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*Title of Document: Assignment of Developer's Rights*

*Date of Document: August 28, 2017*

*\*Grantor(s): Fall Brook Development, LLC, a Kansas limited liability company*

*\*Grantee(s): ABP Funding, LLC, a Kansas limited liability company*

*Grantee(s) Mailing Address: 11040 Oakmont Street  
Overland Park, Kansas 66210*

*Legal Description: See Exhibit A of attached Assignment of Developer's Rights*

**\*FOR INDEXING PURPOSES ONLY**

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## ASSIGNMENT OF DEVELOPER'S RIGHTS

THIS ASSIGNMENT OF DEVELOPER'S RIGHTS ("Assignment") is entered into as of August **28**, 2017, (the "Effective Date") by Fall Brook Development, LLC, a Kansas limited liability company ("Assignor") and ABP FUNDING, LLC, a Kansas limited liability company ("Assignee").

### RECITALS

WHEREAS, Assignor possesses certain rights with respect to the real property legally described in **Exhibit A** attached hereto and incorporated herein by reference (the "Property") under the following instruments (collectively, the "Fall Brook Declarations"): (i) the Fall Brook Homes Association Declaration dated December 11, 2002, and recorded on January 25, 2005, with the Register of Deeds of Johnson County, Kansas in Book 200501, Page 007896; (ii) the Fall Brook Homes Association Declaration dated October 4, 2004, and recorded on January 25, 2005, with the Register of Deeds of Johnson County, Kansas in Book 200501, Page 007897; (iii) the Declaration of Restrictions Fall Brook dated October 4, 2004, and recorded on January 25, 2005, with the Register of Deeds of Johnson County, Kansas in Book 200501, Page 007898; (iv) the Fall Brook Homes Association Declaration dated December 11, 2002, and recorded on February 14, 2005, with the Register of Deeds of Johnson County, Kansas in Book 200502, Page 004754; (v) the Notice of Recording of Fall Brook Homes Association Declaration dated February 18, 2011, and recorded on February 18, 2011, with the Register of Deeds of Johnson County, Kansas in Book 200201102, Page 005452; and (vi) the Declaration of Restrictions Fall Brook dated March 18, 2006, and recorded on February 18, 2011, with the Register of Deeds of Johnson County, Kansas in Book 200201102, Page 005453.

WHEREAS, it is necessary and desirable to transfer all of the Assignor's rights in the Property and its development to Assignee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment.** Assignor hereby fully and permanently assigns and quitclaims to Assignee all of its rights, title and interest in and under (i) the Fall Brook Declarations; (ii) all authorizations, approvals, permits, certificates of occupancy, variances and land use entitlements relating to or required for the use, occupancy, operation or alteration of the Property and all government permits, exemptions, variances, licenses, dedications, subdivision maps and related rights, entitlements, and other governmental approvals related to the use, ownership, development or operation of the Property, any applications for the foregoing which are pending or have been denied, all rights, benefits and interests under all zoning laws and ordinances, variances, licenses, permits, approvals, dedications, subdivision maps and entitlements promulgated, issued, approved or granted by any governmental or quasi-governmental body or agency having jurisdiction over the Property and/or Assignor, or otherwise in connection with the Property; any and all development rights and other intangible rights, titles, interests, privileges and appurtenances owned by Assignor and in any way related to or used in connection with the Property and its operation; all licenses, consents, easements,



rights of way and approvals required from private parties to make use of utilities and to insure vehicular and pedestrian ingress and egress to the Property; and all disposition, redevelopment and development agreements, site approvals, environmental impact reports, traffic and other mitigation and impact studies and reports, surveys, maps and all other documents, agreements and/or instrument, private or public, affecting the Property; (iii) all warranties, guaranties and indemnities (including without limitation those for workmanship, materials and performance) which exist or may hereafter exist, from, by or against any contractor, subcontractor, manufacturer, supplier, laborer or other service provider relating to the Property; (iv) all plans, drawings and specifications for improvements on the Property; and (v) all other intangible property relating to or required for the use, occupancy, operation or alteration of the Property, including without limitation all trade names and contract rights.

2. **Indemnification -- Swimming Pool.**

(a) Assignor represents and warrants to Assignee that Assignor has made no agreements, representations, warranties, or assurances to or with any owners of the Property regarding Assignor or Assignee (or their successors or assigns) paying the cost to construct a swimming pool or related improvements on the Property, and that any actions by Assignor in holding funds for the Property owners' payment of the costs to build a swimming pool or related improvements shall not constitute an agreement or admission that Assignor, Assignee (or their successors or assigns) will build any swimming pool or related improvements.

(b) Assignor shall defend, reimburse, indemnify and hold harmless the Assignee and Assignee's, officers, directors, employees, agents, representatives, successors and assigns for and against and in respect of any and all liabilities, losses, damages, claims, costs and expenses, deficiencies, interest, awards, judgments and penalties (including reasonable attorneys' fees and expenses) suffered or incurred by Assignee, to the extent arising out of or resulting from any claims asserted by any owner of the Property or member of the Fall Brook Homes Association that Assignee failed to comply with or fulfill some agreement, representation, warranty, or assurance made by Assignor that Assignor, Assignee, or their successors or assigns, would pay the cost to construct a swimming pool or related improvements.

3. **Assumption of Obligations; Pre-Effective Date Indemnification.**

(a) Assignee hereby agrees to assume all obligations of Assignor under the Fall Brook Declarations accruing from and after the Effective Date. Upon the recording of this Assignment, Assignor shall be released and relieved of all liability with respect to any obligations accruing under the Fall Brook Declarations from and after the date that this Assignment is recorded with the Johnson County, Kansas Recorder of Deeds.

(b) Assignor shall defend, reimburse, indemnify and hold harmless the Assignee and Assignee's, officers, directors, employees, agents, representatives, successors and assigns for and against and in respect of any and all liabilities, losses, damages, claims, costs and expenses, deficiencies, interest, awards, judgments and

penalties (including reasonable attorneys' fees and expenses) suffered or incurred by Assignee, to the extent arising out of or resulting from any claims in any way relating to the Property, the Fall Brook Declarations, and/or the Fall Brook Homes Association arising or accruing on or before the Effective Date.

4. **Further Assurances.** Assignor shall, upon request of Assignee, execute or cause to be executed such further instruments or documents as Assignee may require to further effect the purposes hereof.

5. **Binding Effect.** This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their respective successors and assigns.

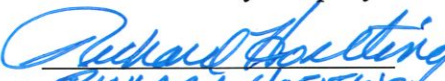
6. **Governing Law.** This Assignment shall be governed by and construed and interpreted in accordance with the laws of the State of Kansas.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the Effective Date.


ASSIGNOR:

Fall Brook Development, LLC,  
a Kansas limited liability company

By:   
Name: RICHARD JOELTING  
Title: MEMBER

ASSIGNEE:

ABP Funding, LLC,  
a Kansas limited liability company

By:   
Name: John Duggan  
Title: Manager

STATE OF Kansas )  
 ) SS.  
COUNTY OF Johnson )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of August, 2017, by Richard Hoetting as Member of Fall Brook Development, LLC, a Kansas limited liability company, on behalf of the company. S/He \_\_\_ is personally known to me or has produced a driver's license as identification.

Patricia J. Stout  
Notary Public  
Print Name: Patricia J. Stout  
Serial No. (if any): \_\_\_\_\_

Notary Public State of Kansas  
Patricia J Stout  
My Appt Exp 11-15-2020

STATE OF KANSAS )  
 ) SS.  
COUNTY OF JOHNSON )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of August, 2017, by John Duggan as Manager of ABP FUNDING, LLC, a Kansas limited liability company, on behalf of the company. S/He \_\_\_ is personally known to me or has produced a driver's license as identification.

Patricia J. Stout  
Notary Public  
Print Name: Patricia J. Stout  
Serial No. (if any): \_\_\_\_\_

Notary Public State of Kansas  
Patricia J Stout  
My Appt Exp 11-15-2020

**EXHIBIT A**

Legal Description of the Property

Lots 1 through 173, FALLBROOK, a subdivision in the City of Olathe, Johnson County, Kansas

TOGETHER WITH

Lots 1 through 48, FALLBROOK, 2nd Plat, a replat of all of Fallbrook, 1st Plat, inclusive, a subdivision in the City of Olathe, Johnson County, Kansas

TOGETHER WITH

Lots 49 through 172, FALLBROOK, a subdivision in the City of Olathe, Johnson County, Kansas

TOGETHER WITH

Lots 49 through 102, FALLBROOK 3RD PLAT, a subdivision in the City of Olathe, Johnson County, Kansas