



Rules of
**Department of Insurance,
Financial Institutions and
Professional Registration**

**Division 200—Insurance Solvency and Company Regulation
Chapter 18—Warranties and Service Contracts**

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**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION
Division 200—Insurance Solvency and
Company Regulation
Chapter 18—Warranties and Service
Contracts**

**20 CSR 200-18.010 Registration of Service
Contract Administrators**

PURPOSE: The purpose of this rule is to effectuate the provisions of sections 407.1200 to 407.1227, RSMo, regarding the registration of all administrators of service contracts sold in this state.

(1) Each “administrator,” as that term is used in sections 407.1200 to 407.1227, RSMo, shall register with the director by completing and filing a Service Contract Administration Registration on a form provided by the director and in accordance with the instructions contained therein. Effective January 1, 2007, each administrator is required to register at the following times:

(A) Before administering any “service contract,” as that term is used in sections 407.1200 to 407.1227, RSMo, unless such administration occurs in January 2007, in which case registration must occur between January 1 and February 1 of 2007; and

(B) Annually thereafter between January 1 and February 1.

(2) Each completed and filed registration form must be accompanied by:

(A) Payment of a registration fee of five hundred dollars (\$500) for each provider, including the registering administrator if the administrator is also a provider, on behalf of whom the administrator is or will be administering any service contract (fee = \$500 × number of providers); and

(B) A completed provider exhibit, on a form provided by the director and in accordance with the instructions contained therein, for each provider, including the registering administrator if the administrator is also a provider, on behalf of whom the administrator is or will be administering any service contract. Each provider exhibit shall be accompanied by the surety bond or the guaranty in the form set forth in Appendices A and B to rule 20 CSR 200-18.020 of this chapter, if the provider’s assurance of the faithful performance of its obligations to its contract holders includes a surety bond or guaranty.

(3) In addition to the requirements of sections (1) and (2) of this rule, each administrator shall complete and file a provider exhibit within thirty (30) days after an administrator begins to administer any service contract on behalf of any provider for whom a completed provider exhibit was not included with the administrator’s most recently filed registration.

(4) Copies of the Service Contract Administrator Registration and Provider Exhibit forms may be obtained from the director at: Attention: Admissions Specialist, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

(5) For purposes of this rule and rule 20 CSR 200-18.020, the term “provider” refers only to the party that is contractually obligated to provide service under a motor vehicle extended service contract. Such term does not refer to an administrator or seller of the product that is not so obligated.

AUTHORITY: section 407.1225, RSMo Supp. 2005. Original rule filed June 26, 2006, effective Dec. 30, 2006.*

**Original authority: 407.1225, RSMo 2004.*

**20 CSR 200-18.020 Faithful Performance
of a Provider’s Obligations to its Contract
Holders**

PURPOSE: The purpose of this rule is to effectuate the provisions of sections 407.1200 to 407.1227, RSMo, regarding assuring the faithful performance of a provider’s obligations to its contract holders.

(1) Each provider who is contractually obligated to provide services under a service contract shall:

(A) Insure all service contracts under a reimbursement insurance policy as provided in section 407.1203.3(1), RSMo;

(B) Maintain a funded reserve account and place in trust with the director a financial security deposit as provided in section 407.1203.3(2)(a) and (b), RSMo; or

(C) Maintain a net worth of at least one hundred (100) million dollars as provided in section 407.1203.3(3)(a), RSMo, and provide the information required under section 407.1203.3(3)(b), RSMo.

(2) To assure the faithful performance of a provider’s obligations to its contract holders:

(A) Each provider electing to insure all service contracts under a reimbursement insurance policy, as set forth in section 407.1203.3(1), RSMo, and subsection (1)(A) of this rule, shall comply with the following requirements:

1. Any such policy shall be issued by an insurance company authorized to transact insurance in this state. As used in this paragraph, the term “insurance company authorized to transact insurance in this state” means either an insurance company with a valid certificate of authority from the director to transact liability insurance or a financially responsible risk retention group (RRG). A financially responsible risk retention group (RRG), is any RRG that meets each of the following requirements:

A. Such RRG is registered with the director pursuant to sections 375.1080–375.1105, RSMo.

B. Such RRG files with the director its most recent sworn annual statement reporting at a minimum its balance sheet (assets and liabilities, surplus and other funds), income statement or statement of profit and loss (summary of operations), and cash flow statement, which annual statement:

(I) Was prepared with the consistent application of statutory accounting principles, as shown by the National Association of Insurance Commissioners (NAIC’s) *Accounting Practices and Procedures Manual* as provided in 20 CSR 200-1.020, with only those deviations from such principles as are commonly allowed insurance companies which possess a certificate of authority from the director to transact liability insurance; and

(II) Has been, within five (5) years after the “as of” date of such annual statement, examined by this department or any other state insurance regulatory authority which was, at the time of the examination, accredited pursuant to the Financial Regulation Standards and Accreditation Program of the NAIC; and

(III) Shows that on the basis of such statutory accounting principles, the RRG maintains at least (\$1,600,000) in surplus as regards policyholders, has deposited with the insurance regulatory authority of its state of domicile for the security of all its policyholders and creditors cash or securities valued at no less than eight hundred thousand dollars (\$800,000), and is not in a hazardous financial condition;

2. Either:

A. No such policy may have any deductible or retention payable by the policyholder or claimant under the policy; or



B. To the extent that any such policy has a deductible or retention payable by the policyholder or claimant under the policy, the provider must either:

(I) Maintain a funded reserve account and place in trust with the director a financial security deposit as provided in section 407.1203.3(2)(a) and (b), RSMo, and this rule, for the difference between the amount paid by or on behalf of the service contract holder for the service contract and the amount paid by or on behalf of the provider for the reimbursement insurance policy; or

(II) Maintain a net worth of at least that percentage of one hundred (100) million dollars which is determined by dividing the difference between the total amount paid by or on behalf of all service contract holders for the service contracts insured under the reimbursement insurance policy and the total amount paid by or on behalf of the provider for the reimbursement insurance policy by the total amount paid by or on behalf of all service contract holders for the service contracts insured under the reimbursement insurance policy and provide the information required under section 407.1203.3(3)(b), RSMo.

(B) Each provider electing to maintain a funded reserve account, as set forth in section 407.1203.3(2)(a), RSMo, and subsection (1)(B) of this rule, shall establish and maintain such account in accordance with each of the following requirements:

1. Such account shall be maintained in cash or cash equivalent in either:

A. A “qualified United States financial institution” as that term is defined in section 375.246.3(2), RSMo; or

B. Such other financial institution as specifically approved in writing by the director;

2. At least forty percent (40%) of gross considerations received on the sale of each service contract shall be deposited into such account;

3. No check or draft may be drawn on such account, except for:

A. The payment of a claim under a service contract for which at least forty percent (40%) of the gross consideration was deposited into such account; or

B. Payment to the provider at the expiration of a service contract of any positive balance of the difference between the sums deposited into such account under such contract and the claims paid from such account under such contract, provided, however, that no such payment may be made to the provider if after such payment the balance in such account would be less than the difference between forty percent (40%) of the total

gross considerations received under all such contracts and the claims paid on all such contracts; or

C. Such payment as the director may specifically approve in writing; and

4. Any cash withdrawal from or check or draft payable to cash or bearer drawn on such account shall be presumed in violation of this rule, unless sufficient written evidence is maintained showing that such withdrawal, check or draft was made for one of the purposes listed in subparagraphs (2)(B)3.A., B., or C. above.

(C) Each provider placing in trust with the director a financial security deposit, as set forth in section 407.1203.3(2)(b), RSMo, and subsection (1)(B) of this rule, shall comply with the following requirements:

1. The amount of such deposit shall at least equal the greater of five percent (5%) of the gross consideration received, less claims paid, on the sale of all service contracts issued and in force or twenty-five thousand dollars (\$25,000); and

2. To the extent, if any, that such deposit consists of:

A. Cash or securities as permitted by section 407.1203.3(2)(b)b or c, RSMo, such deposit shall be made with the same depository and upon the same terms and conditions as the capital deposits of insurance companies domiciled in this state, except that the amount of the deposit will be determined by the provisions of section 407.1203.3(2)(b), RSMo and this rule;

B. A surety bond, as provided in section 407.1203.3(2)(b)a, RSMo, that shall be acceptable only if the bond is completed on the form included herein as Appendix A to this rule and filed with the director along with the provider’s completed provider exhibit; or

C. A letter of credit, as provided in section 407.1203.3(2)(b)e, RSMo, that shall comply with the following requirements:

(I) The letter of credit must be issued by a “qualified financial institution” as defined in section 375.246.3(1), RSMo, or such other financial institution as specifically approved in writing by the director; and

(II) The terms of the letter of credit must comply with the terms and conditions for letters of credit stated in subsections (A), (B), (C) and (D) of section (9) of 20 CSR 200-2.100, including, but not limited to, the requirements that such letter of credit be clean, irrevocable and unconditional, except that the beneficiary shall be the director and his or her successors in office.

(D) Each provider maintaining a net worth of one hundred (100) million dollars and establishing such net worth through the

provider’s parent company, as set forth in section 407.1203.3(3)(b), RSMo, and subsection (1)(C) of this rule, shall comply with the following requirements with respect to the guaranty of the parent company:

1. The guaranty shall be in writing in the form included herein as Appendix B to this rule; and

2. The guaranty shall be filed with the director along with the provider’s completed provider exhibit.



STATE OF MISSOURI
Department of Insurance, Financial Institutions
And Professional Registration

Appendix A

P.O. BOX 890
JEFFERSON CITY, MO 65102

BOND OF SERVICE CONTRACT PROVIDER

BOND NUMBER

STATE OF MISSOURI COUNTY OF _____

We, (TPA) _____
as principal, and (Surety Company) _____,
as Sureties, are held and bound to the Director of Insurance, Financial Institutions and Professional
Registration ("Director"), or his/her successor in office, for the use and benefit of said principal's service
contract holders, in the sum of _____ Thousand Dollars (\$____,000.00), lawful money of the
United States of America, for the payment of which we bound ourselves, our heirs, executors, administrators,
successors, and assigns, jointly and severally.

THE CONDITION OF THE ABOVE BOND is that the said principal is now or is about to become a
service contract provider in accordance with the provision of Sections 407.1200, 407.1203, 407.1206,
407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227, RSMo. This bond
shall continue in force until cancelled as provided for herein.

If the said principal shall fully comply with the provisions of the Laws of the State of Missouri, and shall
have been reported to the Director, before February 1 of each calendar year, on the form and in the manner
required by the Director for service contract providers, and shall do and perform all other things required by
Sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224,
407.1225, and 407.1227, RSMo, including but not limited to said principal's faithful performance of its
obligations to its service contract holders, then this bond shall be of no effect; otherwise to be and remain in full
force and effect.

The surety on the bond shall have the right to cancel the bond upon giving thirty (30) days notice to the
Director. The surety thereafter shall be relieved of liability for any breach of condition occurring after the
effective date of the cancellation.

IN WITNESS WHEREOF, The said principal has hereunto set his hand and seal, and the said surety
has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereto
affixed the date and year below written.

SEAL

PRINCIPAL

BONDING COMPANY

BY-ATTORNEY-IN-FACT

DATE APPROVED DIRECTOR OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION

Sealed with our seals and dated this _____ day of _____,



Guaranty of Motor Vehicle Service Contract Obligations

(Appendix B)

In consideration of the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, including his or her successor in office (the "Director"), accepting the registration of or otherwise in the Director's discretion giving other accommodations to _____, a Missouri corporation (the "Provider"), under the motor vehicle extended service contract law (sections 407.1200 through 407.1227 of the Revised Statutes of Missouri ("RSMo")), the undersigned (the "Guarantor") hereby unconditionally guarantees to the Director that (a) the Provider will duly and punctually pay or perform, at the place specified therefor, or if no place is specified, at the Director's office, all indebtedness, obligations and liabilities, direct or indirect, matured or unmatured, primary or secondary, certain or contingent, of the Provider to the holders of the Provider's service contracts now or hereafter owing or incurred (including without limitation costs and expenses incurred by such holders in attempting to collect or enforce any of the foregoing) which are chargeable to the Provider either by law or under the terms of the service contracts with the Provider accrued in each case to the date of payment hereunder (collectively the "Obligations" and individually an "Obligation"); and (b) if there is an agreement or instrument evidencing or executed and delivered in connection with any Obligation, the Provider will perform in all other respects strictly in accordance with the terms thereof.

This Guaranty is an absolute, unconditional and continuing guaranty of the full and punctual payment and performance by the Provider of the Obligations and not of their collectability only and is in no way conditioned upon any requirement that the Director first attempt to collect any of the Obligations from the Provider or any other party primarily or secondarily liable with respect thereto or resort to any security or other means of obtaining payment of any of the Obligations which the Director now has or may acquire after the date hereof, or upon any other contingency whatsoever.

Upon any default by the Provider in the full and punctual payment and performance of the Obligations, the liabilities and obligations of the Guarantor hereunder shall, at the option of the Director, become forthwith due and payable to the Director, for the use and benefit of the Provider's service contract holders, without demand or notice of any nature, all of which are expressly waived by the Guarantor. Payments by the Guarantor hereunder may be required by the Director on any number of occasions.

The Guarantor further agrees, as the principal obligor and not as a guarantor only, to pay the Director, for the Director's own use and benefit, forthwith upon demand, in funds immediately available to the Director, all costs and expenses (including court costs and legal expenses) incurred or expended by the Director in connection with this Guaranty and the enforcement hereof, together with interests on amounts recoverable under this Guaranty from the time such amounts become due until payment at the usual rate charged by the Director in similar circumstances, but in no event less than nine percent (9%) per annum.

The liability of the Guarantor hereunder shall be unlimited in amount.

The obligations of the Guarantor under this Guaranty shall continue in full force and effect until the Director shall have received from the Guarantor written notice of the Guarantor's intention to discontinue this Guaranty, notwithstanding any intermediate or temporary payment or settlement of the whole or any part of the Obligations. No such



notice shall affect the liability of the Guarantor hereunder with respect to any Obligations incurred by Provider to the Director prior to the receipt of such notice. In the event of any such discontinuance of this Guaranty, all claims for payment made under service contracts of the Provider purporting to be dated on or before the date such discontinuance is received by the Director shall form part of the Obligations. No such notice shall be effective unless received and acknowledged by representative of the Director at the office of the Director.

The Guarantor grants to the Director, as security for the full and punctual payment and performance of the Guarantor's obligations hereunder, a continuing lien on and security interest in all securities or other property belonging to the Guarantor now or hereafter held by the Director and in all sums due from the Director to the Guarantor; and, regardless of the adequacy of any collateral or other means of obtaining repayment of the Obligations, the Director may at any time and without notice to the Guarantor set off the whole or any portion or portions of any or all such deposits and other sums against amounts payable under this Guaranty.

The Director shall be at liberty, without giving notice to or obtaining the assent of the Guarantor and without relieving the Guarantor of any liability hereunder, to deal with the Provider in any manner for any of the Obligations, in such manner as the Director in his or her sole discretion deems fit, and to this end the Guarantor gives to the Director full authority in his or her sole discretion to do any or all of the following things: (a) grant time, waivers and other indulgences to the Provider in respect to the Obligations or compliance with sections 407.1200 through 407.1227, RSMo, or rules adopted by the Director pursuant thereto, (b) vary, exchange, release or discharge, wholly or partially, or delay in or abstain from perfecting and enforcing any security or guaranty or other means of obtaining payment of any of the Obligations which the Director now has or acquires after the date hereof, (c) accept partial payments from the Provider or any such other party, (d) release or discharge, wholly or partially, any endorser or guarantor, and (e) compromise or make any settlement or other arrangement with the Provider or any other party.

If for any reason the Provider has no legal existence or is under no legal obligation to discharge any of the Obligations undertaken or purported to be undertaken by it or on its behalf, or if any of the moneys included in the Obligations have become unrecoverable from the Provider by operation of law or for any other reason, this Guaranty shall nevertheless be binding on the Guarantor to the same extent as if the Guarantor at all times had been the principal service contract provider on all such Obligations. This Guaranty shall be in addition to any other guaranty or other security for the Obligations, and it shall not be prejudiced or rendered unenforceable by the invalidity of any such other guaranty or security. Notwithstanding any payment by Provider to any service contract holder or holders of the whole or any portion of the Obligations, if the service contract holder or holders shall be required to pay any amount so paid to the service contract holder or holders to a Trustee in Bankruptcy of Provider, the Guarantor shall remain liable hereunder to the Director for any sums so paid to said Trustee.

The Guarantor waives notice of acceptance hereof, notice of any action taken or omitted by the Director in reliance hereon, and any requirement that the Director be diligent or prompt in making demands hereunder, giving notice of any default by the



Provider or asserting any other right of the Director hereunder. The Guarantor also irrevocably waives, to the fullest extent permitted by law, all defenses which at any time may be available in respect of the Guarantor's obligations hereunder by virtue of any homestead exemption, statute of limitations, valuation, stay, moratorium law or other similar law now or hereafter in effect.

So long as any Obligation remains unpaid or undischarged, the Guarantor will not, by paying any sum recoverable hereunder (whether or not demanded by the Director) or by any means or on any other ground, claim any set-off or counterclaim against the Provider in respect of any liability of the Guarantor to the Provider, or in proceedings under the Bankruptcy Code or insolvency proceedings of any nature, prove in competition with the Director in respect of any payment hereunder or be entitled to have the benefit of any counterclaim or proof of claim or dividend or payment by or on behalf of the Provider or the benefit of any other security for any Obligation which, now or hereafter, the Director may hold or in which it may have any share or have any right of subrogation, reimbursement or indemnity or right or recourse to any security which Director may have or hold with respect to the Obligations.

Any demand on or notice to the Guarantor shall be in writing and shall be effective when handed to the Guarantor or left at, or mailed, or sent by telegraph, or faxed, to the Guarantor's usual or last known address.

No provision of the Guaranty can be changed, waived or discharged except by an instrument in writing signed by the Director and the Guarantor expressly referring to the provision of this Guaranty to which such instrument relates; and no such waiver shall extend to, affect or impair any right with respect to any Obligation which is not expressly dealt with therein. No course of dealing or delay or omission on the part of the Director in exercising any right shall operate as a waiver thereof or otherwise be prejudiced thereto.

This Guaranty is enforceable by and only by the Director. No person or entity other than the Director shall have any right or claim under this Guaranty.

This Guaranty is intended to be governed by and construed in accordance with the laws of the State of Missouri and shall inure to the benefit of the Director and his or her successors in office, and assigns, and shall be binding on the Guarantor and the Guarantor's heirs, assigns and legal representatives.

In Witness Whereof, the Guarantor has executed this Guaranty or has caused this Guaranty to be executed on its behalf by an officer or other person thereunto duly authorized on the ____ day of _____, 20__.

WITNESS:

By: _____
[Title]

[Address]



*AUTHORITY: section 407.1225, RSMo Supp. 2005. * Original rule filed June 26, 2006, effective Dec. 30, 2006.*

**Original authority: 407.1225, RSMo 2004.*