

December 9, 2024

Via Electronic Mail

Douglas Whalen, Chairman
Old Colony Beach Club Association
P.O. Box 10
Old Lyme, CT 06371

**RE: OLD COLONY BEACH – SHEFFIELD BROOK
OUTFALL REPAIR ASSESSMENT – PRELIMINARY DESIGN AND
PERMITTING APPLICABILITY DETERMINATION**

Dear Mr. Whalen:

Ramboll Americas Engineering Solutions Inc. (Ramboll) is pleased to present the following scope of services and fee to support the Old Colony Beach Association (OCBCA) and the Old Lyme Shores Beach Association (OLSBA) with efforts to their stormwater outfall into Long Island Sound.

Ramboll
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East Tower, 13th Floor
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USA

This proposal is organized as follows:

- Project Understanding
- Scope of Services
- Project Personnel, Schedule and Cost

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PROJECT UNDERSTANDING

Previously Ramboll met with the both the OCBCA and the OLSBA regarding the current condition outfall of Sheffield Brook (Brook) for the purpose of identifying alterations and improvements to address sedimentation, flow restriction, and water quality at the existing structure. In our Technical Note, dated January 16, 2024, Ramboll outlines our observations, provided alternatives, and made recommendations regarding project that may improve the on-going sedimentation problem. Specifically, Ramboll outlined a recommended hybrid approach including:

- Alt 3.1 – Installing a Control Structure on the upstream entrance of the twin culverts
- Alt 3.3 – Redesign of the Outlet Scour Protection downstream of the twin culverts
- Alt 3.4 – Repair of the West Groin and Possible Groin Extension

During a call with OCSBA on November 5, 2024, options were discussed and based on that discussion, Ramboll has been requested to proceed with

recommended Alternative 3-3/3-4 based on the groins instability and ineffectiveness witnessed during a site visit on July 20, 2023 and more recent input and discussions on site conditions.

SCOPE OF SERVICES

The following tasks represents the effort necessary to assist OCSBA with initial actions to support the repair/upgrade of the west groin and redesign of the outlet scour protection.

- Task 1 – Data Collection
- Task 2 - Tidal Modeling
- Task 3 – Preliminary Design
- Task 4 – Preliminary Regulatory Permitting Applicability Determination
- Task 5 – Final Design and Permit Acquisition (non-scope item)

Task details are provided as follows:

TASK 1 – DATA COLLECTION

Based on information provided to Ramboll, supplemental data acquisition will be required to support proposed tasks under this scope of work. Ramboll will retain a local professional land surveyor (PLS) licensed in the State of Connecticut to perform an existing conditions survey of the Sheffield Brook outfall and groin. Data will be collected in North American Datum of 1983 (NAD83), Connecticut State Plane, North American Vertical Datum of 1988 (NAVD88). The survey will be combined with the most recent publicly available LiDAR Digital Elevation Model (DEM) data and will serve as the base mapping for Tasks 2 through 4.

In addition, based on our review of the Fuss & O'Neill design drawings, provided to Ramboll, geotechnical borings were not performed as part of the existing design. Therefore, Ramboll recommends that geotechnical boring be performed, adjacent to the existing groin, to a depth of 25 feet below grade with continuous sampling to a depth of 10 feet, and then at 5-foot increments thereafter. Ramboll will retain a local geotechnical boring company and laboratory to perform this service. Ramboll assumes that no local and state regulatory approvals will be required to conduct the drilling and site access will be provided in a timely manner. Ramboll will oversee all field activities.

TASK 2 – TIDAL MODELING

Ramboll will develop a two-dimensional (2D) unsteady depth averaged hydraulic model of the Sheffield Brook outfall into Long Island Sound. Ramboll proposes to use the US Army Corp of Engineers (USACE) Hydraulic Engineering Center River Analysis System (HEC-RAS) modeling software for model development. The USACE HEC-RAS software is an industry standard platform used throughout the world and is capable of one-dimensional (1D) steady flow, one and two-dimensional unsteady flow calculations, sediment transport/mobile bed computations, and water temperature/water quality modeling. More recently, HEC-RAS has been used for riverine systems that experience tidal influences at the downstream boundary due to advancements in the model software (e.g., wave forcing) and increases in computing power. The HEC-RAS model will provide results for water level forecasts, velocity, and shear stresses that can be used to develop preliminary designs.

The model domain, grid cell mesh spacing, and computational time steps will be sufficiently large to ensure model stability and to prevent boundary conditions from adversely impacting results. Two

separate boundary conditions will be employed at both ends of the model domain: a stage hydrograph using diurnal tidal cycles at the downstream end and a flow hydrograph for Sheffield Brook at the upstream end. In addition, sea level rise conditions will be included in the modeling effort for the year 2080 to help “future-proof” any potential designs.

TASK 3 – PRELIMINARY DESIGN

Preliminary design will include stone sizing, groin dimensions, and scour prevention measures will be based on the results on the modeling performed under Task 3.

The following subtasks will be undertaken:

- Proposed Conditions Hydraulics Modeling - Advance the previously developed HEC-RAS model to evaluate proposed conditions reflected in the preliminary design.
- Cost Estimate - Coincident with the 60% design plans, prepare a preliminary opinion of probable construction cost.
- Design Report (required for permitting) - Prepare a preliminary design report to present the analysis and design basis as well as property impacts and anticipated flood benefit.
- Preliminary Design (60%) – Advance the conceptual design to include plan, profile, and typical cross sections and will reflect comments on the conceptual design.
- Plans will include the following elements:
 - Title sheet
 - Beginning and end of Project and Project limit lines
 - Existing conditions, including titles of adjacent roadways and watercourses; location of utilities, drainage facilities, and associated appurtenances; designated wetlands; and property lines (to be established in easement mapping)
 - Plan view and longitudinal profile of existing channel and crossings in the Project area
 - Proposed improvements, including plan view and longitudinal profile
 - Demolitions and site restoration
 - Proposed grading
 - Typical cross sections
 - Proposed water control during construction
 - Standard design details
 - Special design details
 - Proposed soil erosion and sedimentation controls
 - Sequence of construction

TASK 4 – PRELIMINARY REGULATORY PERMITTING APPLICABILITY DETERMINATION

Ramboll will evaluate potential regulatory permitting applicability and pathways for the anticipated improvements to the existing culvert/groin system in the Sheffield Brook. This scope includes

communication with the Connecticut Department of Energy & Environmental Protection (CTDEEP) Land and Water Resources Division (LWRD) to seek input and concurrence on the required permitting pathway to facilitate next steps. For the purpose of this proposal, Ramboll assumes that one pre-application meeting will be conducted with the LWRD.

The LWRD regulates all activities conducted in tidal wetlands and in tidal, coastal, or navigable waters in Connecticut under the Structures, Dredging and Fill statutes, Connecticut General Statutes (CGS) Sections 22a-359 - 22a-363h, inclusive, and the Tidal Wetlands statutes, CGS Sections 22a-28 - 22a-35, inclusive. The major objectives of the permit program are to avoid or minimize navigational conflicts, encroachments into the state's public trust area, and adverse impacts on coastal resources and uses, consistent with Connecticut's Coastal Management Act (CCMA), CGS Sections 22a-90 - 22a-112, inclusive.

Three types of permits are issued for activities conducted in coastal, tidal, or navigable waters or within tidal wetlands, depending on the nature of the work proposed. The three types are: Individual Permits, Certificate of Permission and General Permits.

Based on the permitting history for the existing Sheffield Brook culvert/groin improvement, the intended future improvements, resulting from the preliminary design, may be able to be managed using the Certificate of Permission (COP) pathway. Minor activities related to previously authorized work may be eligible for a COP. These activities include maintenance dredging and substantial maintenance of existing structures. Ramboll will engage with the CTDEEP to explore options and seek concurrence on this, or other resultant required State and Federal permitting pathway to advise next steps. For the purpose of this proposal, Ramboll assumes that the 60% design will be sufficient to receive an appropriate regulatory concurrence to facilitate next steps.

TASK 5 – FINAL DESIGN and Permit Acquisition (Non-Scope Item)

Final design will include the preparation of Final Drawings (100%). Final drawings will be signed and sealed by an engineer who is licensed in the State of Connecticut.

The following subtasks will be undertaken:

- Cost Estimate - Coincident with the 60% design plans, prepare a preliminary opinion of probable construction cost.
- Specifications – Ramboll will provide specifications for work items included in the design.
- Preparation and submittal of applicable environmental permit (e.g. COP or other) to facilitate implementation.
- Final Design (100%) – Advance the preliminary design to include regulator and OCSBA comments on the conceptual design.
- Plans will include the following elements:
 - Title sheet
 - Beginning and end of Project and Project limit lines
 - Existing conditions, including titles of adjacent roadways and watercourses; location of utilities, drainage facilities, and associated appurtenances; designated wetlands; and property lines

- Plan view and longitudinal profile of existing and proposed channel and crossings in the Project area as well as construction control points
 - Demolitions plan
 - Drainage and utility relocations
 - Proposed grading
 - Cross sections
 - Proposed restoration plans
 - Proposed water control during construction
 - Standard design details
 - Special design details
 - Proposed soil erosion and sedimentation controls
 - Sequence of construction
 - Engineers Estimate of Construction Cost.
- Other elements in support of project approval and implementation may include the following:
 1. Hazardous Material Assessment.
 2. Permit Application fees, if applicable.
 3. Bid and Construction Phase Services
 4. Grant application and grant fund management, if applicable.
 5. Contractor Contract documents.

PROJECT PERSONNEL

Piotr Domaszczyński, PhD, PE, Ramboll – Dr. Domaszczyński is a Civil and Environmental Engineer in the fields of engineering design, water resources management, hydrologic and hydraulic modeling and remedial investigation. Working for Ramboll’s Environment and Health, Site Solutions practice, his focus is on managing teams and projects, problem solving, innovation, sustainability, and best management practice in engineering design. His technical skills include project delivery, modeling, statistical data analysis, water quality, flood risk analysis; AutoCAD Civil3D, GIS, project management, proposal development and report delivery. Since 2018, Dr. Domaszczyński has been managing projects associated with implementation of large-scale site solution strategy for public and private clients. He has experience working both nationally and internationally, in private industry, government research laboratories and in academia. Prior to joining Ramboll, he spent three years working at NASA as a research engineer. He is a Certified Floodplain Manager (CFM) through the Association of State Floodplain Managers (ASFPM) and a licensed Professional Engineer.

Shaun Gannon, PE, BC.WRE, P.H., CFM, Ramboll – Mr. Gannon has extensive experience in hydrologic and hydraulic modeling related to flood resiliency, watershed management, dam safety, interior flood control, hydraulic structures, and flood insurance studies. He is experienced with the numeric modeling of dams, rivers, pump stations, bridges. He has significant expertise in watershed hydrology and channel restoration using a wide variety of hydrologic and hydraulic computer models with GIS integration. Mr. Gannon is a member of ASCE and is a Diplomate of the American Academy



of Water Resource Engineers, an American Institute of Hydrology registered Professional Hydrologist, and an Association of State Floodplain Managers Certified Floodplain Manager.

Chris Kriegner (PM), Ramboll – Mr. Kriegner has more than 20 years of experience in coastal ecology, environmental permitting, natural resource consulting, and resiliency. A certified ecologist, he is an expert in federal and state regulations, natural and nature-based solutions, restoration, and coastal development. Mr. Kriegner’s work includes leveraging the latest science, agency guidance, and best management practices in support of project planning, engineering design, site development, and resiliency strategies as well as the betterment of habitat, water quality improvement, ecological uplift, and conservation. Mr. Kriegner has regulatory permitting experience in more than a dozen states, including Connecticut, and has permitted waterfront facilities and infrastructure (including outfalls) in tidal settings. Mr. Kriegner is recognized for his leadership of efficient and effective interdisciplinary teams, high-quality work, and execution of complex projects.

SCHEDULE

Ramboll is prepared to commence work on this project upon receipt of written authorization to this proposal. Given that the actual timing of deliverables is dependent on completion of field work and most importantly availability of CTDEEP staff, Ramboll would suggest an 8-to-10-week timeframe for completion of this scope of work. Upon notice to proceed, Ramboll will engage field contractors and the CTDEEP and advise Client regarding the need for revising of the estimated project timeframe.

PROJECT COST

Ramboll proposes to undertake this assignment on a time and materials basis in accordance with the attached standard Terms and Conditions. Based on the Scope of Work presented above, the cost is estimated to be \$44,500 including expenses. Additional services which are beyond the above-described scope of services will be considered additional work and will require additional compensation.

The proposed services will be performed in accordance with the attached Standard Terms and Conditions.

Budget Estimate	
Task	Estimated Fee
Task 1: Data Collection*	\$14,000
Task 2: Tidal Modelling	\$15,000
Task 3: Preliminary Design	\$12,000
Task 4: Regulatory Permitting Applicability Determination	\$3,500
Task 5: Final Design and Permit Acquisition (Non-Scope Item)	TBD
Estimated Project Budget	\$44,500

*Includes subcontractors – Drilling (1 day), Laboratory & Surveyor: estimated \$10,000



If tasks beyond the Scope of Work provided in this proposal are identified, including multiple rounds of report comment and revisions, preparation for and discussions with third parties (e.g. stakeholders, governmental agencies, funding organizations), Ramboll will complete such tasks on a time and materials basis, in accordance with the attached business terms and conditions.

RELIANCE ON RAMBOLL’S WORK PRODUCT

Ramboll understands that there may be other parties that may wish to rely upon the findings of the report. Recognizing that the conclusions in the report represent Ramboll’s professional judgment based upon the information available and conditions existing as of the date of the report, the report Ramboll provides to the Client may be relied upon by other parties only if the user agrees that Ramboll’s total exposure and liability in connection with the reports to the Client and all other parties to whom reliance may be granted do not exceed the limitations of liability in the Terms and Conditions agreed to by the Client in the contract for this assignment.

CLOSURE

We look forward to working with you. If you have any questions or need further information, please contact me at 860.810.9392 or dliis@ramboll.com or Shaun Gannon at +1 315-396-4928 or Shaun.Gannon@ramboll.com. If you find this proposal acceptable, please have a copy of the proposal executed and return it to Ramboll as our authorization to proceed.

Sincerely,

David Mark Lis, PG, LEP
Principal

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Attachment

cc: Piotr Domaszczynski
Chris Kriegner
Stephen Humes

Accepted and Agreed to:
Old Colony Beach Club Association – Sheffield brook
Outfall Repair assessment – Preliminary Design and Permitting Applicability Determination

Signature: _____

Title: _____

Name: _____

Date: _____

**ATTACHMENT A
RAMBOLL'S TERMS AND CONDITIONS**



TERMS AND CONDITIONS FOR SINGLE PROJECT SERVICES AGREEMENT

Proposal by Ramboll Americas Engineering Solutions, Inc. ("Ramboll")

to

Old Colony Beach Club Association ("Client")

These terms and conditions shall govern and be a part of the proposal issued by Ramboll to Client (the "Proposal") along with any exhibits attached thereto, which, when executed by the parties, shall constitute the sole and complete agreement between the parties with respect to the subject matter of the Proposal, excluding all standard business forms and other oral or written materials (the "Agreement").

Section 1. The Services

- 1.1 Scope of Services; Schedule:** Subject to the terms and conditions set forth in the Proposal and in the Agreement, Ramboll will perform the scope of services as explicitly set forth in the Proposal (the "Services"). There are no implied Services. The scope of Services or the proposed schedule set forth in the Proposal may not be altered by the Client in any way, unless and until a Ramboll representative has approved such alteration in writing. Ramboll will use reasonable commercial efforts to complete the Services within the time frame stated in the Proposal. Ramboll may utilize employees from any of its affiliates in order to perform the Services. Client represents and warrants that it has full right and authority to have the Services performed, and that it has obtained all necessary licenses and approvals for the Service to be performed.
- 1.2 Termination:** The Agreement may be terminated by either party: (a) upon thirty (30) days prior written notice to the other; or (b) effective immediately upon written notice to the other party if such other party declares itself insolvent, files an action in bankruptcy or becomes the subject of involuntary bankruptcy proceedings, or fails to perform any of its obligations hereunder or otherwise breaches the Agreement and does not remedy such failure or breach within fourteen (14) days after written notice thereof. Client shall pay Ramboll for all Services performed and expenses incurred prior to termination, plus reasonable termination charges such as charges for third party cancellation and for demobilization (including leaving the site in a safe condition and the site and project files in good order) plus, in the event of termination by Ramboll under subsection (b), damages under applicable law. Client's obligations under the Agreement shall survive termination of the Agreement and/or completion of the Services hereunder.
- 1.3 Additional Cost or Delay.** Ramboll and its affiliates shall not be responsible or liable for any additional cost to perform Services or other damages resulting from: (a) the lack or insufficiency of performance by any person or entity not selected by, engaged by, and responsible to Ramboll, (b) changes, delays or additional Services not necessitated by the acts or omissions of Ramboll, (c) delay in response to requests, applications or reviews by Client or third parties, or (d) damage to underground utilities or structures not accurately located on plans, maps or figures furnished to Ramboll.

- 1.4 Reporting Requirements:** Client may be required under federal, state, provincial or local statutes, laws, ordinances, codes, rules, orders or regulations (“Laws”) to report the results of the Services to appropriate regulatory agencies. Ramboll is not responsible for advising Client about Client reporting obligations and Client agrees that Client shall be responsible for all reporting, except as specifically stated in Ramboll’s Proposal as part of scope of work. To the extent Ramboll has an independent duty to report, it will endeavor to provide Client with advance notice.
- 1.5 Force Majeure:** Ramboll and its affiliates shall not be liable in any way because of any delay or failure in performance due to circumstances or causes beyond its control, which shall be deemed to include without limitation strike, lockout, embargo, epidemic, pandemic, or other outbreak of disease, quarantine restrictions, riot, war, act of terrorism, cyber-attack, flood, fire, act of God, act of the federal or state government, accident, failure or breakdown of components necessary to order completion, Client, subcontractor or supplier delay or non-performance, inability to obtain or shortages in labor, materials, protective gear, other supplies or manufacturing facilities, compliance with any Law, or circumstances or conditions which in the discretion of Ramboll may pose a material risk to the health or safety of the employees of Ramboll, its affiliates or subcontractors. In any such event, Ramboll is entitled to equitable compensation from Client for time expended and expenses incurred with respect to the project.
- 1.6 Scope Dependent Provisions:** Certain provisions dependent on the scope of Services are set forth in Exhibit A, attached hereto and incorporated herein.

Section 2. Fees and Charges

- 2.1 Fees:** Client shall pay for all Ramboll time spent in performing the Services, including travelling, at its then-standard rates for the type of Services (except to the extent otherwise stated in the Proposal). Estimates of fees, recommendations and opinions are made on the basis of experience and professional judgment; they are not guarantees. The Parties shall promptly agree to equitable adjustments in the budget and schedule if any of the following will result in increased fees or schedule delays in performing the Services: (a) Client requests changes to the scope or extent of Services, (b) Ramboll encounters site conditions that differ from those specified in the Proposal and are the basis for the scope of work or otherwise are unanticipated, (c) significant changes in relevant Laws, or (d) delays or disruptions for reasons beyond Ramboll’s control.
- 2.2 Reimbursable Expenses:** Client shall reimburse Ramboll for all project-related expenses including, without limitation, the following: travel (including, without limitation, vehicle rental, airfare or train fare), priority mail, and overnight delivery, outside reproduction and courier services, which will be billed at cost, plus fifteen percent. Notwithstanding the foregoing, the use of Ramboll owned cars, trucks and vans will be charged at \$125.00 per day; the use of equipment and protective clothing will be billed in accordance with Ramboll standard practice; and the cost of project-related communications, to include in-house telephone, facsimile, postage, and reproduction, computers, data compilation, and Computer Aided Design and Drafting (“CADD”) will be charged at six percent of total labor charges.

- 2.3 Taxes:** Client shall pay or reimburse Ramboll for (a) all sales taxes, use taxes, value added taxes, duties, levies, and similar taxes or impositions imposed by any taxing jurisdiction relating to the provision of the Services, and (b) to the extent that Services are performed in a country where Ramboll has no permanent establishment, all withholding taxes or similar impositions imposed by any taxing jurisdiction on the provision of the Services.
- 2.4 Invoicing:** Ramboll will invoice Client on a monthly basis using its standard invoice format. This format provides for a general description of work performed and a summary of professional fees, expenses, and other charges covered therein. For more detailed invoicing requests, Client shall pay for invoice preparation time by staff members.
- 2.5 Payment:** Client shall pay each invoice in cash within thirty (30) days after the invoice date. Client shall pay late charges at the rate of 1.5 percent per month or the maximum percentage allowed by Law, whichever is less, for any amounts not paid within thirty (30) days of the invoice date. Ramboll has the right to stop work for, withhold work product from, and/or terminate the Agreement or any Services hereunder in accordance with Section 1.2 herein, and/or terminate any other engagement with Client, if any invoice to Client remains unpaid for more than thirty (30) days past the invoice date. Client shall make timely payment without condition, setoff, retainage, or contingency, including without limitation the closing of a transaction or obtaining financing. If Ramboll determines that it is advisable/necessary to engage collection professionals and/or commence collection proceedings (including, without limitation, by commencing formal legal proceedings) to obtain payment on account of an unpaid invoice and Ramboll is the substantially prevailing party in such proceedings, Client also shall pay Ramboll's collection costs and costs associated with any such proceedings, including, without limitation, arbitrator fees, reasonable attorneys' fees and a reasonable fee for the services of Ramboll's internal resources and its out-of-pocket expenses.
- 2.6 Currency Conversion:** To the extent non-U.S. Ramboll affiliates provide Services, or costs are incurred in currencies other than US dollars, currencies will be converted into US dollars at the prevailing exchange rate(s) as at the end of the month during which Services have been provided or costs have been incurred.

Section 3. Third Parties

- 3.1 Subcontractors:** Except to the extent specifically agreed in writing by Ramboll, Client shall directly contract/retain all other contractors whose services are required in connection with a project (e.g., drillers, analytical laboratories, transporters). As a service to Client, Ramboll may advise with respect to selecting such other contractors and may assist Client in coordinating and monitoring their performance, but Ramboll is not responsible for such performance. Client shall release, indemnify, defend and hold harmless Ramboll and its affiliates and subcontractors and their respective directors, officers, employees and agents (collectively, the "Ramboll Indemnitees") from and against any and all allegations, claims, costs (including reasonable attorney and expert fees), damages, demands, expenses, fines, judgments, liabilities, liens, obligations, penalties, personal injury, property damage, suits and other losses of any nature whatsoever (collectively "Losses") relating in any way to work performed by any contractor

retained/contracted by Client. When, notwithstanding the foregoing, Ramboll contracts/retains a subcontractor to perform a portion of the Services, all related expenses shall be billed to Client as they are incurred, at cost plus 15 percent.

- 3.2 No Third-Party Reliance/Use:** The Services including, without limitation, related communications and deliverables/work product, and the contents of such communications and deliverables/work product (collectively "Deliverables"), are solely for Client's benefit and may not be relied upon by or disclosed to any third party without Ramboll's express written consent; provided, however, Client may distribute or disclose the Deliverables to its professional advisors or other parties involved in the underlying project or transaction, including disclosures to governmental agencies or regulators, as applicable in connection with Ramboll's Services, in each instance on a non-reliance, informational only basis. In addition, Client shall not attribute any statement to Ramboll without Ramboll's express written consent. Ramboll shall be entitled to injunctive relief preventing/prohibiting any disclosure or attribution prohibited hereunder, and Client shall release, indemnify, defend and hold harmless the Ramboll Indemnitees from any and all Losses arising from or related to such unauthorized disclosure or attribution.

Section 4. Liabilities

4.1 Performance Standards:

- a. In performing the Services, Ramboll agrees to exercise professional judgment, made on the basis of the information available and to use the same degree of care and skill ordinarily exercised in similar circumstances by reputable consultants performing comparable services in the same geographic area as of the time the Services are rendered, and not according to earlier or later standards. Client acknowledges that scientific, medical, and health and safety knowledge and expertise is always evolving, and that Ramboll's work, conclusions and opinions cannot fully anticipate or take into account changes in knowledge or expertise that develop after the Services are performed. A difference of opinion on a question of professional judgment shall not excuse Client from paying when due for Services rendered.
- b. Ramboll makes no guarantee that the Services shall meet any particular specification or result except as specifically stated in the description of Services and then subject to all qualifications, assumptions, changes of condition and correctness of information given to Ramboll.
- c. Ramboll represents that: (i) it shall comply with all Laws which apply to Ramboll in the performance of the Agreement ; (ii) it shall obtain and maintain all permits or licenses which it is required to obtain in order for it to perform the Services; and (iii) to the best knowledge of Ramboll, without inquiry or investigation, the Services and work product provided by Ramboll will not violate or infringe any third party's patents, trade secrets, trademarks, or other proprietary rights.
- d. Other than the representations specifically set forth above in this section, RAMBOLL AND ITS AFFILIATES MAKE NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THOSE OF NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY OF ANY PRODUCTS, OR AS TO ANY OTHER

MATTER, and the representations set forth above shall supersede any oral or written warranties or representations made or implied by Ramboll or any of Ramboll's affiliates or their employees or representatives or in any of Ramboll's brochures, manuals, catalogs, literature or other materials.

- e. The Services and all deliverables are rendered based on the specific circumstances and conditions described in the Proposal and are intended for use by the Client only in connection with the purpose set forth in the Proposal. Ramboll disclaims all warranties relating to any other use and Client shall indemnify, defend and hold harmless the Ramboll Indemnities against any and all Loss relating to such other use.

4.2 Insurance: Ramboll shall maintain the following insurance coverage while it performs the services: (a) statutory Workers Compensation and Employer's Liability Coverage; (b) General Liability for bodily injury and property damage of \$1,000,000 aggregate; (c) Automobile Liability with \$1,000,000 combined single limit; and (d) Professional Liability and Contractor's Pollution Liability with a combined single limit of \$1,000,000 per claim and in the aggregate. If Client desires additional insurance coverage types or amounts that Ramboll does not carry or special endorsements that Ramboll does not have in its policies, all premiums associated with obtaining those coverages or endorsements shall be promptly reimbursed by Client. At Client's direction, Ramboll will provide Client with a certificate of insurance and Ramboll will add Client and project site owner(s) and/or tenants (if Ramboll will be working on property(s) not owned by Client) and any related or affiliated persons or parties as an additional insured on Ramboll's General Liability, Auto Liability and Pollution Liability policies.

4.3 Indemnities:

- a. Ramboll shall release, indemnify, defend and hold harmless Client and its affiliates and their directors, officers, employees and agents from and against any and all Losses arising out of or relating to the Agreement or the Services to the extent of such Losses that a court or other tribunal of competent jurisdiction finds and concludes, in a final and non-appealable order or judgment, directly resulted from Ramboll's material breach of the Agreement, gross negligence or intentional misconduct. Other than as set forth in the preceding sentence, Client shall be solely responsible for and shall release, indemnify, defend and hold harmless the Ramboll Indemnitees from and against any and all Losses the Ramboll Indemnitees suffer or incur as a result of, or are in any way related to, the Agreement or the Services or a Ramboll Indemnitee's presence on a site for the purpose of performing Services.
- b. An indemnified party hereunder ("Indemnitee") will give prompt notice of any indemnified claim to the indemnifying party ("Indemnitor"). The Indemnitee shall have the right to participate in the defense of any claim against it with counsel selected by it, subject to the Indemnitor's right to control the defense thereof. The fees and disbursements of such counsel shall be at the expense of such Indemnitee, provided, that if in the reasonable opinion of counsel to such Indemnitee, there exists a conflict of interest between the Indemnitor and such Indemnitee that cannot be waived, such Indemnitee shall have the right to control defense of the Claim against it, and the Indemnitor shall be liable for the

fees and expenses of counsel to such Indemnitee in each jurisdiction for which such Indemnitee determines counsel is required.

- c. The Indemnitees and Indemnitor shall cooperate with each other in all reasonable respects in connection with the defense of any claim, including making available records relating to such claim and furnishing to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such claim. Such cooperation furnished by the Indemnitees shall be paid for on the basis provided for in the Agreement.

4.4 Limitation of Liability: Notwithstanding anything to the contrary set forth in the Agreement:

- d. Under no circumstances shall either party be liable to the other for any type of damages other than direct damages (including loss of profits, loss of opportunity, loss of business, loss of goodwill, or indirect, consequential, special, or punitive damages), even if such party has been advised of the possibility of such damages, or for damages caused by the other party's failure to perform its obligations under Law or contract; and
- e. In no event shall the aggregate liability of Ramboll and its affiliates in connection with the Agreement or the Services exceed the an amount equal to three (3) times the amount actually paid to Ramboll by Client for the Services, but in no event more than One Million Dollars (\$1,000,000), and Client specifically releases Ramboll and its affiliates for any and all Losses in excess of that amount. Ramboll and its affiliates shall have no liability in connection with the Services, whether in contract, in tort, in negligence, breach of statutory duty or otherwise unless it receives a claim in writing before the first anniversary of completion of the Services.

Section 5. Information

5.1 Confidentiality:

- f. The parties hereto each contemplate that, in connection with the Services and to facilitate performance of their respective obligations hereunder, it may be necessary to provide the other (the "Receiving Party") with information that disclosing party (the "Disclosing Party") considers to be confidential information. Information received from a Disclosing Party (or from one acting on its behalf) that the Disclosing Party identifies as confidential, or that, by its nature clearly should be treated as confidential hereunder (collectively "Confidential Information"), shall be maintained in confidence by the Receiving Party, which shall follow reasonable and prudent practices to maintain the Confidential Information in confidence. Confidential Information shall be used by the Receiving Party only for the purpose of and in connection with its performance hereunder; provided that Ramboll also may use any information received or generated in connection with the Services for the purpose of improving its products and services.
- g. Confidential Information does not include information that (i) was lawfully known to the Receiving Party before receipt from the Disclosing Party; (ii) is or becomes publicly available through no fault of the Receiving Party; (iii) is lawfully received by the Receiving Party from a third party without a duty of confidentiality; (iv) is independently developed

by the Receiving Party without use of Confidential Information; or (v) that counsel for the Receiving Party determines is required to be disclosed by law (including, without limitation, in response to a subpoena), provided that the party intending to make such required disclosure, to the extent permissible and reasonably possible under the circumstances, shall endeavor promptly to notify the Disclosing Party of such intended disclosure in order to provide to the Disclosing Party an opportunity to seek a protective order or other remedy and/or take such other action it deems necessary.

- h. If Ramboll, its documents/records or its personnel are subpoenaed for production, for deposition or other testimony, or for other legal process related to the Services (except in connection with proceedings to resolve a dispute between Ramboll and Client related to the Services), Client shall promptly pay Ramboll at its then current standard billing rates for the efforts of its personnel in responding to such subpoena, and reimburse Ramboll for related out-of-pocket expenses.

5.2 Data Privacy:

- i. Each Party, as part of their contractual relationship and to perform their respective obligations under the Agreement, will obtain and use, for administrative purposes only, the following personal data about certain employees or other agents/representatives of the other Party or third parties engaged by the other Party ("Engaged Third Parties") who are working to fulfil the Agreement:
 - i. Name;
 - ii. Name of employer (i.e. one of the Parties or an Engaged Third Party);
 - iii. Title; and
 - iv. Contact information, such as e-mail or phone number.
- j. Each Party will collect and process such personal data as data controllers under, and otherwise in compliance with, applicable data protection Laws.
- k. Each Party further acknowledges and agrees that it has provided or will provide all of its employees, agents and/or Engaged Third Parties, as applicable, who are working to fulfil the Agreement, with a general notice about the other Party's collection and processing of their personal data. Such notice must comply with applicable data protection Laws (including, to the extent applicable, Article 13 and 14 of the Regulation (EU) 2016/679, the General Data Protection Regulation). Furthermore, each Party agrees to process such personal data in accordance with applicable data protection Laws. Furthermore, to the extent any such Law requires or provides for the parties to enter into a more detailed data protection agreement or similar agreements to more fully set forth, as contemplated by such Law, their respective data privacy obligations vis-à-vis services under the Agreement, or otherwise, the Parties each agree to act reasonably and in good faith in negotiating and executing such agreements.

5.3 Intellectual Property: If Ramboll is required by the Agreement to deliver a particular final written product to Client (the "Deliverable"), then, subject to section 3.2, the Client shall own the Deliverable. To the extent there is any intellectual property included in the Deliverable, then, subject to section 3.2, Ramboll hereby grants to Client a perpetual, irrevocable, nonexclusive, royalty-free license to use such intellectual property solely as part of the Deliverable, and in connection with the Client project for which the Services were provided. Ramboll retains all other rights to its intellectual property. Client shall release, indemnify, defend and hold harmless the Ramboll Indemnitees from and against any and all Losses relating to Client's modification of or excerpts from the Deliverable or use of the Deliverable other than in connection with the project for which the Services were provided.

Section 6. Miscellaneous

6.1 Independent Contractor: Ramboll is acting as an independent contractor and shall retain responsibility for and control over the means for performing the Services. Nothing in these Terms and Conditions shall be construed to make Ramboll or any of its officers, employees or agents, an employee or agent of Client.

6.2 Conflicts: Client recognizes and agrees that Ramboll and its affiliates may assist other clients in matters that could be perceived as, or, in fact, may be adverse to the interests of Client, including, without limitation, matters that relate to the same site or geographical area, neighboring sites, the same acquisition opportunity or other issues in which Client may have an interest. In each of those situations, Ramboll will take reasonable measures to maintain separation between/among affected engagements, including, for example, by establishing a separate team for each client and implementing reasonable ethical screens between/among them.

6.3 Non-solicitation: During the performance of the Services and for 12 months thereafter, Client will not solicit for employment, or hire as an employee or contractor, any personnel of Ramboll or its affiliates, without first obtaining the written consent of a corporate officer of Ramboll.

6.4 Assignments: Neither party shall assign its rights and obligations under the Agreement or without the prior written consent of the other party, except in connection with a sale of substantially all of the assets of such party; provided that, Ramboll may subcontract or delegate Services or assign the Agreement to an affiliate without prior written consent of Client.

6.5 Severability: The Agreement shall be enforced to the fullest extent permitted by Law. If any provision of the Agreement is found to be invalid or unenforceable the provision shall be construed and applied in a way that comes as close as possible to expressing the intention of the parties with regard to the provisions and that saves the validity and enforceability of the provision.

6.6 Disputes:

- a. The Agreement shall be governed by the Laws of the state of New Jersey, without regard to its conflict of laws rules. Any dispute or controversy relating to the Agreement that is

not resolved amicably shall be resolved by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association, and judgment on a decision or award rendered by the arbitrator(s) may be entered in any court of competent subject matter jurisdiction sitting in the State of New Jersey. Unless otherwise agreed to by the Parties, (i) the arbitration proceedings shall be presided over by a single arbitrator, unless the amount in controversy exceeds \$500,000.00, in which case, the number of arbitrators shall be three, one appointed by each Party and the third appointed by mutual agreement of the other two and (ii) any and all depositions, oral argument, hearings, or similar personal appearances shall take place in the State of New Jersey, or, at Ramboll's election in its sole discretion, in the U.S. state in which the Services primarily are provided. Any decision or award by the arbitrator(s) shall be final and binding, and, except in the case of fraud or gross misconduct by the arbitrator(s), no decision or award rendered by the arbitrator(s) shall be appealable. Subject to Section 2.5 above, the arbitrator(s) shall have discretion to designate one of the Parties as the prevailing party and to require the other Party to reimburse such prevailing party for all or a portion of the costs and fees incurred in such arbitration, including arbitrators' fees, administrative fees, attorney's fees, and other reasonable out-of-pocket costs. The arbitration proceedings and arbitration award shall be maintained by the Parties and arbitrator(s) as strictly confidential, except as is otherwise required by Law, an order from a court or other tribunal of competent jurisdiction, or as is necessary to confirm, vacate, or enforce any arbitral award and for disclosure in confidence to the Parties' respective auditors, attorneys, insurers, tax advisors and similar professionals who themselves agree to maintain confidentially in accordance with this subparagraph.

- b. Neither Party shall be subjected to the foregoing arbitration requirement in the event of an alleged, actual, or threatened breach of an obligation under Sections 3.2, 5.1 or 5.3 above, or that otherwise is reasonably likely to result in irreparable harm to that Party absent immediate injunctive relief. In such event, the Party immediately may pursue by civil action in and obtain from any court of competent subject matter jurisdiction sitting in the State of New Jersey, or, at Ramboll's election in its sole discretion, in the U.S. state in which the subject products/services primarily are provided, injunctive and other equitable relief to remedy any such breach or threatened breach, which remedy(ies) shall not be exclusive, but, rather, shall be in addition to all other remedies and rights available at law, in equity, or otherwise. The prevailing party in any such civil action shall be awarded its costs and fees incurred in such civil action, including attorney's fees and other reasonable out-of-pocket costs.
- c. Ramboll also shall not be subjected to the foregoing arbitration requirement in an action strictly to collect unpaid invoices not exceeding \$50,000.00 and/or to foreclose upon or otherwise enforce any lien. In such event, Ramboll may pursue its fee claim in any court of competent subject matter jurisdiction sitting in the State of New Jersey, or, at Ramboll's election in its sole discretion, in the U.S. state in which the subject products/services primarily are provided.

6.7 Anti-Corruption & Sanctions:

- a. At all times in connection with and throughout the course of the Agreement, the Parties will comply with and will take reasonable measures to ensure that their employees,

- subcontractors, and agents will comply with all applicable laws, rules, regulations and orders of any applicable jurisdiction, relating to corruption and bribery, e.g. under the US Foreign Corrupt Practices Act and UK Bribery Act.
- b. The Parties will comply with and will take reasonable measures to ensure that their employees, subcontractors, agents and other third parties will comply with all applicable laws, rules regulations and orders of any applicable jurisdiction, relating to sanctions and export controls (including trade or financial sanctions under the laws and regulations of the United Nations, the United States, the European Union and its Member States, the United Kingdom or any other jurisdiction that is applicable to the Services). Each Party further warrants, with respect to that Party and its affiliates, and also that Party's and its affiliates' directors, executive officers, shareholders, and any person having a controlling interest in any such entity, that no such parties or persons are (i) designated on the U.S. Department of the Treasury, Office of Foreign Assets Control's List of Specially Designated Nationals and Other Blocked Persons and Consolidated Sanctions List, the U.S. State Department's Non-proliferation Sanctions Lists, the UN Financial Sanctions Lists, the EU's Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions, and the UK HM Treasury Consolidated Lists of Financial Sanctions Targets; or (ii) directly or indirectly owned or controlled by such persons (any person or entity qualifying under (i) or (ii) is referred to herein as a "Restricted Person").
- c. The Parties further agree that the Parties shall notify each other in writing immediately if (i) they are charged or convicted by a court of law for bribery or corruption; or (ii) a Party or any of its directors, executive officers, shareholders or any person having a controlling interest in that Party becomes a Restricted Person or becomes directly or indirectly owned or controlled by one or more Restricted Persons.
- d. Without prejudice to other termination rights under this Agreement, either Party may terminate the Agreement immediately if the other Party or any of its directors, executive officers, shareholders or any person having a controlling interest in the other Party becomes a Restricted Person or becomes directly or indirectly owned or controlled by one or more Restricted Persons.

6.8 Trade Restrictions: Ramboll will not provide development, design, manufacture, assembly, testing, maintenance, repairs, instruction, advice, training, transmission of know-how, or consulting services in relation to projects involving items that are subject to applicable legal trade restrictions including restrictions on items that originated in Russia or Belarus or that have been exported from Russia or Belarus (as such restrictions are amended from time to time). The Client therefore represents and warrants that the project will not require Ramboll to provide any of the services set out above, or any other technical services, in relation to these items. Ramboll may terminate the agreement immediately on written notice if Ramboll has cause to suspect that the project may involve any services relating to any of the above items. The Client shall indemnify Ramboll against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs and all other professional costs and expenses) suffered or incurred by Ramboll arising out of a breach of this warranty and/or a termination by Ramboll. In such circumstances Ramboll shall be entitled to invoice the Client, and to be

paid, in respect of all work carried out and all expenses incurred by Ramboll up to and including the date of notice of termination. Moreover, in such circumstances Ramboll has no liability towards the Client.

EXHIBIT A

SCOPE DEPENDENT PROVISIONS

Each of the following provisions shall apply and be part of the Agreement to the extent it is relevant to the scope of Services being performed:

1. **Authority, Access and Site Information:** Client shall grant or obtain for Ramboll reasonable access, at Client's sole cost, to any sites (including adjacent sites) to be investigated as part of Ramboll's scope of work, free from interference by third parties. Client shall also specify and describe to Ramboll in writing (a) the boundary lines of the site(s), (b) the location of any underground materials or structures, including tanks, piping, water, telephone, electric, gas, sewer, and other utility lines, (c) all hazardous site conditions or hazardous materials, including providing copies of relevant Safety Data Sheets, and (d) all other information necessary or desirable to allow Ramboll to perform the Services. Ramboll shall have no liability relating to the foregoing matters except to the extent specifically included in Ramboll's scope of work; provided that, Client shall be responsible for any personal injury or property damage or other Loss caused by incomplete or inaccurate information provided by the Client or any other party.

2. **Management of Pre-existing Materials:**
 - a. Client recognizes that there may be pre-existing conditions, contamination, substances, wastes or materials, hazardous or otherwise ("Pre-existing Materials") at sites to be entered as part of the Services and acknowledges that Ramboll has neither created nor contributed to the existence of any Pre-existing Materials. Client also acknowledges that some investigative procedures may carry the risk of release or dispersal of Pre-existing Materials, even when exercising due care, and Client hereby waives any claim with respect thereto except to the extent of damages caused by Ramboll's gross negligence or willful misconduct.

 - b. Client and not Ramboll shall be responsible for complying with all Laws in connection with transportation, treatment, disposal and management of Pre-existing Materials. If Client and Ramboll execute a Proposal for assistance in meeting such obligations, (i) Client shall make the final selection of and take full responsibility for both the transporter and disposal facility, (ii) Ramboll shall not be deemed to be an operator, generator or party who arranges for transportation, treatment or disposal, and (iii) Client shall release, indemnify, defend and hold harmless the Ramboll Indemnitees from and against any and all Losses relating to a claim or allegation that Ramboll has any obligation or responsibility referred to in this Section.

c. To the extent that any term used above in this Section is defined in one or more applicable Laws, such term as used herein shall have the broadest definition stated herein or in any such Law.

- 3. Environmental Professionals:** Ramboll employees may serve as Environmental Professionals under various state or Federal programs, which may include rendering opinions about site assessments or remediation programs or outcomes and/or which may have Ramboll employees assuming quasi-regulatory roles. In carrying out these functions for Client, the Environmental Professional will select the investigations, data collection activities, remediation or other services which, in the Environmental Professional's judgment are appropriate under applicable statutes and regulations, to establish a basis for the Environmental Professional's opinions. Client acknowledges that, under certain state or federal programs, the Environmental Professionals may have an independent duty to report site conditions or other information to a regulatory agency and Client agrees that the Environmental Professional may make such disclosures as are required by Law without violating any confidentiality obligations under the Agreement, provided that the Environmental Professional gives the Client notice before (or if circumstances do not reasonably allow concurrently with) notifying the regulatory agency. Client also acknowledges that a federal, state or local agency may review, comment and/or audit Ramboll's services and may require additional site activities, even though Ramboll and its Environmental Professionals have each performed its services in accordance with the standard of care set forth in this Section 4.1 of the Agreement (the "Performance Standards" section). Client agrees to compensate Ramboll for services performed in response to such an audit at Ramboll's billing rates then in effect.
- 4. Laboratory Services:** Ramboll will conduct toxicology tests as prescribed in standard industry methodology, which includes test acceptability requirements. From time to time the quantity or quality of test organisms cannot be obtained. Ramboll will notify Client when this occurs and suggest delaying the testing until such organisms become available. Ramboll will conduct the tests at Client's request but Ramboll will not be responsible for any test failures that might occur under those circumstances.
- 5. Engagement by Law Firms:** If the Agreement is being executed by a law firm on behalf of its client, the firm represents that the client has reviewed the Agreement and both the firm and the client are bound by all limitations on liability and other provisions of the Agreement; provided that, the client and not the firm will have the obligation to pay Ramboll's fees and costs.