

OPIC



Overseas Private Investment Corporation
1100 New York Avenue, N.W., Washington, D.C. 20527
PHONE: (202) 336-8400 FAX: (202) 408-9859

Ms. Natalie Bridgeman Fields
Accountability Counsel
450 Mission Street, Suite 500
San Francisco, CA 94105

RE: FOIA Request 2011-00005

November 26, 2010

Dear Ms. Fields,

This letter is in response to your Freedom of Information Act (FOIA) request, received on October 18, 2010 and assigned FOIA number 2011-00005 by our office. Please reference this number in all correspondence regarding your request.

Your original request was for all files related to the Cerro de Oro Hydroelectric Project. On October 26, 2010, you sent a letter narrowing your request to:

- "final contract documents... between [OPIC] and Conduit Capital Partners;
- "any Semi-Annual Administrative Reports that have been created by project sponsors Electricidad de Oriente, S. de R.L. de C.V.;
- "the Environmental Quality Monitoring Program;
- "the Indigenous Peoples Development Plan;
- "the Environmental and Social Action Plan; and
- "Action Plans; and
- "Documentation of client Monitoring Reports."

The current copy of the Amended and Restated Finance Agreement (ARFA) is attached. Partial withholdings have been made under FOIA exemptions b(2), b(4), and b(6).

Exemption b(2) protects information "related solely to the internal personnel rules and practices of an agency." 5 U.S.C. § 552(b)(2). The courts have split this exemption into two types: "low" b(2) and "high" b(2).

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Low b(2) exempts “minor or trivial administrative matters of no genuine public interest.” Hale v. DOJ, 973 F. 2d 894, 902 (10th Cir. 1992) (upholding agency’s withholding of a personnel directory as well as the redaction of room numbers, telephone numbers, and other information); see also Department of Justice, Guide to the Freedom of Information Act 179 (2009 ed.) (listing cases). OPIC has used exemption b(2) to withhold its bank routing information and the direct contact information of its employees.

Exemption b(4) protects “(1) trade secrets and (2) (a) commercial or financial information (b) obtained from a person (c) [that is] privileged or confidential.” 5 U.S.C. § 552(b)(4) (2006) (numbering added). The first two requirements for withholding of commercial or financial information are straightforward. “Commercial or financial information” retains its ordinary meaning as information relating to a business or trade. See e.g., Dow Jones Co. v. FERC, 219 F.R.D. 167, 176 (C.D. Cal. 2002); Pub. Citizen Health Research Group v. FDA, 704 F.2d 1280, 1290 (D.C. Cir. 1983). A “person” under Exemption b(4) is similarly broad and includes individuals, corporations, and even state or foreign governments. See Guide to the Freedom of Information Act, U.S. Dep’t of Justice, Office of Information Policy 271 (2009 ed.).

Whether or not the information meets the final requirement, “privileged or confidential,” depends on one of two tests. Information submitted voluntarily to the government must meet the Critical Mass test, while information submitted involuntarily to the government must meet the National Parks test. It does not matter whether or not participation in an activity is involuntary; rather a submission is involuntary if it is required for those who chose to participate in that activity. See FOIA Update, Vol. XIV, No. 2 at 1,5; accord Judicial Watch, Inc. v. Export-Import Bank, 108 F. Supp. 2d 19, 28 (D.D.C. 2000) (declaring that “when the government requires a private party to submit information as a condition of doing business with the government” the submission is deemed “required”).

Conduit Capital Partners LLC and other parties to the Latin Power III ARFA were all required to submit financial information to OPIC in order to be considered for assistance and therefore the National Parks test applies.

The National Parks test states that information is confidential if:

if disclosure of the information is likely to have either of the following effects: (1) to impair the Government’s ability to obtain necessary information in the future or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained

Nat’l Parks & Conservation Ass’n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974). The ARFA contains commercial and financial information. Where the release of that information is likely to cause Conduit Capital Partners LLC (Conduit) or other parties to the Latin Power III Investment groups competitive harm, the information has been

withheld. This includes the structure of the Fund and Conduit, the identity of the Fund's investors and lenders, and the conditions of the investors and lenders investment or financing. This information is not publically available and its release would allow competitors to emulate their strategies without needing to spend the time and funds Conduit and the Fund did. Competitors could also use this information to lure investors and lenders away. Additionally, such withholdings are in the government's best interest as release may make it difficult for OPIC to obtain financial information from applicants and may prevent other projects from applying for OPIC assistance despite being a good match. Withholding some of Conduit and the Fund's confidential business information is therefore necessary both to protect Conduit and the Fund's competitive position and to protect OPIC's ability to receive information from other partners in the future.

Exemption b(6) of the FOIA protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). The exemption was meant to be interpreted broadly and is not tied to the label of the file containing the information. See United States Department of State v. Washington Post Co., 456 U.S. 595 (1982). Exemption b(6) has been used to withhold the names, direct contact numbers, and personal addresses of company contacts and shareholders in the entities involved. These categories of individuals were involved with OPIC only in their connection with the Fund, therefore the public interest in their identity and contact information versus that of the Fund is small and outweighed by these individuals' privacy interests.

OPIC has no further documents responsive to your request. For your understanding, the Environmental and Social Action Plan (Environmental Quality Monitoring Program) is still in draft form, and can be downloaded from OPIC's website. The final form may be made available to the public complete; however this project is not subject to the commitment to publish final ESAPs. The application for this project was signed before the effective date of that commitment, and the commitment cannot be retrospectively applied. Any public disclosure of the final form will therefore be subject to pre-commitment practices. Also please note that no monitoring reports have been required yet because the project is too new.


If you are dissatisfied with this response, you may appeal to OPIC's Deputy General Counsel within twenty days of your receipt of this letter by addressing such appeal to:

Deputy General Counsel
Overseas Private Investment Corporation
1100 New York Avenue, N.W. - 12th Floor
Washington DC, 20527

Both the letter and the envelope should be marked "FREEDOM OF INFORMATION ACT APPEAL." In the event that you are not satisfied with the results of any such appeal, judicial review is available to you in the United States District Court for the

judicial district in which you reside or maintain your principal place of business, or in the District of Columbia.

Sincerely,

A handwritten signature in black ink, appearing to read "Nichole Cadiente", with a long horizontal flourish extending to the right.

Nichole Cadiente
Administrative Counsel
Overseas Private Investment Corporation
1100 New York Avenue, N.W.
Washington, D.C. 20527
202.408.6297

AMENDED AND RESTATED FINANCE AGREEMENT

among

**LATIN POWER III INVESTMENTS, L.P.,
LATIN POWER III INVESTMENTS GP, LIMITED,
CONDUIT CAPITAL PARTNERS, LLC**

and

OVERSEAS PRIVATE INVESTMENT CORPORATION

Dated as of March 1, 2010

OPIC/599-2006-774-IG

AMENDED AND RESTATED FINANCE AGREEMENT

THIS AMENDED AND RESTATED FINANCE AGREEMENT, dated as of March 1, 2010, among Latin Power III Investments, L.P., an exempted limited partnership formed and registered under the laws of the Cayman Islands (the "**Fund**"); Latin Power III Investments GP, Limited, an exempted company organized and existing under the laws of the Cayman Islands ("**SPV GP**") (as General Partner); Conduit Capital Partners, LLC, a limited liability company organized and existing under the laws of the State of Delaware ("**Conduit Capital**") (as Investment Manager); and the Overseas Private Investment Corporation, an agency of the United States of America ("**OPIC**").

RECITALS:

WHEREAS, the Fund is operating pursuant to the Second Amended and Restated Limited Partnership Agreement, dated March 1, 2010 (the "**Partnership Agreement**"), and has been established to invest, for long term capital appreciation, through negotiated transactions, in Quasi-Equity or equity Securities of companies that are operating in Eligible Countries;

WHEREAS, Latin Power III, L.P., an exempted limited partnership formed and registered under the laws of the Cayman Islands (the "**Equity Vehicle**"), has been formed to invest directly or indirectly in power assets in Latin America;

WHEREAS, Latin Power III Parallel, L.P., an exempted limited partnership formed and registered under the laws of the Cayman Islands (the "(b) (4) **Vehicle**"), has been formed to invest directly or indirectly in power assets in Latin America;

WHEREAS, Latin Power III Second Parallel, L.P., an exempted limited partnership formed and registered under the laws of the Cayman Islands (the "(b) (4) **Vehicle**", and collectively with the (b) (4) Vehicle, the "**Parallel Equity Vehicles**"), has been formed to invest directly or indirectly in power assets in Latin America;

WHEREAS, since June 19, 2008, (i) SPV GP has been the sole general partner of the Fund, (ii) Latin Power GP (as hereinafter defined) has been the sole general partner of each of the Equity Vehicle and the Parallel Equity Vehicles and the sole shareholder of SPV GP, (iii) the Feeder Limited Partner (as hereinafter defined) and (b) (4) Vehicle have been the only limited partners of the Fund, (iii) the Equity Vehicle and the (b) (4) Vehicle have been the sole shareholders of the Feeder Limited Partner, and (iv) the Limited Partners (as hereinafter defined) have been the only limited partners of the Equity Vehicle and the Parallel Equity Vehicles;

WHEREAS, since June 19, 2008, Conduit Capital has been the Investment Manager pursuant to the Investment Management Agreement dated as of June 19, 2008 by and between the Fund and Conduit Capital (the "**Management Agreement**");

WHEREAS, the Interested Parties have requested that OPIC provide a credit facility to the Fund in the principal amount of up to Sixty Million Dollars (\$60,000,000) (the "**Credit Facility**"), which Credit Facility OPIC agreed to provide, pursuant to its authority under Section 234(b) of the Foreign Assistance Act of 1961, as amended, on the terms and conditions set forth in the Finance Agreement dated as of June 19, 2008 among the Fund, the SPV GP, Conduit Capital, and OPIC (the "**Original Finance Agreement**");

WHEREAS, OPIC, the Fund, the SPV GP, and Conduit Capital wish to amend and restate the Original Finance Agreement to set forth the terms and conditions pursuant to which OPIC will provide the Credit Facility; and

WHEREAS, in consideration of such Credit Facility, the Interested Parties agree, herein and in the other Financing Documents, that the Fund will only invest in Portfolio Companies in a manner consistent with the terms hereof, including the Annex A Requirements.

NOW, THEREFORE, in consideration of the premises and of the agreements contained herein, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions.

The following capitalized terms used herein have the meanings specified below:

"Accountants" means (b) (4) or any other nationally recognized accounting firm appointed by the Fund and acceptable to OPIC and the Advisory Board.

"Accredited Investor" has the meaning provided for the term "accredited investor" under Regulation D of the United States Securities Act of 1933, as amended or, to the extent the offering of the Limited Partner Interests is not subject thereto, the equivalent Applicable Law governing the offering of the Limited Partner Interests.

"Act" means the Foreign Assistance Act of 1961, as amended.

"Action" has the meaning provided in Section 3.08.

"Administrator" means a fund administration service designated by the Investment Manager and acceptable to OPIC. Until OPIC otherwise notifies the Investment Manager, (b) (4) shall be deemed acceptable to OPIC.

"Advisory Board" means the board of advisors of the Fund, as more fully described in Section 3.5 of the Partnership Agreement.

"Affiliate" means, with respect to any Person, (a) any other Person that is directly or indirectly controlled by, under common control with or controlling such Person; (b) any other Person (i) owning beneficially or controlling twenty five percent (25%) or more of the equity interest in such Person, or (ii) in which such Person beneficially owns or controls twenty five percent (25%) or more of the equity interest; (c) any officer, director, managing member or general partner of any such Person and, except as applied to the Limited Partners, any spouse, parent, sibling or child of any such officer, director, managing member or general partner; or (d) except as applied to Limited Partners, such Person's spouse, parent, sibling or child; provided, however, that no Portfolio Company shall be deemed to be an "Affiliate" of any Interested Party, and provided, further, that each of the Interested Parties shall be deemed to be "Affiliates" of each other. As used herein, the term "**control**" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership or control of partnership interests or voting securities, by contract or otherwise.

"Affirmative Vote" has the meaning set forth in Section 8.02(c)(vi).

"Agreement" means this Amended and Restated Finance Agreement, including all Schedules and Exhibits hereto.

"Aggregate Portfolio Company Assets" means the aggregate amount of Individual Portfolio Company Assets of each Portfolio Company and, without duplication, the aggregate amount of Individual Portfolio Company Assets of each Parent Portfolio Company. For the avoidance of doubt, to avoid duplication, the calculation of the Individual Portfolio Company Assets of any Parent Portfolio Company shall exclude the equity value owned by such Parent Portfolio Company in any Portfolio Company whose assets are being included in the calculation of Aggregate Portfolio Company Assets.

"Aggregate Portfolio Company Debt" means the aggregate amount of Individual Portfolio Company Debt of each Portfolio Company and, without duplication, the aggregate amount of Individual Portfolio Company Debt of each Parent Portfolio Company. For the avoidance of doubt, to avoid duplication, the calculation of the Individual Portfolio Company Debt of any Parent Portfolio Company shall exclude the amount of any guarantees, other credit support or other obligations owed by such Parent Portfolio Company with respect to any Individual Portfolio Company Debt included in the calculation of Aggregate Portfolio Company Debt.

"Anchor Country" means any country listed on Schedule 1.01(a).

"Annex A Requirements" means the procedures and covenants set forth in Annex A.

"Annual Budget" means a reasonably detailed budget of the Fund's projected operations and expenses (including expenses of the Investment Manager relating to the Fund) for the next succeeding Fiscal Year.

"Anti-Corruption Handbook" means OPIC's Anti-Corruption Policies and Strategies Handbook, as in effect on the date hereof and posted on OPIC's internet website (www.opic.gov). Such term shall include any subsequent amendments to the handbook posted on OPIC's internet website, but only after OPIC provides the Ultimate GP with written notice of the posting of such amendments.

"Anti-Money Laundering Laws" means (i) the USA Patriot Act of 2001 (Pub.L.No. 107-6), (ii) any other Applicable Law relating to anti-money laundering or financing of terrorism, and (iii) the regulations of the U.S. Treasury Department's Office of Foreign Assets Controls.

"Applicable Law" means, with respect to any subject matter, action or document, each applicable statute, law, regulation, ordinance, rule, judgment, rule of common law, order, decree, clearance, approval, authorization, directive, grant, concession, franchise, license, agreement, guideline, policy, requirement, and other restriction of any Governmental Authority, and each similar form of decision of, or determination by, and interpretation or administration of any of the foregoing by, any Governmental Authority, whether in effect as of the date of this Agreement or any other Financing Document or thereafter.

"Asset Value" means, when used with respect to any asset owned by the Fund as of any specified date, the value in Dollars of such asset as of such date determined in accordance with the OPIC Valuation Principles and any valuation determined by an Independent Appraisal.

"Authorization" means any registration, declaration, filing, action, permission, decree, order, decision, certification, clearance, waiver, exemption, acquiescence, ruling, governmental consent, license,

approval, authorization, or permit that is necessary or advisable from time to time from any Governmental Authority or other third party with respect to (a) the legality and enforceability of any of the Financing Documents, (b) the payment of all amounts due or to become due under this Agreement, the Notes, and the OPIC Funding Documents to be free of Taxes, and (c) the execution, delivery, performance and observance by any Interested Party of this Agreement or any of the other Financing Documents to which it is or will be a party.

"Authorized Officer" means, with respect to any Person, any officer duly and effectively designated in writing by such Person as having been authorized to execute and deliver this Agreement, the Notes, any of the other Financing Documents to which it is or will be a party, or any other notice, agreement, document, certificate or instrument contemplated hereunder or under any other Financing Document.

"Availability Period" means the period commencing on (b) (4) and ending on the earliest to occur of (b) (4)

"Available Capital" means, as of any specified date, the sum of (a) Fund Equity Contributions, (b) the aggregate principal amount of Disbursements made hereunder, (c) the Available OPIC Commitment Amount, and (d) the Available Fund Equity Commitment.

"Available Fund Equity Commitment" means, as of any specified date, the unfunded portion of the aggregate Fund Equity Commitments as of such date.

"Available OPIC Commitment Amount" means, as of any specified date, an amount equal to the difference between (i) the OPIC Commitment Amount and (ii) the aggregate principal amount of all Disbursements made hereunder as of such date.

(b) (4) means (b) (4), a banking corporation organized under the laws (b) (4).

"Base Interest" has the meaning provided in Section 2.02(a).

"Base Interest Rate" has the meaning provided in Section 2.02(a).

"Blocked Person" means any Person listed on the OFAC List or any similar list.

"Bright Line Test" has the meaning provided in Section 8.01(a)(xvi).

"Bringdown Certificate" has the meaning set forth in Section 7.04(c)(ii).

"Business Day" means any day other than (a) a Saturday, Sunday or day on which commercial banks are authorized by law to close in the City of New York, New York or Washington, D.C., United States of America, (b) for purposes of notices, communications or deliveries to OPIC, a day on which OPIC is closed, and (c) for purposes of payments to OPIC, a day on which OPIC or the United States Department of Treasury is closed.

"Capital Stock" means, with respect to any Person, any stock, partnership interest, membership interest, or other form of equity ownership interest or voting interest of any kind, class, or nature in or with respect to such Person.

"Carried Interest" means all right, title and interest of the Carry Partnership (indirectly through Latin Power GP) in and to the distribution by the Equity Vehicle or any Parallel Equity Vehicle of cash or other assets pursuant to Section 12 of the Equity Vehicle Partnership Agreement, Section 12 (b) (4) Vehicle Partnership Agreement, Section 12 of the (b) (4) Vehicle Partnership Agreement, or any similar interest (excluding any distributions in respect of or determined by reference to its capital contributions including "deemed contributions" to the Equity Vehicle and the Parallel Equity Vehicles).

"Carry Partnership" means (b) (4) a Delaware limited partnership.

"Carry Partnership Agreement" means that certain Amended and Restated Limited Partnership Agreement of the Carry Partnership dated as of August 14, 2006, by and among the Ultimate GP and certain Team Members setting forth the terms of operation of the Carry Partnership as such agreement may be amended from time to time.

"Cash Available for Distribution" or **"CAD"** means, as of any specified date, the Fund Cash Flow that the Fund proposes to distribute or otherwise apply on such date pursuant to any of clauses (D), (E), (F), (G), (H) and/or (I) of Section 7.04(b)(i).

"Cause" has the meaning provided in Section 6.16.

"Change of Control Event" means any of the following events or circumstances: (a) the Sponsors cease to control, and to own of record and beneficially their respective percentage ownership amounts set forth in Schedule 3.04(d) in, the General Partner, the Carry Partnership, Latin Power GP or the Ultimate GP other than by reason of a Pre-Approved Transfer; (b) the Sponsors cease to control, and to own of record and beneficially their respective percentage ownership amounts set forth in Schedule 3.04(e) in, the Investment Manager other than by reason of a Pre-Approved IM Transfer; (c) the Feeder Limited Partner, the (b) (4) Vehicle and the General Partner cease to own of record and beneficially their respective ownership amounts set forth in Schedule 3.04(f)(i) in the Fund and (d) the Equity Vehicle and the (b) (4) Vehicle cease to own of record and beneficially their respective ownership amounts set forth in Schedule 3.04(f)(v) in the Feeder Limited Partner, in each case to the extent such event or circumstance occurred without the prior written consent of OPIC, other than pursuant to Clause 14 of the Equity Vehicle Partnership Agreement, (b) (4) Vehicle Partnership Agreement or the (b) (4) Vehicle Partnership Agreement.

"Charter Documents" means, with respect to any Person, as applicable, its founding act, charter, certificate or articles of incorporation and by-laws, memorandum and articles of association, organizational certificate, statute, partnership agreement, limited liability company agreement, certificate or similar instrument.

"Closing Certificate" has the meaning provided in Section 5.03.

"CO_{2eq}" means Carbon Dioxide Equivalents or a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP). The carbon dioxide equivalent for a gas is derived by multiplying the tonnes of the gas by the associated GWP. For example, the GWP for methane is 21 and for nitrous oxide 310. This means that the emissions of 1 million metric tonnes of methane and nitrous oxide respectively is equivalent to emissions of 21 and 310 million metric tonnes of carbon dioxide.

"Code" means the U.S. Internal Revenue Code of 1986, as amended.

"Collateral Account Control and Security Agreement" means the Collateral Account Control and Security Agreement among the Fund, OPIC and (b) (4), granting OPIC a valid and enforceable, first priority Lien on the cash and cash equivalents of the Fund and the OPIC Account in which they are held.

"Committed Investments" means, as of a specified date, investments in Portfolio Securities made by the Fund (directly or indirectly) after such date pursuant to a legally binding commitment to do so entered into by the Fund prior to such date.

"Conduit Capital" has the meaning provided in the preamble.

"Consent Application" has the meaning provided in Annex A.

"Consent Notice" has the meaning provided in Annex A.

"Construction" means the construction, renovation, addition to or upgrading of a Development Project, other than any such activity which is principally related to testing, exploration, maintenance or repair.

"Controlled Affiliate" means, with respect to any Person, any other Person controlled, directly or indirectly, by that Person, where control means, with respect to any entity other than a partnership, the ownership of more than fifty percent (50.0%) of the outstanding voting securities of such entity or the ability to elect a majority of the Board of Directors and appoint the senior management of such entity, and with respect to a partnership means the ownership of, or the ability to direct the actions of, the general partner of such partnership.

"Corrupt Practices Laws" means (a) the Foreign Corrupt Practices Act of 1977 (Pub. L. No. 95-213, §§101-104), and (b) all other Applicable Laws relating to bribery, kick-backs, or similar business practices.

"Cost" means the equity cost to the Equity Vehicle and Parallel Equity Vehicles of an acquisition of an investment, less all soft costs (such as legal and diligence fees, financing fees and internal expenses) to the extent paid or reimbursed by the Fund.

"Credit Facility" has the meaning provided in the preamble.

"Current Interest" has the meaning provided in Section 2.02(b).

"Current Interest Spread" has the meaning provided in Section 2.02(b).

"Day Count Fraction" means for any period, a 360-day year of twelve (12) 30-day months.

"Default" means an event or condition that, with the passage of time or the giving of notice, or both, would constitute an Event of Default.

(b) (4) means (b) (4)

(b) (4) Vehicle has the meaning provided in the preamble.

"(b) (4) Vehicle Commitments" means, as of any specified date, the aggregate capital commitments obtained by the (b) (4) Vehicle pursuant to subscription agreements that are not in default as of such date.

"(b) (4) Vehicle Partnership Agreement" means that certain First Amended and Restated Limited Partnership Agreement dated July 12, 2006 by and between Latin Power GP and (b) (4) setting forth the terms of the (b) (4) Vehicle's operations, as amended by the First Omnibus Amendment and the Second Omnibus Amendment.

"(b) (4) Vehicle Share Pledge Agreement" means the Charge Over Shares in the Feeder Limited Partner dated the first Disbursement Date by the (b) (4) Vehicle, granting OPIC a valid and enforceable, first priority Lien on the Capital Stock of the Feeder Limited Partner held by the (b) (4) Vehicle.

"Deferred Interest" has the meaning provided in Section 7.04(b)(i)(I).

"Development Project" means a project, which is not operating, and is not able to operate without investment equal to at least (b) (4) of (i) the initial Cost paid or incurred by the Equity Vehicle and the Parallel Equity Vehicles at the time of their initial investment in such project plus (ii) Operating Expenses borne by the Fund for such project.

"Disabling Conduct" means, with respect to any Person, acts resulting in material violations of Applicable Law, fraud, willful misfeasance, bad faith, reckless disregard of duty, or negligence in the conduct of such Person's office that would not be afforded the protection of the "business judgment rule," as applied from time to time by the courts of the State of Delaware, if such a Person were a director of a Delaware corporation, but shall not include acts or omissions that occur from inadvertence or honest mistake of fact by such Person.

"Disbursement" means each disbursement of all or a part of the OPIC Commitment Amount made to the Fund.

"Disbursement Date" means, with respect to any Disbursement, the date on which such Disbursement is made.

"Disbursement Request" means a request by the Fund for a Disbursement, substantially in the form of Exhibit A.

"Distribution Notice" has the meaning set forth in Section 7.04(c)(i).

"Dollars" or "\$" means the lawful currency of the United States.

"Eligible Country" means any country listed on either Schedule 1.01(a) or Schedule 1.01(b).

"Eligible Investor" has the meaning set forth in the Act at 22 U.S.C. 2198(c).

"Enhanced Maintenance Portion" has the meaning set forth in Section 7.04(b)(i)(E).

"Equity Repayments" means, as of any time, the amount (if any) by which the aggregate amount of payments from the Fund to the General Partner, the Feeder Limited Partner and the (b) (4) Vehicle pursuant to Section 7.04(b)(i)(F) exceeds Profits.

"Equity Vehicle" has the meaning set forth in the preamble.

"Equity Vehicle Commitments" means, as of any specified date, the aggregate capital commitments obtained by the Equity Vehicle pursuant to subscription agreements that are not in default as of such date.

"Equity Vehicle Contributions" means, as of any specified date, the aggregate amount of cash capital contributions made to the Equity Vehicle pursuant to subscription agreements on or prior to such date.

"Equity Vehicle Partnership Agreement" means that certain Second Amended and Restated Limited Partnership Agreement dated August 22, 2005, as amended by (i) Amendment No. 1 to the Second Amended and Restated Limited Partnership Agreement, dated December 21, 2005, (ii) Amendment No. 2 to the Second Amended and Restated Limited Partnership Agreement, dated July 21, 2006 and (iii) the First Omnibus Amendment and (iv) the Second Omnibus Amendment, in each case by and among Latin Power GP and the Limited Partners owning equity interests in the Equity Vehicle, setting forth the terms of the Equity Vehicle's operations.

"Equity Vehicle Share Pledge Agreement" means the Charge Over Shares in the Feeder Limited Partner dated the first Disbursement Date by the Equity Vehicle, granting OPIC a valid and enforceable, first priority Lien on the Capital Stock of the Feeder Limited Partner held by the Equity Vehicle.

"Estimated Tax Distribution" has the meaning set forth in Section 7.05(a)(iii).

"Estimated Tax Year" has the meaning set forth in Section 7.05(a)(iii).

"Event of Default" has the meaning provided in Section 8.01.

"Event of Default Notice" has the meaning provided in Section 8.02(c)(i).

"Excess LC Balance" means, as of any date, the LC Balance in excess of the minimum LC Balance necessary to satisfy the conditions of Section 3.07(c) as of such date.

"Expense Sharing Percentage" means: (a) until the end of the Investment Period, the ratio (expressed as a percentage) of the Fund Equity Commitments to the sum of the Equity Vehicle Commitments, the (b) (4) Vehicle Commitments and the (b) (4) Vehicle Commitments; and (b) thereafter, the ratio (expressed as a percentage) of the Original Cost of the Fund's assets to the sum of the Original Cost of the Equity Vehicle's assets (including the Fund), the Original Cost of the (b) (4) Vehicle's assets (including the Fund) and the Original Cost of the (b) (4) Vehicle's assets (including the Fund).

"Facility Fee" has the meaning set forth in Section 2.07.

"Feeder Limited Partner" means Latin Power III Feeder, Limited, an exempted company organized and existing under the laws of the Cayman Islands. Where applicable, references to the Equity Vehicle and the Parallel Vehicles as limited partners of the Fund shall be deemed to refer to the Feeder Limited Partner and the (b) (4) Vehicle.

"Feeder Limited Partner LP Interest Pledge Agreement" means the Charge of a Limited Partnership Interest dated the first Disbursement Date by the Feeder Limited Partner, granting OPIC a valid and enforceable, first priority Lien on its limited partnership interest in the Fund.

"Feeder Limited Partner Operating Document" means the Memorandum and Articles of the Feeder Limited Partner dated October 25, 2007, as amended on or before the first Disbursement Date.

"Financial Institution" means a bank, trust company, investment bank or merchant bank that is subject to supervision or examination by the regulatory authorities of a recognized jurisdiction.

"Financial Statements" means, with respect to any Person, such Person's quarterly or annual (as applicable) balance sheet and statements of income, retained earnings (or changes in partners' capital), and cash flows for such fiscal period, together with all notes thereto and with comparable figures for the corresponding periods of its previous Fiscal Year, each expressed in Dollars and prepared in accordance with U.S. GAAP; provided, however, that with respect to any Portfolio Company, the foregoing data and information may be expressed in local currency and translated into Dollars and may be prepared in accordance with either (a) U.S. GAAP, (b) IFRS, or (c) Local GAAP, with a brief description of major, relevant differences, if any, between Local GAAP and IFRS or U.S. GAAP; provided, further, however, that compliance with GAAP will be determined without regard to any requirement for an opinion to be rendered by an independent third party on the fair market value of the Fund's assets.

"Financing Document" means any or all of the Loan Documents, the Security Documents, the OPIC Funding Documents and the Fund Documents, and each Consent Notice, together with any other agreements, documents, certificates or instruments (including but not limited to the Letter of Credit, the Revolving Loan and Letter of Credit Agreement, the Vehicle Sideletter and the Latin Power GP Sideletter) pursuant to which the OPIC Commitment Amount or any portion thereof is disbursed to the Fund or which are executed and delivered pursuant to any of the foregoing documents.

"Financing Parties" means, collectively, the Fund, the General Partner and the Investment Manager; and **"Financing Party"** means any of the Financing Parties.

"First Omnibus Amendment" means that certain Omnibus Consent and Amendment to the Equity Vehicle Partnership Agreement, the (b) (4) Vehicle Partnership Agreement, the (b) (4) Vehicle Partnership Agreement and the Management Agreement, dated as of June 17, 2008, by and among Latin Power GP, the Investment Manager and the Conduit Group Investors (as defined in such agreement).

"Fiscal Year" means, with respect to each Financing Party, the period beginning on January 1 and ending on December 31 of each year.

"Fixed Obligations" means (a) the Fixed OPIC Payments, (b) all amounts due or to become due under the Notes, and (c) all other amounts that become due and owing hereunder on or prior to the date of payment in full of the amounts described in the preceding clause (b).

"Fixed OPIC Payments" has the meaning provided in Section 2.03.

"(b) (4) Share Pledge Agreements" means, together, the Equity Vehicle Share Pledge Agreement and the (b) (4) Vehicle Share Pledge Agreement.

"(b) (4)" means (b) (4)

"(b) (4) LP Interest Pledge Agreement" means the Charge of a Limited Partnership Interest dated the first Disbursement Date by the (b) (4) Vehicle, granting OPIC a valid and enforceable, first priority Lien on its limited partnership interest in the Fund.

"(b) (4) Vehicle" has the meaning provided in the preamble.

"(b) (4) Vehicle Commitments" means, as of any specified date, the aggregate capital commitments obtained by the (b) (4) Vehicle pursuant to subscription agreements that are not in default as of such date.

"(b) (4) Vehicle Partnership Agreement" means that certain Second Amended and Restated Limited Partnership Agreement dated August 22, 2005, by and between Latin Power GP and (b) (4) setting forth the terms of the (b) (4) Vehicle's operations, as amended by the First Omnibus Amendment and the Second Omnibus Amendment.

"Follow-On Investments" has the meaning provided in Section 7.14(b).

"Fund" has the meaning provided in the preamble.

"Fund Cash Flow" means all cash and cash equivalent amounts received by or otherwise available to the Fund from any source, however realized, including (a) proceeds from the issuance of the Notes, (b) amounts received as Fund Equity Contributions, (c) amounts received from Portfolio Companies, whether in the form of interest, cash balances, dividends, principal, return of capital or other payments and transfers, (d) proceeds from the sale, transfer, disposition (including pursuant to a court order), or other financing of Portfolio Securities, and (e) amounts received with respect to Interim Securities, whether in the form of interest, cash balances, dividends, principal, return of capital or other payments from the sale, transfer, disposition or other financing thereof.

"Fund Documents" has the meaning provided in Section 4.02(b).

"Fund Equity Commitments" means, as of any specified date, the aggregate capital commitments made by the General Partner, the Feeder Limited Partner and the (b) (4) Vehicle to the Fund pursuant to Article VI of the Partnership Agreement that are not in default as of such date.

"Fund Equity Contributions" means, as of any specified date, the aggregate amount of cash capital contributions made by the Feeder Limited Partner, the (b) (4) Vehicle and the General Partner to the Fund on or prior to such date. For this purpose, any amounts drawn on the Letter of Credit shall be treated as a Fund Equity Contribution, to be apportioned among the General Partner, the Feeder Limited Partner and the (b) (4) Vehicle pro rata based on their relative Fund Equity Commitments.

"Fund Ownership Percentage" means as of any date and with respect to any Portfolio Company or Parent Portfolio Company, as the case may be, a fraction, expressed as a percentage, the numerator of which is the number of Securities of such Portfolio Company or Parent Portfolio Company, as the case may be, that the Fund owns, and the denominator of which is the total number of outstanding Securities of such Portfolio Company or Parent Portfolio Company, as the case may be. For purposes of this definition, "Securities" shall be understood to include all outstanding shares of common stock of a corporation (and any equivalent ownership interests in a Person other than a corporation) calculated after giving effect to the exercise of any outstanding options, warrants or convertible or exchangeable securities (or equivalent rights).

"Fund Security Agreement" means the Deed of Charge dated the first Disbursement Date between the General Partner of the Fund and OPIC, granting OPIC a valid and enforceable, first priority Lien on the assets of the Fund (including (a) all of the rights, title and interest of the Fund held by the General Partner and referred to in Section 6.08(b)(i); and (b) all cash and the Operating Account in which such cash is held, but excluding certain immovable property and interests therein).

"General Partner" means, as of any date, the general partner of the Fund.

“General Partner Operating Document” means the Memorandum and Articles of Association of the General Partner dated October 25, 2007.

“Governmental Authority” means any government, governmental department, ministry, cabinet, commission, board, bureau, agency, tribunal, regulatory authority, instrumentality, judicial, legislative, fiscal, or administrative body or entity, domestic, foreign or international, federal, state, local or tribal, having jurisdiction over the matter or matters and Person or Persons in question.

“GP Pledge and Assignment Agreement” means the Charge of a General Partnership Interest dated the first Disbursement Date by the General Partner of all of its general partnership interest in the Fund, granting OPIC a valid and enforceable, first priority Lien on such general partnership interest.

“GP Vote” has the meaning provided in Section 8.02(c)(ii).

“Holder” has the meaning provided in the OPIC Funding Documents.

“IFRS” means the international financial reporting standards as determined by the International Accounting Standards Committee, applied on a consistent basis both as to classification of items and amounts.

“IM Security Agreement” means the Security Agreement by Conduit Capital granting OPIC a valid and enforceable, first priority Lien on all of Conduit Capital’s assets (other than receivables and cash) used in the operation of the Fund and the business of the Fund.

“Impairing Indebtedness” means any Indebtedness of a Person in which the principal amount of such Indebtedness as of the issuance date exceeds the proceeds (including the value of services or property received) to such Person from such Indebtedness less arm’s length fees and expenses and other customary reductions in proceeds in connection with such Indebtedness.

“Indebtedness” means, with respect to any Person, at any date, all liabilities and obligations, contingent or otherwise, which, in accordance with U.S. GAAP, would be reflected as a liability on a balance sheet or the footnotes thereto, including (a) any obligation of such Person for borrowed money or arising out of any credit facility or financial accommodation, (b) any obligation of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) any obligation of such Person to pay the deferred purchase price of goods, property or services, (d) any obligation of such Person under conditional sales or other title retention agreements, (e) the net aggregate rentals under any lease by such Person as lessee that under U.S. GAAP would be capitalized on the books of the lessee or is the substantial equivalent of the financing of the property so leased, (f) any obligation of such Person to purchase securities or other property which arises out of or in connection with the sale of the same or substantially similar securities or property, (g) any obligation of such Person secured by any Lien upon property whether or not such obligation is assumed by such Person, (h) any Indebtedness of others secured by a Lien on any asset of such Person, and (i) any Indebtedness of others guarantied, directly or indirectly, by or any other guaranty by, such Person.

“Indemnified Person” has the meaning provided in Section 9.12(a).

“Indemnity” has the meaning provided in Section 9.12(a).

“Independent Appraisal” has the meaning provided in Section 6.13(a)(ii).

"Independent Limited Partners" means Limited Partners not in default under any provision of any subscription agreement or the Equity Vehicle Partnership Agreement, the (b) (4) Vehicle Partnership Agreement or the (b) (4) Vehicle Partnership Agreement and who are not or which are not Affiliates of (a) any Interested Party (other than the Fund, the Parallel Equity Vehicles and the Equity Vehicle), or (b) any Affiliate of any Interested Party (other than the Fund, the Parallel Equity Vehicles and the Equity Vehicle).

"Individual Portfolio Company Assets" means the product of (A) the Fund Ownership Percentage of a Portfolio Company or a Parent Portfolio Company, as the case may be, as of the time of determination thereof and (B) the book value of the assets of such Portfolio Company or Parent Portfolio Company, as the case may be, determined in accordance with the Fund's valuation policies.

"Individual Portfolio Company Debt" means the product of (A) the Fund Ownership Percentage of a Portfolio Company or a Parent Portfolio Company, as the case may be, as of the time of determination thereof and (B) the Indebtedness of such Portfolio Company or Parent Portfolio Company, excluding Indebtedness described in Section 7.02(a), Section 7.02(b), Section 7.02(c), Section 7.02(d), Section 7.02(e) and other Indebtedness of a Portfolio Company or a Parent Portfolio Company which is subordinated to any subordinated debt owed by such Portfolio Company or Parent Portfolio Company to any Finance Party or Affiliate thereof.

"Initial Budget" means the Annual Budget referred to in Section 4.08.

"Initial Closing Date" means June 19, 2008.

"In-kind Contribution" has the meaning provided in Section 7.06.

"Insolvency Proceedings" has the meaning provided in Section 8.05.

"Interested Parties" means, collectively, the Financing Parties, Latin Power GP, the Ultimate GP, the Carry Partnership, the Feeder Limited Partner, the Equity Vehicle, each Parallel Equity Vehicle and the Sponsors; and **"Interested Party"** means any of the Interested Parties.

"Interim Security" means Dollar-denominated, liquid investments consisting of: (a) interest-bearing transaction accounts in a Qualifying Bank; (b) time deposits in, or certificates of deposit of, a Qualifying Bank, in each case having a maturity of one (1) year or less from the date of purchase; and (c) money market mutual funds that only invest in commercial paper that is rated (i) at least "P-2" by Moody's Investor Services, Inc. and (ii) at least "A-2" by Standard & Poor's Ratings Group.

"Investment Committee" means the investment committee of the Investment Manager, as more fully described in the Investment Manager's Investment Committee Guidelines, June 2007, as previously delivered to OPIC.

"Investment Guidelines" means the investment guidelines of the Fund attached hereto as Exhibit B.

"Investment Manager" means, as of any specified date, the primary provider of investment advisory services to the Fund, the Equity Vehicle and each Parallel Equity Vehicle.

"Investment Manager Expenses" means (b) (4)

(b) (4)

“Investment Management Agreements” means the Management Agreement, and any other agreement entered into from time to time, between the Fund and the Investment Manager, setting forth the terms and conditions of investment advisory services to be provided by the Investment Manager to the Fund.

“Investment Manager Operating Agreement” means the Limited Liability Company Agreement, dated as of October 3, 2003 (and amended as of January 1, 2007), of the Investment Manager, by and among the members of the Investment Manager.

“Investment Period” means the period commencing on the (b) (4) and ending (b) (4); provided, however, that if the “investment period” of the Equity Vehicle is extended beyond (b) (4), then the Investment Period shall end on the earlier of (i) the date (b) (4) ends (taking into account such extension) or (ii) (b) (4).

“Involuntary Securities” means Securities acquired in circumstances not within the control of any Interested Party and not contemplated at the time of investment in connection with (a) a merger of a Portfolio Company or Portfolio Company Affiliate with or into another Person, (b) the liquidation of a Portfolio Company or Portfolio Company Affiliate, or (c) any other distribution in respect of Portfolio Securities.

“Key Person” means each of (b) (6) and any individual duly replacing either of such individuals pursuant to Section 6.10(a).

“Key Person Event” has the meaning provided in Section 6.10(b).

“Latin Power GP” means Latin Power GP Limited, an exempted company organized and existing under the laws of the Cayman Islands.

“Latin Power GP Operating Agreement” means that certain Limited Liability Company Agreement of Latin Power GP dated July 12, 2005 by and between the Sponsors setting forth the terms of Latin Power GP’s Operations as such agreement may be amended and/or amended and restated from time to time.

“Latin Power GP Share Pledge Agreement” means the Charge Over Shares in the General Partner dated the first Disbursement Date by Latin Power GP, granting OPIC a valid and enforceable, first priority Lien on the Capital Stock of the General Partner held by Latin Power GP.

“Latin Power GP Sideletter” means the sideletter in form and substance satisfactory to OPIC to be executed by Latin Power GP.

“LC Balance” means the net amount available to be drawn by OPIC under the Letter of Credit.

"LC Requirement Period" means any time period during which a Letter of Credit is required to be outstanding for the benefit of OPIC to cause the amount of all Disbursements outstanding to be less than or equal to the sum of (i) Fund Equity Contributions (less Equity Repayments) plus (ii) the product of two and the LC Balance as of such time.

"Letter of Credit" means the letter of credit to be issued by the Letter of Credit Bank hereto or any replacement Letter of Credit, in each case in form and substance satisfactory to OPIC and the receipt and approval of which is acknowledged by OPIC in writing.

"Letter of Credit Bank" means (b) (4) or such other bank or financial institution as may be agreed in writing by OPIC.

"Letter of Credit Expiration Date" means the date that is (b) (4) after the effective date of the Letter of Credit (the **"Initial Expiration Date"**) and, after giving effect to (b) (4) each subsequent (b) (4) of such Initial Expiration Date.

"Leverage" means the highest percentage on any date during the Availability Period obtained by dividing (a) the amount (if any) by which the Outstanding OPIC Debt as of such date exceeds the LC Balance as of such date by (b) the Net Asset Value as of such date.

"Lien" means any lien (statutory or otherwise), pledge, mortgage, security interest, deed of trust, charge, deposit arrangement, priority, assignment, hypothecation, title retention, conditional sale, capital lease or other encumbrance on or with respect to any property or interest in property and any preferential arrangement having the practical effect of constituting any of the foregoing with respect to the payment of any obligation with, or from the proceeds of, any asset or revenue of any kind.

"Limited Partner" means a Person who owns a Limited Partner Interest from time to time.

"Limited Partners Information" has the meaning provided in Section 8.02(c)(ii).

"Limited Partner Interest" means the Partner Interest owned or to be owned by a limited partner of the Fund, the Equity Vehicle or any Parallel Equity Vehicle.

"Litigation Payment" has the meaning provided in Section 9.11(a).

"Loan Documents" has the meaning provided in Section 4.02(a).

"Local GAAP" means, as applied to a Portfolio Company, those generally accepted accounting principles of the country in which such Portfolio Company is operating, applied on a consistent basis both as to amounts and classification of items.

"Loss" has the meaning provided in Section 9.12(a).

"LTV Covenant" has the meaning provided in Section 7.24.

"LTV Trigger Date" has the meaning provided in Section 7.24.

"Majority-in-Interest of Special Limited Partners" means Special Limited Partners who own Limited Partner Interests which represent more than fifty percent (50%) of the Limited Partner Interests owned by all Special Limited Partners. For the avoidance of doubt, such determination shall be made

solely by reference to Limited Partner Interests in, and Independent Limited Partners of: (i) the Equity Vehicle, other than the Limited Partner Interests in such entity held by the Tax-Exempt Feeder, (ii) the Tax-Exempt Feeder and (iii) the Parallel Equity Vehicles.

"Majority-in-Interest Vote" has the meaning provided in Section 8.02(c)(iv).

"Maintenance Portion" has the meaning set forth in Section 7.04(b)(i)(D).

"Management Agreement" has the meaning provided in the recitals.

"Management Fees" means the fees payable to the Investment Manager as compensation for investment advisory services rendered to the Fund, as more fully described in Section 7.18 and in the Management Agreement by and between the Investment Manager and the Fund.

"Margin Stock" has the meaning specified in Regulations T, U and X of the Board of Governors of the U.S. Federal Reserve System, as in effect from time to time.

"Material Adverse Effect" means a material adverse effect on (a) the business, operations, condition (financial or otherwise), assets, liabilities, or property of any Interested Party, (b) the ability of any party other than OPIC to perform in a timely manner its obligations under any Financing Document, (c) the validity or enforceability of any material provision of any Financing Document, or (d) the rights or remedies of OPIC under any Financing Document.

"Maturity Date" means the earliest of (b) (4)

(b) (4) means (b) (4), a Cayman Islands company, formerly known as (b) (4)

"MCSL Instructions" means irrevocable instructions by (b) (4) in form and substance satisfactory to OPIC regarding (a) the Registered Office Agreement between the Fund and (b) (4) dated January 14, 2008, (b) the Registered Office Agreement between SPV GP and (b) (4) dated January 14, 2008, (c) the Registered Office Agreement between the Feeder Limited Partner and (b) (4) dated January 14, 2008 and (d) the Registered Office Agreement between the (b) (4) Vehicle and (b) (4) dated January 14, 2008.

"Net Asset Value of the Fund" or "NAV" means, as of any specified date, the difference between: (a) the aggregate Asset Value of all of the Securities, cash and cash equivalents owned directly or indirectly by the Fund as of such date, and (b) any Indebtedness, other than the Outstanding OPIC Debt, of the Fund or any of its Subsidiaries as of such date (without duplication of any Indebtedness considered in determining Asset Value pursuant to clause (a) of this sentence). For the avoidance of doubt, NAV excludes the LC Balance.

"Net Long-Term Capital Gain" has the meaning provided in Section 7.05(b)(ii).

"Net Ordinary Income" has the meaning provided in Section 7.05(b)(iii).

"Note" means a promissory note issued by the Fund to OPIC in the form required by the OPIC Funding Documents.

"Obligations" means all indebtedness (monetary (including post-petition interest, whether or not allowed) or otherwise) of the Fund under this Agreement or any other Financing Document, in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due.

"OFAC List" means the Specially Designated Nationals and Blocked Persons List, or any successor list, published by the U.S. Treasury Department's Office of Foreign Assets Control from time to time and available at the following internet website or any successor website:
www.treas.gov/offices/enforcement/ofac/sdn/index.html.

"Operating Account" means the deposit account referred to in Section 6.06 hereof that may be established by the Fund with (b) (4) for the purpose of enabling the Fund to pay Operating Expenses in the ordinary course of business.

"Operating Expenses" has the meaning provided in Section 7.20(a).

"OPIC" has the meaning provided in the preamble.

"OPIC Account" means the account established by the Fund with Bank of New York pursuant to the Collateral Account Control and Security Agreement.

"OPIC Commitment" means OPIC's commitment to provide a credit facility to the Fund, the aggregate principal amount of which shall not exceed the OPIC Commitment Amount, in accordance with the terms hereof.

"OPIC Commitment Amount" means, as of any specified date, (b) (4)

"OPIC Commitment Fee" has the meaning provided in Section 2.01(b).

"OPIC Commitment Letter" means the letter agreement among the General Partner, Equity Vehicle, the Parallel Equity Vehicles and OPIC, dated September 22, 2006, in respect of the OPIC Commitment.

"OPIC Funding Documents" has the meaning provided in Section 5.11.

"OPIC Guaranty" means OPIC's guaranty provided in the OPIC Funding Documents.

"OPIC Loan" means, on any specified date, the aggregate of the unpaid principal amounts of the Notes then outstanding.

"OPIC Percentage" means (b) (4) if Leverage is equal to or greater than (b) (4) if Leverage is greater than (b) (4) and less than (b) (4) and (b) (4) if Leverage is less than or equal to (b) (4)

"OPIC Placement Agent" means the placement agent for OPIC under or in connection with any OPIC Funding Document.

"OPIC Plaintiff" has the meaning provided in Section 9.11(a).

"OPIC Valuation Principles" means the valuation principles set forth in Exhibit C.

"OPIC Valuation Report" has the meaning provided in Section 6.07(a)(iii).

"Organizational Expenses" means the direct expenses incurred in connection with (b) (4)



"Original Cost" means, when used with respect to any asset owned by a Person as of any specified date, the unreturned original cost basis in Dollars of such asset, determined in accordance with the most recent audited Financial Statements of such Person.

"Original Finance Agreement" has the meaning provided in the preamble.

"Outstanding OPIC Debt" or **"OOD"** means, as of any specified date, the aggregate accrued and unpaid (including compounded) Base Interest and the outstanding principal of the OPIC Loan as of such date.

"Outstanding Equity" or **"OE"** means, as of any specified date, the aggregate Fund Equity Contributions that have not been returned to the Equity Vehicle, either Parallel Equity Vehicle or the General Partner as of such date.

"Parallel Equity Vehicle" has the meaning set forth in the preamble.

"Parent Portfolio Company" means a special purpose company, the sole purpose and activity of which is to make and hold one or more of the Fund's investments in another Portfolio Company (either directly or through another Parent Portfolio Company) that is not such a special purpose company. In addition, at the General Partner's request and with OPIC's written consent, any other company shall be treated as a Parent Portfolio Company to the extent set forth in such consent.

"Partner" means, as the context requires, any or all of the Limited Partners and Latin Power GP.

"Partner Interest" means the percentage ownership interest of a Partner in the aggregate equity of the Equity Vehicle and the Parallel Equity Vehicles.

"Partnership Agreement" has the meaning provided in the recitals.

"Partnership Interest Pledge Agreements" means the GP Pledge and Assignment Agreement, the Feeder Limited Partner LP Interest Pledge Agreement, and the (b) (4) LP Interest Pledge Agreement.

"Payment Date" means each March 31st and September 30th, unless such date is not a Business Day, in which case the applicable Payment Date will be the next succeeding Business Day.

"Performance Measure Date" means (b) (4)

"Permitted Follow-On Investments" has the meaning provided in Section 7.14(b).

"Permitted Portfolio Securities" means Portfolio Securities acquired in accordance with the terms hereof.

"Person" means and includes (a) an individual, (b) a partnership (whether or not a legal entity), (c) a legal entity, including a partnership, a joint venture, a corporation, a trust, a limited liability company, or a limited liability partnership, and (d) a government or any department, agency or instrumentality thereof.

"Portfolio Acquisition Certificate" means a certificate of an Authorized Officer of the General Partner, substantially in the form of Exhibit D.

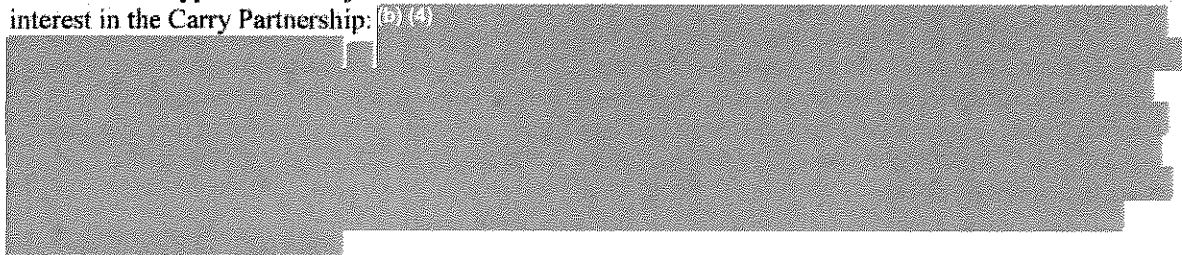
"Portfolio Company" means any issuer of Portfolio Securities.

"Portfolio Company Affiliate" means, with respect to any Portfolio Company, (a) any other Person that is directly or indirectly controlled by or under common control with or controlling such Portfolio Company and (b) any Person that is a Portfolio Company Subsidiary of such Portfolio Company, it being understood that the Financing Parties and Parent Portfolio Companies shall not be deemed to be Portfolio Company Affiliates. As used herein, the term **"control"** means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership or control of partnership interests or voting securities, by contract or otherwise.

"Portfolio Company Subsidiary" means, with respect to any Portfolio Company, any Controlled Affiliate of such Portfolio Company.

"Portfolio Security" means any Security, other than any Interim Security, that is owned (or, where the context requires, proposed to be acquired) directly or indirectly by the Fund, including any such Securities that are issued (or, where the context requires, proposed to be issued) by a Parent Portfolio Company or owned (or, where the context requires, proposed to be owned) by a Parent Portfolio Company.

"Pre-Approved Transfer" means a transfer that occurs on or after the date hereof of a beneficial interest in the Carry Partnership: (b) (4)



"Pre-Approved IM Transfer" means a transfer that occurs on or after the date hereof of a beneficial interest in the Investment Manager: (b) (4)



"Pre-Approved LP Transfer" means a Transfer to an affiliate of any transferor pursuant to the side letters, as amended as of the date hereof, as in effect and provided to OPIC as of the date hereof (i) between the General Partner and (b) (4) and (ii) between the General Partner and (b) (4)

"Private Placement Memorandum" means, collectively, all preliminary and final private placement memoranda, including the Private Placement Memorandum of the Equity Vehicle, dated January 2006, relating to the offering or sale of Limited Partner Interests and, in each case, all amendments and supplements thereto.

"Profits" means all cash and cash equivalent amounts received by the Fund as economic return in respect of any Portfolio Security or Interim Security, however realized, including (a) amounts received from Portfolio Companies, whether in the form of interest, cash balances or dividends, and (b) amounts received with respect to Interim Securities, whether in the form of interest, cash balances or dividends; provided, however, Profits shall not include any such cash or cash equivalents to the extent such amounts are a return of the Fund's capital as a result of refinancings of Portfolio Companies, asset sales by Portfolio Companies, sales of Portfolio Securities or Interim Securities or otherwise.

"Project Parties" means all Key Persons, Subadvisors, and officers or directors of the Fund, the General Partner, and the Investment Manager directly involved in the management of the Fund or any Portfolio Company.

"Pro-Rata Portion" has the meaning provided in Section 7.04(b)(i)(G).

"Qualifying Bank" means a bank or trust company that (a) is organized as a banking association or corporation under the laws of and located in the United States or any State thereof, or of the District of Columbia, (b) is subject to supervision or examination by federal, state or District of Columbia banking authorities, (c) has capital and surplus of not less than Five Billion Dollars (\$5,000,000,000), and (d) is owned by a bank holding company the long term securities of which are rated at least "A" by Moody's Investor Services, Inc. or "A" by Standard & Poor's Ratings Group with respect to its long-term debt securities.

"Quasi-Equity" means equity-related Securities including (a) Securities (including debt Securities) convertible or exercisable into or exchangeable for common or preferred equity Securities, (b) options, warrants or similar instruments providing a right to acquire common or preferred equity Securities, and (c) debt Securities issued as a part of a "unit" or "strip" of Securities that include, or as part of a plan or intention to acquire, equity Securities or Securities of the types described in the preceding clause (a) or (b).

"Related Compensation" has the meaning provided in Section 7.18(c).

"Remediation Plan" has the meaning provided in Annex A.

"Restricted Amount" has the meaning provided in Section 2.06(b).

"Restricted Period" means the period ending upon the earliest of (b) (4)

"Revolving Loan and Letter of Credit Agreement" means that certain Revolving Loan and Letter of Credit Agreement dated as of September 19, 2008 by and among Latin Power III, L.P., Latin Power III Parallel, L.P., Latin Power III Second Parallel, L.P. and (b) (4) as lender and agent thereunder.

"Scheduled Maturity Date" means (b) (4).

"Second Omnibus Amendment" means that certain Omnibus Consent and Amendment to the Equity Vehicle Partnership Agreement, the (b) (4) Vehicle Partnership Agreement and the (b) (4) Vehicle Partnership Agreement, dated as of March 1, 2009, by and among Latin Power GP and the Conduit Group Investors (as defined in such agreement).

"Security" has the meaning provided in Section 2(1) of the Securities Act of 1933, as amended, or the comparable provision of any successor statute.

"Security Documents" means one or more (in the discretion of OPIC) agreements, including the Partnership Interest Pledge Agreements, the (b) (4) Share Pledge Agreements, the IM Security Agreement, the Latin Power GP Share Pledge Agreement, the (b) (4) Instructions, the Fund Security Agreement, and the Collateral Account Control and Security Agreement, each in form and substance satisfactory to OPIC, among OPIC, and one or more Financing Parties, the purpose of which is to secure the performance of all payment obligations of the Financing Parties hereunder and under the other Financing Documents by valid and enforceable, first priority Liens on (a) all Capital Stock and any other Securities issued by the Fund, the Feeder Limited Partner and the General Partner, (b) all accounts, books and records, databases, software and computers owned by, or maintained in connection with, the Fund and its operations (including if in the possession of another Financing Party), (c) all Interim Securities and other deposit or related accounts of the Fund, (d) any proceeds of the foregoing, and (e) any document, certificate, instrument, and ancillary agreement entered into or delivered to OPIC in connection with the foregoing.

"Self Monitoring Questionnaire" means that certain "Self Monitoring Questionnaire for Investment Funds' Sub-Projects" posted on OPIC's worldwide internet site (www.opic.gov), as the same may be revised by OPIC from time to time.

"Senior Obligations" has the meaning provided in Section 8.05.

"Special Limited Partners" has the meaning provided in Section 8.02(c)(ii).

"Special Limited Partners Information" has the meaning provided in Section 8.02(c)(iii).

"Sponsor" means (b) (6) during the period he shall be providing services to, employed by or controlling either the Investment Manager or SPV GP and for one year thereafter.

"SPV GP" has the meaning provided in the preamble.

"Subadvisor" means any Person (other than an Investment Manager) that provides ongoing investment advisory services to any of the Financing Parties in connection with the Fund that are substantially similar to the services customarily provided by an investment manager of a private equity fund, but shall exclude a consultant or advisor hired by the Investment Manager to provide specific and limited services to assist the Investment Manager.

"Subordinated Creditors" has the meaning provided in Section 8.05.

"Subordinated Obligations" has the meaning provided in Section 8.05.

"Subsidiary" means, with respect to any Person as of any date, (a) any corporation or similar entity in which such Person (and/or one or more other Subsidiaries of such Person) own or control on such date more than fifty percent (50%) of the class or classes of Capital Stock that have by their terms ordinary voting power to participate in the election of the board of directors thereof (regardless of whether or not any other class of Capital Stock may have voting power by reason of the happening of any contingency), and (b) any other Person in which such Person and/or one or more other Subsidiaries of such Person own or control on such date more than fifty percent (50%) of the Capital Stock.

"Substitute Investment Manager" means an entity controlled by the Sponsors which (a) the General Partner shall have given OPIC ninety (90) days' prior written notice of the identity and record and beneficial ownership of, (b) shall have agreed in a writing in form and substance satisfactory to OPIC to assume all obligations of the Investment Manager and otherwise as reasonably requested by OPIC, and (c) shall be beneficially owned by persons who are (i) beneficial owners of the Investment Manager and/or (ii) Team Members.

"Supermajority-in-Interest of the Independent Limited Partners" means Independent Limited Partners who own Limited Partner Interests that represent at least sixty-seven percent (67%) in interest of the Limited Partner Interests owned by all Independent Limited Partners. For the avoidance of doubt, such determination shall be made solely by reference to Limited Partner Interests in, and Independent Limited Partners of: (i) the Equity Vehicle, other than the Limited Partner Interests in such entity held by the Tax-Exempt Feeder, (ii) the Tax-Exempt Feeder and (iii) the Parallel Equity Vehicles.

"Target Year" has the meaning provided in Section 7.05(a)(i).

"Target Countries" has the meaning provided in Section 2.09(b)(ii).

"Tax Distribution Amount" has the meaning provided in Section 7.05(b)(i).

"Tax-exempt Feeder" means Latin Power Corporate (U.S.) Limited, a Cayman Islands limited liability company.

"Taxes" has the meaning provided in Section 2.08(a).

"Team Member" means a new or existing employee or member of the Investment Manager or member of the Investment Committee that is not a Sponsor.

"Termination Date" means the earlier of (i) (b) (4) and (ii) (b) (4).

"Termination Period" shall mean the period after dissolution of the Fund pursuant to (i) the terms of the Partnership Agreement, (ii) the Exempted Limited Partnership Law (2007 Revision) of the Cayman Islands as amended from time to time or (iii) any other applicable law.

"Test Date" means the last day of any fiscal quarter.

"Total Capital Contributions" means the sum of the Fund Equity Contributions and the OPIC Loan.

"Transfer" means, when used in respect to any Partner Interest, or any ownership interest in the Tax-exempt Feeder, the Feeder Limited Partner, the Fund, the General Partner, Latin Power GP, the Ultimate GP, the Carry Partnership or Investment Manager, as applicable, any direct or indirect sale, exchange, assignment, disposition, bequest, gift, pledge, mortgage, hypothecation, Lien, placement in trust, or other transfer of any record or beneficial interest therein or rights thereunder to any Person, whether voluntarily, involuntarily or by operation of law.

"Treasury Cost" means, with respect to any amount paid by OPIC under the OPIC Guaranty, the cost that OPIC determines would be charged for such amount by the United States Department of Treasury.

"Trigger Date" means the earlier of: (b) (4)

"Ultimate GP" means Latin Power III, LLC, a Delaware limited liability company.

"Ultimate GP Operating Agreement" means that certain Limited Liability Company Agreement of the Ultimate GP dated July 12, 2005 by and between the Sponsors setting forth the terms of the Ultimate GP's Operations as such agreement may be amended and/or amended and restated from time to time.

"U.S. GAAP" means generally accepted accounting principles in the United States of America in effect from time to time, applied on a consistent basis both as to amounts and classification of items.

"Vehicle Sideletter" means the sideletter in form and substance satisfactory to OPIC to be executed by the Equity Vehicle, the Feeder Limited Partner, the (b) (4) Vehicle, and the (b) (4) Vehicle.

Section 1.02: Interpretation.

In this Agreement, unless otherwise indicated or otherwise required by the context:

Reference to and the definition of any document (including this Agreement and all Schedules and Exhibits) shall be deemed a reference to such document as it may be amended, supplemented, revised, or modified from time to time;

All references to an "Article," "Section," "Schedule," or "Exhibit" are to an Article or Section hereof or to a Schedule or an Exhibit attached hereto;

The table of contents, article and section headings, and other captions in this Agreement are for the purpose of reference only and do not limit or affect its meaning;

Defined terms in the singular include the plural and vice versa, and the masculine, feminine or neuter gender include all genders;

Accounting terms used herein but not defined in Section 1.01 shall have the respective meanings given to them under U.S. GAAP;

The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision, Article or Section of this Agreement;

Any reference herein to a time of day means Washington, D.C. time;

Phrases such as "satisfactory to OPIC," "in such manner as OPIC may determine," "to OPIC's satisfaction," "at OPIC's election," "in OPIC's judgment," and phrases of similar import shall, unless otherwise expressly qualified, authorize and permit OPIC to approve, disapprove, act or decline to act in its sole discretion;

Phrases such as "as OPIC may approve," "with OPIC's consent," "as approved by OPIC" and phrases of similar import shall mean OPIC's prior written approval or prior written consent, as applicable;

A reference to any Applicable Law includes any amendment or modification of such Applicable Law, any successor to such law and all regulations, rulings and other Applicable Laws promulgated under such Applicable Law or any successor thereto;

References to any Person or Persons shall be construed as a reference to any successors or assigns of such Person or Persons;

The word "including" shall mean, unless expressly stated otherwise, "including without limitation" or "including but not limited to" (as required by the context), and the words "or" and "any" when used with respect to any thing, event, Person or matter shall not be exclusive of any other thing, event, Person or matter;

The words "own," "invest," "hold," "incur," "pay," "acquire," "agree," "commit," and words of similar import shall mean, as required by the context, own, invest, hold, pay, acquire or commit, directly or indirectly, and when used with reference to the Fund, shall include ownership, investment, holding, incurring, payment, acquisition, agreement or commitment by any Parent Portfolio Company; and

All terms used herein but not defined in Section 1.01 that are defined in Article 8 or 9 of the Uniform Commercial Code as in effect in the State of New York shall have the respective meanings given to them therein.

ARTICLE II AMOUNT AND TERMS OF FINANCING

Section 2.01. OPIC Commitment; Disbursements; Notes.

(a) OPIC Commitment; Cancellation of OPIC Commitment.

Subject to the terms and conditions hereof, OPIC agrees to make Disbursements to the Fund in an aggregate principal amount not to exceed the OPIC Commitment Amount. The Fund shall not be entitled to borrow any OPIC Loan amount that has been repaid or prepaid.

The Fund may cancel all or any part of the undisbursed OPIC Commitment at any time by thirty (30) days' prior written notice to OPIC, which notice shall be irrevocable and effective upon receipt by OPIC.

(b) OPIC Commitment Fee.

Commencing on the first Disbursement Date under this Agreement and continuing through and including the last day of the Availability Period, a commitment fee (the "**OPIC Commitment Fee**") shall accrue on a daily basis at the rate of (b) (4)

Subject to Section 2.03, the Fund shall pay the OPIC Commitment Fee (b) (4)

(c) Disbursements.

The Fund may request Disbursement of all or a portion of the Available OPIC Commitment Amount by delivering a Disbursement Request to OPIC no later than (b) (4) (b) Business Days prior to the proposed Disbursement Date. The Disbursement Date shall be a Business Day during the Availability Period. The OPIC Commitment Amount shall be disbursed in no more than (b) (4) (b) Disbursements. Unless otherwise agreed by OPIC, each Disbursement (b) (4)

No Disbursement shall be made to the extent that the sum of the amount of such Disbursement plus the amount of all prior Disbursements (less any repayments of principal amounts of the OPIC Loan) would exceed the sum of (i) (b) (4)

(d) Limitation on Disbursements.

OPIC shall have no liability, and no obligation to make Disbursements, in the event that funding sufficient to meet the full amount of any proposed Disbursement has not been provided under the OPIC Funding Documents. Disbursements shall be made only for, and the proceeds of Disbursements shall only be applied to, uses of proceeds permitted in Section 2.09(a). No Disbursement shall be requested or made after the end of the Availability Period.

(e) Notes; Amount and Term.

Each Disbursement shall be subject to satisfaction of the conditions precedent set forth in Article IV (in the case of the first Disbursement only) and Article V and shall be evidenced by one or more Notes issued and delivered by the Fund to OPIC aggregating the principal amount of the Disbursement. Each Note shall be dated the corresponding Disbursement Date, shall be valid and enforceable at all times as to its respective outstanding principal amount and, as to interest, to the extent of the interest accrued thereon, and shall have a stated maturity date, subject to Section 2.05, of the Scheduled Maturity Date. The Fund shall not make any Disbursement Request nor issue any Notes that would cause the aggregate principal amount of Disbursements to exceed the OPIC Commitment Amount. The Fund shall not make any Disbursement Request nor issue any Notes that would cause the aggregate principal amount of Disbursements outstanding to exceed the sum of (x) the amount (if any) by which aggregate Fund Equity Contributions as of the Disbursement Date of such Disbursement exceeds Equity Repayments and (y) the product of two and the LC Balance as of such Disbursement Date. If any Note is mutilated, lost, stolen or destroyed, the Fund shall issue and deliver to OPIC promptly upon its request (A) a new Note of the same date, maturity and denomination as the Note so mutilated, lost, stolen or destroyed, (B) a certificate of an Authorized Officer of the General Partner certifying and warranting as to the due authorization, execution and delivery of such new Note and (C) if requested by OPIC, legal opinions from counsel to the Fund as to the due authorization, execution and delivery of such new Note, and the legality, validity, binding nature and enforceability thereof in form and substance reasonably satisfactory to OPIC; provided that as a condition precedent to the issuance of any new Note, OPIC shall deliver to the Fund a certificate duly executed by an Authorized Officer of OPIC certifying that the predecessor Note has been mutilated, lost, stolen or destroyed. Concurrently with receipt from the Fund of the documents referenced in clauses (A),

(B) and (C) above, OPIC shall issue and deliver to the Fund a release from liability under such predecessor Note.

Section 2.02. Interest.

The Fund shall pay interest on the OPIC Loan as follows:

(a) Base Interest.

Subject to Section 2.02(d), each Note shall bear base interest (the "**Base Interest**") on (b) (4)

Accrued and unpaid Base Interest in respect of each Note shall be compounded semi-annually in arrears and computed as provided in the OPIC Funding Documents. (For the avoidance of doubt, as defined in the OPIC Funding Documents, accrued and unpaid Base Interest that has not compounded is "Accrued Interest", and accrued and unpaid Base Interest that has compounded is "Accreted Interest".) Subject to Section 7.04(b) and the OPIC Funding Documents, Base Interest shall be due and owing on the Maturity Date.

(b) Current Interest.

Each Note shall bear additional interest (the "**Current Interest**") on (b) (4)

(the "**Current Interest Spread**"), computed in accordance with Section 2.10(c). Subject to Section 2.03 and the OPIC Funding Documents, the Current Interest shall be payable (b) (4)

(c) Deferred Interest.

In addition to the Base Interest and the Current Interest, the Fund shall pay Deferred Interest to OPIC as provided in Section 7.04(b)(i)(I). The parties acknowledge and agree that the Deferred Interest (i) represents deferred interest payable by the Fund to OPIC as additional consideration for the OPIC Loan, (ii) does not represent a distribution to a Partner, and (iii) is not intended to cause OPIC to be a Partner or otherwise to be deemed or recharacterized as a holder of equity securities of the Fund.

(d) Default Interest.

(i) If the Fund fails to pay when due any amount of principal of or Base Interest on any Note, the Fund shall pay to OPIC interest on such amount for each day such past due amount remains unpaid, payable on demand, at the rate equal to (b) (4)

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(ii) Subject to Section 2.03, if the Fund fails to pay any other amount when due hereunder, the Fund shall pay interest on such amount for each day such past due amount remains unpaid, payable on demand, at the rate equal to (b) (4)

Section 2.03. Accrual of Certain Payments.

The OPIC Commitment Fee, the Current Interest (together, the "**Fixed OPIC Payments**"), and all other fees, expenses and indemnity amounts then due and owing to OPIC shall be payable from ^{(b) (4)}

In the event the Fund has insufficient cash (after calling Available Capital and after proration among the Fixed OPIC Payments and all other fees, expenses and indemnity amounts then due and owing to OPIC, and the Management Fees, such proration to be based on the respective amounts due to OPIC and the Investment Manager) to pay the Fixed OPIC Payments and such other fees, expenses and indemnity amounts to OPIC in full when due, the unpaid amount shall be accrued, with interest per annum at the rate equal to the highest Base Interest Rate then in effect with respect to any portion of the OPIC Loan, until the next Payment Date on which Fund Cash Flow is available, upon which Payment Date such accrued Fixed OPIC Payments and other fees, expenses and indemnity amounts shall become due and owing in accordance with the terms of this Agreement and the other Financing Documents. The Fund shall give not less than seven (7) Business Days prior notice to OPIC of its inability to pay on any Payment Date the Fixed OPIC Payments and other fees, expenses and indemnity amounts in full when due, specifying the approximate amount to be deferred. For the avoidance of doubt, Fixed OPIC Payments do not include Deferred Interest.

Section 2.04. [RESERVED].

Section 2.05. Repayment of the OPIC Loan.

The Fund shall pay the outstanding principal balance amount of each Note together with all interest, fees and costs related thereto and all other amounts payable thereunder at such times and in such amounts as are set forth in such Note and, in all events, no later than the Maturity Date.

Section 2.06. Prepayment.

(a) Voluntary.

Subject to the terms of any Note and the OPIC Funding Documents, the Fund may prepay all or any portion of the outstanding principal amount of such Note and accrued and unpaid (including compounded) interest thereon; provided however, that the Fund shall pay in full simultaneously therewith (i) all other amounts then due and owing to OPIC hereunder or under such Note and (ii) all costs, expenses and losses (including any interest, premium or penalty paid by OPIC in respect of amounts obtained under the OPIC Funding Documents to make the Disbursements or maintain the OPIC Loan) attributable, in OPIC's determination, to any such prepayment. Except as otherwise required by the OPIC Funding Documents, the Fund may make such prepayment without premium or penalty.

(b) Mandatory.

The Fund shall apply Fund Cash Flow to the payment of the Notes in accordance with Section 7.04(b); provided however, that, to the extent (if any) that the OPIC Funding Documents prohibit the Fund from paying any amount (a "**Restricted Amount**") of principal of or interest on the Notes that would otherwise be required to be paid under Section 7.04(b), the Fund shall deposit an amount equal to such Restricted Amount into a segregated account held for the sole benefit of OPIC pursuant to arrangements that provide OPIC with a first priority security interest in such funds and that are otherwise satisfactory to OPIC. All amounts held in such segregated account (including earnings thereon) shall be applied to prepay the Notes in accordance with the terms of the OPIC Funding Documents and Section 7.04(b).

Section 2.07. Facility Fee.

The Fund shall pay OPIC a facility fee (the "**Facility Fee**") in the amount of (b) (4), of which (i) (b) (4) was paid to OPIC upon the execution of the OPIC Commitment Letter and (ii) (b) (4) shall be paid to OPIC on or before the date of the first Disbursement; provided that to the extent any Person has paid any portion of such Facility Fee to OPIC prior to the first Disbursement, the Fund may use a portion of the first Disbursement to reimburse such Person for the amount of any such payment.

Section 2.08. Taxes.

(a) Payment.

All sums payable to OPIC hereunder, under the Notes or any other Financing Document, whether of principal, interest, fees, Fixed OPIC Payments, Deferred Interest, premiums, costs, expenses or otherwise, shall be paid in full, free and clear of any and all offsets, deductions or withholdings for any and all present or future taxes, levies, imposts, stamp or other duties, fees, assessments, deductions, withholdings, other governmental charges, and liabilities (including penalties and interest) with respect thereto imposed by any Governmental Authority (collectively, "**Taxes**"). In the event that the Fund is prohibited by law from making any such payments to OPIC hereunder, under the Notes or any other Financing Document free and clear of all such offsets, deductions, withholdings and payment of Taxes, then (i) the Fund shall pay the full amount required to be offset, deducted, withheld or paid to the relevant Governmental Authority in accordance with all Applicable Laws and (ii) the amount which the Fund is required to pay to OPIC shall be increased by such additional amount as may be necessary in order that the actual amount received by OPIC after such offset, deduction, withholding or payment of Taxes (including offsets, deductions, withholdings and payments applicable to additional sums payable to OPIC under this Section 2.08) shall equal the full amount stated to be payable to OPIC hereunder, under the Notes or any other Financing Document.

(b) Notice.

OPIC shall promptly notify the Fund of any payment of Taxes required or requested of OPIC, and upon such notice from OPIC, the Fund shall pay such Taxes to the relevant Governmental Authority in accordance with all Applicable Laws; provided that if OPIC provides notice and evidence to the Fund that such Taxes have been paid by OPIC, the Fund shall pay or reimburse and indemnify OPIC therefor within thirty (30) days of receipt of such notice. The Fund shall furnish OPIC with the original or a certified copy of the receipt evidencing payment of any Taxes by the Fund pursuant to this Section 2.08 to the extent available or obtainable, together with any other information that OPIC may reasonably request to establish to its satisfaction that full and timely payment of such Taxes has been made.

Section 2.09. Use of Proceeds; Permitted Portfolio Securities.

(a) Use of Proceeds.

The proceeds of Disbursements shall be applied by the Fund, in each case subject to the terms and conditions of this Agreement, exclusively to:

(i) (b) (4)

(ii) (b) (4)

(iii) (b) (4)

Notwithstanding any other provision of this Agreement, no more than (b) (4) of the amount (if any) by which aggregate proceeds of Disbursements hereunder exceeds the LC Balance may, as of any date, be used for (b) (4).

(b) Permitted Portfolio Securities.

(i) All investments made by the Fund after the date hereof shall be effected in a manner consistent with the terms hereof, including the Annex A Requirements, as well as the Investment Guidelines.

(ii) At the time the Fund enters into a legally binding commitment to acquire a Portfolio Security, the Portfolio Company (other than a Parent Portfolio Company) that issued such Securities shall (b) (4)

If the Fund invests in a Parent Portfolio Company, such Parent Portfolio Company shall only invest in Portfolio Securities of a Portfolio Company meeting the requirements of the preceding sentence.

(iii) The Fund shall not apply any proceeds of the OPIC Loan for investment in a Portfolio Company otherwise permitted under Section 2.09(b)(ii) if (A) in respect of any Target Country that is an Anchor Country listed on Schedule 1.01(a), Applicable Law effective subsequent to the date of the OPIC Commitment Letter expressly and retroactively prohibits OPIC from investing in such country, or (B) in respect of any Target Country that is listed on Schedule 1.01(b) and is not an Anchor Country, at the time of OPIC's review of a proposed investment in such country for compliance with the Annex A Requirements, OPIC has ceased or suspended the availability of its programs for such investments in such country; provided however, that the restriction set forth in clause (B) above shall not apply to Permitted Follow-On Investments.

(c) No investment in any Portfolio Security shall be made by the Fund unless and until OPIC has delivered to the Fund a Consent Notice in respect of such Portfolio Security; provided, however, that the Fund may purchase Securities of a Parent Portfolio Company incidental to the purchase of a Permitted Portfolio Security without OPIC's consent in respect of such Parent Portfolio Company so long as the identity of any such Parent Portfolio Company and a description of the structure used for such investment is described in the Disbursement Request and the Portfolio Acquisition Certificate required under Section 6.12(a).

(d) No investment in any Portfolio Security (including any Securities of a Parent Portfolio Company and any Follow-On Investment) shall be made by the Fund during the Termination Period using the proceeds of the OPIC Loan; provided, however, for the avoidance of doubt, that the Fund may make investments in Portfolio Securities funded solely with Fund Equity Contributions during the Termination Period.

Section 2.10. Miscellaneous.

(a) Payment or Reimbursement of Expenses.

(i) Prior to the Initial Closing Date, each of the Fund, the Equity Vehicle, the Parallel Equity Vehicles and the Feeder Limited Partner, jointly and severally, shall pay or reimburse OPIC, within ten (10) days of receipt of an invoice therefor, (b) (4) , incurred by OPIC in connection with its (b) (4)

(ii) From and after the Initial Closing Date, the Fund shall pay or reimburse OPIC, or such Person as OPIC may direct, within ten (10) days of receipt of an invoice therefor, for all documented out-of-pocket costs and expenses incurred by or on behalf of OPIC in connection with (b) (4)

. The Fund shall bear all costs and expenses of (b) (4)

(b) Currency and Place of Payment.

All payments hereunder, under the Notes or under any other Financing Document shall be made in Dollars in immediately available and freely transferable funds without any offset, withholding, deduction or Taxes, and shall be received by OPIC no later than 10:00 a.m. (Washington D.C. time) on the date when due. Except as otherwise required by the OPIC Funding Documents, all such payments shall be made by wire transfer via a bank located in the United States to;

U.S. Treasury Department
New York, NY

(b) (2)

OBI=OPIC Loan No. 599-2006-774-IG

(c) Computation of Interest and Fees.

Except as otherwise provided herein, in any Note or in the OPIC Funding Documents, all interest, default interest and fees, including the Fixed OPIC Payments, shall accrue on a daily basis and shall be computed on the basis of the Day Count Fraction.

(d) Application of Payments to OPIC.

Payments received by OPIC under this Agreement or with respect to any Note shall be applied to amounts due under this Agreement and under the Notes in accordance with the terms of the Financing Documents, notwithstanding any instruction to the contrary from any Interested Party.

(e) Payments by the Fund.

All sums payable by the Fund or any other Interested Party hereunder or under any other Financing Document shall be absolute and unconditional under any and all circumstances and irrespective of any set-off, counterclaim or other defense.

(f) Foreign Government Approvals.

OPIC shall have the right to notify the relevant Government Authority for any Eligible Country in which the Fund will invest the proceeds of any Disbursement about such investment and to seek any approvals of any such Government Authority under any applicable government-to-government investment agreement that OPIC may deem necessary or advisable.

ARTICLE III REPRESENTATIONS AND WARRANTIES

To induce OPIC to enter into this Agreement, each of the Fund, the General Partner and the Investment Manager jointly and severally represents, covenants, and warrants to OPIC as of the date hereof, each Disbursement Date, and the date of each investment in Portfolio Securities as follows:

Section 3.01. Existence and Power.

(a) Fund.

The Fund is an exempted limited partnership, comprised of the General Partner as the sole general partner and the Feeder Limited Partner and the (b) (4) Vehicle as the limited partners, duly formed, registered, and in good standing under the laws of the Cayman Islands. The Fund is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in its jurisdiction of organization, and has the requisite power under the Partnership Agreement and the laws of the Cayman Islands to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), to borrow money and to execute, deliver, and perform this Agreement, the Notes and each of the other Financing Documents to which it is or will be a party. The Fund has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the Fund's

Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(b) Equity Vehicle.

The Equity Vehicle is an exempted limited partnership, comprised of Latin Power GP as the sole general partner and the Limited Partners set forth in Schedule 3.04(f)(ii) as the limited partners, duly formed, registered, and in good standing under the laws of the Cayman Islands. The Equity Vehicle is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the Cayman Islands, and has the requisite power under the Equity Vehicle Partnership Agreement and the laws of its jurisdiction of organization to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform each of the Financing Documents to which it is or will be a party. The Equity Vehicle has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the Equity Vehicle's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(c) (b) (4) Vehicle.

The (b) (4) Vehicle is an exempted limited partnership, comprised of Latin Power GP as the sole general partner and (b) (4) as the sole limited partner, duly formed, registered, and in good standing under the laws of the Cayman Islands. The (b) (4) Vehicle is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the Cayman Islands, and has the requisite power under the (b) (4) Vehicle Partnership Agreement and the laws of its jurisdiction of organization to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform each of the Financing Documents to which it is or will be a party. The (b) (4) Vehicle has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the (b) (4) Vehicle's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(d) (b) (4) Vehicle.

The (b) (4) Vehicle is an exempted limited partnership, comprised of Latin Power GP as the sole general partner and (b) (4) as the sole limited partner, duly formed, registered, and in good standing under the laws of the Cayman Islands. The (b) (4) Vehicle is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the Cayman Islands, and has the requisite power under the FMO Vehicle Partnership Agreement and the laws of its jurisdiction of organization to own and operate (b) (4) properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform each of the Financing Documents to which it is or will be a party. The (b) (4) Vehicle has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the (b) (4) Vehicle's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(e) Feeder Limited Partner.

The Feeder Limited Partner is an exempted company, wholly owned by the Equity Vehicle and the (b) (4) Vehicle, duly formed, validly existing, and in good standing under the laws of the Cayman Islands. The Feeder Limited Partner is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the Cayman Islands, and has the requisite power under the Feeder Limited Partner Operating Document and the laws of its jurisdiction of organization to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform each of the Financing Documents to which it is or will be a party. The Feeder Limited Partner has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the Feeder Limited Partner's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(f) General Partner.

The General Partner is an exempted company, wholly owned by Latin Power GP, duly organized, validly existing and in good standing under the laws of the Cayman Islands. The General Partner is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the Cayman Islands, and has the requisite power under the General Partner Operating Document and the laws of its jurisdiction of organization to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform, for itself and on behalf of the Fund, this Agreement, the Notes, and each of the other Financing Documents to which it or the Fund is or will be a party. The General Partner has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the General Partner's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(g) Latin Power GP.

Latin Power GP is an exempted company, wholly owned by the Carry Partnership, duly organized, validly existing and in good standing under the laws of the Cayman Islands. Latin Power GP is duly authorized to do business in the Cayman Islands and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the Cayman Islands, and has the requisite power under Latin Power GP Operating Document and the laws of its jurisdiction of organization to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform, for itself and on behalf of the Equity Vehicle and each Parallel Equity Vehicle, each of the Financing Documents to which it or they is or are or will be a party. Latin Power GP has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of Latin Power GP's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(h) Carry Partnership.

The Carry Partnership is a limited partnership, comprised of the Ultimate GP as the general partner and certain Team Members and the Sponsors as the limited partners, duly organized, validly existing and in good standing under the laws of the State of Delaware. The Carry Partnership is duly authorized to do business in Delaware and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the United States, and has the requisite power under the Carry Partnership Agreement and the laws of its jurisdiction of organization to own and operate its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver, and perform the Financing Documents to which it is or will be a party. The Carry Partnership has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the Carry Partnership's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(i) Ultimate GP.

The Ultimate GP is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware. The Ultimate GP is duly authorized to do business in Delaware and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in the United States, and has the requisite power under its Charter Documents and the laws of its jurisdiction of organization to own its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver and perform each of the Financing Documents to which it is or will be a party. The Ultimate GP has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the Ultimate GP's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

(j) Investment Manager.

The Investment Manager is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware. The Investment Manager is duly authorized to do business in Delaware and New York and in each jurisdiction in which the failure to be duly authorized could have a Material Adverse Effect, has its principal place of business in New York, and has the requisite power under its Charter Documents and the laws of its jurisdiction of organization to own its properties and assets, to carry on its business as now conducted and as now contemplated to be conducted (including in respect of the Financing Documents to which it is or will be a party), and to execute, deliver and perform each of the Financing Documents to which it is or will be a party. The Investment Manager has not engaged in any activities other than as contemplated by the Financing Documents. True, complete and correct copies of all of the Investment Manager's Charter Documents (including all amendments thereto) as currently in effect have been furnished to OPIC and remain in full force and effect with no defaults outstanding thereunder.

Section 3.02. Authority.

The execution, delivery, and performance of this Agreement, the Notes and each of the other Financing Documents by each Interested Party that is a party thereto, the Disbursements and the use of the proceeds of the OPIC Commitment as contemplated herein, as applicable: (a) have been duly authorized by all necessary corporate, company or partnership action; (b) will not violate any provision of

the Charter Documents of any such Person, or (except for such ministerial requirements which do and will not have any Material Adverse Effect) any Applicable Law; and (c) will not breach, create a default under (with or without any passage of time or giving of notice or both) or result in the creation or imposition of any Lien upon any of its revenues, assets or properties under, any agreement, contract or instrument or other requirement by which any such Person or any of its revenues, assets or properties may be bound or affected, except as expressly permitted or required by the Financing Documents. The execution and delivery by each such Person of this Agreement and each other Financing Document to which it is or will be a party will cause each such respective instrument to constitute a direct, general and unconditional obligation of such Person that is legal, valid, binding and enforceable in accordance with its terms. Except for Authorizations set forth in Schedule 3.02, no Authorization of any other Person, including any Partner, is required in connection with the execution, delivery, performance, validity or enforceability of any Financing Document.

Section 3.03. Financial Condition.

(a) None of the Fund, the Equity Vehicle, Latin Power GP, the Feeder Limited Partnership, any Parallel Equity Vehicle, the Investment Manager or the General Partner has any obligation, including any liability for Taxes, material or long-term commitment, or indebtedness of any kind (whether absolute, accrued, contingent or otherwise and whether or not due), other than (i) its obligations under the Financing Documents, (ii) Indebtedness permitted under Section 7.02 (determined as if all such entities were Financing Parties) and (iii) Indebtedness pursuant to the Revolving Loan and Letter of Credit Agreement.

(b) The Fund has entered into subscription agreements with the Feeder Limited Partner and the (b) (4) Vehicle pursuant to which (i) the Feeder Limited Partner is obligated to contribute \$(b) (4) to the capital of the Fund as Fund Equity Commitments and (ii) the (b) (4) Vehicle is obligated to contribute (b) (4) to the capital of the Fund as Fund Equity Commitments.

(c) The Equity Vehicle and the (b) (4) Vehicle have entered into subscription agreements with the Feeder Limited Partner pursuant to which they are obligated to invest \$(b) (4) and \$(b) (4) respectively in the Feeder Limited Partner.

(d) The (b) (4) Vehicle has entered into a subscription agreement with (b) (4) pursuant to which (b) (4) is obligated to contribute \$(b) (4) to the capital of the (b) (4) Vehicle.

(e) The (b) (4) Vehicle has entered into a subscription agreement with (b) (4) pursuant to which (b) (4) is obligated to contribute \$(b) (4) to the capital of the (b) (4) Vehicle.

(f) The Equity Vehicle has entered into subscription agreements with the Limited Partners of the Equity Vehicle pursuant to which such Limited Partners are obligated to contribute (b) (4) in the aggregate to the capital of the Equity Vehicle.

Section 3.04. Status; Ownership.

(a) Status.

The Equity Vehicle was, as of June 17, 2005;

Latin Power GP was, as of June 10, 2005;

The Carry Partnership was, as of June 14, 2005;

The Ultimate GP was, as of June 14, 2005;
Investment Manager was, as of March 28, 2003;
The (b)(4) Vehicle was, as of July 7, 2006;
The (b)(4) Vehicle was, as of June 17, 2005;
The Feeder Limited Partner was, as of October 25, 2007;
The General Partner was, as of October 25, 2007; and
The Fund was, as of November 6, 2007,

a newly created Person; and since such date, such Person has not owned or controlled any assets or engaged in any business other than (i) the negotiation of the Financing Documents to which it is a party and performance of the activities contemplated thereby, (ii) in the case of the Equity Vehicle, the offering of Partner Interests in the Equity Vehicle and the taking of commercially reasonable actions necessary to establish the Equity Vehicle and undertake activities consistent with its constituent documents, (iii) in the case of each Parallel Equity Vehicle, the offering of Partner Interests in such Parallel Equity Vehicle and the taking of commercially reasonable actions necessary to establish such Parallel Equity Vehicle and undertake activities consistent with its constituent documents, (iv) in the case of the Feeder Limited Partner, the taking of commercially reasonable actions necessary to establish the Feeder Limited Partner, (v) in the case of the Ultimate GP, the Carry Partnership and Latin Power GP, the taking of commercially reasonable actions necessary to establish the Equity Vehicle and the Parallel Equity Vehicles and to carry out its obligations in respect of such entities, (vi) in the case of the Investment Manager, the funds management business and (vii) in the case of the General Partner and the Fund, the taking of commercially reasonable actions necessary to establish the Fund.

(b) Ownership of Securities.

The Fund does not own beneficially or of record, or otherwise control, directly or indirectly, Securities of any Person, other than Interim Securities, Permitted Portfolio Securities, and Securities of Portfolio Company Affiliates owned indirectly through Permitted Portfolio Securities.

(c) Subsidiaries.

The Fund has no direct or indirect Subsidiaries other than the Parent Portfolio Companies and the Portfolio Companies set forth in Schedule 3.04(c), as amended from time to time.

(d) Ownership of General Partner Entities.

The identities of all record and beneficial owners of all right, title and interest in and to the General Partner, the Carry Partnership, Latin Power GP and the Ultimate GP and their respective percentage ownership interests, are set forth on Schedule 3.04(d). Latin Power GP owns of record and beneficially one hundred percent (100%) of all right, title and interest in and to the General Partner.

(e) Ownership of Investment Manager.

The identities of all record and beneficial owners of all right, title and interest in and to the Investment Manager, and their respective percentage ownership interests, are set forth on Schedule

3.04(e). As of the Initial Closing Date and as of the date hereof, the Sponsors own of record and beneficially such amounts of all right, title and interest in and to the Investment Manager as are set forth on Schedule 3.04(e).

(f) Ownership of Fund, Equity Vehicle, Parallel Equity Vehicles.

(i) The respective percentage ownership of each of the General Partner, the Feeder Limited Partner and the (b) (4) Vehicle in the Capital Stock of the Fund is set forth in Schedule 3.04(f)(i).

(ii) The identity of each Partner of the Equity Vehicle, its respective percentage ownership of the aggregate outstanding Partner Interests and Limited Partner Interests of the Equity Vehicle, and its respective percentage ownership of the aggregate capital of the Equity Vehicle and the Parallel Equity Vehicles, are set forth on Schedule 3.04(f)(ii).

(iii) The identity of each Partner of the (b) (4) Vehicle, and its respective percentage ownership of the aggregate outstanding Partner Interests and Limited Partner Interests of the (b) (4) Vehicle, and its respective percentage ownership of the aggregate capital of the Equity Vehicle and the Parallel Equity Vehicles, are set forth on Schedule 3.04(f)(iii).

(iv) The identity of each Partner of the (b) (4) Vehicle, and its respective percentage ownership of the aggregate outstanding Partner Interests and Limited Partner Interests of the (b) (4) Vehicle, and its respective percentage ownership of the aggregate capital of the Equity Vehicle and the Parallel Equity Vehicles, are set forth on Schedule 3.04(f)(iv).

(v) The respective percentage ownership of the (b) (4) Vehicle and the Equity Vehicle in the capital stock of the Feeder Limited Partner is set forth in Schedule 3.04(f)(v).

Section 3.05. Obligations.

(a) Liens.

The Security Documents are, or upon notice or filing and recording or registration and the performance of all the acts and satisfaction of all other requirements as set forth in Schedule 3.05 will be, perfected, first priority Liens created in favor of OPIC under the respective Security Documents on the assets described in the respective Security Documents. No further notice, filing, recording or registration is required to perfect such security interests created in the Capital Stock under the respective Security Document. The Fund has no outstanding Lien on or with respect to any of its properties, rights, assets or revenues, and is not contractually bound to create any such Lien, except as permitted in Section 7.01. Except as permitted in Section 7.01, the Investment Manager has no outstanding Lien on or with respect to any of its properties, rights or assets assigned to OPIC under the IM Security Agreement, and is not contractually bound to create any such Lien. The properties, rights and assets assigned to OPIC under the IM Security Agreement are sufficient to operate the Fund in the ordinary course of business, apart from capital requirements necessary to operate the Fund.

(b) Obligations.

The obligations to OPIC of each Financing Party hereunder and under the Notes and other Financing Documents rank (except as expressly permitted herein) not less than *pari passu* with any other Indebtedness or obligation of such Financing Party (other than priorities established by Applicable Law).

Section 3.06. Taxes and Reports.

(a) Disclosure.

(i) All Tax returns and reports of each Interested Party (other than a Sponsor) required by any Applicable Law or any Governmental Authority to be filed in the United States or other applicable foreign jurisdiction have been timely filed (taking into account any extensions of time to file), and all Taxes or other charges due or reasonably anticipated to become due in respect of each such Person, or any assets, income, or franchises of such Person, have been paid or adequately disclosed in the Financial Statements of such Person (or will be when furnished in accordance with Section 6.07) and adequately reserved for in accordance with U.S. GAAP.

(ii) Except as could reasonably be expected not to have a Material Adverse Effect, all Tax returns and reports of each Sponsor required by any Applicable Law or any Governmental Authority to be filed in the United States or other applicable foreign jurisdiction have been timely filed (taking into account any extensions of time to file), and all Taxes or other charges due or reasonably anticipated to become due in respect of each such Person, or any assets, income, or franchises of such Person, have been paid or adequately reserved for.

(b) Liability.

No withholding or other Tax under any Applicable Law or imposed by any Governmental Authority is required to be effected or paid either: (i) by any Interested Party on or by virtue of the execution, delivery or performance by any Interested Party of any of the Financing Documents or any other document, agreement or act contemplated thereby, (ii) by any Person on or with respect to any payment by the Fund pursuant to any Financing Document to which the Fund is a party or any other document or agreement contemplated thereby, or (iii) by any Person on the enforcement of any of the Financing Documents, in each case, other than (x) Taxes imposed on the Fund (including withholding Taxes imposed on a third party in connection with payments to the Fund) or any Interested Party in connection with income earned, or amounts received, by the Fund in respect of its investments and (y) Taxes payable by, or withheld from any payment by OPIC to, a Holder.

Section 3.07. Defaults; Agreements; Letter of Credit; Revolving Loan and Letter of Credit Agreement; Fees.

(a) Defaults.

No Default or Event of Default has occurred and is continuing. No Default or Event of Default in respect of the Original Finance Agreement occurred on or after June 19, 2008 and prior to the date hereof.

(b) Agreements.

None of the Interested Parties (other than a Sponsor) is a party to or is otherwise subject to any agreement, instrument, Charter Document, judgment, order, decree, injunction, writ or ruling or other requirement or restriction that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Sponsors is party to or is otherwise subject to any agreement, instrument, judgment, order, decree, injunction, writ or ruling, or other requirement or restriction that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on any or all of the Interested Parties (other than a Sponsor). None of the

Interested Parties (other than a Sponsor) is in default in the performance or fulfillment of any agreement or obligation under any agreement, contract, instrument, Charter Document, judgment, order, decree, injunction, writ, ruling or other requirement or restriction to which such Person is a party or by which it or its revenues, assets or properties are bound or affected, which default has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Sponsors is party or is otherwise subject to any agreement, instrument, judgment, order, decree, injunction, writ or ruling, or other requirement or restriction that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on any or all of the Interested Parties (other than a Sponsor). To the extent any Fund Document is executed, it is in full force and effect, enforceable in accordance with its terms, and all conditions precedent to the obligations of the respective parties thereunder have been satisfied or will be satisfied when required.

(c) Letter of Credit.

During the continuation of any LC Requirement Period, the Letter of Credit will be in full force and effect, and enforceable in accordance with its terms; provided, however, that the LC Balance may be reduced, as long as after such reduction (i) the sum of (x) the product of the LC Balance multiplied by 2 and (y) Fund Equity Contributions (less Equity Repayments) is not less than (ii) aggregate Disbursements outstanding; provided, however, that notwithstanding anything to the contrary set forth herein, in no event shall the LC Balance be reduced if such reduction would have resulted in a breach of the LTV Covenant as of the immediately preceding Test Date.

(d) Revolving Loan and Letter of Credit Agreement.

During the continuation of any LC Requirement Period, the Revolving Loan and Letter of Credit Agreement will be in full force and effect, enforceable in accordance with its terms, and all conditions precedent to the obligations of the parties thereunder will have been satisfied.

(e) Fees.

Other than amounts that have been paid in full (including any applicable stamp duty), no fees or duty are required to be paid for the legality, validity, or enforceability of the Financing Documents executed on or before the date of this Agreement or the most recent Disbursement Date.

Section 3.08. Litigation.

(a) Except as set forth in Schedule 3.08(a) no action, suit, or other legal, judicial, administrative or arbitral proceeding or investigation where the estimated liability exceeds \$^{(b) (4)} or which might have a Material Adverse Effect (each an "Action") is pending by or before any court or other Governmental Authority or in any arbitral or other forum or, is threatened against any Interested Party or any of their respective revenues, assets, properties or rights or any fund or pooled investment vehicle managed by such Interested Party, including with respect to the Fund, the Fund Documents, any Authorization or the Financing Documents.

(b) No claim for payment under an indemnification agreement of any Interested Party or any of their respective Affiliates has been made except for any indemnification claims made by third-party contractual counterparties in the ordinary course of business made against any Interested Party in each case as the buyer or seller of assets.