

FILED
CHATHAM COUNTY NC
LUNDAY A. RIGGSBEE
REGISTER OF DEEDS

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AT	11:37:58 am
BOOK	02208
START PAGE	0558
END PAGE	0564
INSTRUMENT #	06479
EXCISE TAX	(None)

NORTH CAROLINA
CHATHAM COUNTY

PRIVATE ROAD MAINTENANCE
AGREEMENT

Prepared By: Glenn Lassiter, Esq.
PO Box 1460 Pittsboro NC 27312
Return to: PREPARER

This Private Road Maintenance Agreement (hereinafter, this "*Agreement*") is entered this 22nd day of April by and between Mark Allen Wasmuth and Meredith Phillippi Wasmuth (hereinafter, the "*Wasmuths*,") husband and wife, Primo Investments, LLC, a North Carolina Limited Liability Company, (hereinafter, "*Primo*"), and the Hawthorn at Haw River Homeowners Association, Inc., a North Carolina nonprofit Corporation (hereinafter, the "*Association*").

WITNESSETH:

WHEREAS, Primo has heretofore transferred by General Warranty Deed to the Wasmuths that certain parcel of property described as Tract 4 on that certain Plat entitled, "Hawthorn at Haw River Tract 4, Easement Modification," by CE Group dated January 18, 2021 and recorded at Plat Book 2021, Page 122, Chatham County Registry (the "*Plat*"); and

WHEREAS, Tract 4 (hereinafter referred to as the "*Wasmuth Property*") was previously encumbered by that certain Declaration of Covenants recorded at Book 2033, Page 960, Chatham County Registry (as amended and supplemented, the "*Declaration*"); and

WHEREAS, prior to said transfer, Primo, as the Declarant under the Declaration, released the Wasmuth Property from the Declaration pursuant to a duly executed Supplemental Declaration recorded at Book 2208, Page 550, Chatham County Registry; and

WHEREAS, the property subject to the Declaration (hereinafter, the "*Declaration Property*") and the Wasmuth Property (hereinafter collectively referred to as the "*Subject Property*") share common easements for ingress, egress, and regress, and installation of utilities over private drives which provide access to and from the Subject Property to Moore Mountain Road, S.R. 1524 (hereinafter, collectively, "*the Easements*"), such Easements, for purposes of clarity are identified as the cross-hatched area shown on Exhibit A, attached hereto and incorporated herein by reference. For additional information, see Plats recorded at Plat Book 2019, Page 50, Plat Book 2019, Page 189, Plat

Book 2009, Page 88 and that certain Declaration of Easements recorded at Book 2110, Page 731, all of the Chatham County Registry, which recorded instruments are hereby incorporated by reference; and

WHEREAS, the Association, pursuant to the Declaration, has the obligation to maintain as Common Area "any private right of way providing access to and from any Lots in the Property", and pursuant to such definition, is obligated to maintain the Easements; and

WHEREAS, due to the withdrawal of the Wasmuth Property from the Declaration, the Wasmuths are no longer obligated to share in the cost of the maintenance of the Easements; and

WHEREAS, the parties hereto wish to bind themselves, their heirs, successors and assigns to provide for maintenance of the Easements, unless and until such time as it is accepted by the State of North Carolina for maintenance;

IT IS THEREFORE HEREBY AGREED AS FOLLOWED BY THE UNDERSIGNED:

1. The real property identified herein is, and shall be, held, transferred, sold and conveyed subject to the covenants set forth in this Declaration.
2. The Wasmuths, as the owners of the Wasmuth Property, hereby bind themselves, their successors and assigns, to share in the costs of the maintenance of the Easements, pro rata, as though the Wasmuth Property was a Lot as currently defined under the Declaration, such costs to include grading costs, gravel, or rock hauled in to fill ruts, holes, and washed-out sections and necessary replacement of or additional drainage culverts.

The Association shall, as required by the Declaration, continue to be primarily responsible for the maintenance of the Easements, subject to said contribution by the Wasmuths, their successors and assigns. The Association shall notify the Wasmuths of any scheduled maintenance of the Easements, provide an estimate of the Wasmuth's contribution under this Agreement, and shall invoice the Wasmuths at the completion thereof. The Wasmuths' share of the maintenance cost of the Easements shall be due and owing to the Association within 30 days of the receipt of said invoice. If not paid by that time, the Association may (i) file suit for the same on behalf of the Association, or (ii) file a lien against the Wasmuth Property (or any applicable portion thereof) as though the Wasmuth Property was a Lot subject to the Declaration and pursuant to the requirements and procedures for unpaid assessments set forth in Section 47F-3-116 of the N.C. Planned Community Act.

In the event the Association shall fail in its obligation to maintain the Easements in a commercially reasonable, passable condition, the Wasmuths, their successors and assigns, shall have the following remedies. The Wasmuths shall deliver written notice to the Association detailing the maintenance issues with the Easements along with a written estimate for the costs to repair the same (the "*Estimate*"). In the event the Association does not commence maintenance work on the Easements within one hundred and twenty (120) days after the delivery of such notice, the Wasmuths, may (i) seek specific performance of this Agreement, or (ii) perform the maintenance work described in the Estimate, and bill the Association for its proportionate share of such costs, including a maintenance fee not to exceed ten percent (10%) of the total cost of the work.

3. Should, in the future, the Wasmuths subdivide the Wasmuth Property, each new lot created

thereby will be treated in the same manner as the Wasmuth Property under Paragraph 1, above, and each additional owner shall be bound by this Agreement and obligated to contribute its own pro rata share of the costs of maintenance of the Easements. For purposes of explanation, if there are 4 Lots subject to the Declaration, each of those Owners' and the Wasmuth's pro-rata share of maintenance costs for the Easements would be 20%. ($100\% \div 5$). If the Wasmuth Property is subdivided in the future to create an additional 3 lots, and no additional Lots are created under the Declaration, then each owner under the Declaration and this Agreement would be responsible for 12.5% of the maintenance costs for the Easements ($100\% \div 8$).

4. Primo shall have no obligation to construct any roads heretofore under this Agreement, or to make any financial contribution for the maintenance thereof other than as Declarant, or an owner of any Lot subject to the Declaration, pursuant to the terms set forth therein.
5. Primo, as Declarant, agrees that it shall not exempt any additional property it subjects to the Declaration, that makes use of any portion of the Easements, from its obligation to contribute to maintenance on the Easements.
6. Primo and the Association agree not to amend the Declaration so as to release any current Lots subject to liability for a pro rata share of the cost of maintaining the Easement.
7. This Agreement shall remain in full force and effect as to the Easements or any portion thereof until such time as said road or any portion thereof shall be taken over by the North Carolina Department of Transportation for maintenance purposes, and any portion of said road not so taken over by the North Carolina Department of Transportation shall remain subject to this Agreement.
8. This Agreement governs the maintenance of the Easements, arising from normal wear and tear from parties hereto, including the Lot owner, members of the Association, their tenants', and invitees' entrance, egress and regress over the Easements. The parties hereby agree the expense of any repair or construction of any portion of the Easements arising out of extraordinary wear and tear (via construction, well drilling, or other such heavy use), or the negligent or willful acts of any beneficiary of this Agreement, or its tenants or invitees, shall be borne solely by such beneficiary. In addition, should the Easements require additional improvement to permit the construction of residences on additional lots on the Wasmuth Property resulting from a subdivision thereof, neither Primo, nor the Association shall be obligated for any costs associated with such additional improvement.
9. This Agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, successors, and assigns of each record owner of the subject properties and the parties hereto. When used in this Agreement, the singular shall include the plural, the masculine shall include the feminine and the neuter, and vice versa, as the meaning may require.
10. Primo shall have the right, without any approval from any other party hereto, to assign its rights and obligations under this Agreement to the applicable Association.
11. This agreement shall be governed by the laws of the State of North Carolina.

IN WITNESS WHEREOF, Grantor has duly executed the foregoing as of the date and year first above written.

GRANTOR:

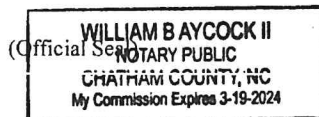
PRIMO INVESTMENTS, LLC
A North Carolina limited liability company

By: Antonio McBroom
Name: Antonio McBroom
Title: Manager

STATE OF NORTH CAROLINA
COUNTY OF CHATHAM

I certify that the following persons personally appeared before me this day, acknowledging to me that they signed the foregoing document in the capacity indicated herein: Antonio McBroom, Manager of Primo Investments, LLC

WITNESS my hand and official seal, this 20th day of April, 2021.



William B. Aycock
Notary's Official Signature

William B. Aycock
Notary's Printed or Typed Name
My commission expires: 3/19/24

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first, above written.

THE ASSOCIATION

The Hawthorn at Haw River Homeowners Association, Inc., a
North Carolina Not for Profit Corporation

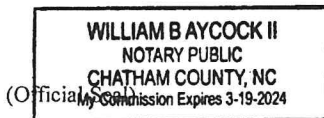
By: Eric Taylor
Name: Eric Taylor
Title: Sole Member of the Board of Directors

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

I certify that **Eric Taylor** personally appeared before me this day, acknowledging to me that they are the **Sole Member of the Board of Directors of The Hawthorne at Haw River Homeowners Association, Inc.** and signed the foregoing document in said capacity for the purposes herein indicated.

WITNESS my hand and official seal, this 20th day of April, 2021.



William B. Aycock II
Notary's Official Signature

William B. Aycock II
Notary's Printed or Typed Name

My commission expires: 3/19/24

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first, above written.

THE WASMUTHS

Mark Allen Wasmuth

Mark Allen Wasmuth

Meridith Phillippi Wasmuth

Meridith Phillippi Wasmuth



STATE OF NORTH CAROLINA
COUNTY OF CHATHAM

I certify that Mark Allen Wasmuth and Meridith Phillippi Wasmuth personally appeared before me this day, and signed the foregoing document..

WITNESS my hand and official seal, this 22nd day of April, 2021.

(Official Seal)

Glenn B. Lassiter Jr.
Notary's Official Signature

Glenn B. Lassiter Jr.
Notary's Printed or Typed Name

My commission expires: 9/16/2023

