

3.5(c) with respect to some or all of the amounts contributed pursuant to Section 3.5(b)(iii) by New Partners, and such amounts shall be invested in Permitted Temporary Investments pending their distribution to the preexisting Fund Limited Partners pursuant to this Section 3.5(c), and the net income therefrom shall be distributed to such Fund Partners in the same proportion as amounts otherwise due to them pursuant to this Section 3.5(c).

(d) Each New Partner shall be deemed to have made a Capital Contribution equal to the amount contributed to the Fund at the Initial Closing or such Subsequent Closing, as applicable, pursuant to Section 3.5(b)(iii) (excluding any interest under Section 3.5(b)(iii)(B) or deemed interest in lieu thereof) and Section 3.5(b)(iv) (excluding any interest under such Section 3.5(b)(iv)), and the Unfunded Capital Commitment of such New Partner shall be equal to its Capital Commitment less such amount; provided, that for U.S. federal income tax purposes, each such New Partner shall be treated as having purchased a portion of the preexisting Partners' interests in the Fund. Each New Partner's Capital Account shall equal the amounts paid by such New Partner at the Initial Closing or such Subsequent Closing, as applicable, pursuant to Section 3.5(b)(iii) (excluding any interest under Section 3.5(b)(iii)(B) or deemed interest in lieu thereof) and Section 3.5(b)(iv) (excluding any interest under Section 3.5(b)(iv)), and each preexisting Parallel Fund Partner's Capital Account (as such term is defined in the Parallel Fund Agreement applicable to such Parallel Fund Partner) shall be reduced in a corresponding manner based upon the amounts paid to them pursuant to Section 3.5(c) (excluding any interest under Section 3.5(b)(iii)(B) or deemed interest in lieu thereof).

(e) A New Partner that increases its Capital Commitment after the Initial Closing shall pay to the Fund or receive from the Fund, as the case may be, the difference between the amount it is entitled to receive pursuant to Section 3.5(c) with respect to its Capital Commitment as in effect immediately prior to such increase and the amount it is required to pay pursuant to Section 3.5(b) with respect to the increase in its Capital Commitment.

(f) To the extent that as a result of the admission or increase in the Capital Commitment of a New Partner (as such term is also defined in each Parallel Fund Agreement), the increase in the Capital Commitment of such New Partner causes the ratio of (i) Capital Commitments of Partners to (ii) Capital Commitments of Parallel Fund Partners to change, the Fund General Partners shall adjust the percentage interest of the Fund and such Parallel Funds in each Portfolio Investment to reflect such ratio.

3.6 Failure to Contribute. (a) Unless a Partner is excluded from investing pursuant to Section 3.10 or is not required to invest in accordance with Section 3.11, upon any failure (a "Default") by any Partner (a "Defaulting Partner") to pay in full when due the called-for percentage of its Unfunded Capital Commitment, interest shall accrue on the outstanding unpaid balance of such called-for percentage (the "Defaulted Amount"), from and including the date such payment was due until the earlier of the date of payment to the Fund of such called-for percentage (together with accrued interest thereon) or such time, if any, as such Partner forfeits a percentage of its interest in the Fund as provided in Section 3.6(c), at the lesser of (x) the rate of 12% per annum over the

Prime Rate and (y) the maximum rate permitted by applicable law. Subject to compliance with the Fractions Rule, payments of interest pursuant to this Section 3.6(a) shall (i) be distributed among the other Fund Partners in proportion to their Fund Percentage Interests and (ii) not be credited to the Defaulting Partner's Capital Account or deemed a Capital Contribution.

(b) If a Default (as such term is also defined in any Parallel Fund Agreement with respect to any Parallel Fund Partner) occurs and is not cured by the Defaulting Fund Partner within five (5) Business Days following the date the payment was due, the General Partner shall notify all Partners of such Default. The General Partner may provide to all Partners other than a Defaulting Partner a Capital Demand Notice calling for contribution to the Fund of their pro rata share (based upon the Unfunded Capital Commitments of the Fund Partners other than any Defaulting Fund Partners) of the Capital Contribution that a Defaulting Fund Partner failed to make, and any Capital Contribution by any Partner pursuant to such Capital Demand Notice shall reduce such Partner's Unfunded Capital Commitment in accordance with the definition of such term.

(c) If a Default occurs and is not cured by the Defaulting Partner within ten (10) Business Days following the delivery by the General Partner of written notice of such Default to the Defaulting Partner, the General Partner may, in its sole discretion, apply any or all of the following remedies:

(i) Such Defaulting Partner shall not be entitled to make any further Capital Contributions to fund the acquisition of a Portfolio Investment or to make an Additional Investment with respect to a Portfolio Investment, in which case future investments in Real Estate Assets shall be made by one or more Alternative Investment Vehicles owned by all Partners who have not been so excluded.

(ii) Such Defaulting Partner shall (A) forfeit to the other Fund Partners (except any other Defaulting Fund Partner subject to the provisions of this Section 3.6 or the similar provisions of any Parallel Fund Agreement, as the case may be), as recompense for damages suffered, and the Fund shall withhold (for the account of such other Fund Partners), all distributions that would otherwise be made to such Defaulting Partner on or after such date (such amounts withheld shall be distributed among such other Fund Partners in proportion to their Fund Percentage Interests) and (B) be assessed a 25% reduction in its Capital Account balance, Invested Capital and Percentage Interest (such reduction amount to be allocated among all other Fund Partners in proportion to their respective Capital Accounts (as such term is also defined in the Parallel Fund Agreement with respect to any Parallel Fund Partner) balances, except any other Defaulting Fund Partner subject to the provisions of this Section 3.6 or the similar provisions of any Parallel Fund Agreement). The General Partner shall be permitted to make such adjustments to the Capital Account balances of the Partners as shall be necessary to accomplish the foregoing and any such adjustment shall be effective as of the date that the General Partner delivers notice of the foregoing reduction to the Defaulting Partner.

(iii) The General Partner may commence legal proceedings against the Defaulting Partner to compel payment of the Defaulted Amount.

(iv) In lieu of the remedy set forth in Section 3.6(c)(ii), such Defaulting Partner shall be required to transfer its interest in the Fund effective immediately upon written notice from the General Partner, in which case the procedure set forth in the following sentence shall apply at a transfer price equal to 75% of such Defaulting Partner's Capital Account balance, less any expenses, deductions, damages or losses allocated to such Defaulting Partner. The General Partner shall designate a purchaser of the interest required to be transferred pursuant to the immediately preceding sentence (which purchaser may be the General Partner or an Affiliate thereof), and such interest shall be acquired by the purchaser (if such purchaser accepts such designation) in accordance with the provisions of Sections 10.3 and 10.4 (and the corresponding provisions of the Parallel Fund Agreements) by the payment to the transferring Partner within ninety (90) days of such date of the purchase price therefore. The purchaser shall thereafter be admitted as a Substitute Limited Partner.

(v) Such Defaulting Partner shall not otherwise Transfer its interest in the Fund without the prior written consent of the General Partner, which may be given or withheld in the General Partner's sole discretion.

(d) Any Defaulting Partner shall indemnify and hold harmless each Fund General Partner and the Fund Group against any losses, damages and expenses (including, without limitation, attorneys' fees) incurred by any of them (i) in enforcing or attempting to enforce the provisions of this Section 3.6 or (ii) resulting from the Fund Group failing to meet its obligations by reason of any Default.

(e) Whenever the vote, consent or decision of the Fund Partners, or any group or class thereof, is required or permitted pursuant to this Agreement, any Parallel Fund Agreement or the Act, including, without limitation, for purposes of amendments of this Agreement or approval of any merger or consolidation of the Fund, any Defaulting Partner shall not be entitled to participate in such vote or consent, or to make such decision, and such vote, consent or decision shall be tabulated or made as if such Defaulting Partner were not a Fund Partner.

(f) The obligation of the Participating Investors to contribute to a Group Investor in respect of the Group Investor's Capital Commitment shall be several and shall be in an amount equal to the proportion of the Unfunded Capital Commitment of the Group Investor that is equal to the sharing percentages of the Participating Investors in the Group Investor as are set forth below the Group Investor's Capital Commitment on Annex A hereto. Notwithstanding the foregoing provisions of this Section 3.6, in the event that a Participating Investor shall fail to pay its respective proportion of any portion of the Capital Commitment required pursuant to this Agreement to be contributed by a Group Investor, the Group Investor shall be a Defaulting Partner only with respect to such Participating Investor's beneficial interest in the Group Investor, and the provisions of this Section 3.6 shall apply only in respect of that proportion of the Group Investor's

interest in the Fund, and the Group Investor shall be deemed to be a non-Defaulting Partner in respect of the beneficial interests of those Participating Investors that have paid their portion of the Capital Commitment required to be contributed by the Group Investor. The General Partner shall make appropriate adjustments to give effect to this provision.

(g) Notwithstanding the foregoing provision of this Section 3.6, in the event that the General Partner or any Affiliate thereof is the Defaulting Partner, then, for purposes of the application of this Section 3.6, any action to be taken or determination to be made by the General Partner pursuant to this Section 3.6 shall instead be taken or made by the Advisory Committee unless and until the default is cured.

3.7 Follow-On Contributions. The General Partner shall not have the right to deliver Capital Demand Notices after the Expiration Date, except as limited to each Limited Partner's Unfunded Capital Commitment and to the extent necessary to: (i) pay Operating Expenses (other than Organizational Expenses), (ii) complete investments, complete Portfolio Investments In Progress and to fund obligations with respect to written commitments to make Portfolio Investments that were made during the Investment Period (including, in each instance, amounts that were budgeted as of the end of the Investment Period), (iii) repay all principal, interest and other amounts owing, or that may become due, under any current or future Fund or Portfolio Investment debt (including under any Credit Facility), (iv) fund Additional Investments (provided, that fundings of additional investments that have not been budgeted as of the end of the Investment Period may not exceed 30% of the total equity invested and budgeted to be invested in such investment as of the end of the Investment Period, unless the Advisory Committee waives or modifies this restriction to permit the Fund to compete, or otherwise participate, in a buy/sell event with an operating or joint venture partner), or (v) establish and fund a reserve established by the General Partner for any of the foregoing.

3.8 Termination of Investment Period. The General Partner may, in its sole discretion, terminate the Investment Period if at such time (i) at least 75% of the aggregate Capital Commitments of the Fund Partners have been called or committed (including, without limitation, any amounts committed for investment and amounts reserved for Additional Investments that have not yet been funded), or (ii) the General Partner determines, in its sole discretion, that changes in laws or regulations applicable to the Fund or any Parallel Fund or changes in business conditions make termination of the Investment Period necessary or advisable; provided, that the Investment Period shall terminate if at least 75% In Interest of the Fund Limited Partners that are not Affiliates of any Fund General Partner vote after the first anniversary of the Closing Date to terminate the Investment Period.

3.9 Liability of the Limited Partners.

(a) Except for the obligations under this Agreement and under the Subscription Agreements, the liability of the Limited Partners shall be limited to the maximum extent permitted by the Act. In no event shall a Limited Partner be obligated