



Membership No. 758



ISO 9001 ISO 14001 ISO 45001



Membership No. M40901019



Membership No. N00030591



**Chivas Brothers (Pernod Richard) Ltd**

**Blackfriars Distillery, Plymouth**

**2022 Chimney Inspection Survey**

**2022 Compiled Report**

**For the attention of: Mr John McHarrie**

**Works Completed: 14<sup>th</sup> November 2022**

	<b>Name</b>	<b>Title</b>	<b>Initial</b>	<b>Date</b>
<b>Written By</b>	Arrieanne Green	Trainee Report Writer	AG	23/01/2023
<b>Compiled By</b>	James Burns	Company Chairman	JB	31/01/2023

**Head Office:**

Unit 7, Burma Road, Blidworth, Nottinghamshire NG21 0RT

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**Edinburgh Office:**

Bilston Glen Business Centre, 6 Dryden Road, Bilston Glen Industrial Estate, Midlothian, EH20 9LZ

Tel: [REDACTED]



31<sup>st</sup> January 2023

Project Reference: 18362  
Remedial Works Quote Reference: 19212

Chivas Brothers Ltd  
2 Blythswood Square  
Glasgow  
Scotland  
G2 4AD

**For the attention of: Mr John McHarrie**

Dear John,

**RE: 2022 CHIMNEY INSPECTION SURVEY  
BLACKFRIARS DISTILLERY, PLYMOUTH**

Further to our visit to site regarding the aforementioned project, we may confirm that our inspection survey is now complete.

Please find enclosed our inspection report sheets, complete with recommendations for any suggested remedial works deemed necessary, together with our Test Certificates (Where applicable) and Calibration Certificate for the test instrument used.

We trust that the inspection survey was undertaken to your satisfaction and look forward to being of service to you in the future.

Trusting the above meets with your approval, please do not hesitate to contact us should you require any further help or information.

Yours faithfully,



Mr James Burns  
Company Chairman

**Head Office:**  
Unit 7, Burma Road, Blidworth, Nottinghamshire  
NG21 0RT

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Horizon International is a trading style of Horizon Specialist Contracting Limited.  
Registered Office: Unit 7, Burma Road, Blidworth, Nottinghamshire, NG21 0RT

HIHS 017(11)



Membership No.  
M40901019



Membership No.  
N00030591



Registered in England & Wales 2827337



**Client:** Chivas Brothers

**Site:** Blackfriars Distillery, Plymouth

**Structure Reference(s):** Brick Boilerhouse Chimney

**Date of Inspection:** 17<sup>th</sup> November 2022

**Due Date of Next Inspection:** 16<sup>th</sup> November 2023

#### Category A – Chimney Remedial Works Identified

**Key for repair categories:**

<b>CATEGORY A</b>	<u>ESSENTIAL SERVICES</u>
<b>CATEGORY B</b>	<u>RECOMMENDED SERVICES</u>
<b>CATEGORY C</b>	<u>DESIRABLE SERVICES</u>



**Structure Summary:**

A 23 metre high octagonal brick chimney that rises through a flat roof.  
This chimney has been reduced in height at a date unknown to ourselves.

**Chimney Inspection History:**

Horizon have previously inspected this chimney in November 2020.

**Validity:**

This certificate remains extant until the date stated unless superseded before then by a replacement certificate following either completion of repair works or further routine inspection.

**N/A**

Sections/ Areas of the Chimney	Inspection observation/ Condition	Recommendations	Cat.
	<p>The chimney height has been reduced and a sectional concrete capping installed around the top circumference. Between this to cover the annular space a cementitious mortar mix was applied, we assume that shuttering was installed although this has not been confirmed. Over time the leading edge has deteriorated, the level of ingress is unknown into the surrounding substrate and no comment can be made on its longevity. As a short term measure our engineers were instructed by our site contact to infill the leading edge, this is not a long term permanent solution.</p> <p>Our lead engineer discussed on site with yourselves that consideration should be to install a purpose built metal capping to encapsulate the summit as this would provide a more beneficial and permanent weather seal. Within the metal capping, a with trap door would be incorporated and together with a vertical access safety system ie ladder with in-built fall restraint that would rise from inside the chimney base and have anti climb cover fitted to prevent un-authorized access.</p>	<p>Remove existing cement “infill” capping arrangement. Install a new purpose designed sectional mild steel capping c/w trap door and a internal Y spar vertical safety access system. (Capping to be slightly angled to displace water.) Cross bond the lightning conductor at the summit to the new metal capping</p>	<p>A</p>

Sections/ Areas of the Chimney	Inspection observation/ Condition	Recommendations	Cat.
	<p>Our inspectors observed that there has been some movement within the brickwork (originally the chimney height/ weight above would have provided the compression onto the lower brickwork). As chimney mortar ages it loses its adhesion and whilst this movement is in the early stages if left unattended then more significant defects will occur.</p> <p>Unfortunately, this is typical in chimneys of this age.</p> <p>To reduce the occurrence of horizontal movement, we would recommend the installation of corner angles. Install heli-bars into the mortar joints at these locations.</p>	<p>Temporarily remove the P,L&amp; Y of the “Plymouth” name and set aside for reuse. Install heli-bars into the horizontal mortar joints in the upper 2 metres of chimney brickwork. Renew any mortar damaged using a sharp sand mix during the site works. Measure for, manufacture and supply vertical corner angles and 3no sets spaced to fit between the P, L, Y. Agree with the client on the top coat finish colour of the painted metalwork.</p>	<p>A</p>

Sections/ Areas of the Chimney	Inspection observation/ Condition	Recommendations	Cat.
	<p>The engineers viewed the annular space, no visual defects were identified at the time of inspection.</p> <p>The existing step irons are not a compliant method for access to the underside of the capping, under the Work At Height Regulations.</p>	<p>Install a “Y” spar vertical access system inside the chimney up to the new metal capping. Provide anti climb cover at base level.</p>	A
	<p>Whilst on site, the lower brickwork above flat roof level was repointed.</p> <p>Our lead inspector advised that the remainder of the chimney barrel should be repointed.</p>	<p>Repoint the remainder of the chimney barrel brick work.</p>	B
	<p>A general view below roof level, the chimney was viewed externally and at the time of inspection observed to be in a satisfactory condition.</p>	<p>No recommendations</p>	N/A



**Costing (Breakdown and Total)**

**CATEGORY A** [REDACTED] +VAT.  
**CATEGORY B** [REDACTED] -VAT- Budget Cost for 2024

**Measurements and Photographs**

Due to the nature of our works any measurements expressed in this report may be approximate only unless otherwise stated.

We would request that copies of the original design drawings are made available to us as part of our on-going assessment of the structure. This will also aid in the completion of the works which have been recommended within this report.

Digital photographs were taken during the course of the inspection and are enclosed with this report as evidence of defective areas or for identification purposes.

**Disclaimer**

We have not inspected parts of the structure which were inaccessible at the time of inspection and as such we are therefore unable to guarantee that any such part of the structure is free from defects.

Should any individual wish to access the chimney following our inspection they should undertake their own inspection and risk assessment to confirm the condition of the chimney at the time of their usage. Horizon Specialist Contracting Limited accepts no liability in respect to the safety of any personal accessing this chimney following this report or any loss as a result of any inaccuracies in this report.

Our offer is open for acceptance for a maximum of 30 days from the date stated on this Quotation. We reserve the right to review the quotation after the 30-day period and/or the stated date.

**Insurance Details**

Horizon has Employers Liability Insurance for £10 million, Public and Products Liability Insurance for £25 million and Professional Indemnity Insurance for £10 million, plus all Contractors All Risk at £750,000. Evidence of cover provided on the above-mentioned policies will be provided on request.

Project/Report:	Details:	Signature:
Inspecting Operative: Full name	Darryl Archer	N/A
Complied By: Full name	Arrieanne Green – Trainee Report Writer	[REDACTED]
Authorised By: Full Name	James Burns – Company Chairman	[REDACTED]
Organisation (name and address)	Horizon Specialist Contracting Ltd Unit 7 Burma Road, Blidworth	



	Nottinghamshire NG21 ORT	
Inspection Date	17/11/2022	

Repair Categories:	
<b>CATEGORY A</b>	<b><u>ESSENTIAL SERVICES</u></b> Unavoidable tasks required to meet statutory obligations and/or safety critical defects which must be carried out to avoid unacceptable degradation of core functional capability of the structure.
<b>CATEGORY B</b>	<b><u>RECOMMENDED SERVICES</u></b> Planned tasks which, if not undertaken, may result in unacceptable deterioration and/or disproportionate expenditure within the next 6 months.
<b>CATEGORY C</b>	<b><u>DESIRABLE SERVICES</u></b> Those services that it is necessary to undertake to maintain the value and utility of the asset.

Inspection History:			
<u>Date of Inspection</u>	<u>Condition/Category</u>	<u>Maintenance To Be Carried Out</u>	<u>Was The Work Carried Out?</u>
26/06/2014	B	See Report	Yes
26/07/2016	D	N/A	N/A
04/10/2018	D	N/A	N/A
09/11/2020	C	See Report	No

# HORIZON SPECIALIST CONTRACTING LIMITED

## CHIMNEY DETAILS (HIHS 065)

(Brick or Concrete)

Company Name: Chivas Brothers (Pernod Ricard) Ltd – Blackfriars Distillery, Plymouth  
Chimney Location: Brick Boilerhouse Chimney Date Inspected: 17/11/2022  
Name of Inspector: Mr D Archer Ground Conditions: Wet

1) CONSTRUCTED OF	Brick	2) SHAPE	Octagonal				
3) HEIGHT ABOVE GROUND LEVEL	23.25m	4) ABOVE ROOF OR FREESTANDING	16.75m				
5) DIA. AT BASE (INT)	N/A	6) DIA. AT BASE (EXT)	N/A				
7) DIA. AT TOP (INT)	N/A	8) DIA. AT TOP (EXT)	1700mm x 1700mm (octagonal)				
9) IS ACCESS DOOR AT BASE	Yes	10) DIMENSIONS (H)	2100mm	11) DIMENSIONS (W)	1000mm		
12) THICKNESS AT BASE	N/A	13) THICKNESS AT TOP	N/A				
14) NUMBER OF FLUES	None	15) FLUE 1 DIM.	N/A	16) FLUE 2 DIM.	N/A	17) FLUE 3 DIM.	N/A
18) CAP CONSTRUCTED OF	Concrete	19) DIMENSIONS (W)	1700mm	20) DIMENSIONS (D)	120mm		
21) NUMBER OF TIE-BARS	None	22) DIAMETER	N/A	23) SIZE OF ANGLES	N/A		
24) NUMBER OF REINFORCING BANDS	None	25) DIMENSIONS (THICKNESS)	N/A	26) DIMENSIONS (DEPTH)	N/A		
27) IS A BRICK LINING FITTED	Yes	28) WHAT IS ITS CONDITION	Varying				
29) METHOD OF ACCESS: STEEPLEJACK LADDERS, FIXED OR OTHER	Steeplejack Ladders						
30) IF ACCESS SOCKETS ARE FITTED, SIZE & TYPE OF THREAD	N/A						
31) IS A LIGHTNING CONDUCTOR SYSTEM, OR EARTH, INSTALLED	Yes	32) NO. OF AIR TERMINALS	1 No.				
33) NUMBER OF CORONAL TAPES	None	34) NUMBER OF DOWN CONDUCTORS	1 No.	35) SIZE OF TAPE	25x 3mm		
36) TYPE OF TAPE	Copper	37) PVC COVERED	No	38) COLOUR	N/A		
39) NO. OF EARTHS INSTALLED	1 No.	40) TYPE OF INSPECTION PIT	None				

### EARTH TEST RESULTS: (ohms)

1 - \_\_\_\_\_ 2 - \_\_\_\_\_ 3 - \_\_\_\_\_ 4 - \_\_\_\_\_ 5 - \_\_\_\_\_ 6 - \_\_\_\_\_

Unit 7, Burma Road, Blidworth, Nottinghamshire, NG21 0RT  
Telephone: [REDACTED]

May 2018 Terms and Conditions (the "Conditions")

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 6

1. INTERPRETATION

1.1 The definitions in this clause, those on the Quotation and the rules of interpretation in this clause, all apply to this Agreement:

**Act of Insolvency:** means: (i) a bankruptcy order is made against the relevant party or the relevant party makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors; or (ii) (being a body corporate) convenes a meeting of creditors (whether formal or informal); or enters into liquidation (whether voluntary or compulsory); or (iii) has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof; or documents are filed with the court for the appointment of an administrator; or (iv) or notice of intention to appoint an administrator is given by the relevant party or its directors or by a qualifying floating charge holder; or (v) or a resolution is passed or a petition presented to any court for the winding-up of the relevant party or for the granting of an administration order in respect of the relevant party; (vi) or any proceedings are commenced relating to the insolvency or possible insolvency of the relevant party; (vii) or the relevant party suffers or allows any execution, whether legal or equitable, to be levied on his property or obtained against him; (viii) or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (ix) or the Customer ceases to trade or any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events (i) to (viii) mentioned above.

**Agreement:** the contract between Horizon and the Customer for the supply of the services in accordance with the Quotation and these Conditions.

**Customer:** the person or firm to whom the Quotation is addressed.

**Customer's Equipment:** any equipment, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services.

**Horizon:** Horizon Specialist Contracting Limited (Co no: 02827337) whose registered office is at Unit 7, Burma Road, Blidworth, Nottingham, NG21 0RT.

**Horizon's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by Horizon or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

**Materials:** any products, materials and documents supplied, or agreed to be supplied, by Horizon or its agents, subcontractors, consultants and employees to the Customer in any form under the Agreement or as part of the supply of the Services.

**Order Confirmation Form:** The form, provided by Horizon, signed on behalf of the Customer to confirm the Customer's acceptance of the Quotation.

**Quotation:** Horizon's written quotation for carrying out the Services for the Customer in consideration for the Supply and Installation Fee / Annual Inspection / Maintenance Fee (as appropriate)

**Services:** the Supply and Installation Services (if any) and the Inspection and Maintenance Services (if any) or either or all of them to be provided by Horizon under this Agreement (and all as set out on the Quotation).

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 A reference to **writing** or **written** includes faxes and e-mail.
- 1.3 Any obligation in this Agreement on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.4 This Agreement shall prevail over any inconsistent terms or conditions contained, or referred to, in any Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing and the Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other document shall not govern this Agreement.
- 1.5 If the Customer is a corporate or unincorporated body (whether or not having separate legal personality) the person (**individual**) who has signed the Order Confirmation Form on behalf of the Customer warrants to Horizon (as a separate warranty from the individual himself / herself / it) that: (i) he / she / it is duly authorised by the Customer to give instructions to Horizon and to enter into this Agreement on behalf of the Customer; and that (ii) at the date of this Agreement the Customer is not subject to an Act of Insolvency.

2. HORIZON'S OBLIGATIONS

- 2.1 Horizon shall, during the term of this Agreement, use reasonable endeavours to:
  - (a) provide any Supply and Installation Services under this Agreement on or by the Delivery Date (or if not specified in the quotation, the date on which the parties have agreed the Services are to be carried out in accordance with clause 3.1(h));
  - (b) commence any Inspection and Maintenance Services under this Agreement within 30 days of this Agreement;
  - (c) continue to supply any Inspection and Maintenance Services each year thereafter (using reasonable endeavours to commence such continued Services within 30 days of each anniversary of this Agreement);
  - (d) meet any performance dates specified in this Agreement, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services; and
  - (e) observe all health and safety rules and regulations, and any other reasonable security requirements that apply at the Location(s) or at any of the Customer's premises and that have been communicated to it under clause 3.1(e), provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

3. CUSTOMER'S OBLIGATIONS

- 3.1 The Customer shall:
  - (a) co-operate with Horizon in all matters relating to the Services;
  - (b) provide Horizon, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation, data and other facilities as reasonably required by Horizon;
  - (c) provide Horizon, in a timely manner and at no charge to Horizon, with such information (including all drawings relating to any means, drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires and mains or other service media at or in the vicinity of the Location(s) or any of the Customer's premises at which the Services are being carried out) as Horizon may reasonably require and ensure that it is accurate in all material respects;
  - (d) be responsible (at its own cost) for preparing and maintaining the Location(s) or any of the Customer's premises for the supply of the Services (including identifying, monitoring, removing and disposing of any hazardous materials in accordance with all applicable laws, before and during the supply of the Services at those premises and informing Horizon of all of the Customer's obligations and actions under this clause 3.1(d));
  - (e) inform Horizon of all health and safety rules and regulations, potential environmental impacts and any other reasonable security requirements that apply at the Location(s) or any of the Customer's premises;
  - (f) ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements;
  - (g) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of Horizon's Equipment, the use of the Customer's Equipment in relation to the provision of the Services (in all cases before the date on which Horizon is to begin providing the Services to the Customer);
  - (h) if no Delivery Date is stated in the Quotation, provide written notice to Horizon of the date on which the Services are to be carried out; and
  - (i) provide written notice to Horizon of any changes it wishes to request to the Services stated in the Quotation no later than three weeks prior to the Delivery Date.
- 3.2 If Horizon's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees ("Customer Default") Horizon shall, without limiting its other rights or remedies:
  - (a) have the right to suspend performance of the Services until the Customer remedies the Customer Default;
  - (b) have the right to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Horizon's performance of any of its obligations;
  - (c) not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay; and
  - (d) have the right to require the Customer to reimburse Horizon on written demand for any costs or losses sustained or incurred by Horizon arising directly or indirectly from the Customer Default.
- 3.3 The Customer shall be liable to pay to Horizon, on demand, all reasonable costs, charges or losses sustained or incurred by Horizon (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement, subject to Horizon confirming such costs, charges and losses to the Customer in writing.

4. CHARGES AND PAYMENT

- 4.1 In consideration of the provision of any Supply and Installation Services by Horizon, the Customer shall pay the Supply and Installation Fee, together with the cost of any expenses and Materials necessary for the completion of the Supply and Installation Services, as invoiced to the Customer, unless the Supply and Installation Fee is expressed as a fixed price to include the costs of any Materials.
- 4.2 In consideration of the provision of any Inspection and Maintenance Services by Horizon, the Customer shall pay the Annual Inspection / Maintenance Fee, together with the cost of any expenses and Materials necessary for the completion of the Inspection and Maintenance Services, as invoiced to the Customer, each year. Horizon may increase the Annual Inspection / Maintenance Fee by 5% of the previous year's Annual Inspection / Maintenance Fee each year.
- 4.3 All charges quoted to the Customer shall be exclusive of VAT, which Horizon shall add to its invoices at the appropriate rate.
- 4.4 The Customer shall pay each invoice submitted to it by Horizon, in full and in cleared funds, within 30 days of receipt to a bank account nominated by Horizon.
- 4.5 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Horizon on the due date, Horizon may:
  - (a) charge interest on such sum from the due date for payment at the annual rate of 15%, accruing on a daily basis and being compounded quarterly (on the usual quarter days) until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand; and
  - (b) suspend all Services until payment has been made in full.
- 4.6 All sums payable to Horizon under this Agreement (or in relation to any Services that have been only partly performed at the time of termination, a fair and reasonable proportion of such sums) shall become due immediately on its termination, despite any other provision. This clause 4.6 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.
- 4.7 The Customer shall pay all amounts due under this Agreement in full without any set off, counterclaim, deduction or withholding (except for any deductions or withholding required by law). Horizon may, without prejudice to any other rights it may have, set off any liability of the Customer to Horizon against any liability of Horizon to the Customer.
- 4.8 Horizon reserve the right to charge the Customer for any reasonable additional costs, losses or expenses Horizon incurs in the event that:
  - (a) its employees or representatives are asked to leave the Location(s) (for reasons other than their own breach of this Agreement);
  - (b) it is required to provide the Services in any way other than in accordance with any method statements and risk assessments agreed or provided by Horizon for use in respect of the Services; or
  - (c) Horizon agrees to, or is required to, vary the Services following the Customer's request or in light of the condition of the Location.

5. RISK AND TITLE IN THE MATERIALS

- 5.1 The Materials are at the risk of the Customer from the commencement of their delivery at the relevant Location to the Customer premises.
- 5.2 Ownership of the Materials shall not pass to the Customer until Horizon has received in full (in cash or cleared funds) all sums due to it in respect of the Services; and all other sums which are or which become due to Horizon from the Customer on any account.
- 5.3 Until ownership of the Materials has passed to the Customer, the Customer shall:
  - (a) hold the Materials on a fiduciary basis as Horizon's bailee;
  - (b) store the Materials (at no cost to Horizon) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as Horizon's property;
  - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Materials; and
  - (d) maintain the Materials in satisfactory condition and keep them insured on Horizon's behalf for their full price against all risks to the reasonable satisfaction of Horizon. On request the Customer shall produce the policy of insurance to Horizon.
- 5.4 The Customer's right to possession of the Materials shall terminate immediately if an Act of Insolvency occurs in relation to the Customer or the Customer encumbers or in any way charges any of the Materials.
- 5.5 Horizon shall be entitled to recover payment for the Materials notwithstanding that ownership of any of the Materials has not passed from Horizon.
- 5.6 The Customer grants Horizon, its agents and employees an irrevocable licence at any time to enter any premises where the Materials are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

6. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 6.1 This clause 6 sets out Horizon's entire financial liability (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
  - (a) any breach of this Agreement including any deliberate personal repudiatory breach or any deliberate breach of this Agreement by Horizon, or its employees, agents or subcontractors;
  - (b) any use made by the Customer of the Services, the Materials or any part of them; and
  - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 6.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 6.3 Nothing in this Agreement limits or excludes Horizon's liability:
  - (a) for death or personal injury resulting from negligence;
  - (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by Horizon; or
  - (c) for any liability incurred by the Customer as a result of any breach by Horizon of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 6.4 Subject to clause 6.2 and clause 6.3 Horizon shall not be liable for loss of profits; or loss of business; or depletion of goodwill and/or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss of corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 6.5 Subject to clause 6.2 and clause 6.3, Horizon's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of this Agreement shall be limited to £1,000,000.00 (one million pounds).

7. TERMINATION

- 7.1 Either party may terminate this Agreement by giving to the other not less than three months' notice (provided that, where Horizon is providing Inspection and Maintenance Services, such notice may not expire on or before the last day of the Duration).
- 7.2 Without prejudice to any other rights or remedies which the parties may have, Horizon may terminate this Agreement immediately on giving notice to the Customer if:
  - (a) the Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
  - (b) the Customer commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
  - (c) the Customer repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or
  - (d) an Act of Insolvency occurs in relation to the Customer.
- 7.3 On termination of this Agreement for any reason:
  - (a) the Customer shall immediately pay Horizon all of Horizon's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Horizon may submit an invoice, which shall be payable immediately on receipt;
  - (b) the Customer shall return all of Horizon's Equipment. If the Customer fails to do so, then Horizon may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping;
  - (c) the accrued rights and liabilities of the parties as at termination, and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected; and
  - (d) clauses 5, 6, 7; and 14; shall survive and continue in full force and effect.

8. FORCE MAJEURE

Horizon shall have no liability to the Customer under this Agreement if it is prevented from, or delayed in, performing, its obligations under this Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of Horizon or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

9. VARIATION

- 9.1 Horizon may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.
- 9.2 Subject to clause 9.1, no variation of this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.

10. WAIVER

- 10.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given.
- 10.2 No failure or delay by a party in exercising any right or remedy under this Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise.
- 10.3 No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 10.4 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

11. ENTIRE AGREEMENT

This Agreement constitutes the whole agreement between the parties and supersedes and extinguishes all previous agreements between the parties relating to its subject matter. Each party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract), as expressly provided in this Agreement.

12. ASSIGNMENT

- 12.1 The Customer shall not, without Horizon's prior written consent, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 12.2 Horizon may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

13. GENERAL

- 13.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Agreement, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 13.2 Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 13.3 A person who is not a party to this Agreement shall not have any rights under or in connection with it.
- 13.4 Both parties will comply with all applicable requirements of the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation (EU) 2016/679 and any other directly applicable European Union regulation relating to privacy.
- 13.5 The Customer acknowledges and agrees that Horizon may process the Customer's personal data in connection with the Services in accordance with the terms set out in the Privacy Policy at [www.horizonse.co.uk/company-policies](http://www.horizonse.co.uk/company-policies).
- 13.6 If there is an inconsistency between any of these Conditions and the Quotation, the Quotation shall prevail.

14. GOVERNING LAW AND JURISDICTION

- 14.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.