

# RULES

ROAD AND SEWER BONDS

# INTRODUCTION

The **Scheme Administrator** has developed a service to act as Surety, providing Bonds for local authorities and water companies in relation to the construction of adoptable roads and sewers and cover by a Road and Sewer Bond insurance policy. Charges can apply if a **Bond Agreement** is not released by the agreed **Anticipated Release Date**.

The document sets out the terms and conditions including the defined terms used in this document. These are set out within the Definitions and Interpretation section of this document.

These **Rules** and any dispute or claim arising out of or in connection with them or their subject matter shall be governed by and construed in accordance with the laws of England and Wales.

The **Scheme Administrator** may at any time replace or modify these **Rules** and the **Scheme Administrator** will notify the **Developer** of the effective date of any replacement or modified **Rules**. For the avoidance of doubt these **Rules** shall have full force and effect (and be binding on the **Developer** accordingly) from, and including 1st June 2017.

**Please always quote your warranty reference number on any correspondence.**

Please read this document carefully. By applying for a Bond with the **Scheme Administrator** you will be deemed to have agreed to the legal responsibilities and obligations under these **Rules**. If you have queries of any nature then please do not hesitate to contact the **Scheme Administrator**.

## **Scheme Administrator:**

MD Insurance Services Ltd  
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MD Insurance Services Ltd is the **Scheme Administrator** for the Premier Guarantee range of structural warranties.  
MD Insurance Services Ltd is authorised and regulated by the Financial Conduct Authority.

# 1. DEFINITIONS AND INTERPRETATION

a) In these **Rules**, unless the context otherwise requires the following terms shall have the following meanings:

<b>Adoption / Vesting Certificate</b>	The formal written document issued by the <b>Policyholder</b> to the <b>Scheme Administrator</b> confirming the adoption of the <b>Building Works</b> .
<b>Anticipated Completion Date</b>	The date agreed between you and us when you apply for a Bond, as the anticipated point in time by which the <b>Scheme Administrator</b> will have received the <b>Adoption/Vesting Certificate</b> . This will be as advised by the applicant on the Road and Sewer Bond <b>Application Form</b> .
<b>Application Form</b>	The form used to gather information in respect of any <b>Bond Agreement</b> .
<b>Bond Agreement</b>	The formal agreement made between the <b>Policyholder</b> and the <b>Developer</b> for the execution and maintenance of the <b>Building Works</b> .
<b>Building Works</b>	Has the same meaning as in the <b>Policy</b> .
<b>Certificate of Insurance</b>	The Certificate issued by the <b>Scheme Administrator</b> on behalf of the <b>Underwriter</b> to confirm that the <b>Bond Agreement</b> is in place for the <b>Building Works</b> .
<b>Developer</b>	Any person or company who has entered into the <b>Bond Agreement</b> to undertake the <b>Building Works</b> and who is specified in the <b>Certificate of Insurance</b> .
<b>Development Site</b>	As confirmed on the <b>Application Form</b> and specified in the <b>Certificate of Insurance</b> .
<b>Expiry Date</b>	The completion date of the <b>Maintenance Period</b> upon which date the <b>Policyholder</b> shall issue an <b>Adoption / Vesting Certificate</b> and upon which date the obligations of the <b>Scheme Administrator</b> and the <b>Underwriter</b> shall be fully discharged.
<b>Grace Period</b>	A period starting on the <b>Anticipated Release Date</b> and ending 6 months from that date. The <b>Grace Period</b> will be used when calculating any applicable <b>Penalty Administration Charge</b> .
<b>Limit of Indemnity</b>	The maximum aggregate financial liability of the <b>Underwriter</b> as detailed on the <b>Certificate of Insurance</b> for the <b>Bond Agreement</b> identified in the <b>Policy</b> and beyond which the <b>Underwriter</b> has no liability..
<b>Maintenance Period</b>	Unless agreed otherwise by the <b>Scheme Administrator</b> a period not exceeding 12 calendar months from the date of completion of the Construction works.
<b>Penalty Administration Charge</b>	The fees payable by the <b>Developer</b> to the <b>Scheme Administrator</b> in the event that the obligations of the <b>Scheme Administrator</b> and the <b>Underwriter</b> have not been fully discharged during the <b>Grace Period</b> .
<b>Policyholder</b>	Means a local authority, water company, urban development corporation, government department or other public or private body entering into a <b>Bond Agreement</b> and having the benefit of cover under a Road and Sewer Bond <b>Policy</b> as detailed in the <b>Certificate of Insurance</b> .
<b>Policy</b>	Means the relevant Premier Guarantee Road and Sewer Bond policy of insurance issued by the Scheme Administrator on behalf of the Underwriter in respect of the relevant Bond Agreement.
<b>Rules</b>	Means these Road and Sewer Bonds Rules.
<b>Scheme Administrator</b>	Means MD Insurance Services Ltd.
<b>Sum Insured</b>	The value of the <b>Bond Agreement</b> identified on the <b>Certificate of Insurance</b> subject to the terms and conditions of the <b>Policy</b> and the <b>Limit of Indemnity</b> .
<b>Underwriter</b>	Has the meaning given to such term in the <b>Policy</b> .

1.1 In addition to the terms defined in Clause 1.0, any other words shown in bold in this document shall have the meanings given to them in the **Policy** and / or the **Rules** (unless otherwise defined in this agreement or where the context otherwise requires). For the avoidance of doubt, in the event that any of the defined terms in the **Policy** and / or the **Rules** are amended from time to time, then any such terms which are used in this document shall have the meanings given to them as so amended. Where any term used in this document is given the meaning ascribed to such term in the **Policy**, the **Rules** and such term is defined differently in the **Policy** and the **Rules**, then the meaning given to such term in the **Policy** shall apply to this document.

## 2. SERVICE

- a) The **Scheme Administrator** reserves the right to withhold or withdraw this service for any bond application, and may change applicable terms and conditions at any time subject to notification.
- b) A bond is a conditional undertaking to pay a sum of money with a view to assisting a **Policyholder** to complete the work concerned in the event that the works noted in the **Bond Agreement** are not completed.
- c) As a condition of using the service and before any **Bond Agreement** is entered into by the **Scheme Administrator** as surety, all applicants must enter into an indemnity agreement in the form required by the **Scheme Administrator** on behalf of the **Underwriter**.
- d) This service is offered entirely at the discretion of the **Scheme Administrator**.

## 3. CONDITIONS OF APPLICATION

The **Scheme Administrator** can consider a bond application if:

- a) The Applicant is a registered **Developer** with a premium rating of 1\* - 6.
- b) The bond application must relate to a **Development Site** on which all homes will be registered with the **Scheme Administrator** for warranty cover under one of the **Scheme Administrator's** schemes.
- c) The bond required must relate to an element of residential development.
- d) For multi-phased developments, each phase must be covered by a separate bond. The bonds cannot run concurrently.
- e) The works noted in the **Bond Agreement** should be completed within a maximum of 5 years from application, and no bond will be entered into if the **Anticipated Release Date** is more than 5 years from the date of commencement.
- f) The surety noted within the **Bond Agreement** must be MD Insurance Services Ltd.
- g) The requested **Limit of Indemnity** applied for must be reasonable and the **Scheme Administrator** may request further information in respect of the calculations of costs in respect of the works to be bonded.
- h) The Limit of Indemnity of each individual **Bond Agreement** cannot be more than £500,000.
- i) The **Scheme Administrator** may apply a limit for the total sum of **Bond Agreements** that can be issued to a **Developer / Builder**. If a limit is applied to a **Developer / Builder** this will be calculated entirely at the discretion of the **Scheme Administrator**.
- j) Where the **Developer** is part of a group of companies registered with the **Scheme Administrator**, the **Developer** may be permitted to exceed its own limit provided the total Bond limit for the group will not be exceeded. If a group Bond limit is applied this will be calculated entirely at the discretion of the **Scheme Administrator**.

## 4. BOND APPLICATION PROCESS

- a) When submitting your application please ensure you send the following as a pre-condition to being provided with a Bond to the **Scheme Administrator**:
  - i. A completed Road and Sewer Bond **Application Form** which has been signed by an Authorised Signatory.
  - ii. Originals and copies of the proposed Bond and / or the **Bond Agreement** noting the surety as MD Insurance Services Ltd.
  - iii. A site plan, which clearly identifies the units to be served by the **Bond Agreement** and the location of the **Building Works**.
  - iv. If applicable, a copy of the Construction Consent (Scotland only).
  - v. For anything non-standard e.g. joint applications please ensure full details are provided.
- b) Please note that the name of the surety used within the Bond must be MD Insurance Services Ltd. If MD Insurance Services Ltd. is not the name stated as surety on the document, the document will not be reviewed and will be returned to the **Developer** to be revised and resubmitted.
- c) Please note that the **Scheme Administrator** reserves the right to charge a non-refundable administration fee, payable by the applicant upon submission of the **Application Form**, for each **Bond Agreement** applied for. Details of any applicable administration fees will be detailed on the **Application Form**.
- d) Upon receipt of the above, if the information received is acceptable, we will sign and seal the **Bond Agreement** as required and return this to the applicant with a **Certificate of Insurance** and a **Policy**. Within one month, you must send a fully executed original back to the **Scheme Administrator** for their records.

Note: Only use approved forms of bond i.e. the Home Builders Federation or the Local Government Association forms will be accepted.

## 5. COMPLETION

- a) Once each phase of the **Bond Agreement** is completed you must confirm any reductions affecting the **Limit of Indemnity** to the **Scheme Administrator** by providing a copy of this acknowledgement e.g. a Partial Completion Certificate, from the **Policyholder**.
- b) When the work has been adopted by the **Policyholder**, you must provide the **Scheme Administrator** with the **Adoption / Vesting Certificate** which confirms that the **Underwriter** is released from its obligations under the terms of the **Bond Agreement**.
- c) Failure to provide the **Adoption / Vesting Certificate** may result in **Penalty Administration Charges** being incurred. Please refer to Section 11.0 of this document - **Charges** for additional details.

## 6. CONDITIONS

- a) These terms and conditions apply in relation to every application for a Bond submitted to the **Scheme Administrator**.
- b) When the **Scheme Administrator** executes a **Bond Agreement**, the **Developer** will be irrevocably and unconditionally bound to comply with these terms and conditions.
- c) The **Scheme Administrator** may change the criteria for this service and any other applicable terms and conditions entirely at its own discretion.
- d) Nothing in these terms and conditions obliges the **Scheme Administrator** to act as a surety or to issue or enter into any **Bond Agreement**. The **Scheme Administrator** reserves the right to decline to enter into any **Bond Agreement**.

## 7. TIMESCALES

- a) Work on the **Development Site** must be due to start under that **Bond Agreement** within one year of the date of application.
- b) All work that is the subject of the **Bond Agreement** (including any post-construction maintenance work) must be due to be completed within a maximum period of five years.
- c) If the work does not start within one year and / or is not completed within five years by the **Developer**, the **Scheme Administrator** reserves the right to require the **Developer** to put alternative bond arrangements in place and release in full the obligations of the **Scheme Administrator** and the **Underwriter** under the terms of the original **Bond Agreement**.
- d) The **Scheme Administrator** may, without limiting its other rights, impose **Penalty Administration Charges** for any and all **Bond Agreements** not released by the **Anticipated Release Date**.
- e) It is the **Developer's** responsibility to ensure that the **Policyholder** and any other parties execute and complete any **Bond Agreement** to which the **Scheme Administrator** is party to.
- f) The **Developer** must ensure that a fully executed original copy of the **Bond Agreement** is provided to the **Scheme Administrator**, within one calendar month of execution by the **Scheme Administrator**.
- g) It is the **Developer's** responsibility to ensure that the **Policyholder** confirms the **Expiry Date** of a **Bond Agreement** to the **Scheme Administrator** and the **Developer** must use all reasonable endeavours to have the **Policyholder** of a **Bond Agreement** issue and deliver to the **Scheme Administrator** formal confirmation of the **Expiry Date** of the **Bond Agreement**.
- h) If the **Developer** fails to present evidence of the **Expiry Date** to the **Scheme Administrator** of the **Bond Agreement**, the **Scheme Administrator** reserves it right to apply a **Penalty Administration Charge**.
- i) The **Scheme Administrator** at its sole discretion may choose to apply a **Grace Period** running from the **Anticipated Completion Date**. If such **Grace Period** expires, a **Penalty Administration Charge** will be calculated from the **Anticipated Release Date** by the **Scheme Administrator** and will be payable by the **Developer** as set out within the **Charges** section of this document.

## 8. RELEASE OF BONDS

- a) It is the **Developer's** responsibility, not the **Scheme Administrator's**, to obtain the **Policyholder's** written acknowledgment of the reduction and eventual discharge of the **Developer's** obligations under each **Bond Agreement**.
- b) For the purposes of calculating any **Penalty Administration Charge** due, The **Scheme Administrator** will only calculate such charges in the event that it has not received the **Policyholder's** written notification that the **Bond Agreement** has been discharged prior to the end of any applicable **Grace Period**.

## 9. EXPIRY DATE

- a) The **Scheme Administrator** may, by written notice to the **Developer**, require the **Developer** to obtain formal confirmation from the **Policyholder** of the **Expiry Date** of the **Bond Agreement** in these circumstances:
  - i. if the **Developer** is in breach of any of its obligations under these **Rules** or under the **Bond Agreement**;
  - ii. if in the event that the **Developer** transfers ownership (or part ownership) of the **Development Site** to another party;
  - iii. if there is a change in ownership of the **Developer** without the **Scheme Administrator's** prior knowledge and formal confirmation of acceptance.
- b) In the event of any of the circumstances indicated within Section 9.0 a) of this document arising, the **Scheme Administrator** may, by written notice to the **Developer**, impose additional conditions on the **Developer** on such terms as the **Scheme Administrator** may reasonably require.

## 10. INDEMNITY

- a) The **Developer** agrees to indemnify the **Scheme Administrator** and the **Underwriter** against any payments, costs (including legal and professional fees), and any other liabilities that the **Scheme Administrator** and the **Underwriter** may incur under the terms of a **Bond Agreement**, as a result of any failure by the **Developer** to comply with their obligations under the **Bond Agreement** and/or these **Rules**.
- b) The **Scheme Administrator** and the **Underwriter** will require the **Developer** to enter into a form of indemnity.
- c) The **Scheme Administrator** and the **Underwriter** may require the parent or ultimate holding company of the Applicant to enter into an indemnity covering **Bond Agreements** relating to its subsidiaries if the **Developer** is part of a group of companies (whether or not the parent or holding company is itself registered with the **Scheme Administrator**).
- d) The **Developer** agrees to carry out and complete (or to procure the carrying out and completion of) said works noted in the **Bond Agreement**. If the works are not carried out and completed satisfactorily, the **Scheme Administrator** and the **Underwriter** may, at its option, without reference to and at the **Developer's** expense, either arrange to have the work done, or reimburse the **Policyholder** for the cost of the work. In this event, any costs incurred by the **Scheme Administrator** or **Underwriter** will be recoverable in full from the **Developer** under the terms of the indemnity.
- e) Any breach by the **Developer** of any of these terms and conditions will amount to a breach of the **Rules**.
- f) Nothing in these terms and conditions limits or impairs in any way any and all other rights that the **Scheme Administrator** and the **Underwriter** may have with respect to the **Developer's** obligations under the **Rules** or any indemnities or counter-indemnities or any other agreement entered into at any time between the **Scheme Administrator**, the **Underwriter** and the **Developer**.
- g) Without limiting any of the **Scheme Administrator's** rights, any payment made by the **Scheme Administrator** and the **Underwriter** to a **Policyholder** under a **Bond Agreement**, will immediately become due and payable as a debt from the **Developer** to the **Scheme Administrator** and the **Underwriter** on the date of such payment, without notice or demand to the **Developer**.

## 11. CHARGES

If the **Developer** fails to provide to the **Scheme Administrator** an **Expiry Date** for the **Bond Agreement**, following any **Grace Period** the **Penalty Administration Charges** applicable will be calculated on the following basis:

- a) A charge will be calculated for any applicable bond upon the expiry of the **Anticipated Release Date**.
- b) The **Penalty Administration Charges** will be calculated on the basis set out in e) below and charged based on the full month beyond the **Anticipated Release Date** that the **Bond Agreement** remains in force and until the **Scheme Administrator** and Underwriter are formally released from their obligations by the **Policyholder**.
- c) The minimum charge per invoice will be £50 + VAT per quarter.
- d) Subject to this minimum amount, the **Penalty Administration Charge** per **Bond Agreement** will be calculated as a percentage of the original **Limit of Indemnity** of the **Bond Agreement** (and/or or any lower **Limit of Indemnity** subsequently confirmed in writing to the **Scheme Administrator** by the **Policyholder**).
- e) The following table confirms the rates applicable and provides an example of the **Penalty Administration Charge** to be applied based upon the **Bond Agreement** value overdue and on risk at the time of calculation of £50,000.00 (noting that the costs accrued from previous years are still payable). Please note that the applicable rate will be applied to the current Limit of Indemnity. In the event therefore that the **Limit of Indemnity** is altered, any **Penalty Administration Charges** will be based on revised **Limit of Indemnity**.

	Quarterly Rate	Quarterly Charge	Annual Charge
During the first year per quarter	0.1%	£50	£200
During the second year per quarter	0.2%	£100	£400
During the third year per quarter	0.3%	£150	£600
During the fourth year per quarter	0.5%	£250	£1,000
During the fifth year per quarter	0.63%	£315	£1,260
During the subsequent years per quarter	0.75%	£375	£1,500

- f) The **Scheme Administrator** reserves the right to amend these charges at any time.



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