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M. Lynn Homes

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CLARK COUNTY RECORDER
Clark County Recorder
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RESTRICTIONS AND PROTECTIVE COVENANTS FOR THE GARDENS OF CRYSTAL SPRINGS

The undersigned, Lynn Homes, LLC (hereinafter also referred to as the "Developer"), an Indiana limited liability company, being the sole owner of all of the lots in THE GARDENS OF CRYSTAL SPRINGS, Plat No. 14, Page No. 12, of the Clark County, Indiana Records, does hereby impose the following restrictions upon each lot within said Plat, and said restrictions are hereby declared to be covenants running with the land for the mutual benefit of all persons and corporations who may now or hereafter have any vested interest, legal or equitable, in any lot within said subdivision:

1. LAND USE: No lot or portion thereof shall be used except for residential purposes, and Commercial activities of any nature will not be permitted.
2. ARCHITECTURAL CONTROL COMMITTEE APPROVAL: No building shall be erected, placed, or altered upon any lot until the construction plans and specifications and a plan showing the location of the structure shall have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony with external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence, hedge or wall shall be erected, placed, or altered as an exception to the stipulation herein without the prior approval of said Architectural Control Committee.

The ruling of the Architectural Control Committee, upon any written application made under this provision shall be given to the applicant in writing, if requested, within two weeks from the submission of the written application to any member of the Committee. The Committee shall have the right to institute proceedings for an injunction in a court of proper jurisdiction and to file a lis-pendens notice in the office of the Clerk of such court, if improvements commence on an application denied by the Architectural Control Committee.

3. ARCHITECTURAL CONTROL COMMITTEE COMPOSITION: The Architectural Control Committee established and acting pursuant to these restrictions and protective covenants shall be composed of Scott Thomas and Daniel Lynn. The two-member committee may designate a representative to act for it, which may be either of the existing members. In the event of death, resignation, replacement or incapacity of any member or members of the Committee, the remaining member shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. Successors to the above named Committee shall be named and their

address stated by a written notice filed in the miscellaneous Record in the Office of the Recorder of Clark County, Indiana, and they shall be presumed to continue in the office until the recordation, as provided herein, of the names of any replacements.

An appeal board consisting of a majority of the property owners, or their designated representative, shall hold any appeal hearing, upon an appeal from the property owner, within 30 days after rejection by the Architectural Control Committee, and the decision of a majority of the appeals board shall be binding. The Developer is included as a member of the appeals board until all lot portions in The Gardens of Crystal Springs have been decided. The Developer, for as long a period of time that it owns a minimum of one lot, shall retain one vote per lot for all of the platted lots in The Gardens of Crystal Springs including sold lots.

4. **BUILDING TYPE AND SIZE:** No building shall be erected, altered, placed or permitted to remain on any lot other than one one-family dwelling, not to exceed one (1) story in height and only private attached or detached garages for no more than two (2) cars is allowed for each dwelling.
 - 4.1 The total finished living area of a one bedroom house shall be a minimum of 1000 square feet, exclusive of porches and garages.
 - 4.2 The total finished living area of a two (2) bedroom house shall be a minimum of 1200 square feet, exclusive of porches and garages.
 - 4.3 The total finished living area of a three (3) bedroom house shall be a minimum of 1200 square feet, exclusive of porches and garages.
 - 4.4 Total Living areas of any other type of home construction shall be as approved by the Architectural Control Committee prior to the initiation of construction.

Acceptance of any smaller structure of any type will be determined by the Architectural Control Committee on an individual basis. No detached storage buildings or any other structure, temporary or otherwise, may be built on any lot, or facilities servicing an inground swimming pool, without the prior approval of the Architectural Control Committee. For purposes of determining square footage in the foregoing minimum requirements, finished basement areas, attached garages, open or screened porches shall not be included. In the event of any partial or total damage or destruction to a house, the home, if reconstructed or repaired, shall not have less total finished living area (exclusive of porches and garages) than as originally constructed notwithstanding any size minimums stated herein.

5. **BUILDING MATERIALS AND ROOF:** The exterior building materials of all structures shall extend to ground level and shall be either brick, stone, dri-vet or stucco, brick veneer or stone veneer, vinyl or a combination of the same. Developer recognizes, however, that the appearance of other building materials (such as wood or aluminum) may be attractive and innovative, and reserves the right to approve in writing the use of

other exterior building materials, including location on the exterior where alternative materials may be used and on which lot said usage may occur.

No permitted improvements shall be erected unless said residential structure has a roof pitch of not less than 5 inches vertical for every 12 inches horizontal for structures that are one story; and not less than 5 inches vertical for every 12 inches horizontal for structures more than one story. Developer reserves the right to require a higher roof pitch, or to allow a lower roof pitch or to allow mixed roof pitches depending upon the width and depth of the structure and its overall front elevation. Roof pitch approval must be received in writing from the Developer.

6. BUILDING LOCATION: No building shall be located on any lot nearer to the front line or nearer to the side street line than the building line as shown on the recorded plat. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations during the development of the subdivision. No dwelling shall be located on any lot further than five (5) feet behind the building line, unless a further setback is approved in writing by the Architectural Control Committee. For the purpose of this covenant, all adjoining lots or portions thereof or portions of a Lot used as a site for the construction of a single residence shall be considered one lot, so that these restrictions relative to the side lot line shall mean the side lines of any partial lots or one or more lots or portion or portions of any lot or lots used as a single residential building site.
7. SIGNS, HOUSE NUMBERS, AND MAIL BOXES: No billboard, signboard or sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, or one sign of not more than six (6) square feet advertising the property for sale or rent, or except advertising signs, approved by the Architectural Control Committee, of builders and materialmen erected during the course of construction, which signs shall be removed immediately after the completion of the construction work, or immediately after the home is sold, or except development signs and Home Show or Model Home promotional signs by Lynn Homes, LLC, or its designated representative or approved by the Architectural Control Committee.

In an effort to establish uniformity in the subdivision, each lot owner is required to have a uniformly designed mail box and paper holder, with uniform numbers and/or letters, which will be specified by the Developer and which must be purchased directly from the Developer, a related entity or a independent third party vendor designated by the Developer. No other mailboxes or paper holders, whether temporary or otherwise shall be permitted on any lot in the development. All mailboxes will be maintained in a good state of repair at all times.

8. GARDENS AND ANIMALS: Vegetable gardens for private use shall be permitted only adjacent to the rear of a dwelling and may not extend more than twenty-five (25) feet from the rear and not beyond the sides of the structures; and no animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose, and

provided further that they shall not be or become an annoyance or nuisance to the neighborhood and shall not exceed a reasonable number.

9. GARBAGE AND REFUSE DISPOSAL: No trash, garbage, or other waste or refuse shall be kept within this subdivision except in neat and sanitary containers and as necessary to facilitate its pick up and disposal. Any incinerator or other equipment for the storage or disposal of such material shall be kept in a clean, neat, and sanitary condition. All such storage shall be screened from view.
10. NUISANCES: No noxious or offensive trade or activity shall be carried on within said tract, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
11. DRIVEWAYS: All driveways shall be paved solidly of concrete or asphalt, and all drives shall be kept in proper maintenance.
12. CURB PROTECTION AND DAMAGE: Any and all damage that occurs to the concrete curbs in this subdivision after the lot fronting the curb involved is optioned or sold and as a result of home construction or improvement must be repaired or replaced by the lot purchaser to the satisfaction of the Developer and without cost or expense to the Developer. The lot owner or his building contractor must protect the concrete curb from damage at all times by means applicable to each particular situation, which normally would be accomplished by means of a dirt or gravel bridging or overlay in the area where all construction deliveries and ingress and egress occur. The cost to repair or replace any curb damaged during the building process will be borne by the owner of the lot that the damaged curb fronts.
13. BUILDING USE AND TEMPORARY STRUCTURES: No building built on any of the residential lots of this subdivision shall be used for any purposes except a residence. No trailer, tent, shack, garage, basement, or other building or structure of a temporary character may be used as a residence, either temporarily or permanently. No motor homes may be kept on the lot unless written approval is granted by the Architectural Control Committee. No campers, boats, disabled autos, nor any other piece of mechanical equipment or building supplies may be kept on the lot. No lot owner shall park a vehicle, including but not limited to, an automobile, trailer, boat, truck, motorcycle or camper on any street in this subdivision at any time.
14. BUILDING COMPLETION: No structure shall be allowed to remain upon any lot within this subdivision in a partial state of completion for a substantially greater length of time than would normally be required for the completion of such a structure, having regard only for general circumstances and conditions in the vicinity and not circumstances and conditions peculiar to the owner or other persons responsible for such construction.
15. EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures, planting or other material shall be placed or permitted to remain which may

damage or interfere with the installation and maintenance of the utilities, or which may change the direction of flow of drainage channels in the easements. The easements that exist on each lot and all improvements therein shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

16. ROAD USE: The roads as shown on the plat of The Gardens of Crystal Springs are intended for single-family residential ingress and egress and for any construction and/or services associated with single-family residential use.
17. FENCES AND SHRUBS: No privacy shrubs of any kind shall be allowed on said lots in excess of six (6) feet in height without approval of the Architectural Control Committee. No fences at all shall be constructed from the front line of the house to the front property line, or landscaping of no more than twenty-four (24) inches along said line, excepting ornamental fences not exceeding twenty-four (24) inches which are used around shrubs and flower beds without the approval of the Architectural Control Committee. After the development has been completed and the Architectural Control Committee dissolved, approvals and deviations from the restrictions must be approved in writing by a majority of the adjacent property owners in the subdivision.
18. PROHIBITED STRUCTURES: No outside clotheslines shall be erected or placed upon any lot in the subdivision. No antenna (except for standard, small television antenna) or microwave or other receivers or transmitters shall be erected or placed on any lot. No carports shall be constructed on any lot. No above-ground swimming pools shall be constructed upon any lot within the subdivision.

Satellite dishes shall not exceed twenty-four (24) inches in diameter and all dishes are only allowed on the rear wall of the dwelling or on the rear portion of the roof of the dwelling.

No in-ground swimming pool shall be installed on any lot in the subdivision without prior written consent granted by the Architectural Control Committee relating to the size and location of said swimming pool. In presenting the plans of said swimming pool to the Architectural Control Committee, the owner must also submit the plans for fencing, both as it relates to the location and materials to be used.

No structure which may be permitted by these restrictions and protective covenants shall be installed or built on a lot in the subdivision without prior written consent granted by the Architectural Control Committee. In presenting plans for any permitted structure to the Architectural Control Committee, the owner must also submit the plans of the structure as it relates to location and materials to be used.

Requests for exceptions to the requirements in this Section 18 must be made in writing to the Architectural Control Committee, which requests may be granted or denied in the sole and absolute discretion of the Committee.

19. DRIVEWAY DRAINAGE AND DELIVERIES: No driveways or other obstructions shall be constructed or permitted to remain between any lot and any roadway which shall restrict the drainage along such roadway or lot. All delivery of material to each lot having a house under construction must be over the area of the curb where the driveway will be constructed and not upon any other portion of the lot or curb.
20. SEWER SYSTEM AND UTILITY LINES: All buildings erected on the lots in this subdivision shall be connected to the City of Jeffersonville sewer system and must be installed in accordance with the approval of the City of Jeffersonville. Before a building permit is issued, the builder on each lot must pay for and acquire a sewer tap. All utility cables, electric, phone, or other utilities, upon said lots must be buried below finish grade in accordance with the specifications of the installing utility company where underground services is provided.
21. DUTY TO MAINTAIN LOT:
- 21.1 Lots unimproved: The owners shall maintain the grass at a level not to exceed ten (10) inches in height. Developer shall not be bound by this requirement.
- 21.2 Lots improved: The owners shall maintain the grass at a level not to exceed four (4) inches in height. Developer shall not be bound by this requirement.
- 21.3 It shall be the duty of each owner, from and after the date of purchase of said lot, to keep the grass on the lot properly cut, as above required, to keep free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Should any owner fail to so do, then Developer may take such action as it deems appropriate, including, but not limited to, mowing and/or contracting with a professional lawn treatment company, in order to make the lot neat and attractive, and the owner shall, upon demand, reimburse Developer or its agents performing said services, the expense incurred in doing so. The Developer shall be entitled to a lien on said lot and the improvements thereon to secure the repayment of such amounts not paid upon demand. Such lien may be enforced by foreclosure against the lot and improvements thereon, but such lien shall be subordinate to any first mortgage lien thereon. The lien for the foregoing assessments shall attach at such time as a notice thereof is filed in the Office of the Recorder of Clark County, Indiana.
22. RESIDENTIAL OFFICES: Lynn Homes, LLC, may maintain a sales office at any residence of which it is the owner. Other model home sales offices will be permitted only with written approval by the Architectural Control Committee. No trade or business of any kind shall be conducted on any lot, nor shall anything be done thereon which is violative of the zoning regulations of the applicable governmental authority, or which becomes an annoyance or nuisance to the neighborhood or the neighbors.

23. RESERVATION BY DEVELOPER TO ALTER OR AMEND RESTRICTIONS AND PROTECTIVE COVENANTS: Notwithstanding anything to the contrary contained herein, the Developer, its successors and assigns, reserve the right to unilaterally alter or amend these Restrictions and Protective Covenants during the development period of the subdivision excepting that the provisions herein related to the Homeowners Association shall not be amended until after thirty (30) days prior written notice by certified mail to the Clark County Planning Commission, or its successor. For purposes of this section, the development period shall be from the date these Restrictions and Protective Covenants are executed by the Developer to the date of the recording of a Deed for the last lot in the subdivision, to any person, firm or corporation other than the Developer.
24. RESTRICTIONS RUN WITH LAND; AMENDMENT BY OWNERS: Unless altered or amended under the provisions of this paragraph, these Covenants and Restrictions are to run with the land and shall be binding on all parties claiming under them for a period of twenty-five (25) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless altered or amended at any time by the then owners of not less than fifty-one percent (51%) of the lots in this subdivision or unilaterally by the Developer as provided herein; provided, however, that (a) **the consent of the Developer is also required to amend any provision herein so long as the Developer owns any lot and/or residence in the subdivision;** and (b) the failure of any owner to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violation shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.
25. ENFORCEMENT: Enforcement of these covenants shall be by proceedings at law or in equity, either to restrain violations or to recover damages against any person violating or attempting to violate any covenants. Any owner in default under these Restrictions and Covenants shall reimburse any person enforcing such Restrictions and Covenants for all reasonable litigation expenses incurred including reasonable attorney fees.
26. HOMEOWNERS ASSOCIATION: Subject to the remaining terms of this section, there is hereby designated a homeowner's association (the "Association") for the purposes of (i) carrying out the purposes and intent of these restrictive covenants, (ii) maintenance of the storm water drainage improvements serving the lots and the other common areas within the subdivision, and (iii) exercising all other rights retained by Developer under these Restrictions which may from time to time be assigned by Developer to said Association. Each owner of a lot located within the subdivision shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot or portion of a lot. Members must be owners of a lot and shall be entitled to one vote for each full lot owned. When more than one person owns an interest in any lot, all such persons shall be members. However, the vote for such lots shall be exercised as they among themselves agree, but in no event shall such vote be split into fractional votes nor shall more than one vote be cast with respect to any full lot. Notwithstanding the foregoing provision or any other provision of these covenants and restrictions, the Association shall not commence until the first (1st) day of January of the year after the Developer, or its successors or assigns, has sold or conveyed fifty percent

(50%) or more of the total lots in the subdivision to unrelated third parties and has notified the lot owners that the Association is activated. After such time, the lot owners may participate in the Association.

The owner of any lot within the subdivision, by acceptance of a deed to any such lot or half lot, whether or not it is expressed in such deed, is deemed to covenant to agree to pay to the Association an assessment in the initial sum of \$250.00 per lot beginning on the first (1st) day of January of the year following the time at which the Developer, or its successors or assigns, has activated the Association as above provided. The annual assessment shall be due on the first (1st) day of January of said year and each year thereafter. The annual assessment, together with interest, cost, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the lot on which such assessment is made. Each assessment together with interest, cost and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time the assessment was due. The personal obligations of delinquent assessments shall not pass to successors in title unless expressly assumed by them in the deed to such lot, but shall be a lien upon the real estate.

The purpose of the assessments levied by the Association shall be exclusively to promote the recreation, health, safety and welfare of the residents of the development, the enforcement of these covenants, and for the improvement and maintenance of the common areas, including, the subdivision entrance or entrances, signage located at or near the entrance(s) and the storm drainage detention basin, ditch or other storm water facilities situated within or otherwise serving the subdivision but which have not been dedicated to Clark County which are hereby declared as common areas. The Association shall be obligated to maintain the storm water detention basin and related improvements so as to comply with all laws, regulations and ordinances promulgated by Clark County, Indiana. The Association will also be responsible for any taxes or assessments imposed upon the Common Areas. In addition, the Association shall also be required to carry liability insurance on Common Areas.

The Association, by proper vote, may increase or decrease the annual assessment or declare a special assessment for a capital improvement.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum. The Association may, at its option, bring an action at law against the owner primarily to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessment or any charges provided for herein by non-use of the Common Areas or abandonment of such lot or half lot.

The lien for the assessment or charges provided for herein shall be subordinated to the lien of any first mortgage in existence at the time that the assessment becomes a lien. Sale or transfer of any lot or portion thereof shall not affect the assessment lien. However, the sale or transfer of any lot or portion thereof pursuant to any mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such

assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such lot or portion thereof from liability for the assessment thereafter becoming due or from the lien thereof.

All property dedicated to or accepted by a local public authority, the common areas, and all properties owned by the Developer shall be exempt from the assessment created herein, except no land and improvements devoted to dwelling use shall be exempt from said assessments.

The first meeting of the Association shall be held within thirty (30) days after the first (1st) day of January of the year following the date when Developer activates the Association and following not less than fifteen (15) days written notice to all members.

Written notice of any meetings called for the purpose of taking any action shall be sent to all members not less than fifteen (15) days in advance of the meeting. At the first meeting called, the presence of the members or of proxies entitled to cast a majority of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement. A required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. This procedure may be repeated with the required quorum for any subsequent meeting being reduced by one-half of the required quorum for the previous meeting until such time as a quorum is present. A majority vote of the quorum shall be required to take any action.

The Association shall commence as an unincorporated entity. The Association pursuant to the regulations as set forth herein may take, by proper vote, the action to incorporate the Association or they may decide to remain as an unincorporated entity. They may also take the action of appointing a Board of Directors to act on behalf of the Association, and set forth by-laws to guide the Association and/or its Directors.

While the Association may maintain the storm water drainage facilities and other common areas, nothing contained in the Restrictions shall be deemed to grant unto any lot owner any right of possession or easement of enjoyment in and to the common areas. No individual lot owner shall use the storm water drainage facilities or other common areas for their individual enjoyment. Rather, the Association, acting by and through its duly authorized representatives, shall be the only entity entitled to enter upon the storm water drainage facilities and other common areas. In addition, the Association shall be entitled and authorized to dedicate or transfer the common areas to the public or to a governmental agency which dedication shall be effective unless an instrument of non-agreement to such dedication or transfer has been signed by two-thirds (2/3) of the members and recorded.

27. RIGHT TO DEVELOP AS A CONDOMINIUM: The Developer reserves the right to later develop all unsold lots, portions thereof and/or common areas as a Horizontal Property Regime (Condominiums) in accordance with Indiana law in its sole discretion. In such event any lot owner of this subdivision purchasing a lot or portion thereof prior to

such election to develop as Horizontal Property hereby irrevocably consents to such form of development and agrees not to contest or object to: (i) any application filed with any governmental agency or department requesting approval of such form of development; (ii) any legal process undertaken by Developer necessary or reasonably convenient to accomplish such approval or (iii) any document, Agreement or contract entered into by Developer necessary or reasonably convenient to implement the development of such property as Horizontal Property. Each lot owner and partial lot owner agrees to execute and deliver to Developer within ten (10) days of demand by Developer, any and all plats, covenants, declarations, other documents required by Indiana law or any governmental agency in order for Developer to develop all or any part of the property subject to these Restrictions as Horizontal Property.

28. COMMON WALL MAINTENANCE; REMEDIES OF OWNERS: In the event that the Gardens of Crystal Springs, or the lots therein, are not developed or sold as condominiums, this Section 28 shall control with respect to the ownership, modification, reconstruction, or repair of any common wall dividing residences constructed on any two (2) lots within the subdivision, including ten (10) feet of the roof and roof structures over such residences on either side of such wall (collectively hereinafter the "Common Wall"). It is accordingly specifically required as follows:

- 28.1 The owner(s) of each of lot served by such a Common Wall shall have an undivided fee simple ownership in the Common Wall as tenants in common with the owner(s) of the other lot served by such Common Wall. However, nothing herein shall prohibit title to any lot from being held in any manner permitted by Indiana law (i.e., tenants in common, joint tenants with rights of survivorship, tenants by the entireties, etc.).
- 28.2 With respect to the repair, maintenance, reconstruction, or replacement of the Common Wall, the owners of the lots served by such Common Wall shall be responsible for one-half (1/2) of the cost thereof without regard to the area of the Common Wall, inclusive of the roof and roof structures within ten (10) feet of either side of such Common Wall, on which such repair, replacement, maintenance, or reconstruction shall occur.
- 28.3 The Common Wall shall remain undivided, and no lot owner shall be permitted to bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the lot owners with respect to the structural integrity of the residences to be constructed thereon.
- 28.4 In order to maintain the color scheme of the exterior trim area and the shingles chosen by the Developer, any repair, replacement, maintenance, or reconstruction shall be made in the same color as the original work unless one hundred percent (100%) of the owners of the lots served by each such Common Wall agree that the color scheme of the trim and shingles shall be changed within the entirety of the structures served by the Common Wall.