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FOR REGISTRATION REGISTER OF DEEDS
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NEW HANOVER COUNTY, NC
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STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

**DECLARATION OF CONDOMINIUM
FOR PASSAGE POINT CONDOMINIUM**

This Declaration of Condominium for **PASSAGE POINT** Condominium (this "Declaration") is made this 8th day of April, 2008, by **PASSAGE POINT OF WILMINGTON, INC.**, a North Carolina corporation ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled the "North Carolina Condominium Act."

BACKGROUND STATEMENT

Declarant is the owner those parcels of real estate containing, in the aggregate, approximately 3.85 acres, located in the City of Wilmington, New Hanover County, North Carolina, and more particularly described on Exhibit A attached hereto (the "Land"). Declarant has constructed on the Land one (1) building containing eighteen (18) residential condominium units and one (1) building containing common amenities for the use of condominium unit owners, including a swimming pool bathhouse. Declarant also has constructed on the Land other common amenities, such as sidewalks, landscaped areas, a pool and other improvements. Declarant desires to submit the Land and the improvements located on the Land (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act (the "Act").

In addition, in accordance with the Act, Declarant has created a nonprofit, incorporated owners' association to which are delegated and assigned powers of maintaining and administering the common areas and facilities on the Property, of administering and enforcing the covenants and restrictions created in this Declaration, and of levying, collecting and disbursing the assessments and charges created in this Declaration, and of taking any steps or performing any acts deemed necessary or appropriate to preserve the values of condominium units within the Property and to promote the recreation, health,

RETURNED TO
Passage Point
**Will Bland*

safety and welfare of the unit owners.

STATEMENT OF DECLARATION

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, transferred, sold, conveyed, encumbered, occupied, developed and used subject to the following covenants, conditions, easements, uses, limitations, obligations, and restrictions, all of which are declared and agreed to be in furtherance of a plan for the establishment of the Property as a condominium, pursuant to the Act, and which shall run with the land and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall all inure to the benefit of each owner of any interest therein.

ARTICLE 1. DEFINITIONS

Unless it is plainly evident from the context that a different meaning is intended, the following terms, words, and phrases shall have the following meanings when used in this Declaration:

Section 1.1 Act. "Act" shall mean and refer to the North Carolina Condominium Act, Chapter 47C of the General Statutes of North Carolina, as amended from time to time.

Section 1.2 Additional Property. "Additional Property" shall mean and refer to the real estate described on Exhibit C attached hereto and incorporated herein by reference, together with the buildings and other improvements constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate, which Additional Property may be added to the Condominium pursuant to Declarant's exercise of the development right to add real estate to the Condominium, all as more particularly provided for in Section 2.2 of this Declaration.

Section 1.3 Association. "Association" shall mean and refer to PASSAGE POINT HOA, INC., a corporation organized and existing under the North Carolina Non-Profit Corporation Act pursuant to and in accordance with this Declaration, the Bylaws, and the Act.

Section 1.4 Buildings. "Building" shall mean and refer to each buildings located upon the Land which contain Units together with one (1) building which contains common amenities (sometimes referred to herein as the "swimming pool bathhouse Building") for the use of an Owner, and to any buildings which are hereinafter constructed upon any land that is later subjected to this Declaration.

Section 1.5 Bylaws. "Bylaws" shall mean and refer to the bylaws of the Association, as amended from time to time.

Section 1.6 Common Elements. "Common Elements" shall mean and refer to all portions of the Condominium other than the Units, as depicted on the Plans, and as more

particularly described in Section 5.1 of this Declaration.

Section 1.7 Common Elements Interest. "Common Elements Interest" shall mean and refer to the undivided percentage interest in the Common Elements allocated to each Unit, as set forth on Exhibit B attached hereto, the total of which shall equal one hundred percent (100%). The percentage of undivided interest in the Common Elements allocated to each Unit shall be made equally among all Units by using the ratio of each Unit to the total number of Units and shall and shall be used to allocate the division of proceeds, if any, resulting from any casualty loss or eminent domain proceedings, and to determine each Unit's share of Common Expenses and voting rights.

Section 1.8 Common Expenses. "Common Expenses" shall mean and refer to (i) any and all expenditures made by or financial liabilities of the Association, (ii) any allocations to reserves, pursuant to and in accordance with this Declaration, the Bylaws, and N.C.G.S. § 47C-1-103(5), and (iii) any assessments levied and billed to the Association for the maintenance, repair and operation of the "Common Area" as defined in Article II of the "Covenants, Conditions and Restrictions" (as hereinafter defined).

Section 1.9 Condominium. "Condominium" shall mean and refer to Passage Point of Wilmington Condominium, as established by the submission of the Property to the terms of the Act by this Declaration.

Section 1.10 Condominium Documents. "Condominium Documents" shall mean and refer to this Declaration, the Articles of Incorporation of the Association, the Bylaws, and the rules and regulations governing the use of the Property, as the foregoing may be amended and supplemented from time to time, and all attachments and exhibits thereto.

Section 1.11 Declarant. "Declarant" shall mean and refer to PASSAGE POINT OF WILMINGTON, INC., a North Carolina corporation. In addition, following recordation of a document transferring to another person or entity all or some of the Special Declarant Rights, pursuant to Section 6.2 of this Declaration, the term "Declarant" also shall mean and refer to that transferee.

Section 1.12 Declarant Control Period. "Declarant Control Period" shall mean and refer to the period commencing on the date hereof and continuing until the earlier of (i) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of all Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 herein) to an Owner other than Declarant; (ii) two (2) years after Declarant ceases to offer Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 herein) for sale in the ordinary course of business; or (iii) two (2) years after any development right to add new Units (including any Units which may be added to the Condominium upon the development of the Additional Property pursuant to Section 2.2 herein) was last exercised. Provided, however, and notwithstanding anything to the contrary that may appear herein, if at any time the Declarant Control Period terminates for the reason set forth in subsection (i) above,

and thereafter Declarant, pursuant to Section 2.2 herein, elects to add the Additional Property to the Condominium and construct additional Units upon such Additional Property such that, following such addition of the Additional Property to the Declaration and such construction of additional Units, Declarant has not conveyed seventy-five percent (75%) of all Units to Owners other than Declarant, the Declarant Control Period shall be reinstated until such time as it again terminates due to one of the events of termination stated herein. There shall be no limitation on the number of times the Declarant Control Period may terminate and be reinstated in accordance with the provisions of this Section 1.12.

Section 1.13 Declaration. "Declaration" shall mean and refer to this Declaration of Condominium for PASSAGE POINT Condominium, as it may be amended from time to time.

Section 1.14 Executive Board. "Executive Board" shall mean and refer to the governing body from time to time of the Association as constituted in accordance with the Articles of Incorporation of the Association, the Bylaws and the Act.

Section 1.15 Land. "Land" shall mean and refer to the real property subject to this Declaration, exclusive of any improvements located thereon or incorporated therein, which is more particularly described on Exhibit A attached hereto, together with any Additional Property that may be subjected to this Declaration in accordance with Section 2.2 herein.

Section 1.16 Limited Common Elements. "Limited Common Elements" shall mean and refer to those portions of the Common Elements allocated by this Declaration, or the terms of N.C.G.S. § 47C-2-102(2) or (4), for the exclusive use and benefit of one (1) or more, but fewer than all, of the Units, to the exclusion of all other Units, as more fully described in Section 5.2 of this Declaration, and as depicted on the Plans.

Section 1.17 Mortgage. "Mortgage" shall mean and refer to a mortgage or deed of trust constituting a first lien on a Unit.

Section 1.18 Mortgagee. "Mortgagee" shall mean and refer to the owner and holder of a Mortgage that has notified the Association in writing of its name and address, and that it holds a Mortgage on a Unit. Such notice will be deemed to include a request that the Mortgagee be given the notices and other rights described in Article XVI.

Section 1.19 Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Unit but shall exclude those persons or entities having an interest in any Unit as merely security for the payment or performance of an obligation.

Section 1.20 Plans. "Plans" shall mean and refer to the surveys, plans and specifications of the Buildings and Property, prepared by Coastal Site Designs and Stroud Engineering (surveyor) and The Evans Group (architect), and recorded under the name of the Condominium in the Condominium Book 17 at pages 304-305 in the Office of the Register of Deeds of New Hanover County.

Section 1.21 Property. "Property" shall mean and refer to the Land; the Buildings and all other improvements and structures located on the Land; and all easements, rights and appurtenances belonging or appertaining to the Land, together with any Additional Property that may be subjected to this Declaration in accordance with Section 2.2 herein, and all buildings, other improvements and structures located upon such additional land.

Section 1.22 Special Declarant Rights. "Special Declarant Rights" shall mean the rights reserved for the benefit of Declarant in the Condominium Documents, including all development rights, as more particularly described in Article VI of this Declaration.

Section 1.23 Unit. "Unit" shall mean and refer to those initial eighteen (18) Units located within the Building(s) containing residential Units, which are restricted to residential use (subject to the provisions of Section 7.1 herein), together with any additional Units which may be constructed in additional Buildings to be constructed on Additional Property subjected to this Declaration (in accordance with Section 2.2 herein), all of which Units shall be the subject of individual ownership by an Owner.

In addition, the definitions set forth in N.C.G.S. § 47C-1-103 are incorporated in this Declaration by reference, and the terms defined therein shall have the meanings set forth therein when used in this Declaration or the Condominium Documents, unless those terms are expressly defined otherwise in this Declaration or unless it is plainly evident from the context that a different meaning is intended.

ARTICLE II. DESCRIPTION OF CONDOMINIUM: PHASING

Section 2.1 The Property. The Property is located entirely in New Hanover County, North Carolina, contains approximately 2.41 acres more or less (Phase I), and is more particularly described on Exhibit A attached hereto and incorporated herein by reference. The Property is hereby subjected to the terms of the Act by this Declaration. The name of the Condominium is PASSAGE POINT Condominium.

Section 2.2 Additional Property and Phasing.

(a) Reservation of Right to Add Additional Property to Condominium. The Additional Property is described on Exhibit C attached hereto and incorporated herein by reference. Declarant has, pursuant to Section 1.2 of this Declaration, and does hereby, reserve the development right to add the Additional Property to the Condominium, together with all improvements which may be constructed by Declarant thereon.

(b) Conditions To and Limits Upon Exercise of Development Right to Add Additional Property. Declarant's right to add the Additional Property to the Condominium shall be subject to and conditioned upon fulfillment of the following requirements:

(i) Such right must be exercised no later than twenty (20) years after the date thereof.

(ii) Declarant shall have constructed upon the Additional Property improvements which are residential in use, and the exterior of any buildings constructed by Declarant shall be similar in architecture to the Buildings; provided however, Declarant makes no assurances that any units or buildings constructed upon the Additional Property shall be of comparable size and value to the Units.

(iii) The total number of Units in the Condominium may not exceed one hundred nine (109) Units.

(iv) No assurances are made with respect to the order in which portions of the Additional Property may be added to the Condominium.

(c) Procedure for Exercise. Such right shall be exercised by Declarant by the filing of an amendment or amendments to the Declaration in compliance with Section 47C-2-110 of the Act, and either new plats and plans or new certifications of plats and plans in accordance with Section 47C-2-109(d) of the Act. Declarant may develop the Additional Property in phases, and add portions of the Additional Property to the Condominium constituting separate phases by separate amendments. Notwithstanding any other provision of this Declaration to the contrary, no joinder or consent by any Owner or Mortgagee, or any party other than Declarant, shall be required for any such amendment to the Declaration to be effective.

Any such amendment shall reallocate the interests in the Common Elements Interest to all of the Units in the Condominium (including all those in the Condominium at the time of filing of such amendment, and all those added to the Condominium by such amendment), as required under Section 47C-2-110 of the Act, and in accordance with Section 5.3 of this Declaration.

(d) No Obligation to Exercise Special Declarant Right. Anything to the contrary in this Declaration notwithstanding, Declarant shall have no obligation to add the Additional Property to the Condominium, and does hereby reserve the right to develop the Additional Property as a separate project from the Condominium. In addition, Declarant may add only a portion of the Additional Property to the Condominium, and may develop the remainder of the Additional Property as a separate project from the Condominium. In the event Declarant so elects to develop any portion of the Additional Property as a separate project from the Condominium, Declarant shall still have the right to exercise all easements necessary to develop such property as reserved in Section 6.1(h) and Section 9.3 of this Declaration; and Declarant shall have no obligation to develop such portion of the Additional Property in a manner that is compatible (with respect to appearance or use) with the Condominium.

ARTICLE III. DESCRIPTION OF BUILDINGS

One (1) of the Buildings contain residential Units, and one (1) Building contains common amenities for the use of the Owners. The Buildings containing residential Units includes a first level containing six (6) Units, a second level containing six (6) Units, and a third level containing six (6) Units. The Building(s) containing residential Units contain eighteen (18) Units each in total; provided, however, that Declarant reserves the right to subdivide or combine Units

at its discretion, provided that Declarant complies with any applicable rules set forth in the Covenants, Conditions and Restrictions. The Buildings are more particularly described in the Plans, which show all particulars of the Buildings and the Units. The Plans contain a certification by Coastal Site Designs and Stroud Engineering, a North Carolina Registered Land Surveyor, and The Evans Group, a North Carolina Licensed Architect, that the Plans contain all the information required by N.C.G.S. § 47C-2-109.

ARTICLE IV.
DESCRIPTION OF UNITS

Section 4.1 Location of Buildings. The location and dimensions of the Buildings are shown on the Plans.

Section 4.2 Units. The location of Units within the Buildings, their dimensions, and their floor and ceiling elevations, are shown on the Plans. There are initially a total of eighteen (18) Units within the Property; provided, however, that Declarant reserves the right to create additional Units upon Additional Property which may be subjected to this Declaration pursuant to Section 2.2 herein, or to subdivide or combine any Units in the future for any reason, provided that Declarant complies with any applicable rules set forth in the Covenants, Conditions and Restrictions. The identifying number for each Unit is set forth on the Plans.

Section 4.3 Unit Boundaries. The boundaries of each Unit are as follows:

- (a) Upper Boundary: The horizontal plane of the top surface of the wallboard in the ceilings within each Unit.
- (b) Lower Boundary: The horizontal plane of the top surface of the concrete slab (for first floor Units) and the horizontal plane of the top surface of the gypcrete sub flooring for all other Units.
- (c) Vertical Boundaries: The vertical planes which include the back surface of the wallboard of all walls bounding the Unit, extended to intersections with each other, and with the upper and lower boundaries.

As provided in N.C.G.S. § 47C-2-102(1), all furring, wallboard, tiles, paint, finished flooring and any other materials constituting any part of the finished surfaces of the perimeter walls, floors, and ceilings are part of the Unit. As provided in N.C.G.S. § 47C-2-102(2), if any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit shall be a Limited Common Element allocated to that Unit, as provided in Section 5.2 below, and any portion thereof serving more than one Unit, or any portion of the Common Elements, shall be a Common Element.

ARTICLE V.
COMMON ELEMENTS

Section 5.1 Common Elements. The Common Elements include all portions of the Condominium that are not part of the Units, including without limitation:

- (a) All improvements located on the Land outside of the Buildings, including without limitation all paved areas and all landscaped areas.
- (b) All other portions of the Buildings located outside of the Units, including without limitation the following: one (1) elevator, two (2) stairwells, all elevator equipment rooms and other mechanical rooms, all other portions of the common mechanical systems for the Buildings, all hallways and corridors located outside of the Units, and the roof.
- (c) The Limited Common Elements described in Section 5.2 below.
- (d) The foundations, roofs, columns, girders, beams, supports, exterior and interior load-bearing walls, floors within and between Units, and all other structural elements of the Buildings.
- (e) Any public connections and meters for utility services that are not owned by the public utility or municipal agency providing such services.
- (f) All tangible personal property required for the operation and maintenance of the Condominium that may be owned by the Association.
- (g) The Building containing the swimming pool bathhouse on the Plans.
- (h) The mail station, maintenance building, trash receptacles/bins, pool, and pool facilities.
- (i) The entrance, gate or gate houses which may be installed or built.
- (j) Open spaces, recreation facilities, perimeter and interior fencing which may be installed by Declarant.
- (k) Private streets (if any), and the areas within any storm water easements and the facilities constructed thereon and which serve more than one (1) Unit and are not maintained by any governmental authority. Common Areas shall also include water and sewer lines which serve more than one (1) Unit and are not located within a public utility easement or public street right of way.

Section 5.2 Limited Common Elements. The Limited Common Elements shall be composed of the following:

- (a) Those portions of any chute, flue, duct, wire, pipe for water or sewer, conduit, bearing wall, bearing column, or any other fixture lying partially within and partially outside the designated boundaries of a Unit, but serving exclusively that Unit, which shall be Limited Common Elements allocated exclusively to that Unit.
- (b) Any shutters, awnings, window boxes, porches, decks, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside that Unit's boundaries, which shall be Limited Common Elements allocated exclusively to that Unit.

(c) Any portions of the heating, ventilating, and air conditioning systems, including a heat pump for each Unit, and all fans, compressors, return air grills and thermostats, whether located inside or located outside the designated boundaries of a Unit, which shall be Limited Common Elements allocated exclusively to the Unit or Units that they serve.

(d) Those areas indicated as Limited Common Elements on the Plans.

The cleanliness and orderliness of the Limited Common Elements shall be the responsibility of the individual Owner having the right to the use and enjoyment of such Limited Common Elements. Notwithstanding any other provisions of this Declaration, or any provision of the Bylaws or the Act, the obligation for maintenance, repair, or replacement of any portions of the heating, ventilating, and air conditioning systems that are Limited Common Elements shall be the sole responsibility of the Owners of the Units to which such Limited Common Elements are allocated. References in this Declaration to "Common Elements" shall include Limited Common Elements unless the context clearly indicates otherwise. The allocation of use of Limited Common Elements to the Units as provided for in this Declaration shall not be altered without the unanimous consent of the Owners whose Units are affected.

Section 5.3 Undivided Interests of Owners in Common Elements. The percentage interest in the Common Elements allocated to each Unit shall be the Common Elements Interest for that Unit as set forth on Exhibit B attached hereto in accordance with the formulas set out in this Article V. The Common Elements Interest allocated to each Unit shall be changed upon the relocation of boundaries of Units, the subdivision of Units in accordance with Sections 9.5(a) and (b) or the addition of new Units in accordance with Section 2.2(c) herein.

Section 5.4 Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated on the following formulas:

(a) **Undivided Interest in the Common Elements.** The percentage of the undivided interest in the Common Elements allocated to each Unit shall be allocated equally among all Units such that each Unit shall have a fractional interest in the Common Elements, such fraction having "1" as the numerator, and having as the denominator, a number equal to the total number of Units.

(b) **Liability for the Common Expenses.** Each Unit in the Condominium shall share equally in the Common Expenses of the Condominium so that the percentage of liability for the Common Expenses allocated to each Unit is calculated by dividing the number "100" by the total number of Units in the Condominium.

(c) **Votes.** Each Unit in the Condominium shall have One (1) vote in association matters.

Section 5.5 Maintenance of Common Elements. The Association shall be responsible for the maintenance and repair of all Common Elements, except that the Owners having the right to use and enjoy such Limited Common Elements shall perform everyday and routine maintenance with respect to such Limited Common Elements, including without limitation cleaning and sweeping patios or balconies, and except for maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his or her agents, invitees or family members, which shall be the responsibility of that Owner. All other repairs of Limited Common

Elements other than everyday and routine maintenance, including without limitation the painting of such Limited Common Elements, shall be performed by the Association, and the costs thereof shall be a Common Expense of the Association. The Association may repair a Limited Common Element if the applicable Owner fails to do so, and the costs of such repair shall be charged to such owner as an individual assessment, as provided in Section 10.5 herein. In addition, each Owner shall maintain and repair any utilities, including without limitations pipes and cables, which are located within such Owner's Unit at the Owner's sole cost and expense, and the Association shall maintain and repair any utilities which are located within the Common Elements, the cost of which maintenance and repair shall be a Common Expense of the Association. Any Common Expense associated with the maintenance, repair or replacements of heat exchanger, heat outlet, enclosures and mechanical attachments will be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element will be assessed equally among the Units to which it is assigned.

Section 5.6 Parking Rights. Declarant reserves the right to require Owners to display appropriate permits on their vehicles. The guests and invitees of Owners shall have a nonexclusive easement to use those parking spaces on the Property which are not designated by Declarant for use by certain Owners or any other persons or entities; provided however, that Declarant has the right to designate the location and number of parking spaces which may be used by such guests and invitees in Declarant's sole discretion in any rules and regulations governing the Property which are promulgated from time to time by Declarant or the Association.

Section 5.7 Addition of Common Elements and Limited Common Elements. Declarant may add additional Common Elements and Limited Common Elements to the Condominium if Declarant elects to add the Additional Property to the Condominium in accordance with Section 2.2 herein.

ARTICLE VI. SPECIAL DECLARANT RIGHTS

Section 6.1 Special Declarant Rights. Special Declarant Rights are those rights reserved for the benefit of Declarant in the Condominium Documents, which rights may be exercised within twenty (20) years following the date of recording of this Declaration, and shall include without limitation the following rights:

- (a) The right to complete any improvements shown on the Plans.
- (b) The right to maintain sales offices, model units and signs advertising the Condominium (including the right to maintain a sales office in the swimming pool bathhouse building that is part of the Common Elements). There shall be no limit on the number of Units or location of Units which the Declarant may use as sales offices or model Units, and such Unit or Units may be relocated from time to time. The Declarant may utilize a portion of the swimming pool bathhouse Building as a sales office for as long as the Declarant owns any Unit.
- (c) The right to use easements through the Common Elements for the purpose of completing construction.

(d) The right to appoint or remove officers of the Association or members of the Executive Board during the Declarant Control Period.

(e) The right to subdivide or combine the Units, as provided in Section 9.5(b).

(f) The development right to subject the Additional Property to this Declaration in accordance with Section 2.2 herein, and to develop additional Buildings thereon, the exterior of which (if subjected to this Declaration) shall be similar in architecture to the Buildings described in this Declaration.

(g) The right to exercise any other rights granted to or reserved by Declarant in the Condominium Documents.

(h) To exercise the easements hereby reserved over the Condominium to provide pedestrian and vehicular traffic with ingress and egress to and from the Additional Property, and to tie into, connect to, and utilize utility facilities located on the Property for the purpose of extending such utilities to the Additional Property, in connection with the development of the Additional Property, irrespective of whether the Additional Property is to be added to the Condominium, as contemplated in Article II of this Declaration, or is to be developed as a separate development apart from the Condominium.

Section 6.2 Transfer of Special Declarant Rights. Declarant may transfer any Special Declarant Rights created or reserved under the Condominium Documents to any person or entity, by an instrument evidencing the transfer duly recorded in the Office of the Register of Deeds for New Hanover County. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in N.C.G.S. § 47C-3-104.

ARTICLE VII. RESTRICTIONS ON USE

Section 7.1 Residential Use. All Units shall be used for residential purposes only; provided, however, that portions of the Units also may be used for home office purposes by the residents of such Units, provided that the primary use of each Unit is residential, no business customers of the Owner visit the Unit and the Owner does not advertise the address of the Unit as such Owner's business address. Notwithstanding the foregoing, Declarant may maintain any one or more Units owned by Declarant as a sales office or model Unit, and may relocate any such model Units from time to time. In addition, all Units shall be used in a manner which is consistent with those rules and regulations promulgated from time to time in accordance with the Covenants, Conditions and Restrictions.

Section 7.2 Nuisance. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or nuisance to the other Owners, or endanger the health and safety of any Owner. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of, or an increase in the premium for, the policy of property insurance for the Property. Owners shall observe quiet hours between 10:00 p.m. and 10:00 a.m., and are asked to refrain from making or permitting any

disturbing noises by members of their families, guests or tenants. The loud playing of stereos, televisions or musical instruments is discouraged, together with any noisy or boisterous conduct which would disturb the peace and quiet enjoyment of other Owners. All Units located on the second (2nd) and third (3rd) floor must cover at least seventy (70%) percent of the foyer, dining room, and living room Unit floor areas with area rug(s) or other noise dampening floor covering for those areas having hardwood or tile flooring to dampen, prevent or otherwise minimize the noise within the Unit to the unit owner(s) situated immediately below.

Section 7.3 Prohibitions on Use of Common Elements. The Common Elements shall not be used for the storage of personal property of any kind, including without limitation bicycles, wagons and carts. Stairs, entrances, lobbies, hallways, sidewalks, driveways, and parking areas shall not be obstructed in any way, or used for other than their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Owner either in his or her Unit or upon the Common Elements which despoils the appearance of the Property.

Section 7.4 Garbage. Trash, garbage and other waste shall be kept in sanitary containers within each Unit, and the Owner of each Unit shall be responsible for placing such garbage in the designated common trash bin or receptacle on a regular basis. No Owner may place large articles, including without limitation furniture or mattresses, in or near the trash bin or receptacle area. Boxes shall be completely collapsed and shredded before disposal. No trash or garbage shall be kept or stored on the patios or balconies or placed outside of the front door of a Unit or in the breezeway of any Building for any period of time.

Section 7.5 Parking. The parking rights of Owners or their guests are described in Section 5.5 of this Declaration, and are subject to any rules or regulations that may be promulgated by Declarant or the Association. No boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be stored on the Property at any time. The Association shall have the right to tow any vehicle in violation of this Section 7.5 at its owner's expense.

Section 7.6 Leases of Units. Any lease of a Unit or portion thereof shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the Condominium Documents and that any failure by the lessee to comply with all of the terms of such Condominium Documents shall constitute a default under the lease. During the Declarant Control Period, no Unit may be leased for a period shorter than six (6) months; provided however, Declarant reserves the right to lease unsold Units for periods shorter than six (6) months. After the Declarant Control Period has expired, the Association, by casting the majority of the votes represented at a meeting at which a quorum is present, in person or by proxy, may determine the appropriate policies regarding leases of Units. Anything to the contrary in this Declaration and the other Condominium Documents notwithstanding, however, the leasing of Units by Owners may not be prohibited, directly or indirectly, without the written consent of all Owners; and, furthermore, no minimum lease term of more than six (6) months may be established without the prior written consent of all Owners. If any Owner should lease its Unit, such Unit Owner must provide to the Association in writing the name and phone number of the lessee. In addition, such Owner must provide its lessee with a copy of Article VII of this Declaration and any rules and regulations in existence at the time of such lease, together with any updated or amended rules and regulations which may be promulgated during the life of such lease.

Section 7.7 No Timeshares. No interest in any Unit may be subjected to a time share program, as that term is defined in N.C.G.S. § 93A-41(10).

Section 7.8 Animals. No animals, livestock, or poultry of any kind shall be kept or maintained on the Property or in any dwelling located thereon except that small common household pets (limited to dogs, cats, fish, and only such other species as may be approved by the Executive Board) may be kept or maintained in each Unit, provided they are not kept or maintained for commercial purposes. No pet shall be permitted upon the Common Elements unless carried or leashed by a person that can control the pet, and in no event may any savage or dangerous pet be kept within any Unit or the Condominium. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) on the Property and within the Units. Pets shall not be permitted to defecate in the Common Elements, and each Owner shall clean up immediately after his or her pet if an accident occurs. All pets shall be registered or inoculated as required by law, and shall be registered with the Association. Each Owner shall hold the Association harmless from any claim resulting from any action of his or her pet, and shall repair at his or her expense any damage to the Common Elements caused by his or her pet. If any Owner violates these rules more than twice in any twelve (12) month period, then in addition to any fines provided in the Bylaws, the Association shall have the right to require the Owner to remove the pet permanently from the Property upon not less than ten (10) days' written notice.

Section 7.9 Utilities. Total electrical usage in any Unit shall not exceed the capacity of the circuits for that Unit as labeled on the circuit breaker boxes, and no electrical device causing overloading of the standard circuits may be used in any Unit without permission of the Association. All clothes dryers will have lint filters, and all range hoods will have grease screens, and such screens and filters shall be used at all times and kept clean, and in good order and repair, by the Owner of the Unit in which they are located.

Section 7.10 Floor Load. There shall be no floor load in excess of forty (40) pounds per square foot in any Unit, sixty (60) pounds per square foot on any balcony or patio or one hundred pounds (100) per square foot within any corridor or stairwell, unless an engineering determination of the floor load capacity in the area of heavy use is approved by the Association.

Section 7.11 Windows. No curtains, draperies or blinds shall be installed or hung in any window of any Unit unless they have a white or neutral lining or backing on the side exposed to the window. No other colors may be used unless approved in writing by the Association prior to installation. No storm windows shall be installed in any Unit, and no stickers or decals may be affixed to the windows in any Unit or elsewhere on the exterior of a Unit, except that decals of security systems may be affixed to windows.

Section 7.12 Architectural Control. No exterior addition to, or change or alteration in, any Unit or the Common Elements shall be made until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and Approved in writing by the Association. No Owner shall penetrate the siding on the exterior of a Building in any way. Owners may display the American Flag on their patios or balconies on national holidays, Flag Day (June 14) and other nationally recognized dates; provided that the means of mounting the flag shall be approved in writing by the Association. No other flags or hangings shall be permitted on balconies, patios or front doors to Units.

Section 7.13 Signs. No signs or other advertising devices, including without limitation "For Sale" and "For Rent" signs, shall be displayed on or about the exterior of any Unit, or in the Common Elements. Notwithstanding the foregoing, Declarant shall have the right to maintain upon the Property advertising signs during the Declarant Control Period, provided those signs comply with applicable governmental regulations.

Section 7.14 Maintenance. The Owner of each Unit is responsible for maintaining his or her Unit as well as performing everyday and routine maintenance of the Limited Common Elements appurtenant thereto, as more particularly set forth in Section 5.4 herein. Each Owner shall keep his or her respective Unit and its appurtenant Limited Common Elements in a clean, neat and orderly condition and in a good state of maintenance and repair. If an Owner fails to comply with the standards or requirements of the Association relative thereto, the Association shall assess the defaulting Owner the cost thereof as an individual assessment, as more particularly described in Section 10.5 herein, and shall undertake to effect said compliance.

Section 7.15 Rules and Regulations. In addition to the use restrictions set forth in this Declaration, reasonable rules and regulations governing the use of the Property may be made and amended from time to time by Declarant during the Declarant Control Period and the Association following the expiration of the Declarant Control Period. Copies of such regulations and amendments thereto shall be posted prominently prior to their effective date, and shall be furnished by Declarant or the Association to all Owners upon request.

Section 7.16 Satellite Dishes and Antennas. Except as otherwise allowed by applicable law, any Owner wishing to install a satellite dish or antenna must comply with this Section 7.16, and in no event may any satellite dish penetrate the roof. An exterior satellite dish which does not penetrate the roof may be placed on the exterior of any Unit or within the patio or balcony appurtenant to such Unit with the prior written approval of the Executive Board, which may be withheld in its sole discretion, so long as it meets the following criteria: (i) it is installed within the confines of the Unit's balcony or patio only and does not hang out over any airspace; (ii) it is free-standing or unattached on a pedestal or tri-pod, and may be clamped (but not bolted) within the confines of the Unit's balcony or patio railing without penetrating the exterior of any Building or railing; (iii) it shall not be bolted to the exterior siding, railings, roofs or any window sill; and (iv) it shall not exceed one meter (39 inches) in diameter. The location of any such exterior television antenna, or satellite dish shall be subject to the reasonable prior approval of the Executive Board, taking into account the appropriate standards set forth in the regulations of the Federal Communications Commission, and to the extent reasonably practical, the Executive Board may require that such antenna or satellite dish be screened from public view. Prior to installing the antenna or satellite dish, the Owner shall furnish to the Executive Board a copy of his or her installation plans. The Association shall have the right to perform any portion of the installation work at the expense of the Owner, or to require that any portion of the work be performed by contractors designated by the Executive Board. The Owner shall also be responsible for any damage caused by the removal of the antenna or satellite dish, which repair may be performed by the Association at its election, and reimbursed by the Owner to the Association. Any Owner installing an antenna or satellite dish under this Section 7.16 shall indemnify, defend and hold the Association harmless from and against any loss, damage, claim or other liability resulting from the installation, maintenance, repair, use and/or removal of the antenna or satellite dish.

Section 7.17 Balconies and Patios. The balcony and patio areas shall be kept in a clean, neat, and orderly condition at all times, and shall not be used for the storage of bicycles, overnight storage of garbage, or for the drying of laundry. In particular, towels or banners shall not be hung on the balcony or patio railings, and any dead plants shall be removed promptly. No gas or charcoal grills may be stored or used on any patio or balcony, but electric grills are permitted. The Association may remove any unauthorized grill from a patio or balcony and dispose of such grill, all at the applicable Owner's expense. Flags may be displayed upon patios or balconies in accordance with Section 7.12 herein. All outside lighting (including without limitation holiday lighting) shall use clear bulbs only. No fake/faux/plastic flowers or greenery may be displayed on balconies or patios.

Section 7.18 Illegal Activities. The Owner, any member of the Owner's household, or a guest or other person under the Owner's control shall not engage in or facilitate criminal activity on or near the Condominium.

Section 7.19 Supervision of Children. Owners are asked to be responsible for their own children and ensure that they abide by this Declaration and any rules and regulations as may be adopted in accordance with the Bylaws. Children should not play in or around the trash bins, parking areas and retention ponds. Young children must be supervised by an adult at all times. Toys, including without limitation bicycles and play equipment, must be stored within a Unit or storage space, and may not be stored within the Common Elements or on balconies or patios. Unattended articles may be confiscated and disposed of by the Association at the applicable Owner's expense.

ARTICLE VIII. THE ASSOCIATION

Section 8.1 Organization of Association. A nonprofit North Carolina corporation known and designated as PASSAGE POINT HOA, INC. (the "Association") has been organized to provide for the administration of the Property, and the Association shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation, the Bylaws, and the North Carolina Condominium Act. Every Owner shall be required to be and shall automatically be a member of the Association by virtue of its ownership interest in a Unit.

Section 8.2 Powers, Lien for Assessment. In the administration of the operation and management of the Property, the Association shall have and it is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments in the manner provided in Article X below and in Article 4 of the Bylaws, and adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Association may deem to be in the best interest of the Owners in accordance with the Bylaws. Any sum assessed by the Association remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on the Unit with respect to which such sum was assessed upon filing in accordance with N.C.G.S. § 47C-3-116, and shall be enforceable by the Association in accordance with N.C.G.S. § 47C-3-116 and Article 4 of the Bylaws.

Section 8.3 Declarant Control Period. During the Declarant Control Period, Declarant reserves the right to appoint and remove any Executive Board members; provided, however, (i)