

Farm Service Agency, USDA

§ 763.19

will execute the Agency's guarantee agreement.

(c) The "Land Contract Agreement for Prompt Payment Guarantee" or the "Land Contract Agreement for Standard Guarantee" will describe the conditions of the guarantee, outline the covenants and any agreements of the buyer, seller, escrow or servicing agent, and the Agency, and outline the process for payment of loss claims.

§ 763.18 General servicing responsibilities.

(a) For the prompt payment guarantee plan, the seller must use a third party escrow agent approved by the Agency. The escrow agent will:

(1) Provide the Agency a copy of the recorded Land Contract;

(2) Handle transactions relating to the Land Contract between the buyer and seller;

(3) Receive Land Contract installment payments from the buyer and send them to the seller;

(4) Provide evidence to the Agency that property taxes are paid and insurance is kept current on the security property;

(5) Send a notice of payment due to the buyer at least 30 days prior to the installment due date;

(6) Notify the Agency and the seller if the buyer defaults;

(7) Service delinquent accounts as specified in § 763.20(a);

(8) Make demand on the Agency to pay missed payments;

(9) Send the seller any missed payment amount paid by the Agency under the guarantee;

(10) Notify the Agency on March 31 and September 30 of each year of the outstanding balance on the Land Contract and the status of payment; and

(11) Perform other duties as required by State law and as agreed to by the buyer and the seller;

(b) For the standard guarantee plan, the seller must use a third party servicing agent approved by the Agency. The servicing agent will:

(1) Provide the Agency a copy of the recorded Land Contract;

(2) Handle transactions relating to the Land Contract between the buyer and seller;

(3) Receive Land Contract installment payments from the buyer and send them to the seller;

(4) Provide evidence to the Agency that property taxes are paid and insurance is kept current on the security property;

(5) Perform a physical inspection of the farm each year during the term of the guarantee, and provide an annual inspection report to the Agency;

(6) Obtain from the buyer a current balance sheet, income statement, cash flow budget, and any additional information needed, perform, and provide the Agency an analysis of the buyer's financial condition on an annual basis;

(7) Notify the Agency on March 31 and September 30 of each year of the outstanding balance on the Land Contract and the status of payment;

(8) Send a notice of payment due to the buyer at least 30 days prior to the installment due date;

(9) Notify the Agency and the seller if the buyer defaults;

(10) Service delinquent accounts as specified in § 763.20(b); and

(11) Perform other duties as required by State law and as agreed to by the buyer and the seller.

§ 763.19 Contract modification.

(a) The seller and buyer may modify the land contract to lower the interest rate and corresponding amortized payment amount without Agency approval.

(b) With prior written approval from the Agency, the seller and buyer may modify the land contract provided that, in addition to a feasible plan for the upcoming operating cycle, a feasible plan can be reasonably projected throughout the remaining term of the guarantee. Such modifications may include but are not limited to:

(1) Deferral of installments,

(2) Leasing or subleasing, and

(3) Partial releases. All proceeds from a partial release or royalties from mineral extraction must be applied to a prior lien, if one exists, and in addition, the same amount must be credited to the principal balance of the land contract.

(4) Transfer and assumption. If the guarantee is to remain in effect, any