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Gary M Clemens, Clerk

Instrument prepared by and when recorded return to:
Ran Magalong, Esquire
An attorney licensed in Virginia
Virginia State Bar No. 89370
Odin, Feldman & Pittleman, P.C.
1775 Wiehle Avenue, Suite 400
Reston, Virginia 20190

Parcel ID Nos.: 129-40-1055; 129-49-9872; 129-49-4638

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made, entered into, and effective on this 4th day of August, 2020 ("Effective Date"), by and among **POLAND HILL, LLC** ("PHLLC"), a Virginia limited liability company; **STANLEY MARTIN COMPANIES, LLC** ("Stanley Martin"), a Maryland limited liability company; and **POLAND HILL HOMEOWNERS ASSOCIATION** ("Association"), a Virginia nonstock corporation. The following recitals are the facts giving rise to this Agreement:

i. PHLLC is the owner of all of that certain real property situated in Loudoun County, Virginia ("County") and known as Landbay "2", Poland Hill, as duly dedicated, platted, and recorded by deed recorded among the land records of the County (the "Land Records") as Instrument Number 20200804-0064929, with plat recorded as Instrument Number 20200804-0064930 ("Apartment Property").

ii. PHLLC (or its successor in interest in or assignee of the Apartment Property, and in the event of any such sale, assignment or transfer, this Agreement is binding upon such successor in interest or assignee and upon the Apartment Property, and every reference to PHLLC herein shall then be construed to refer to such successor) intends to develop the Apartment Property.

iii. Stanley Martin (or its successor in interest in or assignee of Poland Hill, and in the event of any such sale, assignment or transfer, this Agreement is binding upon such successor in interest or assignee and upon the Association Property, and every reference to Stanley Martin herein shall then be construed to refer to such successor) is the owner and developer of a certain residential project known as Poland Hill located adjacent to the Apartment Property and consisting of single family detached and single family attached (townhouse) lots numbered one (1) through seventy-five (75), Poland Hill, as duly dedicated, platted, and recorded by deed recorded among the Land Records as Instrument Number 20200804-0064929, with plat recorded as Instrument Number 20200804-0064930 (collectively, the "Lots").

iv. Stanley Martin established the Association pursuant to that certain Declaration for Poland Hill recorded among the Land Records as Instrument Number 20200804-0064931, as may be amended and supplemented from time to time (the "Declaration") to govern Poland Hill, perform certain functions and services for the benefit of the owners of Lots within Poland Hill, and own and maintain common areas, and any improvements constructed thereon, such common areas being Parcel "A", Parcel "B", Parcel "C", and Parcel "H", Poland Hill, as duly dedicated,

File No. 1E-ASM19-0009C

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First Excel Title, LLC
3201 Jermantown Road, Suite 350
Fairfax, VA 22030

platted, and recorded by deed recorded among the Land Records as Instrument Number 20200804-0064929, with plat recorded as Instrument Number 20200804-0064930 (collectively, the "Association Property").

v. Stanley Martin intends to construct certain recreational facilities on Parcel "H" of the Association Property (the "Amenity Property") to consist of a swimming pool, bathhouse, fitness and meeting rooms and other directly related and supporting facilities located on the Amenity Property (the "Recreation Facilities").

vi. The Recreation Facilities, when completed, will serve both the residents of the Apartment Property ("Apartment Residents") and the members of the Association ("Association Members") as such members are defined in the Declaration.

vii. The parties desire to establish certain rights and obligations regarding the non-exclusive use and enjoyment of the Recreation Facilities and certain common area of the Association by the Apartment Residents, including access and parking, all in accordance with terms and conditions set forth herein.

Now Therefore, in consideration of the above premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. ***Recitals.*** The foregoing recitals of the facts giving rise to this Agreement are hereby incorporated in this Agreement as substantive provisions as though the same were set forth in the numbered paragraphs below.

2. ***Easement to Use Recreation Facilities and Association Common Area.*** The Association, by and through its duly acting Board of Directors as the governing body of the Association, in accordance with the Declaration vested with full power and authority to grant easements over the common area of the Association Property, does hereby create and establish on behalf of the Association, subject to the terms and conditions further set forth in this Agreement, a perpetual and non-exclusive easement, right, license and privilege for the benefit of the Apartment Residents and their invitees and guests, in common with the Association Members and their invitees and guests, in, on, over, upon and across: (i) the Amenity Property for the purpose of ingress and egress to and from the Recreation Facilities, use of the Recreation Facilities as granted herein, and use of the parking spaces thereon; and (ii) all Association Property, such as but not limited to sidewalks, trails, and green spaces. Each of the Apartment Residents and their respective invitees and guests shall exercise their right, license, and privilege under this Agreement with continual due regard to the rights of others and their use thereof, and neither the Apartment Residents nor the Association or Association Members shall use the same in any way that will impair the rights of others to use it, or obstruct passage thereon in violation of this Agreement.

3. ***Construction of Recreation Facilities.*** PHLLC shall have no responsibility to construct any Recreation Facilities. Stanley Martin shall construct the Recreation Facilities to be located on the Amenity Property in accordance with that certain Site Plan Poland Hill – Recreation Center (STPL 2018-0011), as approved by the County.

4. ***Maintenance Responsibilities.*** The Association shall be solely responsible for performing maintenance and upkeep of the Amenity Property and Recreation Facilities and shall keep the Amenity Property and Recreation Facilities in a clean and orderly condition and in good repair. The Association shall also be solely responsible for payment of all costs associated with such maintenance and upkeep including, without limitation, costs of any maintenance contracts, landscaping, allocable costs of maintenance personnel, maintenance, repair or replacement of the swimming pool, deck, lighting, mechanical equipment, any pool liner, fitness center equipment, any meeting rooms, any facilities, and parking facilities, and other expenses related to pool and fitness center operations, including costs of lifeguards and fitness center employees. Notwithstanding anything to the contrary contained in this Agreement, the Association reserves the right to temporarily close off access to and suspend use of the Amenity Property and/or the Recreation Facilities, or portions thereof, from time to time in order to perform its maintenance and upkeep obligations herein.

5. ***Use of Recreation Facilities and Common Area by Apartment Residents.***

a. In consideration of and subject to the covenants and agreements contained herein, and specifically in consideration of the payment of the Annual Expense Payment (hereinafter defined) by PHLLC, as further set forth below, each Apartment Resident shall be entitled to non-exclusive use of the Recreation Facilities. Such use shall be subject to such reasonable restrictions and rules and regulations as may be adopted by the Association from time to time, including, without limitation, reasonable restrictions on the number of persons who shall be permitted to use the Recreation Facilities, specific operating days and operating hours, the right to temporarily close off access to and suspend use of Recreation Facilities or portions thereof during times of maintenance and upkeep, a requirement that users use an access pass, keycard, or similar device for access to and use of the Recreation Facilities, and the right to require, from Apartment Residents or PHLLC, evidence of status as an Apartment Resident. The rules and regulations may also include provisions setting forth reasonable disciplinary action including, without limitation, the right of the Association to remove a user from the Recreation Facilities for violation of the rules and regulations and the right of the Association to suspend individual access rights temporarily or permanently, as appropriate, for chronic violations of the rules of regulations. Any such restrictions, rules and regulations shall be of the sort generally adopted in similar recreation facilities and shall be uniformly applied to all persons, whether Apartment Residents or Association Members, using the Recreation Facilities.

b. Each Apartment Resident shall also be entitled to non-exclusive use of the Association Property including, without limitation, trails, sidewalks, and green spaces, subject to reasonable rules and regulations as may be adopted by the Association from time to time, including, without limitation, the right to temporarily close off access to and suspend use of such common area or portions thereof during times of maintenance and upkeep. Any such restrictions, rules and regulations shall be of the sort generally adopted for common areas of similar homeowners associations and shall be uniformly applied to all persons, whether Apartment Residents or Association Members, using common area of the Association.

6. ***PHLLC's Annual Expense Payment.***

a. In consideration of the Association's maintenance of the Recreation Facilities, and in consideration of the use of the Recreation Facilities and Association Property by the Apartment Residents granted in Paragraph 5(a) and 5(b) above, PHLLC shall pay to the Association an annual fee ("Annual Expense Payment"), payable in monthly installments, toward the actual incurred costs and expenses of the operation, maintenance, repair and replacement of the Recreation Facilities (including the directly related and supporting adjacent structures and improvements such as parking facilities, sidewalks, railings, ramps, lawn maintenance and landscaping in the area of the Recreation Facilities, both those costs that are capital in nature and those that are not). The Annual Expense Payment shall be calculated on a proportional basis based on the number of units constructed on the Apartment Property in relation to the total number of units with access to the Recreation Facilities and common area of the Association.

b. The "First Payment Period" shall be the period commencing on the later of (i) the first (1st) day of the month following the month in which the non-residential use permit for the Recreation Facilities has been issued by the County to the Association, or (ii) the first (1st) day of the month following the month in which the first (1st) residential use permit for the Apartment Property has been issued by the County to PHLLC, and ending on December 31st of the calendar year in which such later event occurs. Thereafter, each Annual Expense Payment shall be determined and shall be in effect between the parties for each full calendar year following the First Payment Period (each, a "Payment Year"). The Association and PHLLC each covenant and agree to provide to the other a true copy of each's use permit promptly upon issuance. The Annual Expense Payment shall be paid in equal monthly installments, each in the amount of one twelfth (1/12th) of the Annual Expense Payment. Such monthly payments shall commence on the first (1st) day of the First Payment Period (and during the First Payment Period, if the First Payment Period is shorter than twelve (12) months in duration, only the applicable number of monthly installments of the Annual Expense Payment shall be due and payable). The Annual Expense Payment for each of the First Payment Period and the first Payment Year shall be One Thousand, Five Hundred Sixty and no/100 Dollars ($1,560.00) per month within the First Payment Period and Eighteen Thousand, Seven Hundred Twenty and no/100 Dollars ($18,720.00) for the first Payment Year.

c. Beginning with that Annual Expense Payment due for the Payment Year following the first Payment Year, and for each Payment Year thereafter, the Association may, but need not, increase the Annual Expense Payment by an amount equal to up to five percent (5.0%) of the preceding year's Annual Expense Payment without PHLLC's prior approval. Any increase in excess of five percent (5.0%) of the prior year's Annual Expense Payment must be approved by PHLLC, which approval shall not be unreasonably withheld, conditioned, or delayed once the Association presents the basis for the increase. Any dispute concerning an increase in excess of five percent (5.0%) of the prior year's Annual Expense Payment shall be subject to arbitration as described in Paragraph 12 of this Agreement.

d. At least ninety (90) days prior to the beginning of each calendar year, the Association shall deliver to PHLLC written notice of the next year's Annual Expense Payment and the Association's budget for the Recreational Facilities and the common areas of the

Association so that PHLLC will have adequate time to incorporate the Annual Expense Payment into its budget for the next year. In the event that the Association is unable to timely deliver written notice of the next year's Annual Expense Payment and such supporting information to PHLLC, however, at such time as the Association does deliver written notice of a new Annual Expense Payment amount at any time during a year, such payment amount shall become effective ninety (90) days from the date of such notice. The Association's failure or inability to fix the amount of the Annual Expense Payment for the next year before the expiration of any year as described shall not be deemed a waiver or modification in any respect of the provisions of this Paragraph, or a release of PHLLC from the obligation to pay the Annual Expense Payment, or any installment thereof, for that or any subsequent year, but the obligation to pay the Annual Expense Payment fixed for the preceding year shall continue until notice of a new Annual Expense Payment is provided.

e. By written mutual agreement between the Association and PHLLC, installments of the Annual Expense Payment may be collected on a quarterly, semi-annual or annual basis. PHLLC may prepay one or more installments of any Annual Expense Payment without premium or penalty.

7. ***Insurance.*** The Association shall at all times keep in force public liability insurance covering the Recreation Facilities and the Association Property in reasonable amounts and in customary form. Such insurance shall include, but not be limited to, coverage of its maintenance operations thereupon, and shall require every contractor performing work to carry contractor's liability insurance with reasonable minimum limits. Any such policy will name PHLLC as an additional insured and a copy shall be provided to PHLLC. The cost of such insurance shall be paid by the Association but PHLLC's pro rata portion of the insurance premium shall be included as part of the Annual Expense Payment. PHLLC shall be provided with thirty (30) days' prior notice if the insurance is terminated.

8. ***Parking.*** The parking spaces located within the Amenity Property (the "Amenity Property Parking") shall be available for use by Apartment Residents, Association Members, and their respective invitees and guests using the Recreation Facilities. Use of the Amenity Property Parking by any such individual shall be on a first-come, first-served basis only and shall be limited to the periods of time when such individual is actually using the Recreation Facilities. There shall be no overnight parking within the Amenity Property Parking. The Association may post and maintain such signage as the Association deems reasonably required to identify such Amenity Property Parking as restricted parking during appropriate times. The Association reserves the right to adopt reasonable rules and regulation with regard to use of the Amenity Property Parking including, without limitation, the right remove a vehicle from the Amenity Property by towing, at the expense of the vehicle's owner, for violation(s) of such rules and regulations. There shall be no parking by Apartment Residents, or their invitees and guests, within the private streets and alleys serving the Lots and/or Association Property or within the parking spaces located within the Association Property.

9. ***Remedies.***

a. Neither Apartment Residents nor Association Members individually or collectively may take any action to enforce the provisions of this Agreement. Notwithstanding

the existence of the provisions of Section 12 herein, or any other term or provision hereof, PHLLC's failure to make the Annual Expense Payment shall give the Association the right to bring suit against PHLLC for nonpayment of the Annual Expense Payment, including costs, interest, and reasonable attorney fees actually incurred. Provided that the Association has given thirty (30) days' prior written notice that PHLLC is delinquent in the payment of any installment of the Annual Expense Payment and PHLLC has failed to cure such delinquency within said thirty (30) day period, the Association may also suspend the privileges of all of the Apartment Residents to access and use the Association Property and Recreation Facilities until the Association receives payment of such delinquent amount and any interest or charges that may have accrued pursuant to Paragraph 9(b) below as a result of such delinquency. PHLLC may not, however, avoid its obligation to pay the Annual Expense Payment by foregoing the right of its Apartment Residents to use the Association Property or Recreation Facilities.

b. If any Annual Expense Payment which is due from PHLLC to the Association, or any installment thereof, is not paid within ten (10) days after it is due, the Association may, in the sole discretion of the Association, (i) demand and collect interest at a rate of the lesser of eighteen percent (18.0%) per annum or the maximum judgment interest rate permitted from time to time in the Commonwealth of Virginia, (ii) demand and collect from PHLLC the costs of collection (whether suit be brought or not), and (iii) collect from PHLLC the payment of a "late charge" of five percent (5.0%) of the amount delinquent as liquidated damages for the excess administrative burden and not as a penalty, and the Association may bring an action at law against PHLLC for payment of all of the same as described above. Upon default in the payment of any one or more installments of any Annual Expense Payment levied pursuant to this Agreement, the entire balance of said Annual Expense Payment may be accelerated, at the option of the Association, and be declared due and payable in full.

c. The easements hereby established, created or granted by this Agreement may not be canceled or terminated as a result of one or more defaults hereunder on the part of one of the parties. No delay or failure on the part of the aggrieved party to invoke an available remedy in respect of a violation of any provision of this Agreement will be held to be a waiver by that party of any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

10. ***Limitation of Liability.*** The Association shall not be liable to PHLLC for any failure of any services obtained or to be obtained from others by the Association in carrying out its obligations hereunder. No decrease, diminution, deferral, or abatement of the Annual Expense Payment shall be claimed or allowed for inconvenience or discomfort arising from unavailability or closures related to maintenance or the making of repairs or improvements to the Recreation Facilities, or from any action taken by the Association to comply with any of the provisions of this Agreement or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

11. ***Binding Effect.*** This Agreement shall run with and be binding upon the lands comprising the Apartment Property, the Amenity Property, and the Association Property which are not in public access easements or public, such as, but not limited to, sidewalks, trails, and green spaces. The terms, covenants, conditions and obligations of this Agreement shall inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

In the event that the Apartment Property is conveyed by PHLLC, then all conditions and obligations of this Agreement are deemed assigned by PHLLC to such grantee, and assumed automatically any by such grantee, and PHLLC, as grantor, shall have no further obligations and shall be released from all liability hereunder.

12. ***Arbitration.***

a. Other than failure to pay Annual Expense Payment, all questions, differences, disputes or controversies arising hereunder shall be settled by arbitration in accordance with the rules of the American Arbitration Association. Such arbitration shall be conducted at the request of any of the parties hereto before three (3) arbitrators (unless the parties agree to one (1) arbitrator). The party requesting the arbitration shall designate in writing, within ten (10) days of such request, the name of an arbitrator who is knowledgeable in the issues being arbitrated, and the other party shall make a similar designation within the same period of time. Within fifteen (15) days after the designation as aforesaid, the two (2) arbitrators shall select and designate a third arbitrator.

b. The arbitrators designated and acting under this Agreement shall make their award in strict conformity with generally accepted rules of arbitration and shall have no power to depart from or change any of the provisions thereof. Any such award shall be binding upon the parties and enforceable by any court exercising jurisdiction over the parties. The expense of arbitration proceedings conducted hereunder including witness fees and attorneys' fees shall be paid by the losing party. All arbitration proceedings hereunder shall be conducted in the County or such other location mutually agreed upon by the parties.

13. ***Indemnification; Release; Waiver***. At Stanley Martin's or the Association's written request, PHLLC agrees to inform all Apartment Residents in writing of any Stanley Martin or Association requirement applicable to all Association Members and their invitees and guests of any generally applicable requirement for execution of any written indemnity, release or waiver (on a form prepared by Stanley Martin or the Association which is required of all Association Members and their invitees and guests) prior to accessing or using the Amenity Property, the Recreation facilities, or the Association Property, and PHLLC agrees to assist and cooperate with Stanley Martin or the Association in collecting such signed documents from Apartment Residents and their invitees and guests.

14. ***Miscellaneous.***

a. The parties warrant specially the easements and rights-of-way created herein, and will execute such further assurances thereof as the other party may request.

b. This Agreement shall be governed solely by, and construed in accordance with, the substantive laws of the Commonwealth of Virginia.

c. This Agreement contains the final and entire agreement between the parties hereto with respect to the subject matter hereof. They shall not be bound by any conditions, statements or representations, oral or written, not herein contained. Any subsequent amendment to this Agreement shall be valid only if in writing and executed by the parties hereto, their successors or assigns.

d. As used in this Agreement the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

e. The provisions of this Agreement shall be deemed to be cumulative. No provision of this Agreement shall be deemed to be in limitation of or to exclude any other provision hereof, or any right, remedy or provision of law, unless otherwise expressly stated.

f. Any captions, titles, or headings in this Agreement are inserted only for the purpose of convenient reference, are not substantive, and in no way define, limit or prescribe the scope or intent of the language this Agreement or any part hereof.

g. The invalidity of any one of these covenants, obligations or conditions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

h. This Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single document.

[Signatures follow.]

In Witness Whereof, intending to be bound, each of the respective parties to this Agreement, by and through their respective duly authorized representatives, have hereunto set their hands and seals on the respective dates set forth next to their respective signatures below.

Poland Hill, LLC

By: _____ {Seal}
Ralph R. Polachek, Manager

Commonwealth of Virginia
County of Fairfax: ss:

The foregoing instrument was acknowledged before me this 28 day of August, 2019 by Ralph R. Polachek, Manager of Poland Hill, LLC, a Virginia limited liability company.

_____ My Comm'n Expires: 1.31.21
Notary Public

LAUREN VANNI KINARD
NOTARY PUBLIC
REG. #344171
My Comm. Exp.
Jan 31, 2021
COMMONWEALTH OF VIRGINIA

Stanley Martin Companies, LLC

By: _____ *{Seal}*
Joel S. Reed,
Executive Vice President and General Counsel

Commonwealth of Virginia
County of Fairfax: ss:

The foregoing instrument was acknowledged before me this 27th day of August, 2019 by Joel S. Reed, Executive Vice President and General Counsel of Stanley Martin Companies, LLC, a Maryland limited liability company.

_____ My Comm'n Expires: May 31, 2022
Notary Public

MARLA DECRISCIO
NOTARY PUBLIC
REGISTRATION # 242679
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
MAY 31, 2022

Poland Hill Homeowners Association

By: _____ *{Seal}*
Carla Pezzullo, President

Commonwealth of Virginia
City/County of Fairfax: ss:

The foregoing instrument was acknowledged before me this 28 day of August, 2019 by Carla Pezzullo, President of Poland Hill Homeowners Association, a Virginia nonstock corporation.

_____
Notary Public

My Comm'n Expires: June 30 2020

PANDI LEA GRIMSLEY
Notary Public
Commonwealth of Virginia
My Commission Expires June 30, 2020
Commission ID# 7520730