

**DECLARATION OF RESTRICTIONS
FOR
“MULLAN CROSSING”**

A Condominium Project in Missoula County, Montana

This DECLARATION OF RESTRICTIONS, hereinafter referred to as “Declaration,” is made on the day and year hereinafter written, by MMW, LLC (“Declarant”), with reference to the following Recitals:

RECITALS

1. Declarant is the owner of “Mullan Crossing,” acting in accordance with the “Mullan Crossing” Declaration of Unit Ownership and the Declarant’s Bylaws.
2. The Property is a commercial Condominium project, defined by the Montana Unit Ownership Act (Mont. Code Ann. § 70-23-101, et seq.). The Property consists of 3 commercial buildings and related General Common Elements and Limited Common Elements.
3. Pursuant to the Declaration of Unit Ownership recorded contemporaneously with the recording of this Declaration of Restrictions, Declarant has subjected the Property to unit ownership.
4. Owners of a Condominium will receive title to a Unit and its attached property, the use of Limited Common Elements, and an interest in Common Elements (all defined in the Declaration of Unit Ownership). Each Condominium includes an ownership interest in “Mullan Crossing” Condominium Owner’s Association, Inc.

NOW, THEREFORE, Declarant hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Declaration, and as may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs, executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Condominium.

DECLARATION

1. **Definitions.** Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in its interpretation:

- a. **“Articles”** means the Articles of Incorporation of “Mullan Crossing, Inc.”, as adopted on September 2, 2021, and any amendments hereafter adopted.
- b. **“Association”** means the associate owners of “Mullan Crossing” Condominium Association, Inc., being all Unit Owners acting in a group in accordance with this Declaration, the Declaration of Unit Ownership, and the Association’s Bylaws.
- c. **“Bylaws”** means the Bylaws of the Association as the same may, from time to time, be amended and initially in the form recorded contemporaneously with this Declaration and with the Association’s Declaration of Unit Ownership.
- d. **“Declaration”** means this Declaration of Restrictions for “Mullan Crossing” Condominium Owners’ association, and any amendments hereinafter adopted pursuant to Section 13.
- e. **“Governing Documents”** means this Declaration, the Articles, Bylaws, Declaration of Unit Ownership, Rules and Regulations and any other documents which govern the operation of the Association and/or the Property.
- f. **“Owner”** means every person or entity entitled to Ownership in the Association as provided in this Declaration.
- g. **“Rules and Regulations”** means any Rules and Regulations adopted for the Association by the Board of Directors pursuant to Subsection 3(e)(ii) below, regulating the use of the Units, the Limited Common Elements, the General Common Elements, the Project and any facilities located thereon.
- h. **“Voting Power”** means the requisite vote of the Owners. The Owners, including the Declarant, are entitled to such votes as prescribed in Article 11 of the Bylaws.
- i. **Incorporation of Definitions from Declaration of Unit Ownership.** The terms, "Association"; "Board"; "Bylaws"; "Common Elements"; "Condominiums"; "Declaration of Unit Ownership"; "General Common Elements"; "Limited Common Elements"; "Owner"; "Project"; "Property"; and "Unit" shall have those definitions as set out in Paragraph 2 of the Declaration of Unit Ownership.

2. The Property.

- a. **Project Subject to Declaration.** The entire Project shall be subject to this Declaration.
- b. **Description of Land and Improvements; Ownership of Common Elements.** The Project consists of the real property described in Exhibit "A," and is divided between the Common Elements, the commercial buildings, and the Units. The Common Elements are owned by Unit Owners as tenants-in-common. Each Unit Owner shall have a proportionate interest in the general common elements with

each Unit conclusively presumed to have a value equal to the proportionate square footage of the value of the whole. The Unit Owners shall have appurtenant nonexclusive rights for ingress, egress and support through the General Common Elements subject to the rights and restrictions contained in the Governing Documents.

- c. **Equitable Servitude.** The covenants and restrictions set forth in this Declaration shall be enforceable as equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes maybe enforced by the Declarant, any Unit Ownership and/or by the Association.
- d. **Presumption Regarding Boundaries of Units.** In interpreting deeds, declarations and plans, the existing physical boundaries of a Unit, including any Unit reconstructed in substantial accordance with the Declaration of Unit Ownership and the original construction plans for the Project, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Declaration of Unit Ownership, or this Declaration. This presumption applies regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown on the Declaration of Unit Ownership or described in the deed and those of the building as constructed or reconstructed. In the event a structure is partially or totally destroyed and then repaired or rebuilt, the Owners agree that minor encroachments over adjoining Condominiums or Common Elements shall be permitted and that there shall be appropriate rights for the maintenance of said encroachments so long as they shall exist.
- e. **Prohibition Against Severance of Elements.** Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Unit shall include all interests and appurtenances as shown in the original deed of conveyance. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's Ownership interest in the Association, as provided in Article 3 herein. Any transfer that attempts to sever those component interests shall be void.

3. Association.

- a. **Organization of the Association.** The Association is incorporated as a nonprofit corporation organized under the Montana Nonprofit Corporation Act. The Association is created for the purpose of managing the Project and is charged with the duties and granted the powers prescribed by law and set forth in the Governing Documents.
- b. **Board of Directors.** The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in Article 3 of the Bylaws.

- c. **Ownership.** Every member, upon becoming an Owner, shall automatically become a Unit Owner of the Association. Ownership of a Condominiums is the sole qualification for membership. Each Unit Owner shall have the rights, duties, privileges, and obligations as set forth in the Governing Documents. Ownership shall automatically cease when the Unit Owner no longer holds an interest in a Condominiums. All Ownership shall be appurtenant to the Condominiums conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Condominiums shall automatically transfer the appurtenant Ownership to the transferee.

- d. **Consent to Ownership.** Acceptance of a deed, notice of purchaser's interest or other documentation evidencing an ownership interest in a Condominiums shall be deemed to act as consent to membership in the Association by the acquiring Owner. The recording of a deed or other document evidencing an ownership interest shall be *prima facie* evidence of acceptance of that document by the receiver of the interest transferred.

- e. **General Powers and Authority.** The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the Montana Nonprofit Corporation Act, subject to any limitations set forth in the Governing Documents. It may perform all acts necessary for or incidental to the performance of the obligations and duties imposed upon it. Its powers shall include, but are not limited to:
 - i. The power to establish, fix, levy, collect, and enforce the payment of assessments against the Owners in accordance with the procedures set forth in Article 4 herein.

 - ii. The power to adopt reasonable Rules and Regulations governing the use of the Units, the Common Elements, any common facilities and Association owned property, and the conduct at Board and Owner s' meetings.

 - iii. The right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners as authorized by Mont. Code Ann. § 70-23-901.

 - iv. The right to discipline Owners for violation of any of the provisions of the Governing Documents by (i) suspending the Owner 's rights, including the Owner 's voting rights and the rights and privileges to use the Common Elements, and (ii) imposing monetary fines.

- v. The right for its agents and employees to enter any Unit when necessary in connection with any maintenance, landscaping, or construction work for which the Association is responsible. This entry shall be made only upon reasonable notice to the Unit Ownership (except in the case of an emergency) and with as little inconvenience as is practicable. Any damages caused thereby shall be repaired by the Association at its own expense.
- vi. The power to grant permits, licenses and easements over, under and through the Common Elements for roads, utilities, cable television, sewer facilities and other purposes in order to serve the Common Elements or the Condominiums, or (b) where necessary or convenient to satisfy or achieve appropriate governmental purposes or requests.
- vii. Notwithstanding any nonexclusive easement rights to the Common Elements granted herein or by any deed or other conveyance, the right to allow one or more Owners to exclusively use portions of the Common Elements, provided that such portions of the Common Elements are nominal in area and adjacent to the Owner's Unit, and, provided further, that such use does not unreasonably interfere with any other Owner's use or enjoyment of the Project, subject, however, to the provisions of Section 5(b)(v).
- viii. The power to remove any vehicle within the Project parked in violation of this Declaration or the Rules and Regulations.
- ix. The power to enter into agreements with the Association regarding the common use of the public access easements to the Property and the property subject to administration by the Association or any other topic of common interest between them.
- f. **Inspection of Accounting Books and Records.** The rights of Owners and Directors to obtain and inspect the accounting books and records of the Association shall be in accordance with Montana law.

4. Assessments and Collection Procedures.

- a. **Covenant to Pay.** Each Unit Ownership, by acceptance of the deed to the Owner's Condominiums, is deemed to covenant and agrees to pay to the Association regular, special, and individual assessments, as well as all other charges duly levied by the Association pursuant to the provisions of this Declaration, all of which shall be deemed common expenses pursuant to the Montana Unit Ownership Act.
- b. **Purpose of Assessments.** Except as provided herein, the Association shall levy regular, special, and individual assessments sufficient to perform its obligations.

The assessments levied by the Association shall be used exclusively to promote the welfare of the Owners, and for the operation, replacement, improvement, and maintenance of the project, and to discharge any other obligations of the Association under this Declaration. All assessment payments shall be put into general operating and reserve funds to be used for the foregoing purposes.

- c. **Regular Assessments.** The Board shall estimate the net charges to be paid during the next fiscal year, including a reasonable provision for contingencies, replacements and reserves, with adjustments made for any expected income and surplus from the prior year's fund. The resulting amount shall constitute the regular assessments for the budgeted year. Regular assessments shall be allocated in accordance with Section 11 of the Declaration of Unit Ownership. Each Unit Ownership is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.
- d. **Special Assessments.** If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Elements, or any other reason, it shall make a special assessment for the additional amount needed, subject to any limitations imposed by law or the Governing Documents. Special assessments shall be levied and collected in the same manner as regular assessments.
- e. **Payment of Assessments.** Each Unit Ownership is obligated to pay assessments to the Association in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment. If the Unit is financed by the Owner, the payment shall be made to the Association's bank account through the Owner's escrow agent. If the Owner purchases a Unit with cash or its equivalent, the Owner must make the monthly payments directly to the Association's bank account.
- f. **Unit Ownership Notice of Assessments.** The Association shall provide notice by first-class mail to the Owners of any increase in the regular assessments or the imposition of a special assessment not less than thirty (30) nor more than sixty (60) days prior to the increase in the regular assessment or special assessment becoming due.
- g. **Calculation of Assessments.** The Assessments imposed under this Declaration shall be assessed against each Unit Owner in proportion to the square footage of the Unit(s) they own.

5. Use Restrictions and Covenants.

- a. **General.** The use and enjoyment of the Project by Owners and their tenants, guests, invitees or any other person deriving rights from such Owner, shall be

subject to the covenants and restrictions contained in this Declaration of Restrictions and the Governing Documents. Each such person shall comply with the provisions hereof and be subject to enforcement actions in the event of violations. Unless otherwise stated in this Declaration of Restrictions or the Governing Documents, the Association, through the Board of Directors, shall be responsible for the enforcement of these provisions.

- b. **Common Elements.** The following provisions govern the use and enjoyment of the Common Elements:
- i. The Association shall have an easement in, to, and throughout the Common Elements and the improvements thereon to perform its duties and exercise its powers.
 - ii. Subject to a concomitant obligation to restore, Declarant and its sales agents, employees and independent contractors shall have a non-exclusive easement over the Common Elements for the purpose of making repairs, provided access thereto is otherwise not reasonably available, and for the purpose of constructing, marketing and maintaining the Property with the understanding that nothing stated in this Section shall obligate Declarant to make such repairs.
 - iii. Subject to the provisions of this Declaration, each Unit Ownership has non-exclusive rights of ingress, egress, and support through the General Common Elements. These rights shall be appurtenant to any deed of conveyance. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right to use an area.
 - iv. The Owners' rights of use and enjoyment of the Common Elements shall be subject to the restrictions set forth in the Governing Documents, and the right of the Association, subject to the limitations of any laws or the Governing Documents, to:
 - (1) Adopt and enforce reasonable Rules and Regulations for the use of the Common Elements and the Project.
 - (2) Remove any vehicle within the Project parked in violation of this Declaration or the Rules and Regulations of the Board.
 - (3) Suspend the voting rights of any Owner, and the rights of any Owner, and the persons deriving rights from any Owner, to use and enjoy the General Common Elements for any period during which the Unit Ownership is delinquent in the payment of any assessment or as otherwise provided in the Governing Documents.

- (4) Cause the construction of additional improvements on the Common Elements, or cause the alteration or removal of existing improvements on the Common Elements.
 - (5) Dedicate, grant, or join in the grant or conveyance of easements, licenses or rights-of-way in, on and over the Common Elements to any public agency, authority or utility as may be determined by the Board to be in the best interests of the Association; provided that no such easement, license or right-of-way may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Unit.
 - (6) Reasonably restrict access to roofs, maintenance facilities or areas, landscaped areas, and similar areas of the Project.
 - (7) Approve any proposed alteration of or modification to the Common Elements or any Unit.
- v. The Board, with the approval of one hundred percent (100%) of the total voting power of the Association, may dedicate, grant or join in the grant or conveyance of easements, licenses or rights-of-way in, on, and over the Common Elements, other than those allowed by Section 5(b)(iv)(8), above, to (i) third parties for purposes reasonably related to the operation of the Project, or to (ii) one or more Owners to exclusively use portions of the General Common Elements, subject to the Governing Documents. No such easement, license or right-of-way may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of its Unit. Each Owner, in accepting a deed to the Unit, expressly consents to these easements.
- vi. Notwithstanding the easement rights or other rights contained herein, an Owner who has sold its Condominium(s) to a contract purchaser or who has leased or rented the Condominium(s) shall be deemed to have assigned its other rights to use and enjoy the Common Elements to the contract purchaser or tenant who resides in the Owner's Condominiums, subject to reasonable regulation by the Board. If the Owner is deemed to have assigned such rights, the Owner, its agents, family members, guests, employees, and invites shall not be entitled to use and enjoy the Common Elements for so long as the assignment remains effective.
- vii. All internal and external telephone wiring designed to serve a single Unit, but located outside the boundaries of the Unit, is allocated exclusively to that Unit. The Owner shall be entitled to reasonable access to the Common Elements for the purpose of maintaining this wiring, subject to the consent of the Association and to any other conditions reasonably imposed by the

Association. The Association's consent shall not be unreasonably withheld.

- c. **General Restrictions on Use.** In exercising the right to occupy or use a Unit or the Common Elements and their improvements, the Owner, its agents, family members, guests, employees, and invites shall not do any of the following, in furtherance of the plan established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property:
- i. Modify, alter or otherwise change his or her Unit except as provided in Article 7 herein.
 - ii. Occupy or use a Unit, or permit all or any part of a Unit to be occupied or used without Board approval, for any purpose other than general commercial without the express consent of the Association. The Units may not be used for residential purposes.
 - iii. Leasing. Units may be leased, subject to the following provisions:
 - (1) All lease, including subleases, must be in writing.
 - (2) Portions of a Unit may be subleased, subject to the terms and conditions contained herein.
 - (3) No lease shall be for a period of less than thirty (30) days.
 - (4) All leases shall be subject in all respects to the Governing Documents, and shall provide that failure to comply with the requirements of the Governing Documents shall constitute a default under the lease which may be cured by eviction of the tenant either by the Unit Ownership or the Association.
 - (5) Owners who lease their Unit shall promptly notify the Association in writing of the names of all tenants, agents, and or representatives occupying such Unit.
 - (6) Owners leasing their Unit shall promptly notify the Association of the address and telephone number where such Unit Ownership can be reached.
 - (7) Owners shall provide their tenants with copies of the Governing Documents.
 - (8) Owners shall require the tenant to retain liability insurance for the Unit, such as renter's insurance, or its equivalent.

- iv. Permit anything to obstruct the General Common Elements or store anything on the General Common Elements without the prior written consent of the Board, except as otherwise provided in the Governing Documents.
- v. Perform any act or keep anything on or in any Unit or the Common Elements that will increase the rate of insurance on the Common Elements without the Board's prior written consent. Further, no Unit Ownership shall permit anything to be done or kept in its Unit or in or on the Common Elements that would result in the cancellation of insurance on any Unit or on any part of the Common Elements or that would violate any law.
- vi. Disconnect, damage, tamper with or otherwise modify any protection system, including, but not limited to fire sprinklers, fire alarms and fuse boxes.
- vii. Erect or display more than one (1) sign not to exceed eighteen (18) inches by twenty-four (24) inches in size advertising a Condominiums for sale or rent so that it is visible from outside the Condominiums, without the prior written permission of the Board. All signs must conform with applicable City of Missoula ordinances. No signs may be erected or displayed on the Common Elements except those signs allowed by this provision.
- viii. Erect or display any radio or television antenna, satellite dish larger than one meter in diameter or other equipment or apparatus for transmitting or receiving transmissions, without the prior written permission of the Board.
- ix. Engage in any illegal, noxious or offensive activity in any part of the Project, or do any act which unreasonably threatens the health, safety and welfare of other Owners of the Project.
- x. Alter, attach, construct, or remove anything on or from the Common Elements except upon the written consent of the Board. In the event the Board approves an alteration, attachment, or construction, upon completion of the same, the alteration, attachment and construction shall become Common Area, shall be left in place and the Association thereafter shall assume responsibility for maintenance of the same.
- xi. The Board, in its discretion, may adopt reasonable rules governing the operation, maintenance, storage and parking of any vehicle. Any vehicles violating the rules may be removed as provided in Section 3(e)(viii).
- xii. Keep or maintain any fixture, personal property or other object upon any Limited Common Area which interferes with the enjoyment of adjacent

Units, the adjacent Unit's Limited Common Area or which may be in derogation of any Rules and Regulations duly adopted by the Board.

d. **Additional Use and Operating Restrictions.**

- i. Restrictions on Condominium use.
 - (1) No Unit shall be used for residential purposes.
 - (2) Except as otherwise contemplated by the Declaration of Unit Ownership, heavy industrial uses are prohibited.
 - (3) General uses which are prohibited include adult book, novelty or video stores, medical marijuana growing, distributing, or suppliers, or pet sales or services.
- ii. Restrictions on Conduct of Business. The permitted uses described in this section shall be conducted under the following conditions:
 - (1) Noise. No facility shall produce noise at such levels as will be offensive to Owners or occupants of adjoining Units or portions of the Common Areas of the Property or to any Owner of a Unit or portion of the Property.
 - (2) Smoke. No facility within any Unit shall discharge into the atmosphere any air contaminant producing a public nuisance or hazard.
 - (3) Toxic or Noxious Matter. No facility within any Unit shall discharge into the sewer system, storm drain or across the boundary lines of the Unit any toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to or damage to surrounding property or business.
 - (4) Odorous Matter. No facility within any Unit shall emit offensive odorous matter or flumes in such quantity as to be readily detectable on any point along the boundary lines of the Unit.
 - (5) Fire and Explosive Hazards. Storage or utilization of combustible materials within any Unit shall be underwritten in a manner acceptable to the City and County and any other agency or body having jurisdiction of such matter. Use or storage of materials which produce flammable or explosive vapors or gases under any conditions shall not be permitted on any Unit except where required for emergency equipment or except where incidental to a

principal operation of a permitted use hereunder, such as paint spraying, which use or storage of such materials shall be approved in writing by the City Building Inspector, Fire Department and any other agency or body having jurisdiction of such matter. The Owner of any such Unit where such materials are used or stored shall, at its cost, maintain insurance of a nature and in an amount and with insurance carriers acceptable to the Association, and shall annually deliver evidence thereof to the Association. Such Owner shall, in writing, indemnify and hold harmless the Association, the Property, the other Owners and the other Units from and against any and all losses, damages, claims, expenses, causes of action and liabilities arising out of or in connection with the storage or use of such combustible materials on any such Unit.

- (6) Glare or Heat. Any operation conducted from a Unit producing intense glare or heat shall be performed within the enclosures of the Improvements within the Unit so as not to allow such glare or heat to emanate beyond the boundary lines of the Unit and so as not to create a public or private nuisance or hazard.
 - (7) Air and Water Pollution. No facility or operation on any Unit shall discharge into the air or water pollutants or contaminants sufficient to create or that might create a nuisance, and no operation on any Unit which by its nature is likely to cause air or water pollution shall be undertaken or permitted on any Unit unless there is available an adequate method of controlling the emission of pollutants and contaminants and such controls are installed and applied at the cost of the Owner of such Unit prior to the operation of the business on the Unit. The Owner of such Unit equipped with such pollution and contaminant controls shall, at its cost, maintain insurance of a nature and in an amount and with insurance carriers acceptable to the Association, and shall annually, at least ten (10) days prior to the expiration of such insurance, deliver evidence thereof to the Association. Such Owner shall, in writing, indemnify and hold harmless the Association, the Property, the other Owners and the other Units from and against any and all losses, damages, claims, expenses, causes of action and liabilities arising out of or in connection with the operation of a business equipped with such pollution and contaminant controls.
 - (8) Storage. No merchandise, supplies, equipment, or other items of personal property shall be stored on any portion of the Common Area.
- iv. Nuisances: No noxious, illegal, or seriously offensive activities shall be carried on upon any Condominium, or in any part of the Property, nor

shall anything be done thereon which maybe or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of the Owner's Condominium, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any Building, or which will endanger the lives or health of occupants.

- v. Hazardous Materials: Subject to the remaining provisions of this paragraph, an Owner shall be entitled to use and store only those Hazardous Materials that are necessary for such Owner's business, provided that such usage and storage is in full compliance with all applicable local, state and federal statutes, orders, ordinances, rules and regulations (as interpreted by judicial and administrative decisions), and is used and handled exercising all due care in such activities.
- (1) Each Owner shall give to the Association written notice of any spills, releases or discharges of Hazardous Materials within its Unit or in any Common Area of which said Owner has knowledge, regardless of whether or not such spill, release or discharge was caused by such Owner. Each Owner covenants to investigate, clean up and otherwise remediate any spill, release or discharge of Hazardous Materials caused by the acts or omissions of such Owner, or its agents, employees, representatives, invitees, licensees, tenants, customers or contractors at such Owner's sole cost and expense. Such investigation, clean up and remediation, if regarding the Common Area, shall be performed after such Owner has obtained the Association's written consent, which shall not be unreasonably withheld, provided, however, that such Owner shall be entitled to respond immediately to an emergency without first obtaining the Association's written consent.
 - (2) Each Owner shall indemnify, defend and hold the Association, the Declarant, and all other Owners harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses, suits, administrative proceedings and costs (including, but not limited to, attorneys' and consultants' fees) arising from or related to the use, presence, transportation, storage, disposal, spill, release or discharge of hazardous materials within such Owner's Unit or in the Common Area if caused by the acts or omissions of such Owner, its agents, employees, representatives, invitees, licensees, tenants, customers or contractors. The foregoing is intended to constitute an indemnity agreement within the meaning of section 9607(e)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC 9607(e)(1)), but nothing in such section or the Act shall be deemed to vitiate or

limit the obligations of each Owner hereunder.

- (3) Each Owner shall obtain, maintain in force, and comply with any requirements for a permit required in connection with discharge of waste water or its placement into the sewer systems of the Project or the handling of Hazardous Materials requiring any such permit.
 - (4) Medical waste shall not be deposited in Common Area waste disposal facilities, but shall be handled separately by each Owner or occupant of a Unit in a reasonable, safe and prudent manner. The Owner or occupant generating medical waste shall indemnify all other Owners and the Association with respect to the medical waste generated from the Unit and the disposal thereof.
 - e. **Damage Liability.** Each Unit Ownership shall be liable to the Association for any damage to the Common Elements or to Association owned property if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installment or maintenance of any improvement by the Unit Ownership or the Owner, its agents, family members, guests, employees, and invitees. In the case of joint ownership of a Condominium, the liability of the co-Owners shall be joint and several, unless the co-Owners and the Association have agreed in writing to an alternative allocation of liability.
 - f. **Vacating Unit; Costs.** The Association shall have the power to temporarily remove any Unit resident for such periods and at such times as may be necessary in connection with any maintenance or repair work performed by the Association. The costs of any temporary relocation during such maintenance or repair work shall be paid by the Unit Ownership affected. The Association shall give notice of the need to temporarily vacate a Unit to the record Owner's and occupants not less than fifteen (15) days nor more than thirty (30) days prior to the date of the temporary relocation. The notice shall state the reason for the relocation, the date and time of the beginning of work, the anticipated date and time of termination of work and that the occupants will be responsible for all necessary accommodations during the relocation.
- 6. Repair and Maintenance.**
- a. **General.** The Association and all Owners are required to fulfill the maintenance requirements imposed by the Governing Documents. The Board shall have the power to determine the standards of such maintenance.
 - b. **Maintenance by Owners.** Each Owner shall be responsible for the maintenance, repair and replacement of their units (exterior and interior) and any limited common elements.

- c. **Maintenance by Association.** The Association shall be responsible for the maintenance, repair, and replacement of any common elements.

7. **Insurance.**

- a. **General.**

- i. **Fire and Casualty Insurance.** The Association shall obtain and maintain a policy or policies of fire and casualty insurance with glass coverage and an extended coverage endorsement for the full insurable replacement value of the improvements in the Common Elements. The term "Improvements" does not refer to any items, such as appliances, carpet and window coverings located within a Unit, and any window treatment installed by the owner on the outside of a Unit. The amount of any deductible shall be determined by the Board.

- ii. **Liability Insurance.** The Association shall obtain and maintain a policy or policies insuring the Association, its officers, directors, agents and employees, the Declarant, the Owners, and the Owners' relatives, invitees, guests, employees, and their agents against any liability for bodily injury, death, and property damage arising from the activities of the Association and its Owners, with respect to the Common Elements and any Units owned by the Association. Limits of liability under the insurance shall not be less than one million dollars (\$1,000,000.00) covering all claims for death, personal injury, and property damage arising out of a single occurrence.

- b. **Qualifications of Insurance Carriers.** The Association shall use generally acceptable insurance carriers from which to purchase and maintain the coverage required herein.

- c. **Insurance Premiums.** Insurance premiums for any insurance coverage obtained by the Association shall be deemed common expenses.

- d. **Insurance Policy Deductibles.** As provided in Section 8(a) above, the Board of Directors shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

- i. If the damage or loss occurs to an item of personal property or other item for which an Owner is responsible, the Owner shall be responsible for the cost of any deductible.

- ii. If the damage or loss occurs to an item owned by the Association or for which the Association is responsible, the Association shall be responsible for the cost of any deductible.
 - iii. If the damage or loss occurs to any Unit and the Common Elements, or to more than one Unit, the responsibility for the payment of any deductible shall be apportioned among the affected parties on the basis of the ratio of each parties' cost of repair to the total costs of repair.
 - iv. The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, its agents, family members, guests, employees, and invitee of an Owner, the responsible party shall be liable for the cost of the deductible.
- e. **Individual Owner Insurance.** Each Owner shall, at its own expense, obtain and maintain liability insurance to protect against any damage to, or loss of property, and the cost of repair or replacement of damaged items, including, but not limited to, any personal property, decorations, floor and wall coverings, appliances, fixtures or other items in the Owner's Unit, or any exterior items. Each Owner shall name the Association as an additional named insured. The amount of insurance shall be determined by the Board.
- f. **Tenant liability insurance.** In the event an Owner leases a Unit out to a tenant, such tenant shall be required to, at its own expense, obtain and maintain liability insurance to protect against any damage to, or loss of property, and the cost of repair or replacement of damaged items, including, but not limited to, any personal property, decorations, floor and wall coverings, appliances, fixtures or other items in the Owner's Unit, or any exterior items. Each tenant shall name the Owner and the Association as an additional named insured.

8. Damage or Destruction.

- a. **Duty to Restore.** Any portion of the Project that is damaged or destroyed must be repaired or replaced promptly by the Association unless:
 - i. The Project is terminated.
 - ii. Repair or replacement would be illegal under a state statute or municipal ordinance.
- b. **Cost of Repair.** Any cost of repair or replacement in excess of any insurance proceeds and reserves shall be a common expense, levied against the Condominiums in the same proportion as regular assessments are levied.
- c. **Repair Plans.** The Project must be repaired and restored in accordance with either (a) the original plans and specifications, updated as required to reflect

applicable building codes, or (b) other plans and specifications which have been approved in writing by the Board.

- d. **Replacement of Less Than Entire Project.** Any insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Project.
- e. **Minor Repair.** The Association shall have the duty to repair and reconstruct all Common Elements without the consent of Unit Owners and regardless of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed \$5,000.00. In the case of damage to the Common Elements which does not exceed \$5,000.00, all Units shall be assessed a portion of any uninsured expense, if necessary, based on their proportionate square footage of ownership. The Board may waive this absolute duty to repair by a unanimous vote, which shall be duly noted in the minutes of the meeting at which the vote was taken, and shall be communicated to Owners.
- f. **Insurance Proceeds.** The Association, acting through its Board as trustee, as provided in Section 8(i) above, shall hold any insurance proceeds in trust for the Association, Owners and lien holders as their interests may appear. Subject to the provisions of this Declaration, the proceeds shall be disbursed first for the repair or restoration of the damaged property. The Association, Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus after the Project has been completely repaired or restored, or unless the Project is terminated.
- g. **Certificates By Board.** The trustee, if any, may rely on the following certifications in writing made by the Board:
 - i. Whether or not damaged or destroyed property is to be repaired or restored.
 - ii. The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.
- h. **Certificates by Attorneys or Title Insurance Companies.** If payments are to be made to Owners or Lenders, then the Board and the trustee, if any, shall obtain and may rely on a title insurance company's or attorney's title certificate or a title insurance policy based on a search of the Official Records of the County Recorder, stating the names of the Owners and the Lenders.

9. Enforcement.

- a. **Right to Enforce; Remedies.** Subject to the Arbitration provision in Section 12(k) below, the Association or any Owner shall have the right to enforce, by any

proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the Governing Documents. Each Owner of a Condominium Unit shall have a right of action against the Association or any Owner for failure to comply with the provisions of the Governing Documents. The remedies provided for herein are to be considered cumulative and the use of one remedy shall not preclude the use of any other.

- b. **Nuisance.** The result of every act or omission, whereby any provision, condition, restriction, covenants, easement, or reservation contained in the Governing Documents is violated in whole or in part, is declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner and the Association. Each remedy provided herein shall be cumulative and not exclusive.
 - c. **Failure to Enforce.** Failure by the Association or any Owner to enforce any provisions of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.
 - d. **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Condominiums within the Project is declared to be a violation of the Governing Documents and subject to any or all of the enforcement procedures herein set forth.
 - e. **Compliance with Statute.** All activities to enforce the provisions of the governing documents shall be conducted in accordance with all applicable laws, statutes and ordinances. This Section shall apply to both the Association and to all Owners.
10. **Amendments.** This Declaration may be amended by the vote or written consent of Owners representing not less than one hundred percent (100%) of the voting power of the Association. An amendment becomes effective after: (1) the approval of the required percentage of Owners have been given; (2) that fact has been certified in the form of a written document executed and acknowledged by an officer designated by the Association for that purpose or, if no such designation is made, by the President of the Association, and; (3) the document has been recorded in the Office of the County Recorder of Missoula County.
11. **General Provisions.**
- a. **Term.** The covenants, conditions, charges and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, the Declarant or the Owner of any Unit, their respective legal representatives, heirs, successors, or assigns in perpetuity.

- b. **Non-waiver of Remedies.** Each remedy provided for in this Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.
- c. **Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision shall not affect the validity or enforceability of any other provision.
- d. **Binding.** This Declaration, as well as any amendment thereto and any valid action or directive made pursuant to it, shall be binding and the Owners and their heirs, grantees, tenants, successors, and assigns.
- e. **Interpretation.** The provisions of this Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a Condominiums project. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce that provision or any other provision of this Declaration.
- f. **Limitation of Liability.** The liability of any Owner for performance of any of the provisions of this Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Condominiums with respect to obligations arising from and after the date of the divestment.
- g. **Documents to be Provided to Prospective Purchasers.**
 - i. By Owners. Each Owner shall, as soon as practicable before transfer of title to its Condominium(s) or execution of a real property sales contract for it, provide the following to the prospective purchaser:
 - (1) A copy of this Declaration, the Association's Articles and Bylaws, and the Declaration of Unit Ownership which describes the Condominium(s) offered for sale; and
 - (2) A true statement, in writing, from an authorized representative of the Association, as to the respective amounts levied upon the Owner's Condominium(s), which are unpaid on the date of the statement. The statement shall also include true information on the late charges, interest and costs of collection which, as of the date of the statement, are or may be a lien upon the Owner's Condominium(s).
 - ii. By the Association. Upon written request to the Association, it shall provide to an Owner a copy of the requested Association documents specified in Subsections (1) and (2) above. The Association may charge a fee for this service which may not exceed the cost to prepare and reproduce the requested items.


- h. **Conflict with Montana Law.** If any provision of this Declaration conflicts with the mandatorily applicable provisions of the Montana Unit Ownership Act (Mont. Code Ann. §§ 70-23-101 through 70-23-1002) such mandatorily applicable provisions shall supersede and apply in place of the provisions of this Declaration so in conflict with the Montana Unit Ownership Act.
- i. **Arbitration.** In any dispute arising out of Unit Ownership, the Owners and the Association agree to submit this dispute to binding arbitration. The arbitrators' fees and all arbitration costs shall be shared by the parties involved in the dispute, unless the panel of arbitrators unanimously determines that a party has asserted an unreasonable position during the arbitration; if this determination is made then the arbitrators' fees shall be paid by the party who asserted the unreasonable position.
- j. **Attorneys' Fees.** In the event an attorney is engaged by the Board to enforce the Governing Documents, the Association shall be entitled to recover from the adverse party to the controversy its actual attorneys' fees and costs so incurred. In the event litigation is commenced to enforce the Governing Documents, the prevailing party shall be entitled to its attorneys' fees and costs. Said costs and attorneys' fees shall be deemed individual assessments and constitute a lien on the Unit which is enforceable pursuant to Article 4 herein. This Section shall also apply to actual attorneys' fees incurred to collect any post judgment costs.
- k. **VariANCES.** The Board may authorize variances from compliance with any of the architectural or use provisions of this Declaration as follows:
 - i. Variances may be granted, without limitation, to restrictions upon use contained in Article 5, restrictions on repair and maintenance in Article 6, and architectural restrictions in Article 7, when circumstances such as topography, location, engineering, economy, hardship, aesthetic or environmental considerations warrant.
 - ii. Variances shall be in writing and shall become effective upon final approval by the Board or an authorized committee.
 - iii. When a variance is granted, no violation of the Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision covered by the variance, nor shall it affect in anyway the Owner's obligation to comply with all governmental laws and regulations affecting the use of the premises, including, but not limited to, zoning ordinances and setback lines or requirements imposed by the County of Missoula or any other governmental authority.

- iv. The Association may charge a reasonable fee to cover any costs associated with the variance approval process, or for issuance of a variance.
 - v. The Board may enact additional rules and regulations regarding the variance approval process, the circumstances under which a variance may be granted, and the execution of indemnity or other agreements by the Unit Ownership as a condition to issuance of a variance.
1. **Governing Document Priorities.** In the event of a conflict between the Governing Documents, or any provision thereof, the following documents shall take precedence in the order given: (1) the Articles, (2) the Declaration of Unit Ownership, (3) this Declaration, and (4) the Bylaws.

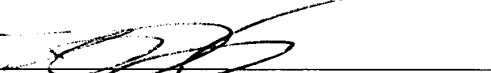
IN WITNESS WHEREOF, the Declarant executed this Agreement this 14th day of July, 2023.

By: 

Brian Walker, Member
MMW, LLC

By: 

Graham Meng, Member
MMW, LLC

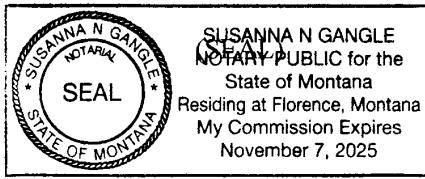
By: 

Joe Meng, Member
MMW, LLC

STATE OF MONTANA)
 : SS
County of Missoula)

On this 14th day of July, 2023, before me, the undersigned Notary Public for the State of Montana, personally appeared Brian Walker, in his capacity as a member of MMW, LLC, whose name is subscribed to the within instrument and acknowledged to me that he executed the same on behalf of "Mullan Crossing."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

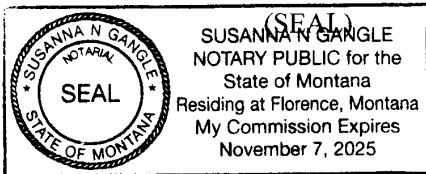


Susanna N Gangle
Printed Name: _____
Notary Public for the State of Montana
Residing at _____
My Commission expires: _____

STATE OF MONTANA)
 : SS
County of Missoula)

On this 14th day of July, 2023, before me, the undersigned Notary Public for the State of Montana, personally appeared Graham Meng, in his capacity as a member of MMW, LLC, whose name is subscribed to the within instrument and acknowledged to me that he executed the same on behalf of "Mullan Crossing."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

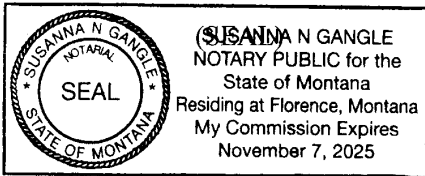


Susanna N Gangle
Printed Name: _____
Notary Public for the State of Montana
Residing at _____
My Commission expires: _____

STATE OF MONTANA)
 : SS
County of Missoula)

On this 14th day of July, 2023, before me, the undersigned Notary Public for the State of Montana, personally appeared Joe Meng, in his capacity as a member of MMW, LLC, whose name is subscribed to the within instrument and acknowledged to me that he executed the same on behalf of "Mullan Crossing."

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.



Susanna N Gangle
Printed Name: _____
Notary Public for the State of Montana
Residing at _____
My Commission expires: _____

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

TRACT A OF HALLING FARMS, TRACT 1, AN AMENDED SUBDIVISION
PLANT ON RECORD IN THE RECORDS OF MISSOULA COUNTY,
MONTANA, AT BOOK 38 PLATS, PAGE 98, LOCATED IN THE NE ¼ OF
SECTION 18, TOWNSHIP 13 NORTH, RANGE 19 WEST, PMM, MISSOUL
COUNTY, MONTANA.