

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation
625 Broadway, 12th Floor, Albany, New York 12233-7011
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www.dec.ny.gov

Stewart Purchaser LLC & Gardner Purchaser LLC
Davina Mansur
130 East 7th Street #3
New York, NY 10009

JUN 01 2018

RE: Site Name: Avant Gardner
Site No.: C224258
Location of Site: 140 Stewart Avenue & 111 Gardner Avenue,
Kings County, Brooklyn, NY 11237

Dear Mr. Mansur,

To complete your file, attached is a fully executed copy of the Brownfield Cleanup Agreement for the Avant Gardner Site.

If you have any further questions relating to this matter, please contact the project attorney for this site, John Nehila, Esq., NYS Department of Environmental Conservation, Office of General Counsel, One Hunters Point Plaza, 47-40 21st Street Long Island City, 11101, or by email at john.nehila@dec.ny.gov.

Sincerely,



Michael J. Ryan, P.E.
Director
Division of Environmental Remediation

Enclosure

ec: B. Wong, Project Manager

cc: J. Nehila, Esq.
A. Guglielmi, Esq. /M. Mastroianni

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
BROWNFIELD CLEANUP PROGRAM
ECL §27-1401 *et seq.*

In the Matter of a Remedial Program for

**BROWNFIELD SITE
CLEANUP AGREEMENT
Index No. C224258-12-17**

Avant Gardner

DEC Site No.: C224258

Located at: 140 Stewart Avenue & 111 Gardner Avenue
Kings County
Brooklyn, NY 11237

Hereinafter referred to as "Site"

by:

Stewart Purchaser LLC & Gardner Purchaser LLC
130 East 7th Street #3, New York, NY 10009

Hereinafter referred to as "Applicant"

WHEREAS, the Department of Environmental Conservation ("Department") is authorized to administer the Brownfield Cleanup Program ("BCP") set forth in Article 27, Title 14 of the Environmental Conservation Law ("ECL"); and

WHEREAS, the Applicant submitted an application received by the Department on May 1, 2017; and

WHEREAS, the Department has determined that the Site and Applicant are eligible to participate in the BCP.

NOW, THEREFORE, IN CONSIDERATION OF AND IN EXCHANGE FOR THE MUTUAL COVENANTS AND PROMISES, THE PARTIES AGREE TO THE FOLLOWING:

I. Applicant Status

The Applicant, Stewart Purchaser LLC & Gardner Purchaser LLC, is participating in the BCP as a Volunteer as defined in ECL 27-1405(1)(b).

II. Tangible Property Tax Credit Status

The Site is located in a City having a population of one million or more and the Applicant has not requested a determination that the Site is eligible for tangible property tax credits. It is therefore presumed that the Site is not eligible for tangible property tax credits. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

III. Real Property

The Site subject to this Brownfield Cleanup Agreement (the "BCA" or "Agreement") consists of approximately 1.850 acres, a Map of which is attached as Exhibit "A", and is described as follows:

Tax Map/Parcel No.: 02977-0001
Street Number: 140 Stewart Avenue, Brooklyn
Owner: Stewart Purchaser LLC

Tax Map/Parcel No.: 02977-0014
Street Number: 550 Meserole Street, Brooklyn
Owner: Gardner Purchaser LLC

Tax Map/Parcel No.: 02977-0015
Street Number: Meserole Street, Brooklyn
Owner: Gardner Purchaser LLC

Tax Map/Parcel No.: 02977-0016
Street Number: 111 Gardner Avenue, Brooklyn
Owner: Gardner Purchaser LLC

IV. Communications

A. All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Applicant shall be sent to:

Bryan Wong
New York State Department of Environmental Conservation
Division of Environmental Remediation
One Hunters Point Plaza
47-40 21st Street
Long Island City, NY 11101
yukyin.wong@dec.ny.gov

Note: one hard copy (unbound) of work plans and reports is required, as well as one electronic copy.

Krista Anders (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, NY 12237
krista.anders@health.ny.gov

John Nehila, Esq. (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel

One Hunters Point Plaza
47-40 21st Street
Long Island City, NY 11101
john.nehila@dec.ny.gov

2. Communication from the Department to Applicant shall be sent to:

Stewart Purchaser LLC & Gardner Purchaser LLC
Attn: Davina Mansur
130 East 7th Street #3
New York, NY 10009
davina@wiederkehrre.com

B. The Department and Applicant reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Applicant provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph III.

V. Miscellaneous

A. Applicant acknowledges that it has read, understands, and agrees to abide by all the terms set forth in Appendix A - "Standard Clauses for All New York State Brownfield Site Cleanup Agreements" which is attached to and hereby made a part of this Agreement as if set forth fully herein.

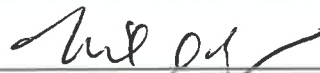
B. In the event of a conflict between the terms of this BCA (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the terms of this BCA shall control.

C. The effective date of this Agreement is the date it is signed by the Commissioner or the Commissioner's designee.

DATED: JUN 01 2018

THIS BROWNFIELD CLEANUP AGREEMENT IS
HEREBY APPROVED, Acting by and Through the
Department of Environmental Conservation as Designee
of the Commissioner,

By:



Michael J. Ryan, P.E., Director
Division of Environmental Remediation

CONSENT BY APPLICANT

Applicant hereby consents to the issuing and entering of this Agreement, waives Applicant's right to a hearing herein as provided by law, and agrees to be bound by this Agreement.

Stewart Purchaser LLC & Gardner Purchaser LLC

By: *[Signature]* Davina Mawur

Title: Authorized Signatory

Date: 5-18-2018

STATE OF NEW YORK)
) ss:
COUNTY OF New York)

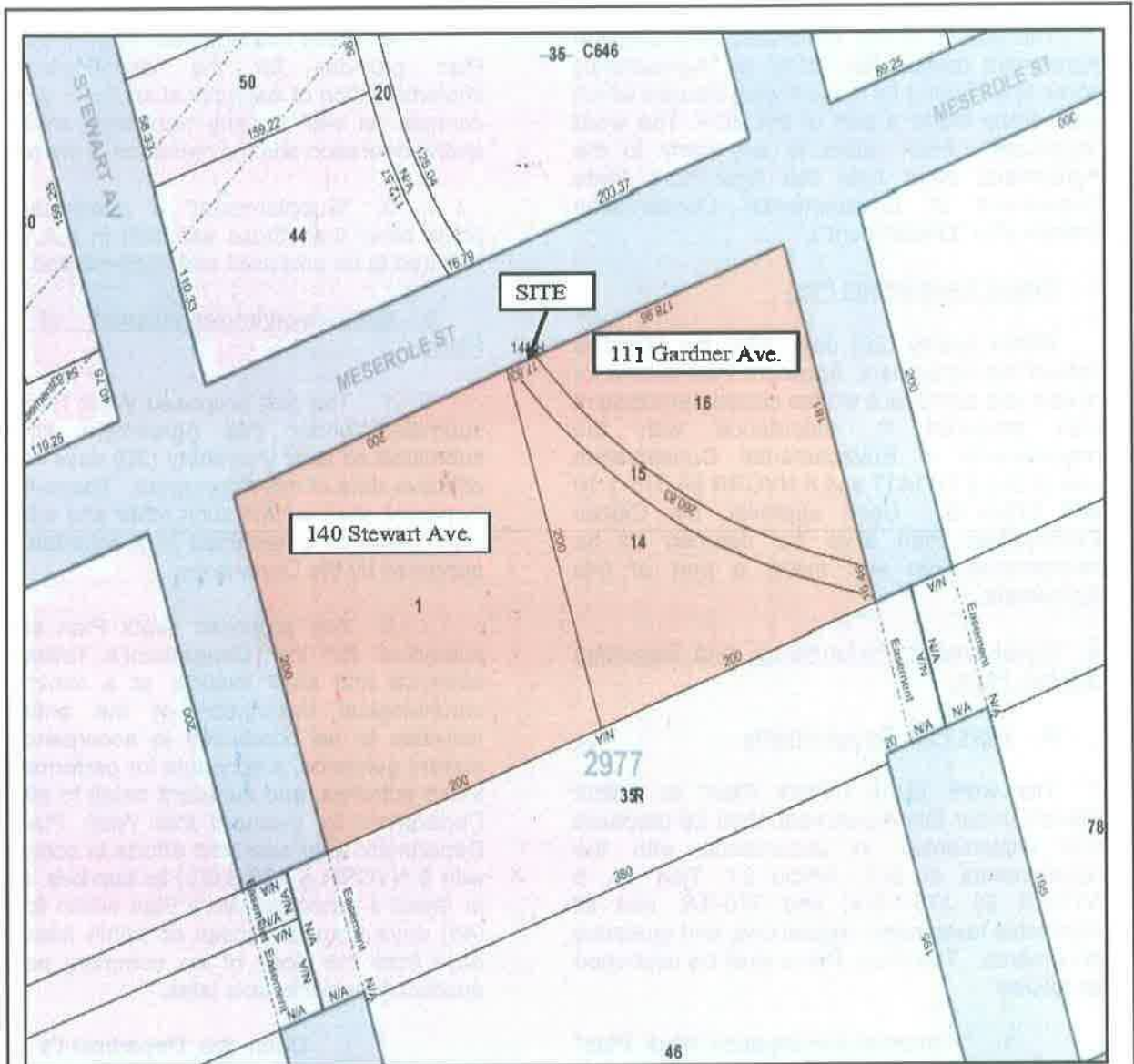
On the 18 day of May in the year 2018, before me, the undersigned, personally appeared Davina Mawur, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Signature and Office of individual
taking acknowledgment



EXHIBIT A

SITE MAP



Map Reference: New York City Digital Tax Map

| | | |
|--|--|-----------------------|
| | <p>PROPERTY TAX MAP 140 STEWART & 111 GARDNER AVE. BROOKLYN, NY 11237</p> | <p>TAX MAP</p> |
|--|--|-----------------------|

APPENDIX A

STANDARD CLAUSES FOR ALL NEW YORK STATE BROWNFIELD SITE CLEANUP AGREEMENTS

The parties to the Brownfield Site Cleanup Agreement (hereinafter "BCA" or "Agreement") agree to be bound by the following clauses which are hereby made a part of the BCA. The word "Applicant" herein refers to any party to the Agreement, other than the New York State Department of Environmental Conservation (herein after "Department").

I. Citizen Participation Plan

Within twenty (20) days after the effective date of this Agreement, Applicant shall submit for review and approval a written citizen participation plan prepared in accordance with the requirements of Environmental Conservation Law (ECL) § 27-1417 and 6 NYCRR §§ 375-1.10 and 375-3.10. Upon approval, the Citizen Participation Plan shall be deemed to be incorporated into and made a part of this Agreement.

II. Development, Performance, and Reporting of Work Plans

A. Work Plan Requirements

The work plans ("Work Plan" or "Work Plans") under this Agreement shall be prepared and implemented in accordance with the requirements of ECL Article 27, Title 14, 6 NYCRR §§ 375-1.6(a) and 375-3.6, and all applicable laws, rules, regulations, and guidance documents. The Work Plans shall be captioned as follows:

1. "Remedial Investigation Work Plan" if the Work Plan provides for the investigation of the nature and extent of contamination within the boundaries of the Site and, if the Applicant is a "Participant", the extent of contamination emanating from such Site. If the Applicant is a "Volunteer" it shall perform a qualitative exposure assessment of the contamination emanating from the site in accordance with ECL § 27-1415(2)(b) and Department guidance;

2. "Remedial Work Plan" if the Work Plan provides for the development and implementation of a Remedial Program for contamination within the boundaries of the Site and, if the Applicant is a "Participant", the contamination that has emanated from such Site;

3. "IRM Work Plan" if the Work Plan provides for an interim remedial measure; or

4. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy.

5. "Supplemental" if additional work plans other than those set forth in II.A.1-4 are required to be prepared and implemented.

B. Submission/Implementation of Work Plans

1. The first proposed Work Plan to be submitted under this Agreement shall be submitted no later than thirty (30) days after the effective date of this Agreement. Thereafter, the Applicant shall submit such other and additional work plans as determined in a schedule to be approved by the Department.

2. Any proposed Work Plan shall be submitted for the Department's review and approval and shall include, at a minimum, a chronological description of the anticipated activities to be conducted in accordance with current guidance, a schedule for performance of those activities, and sufficient detail to allow the Department to evaluate that Work Plan. The Department shall use best efforts in accordance with 6 NYCRR § 375-3.6(b) to approve, modify, or reject a proposed Work Plan within forty-five (45) days from its receipt or within fifteen (15) days from the close of the comment period, if applicable, whichever is later.

i. Upon the Department's written approval of a Work Plan, such Department-approved Work Plan shall be deemed to be incorporated into and made a part of this Agreement and shall be implemented in accordance with the schedule contained therein.

ii. If the Department requires modification of a Work Plan, the reason for such modification shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(3) shall apply.

iii. If the Department disapproves a Work Plan, the reason for such disapproval shall be provided in writing and the provisions of 6 NYCRR § 375-1.6(d)(4) shall apply.

3. A Site Management Plan, if necessary, shall be submitted in accordance with the schedule set forth in the IRM Work Plan or Remedial Work Plan.

C. Submission of Final Reports

1. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Report for an Investigation Work Plan prepared in accordance with ECL § 27-1411(1) and 6 NYCRR § 375-1.6. If such Final Report concludes that no remediation is necessary, and the Site does not meet the requirements for Track 1, Applicant shall submit an Alternatives Analysis prepared in accordance with ECL § 27-1413 and 6 NYCRR § 375-3.8(f) that supports such determination.

2. In accordance with the schedule contained in an approved Work Plan, Applicant shall submit a Final Engineering Report certifying that remediation of the Site has been performed in accordance with the requirements of ECL §§ 27-1419(1) and (2) and 6 NYCRR § 375-1.6. The Department shall review such Report, the submittals made pursuant to this Agreement, and any other relevant information regarding the Site and make a determination as to whether the goals of the remedial program have been or will be achieved in accordance with established timeframes; if so, a written Certificate of Completion will be issued in accordance with ECL § 27-1419, 6 NYCRR §§ 375-1.9 and 375-3.9.

3. Within sixty (60) days of the Department's approval of a Final Report, Applicant shall submit such additional Work Plans as it proposes to implement. In addition, Applicant shall include with every report submitted to the Department a schedule for the submission of any subsequent work plan required to meet the requirements of ECL Article 27 Title 14. Failure to submit any additional Work Plans within such period shall, unless other Work Plans are under review by the Department or being implemented by Applicant, result in the termination of this Agreement pursuant to Paragraph XII.

D. Review of Submittals other than Work Plans

1. The Department shall timely notify Applicant in writing of its approval or disapproval of each submittal other than a Work Plan in accordance with 6 NYCRR § 375-1.6. All Department-approved submittals shall be incorporated into and become an enforceable part of this Agreement.

2. If the Department disapproves a submittal covered by this Subparagraph, it shall specify the reason for its disapproval and may request Applicant to modify or expand the submittal. Within fifteen (15) days after receiving written notice that Applicant's submittal has been disapproved, Applicant shall elect in writing to either (i) modify or expand it within thirty (30) days of receipt of the written notice of disapproval; (ii) complete any other Department-approved Work Plan(s); (iii) invoke dispute resolution pursuant to Paragraph XIII; or (iv) terminate this Agreement pursuant to Paragraph XII. If Applicant submits a revised submittal and it is disapproved, the Department and Applicant may pursue whatever remedies may be available under this Agreement or under law.

E. Department's Determination of Need for Remediation

The Department shall determine upon its approval of each Final Report dealing with the investigation of the Site whether remediation, or additional remediation as the case may be, is needed for protection of public health and the environment.

1. If the Department makes a preliminary determination that remediation, or additional remediation, is not needed for protection of public health and the environment, the Department shall notify the public of such determination and seek public comment in accordance with ECL § 27-1417(3)(f). The Department shall provide timely notification to the Applicant of its final determination following the close of the public comment period.

2. If the Department determines that additional remediation is not needed and such determination is based upon use restrictions, Applicant shall cause to be recorded an Environmental Easement in accordance with 6 NYCRR § 375-1.8(h).

3. If the Department determines that remediation, or additional remediation, is needed, Applicant may elect to submit for review and approval a proposed Remedial Work Plan (or modify an existing Work Plan for the Site) for a remedy selected upon due consideration of the factors set forth in ECL § 27-1415(3) and 6 NYCRR § 375-1.8(f). A proposed Remedial Work Plan addressing the Site's remediation will be noticed for public comment in accordance with

ECL § 27-1417(3)(f) and the Citizen Participation Plan developed pursuant to this Agreement. If the Department determines following the close of the public comment period that modifications to the proposed Remedial Work Plan are needed, Applicant agrees to negotiate appropriate modifications to such Work Plan. If Applicant elects not to develop a Work Plan under this Subparagraph then this Agreement shall terminate in accordance with Paragraph XII. If the Applicant elects to develop a Work Plan, then it will be reviewed in accordance with Paragraph II.D above.

F. Institutional/Engineering Control Certification

In the event that the remedy for the Site, if any, or any Work Plan for the Site, requires institutional or engineering controls, Applicant shall submit a written certification in accordance with 6 NYCRR §§ 375-1.8(h)(3) and 375-3.8(h)(2).

III. Enforcement

Except as provided in Paragraph V, this Agreement shall be enforceable as a contractual agreement under the laws of the State of New York. Applicant shall not suffer any penalty except as provided in Paragraph V, or be subject to any proceeding or action if it cannot comply with any requirement of this Agreement as a result of a Force Majeure Event as described at 6 NYCRR § 375-1.5(b)(4) provided Applicant complies with the requirements set forth therein.

IV. Entry upon Site

A. Applicant hereby agrees to provide access to the Site and to all relevant information regarding activities at the Site in accordance with the provisions of ECL § 27-1431. Applicant agrees to provide the Department upon request with proof of access if it is not the owner of the site.

B. The Department shall have the right to periodically inspect the Site to ensure that the use of the property complies with the terms and conditions of this Agreement. The Department will generally conduct such inspections during business hours, but retains the right to inspect at any time.

C. Failure to provide access as provided for under this Paragraph may result in termination of this Agreement pursuant to Paragraph XII.

V. Payment of State Costs (Applicable only to Applicants with Participant Status)

A. Within forty-five (45) days after receipt of an itemized invoice from the Department, Applicant shall pay to the Department a sum of money which shall represent reimbursement for State Costs as provided by 6 NYCRR § 375-1.5(b)(3)(i).

B. Costs shall be documented as provided by 6 NYCRR § 375-1.5(b)(3)(ii). The Department shall not be required to provide any other documentation of costs, provided however, that the Department's records shall be available consistent with, and in accordance with, Article 6 of the Public Officers Law.

C. Each such payment shall be made payable to the "Commissioner of NYSDEC" and shall be sent to:

Director, Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental
Conservation
625 Broadway
Albany, New York 12233-7012

D. Each party shall provide written notification to the other within ninety (90) days of any change in the foregoing addresses.

E. If Applicant objects to any invoiced costs under this Agreement, the provisions of 6 NYCRR §§ 375-1.5 (b)(3)(v) and (vi) shall apply. Objections shall be sent to the Department as provided under subparagraph V.C above.

F. In the event of non-payment of any invoice within the 45 days provided herein, the Department may seek enforcement of this provision pursuant to Paragraph III or the Department may commence an enforcement action for non-compliance with ECL § 27-1409(2) and ECL § 71-4003.

VI. Liability Limitation

Subsequent to the issuance of a Certificate of Completion pursuant to this Agreement, Applicant shall be entitled to the Liability

Limitation set forth at ECL § 27-1421, subject to the terms and conditions stated therein and to the provisions of 6 NYCRR §§ 375-1.9 and 375-3.9.

VII. Reservation of Rights

A. Except as provided in Subparagraph VII.B, Applicant reserves all rights and defenses under applicable law to contest, defend against, dispute, or disprove any action, proceeding, allegation, assertion, determination, or order of the Department, including any assertion of remedial liability by the Department against Applicant, and further reserves all rights including the rights to notice, to be heard, to appeal, and to any other due process respecting any action or proceeding by the Department, including the enforcement of this Agreement. The existence of this Agreement or Applicant's compliance with it shall not be construed as an admission of any liability, fault, wrongdoing, or violation of law by Applicant, and shall not give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party.

B. Notwithstanding the foregoing, Applicant hereby waives any right it may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site and releases the State and the New York Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever with respect to the Site that Applicant may have as a result of Applicant's entering into or fulfilling the terms of this Agreement.

VIII. Indemnification

Applicant shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless from any claim, suit, action, and cost of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Agreement by Applicant prior to the Termination Date except for those claims, suits, actions, and costs arising from the State's gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Agreement. In the event that the Applicant is a Participant, this provision shall also include the Trustee of the State's Natural Resources. The Department shall provide Applicant with written

notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

IX. Change of Use

Applicant shall notify the Department at least sixty (60) days in advance of any change of use, as defined in ECL § 27-1425, which is proposed for the Site, in accordance with the provisions of 6 NYCRR § 375-1.11(d). In the event the Department determines that the proposed change of use is prohibited, the Department shall notify Applicant of such determination within forty-five (45) days of receipt of such notice.

X. Environmental Easement

A. Within thirty (30) days after the Department's approval of a Remedial Work Plan which relies upon one or more institutional and/or engineering controls, or within sixty (60) days after the Department's determination pursuant to Subparagraph II.E.2 that additional remediation is not needed based upon use restrictions, Applicant shall submit to the Department for approval an Environmental Easement to run with the land in favor of the State which complies with the requirements of ECL Article 71, Title 36 and 6 NYCRR § 375-1.8(h)(2). Applicant shall cause such instrument to be recorded with the recording officer for the county in which the Site is located within thirty (30) days after the Department's approval of such instrument. Applicant shall provide the Department with a copy of such instrument certified by the recording officer to be a true and faithful copy within thirty (30) days of such recording (or such longer period of time as may be required to obtain a certified copy provided Applicant advises the Department of the status of its efforts to obtain same within such thirty (30) day period), which shall be deemed to be incorporated into this Agreement.

B. Applicant or the owner of the Site may petition the Department to modify or extinguish the Environmental Easement filed pursuant to this Agreement at such time as it can certify that the Site is protective of public health and the environment without reliance upon the restrictions set forth in such instrument. Such certification shall be made by a Professional Engineer or Qualified Environmental Professional as defined at 6 NYCRR § 375-1.2(ak) approved by the Department. The Department will not unreasonably withhold its consent.

XI. Progress Reports

Applicant shall submit a written progress report of its actions under this Agreement to the parties identified in Subparagraph III.A.1 of the Agreement by the 10th day of each month commencing with the month subsequent to the approval of the first Work Plan and ending with the Termination Date, unless a different frequency is set forth in a Work Plan. Such reports shall, at a minimum, include: all actions relative to the Site during the previous reporting period and those anticipated for the next reporting period; all approved activity modifications (changes of work scope and/or schedule); all results of sampling and tests and all other data received or generated by or on behalf of Applicant in connection with this Site, whether under this Agreement or otherwise, in the previous reporting period, including quality assurance/quality control information; information regarding percentage of completion; unresolved delays encountered or anticipated that may affect the future schedule and efforts made to mitigate such delays; and information regarding activities undertaken in support of the Citizen Participation Plan during the previous reporting period and those anticipated for the next reporting period.

XII. Termination of Agreement

Applicant or the Department may terminate this Agreement consistent with the provisions of 6 NYCRR §§ 375-3.5(b), (c), and (d) by providing written notification to the parties listed in Paragraph IV of the Agreement.

XIII. Dispute Resolution

A. In the event disputes arise under this Agreement, Applicant may, within fifteen (15) days after Applicant knew or should have known of the facts which are the basis of the dispute, initiate dispute resolution in accordance with the provisions of 6 NYCRR § 375-1.5(b)(2).

B. All cost incurred by the Department associated with dispute resolution are State costs subject to reimbursement pursuant to Paragraph V of Appendix A of this Agreement, if applicable.

C. Notwithstanding any other rights otherwise authorized in law or equity, any disputes pursuant to this Agreement shall be limited to Departmental decisions on remedial

activities. In no event shall such dispute authorize a challenge to the applicable statute or regulation.

XIV. Miscellaneous

A. If the information provided and any certifications made by Applicant are not materially accurate and complete, this Agreement, except with respect to Applicant's obligations pursuant to Paragraphs V, if applicable, and VII.B, and VIII, shall be null and void ab initio fifteen (15) days after the Department's notification of such inaccuracy or incompleteness or fifteen (15) days after issuance of a final decision resolving a dispute pursuant to Paragraph XIII, whichever is later, unless Applicant submits information within that fifteen (15) day time period indicating that the information provided and the certifications made were materially accurate and complete. In the event this Agreement is rendered null and void, any Certificate of Completion and/or Liability Limitation that may have been issued or may have arisen under this Agreement shall also be null and void ab initio, and the Department shall reserve all rights that it may have under law.

B. By entering into this Agreement, Applicant agrees to comply with and be bound by the provisions of 6 NYCRR §§ 375-1, 375-3 and 375-6; the provisions of such subparts that are referenced herein are referenced for clarity and convenience only and the failure of this Agreement to specifically reference any particular regulatory provision is not intended to imply that such provision is not applicable to activities performed under this Agreement.

C. The Department may exempt Applicant from the requirement to obtain any state or local permit or other authorization for any activity conducted pursuant to this Agreement in accordance with 6 NYCRR §§ 375-1.12(b), (c), and (d).

D. 1. Applicant shall use "best efforts" to obtain all Site access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform Applicant's obligations under this Agreement, including all Department-approved Work Plans and the schedules contained therein. If, despite Applicant's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, Applicant shall promptly notify the Department and include a summary of the steps taken. The Department

may, as it deems appropriate and within its authority, assist Applicant in obtaining same.

2. If an interest in property is needed to implement an institutional control required by a Work Plan and such interest cannot be obtained, the Department may require Applicant to modify the Work Plan pursuant to 6 NYCRR § 375-1.6(d)(3) to reflect changes necessitated by Applicant's inability to obtain such interest.

E. The paragraph headings set forth in this Agreement are included for convenience of reference only and shall be disregarded in the construction and interpretation of any provisions of this Agreement.

F. 1. The terms of this Agreement shall constitute the complete and entire agreement between the Department and Applicant concerning the implementation of the activities required by this Agreement. No term, condition, understanding, or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department shall be construed as relieving Applicant of its obligation to obtain such formal approvals as may be required by this Agreement. In the event of a conflict between the terms of this Agreement and any Work Plan submitted pursuant to this Agreement, the terms of this Agreement shall control over the terms of the Work Plan(s). Applicant consents to and agrees not to contest the authority and jurisdiction of the Department to enter into or enforce this Agreement.

2. i. Except as set forth herein, if Applicant desires that any provision of this Agreement be changed, Applicant shall make timely written application to the Commissioner with copies to the parties in Subparagraph IV.A.1 of the Agreement.

ii. If Applicant seeks to modify an approved Work Plan, a written request shall be made to the Department's project manager, with copies to the parties listed in Subparagraph IV.A.1 of the Agreement.

iii. Requests for a change to a time frame set forth in this Agreement shall be made in writing to the Department's project attorney and project manager; such requests shall not be

unreasonably denied and a written response to such requests shall be sent to Applicant promptly.

G. 1. If there are multiple parties signing this Agreement, the term "Applicant" shall be read in the plural, the obligations of each such party under this Agreement are joint and several, and the insolvency of or failure by any Applicant to implement any obligations under this Agreement shall not affect the obligations of the remaining Applicant(s) under this Agreement.

2. If Applicant is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Agreement are joint and several and the insolvency or failure of any general partner to implement any obligations under this Agreement shall not affect the obligations of the remaining partner(s) under this Agreement.

3. Notwithstanding the foregoing Subparagraphs XIV.G.1 and 2, if multiple parties sign this Agreement as Applicants but not all of the signing parties elect to implement a Work Plan, all Applicants are jointly and severally liable for each and every obligation under this Agreement through the completion of activities in such Work Plan that all such parties consented to; thereafter, only those Applicants electing to perform additional work shall be jointly and severally liable under this Agreement for the obligations and activities under such additional Work Plan(s). The parties electing not to implement the additional Work Plan(s) shall have no obligations under this Agreement relative to the activities set forth in such Work Plan(s). Further, only those Applicants electing to implement such additional Work Plan(s) shall be eligible to receive the Liability Limitation referenced in Paragraph VI.

4. Any change to parties pursuant to this Agreement, including successors and assigns through acquisition of title, is subject to approval by the Department, after submittal of an application acceptable to the Department.

H. Applicant shall be entitled to receive contribution protection and/or to seek contribution to the extent authorized by ECL § 27-1421(6) and 6 NYCRR § 375-1.5(b)(5).

I. Applicant shall not be considered an operator of the Site solely by virtue of having executed and/or implemented this Agreement.

J. Applicant and Applicant's agents, grantees, lessees, sublessees, successors, and assigns shall be bound by this Agreement. Any change in ownership of Applicant including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Applicant's responsibilities under this Agreement.

K. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in ECL Article 27 or in regulations promulgated thereunder shall have the meaning assigned to them under said statute or regulations.

L. Applicant's obligations under this Agreement shall not be deemed to constitute any type of fine or penalty.

M. In accordance with 6 NYCRR § 375-1.6(a)(4), the Department shall be notified at least 7 days in advance of, and be allowed to attend,

any field activities to be conducted under a Department approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting; provided, however that the Department may be excluded from portions of meetings where privileged matters are discussed.

N. In accordance with 6 NYCRR § 375-1.11(a), all work plans; reports, including all attachments and appendices, and certifications, submitted by a remedial party shall be submitted in print, as well as in an electronic format acceptable to the Department.

O. This Agreement may be executed for the convenience of the parties hereto, individually or in combination, in one or more counterparts, each of which shall be deemed to have the status of an executed original and all of which shall together constitute one and the same.

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT OF
STEWART PURCHASER LLC**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (together with the schedules attached hereto, and as the same may be amended, modified, or supplemented, this "Agreement") of **STEWART PURCHASER LLC** (the "Company"), is entered into as of the 16th day of May, 2017, by **S & G REALTY HOLDING LLC**, a Delaware limited liability company, being the sole equity member of the Company, and **RICARDO BEAUSOLEIL**, as the "Independent Director". Capitalized terms used herein and not otherwise defined herein and not defined on Exhibit A, Exhibit B, or Exhibit C attached hereto are used as defined in the Loan Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Company was formed on March 16, 2017 pursuant to the Delaware Limited Liability Company Act (6 Del. C. §§ 18-101 et seq.) (the "Act");

WHEREAS, the Member entered into that certain Limited Liability Company Agreement (the "Original LLC Agreement") of the Company dated as of March 17, 2017;

WHEREAS, the Member desires to amend and restate the Original LLC Agreement in its entirety in order to set forth the respective rights and duties of the Member relating to the operation and management of the Company; and

NOW, THEREFORE, in consideration of the covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Member hereby enters into this Agreement, which shall amend, restate, and replace the Original LLC Agreement in its entirety as follows:

**ARTICLE I
Definitions**

1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

"Act" has the meaning set forth in the recitals of this Agreement.

"Bankruptcy" shall mean, with respect to any Person, (A) if such Person (i) makes an assignment for the benefit of creditors or admits, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged a bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, or acquiesces in or joins in any involuntary petition filed against it, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial

part of its properties, or (B) if 120 days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede and replace the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the Act.

"Bankruptcy Action" shall mean with respect to any Person (a) such Person filing a voluntary petition under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (b) the filing of an involuntary petition against such Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (c) such Person filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; or soliciting or causing to be solicited petitioning creditors for any involuntary petition from any Person; (d) the appointment of a custodian, receiver, trustee, or examiner for such Person or any portion of the Property; (e) such Person making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due; or (f) such Person commencing (or have commenced against it) a proceeding for the dissolution or liquidation of it.

"Capital Contribution" shall mean any contribution by the Member to the capital of the Company in cash or property.

"Certificate of Formation" shall mean the Certificate of Formation of the Company filed with the Secretary of State of the State of Delaware, as it may from time to time be amended.

"Company" has the meaning set forth in the preamble of this Agreement.

"Distribution" shall mean any cash and other property paid to the Member by the Company from Net Cash Available for Distributions.

"Fiscal Year" shall mean the fiscal year of the Company, which shall be the year ending December 31.

"Loan Agreement" has the meaning set forth in Article IX of this Agreement.

"Loan Documents" means all documents, agreements, letters, instruments and certificates executed and delivered by the Company in connection with the Company's borrowing of the Loan, including, without limitation, the Loan Agreement, the other Loan Documents (as defined in the Loan Agreement) and any document contemplated by or related to the foregoing, as well as all amendments of any of the foregoing.

"Member" means S & G Realty Holding LLC, a Delaware limited liability company, as the initial member of the Company, and includes any Person admitted as an

additional member of the Company or a substitute member of the Company pursuant to the provisions of this Agreement, each in its capacity as a member of the Company; provided, however, the term "Member" shall not include the Special Member(s).

"Net Cash Available for Distributions" shall mean: (i) the net cash proceeds from Company operations; less (ii) the portion thereof used to establish Company reserves as determined by the Member in its sole discretion.

"Net Losses" shall mean the net losses of the Company, if any, determined for federal income tax purposes.

"Net Profits" shall mean the net income of the Company, if any, determined for federal income tax purposes.

"Property" has the meaning set forth in subsection 2.4.1 of this Agreement.

"Special Member" means, upon such person's admission to the Company as a member of the Company pursuant to Section 4.2, a person acting as Independent Director, in such person's capacity as a member of the Company. A Special Member shall only have the rights and duties expressly set forth in this Agreement.

"Special Purpose Entity" has the meaning set forth on Exhibit A attached hereto.

ARTICLE II Organization

2.1 Formation. The Company was duly formed pursuant to the Act when the Member caused the execution and filing with the Secretary of State of the State of Delaware the Certificate of Formation and executed and delivered the Original LLC Agreement. The Member was admitted to the Company as a member of the Company upon its execution of a counterpart signature page to the Original LLC Agreement. Davina Mansur was designated as an "authorized person" within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of Delaware. Upon the filing of the Certificate of Formation with the Secretary of State of the State of Delaware, her powers as an "authorized person" ceased, and the Member thereupon became the designated "authorized person" and shall continue as the designated "authorized person" within the meaning of the Act. The Member shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in any other jurisdiction in which the Company may wish to conduct business. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

2.2 Name. The name of the Company is Stewart Purchaser LLC.

2.3 Principal Place of Business. The principal place of business of the Company shall be c/o WRE Holding US Company, 130 East 7th Street, 3rd Floor, New York, New York 10009. The Company may establish any other places of business as the Member may from time to time deem advisable.

2.4 Purposes. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, the following shall govern: The nature of the business and of the purposes to be conducted and promoted by the Company is to engage solely in the following activities:

2.4.1 To own, acquire, hold, sell, assign, transfer, operate, lease, manage, maintain, develop, improve, service, mortgage, pledge, borrow money against, finance, refinance, or otherwise deal with that certain parcel of real property, together with all improvements located thereon, located at 140 Stewart Avenue, Brooklyn, New York (the "Property");

2.4.2 To enter into and perform its obligations under the Loan Documents; and

2.4.3 To exercise all powers enumerated in the Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

2.5 Tax Classification. The Member intends for federal, state, and other income tax purposes that the Company be treated as disregarded and not as an entity separate from the Member and that all items of Company income, gain, loss, deduction, and credit be treated as the Member's items of income, gain loss, deduction and credit. No person shall have the authority to elect to treat the Company as an association taxable as a corporation for any federal, state, or other income tax purposes.

2.6 Specific Authorization. The Company is hereby authorized to execute, deliver and perform, and the Member on behalf of the Company is hereby authorized to execute and deliver, the Loan Documents and all documents, agreements, certificates, or financing statements contemplated thereby or related thereto, all without any further act, vote or approval of any other Person notwithstanding any other provision of this Agreement, the Act or applicable law, rule or regulation. The foregoing authorization shall not be deemed a restriction on the powers of the Member to enter into other agreements on behalf of the Company.

ARTICLE III Member

3.1 Name and Address. The name and the business, residence or mailing address of the Member are as follows:

| <u>Name</u> | <u>Address</u> |
|-----------------------------|--|
| S & G Realty Holding LLC | c/o WRE Holding US Company 130 East 7th Street, 3rd Floor New York, New York 10009 |

3.2 Percentage Interest. The limited liability company interest of the Member in the Company is 100%.

3.3 Limitation of Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor the Special Member(s) nor any Independent Director shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Director of the Company.

3.4 Liability of Member. To the fullest extent now or hereafter permitted under the Act or other applicable law, the Member shall not be liable to the Company for damages for any breach of duty by such Member in its capacity as such.

3.5 Indemnification. Subject to the limitations set forth in Article IX hereof, the Company shall indemnify and hold harmless, and advance expenses to, the Member (in its capacity as a member) from and against, and in connection with, all claims and demands whatsoever to the maximum extent now or hereafter permitted under the Act or other applicable law.

3.6 Books and Records. The Company shall keep accurate books and records of accounts and minutes of all meetings of the Member.

3.7 Assignments. Subject to any restrictions in the Loan Documents and Section 8.7.4, the Member may assign in whole or in part its limited liability company interest in the Company. If the Member transfers all or part of its limited liability company interest in the Company, the transferee shall be admitted to the Company as a member of the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. If the Member transfers all of its limited liability company interest in the Company, such admission shall be deemed effective immediately prior to the transfer and, immediately following such admission, the transferor Member shall cease to be a member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by merger or consolidation shall, without further act, be the Member hereunder, and such merger or consolidation shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution.

3.8 Resignation. Subject to Section 8.7.4, for so long as any portion of the Debt remains outstanding, the Member may not resign, except as expressly permitted under the Loan Documents. If the Member is permitted to resign, an additional Member of the Company shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company.

3.9 Admission of Additional Members. Subject to and except as provided in Section 8.5.4, one or more additional Members of the Company may be admitted to the Company with the written consent of the Member; provided, however, that, notwithstanding the foregoing, so

long as any portion of the Debt remains outstanding, no additional Member may be admitted to the Company except as expressly permitted pursuant to the terms of the Loan Documents.

ARTICLE IV Management

4.1 Management. The Member shall have the sole and exclusive right to manage and control the Company's business. Except as otherwise provided herein, the Member: (i) shall have the right to perform all actions necessary or advisable (including, but not limited to, the authority to execute, sign, seal and deliver in the name and on behalf of the Company any and all agreements, certificates, instruments or other documents) for the accomplishment of the purposes and authorized acts of the Company, as specified in Section 2.4 hereof; (ii) shall possess and enjoy, and may exercise, all of the rights and powers of the Company; and (iii) to the extent permitted by the Act, may delegate any or all of such rights and powers to other persons.

4.2 Independent Director.

4.2.1 For so long as any portion of the Debt remains outstanding, the Company shall have at least one (1) Independent Director that shall be a duly-appointed "manager" of the Company within the meaning of Section 18-101(10) of the Act, and notwithstanding any other provision of this Agreement and any provision of law that otherwise so empowers the Company, the Member or any other Person, the Company shall not take any Bankruptcy Action (or to collude with, or otherwise assist, solicit, or cause to be solicited an involuntary Bankruptcy Action) unless (A) such Bankruptcy Action is approved by the prior unanimous written consent of the Member and the Independent Director, and (B) at the time of such action the Company has at least one (1) Independent Director (provided, however, the Independent Director shall only have the rights and duties expressly set forth in this Agreement);

4.2.2 Upon the occurrence of any event that causes the Member to cease to be a member of the Company (other than (i) upon continuation of the Company without dissolution, (ii) upon an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee in accordance with this Agreement or (iii) the resignation of the Member and the admission of an additional member of the Company in accordance with this Agreement), the person(s) acting as Independent Director(s) of the Company shall, without any action of any Person and simultaneously with such member ceasing to be a member of the Company, automatically be admitted as the Special Member and shall preserve and continue the existence of the Company without dissolution;

4.2.3 No Special Member may resign or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to the Company as a Special Member, and (B) such successor Special Member has also accepted its appointment as an Independent Director and executed a counterpart to this Agreement; provided, however, the Special Member shall automatically cease to be a member of the Company upon the admission to the Company of a substitute member;

4.2.4 The Special Member shall be a member of the Company that has no interest in the profits, losses and capital of the Company and has no right to receive any

distributions of Company assets; pursuant to Section 18-301 of the Act, a Special Member shall not be required to make any capital contributions to the Company and shall not receive a limited liability company interest in the Company;

4.2.5 A Special Member, in its capacity as Special Member, may not bind the Company;

4.2.6 Except as required by any mandatory provision of the Act, a Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company, including the merger, consolidation or conversion of the Company;

4.2.7 In order to implement the admission to the Company of each Special Member, each Person acting as an Independent Director shall execute a counterpart to this Agreement;

4.2.8 Prior to its admission to the Company as Special Member, each Person acting as an Independent Director shall not be a member of the Company;

4.2.9 The Company shall be dissolved, and its affairs shall be wound up only upon the first to occur of the following (but subject to subsection 4.2.2 above): (A) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the business of the Company is continued in a manner permitted by this Agreement or the Act, or (B) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act;

4.2.10 Neither the Bankruptcy of the Member or the Special Member shall cause such Member or Special Member, respectively, to cease to be a member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution;

4.2.11 In the event of dissolution of the Company, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act; and

4.2.12 To the fullest extent permitted by law, except as otherwise expressly provided in this Agreement, each member of the Company and the Special Member(s) shall irrevocably waive any right or power that they might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company.

4.3 Independent Director Limitations. The Company (i) shall not be permitted take any Bankruptcy Action unless at the time of such Bankruptcy Action there shall be at least one (1) Independent Director serving in such capacity; (ii) no Independent Director may be removed

or replaced except for Cause; (iii) any resignation, removal or replacement of any Independent Director shall not be effective without five (5) Business Days prior written notice to Lender accompanied by a statement as to the reasons for such removal, the identity of the proposed replacement Independent Director, and a certificate that the replacement Independent Director satisfies the applicable terms and conditions of the definition of "Independent Director"; (iv) to the fullest extent permitted by applicable law, including Section 18-1101(c) of the Act and notwithstanding any duty otherwise existing at law or in equity, the Independent Director(s) shall consider only the interests of the Member and the Company (including the Company's creditors) in acting or otherwise voting on a Bankruptcy Action (which such fiduciary duties to the Member and the Company's creditors, in each case, shall be deemed to apply solely to the extent of their respective economic interests in the Company exclusive of (A) all other interests, (B) the interests of other affiliates of the Member and the Company, and (C) the interests of any group of affiliates of which Member or the Company is a party); (v) other than as provided in clause (iv) above, to the fullest extent permitted by law the Independent Director(s) shall not have any fiduciary duties to the Member of the Company, any directors of the Company, or any other Person; (vi) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; and (vii) to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Act, an Independent Director shall not be liable to the Company, any Member of the Company, or any other Person bound by this Agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct.

4.4 Exculpation. Neither the Member nor any officer, director, shareholder, partner, member, manager, employee, or agent of the Member (each, an "Indemnified Party") shall be liable, responsible or accountable in damages or otherwise to the Company or the Member for any act or omission performed or omitted by the Indemnified Party in good faith pursuant to the authority granted to the Indemnified Party under this Agreement and in a manner reasonably believed by the Indemnified Party to be in the scope of the authority granted to the Indemnified Party by this Agreement and in the best interests of the Company, provided that the act or omission is not determined by a court to be due to the Indemnified Party's fraud, willful misconduct, gross negligence, or misappropriation of funds.

4.5 Indemnification. Subject to the limitations set forth in Article IX hereof, the Company shall indemnify and hold harmless each Indemnified Party against any loss or damage (including attorneys' and other professional fees) incurred by the Indemnified Party on behalf of the Company or in furtherance of the Company's interests, without relieving the Indemnified Party of liability for fraud, willful misconduct, gross negligence or misappropriation of funds. The satisfaction of any indemnification shall be from and limited to Company's assets and no Member shall have any liability on account thereof. The right to indemnification shall include the right to be paid or reimbursed by the Company the reasonable expenses actually incurred by the Indemnified Party and documented with reasonably sufficient evidence, in advance of the final disposition of any proceeding; provided, however, that the advance payment of such expenses shall be made only upon delivery to the Company of a written affirmation by such Indemnified Party of such Indemnified Party's good faith belief that the Indemnified Party has met the standard of conduct necessary for indemnification under this Agreement and a written undertaking, by or on behalf of such Indemnified Party, to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified under

this Agreement or otherwise. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, any indemnification shall be fully subordinated to any obligations respecting the Property and shall not constitute a claim against the Company in the event that cash flow is insufficient to pay such obligations.

4.6 Other Investments. Nothing in this Agreement shall be construed to prohibit or limit the Member from owning, operating, controlling or investing in any other trade or business whether or not such trade or business competes, directly or indirectly, with the existing business of the Company.

ARTICLE V Capital Contribution

5.1 Capital Contribution. The Member has made an initial Capital Contribution to the Company.

5.2 Additional Contributions. Notwithstanding any provision to the contrary in this Agreement, including Exhibits A and B hereto, the Member is not required to make any additional Capital Contributions to the Company. This Section 5.2 is intended to benefit the Member and the Special Member(s) and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (and no such creditor of the Company shall be a third-party beneficiary of this Section 5.2) and the Member and the Special Member(s) shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

ARTICLE VI Allocations and Distributions

6.1 Allocations of Net Profits and Net Losses. The Company's Net Profits and Net Losses shall be allocated to the Member.

6.2 Distributions. Subject to the limitations set forth in Article IX hereof, distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to the Member on account of its interest in the Company if such distribution would violate Section 18-607 of the Act or any other applicable law.

6.3 Limitation of Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor any Special Member nor any Independent Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Manager of the Company.

6.4 Accounting Period. The accounting period of the Company shall be the Fiscal Year.

ARTICLE VII

Dissolution

7.1 Dissolution of the Company. The Company shall be dissolved, and its affairs shall be wound up upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the Act or (ii) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act. Upon the occurrence of any event that causes the last remaining member of the Company to cease to be a member of the Company or that causes the Member to cease to be a member of the Company (other than upon continuation of the Company without dissolution upon (i) an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to the terms of this Agreement, or (ii) the resignation of the Member and the admission of an additional member of the Company pursuant to the terms of this Agreement), to the fullest extent permitted by law, the personal representative of such member is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of the last remaining member of the Company or the Member in the Company.

7.2 Effect of Dissolution. Upon dissolution, the Company shall cease carrying on the Company business except as necessary for the winding up of the Company business. The Company is not terminated, but rather shall continue until the winding up of the affairs of the Company is completed and a Certificate of Cancellation has been filed with the Secretary of State of the State of Delaware.

7.3 Distribution of Assets on Dissolution. Upon the winding up of the Company, the Company's Property shall be distributed: first, to creditors, including the Member if then a creditor, to the extent permitted by law, in satisfaction of the Company's indebtedness and other liabilities; and second, to the Member. Liquidation proceeds shall be paid within ninety (90) days of the end of the Company's taxable year or, if later, within one hundred twenty (120) days after the date of liquidation.

7.4 Winding Up and Certificate of Cancellation. The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged or reasonably adequate provision therefor has been made in accordance with the Act, and all the remaining Property and assets of the Company have been distributed as provided in Section 7.3 hereof. Upon the completion of winding up of the Company, a Certificate of Cancellation shall be delivered to the Office of the Secretary of State of the State of Delaware for filing. The Certificate of Cancellation shall set forth the information required by the Act.

ARTICLE VIII

General Provisions

8.1 Amendment. Any amendments to this Agreement must be in the form of a writing executed by the Member.

8.2 Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

8.3 Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflicts of law. Venue for any litigation or other legal proceeding related to or arising out of this Agreement, and the transactions contemplated hereby, may be in Kings County, New York. Accordingly, the Company and the Member, for themselves and their successors and assigns, hereby: (a) irrevocably submit to the non-exclusive jurisdiction of the state and federal courts of the State of New York and agree and consent that service of process may be made upon them in any legal proceeding arising out of or in connection with the transactions contemplated by this Agreement; (b) irrevocably waive, to the fullest extent permitted by law, any objection which they may have to the laying of venue of any litigation arising out of or in connection with the transactions contemplated by this Agreement brought in district courts of New York County, New York; and (c) irrevocably waive any claims that litigation brought in any such court has been brought in an inconvenient forum.

8.4 Voting. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, when acting on matters subject to the vote of the Member, notwithstanding that the Company is not then insolvent, the Member shall take into account the interest of the Company, including the Company's creditors, as well as those of the Member.

8.5 Severability of Provisions. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

8.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

8.7 UCC Article 8.

8.7.1 Each limited liability company interest in the Company shall constitute a "security" within the meaning of, and governed by, (i) Article 8 of the Uniform Commercial Code (including Section 8 102(a)(15) thereof) as in effect from time to time in the State of Delaware (the "UCC"), and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995, and the Company hereby "opts in" to such provisions for the purposes of the Uniform Commercial Code.

8.7.2 The limited liability company interests in the Company shall be evidenced by the certificate attached hereto as Exhibit C, and such certificate shall be executed by the Member on behalf of the Company. As of the date hereof, a certificate is being issued by the Member evidencing 100% of the limited liability company interests in the Company previously issued to the Member pursuant to the Original LLC Agreement.

8.7.3 The Company shall maintain books for the purpose of registering the transfer of the limited liability company interests. A transfer of limited liability company interests requires delivery of an endorsed certificate. Notwithstanding any provision of the Mezzanine Pledge and Security Agreement (the "Pledge Agreement") to the contrary, to the extent that any of provision of the Pledge Agreement is inconsistent with any non-waivable provision of the UCC, such provision of the UCC shall control.

8.7.4 Mezzanine Loan Restrictions.

- (i) Notwithstanding any provision in the Act or any other provision contained herein to the contrary, the Member shall be permitted to pledge and, upon any foreclosure of such pledge in connection with the admission of the Mezzanine Lender or other holder as a member, to transfer to the Mezzanine Lender or such holder its rights and powers to manage and control the affairs of the Company pursuant to the terms of the Pledge Agreement;
- (ii) Mezzanine Lender (or its designee) may, upon foreclosure pursuant to the Pledge Agreement, (A) become a substitute Member with respect to the Membership Interests subject to such Pledge Agreement, (B) exercise any and all voting rights allowed to the holder of any Membership Interests subject to such Pledge Agreement, (C) succeed to all other rights or interests associated with the Membership Interests subject to the Pledge Agreement, or any part thereof, as may be provided in the Pledge Agreement, and/or (D) terminate any non-member manager of the Company;
- (iii) no owners of Membership Interests in the Company shall be entitled to resign from the Company or to assign, encumber, or convey any interest in the Company (except in favor of Mezzanine Lender pursuant to the Mezzanine Loan Documents);
- (iv) no new or additional Membership Interests in the Company shall be created, issued, redeemed, exchanged, diluted or modified;
- (v) at any time that any amount is owed to the Mezzanine Lender under the Mezzanine Loan Documents and solely to the extent legally available after the payment of all Expenses (defined below) by the Company, the Company shall make a distribution to the Member in an amount equal to the amount of the obligations then due and owing by the Member pursuant to the Mezzanine Loan Documents. For the purposes of this clause (iv)

the term "Expenses" shall mean the aggregate amount paid by the Company during each month in connection with the Property for (A) principal and interest and all other amounts payable pursuant to the Loan Documents, (B) general maintenance, repairs and replacements, (C) required reserves and expenditures for capital improvements and tenant improvements, (D) premiums for insurance, (E) charges (including applicable taxes) for electricity, fuel oil and other utilities, (F) real estate taxes, assessments, water charges and sewer rents, (G) management fees and (H) leasing commissions.

- (vi) Without any further act, vote or approval of any Member, or any delegate of the Company or any Person, the Company shall issue a new Certificate for Limited Liability Company Interest in place of any Certificate for Limited Liability Company Interest previously issued if the holder of the limited liability company interests represented by such Certificate for Limited Liability Company Interest, as reflected on the books and records of the Company:
- (a) makes proof by affidavit, in form and substance satisfactory to the Company, that such previously issued Certificate for Limited Liability Company Interest has been lost, stolen or destroyed; and
 - (b) requests the issuance of a new Certificate for Limited Liability Company Interest before the Company has notice that such previously issued Certificate for Limited Liability Company Interest has been acquired by a purchaser for value in good faith and without notice of an adverse claim.

ARTICLE IX

Single Purpose Entity and Separateness

9.1 Conflicts. Notwithstanding any other provision of this Agreement, for so long as that certain loan (the "Loan") made by DELPHI CRE FUNDING LLC ("Lender") to the Company remains an outstanding obligation of the Company, in the event of any conflict or inconsistency between the provisions contained in this Article IX and the other provisions of this Agreement or any other document governing the management and operation of the Company, the provisions contained in this Article IX shall control and govern. Capitalized terms used below in this Article IX and not otherwise defined in this Article IX shall have the respective meanings set forth (i) in that certain Loan Agreement by and between Lender and the Company, dated as of the date hereof, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time (the "Loan Agreement") or (ii) if not defined in the Loan Agreement, then elsewhere herein (it being understood that for the purposes of this Article IX only, to the extent any capitalized terms are defined in both (x) any article of this Agreement other than this Article IX and (y) the Loan Agreement, the meaning set forth in the Loan Agreement shall prevail).

9.2 Purpose and Business. For so long as the Loan remains outstanding, the sole purpose to be conducted or promoted by the Company is to own, acquire, hold, sell, assign, transfer, operate, lease, manage, maintain, develop, improve, service, mortgage, pledge, borrow money against, finance, refinance, or otherwise deal with that certain parcel of real property, together with all improvements located thereon, located at the Property, and to enter into and perform its obligations under the Loan Documents, and to exercise all powers enumerated in the Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

9.3 Single Purpose Entity: Separateness. For so long as the Loan remains outstanding and an obligation of the Company, the Company shall comply with the terms and provisions of Exhibit B attached hereto.

9.4 Bankruptcy of Member. Notwithstanding any other provision of this Agreement, the bankruptcy of the Member or Special Member shall not cause the Member or Special Member, as applicable, to cease to be a member of the Company and upon the occurrence of such an event, the Company shall continue without dissolution.

9.5 Limitations on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution if such distribution would violate the Act or other applicable law.

9.6 Limitations on Transfers. Notwithstanding any provision of the Act or this Agreement to the contrary, for so long as the Loan remains outstanding and an obligation of the Company, to the fullest extent permitted by law, no transfer of any direct or indirect ownership interest in the Company may be made in violation of the applicable transfer restrictions set forth in Section 5.2.10 of the Loan Agreement.

9.7 Subordination of Indemnification Obligations. Notwithstanding the foregoing provisions, for so long as the Loan remains outstanding and an obligation of the Company, any indemnification set forth in this Agreement shall be fully subordinate to the Loan and shall not constitute a claim against the funds of the Company in the event that the Company's cash flow is insufficient to pay the indebtedness then due and owing to Lender under the Loan Documents (it being acknowledged and agreed however that such indemnification payments shall be permitted so long as no Event of Default is then continuing). For the avoidance of doubt, in no event shall such subordination provision apply to the funds of the Company from sources other than the cash flow of the Company Property (e.g., proceeds of insurance).

9.7.1 "Company Property" means and includes all of the property presently held by the Company as of the date hereof and any property acquired by the Company from time to time, including the real property known as 140 Stewart Avenue, Brooklyn, New York; provided, however, for so long as the Loan remains outstanding and an obligation of the Company, "Company Property" shall mean only the property included within the definition of "Property" under the Loan Agreement.

9.8 Third-Party Beneficiary. Lender is an intended third-party beneficiary of the provisions set forth in this Article IX.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the day and year first aforesaid.

MEMBER:

S & G REALTY HOLDING LLC, a Delaware limited liability company

S & G REALTY I LLC, a New York limited liability company, its sole member

By: 
Name: Davina Mansur
Title: Treasurer

[Signatures Continue on Following Page]

INDEPENDENT DIRECTOR:



Ricardo Beausoleil

Exhibit A

SINGLE PURPOSE ENTITY DEFINITION

“Special Purpose Entity” means a Person (as defined in the Loan Agreement), other than an individual, which, since the date of its formation and at all times prior to, on and after the date thereof, has complied with and shall at all times comply with the following requirements:

(a) was, is and will be formed solely for the purpose of acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, financing, managing and operating the Property, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(b) has not been, is not, and will not be engaged in any business unrelated to acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, financing managing and operating the Property, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(c) has not had, does not have and will not have any assets other than those related to the Property;

(d) has not engaged in, sought or consented to, and will, to the fullest extent permitted by law, not engage in, seek or consent to, (i) any dissolution, winding up, liquidation, consolidation, merger, or sale of all or substantially all of its assets, (ii) except as permitted under the terms of the Loan Agreement, any transfer of partnership or membership interests (if such entity is a general partner in a limited partnership or a member in a limited liability company), or (iii) any amendment of its certificate of formation or operating agreement (as applicable) with respect to the matters set forth in this definition without the written consent of Lender;

(e) has been, is, and intends to remain solvent and has paid and intends to continue to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same have or shall become due, and has maintained, is currently maintaining and will endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; provided, however, the foregoing shall not require any direct or indirect owner of the Company to make any additional capital contribution;

(f) has not failed, and will not fail, to correct any known misunderstanding regarding the separate identity of such entity;

(g) has maintained and will maintain its accounts, financial statements, books, and records separate from any other Person and has not permitted, and will not permit, its assets to be listed as assets on the financial statement of any other entity except as required by the Approved Accounting Method (provided, however, that the Company’s assets may be included in a consolidated financial statement of its Affiliates provided that (i) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of the Company and such Affiliates and to indicate that the Company’s assets and credit are not available to satisfy

the debts and other obligations of such Affiliates or any other Person, and (ii) such assets shall be listed on the Company's own separate balance sheet);

(h) has filed and will file its own tax returns, except to the extent that it (i) has been or is required to file consolidated tax returns by law or (ii) is treated as a disregarded entity for federal or state tax purposes;

(i) other than as provided in the Loan Agreement, (i) has not commingled, and will not commingle, its funds or assets with those of any other Person and (ii) has not participated and will not participate in any cash management system with any other Person;

(j) has held and will hold its assets in its own name;

(k) has maintained and will maintain an arm's-length relationship with its Affiliates; provided that the Company may enter into agreements with Affiliates so long as such agreements are upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(l) has paid and will pay its own liabilities and expenses, including the salaries of its own employees (if any), out of its own funds and assets, and has maintained and will maintain a sufficient number of employees (if any) in light of its contemplated business operations; provided, however, the foregoing shall not require any direct or indirect owner of the Company to make any additional capital contributions;

(m) has observed and will observe in all material respects all partnership, corporate or limited liability company formalities, as applicable;

(n) has not had, and will not have, any Indebtedness other than Permitted Indebtedness;

(o) except in connection with the Loan Documents, has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for, the debts of any other Person and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to the Loan Agreement;

(p) has not acquired and will not acquire obligations or securities of its partners, members or shareholders or any other Affiliate (other than the securities of the Company held by any applicable Required SPE Entity);

(q) has allocated and will allocate, fairly and reasonably, any overhead expenses that are shared with any Affiliate, including paying for shared office space and services performed by any employee of an Affiliate;

(r) has maintained and used, now maintains and uses, and will maintain and use, separate stationery, invoices and checks bearing its name, and all stationery, invoices, and checks utilized by such Person or utilized to collect its funds or pay its expenses have borne and shall

bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being such Person's agent;

(s) has not pledged and will not pledge its assets for the benefit of any other Person other than Lender in connection with the Loan;

(t) has conducted and will conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of the Company, and has held itself out and identified itself, and will hold itself out and identify itself, as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of the Company and not as a division or part of any other Person, except in each case for services rendered under a business management services agreement with an Affiliate that complies with the terms contained in subsection (x) below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Company;

(u) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(v) has not made and will not make loans to any Person or hold evidence of Indebtedness issued by any other Person or entity (other than cash and investment-grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity) except that the Company, from time to time in the ordinary course of business, may agree with tenants under Leases of all or any portion of the Property to make certain tenant improvement allowances available to such tenants;

(w) has not identified and will not identify its constituent partners, members or shareholders (as applicable), or any Affiliate of any of them, as a division or part of it, and has not identified itself, and shall not identify itself, as a division of any other Person;

(x) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its partners, members, shareholders or Affiliates except (i) in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party, including, but not limited to, the Master Lease, and (ii) in connection with this Agreement;

(y) has not had and will not have any obligation to indemnify, and has not indemnified and will not indemnify, its partners, officers, directors, managers or members, as the case may be, unless such an obligation was and is fully subordinated to the Obligations and will not constitute a claim against such Person in the event that cash flow in excess of the amount required to pay the Obligations is insufficient to pay such obligation;

(z) except as provided in the Loan Documents, does not and will not have any of its obligations guaranteed by any Affiliate;

(aa) has not and will not consent to any other Person (i) operating its business in the name of the Company, (ii) acting in the name of the Company, (iii) using the Company's

stationery or business forms, (iv) holding out its credit as being available to satisfy the obligations of the Company, (v) having contractual liability for the payment of any of the liabilities of the Company (except pursuant to the limited extent provided under the Loan Documents), or (vi) failing to at all times specify to all relevant third parties that it is acting in a capacity other than as the Company.

“Cause” means, with respect to an Independent Director, (a) acts or omissions by such Person that constitute willful disregard of such Person’s duties under this Agreement, (b) that such Person has engaged in or has been charged with, or has been convicted of, fraud or other acts constituting a crime under any law applicable to such Person, (c) that such Independent Director is unable to perform his or her duties as an Independent Director due to death, disability, or incapacity, (d) that such Independent Director no longer meets the definition of “Independent Director” or (e) that the fees charged by such Person are materially more than is otherwise customary in the market.

“Independent Director” means an individual who has prior experience as an independent director, independent manager or independent member with at least three years of employment experience and who is provided by CT Corporation, Corporation Service Company, National Registered Agents, Inc. (or its affiliate NRAI Entity Services, LLC), Wilmington Trust Company, Stewart Management Company, Lord Securities Corporation or, if none of those companies is then providing professional independent directors or independent managers, another nationally-recognized company approved by Lender, in each case that is not an Affiliate of the Borrower Parties and that provides professional independent directors and independent managers and other corporate services in the ordinary course of its business, and which individual is duly appointed as an Independent Director of the Company and for the five-year period prior to his or her appointment as an Independent Director has not been and during the continuation of his or her serving as an Independent Director will not be, any of the following:

(a) a member (other than a Special Member), manager, director, trustee, officer, employee, attorney, or counsel of any of the Borrower Parties or their Affiliates (provided that such person may be an independent director or independent manager of the Company as long as they are not a member, manager, director, trustee, officer, employee, attorney, or counsel of any other Borrower Party or Affiliate of a Borrower Party, except that a Person who otherwise satisfies the definition of Independent Director other than this subparagraph (a) by reason of being the independent director or independent manager of a “special purpose entity” that is an Affiliate of the Company shall not be disqualified from serving as an Independent Director of the Company if such Person is either (i) a professional independent director or independent manager or (ii) the fees that such individual earns from serving as independent director or independent manager of Affiliates of the Company in any given year constitute in the aggregate less than five percent (5%) of such individual’s annual income for that year);

(b) a creditor, customer, supplier, service provider (including provider of professional services) or other Person who derives any of its purchases or revenues from its activities with any Borrower Party or any Affiliate of a Borrower Party (other than an Independent Director provided by a nationally-recognized company that routinely provides

professional independent directors or independent managers and other corporate services to any Borrower Party or any Affiliate of a Borrower Party in the ordinary course of business);

(c) a direct or indirect legal or beneficial owner in any Borrower Party or any Affiliate of a Borrower Party;

(d) a member of the immediate family of any member, manager, employee, attorney, customer, supplier or other Person referred to above; and

(e) a Person Controlling or under the common Control of anyone listed in (a) through (d) above.

Exhibit B

SINGLE PURPOSE ENTITY PROVISIONS

The Company shall not: (a) change its principal place of business or state of organization without first giving Lender fifteen (15) days prior notice; (b) violate (and shall not permit any other Person in occupancy of or involved with the operation or use of the Property to violate) any material Legal Requirements, (c) permit (or allow to occur) (i) any of the funds or other assets of the Company, any Required SPE Entity, or Guarantor to constitute property of, or be beneficially owned, directly or indirectly, by any Embargoed Person, or be derived from any unlawful activity, in each case with the result that the investment in the Company, any Required SPE Entity, or Guarantor, as applicable (whether directly or indirectly), is or would be prohibited by applicable Legal Requirements, or the Loan is or would be in violation of applicable Legal Requirements; (d) fail to cause any of the representations and warranties contained in Section 4.21 of the Loan Agreement to be true in any material respect at any time; (e) fail to be a Special Purpose Entity, or fail to cause any Required SPE Entity required under the Loan Agreement to be a Special Purpose Entity; (f) remove or replace any Independent Director except for Cause, and in any event not without providing at least five (5) Business Days advance written notice thereof to Lender; (g) to the fullest extent permitted by applicable Legal Requirements, engage (nor permit any Required SPE Entity required under the Loan Agreement to engage) in any dissolution, liquidation, or consolidation or merger with or into any other business entity; (h) modify, amend, waive or terminate (nor permit any Required SPE Entity required under the Loan Agreement to modify, amend, waive or terminate) its organizational documents other than any confirmatory, administrative, or immaterial modifications or amendments thereto; (i) fail to maintain qualification to do business in any jurisdiction to the extent the same is required for the ownership, maintenance, management and operation of the Property; or (j) cease to operate the Property in the manner in which it is presently being operated (other than temporary cessation in connection with any diligent renovation or restoration of the Property following a Casualty or Condemnation), or change the trade name or names under which it operates the Property. The Company covenants and agrees that in the event the Company receives any notice that the Company (or any of its beneficial owners, affiliates or participants) or any Person that has a direct or indirect interest in the Property become an Embargoed Person or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, the Company shall promptly notify Lender. The Company acknowledges that certain Legal Requirements require all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time-to-time request, and the Company shall provide to Lender, the Company's name, address, tax identification number and/or such other identification information as shall be necessary for Lender to comply with federal law (including such information concerning its direct and indirect owners), and re-make the representations and warranties contained in Section 4.21 of the Loan Agreement. An "account" for this purpose may include, without limitation, a deposit account, cash management service, a transaction or asset account, a credit account, a loan or other extension of credit, and/or other financial services product.

Exhibit C

**CERTIFICATE FOR LIMITED LIABILITY COMPANY INTERESTS IN
STEWART PURCHASER LLC**

THIS CERTIFICATE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933 (AS AMENDED) OR UNDER THE SECURITIES OR BLUE SKY LAWS OF ANY STATE. THE HOLDER OF THIS CERTIFICATE, BY ITS ACCEPTANCE HEREOF, REPRESENTS THAT IT IS ACQUIRING THIS SECURITY FOR INVESTMENT AND NOT WITH A VIEW TO ANY SALE OR DISTRIBUTION HEREOF. ANY TRANSFER OF THIS CERTIFICATE OR ANY LIMITED LIABILITY COMPANY INTEREST REPRESENTED HEREBY IS SUBJECT TO THE TERMS AND CONDITIONS OF THE LIMITED LIABILITY COMPANY AGREEMENT (AS DEFINED BELOW).

Certificate Number 001

100% Percentage Interest

STEWART PURCHASER LLC, a Delaware limited liability company (the "Company"), hereby certifies that S & G REALTY HOLDING LLC, a Delaware limited liability company (together with any assignee of this Certificate, the "Holder") is the registered owner of one hundred percent (100%) of the limited liability company interests in the Company. The rights, powers, preferences, restrictions and limitations of the limited liability company interests in the Company are set forth in, and this Certificate and the limited liability company interests in the Company represented hereby are issued and shall in all respects be subject to the terms and provisions of, the Amended and Restated Limited Liability Company Agreement of the Company, effective as of May __, 2017, as the same may be amended or restated from time to time (the "Limited Liability Company Agreement"). By acceptance of this Certificate, and as a condition to being entitled to any rights and/or benefits with respect to the limited liability company interests evidenced hereby, the Holder is deemed to have agreed to comply with and be bound by all of the terms and conditions of the Limited Liability Company Agreement. The Company will furnish a copy of the Limited Liability Company Agreement to the Holder without charge upon written request to the Company at its principal place of business. Transfer of any or all of the limited liability company interests in the Company evidenced by this Certificate is subject to certain restrictions in the Limited Liability Company Agreement and can be effected only after compliance with all of those restrictions and the presentation to the Company of the endorsed Certificate, accompanied by the completed Application for Transfer of Interests, which is on the reverse side of this Certificate.

Each limited liability company interest in the Company represented by this Certificate evidences an interest in the Company and shall constitute a "security" within the meaning of, and governed by, (i) Article 8 of the Uniform Commercial Code (including Section 8-102(a)(15) thereof) as in effect from time to time in the State of Delaware and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995 (and each limited liability company interest in the Company shall be treated as such a "security" for all purposes, including, without

limitation perfection of the security interest therein under Article 8 of each applicable Uniform Commercial Code as the Company has "opted-in" to such provisions).

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED HEREBY ARE SUBJECT TO AN IRREVOCABLE PROXY AGREEMENT (A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY) AND BY ACCEPTING ANY INTEREST IN SUCH LIMITED LIABILITY COMPANY INTERESTS THE PERSON HOLDING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SAID AGREEMENT.

This Certificate and the limited liability company interests evidenced hereby shall be governed by and construed in accordance with the laws of the State of Delaware without regard to principles of conflicts of laws.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company has caused this Certificate to be executed as of the date set forth below.

STEWART PURCHASER LLC, a Delaware limited liability company

Dated: May __, 2017

By: _____

Name: _____

Title: _____

(REVERSE SIDE OF CERTIFICATE)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ (print or typewrite name of transferee), _____ (insert Social Security or other taxpayer identification number of transferee), the following specified percentage of limited liability company interests in the Company: _____ (identify the percentage interest being transferred) effective as of the date specified in the Application for Transfer of Interests below, and irrevocably constitutes and appoints _____ and its authorized officers, as attorney-in-fact, to transfer the same on the books and records of the Company, with full power of substitution in the premises.

Dated: _____

S & G REALTY HOLDING LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

APPLICATION FOR TRANSFER OF INTERESTS

The undersigned applicant (the "Applicant") hereby (a) applies for a transfer of the percentage of limited liability company interests in the Company described above (the "Transfer") and applies to be admitted to the Company as a substitute member of the Company, and (b) agrees to comply with and be bound by all of the terms and provisions of the Limited Liability Company Agreement. Initially capitalized terms used herein and not otherwise defined herein are used as defined in the Limited Liability Company Agreement.

The Applicant directs that the foregoing Transfer of the Applicant's admission to the Company as a substitute member shall be effective as of the registration of the Transfer in the books and records of the Company on _____, _____.

APPLICANT:

By: _____
Name: _____
Title: _____

Dated: _____

Address of Applicant: _____

The Company has determined (a) that the transfer described above is permitted by the Limited Liability Company Agreement, (b) hereby agrees to effect such transfer and the admission of the Applicant as a substitute member of the Company effective as of the date directed above, and (c) agrees to record in the books and records of the Company the admission of the Applicant as a substitute member.

STEWART PURCHASER LLC, a Delaware
limited liability company

By: _____
Name: _____
Title: _____

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT OF
GARDNER PURCHASER LLC**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (together with the schedules attached hereto, and as the same may be amended, modified, or supplemented, this “Agreement”) of **GARDNER PURCHASER LLC** (the “Company”), is entered into as of the 16th day of May, 2017, by **S & G REALTY HOLDING LLC**, a Delaware limited liability company, being the sole equity member of the Company, and **RICARDO BEAUSOLEIL**, as the “Independent Director”. Capitalized terms used herein and not otherwise defined herein and not defined on Exhibit A, Exhibit B, or Exhibit C attached hereto are used as defined in the Loan Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Company was formed on March 16, 2017 pursuant to the Delaware Limited Liability Company Act (6 Del. C. §§ 18-101 et seq.) (the “Act”);

WHEREAS, the Member entered into that certain Limited Liability Company Agreement (the “Original LLC Agreement”) of the Company dated as of March 17, 2017;

WHEREAS, the Member desires to amend and restate the Original LLC Agreement in its entirety in order to set forth the respective rights and duties of the Member relating to the operation and management of the Company; and

NOW, THEREFORE, in consideration of the covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Member hereby enters into this Agreement, which shall amend, restate, and replace the Original LLC Agreement in its entirety as follows:

**ARTICLE I
Definitions**

1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

“Act” has the meaning set forth in the recitals of this Agreement.

“Bankruptcy” shall mean, with respect to any Person, (A) if such Person (i) makes an assignment for the benefit of creditors or admits, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged a bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, or acquiesces in or joins in any involuntary petition filed against it, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial

part of its properties, or (B) if 120 days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede and replace the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the Act.

"Bankruptcy Action" shall mean with respect to any Person (a) such Person filing a voluntary petition under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (b) the filing of an involuntary petition against such Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (c) such Person filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; or soliciting or causing to be solicited petitioning creditors for any involuntary petition from any Person; (d) the appointment of a custodian, receiver, trustee, or examiner for such Person or any portion of the Property; (e) such Person making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due; or (f) such Person commencing (or have commenced against it) a proceeding for the dissolution or liquidation of it.

"Capital Contribution" shall mean any contribution by the Member to the capital of the Company in cash or property.

"Certificate of Formation" shall mean the Certificate of Formation of the Company filed with the Secretary of State of the State of Delaware, as it may from time to time be amended.

"Company" has the meaning set forth in the preamble of this Agreement.

"Distribution" shall mean any cash and other property paid to the Member by the Company from Net Cash Available for Distributions.

"Fiscal Year" shall mean the fiscal year of the Company, which shall be the year ending December 31.

"Loan Agreement" has the meaning set forth in Article IX of this Agreement.

"Loan Documents" means all documents, agreements, letters, instruments and certificates executed and delivered by the Company in connection with the Company's borrowing of the Loan, including, without limitation, the Loan Agreement, the other Loan Documents (as defined in the Loan Agreement) and any document contemplated by or related to the foregoing, as well as all amendments of any of the foregoing.

"Member" means S & G Realty Holding LLC, a Delaware limited liability company, as the initial member of the Company, and includes any Person admitted as an

additional member of the Company or a substitute member of the Company pursuant to the provisions of this Agreement, each in its capacity as a member of the Company; provided, however, the term "Member" shall not include the Special Member(s).

"Net Cash Available for Distributions" shall mean: (i) the net cash proceeds from Company operations; less (ii) the portion thereof used to establish Company reserves as determined by the Member in its sole discretion.

"Net Losses" shall mean the net losses of the Company, if any, determined for federal income tax purposes.

"Net Profits" shall mean the net income of the Company, if any, determined for federal income tax purposes.

"Property" has the meaning set forth in subsection 2.4.1 of this Agreement.

"Special Member" means, upon such person's admission to the Company as a member of the Company pursuant to Section 4.2, a person acting as Independent Director, in such person's capacity as a member of the Company. A Special Member shall only have the rights and duties expressly set forth in this Agreement.

"Special Purpose Entity" has the meaning set forth on Exhibit A attached hereto.

ARTICLE II Organization

2.1 Formation. The Company was duly formed pursuant to the Act when the Member caused the execution and filing with the Secretary of State of the State of Delaware the Certificate of Formation and executed and delivered the Original LLC Agreement. The Member was admitted to the Company as a member of the Company upon its execution of a counterpart signature page to the Original LLC Agreement. Davina Mansur was designated as an "authorized person" within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of Delaware. Upon the filing of the Certificate of Formation with the Secretary of State of the State of Delaware, her powers as an "authorized person" ceased, and the Member thereupon became the designated "authorized person" and shall continue as the designated "authorized person" within the meaning of the Act. The Member shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in any other jurisdiction in which the Company may wish to conduct business. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

2.2 Name. The name of the Company is Gardner Purchaser LLC.

2.3 Principal Place of Business. The principal place of business of the Company shall be c/o WRE Holding US Company, 130 East 7th Street, 3rd Floor, New York, New York 10009. The Company may establish any other places of business as the Member may from time to time deem advisable.

2.4 Purposes. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, the following shall govern: The nature of the business and of the purposes to be conducted and promoted by the Company is to engage solely in the following activities:

2.4.1 To own, acquire, hold, sell, assign, transfer, operate, lease, manage, maintain, develop, improve, service, mortgage, pledge, borrow money against, finance, refinance, or otherwise deal with that certain parcel of real property, together with all improvements located thereon, located at 111 Gardner Avenue, Brooklyn, New York (the "Property");

2.4.2 To enter into and perform its obligations under the Loan Documents; and

2.4.3 To exercise all powers enumerated in the Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

2.5 Tax Classification. The Member intends for federal, state, and other income tax purposes that the Company be treated as disregarded and not as an entity separate from the Member and that all items of Company income, gain, loss, deduction, and credit be treated as the Member's items of income, gain loss, deduction and credit. No person shall have the authority to elect to treat the Company as an association taxable as a corporation for any federal, state, or other income tax purposes.

2.6 Specific Authorization. The Company is hereby authorized to execute, deliver and perform, and the Member on behalf of the Company is hereby authorized to execute and deliver, the Loan Documents and all documents, agreements, certificates, or financing statements contemplated thereby or related thereto, all without any further act, vote or approval of any other Person notwithstanding any other provision of this Agreement, the Act or applicable law, rule or regulation. The foregoing authorization shall not be deemed a restriction on the powers of the Member to enter into other agreements on behalf of the Company.

ARTICLE III Member

3.1 Name and Address. The name and the business, residence or mailing address of the Member are as follows:

| <u>Name</u> | <u>Address</u> |
|-----------------------------|--|
| S & G Realty Holding LLC | c/o WRE Holding US Company 130 East 7th Street, 3rd Floor New York, New York 10009 |

3.2 Percentage Interest. The limited liability company interest of the Member in the Company is 100%.

3.3 Limitation of Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor the Special Member(s) nor any Independent Director shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Director of the Company.

3.4 Liability of Member. To the fullest extent now or hereafter permitted under the Act or other applicable law, the Member shall not be liable to the Company for damages for any breach of duty by such Member in its capacity as such.

3.5 Indemnification. Subject to the limitations set forth in Article IX hereof, the Company shall indemnify and hold harmless, and advance expenses to, the Member (in its capacity as a member) from and against, and in connection with, all claims and demands whatsoever to the maximum extent now or hereafter permitted under the Act or other applicable law.

3.6 Books and Records. The Company shall keep accurate books and records of accounts and minutes of all meetings of the Member.

3.7 Assignments. Subject to any restrictions in the Loan Documents and Section 8.7.4, the Member may assign in whole or in part its limited liability company interest in the Company. If the Member transfers all or part of its limited liability company interest in the Company, the transferee shall be admitted to the Company as a member of the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. If the Member transfers all of its limited liability company interest in the Company, such admission shall be deemed effective immediately prior to the transfer and, immediately following such admission, the transferor Member shall cease to be a member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by merger or consolidation shall, without further act, be the Member hereunder, and such merger or consolidation shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution.

3.8 Resignation. Subject to Section 8.7.4, for so long as any portion of the Debt remains outstanding, the Member may not resign, except as expressly permitted under the Loan Documents. If the Member is permitted to resign, an additional Member of the Company shall be admitted to the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company.

3.9 Admission of Additional Members. Subject to and except as provided in Section 8.5.4, one or more additional Members of the Company may be admitted to the Company with the written consent of the Member; provided, however, that, notwithstanding the foregoing, so

long as any portion of the Debt remains outstanding, no additional Member may be admitted to the Company except as expressly permitted pursuant to the terms of the Loan Documents.

ARTICLE IV Management

4.1 Management. The Member shall have the sole and exclusive right to manage and control the Company's business. Except as otherwise provided herein, the Member: (i) shall have the right to perform all actions necessary or advisable (including, but not limited to, the authority to execute, sign, seal and deliver in the name and on behalf of the Company any and all agreements, certificates, instruments or other documents) for the accomplishment of the purposes and authorized acts of the Company, as specified in Section 2.4 hereof; (ii) shall possess and enjoy, and may exercise, all of the rights and powers of the Company; and (iii) to the extent permitted by the Act, may delegate any or all of such rights and powers to other persons.

4.2 Independent Director.

4.2.1 For so long as any portion of the Debt remains outstanding, the Company shall have at least one (1) Independent Director that shall be a duly-appointed "manager" of the Company within the meaning of Section 18-101(10) of the Act, and notwithstanding any other provision of this Agreement and any provision of law that otherwise so empowers the Company, the Member or any other Person, the Company shall not take any Bankruptcy Action (or to collude with, or otherwise assist, solicit, or cause to be solicited an involuntary Bankruptcy Action) unless (A) such Bankruptcy Action is approved by the prior unanimous written consent of the Member and the Independent Director, and (B) at the time of such action the Company has at least one (1) Independent Director (provided, however, the Independent Director shall only have the rights and duties expressly set forth in this Agreement);

4.2.2 Upon the occurrence of any event that causes the Member to cease to be a member of the Company (other than (i) upon continuation of the Company without dissolution, (ii) upon an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee in accordance with this Agreement or (iii) the resignation of the Member and the admission of an additional member of the Company in accordance with this Agreement), the person(s) acting as Independent Director(s) of the Company shall, without any action of any Person and simultaneously with such member ceasing to be a member of the Company, automatically be admitted as the Special Member and shall preserve and continue the existence of the Company without dissolution;

4.2.3 No Special Member may resign or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to the Company as a Special Member, and (B) such successor Special Member has also accepted its appointment as an Independent Director and executed a counterpart to this Agreement; provided, however, the Special Member shall automatically cease to be a member of the Company upon the admission to the Company of a substitute member;

4.2.4 The Special Member shall be a member of the Company that has no interest in the profits, losses and capital of the Company and has no right to receive any

distributions of Company assets; pursuant to Section 18-301 of the Act, a Special Member shall not be required to make any capital contributions to the Company and shall not receive a limited liability company interest in the Company;

4.2.5 A Special Member, in its capacity as Special Member, may not bind the Company;

4.2.6 Except as required by any mandatory provision of the Act, a Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company, including the merger, consolidation or conversion of the Company;

4.2.7 In order to implement the admission to the Company of each Special Member, each Person acting as an Independent Director shall execute a counterpart to this Agreement;

4.2.8 Prior to its admission to the Company as Special Member, each Person acting as an Independent Director shall not be a member of the Company;

4.2.9 The Company shall be dissolved, and its affairs shall be wound up only upon the first to occur of the following (but subject to subsection 4.2.2 above): (A) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the business of the Company is continued in a manner permitted by this Agreement or the Act, or (B) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act;

4.2.10 Neither the Bankruptcy of the Member or the Special Member shall cause such Member or Special Member, respectively, to cease to be a member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution;

4.2.11 In the event of dissolution of the Company, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act; and

4.2.12 To the fullest extent permitted by law, except as otherwise expressly provided in this Agreement, each member of the Company and the Special Member(s) shall irrevocably waive any right or power that they might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company.

4.3 Independent Director Limitations. The Company (i) shall not be permitted take any Bankruptcy Action unless at the time of such Bankruptcy Action there shall be at least one (1) Independent Director serving in such capacity; (ii) no Independent Director may be removed

or replaced except for Cause; (iii) any resignation, removal or replacement of any Independent Director shall not be effective without five (5) Business Days prior written notice to Lender accompanied by a statement as to the reasons for such removal, the identity of the proposed replacement Independent Director, and a certificate that the replacement Independent Director satisfies the applicable terms and conditions of the definition of "Independent Director"; (iv) to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Act and notwithstanding any duty otherwise existing at law or in equity, the Independent Director(s) shall consider only the interests of the Member and the Company (including the Company's creditors) in acting or otherwise voting on a Bankruptcy Action (which such fiduciary duties to the Member and the Company's creditors, in each case, shall be deemed to apply solely to the extent of their respective economic interests in the Company exclusive of (A) all other interests, (B) the interests of other affiliates of the Member and the Company, and (C) the interests of any group of affiliates of which Member or the Company is a party); (v) other than as provided in clause (iv) above, to the fullest extent permitted by law the Independent Director(s) shall not have any fiduciary duties to the Member of the Company, any directors of the Company, or any other Person; (vi) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; and (vii) to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Act, an Independent Director shall not be liable to the Company, any Member of the Company, or any other Person bound by this Agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct.

4.4 Exculpation. Neither the Member nor any officer, director, shareholder, partner, member, manager, employee, or agent of the Member (each, an "Indemnified Party") shall be liable, responsible or accountable in damages or otherwise to the Company or the Member for any act or omission performed or omitted by the Indemnified Party in good faith pursuant to the authority granted to the Indemnified Party under this Agreement and in a manner reasonably believed by the Indemnified Party to be in the scope of the authority granted to the Indemnified Party by this Agreement and in the best interests of the Company, provided that the act or omission is not determined by a court to be due to the Indemnified Party's fraud, willful misconduct, gross negligence, or misappropriation of funds.

4.5 Indemnification. Subject to the limitations set forth in Article IX hereof, the Company shall indemnify and hold harmless each Indemnified Party against any loss or damage (including attorneys' and other professional fees) incurred by the Indemnified Party on behalf of the Company or in furtherance of the Company's interests, without relieving the Indemnified Party of liability for fraud, willful misconduct, gross negligence or misappropriation of funds. The satisfaction of any indemnification shall be from and limited to Company's assets and no Member shall have any liability on account thereof. The right to indemnification shall include the right to be paid or reimbursed by the Company the reasonable expenses actually incurred by the Indemnified Party and documented with reasonably sufficient evidence, in advance of the final disposition of any proceeding; provided, however, that the advance payment of such expenses shall be made only upon delivery to the Company of a written affirmation by such Indemnified Party of such Indemnified Party's good faith belief that the Indemnified Party has met the standard of conduct necessary for indemnification under this Agreement and a written undertaking, by or on behalf of such Indemnified Party, to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified under

this Agreement or otherwise. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, any indemnification shall be fully subordinated to any obligations respecting the Property and shall not constitute a claim against the Company in the event that cash flow is insufficient to pay such obligations.

4.6 Other Investments. Nothing in this Agreement shall be construed to prohibit or limit the Member from owning, operating, controlling or investing in any other trade or business whether or not such trade or business competes, directly or indirectly, with the existing business of the Company.

ARTICLE V Capital Contribution

5.1 Capital Contribution. The Member has made an initial Capital Contribution to the Company.

5.2 Additional Contributions. Notwithstanding any provision to the contrary in this Agreement, including Exhibits A and B hereto, the Member is not required to make any additional Capital Contributions to the Company. This Section 5.2 is intended to benefit the Member and the Special Member(s) and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (and no such creditor of the Company shall be a third-party beneficiary of this Section 5.2) and the Member and the Special Member(s) shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

ARTICLE VI Allocations and Distributions

6.1 Allocations of Net Profits and Net Losses. The Company's Net Profits and Net Losses shall be allocated to the Member.

6.2 Distributions. Subject to the limitations set forth in Article IX hereof, distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to the Member on account of its interest in the Company if such distribution would violate Section 18-607 of the Act or any other applicable law.

6.3 Limitation of Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor any Special Member nor any Independent Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Manager of the Company.

6.4 Accounting Period. The accounting period of the Company shall be the Fiscal Year.

ARTICLE VII
Dissolution

7.1 Dissolution of the Company. The Company shall be dissolved, and its affairs shall be wound up upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the Act or (ii) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act. Upon the occurrence of any event that causes the last remaining member of the Company to cease to be a member of the Company or that causes the Member to cease to be a member of the Company (other than upon continuation of the Company without dissolution upon (i) an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to the terms of this Agreement, or (ii) the resignation of the Member and the admission of an additional member of the Company pursuant to the terms of this Agreement), to the fullest extent permitted by law, the personal representative of such member is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of the last remaining member of the Company or the Member in the Company.

7.2 Effect of Dissolution. Upon dissolution, the Company shall cease carrying on the Company business except as necessary for the winding up of the Company business. The Company is not terminated, but rather shall continue until the winding up of the affairs of the Company is completed and a Certificate of Cancellation has been filed with the Secretary of State of the State of Delaware.

7.3 Distribution of Assets on Dissolution. Upon the winding up of the Company, the Company's Property shall be distributed: first, to creditors, including the Member if then a creditor, to the extent permitted by law, in satisfaction of the Company's indebtedness and other liabilities; and second, to the Member. Liquidation proceeds shall be paid within ninety (90) days of the end of the Company's taxable year or, if later, within one hundred twenty (120) days after the date of liquidation.

7.4 Winding Up and Certificate of Cancellation. The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged or reasonably adequate provision therefor has been made in accordance with the Act, and all the remaining Property and assets of the Company have been distributed as provided in Section 7.3 hereof. Upon the completion of winding up of the Company, a Certificate of Cancellation shall be delivered to the Office of the Secretary of State of the State of Delaware for filing. The Certificate of Cancellation shall set forth the information required by the Act.

ARTICLE VIII
General Provisions

8.1 Amendment. Any amendments to this Agreement must be in the form of a writing executed by the Member.

8.2 Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

8.3 Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflicts of law. Venue for any litigation or other legal proceeding related to or arising out of this Agreement, and the transactions contemplated hereby, may be in Kings County, New York. Accordingly, the Company and the Member, for themselves and their successors and assigns, hereby: (a) irrevocably submit to the non-exclusive jurisdiction of the state and federal courts of the State of New York and agree and consent that service of process may be made upon them in any legal proceeding arising out of or in connection with the transactions contemplated by this Agreement; (b) irrevocably waive, to the fullest extent permitted by law, any objection which they may have to the laying of venue of any litigation arising out of or in connection with the transactions contemplated by this Agreement brought in district courts of New York County, New York; and (c) irrevocably waive any claims that litigation brought in any such court has been brought in an inconvenient forum.

8.4 Voting. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, when acting on matters subject to the vote of the Member, notwithstanding that the Company is not then insolvent, the Member shall take into account the interest of the Company, including the Company's creditors, as well as those of the Member.

8.5 Severability of Provisions. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

8.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

8.7 UCC Article 8.

8.7.1 Each limited liability company interest in the Company shall constitute a "security" within the meaning of, and governed by, (i) Article 8 of the Uniform Commercial Code (including Section 8 102(a)(15) thereof) as in effect from time to time in the State of Delaware (the "UCC"), and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995, and the Company hereby "opts in" to such provisions for the purposes of the Uniform Commercial Code.

8.7.2 The limited liability company interests in the Company shall be evidenced by the certificate attached hereto as Exhibit C, and such certificate shall be executed by the Member on behalf of the Company. As of the date hereof, a certificate is being issued by the Member evidencing 100% of the limited liability company interests in the Company previously issued to the Member pursuant to the Original LLC Agreement.

8.7.3 The Company shall maintain books for the purpose of registering the transfer of the limited liability company interests. A transfer of limited liability company interests requires delivery of an endorsed certificate. Notwithstanding any provision of the Mezzanine Pledge and Security Agreement (the "Pledge Agreement") to the contrary, to the extent that any of provision of the Pledge Agreement is inconsistent with any non-waivable provision of the UCC, such provision of the UCC shall control.

8.7.4 Mezzanine Loan Restrictions.

- (i) Notwithstanding any provision in the Act or any other provision contained herein to the contrary, the Member shall be permitted to pledge and, upon any foreclosure of such pledge in connection with the admission of the Mezzanine Lender or other holder as a member, to transfer to the Mezzanine Lender or such holder its rights and powers to manage and control the affairs of the Company pursuant to the terms of the Pledge Agreement;
- (ii) Mezzanine Lender (or its designee) may, upon foreclosure pursuant to the Pledge Agreement, (A) become a substitute Member with respect to the Membership Interests subject to such Pledge Agreement, (B) exercise any and all voting rights allowed to the holder of any Membership Interests subject to such Pledge Agreement, (C) succeed to all other rights or interests associated with the Membership Interests subject to the Pledge Agreement, or any part thereof, as may be provided in the Pledge Agreement, and/or (D) terminate any non-member manager of the Company;
- (iii) no owners of Membership Interests in the Company shall be entitled to resign from the Company or to assign, encumber, or convey any interest in the Company (except in favor of Mezzanine Lender pursuant to the Mezzanine Loan Documents);
- (iv) no new or additional Membership Interests in the Company shall be created, issued, redeemed, exchanged, diluted or modified;
- (v) at any time that any amount is owed to the Mezzanine Lender under the Mezzanine Loan Documents and solely to the extent legally available after the payment of all Expenses (defined below) by the Company, the Company shall make a distribution to the Member in an amount equal to the amount of the obligations then due and owing by the Member pursuant to the Mezzanine Loan Documents. For the purposes of this clause (iv)

the term "Expenses" shall mean the aggregate amount paid by the Company during each month in connection with the Property for (A) principal and interest and all other amounts payable pursuant to the Loan Documents, (B) general maintenance, repairs and replacements, (C) required reserves and expenditures for capital improvements and tenant improvements, (D) premiums for insurance, (E) charges (including applicable taxes) for electricity, fuel oil and other utilities, (F) real estate taxes, assessments, water charges and sewer rents, (G) management fees and (H) leasing commissions.

- (vi) Without any further act, vote or approval of any Member, or any delegate of the Company or any Person, the Company shall issue a new Certificate for Limited Liability Company Interest in place of any Certificate for Limited Liability Company Interest previously issued if the holder of the limited liability company interests represented by such Certificate for Limited Liability Company Interest, as reflected on the books and records of the Company:
- (a) makes proof by affidavit, in form and substance satisfactory to the Company, that such previously issued Certificate for Limited Liability Company Interest has been lost, stolen or destroyed; and
 - (b) requests the issuance of a new Certificate for Limited Liability Company Interest before the Company has notice that such previously issued Certificate for Limited Liability Company Interest has been acquired by a purchaser for value in good faith and without notice of an adverse claim.

ARTICLE IX

Single Purpose Entity and Separateness

9.1 **Conflicts.** Notwithstanding any other provision of this Agreement, for so long as that certain loan (the "Loan") made by DELPHI CRE FUNDING LLC ("Lender") to the Company remains an outstanding obligation of the Company, in the event of any conflict or inconsistency between the provisions contained in this Article IX and the other provisions of this Agreement or any other document governing the management and operation of the Company, the provisions contained in this Article IX shall control and govern. Capitalized terms used below in this Article IX and not otherwise defined in this Article IX shall have the respective meanings set forth (i) in that certain Loan Agreement by and between Lender and the Company, dated as of the date hereof, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time (the "Loan Agreement") or (ii) if not defined in the Loan Agreement, then elsewhere herein (it being understood that for the purposes of this Article IX only, to the extent any capitalized terms are defined in both (x) any article of this Agreement other than this Article IX and (y) the Loan Agreement, the meaning set forth in the Loan Agreement shall prevail).

9.2 Purpose and Business. For so long as the Loan remains outstanding, the sole purpose to be conducted or promoted by the Company is to own, acquire, hold, sell, assign, transfer, operate, lease, manage, maintain, develop, improve, service, mortgage, pledge, borrow money against, finance, refinance, or otherwise deal with that certain parcel of real property, together with all improvements located thereon, located at the Property, and to enter into and perform its obligations under the Loan Documents, and to exercise all powers enumerated in the Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

9.3 Single Purpose Entity: Separateness. For so long as the Loan remains outstanding and an obligation of the Company, the Company shall comply with the terms and provisions of Exhibit B attached hereto.

9.4 Bankruptcy of Member. Notwithstanding any other provision of this Agreement, the bankruptcy of the Member or Special Member shall not cause the Member or Special Member, as applicable, to cease to be a member of the Company and upon the occurrence of such an event, the Company shall continue without dissolution.

9.5 Limitations on Distributions. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution if such distribution would violate the Act or other applicable law.

9.6 Limitations on Transfers. Notwithstanding any provision of the Act or this Agreement to the contrary, for so long as the Loan remains outstanding and an obligation of the Company, to the fullest extent permitted by law, no transfer of any direct or indirect ownership interest in the Company may be made in violation of the applicable transfer restrictions set forth in Section 5.2.10 of the Loan Agreement.

9.7 Subordination of Indemnification Obligations. Notwithstanding the foregoing provisions, for so long as the Loan remains outstanding and an obligation of the Company, any indemnification set forth in this Agreement shall be fully subordinate to the Loan and shall not constitute a claim against the funds of the Company in the event that the Company's cash flow is insufficient to pay the indebtedness then due and owing to Lender under the Loan Documents (it being acknowledged and agreed however that such indemnification payments shall be permitted so long as no Event of Default is then continuing). For the avoidance of doubt, in no event shall such subordination provision apply to the funds of the Company from sources other than the cash flow of the Company Property (e.g., proceeds of insurance).

9.7.1 "Company Property" means and includes all of the property presently held by the Company as of the date hereof and any property acquired by the Company from time to time, including the real property known as 111 Gardner Avenue, Brooklyn, New York; provided, however, for so long as the Loan remains outstanding and an obligation of the Company, "Company Property" shall mean only the property included within the definition of "Property" under the Loan Agreement.

9.8 Third-Party Beneficiary. Lender is an intended third-party beneficiary of the provisions set forth in this Article IX.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the day and year first aforesaid.

MEMBER:

S & G REALTY HOLDING LLC, a Delaware limited liability company

S & G REALTY I LLC, a New York limited liability company, its sole member

By: 

Name: Davina Mansur

Title: Treasurer

[Signatures Continue on Following Page]

INDEPENDENT DIRECTOR:

Ricardo Beausoleil

Ricardo Beausoleil

Exhibit A

SINGLE PURPOSE ENTITY DEFINITION

“Special Purpose Entity” means a Person (as defined in the Loan Agreement), other than an individual, which, since the date of its formation and at all times prior to, on and after the date thereof, has complied with and shall at all times comply with the following requirements:

(a) was, is and will be formed solely for the purpose of acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, financing, managing and operating the Property, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(b) has not been, is not, and will not be engaged in any business unrelated to acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, financing managing and operating the Property, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(c) has not had, does not have and will not have any assets other than those related to the Property;

(d) has not engaged in, sought or consented to, and will, to the fullest extent permitted by law, not engage in, seek or consent to, (i) any dissolution, winding up, liquidation, consolidation, merger, or sale of all or substantially all of its assets, (ii) except as permitted under the terms of the Loan Agreement, any transfer of partnership or membership interests (if such entity is a general partner in a limited partnership or a member in a limited liability company), or (iii) any amendment of its certificate of formation or operating agreement (as applicable) with respect to the matters set forth in this definition without the written consent of Lender;

(e) has been, is, and intends to remain solvent and has paid and intends to continue to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same have or shall become due, and has maintained, is currently maintaining and will endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; provided, however, the foregoing shall not require any direct or indirect owner of the Company to make any additional capital contribution;

(f) has not failed, and will not fail, to correct any known misunderstanding regarding the separate identity of such entity;

(g) has maintained and will maintain its accounts, financial statements, books, and records separate from any other Person and has not permitted, and will not permit, its assets to be listed as assets on the financial statement of any other entity except as required by the Approved Accounting Method (provided, however, that the Company’s assets may be included in a consolidated financial statement of its Affiliates provided that (i) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of the Company and such Affiliates and to indicate that the Company’s assets and credit are not available to satisfy

the debts and other obligations of such Affiliates or any other Person, and (ii) such assets shall be listed on the Company's own separate balance sheet);

(h) has filed and will file its own tax returns, except to the extent that it (i) has been or is required to file consolidated tax returns by law or (ii) is treated as a disregarded entity for federal or state tax purposes;

(i) other than as provided in the Loan Agreement, (i) has not commingled, and will not commingle, its funds or assets with those of any other Person and (ii) has not participated and will not participate in any cash management system with any other Person;

(j) has held and will hold its assets in its own name;

(k) has maintained and will maintain an arm's-length relationship with its Affiliates; provided that the Company may enter into agreements with Affiliates so long as such agreements are upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(l) has paid and will pay its own liabilities and expenses, including the salaries of its own employees (if any), out of its own funds and assets, and has maintained and will maintain a sufficient number of employees (if any) in light of its contemplated business operations; provided, however, the foregoing shall not require any direct or indirect owner of the Company to make any additional capital contributions;

(m) has observed and will observe in all material respects all partnership, corporate or limited liability company formalities, as applicable;

(n) has not had, and will not have, any Indebtedness other than Permitted Indebtedness;

(o) except in connection with the Loan Documents, has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for, the debts of any other Person and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to the Loan Agreement;

(p) has not acquired and will not acquire obligations or securities of its partners, members or shareholders or any other Affiliate (other than the securities of the Company held by any applicable Required SPE Entity);

(q) has allocated and will allocate, fairly and reasonably, any overhead expenses that are shared with any Affiliate, including paying for shared office space and services performed by any employee of an Affiliate;

(r) has maintained and used, now maintains and uses, and will maintain and use, separate stationery, invoices and checks bearing its name, and all stationery, invoices, and checks utilized by such Person or utilized to collect its funds or pay its expenses have borne and shall

bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being such Person's agent;

(s) has not pledged and will not pledge its assets for the benefit of any other Person other than Lender in connection with the Loan;

(t) has conducted and will conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of the Company, and has held itself out and identified itself, and will hold itself out and identify itself, as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of the Company and not as a division or part of any other Person, except in each case for services rendered under a business management services agreement with an Affiliate that complies with the terms contained in subsection (x) below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Company;

(u) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(v) has not made and will not make loans to any Person or hold evidence of Indebtedness issued by any other Person or entity (other than cash and investment-grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity) except that the Company, from time to time in the ordinary course of business, may agree with tenants under Leases of all or any portion of the Property to make certain tenant improvement allowances available to such tenants;

(w) has not identified and will not identify its constituent partners, members or shareholders (as applicable), or any Affiliate of any of them, as a division or part of it, and has not identified itself, and shall not identify itself, as a division of any other Person;

(x) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its partners, members, shareholders or Affiliates except (i) in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party, including, but not limited to, the Master Lease, and (ii) in connection with this Agreement;

(y) has not had and will not have any obligation to indemnify, and has not indemnified and will not indemnify, its partners, officers, directors, managers or members, as the case may be, unless such an obligation was and is fully subordinated to the Obligations and will not constitute a claim against such Person in the event that cash flow in excess of the amount required to pay the Obligations is insufficient to pay such obligation;

(z) except as provided in the Loan Documents, does not and will not have any of its obligations guaranteed by any Affiliate;

(aa) has not and will not consent to any other Person (i) operating its business in the name of the Company, (ii) acting in the name of the Company, (iii) using the Company's

stationery or business forms, (iv) holding out its credit as being available to satisfy the obligations of the Company, (v) having contractual liability for the payment of any of the liabilities of the Company (except pursuant to the limited extent provided under the Loan Documents), or (vi) failing to at all times specify to all relevant third parties that it is acting in a capacity other than as the Company.

“Cause” means, with respect to an Independent Director, (a) acts or omissions by such Person that constitute willful disregard of such Person’s duties under this Agreement, (b) that such Person has engaged in or has been charged with, or has been convicted of, fraud or other acts constituting a crime under any law applicable to such Person, (c) that such Independent Director is unable to perform his or her duties as an Independent Director due to death, disability, or incapacity, (d) that such Independent Director no longer meets the definition of “Independent Director” or (e) that the fees charged by such Person are materially more than is otherwise customary in the market.

“Independent Director” means an individual who has prior experience as an independent director, independent manager or independent member with at least three years of employment experience and who is provided by CT Corporation, Corporation Service Company, National Registered Agents, Inc. (or its affiliate NRAI Entity Services, LLC), Wilmington Trust Company, Stewart Management Company, Lord Securities Corporation or, if none of those companies is then providing professional independent directors or independent managers, another nationally-recognized company approved by Lender, in each case that is not an Affiliate of the Borrower Parties and that provides professional independent directors and independent managers and other corporate services in the ordinary course of its business, and which individual is duly appointed as an Independent Director of the Company and for the five-year period prior to his or her appointment as an Independent Director has not been and during the continuation of his or her serving as an Independent Director will not be, any of the following:

(a) a member (other than a Special Member), manager, director, trustee, officer, employee, attorney, or counsel of any of the Borrower Parties or their Affiliates (provided that such person may be an independent director or independent manager of the Company as long as they are not a member, manager, director, trustee, officer, employee, attorney, or counsel of any other Borrower Party or Affiliate of a Borrower Party, except that a Person who otherwise satisfies the definition of Independent Director other than this subparagraph (a) by reason of being the independent director or independent manager of a “special purpose entity” that is an Affiliate of the Company shall not be disqualified from serving as an Independent Director of the Company if such Person is either (i) a professional independent director or independent manager or (ii) the fees that such individual earns from serving as independent director or independent manager of Affiliates of the Company in any given year constitute in the aggregate less than five percent (5%) of such individual’s annual income for that year);

(b) a creditor, customer, supplier, service provider (including provider of professional services) or other Person who derives any of its purchases or revenues from its activities with any Borrower Party or any Affiliate of a Borrower Party (other than an Independent Director provided by a nationally-recognized company that routinely provides

professional independent directors or independent managers and other corporate services to any Borrower Party or any Affiliate of a Borrower Party in the ordinary course of business);

(c) a direct or indirect legal or beneficial owner in any Borrower Party or any Affiliate of a Borrower Party;

(d) a member of the immediate family of any member, manager, employee, attorney, customer, supplier or other Person referred to above; and

(e) a Person Controlling or under the common Control of anyone listed in (a) through (d) above.

Exhibit B

SINGLE PURPOSE ENTITY PROVISIONS

The Company shall not: (a) change its principal place of business or state of organization without first giving Lender fifteen (15) days prior notice; (b) violate (and shall not permit any other Person in occupancy of or involved with the operation or use of the Property to violate) any material Legal Requirements, (c) permit (or allow to occur) (i) any of the funds or other assets of the Company, any Required SPE Entity, or Guarantor to constitute property of, or be beneficially owned, directly or indirectly, by any Embargoed Person, or be derived from any unlawful activity, in each case with the result that the investment in the Company, any Required SPE Entity, or Guarantor, as applicable (whether directly or indirectly), is or would be prohibited by applicable Legal Requirements, or the Loan is or would be in violation of applicable Legal Requirements; (d) fail to cause any of the representations and warranties contained in Section 4.21 of the Loan Agreement to be true in any material respect at any time; (e) fail to be a Special Purpose Entity, or fail to cause any Required SPE Entity required under the Loan Agreement to be a Special Purpose Entity; (f) remove or replace any Independent Director except for Cause, and in any event not without providing at least five (5) Business Days advance written notice thereof to Lender; (g) to the fullest extent permitted by applicable Legal Requirements, engage (nor permit any Required SPE Entity required under the Loan Agreement to engage) in any dissolution, liquidation, or consolidation or merger with or into any other business entity; (h) modify, amend, waive or terminate (nor permit any Required SPE Entity required under the Loan Agreement to modify, amend, waive or terminate) its organizational documents other than any confirmatory, administrative, or immaterial modifications or amendments thereto; (i) fail to maintain qualification to do business in any jurisdiction to the extent the same is required for the ownership, maintenance, management and operation of the Property; or (j) cease to operate the Property in the manner in which it is presently being operated (other than temporary cessation in connection with any diligent renovation or restoration of the Property following a Casualty or Condemnation), or change the trade name or names under which it operates the Property. The Company covenants and agrees that in the event the Company receives any notice that the Company (or any of its beneficial owners, affiliates or participants) or any Person that has a direct or indirect interest in the Property become an Embargoed Person or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, the Company shall promptly notify Lender. The Company acknowledges that certain Legal Requirements require all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time-to-time request, and the Company shall provide to Lender, the Company's name, address, tax identification number and/or such other identification information as shall be necessary for Lender to comply with federal law (including such information concerning its direct and indirect owners), and re-make the representations and warranties contained in Section 4.21 of the Loan Agreement. An "account" for this purpose may include, without limitation, a deposit account, cash management service, a transaction or asset account, a credit account, a loan or other extension of credit, and/or other financial services product.

Exhibit C

**CERTIFICATE FOR LIMITED LIABILITY COMPANY INTERESTS IN
GARDNER PURCHASER LLC**

THIS CERTIFICATE HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933 (AS AMENDED) OR UNDER THE SECURITIES OR BLUE SKY LAWS OF ANY STATE. THE HOLDER OF THIS CERTIFICATE, BY ITS ACCEPTANCE HEREOF, REPRESENTS THAT IT IS ACQUIRING THIS SECURITY FOR INVESTMENT AND NOT WITH A VIEW TO ANY SALE OR DISTRIBUTION HEREOF. ANY TRANSFER OF THIS CERTIFICATE OR ANY LIMITED LIABILITY COMPANY INTEREST REPRESENTED HEREBY IS SUBJECT TO THE TERMS AND CONDITIONS OF THE LIMITED LIABILITY COMPANY AGREEMENT (AS DEFINED BELOW).

Certificate Number 001

100% Percentage Interest

GARDNER PURCHASER LLC, a Delaware limited liability company (the "Company"), hereby certifies that S & G REALTY HOLDING LLC, a Delaware limited liability company (together with any assignee of this Certificate, the "Holder") is the registered owner of one hundred percent (100%) of the limited liability company interests in the Company. The rights, powers, preferences, restrictions and limitations of the limited liability company interests in the Company are set forth in, and this Certificate and the limited liability company interests in the Company represented hereby are issued and shall in all respects be subject to the terms and provisions of, the Amended and Restated Limited Liability Company Agreement of the Company, effective as of May __, 2017, as the same may be amended or restated from time to time (the "Limited Liability Company Agreement"). By acceptance of this Certificate, and as a condition to being entitled to any rights and/or benefits with respect to the limited liability company interests evidenced hereby, the Holder is deemed to have agreed to comply with and be bound by all of the terms and conditions of the Limited Liability Company Agreement. The Company will furnish a copy of the Limited Liability Company Agreement to the Holder without charge upon written request to the Company at its principal place of business. Transfer of any or all of the limited liability company interests in the Company evidenced by this Certificate is subject to certain restrictions in the Limited Liability Company Agreement and can be effected only after compliance with all of those restrictions and the presentation to the Company of the endorsed Certificate, accompanied by the completed Application for Transfer of Interests, which is on the reverse side of this Certificate.

Each limited liability company interest in the Company represented by this Certificate evidences an interest in the Company and shall constitute a "security" within the meaning of, and governed by, (i) Article 8 of the Uniform Commercial Code (including Section 8-102(a)(15) thereof) as in effect from time to time in the State of Delaware and (ii) Article 8 of the Uniform Commercial Code of any other applicable jurisdiction that now or hereafter substantially includes the 1994 revisions to Article 8 thereof as adopted by the American Law Institute and the National Conference of Commissioners on Uniform State Laws and approved by the American Bar Association on February 14, 1995 (and each limited liability company interest in the Company shall be treated as such a "security" for all purposes, including, without

limitation perfection of the security interest therein under Article 8 of each applicable Uniform Commercial Code as the Company has "opted-in" to such provisions).

THE LIMITED LIABILITY COMPANY INTERESTS EVIDENCED HEREBY ARE SUBJECT TO AN IRREVOCABLE PROXY AGREEMENT (A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY) AND BY ACCEPTING ANY INTEREST IN SUCH LIMITED LIABILITY COMPANY INTERESTS THE PERSON HOLDING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SAID AGREEMENT.

This Certificate and the limited liability company interests evidenced hereby shall be governed by and construed in accordance with the laws of the State of Delaware without regard to principles of conflicts of laws.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company has caused this Certificate to be executed as of the date set forth below.

GARDNER PURCHASER LLC, a Delaware
limited liability company

Dated: May __, 2017

By: _____

Name: _____

Title: _____

(REVERSE SIDE OF CERTIFICATE)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ (print or typewrite name of transferee), _____ (insert Social Security or other taxpayer identification number of transferee), the following specified percentage of limited liability company interests in the Company: _____ (identify the percentage interest being transferred) effective as of the date specified in the Application for Transfer of Interests below, and irrevocably constitutes and appoints _____ and its authorized officers, as attorney-in-fact, to transfer the same on the books and records of the Company, with full power of substitution in the premises.

Dated: _____

S & G REALTY HOLDING LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

APPLICATION FOR TRANSFER OF INTERESTS

The undersigned applicant (the "Applicant") hereby (a) applies for a transfer of the percentage of limited liability company interests in the Company described above (the "Transfer") and applies to be admitted to the Company as a substitute member of the Company, and (b) agrees to comply with and be bound by all of the terms and provisions of the Limited Liability Company Agreement. Initially capitalized terms used herein and not otherwise defined herein are used as defined in the Limited Liability Company Agreement.

The Applicant directs that the foregoing Transfer of the Applicant's admission to the Company as a substitute member shall be effective as of the registration of the Transfer in the books and records of the Company on _____.

APPLICANT:

By: _____
Name: _____
Title: _____

Dated: _____

Address of Applicant: _____

The Company has determined (a) that the transfer described above is permitted by the Limited Liability Company Agreement, (b) hereby agrees to effect such transfer and the admission of the Applicant as a substitute member of the Company effective as of the date directed above, and (c) agrees to record in the books and records of the Company the admission of the Applicant as a substitute member.

GARDNER PURCHASER LLC, a Delaware
limited liability company

By: _____
Name: _____
Title: _____

**UNANIMOUS WRITTEN CONSENT
OF
THE SOLE MEMBER
OF
S & G REALTY I LLC
May 16, 2017**

The undersigned, being the sole member (the "Sole Member") of S & G Realty I LLC, a New York limited liability company (the "Company"), pursuant to Section 708(b) of the New York Business Corporation Law, does hereby unanimously consent to and adopt the following resolutions by written consent without a meeting (this "Written Consent"):

WHEREAS, the Company is the sole member of S & G Realty Holding LLC, a Delaware limited liability company ("Mezz Borrower"), which is the sole member of (i) Stewart Purchaser LLC, a Delaware limited liability company, and (ii) Gardner Purchaser LLC, a Delaware limited liability company (each a "Mortgage Borrower" and collectively, as the context requires, the "Mortgage Borrowers");

WHEREAS, (x) Mortgage Borrower desires to obtain from DELPHI CRE FUNDING LLC, a Delaware limited liability company ("Mortgage Lender"), a loan in the original principal amount of up to Twenty One Million Nine Hundred Thirty Seven Thousand Five Hundred and No/100 Dollars (\$21,937,500.00) (the "Mortgage Loan") and (y) Mezz Borrower desires to obtain from DELPHI CRE FUNDING LLC, a Delaware limited liability company ("Mezz Lender"), a mezzanine loan in the original principal amount of up to Five Hundred Sixty Two Thousand Five Hundred and No/100 Dollars (\$562,500.00) (the "Mezz Loan," together with the Mortgage Loan, the "Loans");

WHEREAS, (x) as a condition precedent to Mortgage Lender making the Mortgage Loan and (y) as a condition precedent to Mezz Lender making the Mezz Loan, Mortgage Lender and Mezz Lender, as applicable, have requested that the Company, Mortgage Borrower and Mezz Borrower, as applicable, execute and deliver for the benefit of Mortgage Lender and Mezz Lender, as applicable, those certain documents referenced on Schedule I attached hereto (collectively, the "Loan Documents") in connection with the Loans; and

WHEREAS, the Company has reviewed drafts of the Loan Documents, together with all exhibits and schedules thereto, and deems it advisable and in the best interest of the Company, individually and as the sole member of Mezz Borrower, individually, and which Mezz Borrower is the sole member of Mortgage Borrowers, that the Company, Mortgage Borrowers and Mezz Borrower enter into the Loan Documents and such other documents in connection with or contemplated under the Loan Documents or otherwise in connection with the Loans (collectively, the "Related Agreements").

NOW, THEREFORE, BE IT RESOLVED, that it is the determination of the Company that it is advisable and in the best interest of the Company, individually and as the sole member and manager of Mezz Borrower, individually, and which Mezz Borrower is the sole member and manager of Mortgage Borrowers, to execute this Written Consent; and be it further

RESOLVED, that it is the determination of the Company that it is advisable and in the best interest of the Company, individually and as the sole member of Mezz Borrower, individually, and which Mezz Borrower is the sole member of Mortgage Borrowers, that the Company, Mortgage Borrowers and Mezz Borrower are hereby authorized, directed and empowered, to enter into the Loan Documents and the Related Agreements in substantially the form previously reviewed by the Company, and to consummate the transactions contemplated thereby; and be it further

RESOLVED, that each of Davina Mansur and Gabriela Olave is appointed an authorized signatory of the Company, Mortgage Borrower and Mezz Borrower and each acting individually be, and hereby is, authorized, directed and empowered to execute and deliver, in the name of and on behalf of the Company, Mortgage Borrowers and Mezz Borrower, as applicable, the Loan Documents and the Related Agreements and such other instruments, agreements, certificates, affidavits and documents as may be necessary, appropriate or desirable to carry out the terms and conditions of the Loan Documents and the Related Agreements and/or to consummate the Loans; and be it further

RESOLVED, that each of Davina Mansur and Gabriela Olave, acting individually, as an authorized signatory of the Company, Mortgage Borrower and Mezz Borrower be, and hereby is, authorized, directed and empowered to execute and deliver, in the name of and on behalf of the Company, Mortgage Borrowers and Mezz Borrower, as applicable, such modifications and amendments to the Loan Documents and the Related Agreements as approved by the Company Members and the Committee; and be it further

RESOLVED, that each of Davina Mansur and Gabriela Olave, acting individually, as an authorized signatory of the Company, Mortgage Borrowers and Mezz Borrower be, and hereby is, authorized, directed and empowered to execute and deliver, in the name of and on behalf of the Company, Mortgage Borrowers and Mezz Borrower, as applicable, to (i) prepare, execute, knowledge, deliver, file and record any and all documents, instruments, affidavits and agreements and (ii) take any and all further action as any authorized signatory may determine in his or their discretion to be necessary, appropriate or desirable to carry out the purposes and intent of the foregoing resolutions, the taking of any such action or the execution and delivery of any such document, instrument, affidavit or agreement to be deemed conclusive evidence of such discretionary authority; and be it further

RESOLVED, that any specific actions that may be required to have been approved by the Company Members and the Committee in connection with the actions of the Company, Mezz Borrower or Mortgage Borrowers contemplated by the foregoing resolutions be, and the same hereby are, approved; and be it further

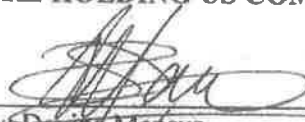
RESOLVED, that any and all documentation heretofore or hereafter executed and delivered by, and any and all lawful actions heretofore or hereafter taken by, or at the direction of, the Company, Mezz Borrower or Mortgage Borrowers in furtherance of the purpose and intent of the foregoing resolutions be, and each of them hereby is, adopted, ratified, confirmed and approved in all respects; and be it further

RESOLVED, that this Written Consent may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one instrument; and be it further

[Signature page follows]

IN WITNESS WHEREOF, the undersigned has caused this Unanimous Written Consent of the Sole Member of S & G Realty I LLC to be duly executed and delivered as of the day and year first written above.

WRE HOLDING US COMPANY



By: Davina Mansur

Title: President, Chief Executive Officer and Treasurer

SCHEDULE 1

Loan Documents

[See attached]

1. Loan Agreement by and among Stewart Purchaser LLC, a Delaware limited liability company, Gardner Purchaser LLC, a Delaware limited liability company (collectively, the "Borrower") and Delphi CRE Funding LLC, a Delaware limited liability company (the "Lender"), dated as of the date hereof.
2. Promissory Note A by and between Borrower and Lender dated as of the date hereof.
3. Promissory Note B by and between Borrower and Lender dated as of the date hereof.
4. Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing from Borrower to Lender, dated as of the date hereof.
5. Assignment of Leases and Rents by Borrower to Lender, dated as of the date hereof.
6. Completion Guaranty made by Philipp Wiederkehr and Beatrice Wiederkehr (collectively, the "Guarantor") to and for the benefit of Lender, dated as of the date hereof.
7. Interest Guaranty made by Guarantor to and for the benefit of Lender, dated as of the date hereof.
8. Guaranty of Recourse Obligations by Guarantor to and for the benefit of Lender, dated as of the date hereof.
9. Environmental Indemnity Agreement by Guarantor and Borrower to and for the benefit of Lender, dated as of the date hereof.
10. Deposit Account Control Agreement by and between Borrower, Lender and Citibank, N.A. dated as of the date hereof.
11. Cash Management Agreement by and between Borrower, S & G Realty Holding LLC, a Delaware limited liability company ("S & G Holding"), Lender, and Wells Fargo Bank, National Association dated as of the date hereof.
12. Assignment of Contracts, Licenses, Permits, Agreements, Warranties and Approvals between Borrower and Lender, dated as of the date hereof.
13. Acknowledgement of Assignment of Interest Rate Cap Agreement by and between Borrower and Lender, dated as of the date hereof.
14. Agreement Regarding Liquor Licenses by and between Avant Gardner, LLC, a New York limited liability company, Borrower, S & G Holding, and Lender, dated as of the date hereof.
15. General Contractor Consent and Subordination Agreement by and between Borrower, S & G Holding, Lender and Inspiron Inc., dated as of the date hereof.
16. Closing Certificate made by Stewart Purchaser LLC to Lender, dated as of the date hereof.
17. Closing Certificate made by Gardner Purchaser LLC to Lender, dated as of the date hereof.

18. Mezzanine Loan Agreement by and among Lender and S & G Holding, dated as of the date hereof
19. Mezzanine Loan Promissory Note by and between S & G Holding and Lender dated as of the date hereof.
20. Mezzanine Pledge and Security Agreement made by S & G Holding for the benefit of Lender dated as of the date hereof.
21. Acknowledgement and Consent of S & G Holding to Mezzanine Loan made by S & G Holding to and for the benefit of Lender, dated as of the date hereof.
22. Instruction to Register Pledge made by S & G Holding to and for the benefit of Lender, dated as of the date hereof.
23. Certificate of Limited Liability Company Interest and related Interest Power made by S & G Holding, dated as of the date hereof.
24. Confirmation Statement and Instruction Agreement made by S & G Holding and Borrower, dated as of the date hereof.
25. Mezzanine Interest Guaranty made by Guarantors to and for the benefit of Lender, dated as of the date hereof.
26. Mezzanine Guaranty of Recourse Obligations made by Guarantors to and for the benefit of Lender, dated as of the date hereof.
27. Mezzanine Completion Guaranty made by Guarantors to and for the benefit of Lender, dated as of the date hereof.
28. Mezzanine Environmental Indemnity by Guarantor and S & G Holding to and for the benefit of Lender, dated as of the date hereof.
29. Mezzanine Assignment and Subordination of Contracts made by S & G Holding to Lender, dated as of the date hereof.
30. Mezzanine Closing Certificate made by S & G Holding to and for the benefit of Lender, dated as of the date hereof.

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT OF
S & G REALTY HOLDING LLC**

THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (together with the schedules attached hereto, and as the same may be amended, modified, or supplemented, this "Agreement") of **S & G REALTY HOLDING LLC** (the "Company"), is entered into as of the 16th day of May, 2017, by **S & G REALTY I LLC**, a New York limited liability company, being the sole equity member of the Company, and **LISA M. PIERRO**, as the "Independent Director". Capitalized terms used herein and not otherwise defined herein and not defined on Exhibit A, Exhibit B, or Exhibit C attached hereto are used as defined in the Loan Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Company was formed on March 16, 2017 pursuant to the Delaware Limited Liability Company Act (6 Del. C. §§ 18-101 et seq.) (the "Act");

WHEREAS, the Member entered into that certain Limited Liability Company Agreement (the "Original LLC Agreement") of the Company dated as of March 17, 2017;

WHEREAS, the Member desires to amend and restate the Original LLC Agreement in its entirety in order to set forth the respective rights and duties of the Member relating to the operation and management of the Company; and

NOW, THEREFORE, in consideration of the covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Member hereby enters into this Agreement, which shall amend, restate, and replace the Original LLC Agreement in its entirety as follows:

**ARTICLE I
Definitions**

1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

"Act" has the meaning set forth in the recitals of this Agreement.

"Bankruptcy" shall mean, with respect to any Person, (A) if such Person (i) makes an assignment for the benefit of creditors or admits, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged a bankrupt or insolvent, or has entered against it an order for relief, in any bankruptcy or insolvency proceedings, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, or acquiesces in or joins in any involuntary petition filed against it, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, or (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Person or of all or any substantial

part of its properties, or (B) if 120 days after the commencement of any proceeding against the Person seeking reorganization, arrangement, composition, readjustment, liquidation or similar relief under any statute, law or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without such Person's consent or acquiescence of a trustee, receiver or liquidator of such Person or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. The foregoing definition of "Bankruptcy" is intended to replace and shall supersede and replace the definition of "Bankruptcy" set forth in Sections 18-101(1) and 18-304 of the Act.

"Bankruptcy Action" shall mean with respect to any Person (a) such Person filing a voluntary petition under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (b) the filing of an involuntary petition against such Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (c) such Person filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; or soliciting or causing to be solicited petitioning creditors for any involuntary petition from any Person; (d) the appointment of a custodian, receiver, trustee, or examiner for such Person or any portion of the Property; (e) such Person making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due; or (f) such Person commencing (or have commenced against it) a proceeding for the dissolution or liquidation of it.

"Capital Contribution" shall mean any contribution by the Member to the capital of the Company in cash or property.

"Certificate of Formation" shall mean the Certificate of Formation of the Company filed with the Secretary of State of the State of Delaware, as it may from time to time be amended.

"Company" has the meaning set forth in the preamble of this Agreement.

"Distribution" shall mean any cash and other property paid to the Member by the Company from Net Cash Available for Distributions.

"Fiscal Year" shall mean the fiscal year of the Company, which shall be the year ending December 31.

"Loan Agreement" has the meaning set forth in Article IX of this Agreement.

"Loan Documents" means all documents, agreements, letters, instruments and certificates executed and delivered by the Company in connection with the Company's borrowing of the Loan, including, without limitation, the Loan Agreement, the other Loan Documents (as defined in the Loan Agreement) and any document contemplated by or related to the foregoing, as well as all amendments of any of the foregoing.

"Member" means S & G Realty I LLC, a New York limited liability company, as the initial member of the Company, and includes any Person admitted as an additional member

of the Company or a substitute member of the Company pursuant to the provisions of this Agreement, each in its capacity as a member of the Company; provided, however, the term "Member" shall not include the Special Member(s).

"Net Cash Available for Distributions" shall mean: (i) the net cash proceeds from Company operations; less (ii) the portion thereof used to establish Company reserves as determined by the Member in its sole discretion.

"Net Losses" shall mean the net losses of the Company, if any, determined for federal income tax purposes.

"Net Profits" shall mean the net income of the Company, if any, determined for federal income tax purposes.

"Property" shall mean the real property located at 140 Stewart Avenue, Brooklyn, New York, and 111 Gardner Avenue, Brooklyn, New York, together with all improvements located thereon.

"Property LLC Agreements" means the limited liability company agreements of each of Stewart Purchaser LLC and Gardner Purchaser LLC, as the same may be amended or amended and restated from time to time.

"Special Member" means, upon such person's admission to the Company as a member of the Company pursuant to Section 4.2, a person acting as Independent Director, in such person's capacity as a member of the Company. A Special Member shall only have the rights and duties expressly set forth in this Agreement.

"Special Purpose Entity" has the meaning set forth on Exhibit A attached hereto.

ARTICLE II Organization

2.1 Formation. The Company was duly formed pursuant to the Act when the Member caused the execution and filing with the Secretary of State of the State of Delaware the Certificate of Formation and executed and delivered the Original LLC Agreement. The Member was admitted to the Company as a member of the Company upon its execution of a counterpart signature page to the Original LLC Agreement. Davina Mansur was designated as an "authorized person" within the meaning of the Act, and has executed, delivered and filed the Certificate of Formation of the Company with the Secretary of State of the State of Delaware. Upon the filing of the Certificate of Formation with the Secretary of State of the State of Delaware, her powers as an "authorized person" ceased, and the Member thereupon became the designated "authorized person" and shall continue as the designated "authorized person" within the meaning of the Act. The Member shall execute, deliver and file any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in any other jurisdiction in which the Company may wish to conduct business. The existence of the Company as a separate legal entity shall continue until cancellation of the Certificate of Formation as provided in the Act.

2.2 Name. The name of the Company is S & G Realty Holding LLC.

2.3 Principal Place of Business. The principal place of business of the Company shall be c/o WRE Holding US Company, 130 East 7th Street, 3rd Floor, New York, New York 10009. The Company may establish any other places of business as the Member may from time to time deem advisable.

2.4 Purposes. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, the following shall govern: The nature of the business and of the purposes to be conducted and promoted by the Company is to engage solely in the following activities:

2.4.1 To indirectly own, acquire, hold, sell, assign, transfer, operate, lease, manage, maintain, develop, improve, service, mortgage, pledge, borrow money against, finance, refinance, or otherwise deal with the Property;

2.4.2 To own, manage, finance, hold, dispose of and otherwise deal with 100% of the limited liability company membership interests in Stewart Purchaser LLC and Gardner Purchaser LLC, each a Delaware limited liability company;

2.4.3 To enter into and perform its obligations under the Loan Documents; and

2.4.4 To exercise all powers enumerated in the Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

2.5 Tax Classification. The Member intends for federal, state, and other income tax purposes that the Company be treated as disregarded and not as an entity separate from the Member and that all items of Company income, gain, loss, deduction, and credit be treated as the Member's items of income, gain, loss, deduction and credit. No person shall have the authority to elect to treat the Company as an association taxable as a corporation for any federal, state, or other income tax purposes.

2.6 Specific Authorization. The Company is hereby authorized to execute, deliver and perform, and the Member on behalf of the Company is hereby authorized to execute and deliver, (i) the Property LLC Agreements, (ii) the Loan Documents, (iii) and all documents, agreements, certificates, or financing statements contemplated thereby or related thereto, all without any further act, vote or approval of any other Person notwithstanding any other provision of this Agreement, the Act or applicable law, rule or regulation. The foregoing authorization shall not be deemed a restriction on the powers of the Member to enter into other agreements on behalf of the Company.

ARTICLE III Member

3.1 Name and Address. The name and the business, residence or mailing address of the Member are as follows:

| <u>Name</u> | <u>Address</u> |
|--------------------|--|
| S & G Realty I LLC | c/o WRE Holding US Company 130 East 7th Street, 3rd Floor New York, New York 10009 |

3.2 Percentage Interest. The limited liability company interest of the Member in the Company is 100%.

3.3 Limitation of Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor the Special Member(s) nor any Independent Director shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Director of the Company.

3.4 Liability of Member. To the fullest extent now or hereafter permitted under the Act or other applicable law, the Member shall not be liable to the Company for damages for any breach of duty by such Member in its capacity as such.

3.5 Indemnification. Subject to the limitations set forth in Article IX hereof, the Company shall indemnify and hold harmless, and advance expenses to, the Member (in its capacity as a member) from and against, and in connection with, all claims and demands whatsoever to the maximum extent now or hereafter permitted under the Act or other applicable law.

3.6 Books and Records. The Company shall keep accurate books and records of accounts and minutes of all meetings of the Member.

3.7 Assignments. Subject to any restrictions in the Loan Documents and Section 8.7.4, the Member may assign in whole or in part its limited liability company interest in the Company. If the Member transfers all or part of its limited liability company interest in the Company, the transferee shall be admitted to the Company as a member of the Company upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. If the Member transfers all of its limited liability company interest in the Company, such admission shall be deemed effective immediately prior to the transfer and, immediately following such admission, the transferor Member shall cease to be a member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to the Member by merger or consolidation shall, without further act, be the Member hereunder, and such merger or consolidation shall not constitute an assignment for purposes of this Agreement and the Company shall continue without dissolution.

3.8 Resignation. Subject to Section 8.7.4, for so long as any portion of the Debt remains outstanding, the Member may not resign, except as expressly permitted under the Loan Documents. If the Member is permitted to resign, an additional Member of the Company shall be admitted to the Company upon its execution of an instrument signifying its agreement to be

bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the resignation and, immediately following such admission, the resigning Member shall cease to be a member of the Company.

3.9 Admission of Additional Members. Subject to and except as provided in Section 8.5.4, one or more additional Members of the Company may be admitted to the Company with the written consent of the Member; provided, however, that, notwithstanding the foregoing, so long as any portion of the Debt remains outstanding, no additional Member may be admitted to the Company except as expressly permitted pursuant to the terms of the Loan Documents.

ARTICLE IV Management

4.1 Management. The Member shall have the sole and exclusive right to manage and control the Company's business. Except as otherwise provided herein, the Member: (i) shall have the right to perform all actions necessary or advisable (including, but not limited to, the authority to execute, sign, seal and deliver in the name and on behalf of the Company any and all agreements, certificates, instruments or other documents) for the accomplishment of the purposes and authorized acts of the Company, as specified in Section 2.4 hereof; (ii) shall possess and enjoy, and may exercise, all of the rights and powers of the Company; and (iii) to the extent permitted by the Act, may delegate any or all of such rights and powers to other persons.

4.2 Independent Director.

4.2.1 For so long as any portion of the Debt remains outstanding, the Company shall have at least one (1) Independent Director that shall be a duly-appointed "manager" of the Company within the meaning of Section 18-101(10) of the Act, and notwithstanding any other provision of this Agreement and any provision of law that otherwise so empowers the Company, the Member or any other Person, the Company shall not take any Bankruptcy Action (or to collude with, or otherwise assist, solicit, or cause to be solicited an involuntary Bankruptcy Action) unless (A) such Bankruptcy Action is approved by the prior unanimous written consent of the Member and the Independent Director, and (B) at the time of such action the Company has at least one (1) Independent Director (provided, however, the Independent Director shall only have the rights and duties expressly set forth in this Agreement);

4.2.2 Upon the occurrence of any event that causes the Member to cease to be a member of the Company (other than (i) upon continuation of the Company without dissolution, (ii) upon an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee in accordance with this Agreement or (iii) the resignation of the Member and the admission of an additional member of the Company in accordance with this Agreement), the person(s) acting as Independent Director(s) of the Company shall, without any action of any Person and simultaneously with such member ceasing to be a member of the Company, automatically be admitted as the Special Member and shall preserve and continue the existence of the Company without dissolution;

4.2.3 No Special Member may resign or transfer its rights as Special Member unless (A) a successor Special Member has been admitted to the Company as a Special Member, and (B) such successor Special Member has also accepted its appointment as an Independent Director and executed a counterpart to this Agreement; provided, however, the Special Member shall automatically cease to be a member of the Company upon the admission to the Company of a substitute member;

4.2.4 The Special Member shall be a member of the Company that has no interest in the profits, losses and capital of the Company and has no right to receive any distributions of Company assets; pursuant to Section 18-301 of the Act, a Special Member shall not be required to make any capital contributions to the Company and shall not receive a limited liability company interest in the Company;

4.2.5 A Special Member, in its capacity as Special Member, may not bind the Company;

4.2.6 Except as required by any mandatory provision of the Act, a Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company, including the merger, consolidation or conversion of the Company;

4.2.7 In order to implement the admission to the Company of each Special Member, each Person acting as an Independent Director shall execute a counterpart to this Agreement;

4.2.8 Prior to its admission to the Company as Special Member, each Person acting as an Independent Director shall not be a member of the Company;

4.2.9 The Company shall be dissolved, and its affairs shall be wound up only upon the first to occur of the following (but subject to subsection 4.2.2 above): (A) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the business of the Company is continued in a manner permitted by this Agreement or the Act, or (B) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act;

4.2.10 Neither the Bankruptcy of the Member or the Special Member shall cause such Member or Special Member, respectively, to cease to be a member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution;

4.2.11 In the event of dissolution of the Company, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act; and

4.2.12 To the fullest extent permitted by law, except as otherwise expressly provided in this Agreement, each member of the Company and the Special Member(s) shall

irrevocably waive any right or power that they might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company.

4.3 Independent Director Limitations. The Company (i) shall not be permitted take any Bankruptcy Action unless at the time of such Bankruptcy Action there shall be at least one (1) Independent Director serving in such capacity; (ii) no Independent Director may be removed or replaced except for Cause; (iii) any resignation, removal or replacement of any Independent Director shall not be effective without five (5) Business Days prior written notice to Lender accompanied by a statement as to the reasons for such removal, the identity of the proposed replacement Independent Director, and a certificate that the replacement Independent Director satisfies the applicable terms and conditions of the definition of "Independent Director"; (iv) to the fullest extent permitted by applicable law, including Section 18-1101(c) of the Act and notwithstanding any duty otherwise existing at law or in equity, the Independent Director(s) shall consider only the interests of the Member and the Company (including the Company's creditors) in acting or otherwise voting on a Bankruptcy Action (which such fiduciary duties to the Member and the Company's creditors, in each case, shall be deemed to apply solely to the extent of their respective economic interests in the Company exclusive of (A) all other interests, (B) the interests of other affiliates of the Member and the Company, and (C) the interests of any group of affiliates of which Member or the Company is a party); (v) other than as provided in clause (iv) above, to the fullest extent permitted by law the Independent Director(s) shall not have any fiduciary duties to the Member of the Company, any directors of the Company, or any other Person; (vi) the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing under applicable law; and (vii) to the fullest extent permitted by applicable law, including Section 18-1101(e) of the Act, an Independent Director shall not be liable to the Company, any Member of the Company, or any other Person bound by this Agreement for breach of contract or breach of duties (including fiduciary duties), unless the Independent Director acted in bad faith or engaged in willful misconduct.

4.4 Exculpation. Neither the Member nor any officer, director, shareholder, partner, member, manager, employee, or agent of the Member (each, an "Indemnified Party") shall be liable, responsible or accountable in damages or otherwise to the Company or the Member for any act or omission performed or omitted by the Indemnified Party in good faith pursuant to the authority granted to the Indemnified Party under this Agreement and in a manner reasonably believed by the Indemnified Party to be in the scope of the authority granted to the Indemnified Party by this Agreement and in the best interests of the Company, provided that the act or omission is not determined by a court to be due to the Indemnified Party's fraud, willful misconduct, gross negligence, or misappropriation of funds.

4.5 Indemnification. Subject to the limitations set forth in Article IX hereof, the Company shall indemnify and hold harmless each Indemnified Party against any loss or damage (including attorneys' and other professional fees) incurred by the Indemnified Party on behalf of the Company or in furtherance of the Company's interests, without relieving the Indemnified Party of liability for fraud, willful misconduct, gross negligence or misappropriation of funds. The satisfaction of any indemnification shall be from and limited to Company's assets and no

Member shall have any liability on account thereof. The right to indemnification shall include the right to be paid or reimbursed by the Company the reasonable expenses actually incurred by the Indemnified Party and documented with reasonably sufficient evidence, in advance of the final disposition of any proceeding; provided, however, that the advance payment of such expenses shall be made only upon delivery to the Company of a written affirmation by such Indemnified Party of such Indemnified Party's good faith belief that the Indemnified Party has met the standard of conduct necessary for indemnification under this Agreement and a written undertaking, by or on behalf of such Indemnified Party, to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified under this Agreement or otherwise. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, any indemnification shall be fully subordinated to any obligations respecting the Property and shall not constitute a claim against the Company in the event that cash flow is insufficient to pay such obligations.

4.6 Other Investments. Nothing in this Agreement shall be construed to prohibit or limit the Member from owning, operating, controlling or investing in any other trade or business whether or not such trade or business competes, directly or indirectly, with the existing business of the Company.

ARTICLE V Capital Contribution

5.1 Capital Contribution. The Member has made an initial Capital Contribution to the Company.

5.2 Additional Contributions. Notwithstanding any provision to the contrary in this Agreement, including Exhibits A and B hereto, the Member is not required to make any additional Capital Contributions to the Company. This Section 5.2 is intended to benefit the Member and the Special Member(s) and, to the fullest extent permitted by law, shall not be construed as conferring any benefit upon any creditor of the Company (and no such creditor of the Company shall be a third-party beneficiary of this Section 5.2) and the Member and the Special Member(s) shall not have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

ARTICLE VI Allocations and Distributions

6.1 Allocations of Net Profits and Net Losses. The Company's Net Profits and Net Losses shall be allocated to the Member.

6.2 Distributions. Subject to the limitations set forth in Article IX hereof, distributions shall be made to the Member at the times and in the aggregate amounts determined by the Member. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution to the Member on account of its interest in the Company if such distribution would violate Section 18-607 of the Act or any other applicable law.

6.3 Limitation of Liability. Except as otherwise expressly provided by the Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be the debts, obligations and liabilities solely of the Company, and neither the Member nor any Special Member nor any Independent Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member, Special Member or Independent Manager of the Company.

6.4 Accounting Period. The accounting period of the Company shall be the Fiscal Year.

ARTICLE VII Dissolution

7.1 Dissolution of the Company. The Company shall be dissolved, and its affairs shall be wound up upon the first to occur of the following: (i) the termination of the legal existence of the last remaining member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining member of the Company in the Company unless the Company is continued without dissolution in a manner permitted by this Agreement or the Act or (ii) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Act. Upon the occurrence of any event that causes the last remaining member of the Company to cease to be a member of the Company or that causes the Member to cease to be a member of the Company (other than upon continuation of the Company without dissolution upon (i) an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to the terms of this Agreement, or (ii) the resignation of the Member and the admission of an additional member of the Company pursuant to the terms of this Agreement), to the fullest extent permitted by law, the personal representative of such member is hereby authorized to, and shall, within 90 days after the occurrence of the event that terminated the continued membership of such member in the Company, agree in writing (i) to continue the Company and (ii) to the admission of the personal representative or its nominee or designee, as the case may be, as a substitute member of the Company, effective as of the occurrence of the event that terminated the continued membership of the last remaining member of the Company or the Member in the Company.

7.2 Effect of Dissolution. Upon dissolution, the Company shall cease carrying on the Company business except as necessary for the winding up of the Company business. The Company is not terminated, but rather shall continue until the winding up of the affairs of the Company is completed and a Certificate of Cancellation has been filed with the Secretary of State of the State of Delaware.

7.3 Distribution of Assets on Dissolution. Upon the winding up of the Company, the Company's Property shall be distributed: first, to creditors, including the Member if then a creditor, to the extent permitted by law, in satisfaction of the Company's indebtedness and other liabilities; and second, to the Member. Liquidation proceeds shall be paid within ninety (90) days of the end of the Company's taxable year or, if later, within one hundred twenty (120) days after the date of liquidation.

7.4 Winding Up and Certificate of Cancellation. The winding up of the Company shall be completed when all debts, liabilities, and obligations of the Company have been paid and discharged or reasonable adequate provision therefor has been made in accordance with the Act, and all the remaining Property and assets of the Company have been distributed as provided in Section 7.3 hereof. Upon the completion of winding up of the Company, a Certificate of Cancellation shall be delivered to the Office of the Secretary of State of the State of Delaware for filing. The Certificate of Cancellation shall set forth the information required by the Act.

ARTICLE VIII General Provisions

8.1 Amendment. Any amendments to this Agreement must be in the form of a writing executed by the Member.

8.2 Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

8.3 Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to principles of conflicts of law. Venue for any litigation or other legal proceeding related to or arising out of this Agreement, and the transactions contemplated hereby, may be in Kings County, New York. Accordingly, the Company and the Member, for themselves and their successors and assigns, hereby: (a) irrevocably submit to the non-exclusive jurisdiction of the state and federal courts of the State of New York and agree and consent that service of process may be made upon them in any legal proceeding arising out of or in connection with the transactions contemplated by this Agreement; (b) irrevocably waive, to the fullest extent permitted by law, any objection which they may have to the laying of venue of any litigation arising out of or in connection with the transactions contemplated by this Agreement brought in district courts of New York County, New York; and (c) irrevocably waive any claims that litigation brought in any such court has been brought in an inconvenient forum.

8.4 Voting. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Company to the contrary, when acting on matters subject to the vote of the Member, notwithstanding that the Company is not then insolvent, the Member shall take into account the interest of the Company, including the Company's creditors, as well as those of the Member.

8.5 Severability of Provisions. Each provision of this Agreement shall be considered severable and if for any reason any provision or provisions herein are determined to be invalid, unenforceable or illegal under any existing or future law, such invalidity, unenforceability or illegality shall not impair the operation of or affect those portions of this Agreement which are valid, enforceable and legal.

8.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original of this Agreement and all of which together shall constitute one and the same instrument.

ARTICLE IX
Single Purpose Entity and Separateness

9.1 **Conflicts.** Notwithstanding any other provision of this Agreement, for so long as that certain loan (the "Loan") made by DELPHI CRE FUNDING LLC ("Lender") to the Company remains an outstanding obligation of the Company, in the event of any conflict or inconsistency between the provisions contained in this Article IX and the other provisions of this Agreement or any other document governing the management and operation of the Company, the provisions contained in this Article IX shall control and govern. Capitalized terms used below in this Article IX and not otherwise defined in this Article IX shall have the respective meanings set forth (i) in that certain Loan Agreement by and between Lender and the Company, dated as of the date hereof, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time (the "Loan Agreement") or (ii) if not defined in the Loan Agreement, then elsewhere herein (it being understood that for the purposes of this Article IX only, to the extent any capitalized terms are defined in both (x) any article of this Agreement other than this Article IX and (y) the Loan Agreement, the meaning set forth in the Loan Agreement shall prevail).

9.2 **Purpose and Business.** For so long as the Loan remains outstanding, the sole purpose to be conducted or promoted by the Company is to indirectly own, acquire, hold, sell, assign, transfer, operate, lease, manage, maintain, develop, improve, service, pledge, borrow money against, finance, refinance, or otherwise deal with the Property, to own, manage, finance, hold, dispose of and otherwise deal with 100% of the limited liability company membership interests in Stewart Purchaser LLC and Gardner Purchaser LLC, to enter into and perform its obligations under the Loan Documents, and to exercise all powers enumerated in the Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

9.3 **Single Purpose Entity: Separateness.** For so long as the Loan remains outstanding and an obligation of the Company, the Company shall comply with the terms and provisions of Exhibit B attached hereto.

9.4 **Bankruptcy of Member.** Notwithstanding any other provision of this Agreement, the bankruptcy of the Member or Special Member shall not cause the Member or Special Member, as applicable, to cease to be a member of the Company and upon the occurrence of such an event, the Company shall continue without dissolution.

9.5 **Limitations on Distributions.** Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make a distribution if such distribution would violate the Act or other applicable law.

9.6 **Limitations on Transfers.** Notwithstanding any provision of the Act or this Agreement to the contrary, for so long as the Loan remains outstanding and an obligation of the Company, to the fullest extent permitted by law, no transfer of any direct or indirect ownership interest in the Company may be made in violation of the applicable transfer restrictions set forth in Section 5.2.10 of the Loan Agreement.

9.7 Subordination of Indemnification Obligations. Notwithstanding the foregoing provisions, for so long as the Loan remains outstanding and an obligation of the Company, any indemnification set forth in this Agreement shall be fully subordinate to the Loan and shall not constitute a claim against the funds of the Company in the event that the Company's cash flow is insufficient to pay the indebtedness then due and owing to Lender under the Loan Documents (it being acknowledged and agreed however that such indemnification payments shall be permitted so long as no Event of Default is then continuing). For the avoidance of doubt, in no event shall such subordination provision apply to the funds of the Company from sources other than the cash flow of the Company Property (e.g., proceeds of insurance).

9.7.1 "Company Property" means and includes all of the property presently held by the Company as of the date hereof and any property acquired by the Company from time to time, including the Property; provided, however, for so long as the Loan remains outstanding and an obligation of the Company, "Company Property" shall mean only the property included within the definition of "Property" under the Loan Agreement.

9.8 Third-Party Beneficiary. Lender is an intended third-party beneficiary of the provisions set forth in this Article IX.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement as of the day and year first aforesaid.

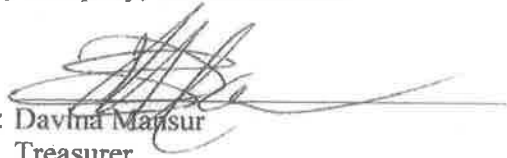
MEMBER:

S & G REALTY I LLC, a New York limited liability company, its sole member

By:

Name: Davina Mansur

Title: Treasurer



[Signatures Continue on Following Page]

INDEPENDENT DIRECTOR:



A handwritten signature in black ink, appearing to read 'L. M. Pierro', is written over a horizontal line.

Lisa M. Pierro

Exhibit A

SINGLE PURPOSE ENTITY DEFINITION

“**Special Purpose Entity**” means a Person (as defined in the Loan Agreement), other than an individual, which, since the date of its formation and at all times prior to, on and after the date thereof, has complied with and shall at all times comply with the following requirements:

(a) was, is and will be formed solely for the purpose of (i) in the case of the Company, owning the direct or indirect ownership interests in Stewart Purchaser LLC and Gardner Purchaser LLC and any Stewart Purchaser LLC and Gardner Purchaser LLC Required SPE Entity, or (ii) in the case of any applicable Required SPE Entity, acting as the general partner or managing member (as applicable) of the Company;

(b) has not been, is not, and will not be engaged in any business unrelated to (i) in the case of the Company, owning the direct or indirect ownership interests in Stewart Purchaser LLC and Gardner Purchaser LLC and any Stewart Purchaser LLC and Gardner Purchaser LLC Required SPE Entity, or (ii) in the case of any applicable Required SPE Entity, acting as the general partner or managing member (as applicable) of the Company;

(c) has not had, does not have and will not have any assets other than (i) in the case of the Company, those related to the ownership of Stewart Purchaser LLC and Gardner Purchaser LLC and any Stewart Purchaser LLC and Gardner Purchaser LLC Required SPE Entity, or (ii) in the case of any applicable Required SPE Entity, its ownership interest in the Company;

(d) has not engaged in, sought or consented to, and will, to the fullest extent permitted by law, not engage in, seek or consent to, (i) any dissolution, winding up, liquidation, consolidation, merger, or sale of all or substantially all of its assets, (ii) except as permitted under the terms of the Loan Agreement, any transfer of partnership or membership interests (if such entity is a general partner in a limited partnership or a member in a limited liability company), or (iii) any amendment of its certificate of formation or operating agreement (as applicable) with respect to the matters set forth in this definition without the written consent of Lender;

(e) has been, is, and intends to remain solvent and has paid and intends to continue to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same have or shall become due, and has maintained, is currently maintaining and will endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; provided, however, the foregoing shall not require any direct or indirect owner of the Company to make any additional capital contribution;

(f) has not failed, and will not fail, to correct any known misunderstanding regarding the separate identity of such entity;

(g) has maintained and will maintain its accounts, financial statements, books, and records separate from any other Person and has not permitted, and will not permit, its assets to be listed as assets on the financial statement of any other entity except as required by the Approved

Accounting Method (provided, however, that the Company's assets may be included in a consolidated financial statement of its Affiliates provided that (i) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of the Company and such Affiliates and to indicate that the Company's assets and credit are not available to satisfy the debts and other obligations of such Affiliates or any other Person, and (ii) such assets shall be listed on the Company's own separate balance sheet);

(h) has filed and will file its own tax returns, except to the extent that it (i) has been or is required to file consolidated tax returns by law or (ii) is treated as a disregarded entity for federal or state tax purposes;

(i) other than as provided in the Loan Agreement, (i) has not commingled, and will not commingle, its funds or assets with those of any other Person and (ii) has not participated and will not participate in any cash management system with any other Person;

(j) has held and will hold its assets in its own name;

(k) has maintained and will maintain an arm's-length relationship with its Affiliates, provided that the Company may enter into agreements with Affiliates so long as such agreements are upon terms and conditions that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arm's-length basis with unaffiliated third parties;

(l) has paid and will pay its own liabilities and expenses, including the salaries of its own employees (if any), out of its own funds and assets, and has maintained and will maintain a sufficient number of employees (if any) in light of its contemplated business operations; provided, however, the foregoing shall not require any direct or indirect owner of the Company to make any additional capital contributions;

(m) has observed and will observe in all material respects all partnership, corporate or limited liability company formalities, as applicable;

(n) has not had, and will not have, any Indebtedness other than Permitted Indebtedness;

(o) except in connection with the Loan Documents, has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for, the debts of any other Person (except to the extent Required SPE Entity is liable for the debts and obligations of the Company by virtue of being the general partner of the Company) and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to the Loan Agreement;

(p) has not acquired and will not acquire obligations or securities of its partners, members or shareholders or any other Affiliate (other than the securities of the Company held by any applicable Required SPE Entity, and other than the securities of Stewart Purchaser LLC and Gardner Purchaser LLC and any Stewart Purchaser LLC and Gardner Purchaser LLC Required SPE Entity (if applicable) held by the Company);

(q) has allocated and will allocate, fairly and reasonably, any overhead expenses that are shared with any Affiliate, including paying for shared office space and services performed by any employee of an Affiliate;

(r) has maintained and used, now maintains and uses, and will maintain and use, separate stationery, invoices and checks bearing its name, and all stationery, invoices, and checks utilized by such Person or utilized to collect its funds or pay its expenses have borne and shall bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being such Person's agent;

(s) has not pledged and will not pledge its assets for the benefit of any other Person other than Lender in connection with the Loan;

(t) has conducted and will conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of the Company, and has held itself out and identified itself, and will hold itself out and identify itself, as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of the Company and not as a division or part of any other Person, except in each case for services rendered under a business management services agreement with an Affiliate that complies with the terms contained in Subsection (x) below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Company;

(u) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(v) has not made and will not make loans to any Person or hold evidence of Indebtedness issued by any other Person or entity (other than cash and investment-grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity) except that the Company, from time to time in the ordinary course of business, may agree with tenants under Leases of all or any portion of the Property to make certain tenant improvement allowances available to such tenants;

(w) has not identified and will not identify its constituent partners, members or shareholders (as applicable), or any Affiliate of any of them, as a division or part of it, and has not identified itself, and shall not identify itself, as a division of any other Person;

(x) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its partners, members, shareholders or Affiliates except (i) in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party, including, but not limited to, the Master Lease, and (ii) in connection with this Agreement;

(y) has not had and will not have any obligation to indemnify, and has not indemnified and will not indemnify, its partners, officers, directors, managers or members, as the case may be, unless such an obligation was and is fully subordinated to the Obligations and will

not constitute a claim against such Person in the event that cash flow in excess of the amount required to pay the Obligations is insufficient to pay such obligation;

(z) except as provided in the Loan Documents, does not and will not have any of its obligations guaranteed by any Affiliate;

(aa) has not and will not consent to any other Person (i) operating its business in the name of the Company, (ii) acting in the name of the Company, (iii) using the Company's stationery or business forms, (iv) holding out its credit as being available to satisfy the obligations of the Company, (v) having contractual liability for the payment of any of the liabilities of the Company (except pursuant to the limited extent provided under the Loan Documents), or (vi) failing to at all times specify to all relevant third parties that it is acting in a capacity other than as the Company.

"Cause" means, with respect to an Independent Director, (a) acts or omissions by such Person that constitute willful disregard of such Person's duties under this Agreement, (b) that such Person has engaged in or has been charged with, or has been convicted of, fraud or other acts constituting a crime under any law applicable to such Person, (c) that such Independent Director is unable to perform his or her duties as an Independent Director due to death, disability, or incapacity, (d) that such Independent Director no longer meets the definition of "Independent Director" or (e) that the fees charged by such Person are materially more than is otherwise customary in the market.

"Independent Director" means an individual who has prior experience as an independent director, independent manager or independent member with at least three years of employment experience and who is provided by CT Corporation, Corporation Service Company, National Registered Agents, Inc. (or its affiliate NRAI Entity Services, LLC), Wilmington Trust Company, Stewart Management Company, Lord Securities Corporation or, if none of those companies is then providing professional independent directors or independent managers, another nationally-recognized company approved by Lender, in each case that is not an Affiliate of the Borrower Parties and that provides professional independent directors and independent managers and other corporate services in the ordinary course of its business, and which individual is duly appointed as an Independent Director of the Company and for the five-year period prior to his or her appointment as an Independent Director has not been and during the continuation of his or her serving as an Independent Director will not be, any of the following:

(a) a member (other than a Special Member), manager, director, trustee, officer, employee, attorney, or counsel of any of the Borrower Parties or their Affiliates (provided that such person may be an independent director or independent manager of the Company as long as they are not a member, manager, director, trustee, officer, employee, attorney, or counsel of any other Borrower Party or Affiliate of a Borrower Party, except that a Person who otherwise satisfies the definition of Independent Director other than this subparagraph (a) by reason of being the independent director or independent manager of a "special purpose entity" that is an Affiliate of the Company shall not be disqualified from serving as an Independent Director of the Company if such Person is either (i) a professional independent director or independent manager or (ii) the fees that such individual earns from serving as independent director or independent manager of Affiliates of the Company in any

given year constitute in the aggregate less than five percent (5%) of such individual's annual income for that year);

(b) a creditor, customer, supplier, service provider (including provider of professional services) or other Person who derives any of its purchases or revenues from its activities with any Borrower Party or any Affiliate of a Borrower Party (other than an Independent Director provided by a nationally-recognized company that routinely provides professional independent directors or independent managers and other corporate services to any Borrower Party or any Affiliate of a Borrower Party in the ordinary course of business);

(c) a direct or indirect legal or beneficial owner in any Borrower Party or any Affiliate of a Borrower Party;

(d) a member of the immediate family of any member, manager, employee, attorney, customer, supplier or other Person referred to above; and

(e) a Person Controlling or under the common Control of anyone listed in (a) through (d) above.

Exhibit B

SINGLE PURPOSE ENTITY PROVISIONS

The Company shall not (and shall not cause or permit Gardner Purchaser LLC or Stewart Purchaser LLC to): (a) change its principal place of business or state of organization without first giving Lender fifteen (15) days prior notice; (b) violate (and shall not permit any other Person in occupancy of or involved with the operation or use of the Property to violate) any Legal Requirements, (c) permit (or allow to occur) (i) any of the funds or other assets of the Company, any Required SPE Entity, Gardner Purchaser LLC, Stewart Purchaser LLC, any Gardner Purchaser LLC or Stewart Purchaser LLC Required SPE Entity, or Guarantor to constitute property of, or be beneficially owned, directly or indirectly, by any Embargoed Person, or be derived from any unlawful activity, in each case with the result that the investment in the Company, any Required SPE Entity, Stewart Purchaser LLC, Gardner Purchaser LLC, any Gardner Purchaser LLC or Stewart Purchaser LLC Required SPE Entity, or Guarantor, as applicable (whether directly or indirectly), is or would be prohibited by applicable Legal Requirements, or the Loan is or would be in violation of applicable Legal Requirements; (d) fail to cause any of the representations and warranties contained in Section 4.21 of the Loan Agreement to be true in any material respect at any time; (e) fail to be a Special Purpose Entity, or fail to cause any Required SPE Entity required under the Loan Agreement to be a Special Purpose Entity, or fail to cause Gardner Purchaser LLC, Stewart Purchaser LLC, or any Gardner Purchaser LLC or Stewart Purchaser LLC Required SPE Entity to be a Special Purpose Entity (as defined in the Mortgage Loan Agreement); (f) remove or replace any Independent Director except for Cause, and in any event not without providing at least five (5) Business Days advance written notice thereof to Lender; (g) to the fullest extent permitted by applicable Legal Requirements, engage (nor permit any Required SPE Entity required under the Loan Agreement to engage) in any dissolution, liquidation, or consolidation or merger with or into any other business entity; (h) modify, amend, waive or terminate (nor permit any Required SPE Entity required under the Loan Agreement to modify, amend, waive or terminate) its organizational documents other than any confirmatory, administrative, or immaterial modifications or amendments thereto; (i) fail to maintain qualification to do business in any jurisdiction to the extent the same is required for the ownership, maintenance, management and operation of the Property; or (j) cease to operate the Property in the manner in which it is presently being operated (other than temporary cessation in connection with any diligent renovation or restoration of the Property following a Casualty or Condemnation), or change the trade name or names under which it operates the Property. The Company covenants and agrees that in the event the Company receives any notice that the Company (or any of its beneficial owners, affiliates or participants) or any Person that has a direct or indirect interest in the Property become an Embargoed Person or is indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, the Company shall promptly notify Lender. The Company acknowledges that certain Legal Requirements require all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time-to-time request, and the Company shall provide to Lender, the Company's name, address, tax identification number and/or such other identification information as shall be necessary for Lender to comply with federal law (including such information concerning its direct and indirect owners), and re-make the representations and warranties

contained in Section 4.21 of the Loan Agreement. An “account” for this purpose may include, without limitation, a deposit account, cash management service, a transaction or asset account, a credit account, a loan or other extension of credit, and/or other financial services product.