages.
11. **Deductibles.** CGS shall have no obligation to pay any deductibles under Subcontractor's policies of insurance required hereunder, and Subcontractor agrees that it shall be solely responsible for the payments of any such deductibles. Moreover, if the Subcontract Documents provide that CGS or its subcontractors are responsible for the payment of any deductibles pursuant to the builder's risk policy for the Project, then Subcontractor shall be responsible for the payment of any builder's risk deductibles if Subcontractor is responsible in whole or in part for the underlying occurrence(s) giving rise to the claim under such builder's risk policy.
12. **Project Specific Requirements.** The following items shall be included on the certificate of insurance:
 - .1 **Name of Project** (PROJECT NAME)
 - .2 **List of Additional Insured Required by Contract** CG Schmidt, Inc., (OWNER), (ARCHITECT), (OTHER ADDITIONAL INSURED)
 - .3 **List of Additional Insured Endorsements** As required per paragraph 3 above.

Project Name
Subcontractor Name
Subcontract Number



By execution below Subcontractor agrees to the terms and conditions of the Subcontract and all exhibits thereto.

SUBCONTRACTOR:

CG SCHMIDT, INC.:

By: _____
(Signature)

By: _____
(Signature)

(Printed Name)

Nicole C. Barham
(Printed Name)

(Printed Title)

Risk Manager
(Printed Title)

(Date)

(Date)