

## § 235.6

any agreement or other document executed by a Noteholder, USAID, the Fiscal Agent or the Borrower in connection with the transactions contemplated by this Guarantee or

(b) The suspension or termination of the program pursuant to which USAID is authorized to guarantee the Eligible Notes.

### **§ 235.6 Transferability of Guarantee; Note Register.**

A Noteholder may assign, transfer or pledge an Eligible Note to any Person. Any such assignment, transfer or pledge shall be effective on the date that the name of the new Noteholder is entered on the Note Register required to be maintained by the Fiscal Agent pursuant to the Fiscal Agency Agreement. USAID shall be entitled to treat the Persons in whose names the Eligible Notes are registered as the owners thereof for all purposes of the Guarantee and USAID shall not be affected by notice to the contrary.

### **§ 235.7 Fiscal Agent obligations.**

Failure of the Fiscal Agent to perform any of its obligations pursuant to the Fiscal Agency Agreement shall not impair any Noteholder's rights under the Guarantee, but may be the subject of action for damages against the Fiscal Agent by USAID as a result of such failure or neglect. A Noteholder may appoint the Fiscal Agent to make demand for payment on its behalf under the Guarantee.

### **§ 235.8 Event of Default; Application for Compensation; payment.**

At any time after an Event of Default, as this term is defined in an Eligible Note, any Noteholder hereunder, or the Fiscal Agent on behalf of a Noteholder hereunder, may file with USAID an Application for Compensation in the form provided in Appendix A to this part. USAID shall pay or cause to be paid to any such Applicant any compensation specified in such Application for Compensation that is due to the Applicant pursuant to the Guarantee as a Loss of Investment not later than the Guarantee Payment Date. In the event that USAID receives any other notice of an Event of Default, USAID may pay any compensation

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that is due to any Noteholder pursuant to the Guarantee, whether or not such Noteholder has filed with USAID an Application for Compensation in respect of such amount.

### **§ 235.9 No acceleration of Eligible Notes.**

Eligible Notes shall not be subject to acceleration, in whole or in part, by USAID, the Noteholder or any other party. USAID shall not have the right to pay any amounts in respect of the Eligible Notes other than in accordance with the original payment terms of such Eligible Notes.

### **§ 235.10 Payment to USAID of excess amounts received by a Noteholder.**

If a Noteholder shall, as a result of USAID paying compensation under the Guarantee, receive an excess payment, it shall refund the excess to USAID.

### **§ 235.11 Subrogation of USAID.**

In the event of payment by USAID to a Noteholder under the Guarantee, USAID shall be subrogated to the extent of such payment to all of the rights of such Noteholder against the Borrower under the related Note.

### **§ 235.12 Prosecution of claims.**

After payment by USAID to an Applicant hereunder, USAID shall have exclusive power to prosecute all claims related to rights to receive payments under the Eligible Notes to which it is thereby subrogated. If a Noteholder continues to have an interest in the outstanding Eligible Notes, such a Noteholder and USAID shall consult with each other with respect to their respective interests in such Eligible Notes and the manner of and responsibility for prosecuting claims.

### **§ 235.13 Change in agreements.**

No Noteholder will consent to any change or waiver of any provision of any document contemplated by the Guarantee without the prior written consent of USAID.

### **§ 235.14 Arbitration.**

Any controversy or claim between USAID and any Noteholder arising out of the Guarantee shall be settled by arbitration to be held in Washington, DC