

SERVICE PROVIDER AGREEMENT

Vendee: Pike Industries
3 Eastgate Park Road
Belmont, NH 03220

Vendor: Vendor Name:
Vendor Address:
Vendor Address:
Phone:
Tax Identification Number:

From time to time, Vendee may contract with Vendor to supply labor, materials, and/or services (“Work”) to Vendee’s facilities or projects. In order to facilitate the completion of the Work, the parties agree that the terms of this Service Provider Agreement (“Agreement”) shall govern the performance of any Work performed by Vendor for Vendee, regardless of whether the Work is performed pursuant to a written agreement or an oral agreement (“Work Order”). The parties also agree that the terms of any applicable prime contract are incorporated into all Work Orders and that the Vendor shall have the right to review the prime contract at Vendee’s office.

1. SCOPE OF WORK: Vendor shall procure and furnish all materials, labor, supervision, equipment, supplies, licenses, and permits necessary to perform all work set forth in the Work Order. If reduced to writing, the Work Order shall be in a form similar to Schedule 1 to this Agreement and Vendee shall compensate Vendor for the Work at the prices set forth in the Work Order or as agreed to in writing by both parties. All persons performing the Work shall be licensed to perform the Work, if required by law. All personnel shall have experience and training sufficient to perform the Work. The Work shall be performed in strict compliance with the plans and specifications provided by or agreed to by Vendee in writing. All applicable taxes, fees, and other costs and expenses of any nature whatsoever are included in the prices.

2. INVESTIGATION: Before agreeing to any Work Order, Vendor shall fully acquaint itself with the conditions of the Work site and all conditions affecting the Work. Vendor shall also acquaint itself with all laws, ordinances, regulations, and governmental requirements applicable to the Work. Further, Vendor shall verify the availability of all materials, supplies, and utilities needed to perform the Work. Vendor shall immediately notify Vendee in writing of any hazardous material encountered on the Work site, the release by Vendor of any contaminant or hazardous substance, any accident, and any other event the reporting of which is required under any law or regulation. Vendor shall not perform any Work which it believes is unsafe and shall notify Vendee if it identifies any unsafe condition on Vendee’s property or project.

3. EXECUTION & PROGRESS OF THE WORK: Vendor shall perform the Work as set forth in the applicable Work Order. Vendor shall coordinate its Work with Vendee and other vendors so as not to delay or impair the progress of the Work or other work at the applicable site. Vendor shall utilize and maintain whatever lights, barriers, supports, warning, and other safety devices necessary to prevent personal injury or property damage. Vendor shall have a continuing duty to keep the Work area neat and orderly. Vendor’s representative at the site shall at all times have the authority to act in all respects on behalf of Vendor. Vendor shall not allow any dispute or any claim to delay or interfere with the Work. Vendee may at any time request Vendor to provide adequate assurances that it possesses the capability to complete performance of this Agreement. Vendor’s failure to supply such assurances shall be grounds for termination of this Agreement.

4. PAYMENT: Vendor shall submit invoices at the intervals set by the Work Order. Vendor shall submit with any such invoice whatever affidavits, releases, waivers, and other documents relating to the Work covered by such invoice that Vendee may request. Vendee shall pay Vendor within **Sixty (60) days** following receipt of invoices and other required documentation from Vendor. Vendee shall have no obligation to make any payment to Vendor unless Vendor is in full compliance with all requirements of this Agreement. Vendor shall promptly pay for all labor and materials supplied in the prosecution of the Work. Vendee is entitled and authorized to (i) withhold from any amount otherwise owed to Vendor the amount of any claim for payment of labor or materials allegedly furnished in the prosecution of the Work, (ii) make payment to Vendor and any such claimant by joint check, (iii) pay any such claimant directly from funds owed to Vendor, and (iv) withhold from any amount otherwise owed to Vendor an amount sufficient to compensate for any breach of this Agreement. No payment shall operate as an acceptance of the Work.

5. INSURANCE: Vendor shall, and shall cause each of its subcontractors to, maintain: (i) worker's compensation and employer's liability insurance; (ii) comprehensive automobile liability insurance if Vendor will be operating motor vehicles on Vendee's property or project; (iii) general liability insurance (including product liability and completed operations coverage) if Vendor will performing Work at Vendee's facilities or projects; (iv) property damage insurance if Vendor will performing Work on Vendee's facilities or projects; and (v) Excess/Umbrella coverage. If required by a particular Work Order, Vendor may be required to provide pollution, builder's risk, professional liability and/or contractual liability insurance. All insurance shall be written by insurers acceptable to Vendee. The minimum required limits are as follows: Workers Compensation Coverage-Statutory Limits; Auto Liability-\$1,000,000 Combined Single Limit; General Liability-\$1,000,000 per occurrence/\$2,000,000 aggregate; and Excess/Umbrella coverage with minimum limits not less than \$1,000,000. Additional Excess/Umbrella coverage may be used to satisfy the required limits. All insurance shall provide coverage on an "occurrence" basis and not on a "claims made" basis. All policies, except for worker's compensation policies, shall name the Vendee as an additional insured on a primary basis. Vendee's coverage shall be noncontributory. To the maximum extent allowed by law, the policies shall provide for Vendee's defense and indemnify Vendee from all claims, expenses and liabilities in any way connected with any act or omission of Vendor, its invitees, or any person performing Work on behalf of Vendor. To the extent permitted by law, all insurance shall expressly provide that all rights of subrogation against the Vendee are waived, and that no amendment or cancellation of any policy shall be effective until 30 days' prior written notice to Vendee. Before starting the Work and at any time Vendee so requests, Vendor shall furnish certificates of insurance evidencing the required insurance. Neither performance of work by Vendor nor payment by Vendee shall diminish Vendor's duty to maintain the required insurance.

6. INDEMNITY: To the fullest extent permitted by law, Vendor shall defend, indemnify, and hold Vendee, its officers, employees, agents, insurers, sureties, and affiliates, harmless from any and all losses, damages, expenses (including reasonable attorneys' fees), claims, suits, liabilities, fines, penalties, remedial and clean-up costs arising out of or related to: (i) the performance of the Work; (ii) any breach of this Agreement; or (iii) any act or omission by Vendor, its invitees, or any person performing Work directly or indirectly on behalf of Vendor. Vendor's defense and indemnity obligations shall apply to any claim against Vendee by any employee of Vendor; and Vendor shall not assert as a defense in any suit by Vendee to enforce Vendor's obligations under this Article any immunity or other defense provided under any worker's compensation or other laws. Vendor's obligations under this Article shall not be limited by any other provision of this Agreement. In the event that a monetary limitation is required for the enforceability of Vendor's obligations under this Article, such limitation shall be \$5,000,000. Vendee and Vendor agree that this amount bears a reasonable commercial relationship to this Agreement.

7. INDEMNITY REFORMATION: THIS AGREEMENT SHALL NOT BE CONSTRUED TO REQUIRE VENDOR TO DEFEND OR INDEMNIFY ANY INDEMNIFIED PARTY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. IF ANY PROVISION OF THE AGREEMENT IS INTERPRETED BY A COURT, ARBITRATOR, OR ARBITRATION PANEL OF COMPETENT JURISDICTION TO REQUIRE THE VENDOR TO DEFEND AND/OR INDEMNIFY AN INDEMNIFIED PARTY IN VIOLATION OF APPLICABLE LAW, THEN THE PARTIES INTEND THAT SUCH PROVISION BE DEEMED REFORMED NUNC PRO TUNC SO AS TO REQUIRE THE VENDOR TO ONLY DEFEND AND INDEMNIFY THE INDEMNIFIED PARTY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

8. CHANGE ORDERS: Changes to the Work or its scheduling may be made only upon written order by Vendee's authorized representative to Vendor. Vendor shall receive no compensation or time extension for any changed or extra Work performed prior to receipt of such written order. Any changes in the prices or times set forth in the Agreement shall be agreed upon in writing by the parties. Should the parties be unable to agree on the value of the Work to be added or deducted from a Work Order, Vendor shall complete or deduct the Work specified in writing by Vendee and the matter shall be resolved through binding arbitration as provided below.

9. TRUST FUNDS: Vendor shall use the funds paid by Vendee to pay all persons or entities that supplied labor, materials, and/or services to the Vendor with regard to the Work.

10. DELAY: To the fullest extent permitted by law, Vendor's exclusive remedy for any delay, interference, disruption, or similar event shall be an extension of time for performance of the Work. No extension of time shall be allowed unless Vendor submits a written request to Vendee within forty-eight (48) hours of the commencement of the event asserted as the basis for such request and then only if and to the extent approved by Vendee in writing.

11. SUSPENSION OR TERMINATION: This Agreement shall terminate or the Work shall be suspended if the Vendee gives written notice to Vendor that this Agreement or a Work Order is terminated or suspended, in whole or in part. Upon receiving said notice, Vendor shall immediately terminate or suspend work as appropriate. Vendee shall have the right to terminate this Agreement and any Work Order for convenience at any time without prejudicing any other right or remedy contained within the same. In such event, Vendor shall solely be paid for any Work performed and materials provided at the prices set forth in this Agreement and shall not be entitled to unabsorbed overhead, anticipated profits, or other damages.

12. SAFETY & COMPLIANCE: Vendor acknowledges that Vendee is relying upon Vendor to take all actions necessary to ensure the safety of its employees, the public, and all other persons affected by the Work. Vendor, at its own expense, shall comply with all laws, rules, and regulations governing the Work, including those governing: wages, employment, health, safety, hazard communication, zoning, permitting; and the environment. Vendor shall also comply with Vendee's **Safety Policy & Operating Requirements** which are attached hereto as Schedule 2. Further, Vendor shall, and shall cause its suppliers and subcontractors to abide by the CRH Supplier Code of Conduct which can be viewed at <http://www.crh.com/our-group/our-people/corporate-governance/codes-of-conduct>. Vendor shall not discriminate against any employee or applicant on the basis of race, color, religion, sex, national origin, age, disability, or veteran status. Vendor shall comply with the Civil Rights Act of 1964, Executive Order 11246, 41 CFR Part 60 and all other statutes and laws prohibiting any such discrimination. If required by law, Vendor shall include such legal and regulatory requirements in any subcontract or purchase order, including without limitation Required Contract Provisions Under Federal-Aid Construction Contracts.

13. DEFAULT: If Vendor (i) breaches any term of this Agreement; (ii) fails to provide sufficient skilled labor or materials of proper quality; (iii) fails to repair defective Work; (iv) fails to prosecute the Work promptly and diligently; (v) becomes insolvent or experiences financial difficulty so that proper performance of the Work is jeopardized; or (vi) becomes disabled from complying with any term of this Agreement by a petition in Bankruptcy or by appointment of a receiver (each of which is an "event of default"), then Vendee may, at its sole option: (a) declare Vendor in default and terminate this Agreement upon written notice to Vendor; (b) provide any or all of the labor, equipment, and materials necessary to complete the work, and deduct the cost thereof from any money due Vendor; and/or (c) take possession of any materials in order to finish the Work. Vendor shall be liable for any damages or losses incurred by Vendee resulting from an event of default. If Vendor owes Vendee money or has any liability to Vendee for any reason, whether or not arising under this Agreement, Vendee may offset such obligation or debt against any monies which Vendee, or any of its affiliates, owes Vendor under this or any other agreement. If Vendee wrongfully exercises the termination option under this Article, the termination for default shall be considered a termination for convenience and Vendor shall be entitled to the compensation provided in the event of a termination for convenience. Any monies owed by Vendor to Vendee shall bear interest at the annual rate of 12%, or the highest rate allowed by law, if lower.

14. MECHANICS & MATERIALMEN'S LIENS: The Work shall be completed by the Vendor free and clear of all mechanic's, materialmen's, and similar liens.

15. PAYMENT & PERFORMANCE BONDS: If required by a specific Work Order, Vendor shall provide a separate payment and performance bond on forms and with sureties satisfactory to Vendee.

16. OTHER CONTRACTS: Vendor shall not assign or sublet any portion of this Agreement or its proceeds without the advance written consent of Vendee. Vendor shall incorporate this Agreement into any subcontract or other agreement covering any portion of the Work. Vendor shall, before commencing the Work and at any time requested by Vendee, furnish Vendee with a written list of all subcontractors, suppliers and other entities that may furnish labor, materials, or services in the prosecution of the Work. If required by a Work Order or law, Vendor shall be bound by any labor agreement executed by Vendee.

17. WARRANTY: Vendor warrants to Vendee that all Work will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications, drawings, designs, samples and other requirements specified by Vendee, or in the event no such specifications are provided all Work furnished must be of the highest quality regularly performed by Vendor and comply with all applicable industry standards (including but not limited to ASA, ASME, ASTM and NEMA) in effect at the time of this Agreement; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests or other encumbrances; and (f) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties are cumulative and in addition to any other warranty provided by law or equity.

18. NON-EXCLUSIVITY: This Agreement shall not constitute an exclusive arrangement and Vendor may decline to accept any proposed Work Order. Vendee may engage other persons or entities to provide the services and/or materials provided by Vendor. Vendor may provide labor, materials, and services to any other person or entity.

19. INDEPENDENT CONTRACTOR: Vendor agrees that it is, and will remain throughout the life of this Agreement, an independent contractor solely responsible for performing the details of the Work and an employing unit subject to compliance with all applicable tax, unemployment compensation, workers' compensation, and other laws. Vendor is a: corporation; partnership; or sole proprietorship.

20. ENFORCEMENT: This Agreement constitutes the complete agreement between the parties and supersedes any and all prior understandings, conversations, and proposals. Failure or delay by Vendee to require performance of any provision of this Agreement shall not be deemed a waiver of its right to enforce such provision, or a waiver of any other right. This Agreement may be amended or modified only by a written addendum signed by both parties. If any provision of this Agreement is found unenforceable by any court or tribunal, Vendee and Vendor agree that such provision shall be modified to the minimum extent necessary to render it enforceable, and that the remainder of this Agreement shall not be otherwise affected.

21. COUNTERPARTS: This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be the same agreement. A signed copy of this Agreement delivered by electronic transmission shall be deemed to have the same legal effect as an original.

22. MANDATORY BINDING ARBITRATION: ALL CLAIMS OR CONTROVERSIES ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE SUBMITTED TO AND RESOLVED BY BINDING ARBITRATION BY A SINGLE ARBITRATOR IN THE COUNTY AND STATE WHERE THE WORK IS LOCATED. THE AMERICAN ARBITRATION ASSOCIATION ("AAA") SHALL CONDUCT THE ARBITRATION PURSUANT TO THE CONSTRUCTION INDUSTRY ARBITRATION RULES AND THE AAA'S APPELLATE RULES SHALL APPLY. JUDGMENT UPON ANY AWARD MADE BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF, IF NECESSARY. NO JUDGMENT SHALL BE CONSIDERED FINAL UNTIL ANY RIGHTS TO APPEAL HAVE BEEN EXHAUSTED OR WAIVED.

23. CONFIDENTIALITY: Vendor and its agents shall treat Vendee's business information, including Vendee's products and customers, as confidential information and shall not disclose the information to any third party.

24. SPECIAL PROVISIONS: The following documents are incorporated into this Agreement:

Schedule Number	Description of Schedule	Included (Yes/No)
1	Work Order Form	Yes
2	Safety Policy & Operating Requirements	Yes
3	FWHA Form 1273 – Required Contract Provisions Federal-Aid Construction Contracts	
4	VEVRAA – Section 503 Clause	
5	State Specific Provisions	

This Agreement is effective upon the later of the two dates shown below.

VENDOR:

Signed By: _____
Printed Name: _____
Title: _____
Date: _____

VENDEE:

Signed By: _____
Printed Name: _____
Title: _____
Date: _____

SCHEDULE 1

DATE: _____

SCOPE OF WORK:

Quantities are estimates only. Payment shall be based upon the actual quantities of Work performed at the specified unit prices unless the words "Lump Sum" appear below the Estimated Amount for an item of Work. All applicable taxes, fees, costs, and expenses related to the Work are included in the price(s).

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITIES	UNIT PRICE	ESTIMATED AMOUNT
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The Work shall commence no later than _____.

The Work shall be completed no later than _____.

**SCHEDULE 2
SAFETY POLICY & OPERATING REQUIREMENTS**

All persons visiting Vendee's facilities or projects must comply with the following safety rules in addition to any safety regulations imposed by law. These rules are not intended to encompass every conceivable situation or to contradict any applicable laws, legal duties, or more stringent site-specific rules. As a result, these safety rules should always be considered subject to such laws, duties, rules, and the exercise of reasonable judgment.

1. **MAINTAIN AWARENESS OF THOSE AROUND YOUR VEHICLE AND EQUIPMENT AT ALL TIMES.**
2. Establish and maintain eye contact with anyone directing you while backing. **IF, AT ANY TIME, YOU LOSE SIGHT OF ANY PERSON AROUND YOUR VEHICLE, THEN YOU SHOULD STOP IMMEDIATELY.** Do not continue backing until you have located this person and are assured that there is no one else behind your vehicle. You can NEVER assume that a person around your vehicle has seen you or heard you, and you can NEVER assume that anyone will get out of the way. It should be second nature for you to stop in this situation and to remain stopped until it is clearly safe to proceed. **WHEN IN DOUBT, STOP.**
3. An "observer" (also known as a backer or spotter) must be guiding you whenever you are backing. In such situations, a backer should be guiding you the entire time—no matter how little or how far you are backing.
4. All vehicles with obstructed rear views must be equipped with reverse signal alarms (also known as backup alarms). All such alarms must be in proper working condition and loud enough to be heard above the surrounding noise level. Although backup alarms are meant to warn others that you are moving in reverse, they do not guarantee that everyone will see you, hear you, or get out of your way, nor do they guarantee that all "blind spots" behind your vehicle are clear. Therefore, it is extremely important to STOP and ask for assistance if you need help while backing. Remember: **WHEN IN DOUBT, STOP.**
5. You must obey all speed limits and other traffic control at all facilities.
6. Your headlights must be on at all times, day, or night.
7. Do not leave your vehicle unattended unless it is absolutely necessary. When you do determine that it is absolutely necessary to leave your vehicle unattended, check to ensure that your vehicle is properly secured and that it is safely located.
8. Use extreme care when entering and exiting all facilities and projects.
9. Do not use cell phones or other communication devices at all, unless you are (1) in a building or trailer, (2) in a properly secured, safely located, and completely stopped vehicle that is not performing or waiting to perform operations (for example, you may not use cell phones while loading, unloading, or waiting to load/unload), or (3) receiving, or responding, to instructions related to the work at hand (but only if it is safe to do so).
10. Familiarize yourself with the area in which you are operating your vehicle by becoming aware of, among other things: overhead wires/power lines that could be struck by any part of your vehicle.
11. **Haulers must clean all tailgates and securely fasten a tarp to all loose loads or take any other necessary action to prevent material from escaping from the truck.**
12. **ACCIDENT/SPILL REPORTING:** Any accident or any material spill must be reported to the proper authorities and Vendee immediately.
13. **Vendors shall comply with all applicable weight regulations and inspect all loads prior leaving or entering Vendee's projects or facilities. No driver shall leave or enter Vendee's projects or facilities with an overweight, unsecured, or unsafe load.**
14. **PERSONAL PROTECTIVE EQUIPMENT:** Vendor shall require all of its employees to comply with Vendee's Personal Protective Equipment ("PPE") requirements. The PPE requirements include, but are not limited to:

Type of Hazard(s)	PPE Required
Head Hazard – impact	Hard Hat
Foot Hazard – impact	Steel Toe Shoes
Face/Eye Hazard – impact & dust	Safety Glasses
Skin Hazard - abrasion	Sleeved Shirt & Long Pants
Face – liquid spray	Face Shield
Hands – abrasion & burns	Gloves (Elbow Length–Liquid AC)