

COMMON INTEREST COMMUNITY DECLARATION

OF

HIGH PARK ROAD ASSOCIATION

The undersigned persons, Edwin J. Fischer, Charles T. Frey, and Cedaredge Park Development Co., Ltd, a Colorado limited partnership, (hereinafter the Declarants) being the owners in fee simple title of certain real property more particularly described and designated in Schedule A attached hereto and incorporated herein by this reference, do hereby execute and acknowledge this Common Interest Community Declaration pursuant to the Colorado Common Interest Ownership Act, in writing as follows:

ARTICLE I.

Name

The name of this common interest ownership association is:

HIGH PARK ROAD ASSOCIATION

and this Association is a planned community under the provisions of the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et seq.

ARTICLE II.

County of Activity

The activities of this Association shall be conducted entirely within Delta County, Colorado.

ARTICLE III.

Description of Real Estate

The real estate served by the Association is described as more particularly set forth in Schedule A attached hereto and incorporated herein by this reference.

ARTICLE IV.

Maximum Number of Units Served

The Declarants reserve the right to create 50 units (tracts or parcels of land to be served by the roadway to be owned by the Association).

ARTICLE V.
Description of Units

Units created by the Declarants shall be tracts or parcels of land depicted upon plats or maps filed herewith or, as to areas reserved for future development, to be filed in the real estate records of Delta County and having reference to this Common Interest Community Declaration or amendments hereof, which tracts or parcels of land are now, or will be, served with access for ingress and egress from the High Park Road as shown upon the plat of the High Park Road Association recorded herewith.

ARTICLE VI.
Description of Common Elements

The common element of the Association shall be a roadway, known as the High Park Road, serving all of the units, which roadway is more particularly described and located as set forth upon the plat of the High Park Road Association recorded herewith. The Declarants reserve the right to create and declare extensions of the roadway to be limited common elements to serve a limited number of units within the Association, which portions of the roadway shall be for the private use of such units.

ARTICLE VII.
Reserved Development Rights

The Declarants reserve the right to develop additional lands to be served by the High Park Road and to authorize and permit the joinder of such other lands into the High Park Road Association as may reasonably be served with road access by the High Park Road at any time within 10 years from the effective date of this Declaration.

ARTICLE VIII.
Allocation of Interests

Section 1: The Declarants contemplate the subdivision of the subject real property into 50 units consisting of tracts of not less than 35 acres each and the owners of each tract or parcel of land within the Association shall be responsible for 2.0% of the expenses of the Association including, without limitation, the expenses of operation, maintenance, repair, and replacement of the common interest roadway, and costs of administration of the Association. The costs of maintenance of the entire road shall be assessed to the members, prorata, without regard to the portion of the road actually utilized by the members. Nothing herein shall require the removal of snow or the installation or maintenance of any all-weather surface.

Section 2: In the event of future development of additional units, the allocation shall be adjusted by the Association to provide for the payment of such expenses, pro rata, with each lot or tract responsible for an equal share of the expenses; provided, however, that the Declarants reserve the right to create and declare extensions of the roadway to be limited common elements with the specific costs of operation, maintenance, repair and replacement of such extensions of the roadway to be allocated among the lots or tracts served separately by such limited common elements, prorata.

Section 3: Pursuant to the provisions of C.R.S. 38-33.3-316, the Association shall have the power to levy upon the membership an assessment, as needed, to defray the costs of operation and maintenance of the road to keep the same in a serviceable condition for motor vehicle travel as may be determined by the Board of Directors and to defray the proper expenses of the corporation in conducting any activities authorized hereinabove. Said assessment shall be levied and collected as provided in the Articles of Incorporation of the High Park Road Association. Said assessment shall be and constitute a first and prior lien against each tract of land superior to all other liens and encumbrances.

Section 4: Voting rights of Association members shall be as set forth in the Bylaws of the Association.

ARTICLE IX.

Restrictions on use of units.

Each tract of land or unit within the High Park Road Association, except Unit 1, shall be subject to the following restrictive covenants relating the use and occupancy of said tracts:

Section 1. No structure of a temporary character, trailer, mobile home, mobile living unit, basement, tent, shack, garage, barn or outbuilding shall be parked, placed or erected and occupied as a residence, either temporarily or permanently, upon any lot covered by these covenants; provided, however, that any mobile living unit in the possession of parties visiting owners of any one or more of the lots covered by these covenants, may be parked upon the lot of said owners and occupied for a period not to exceed thirty (30) days in any calendar year. This restriction shall also apply to double-wide mobile homes designed for permanent attachment to the land; but shall not apply to modular homes which otherwise comply with the restrictions imposed by this Article IX.

Section 2. Except as otherwise provided hereinbelow, all lots in said subdivision shall be known and designated as residential lots and no structures shall be erected, altered,

placed or permitted to remain on any lot other than detached single-family dwellings with private garage and other outbuildings incidental to residential use of said lot.

Section 3. All dwellings, garages and other outbuildings constructed upon the lots covered by these covenants shall be of good quality of workmanship and material and the floor space of any dwelling shall not be less than 600 square feet. In this regard the construction of any structure upon any lot shall be completed with reasonable diligence after commencement of said structure. The exterior of all such structures shall be constructed of logs, log siding, or native stone masonry and all roofs shall be constructed of slate, composition or synthetic shingles or suitable bonded or impregnated color metal or other fire-proof roofing material; provided, however, that all such roofing material shall be non-glare, dark gray, brown, reddish brown or dark green in color. It is the intention of the Declarants in adopting this covenant to provide for the construction of residential structures which are compatible with the surrounding forest environment.

Section 4. Except as provided hereinbelow, no trade or business of a commercial nature, including the exploration and development of minerals other than oil and gas, in, upon or under any lot covered by these covenants, nor any noxious or offensive activity shall be carried on upon any such lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. This restriction shall not preclude exploration and development of oil and gas. With the prior written consent of the Declarants (or the Board of Directors of the High Park Road Association after control of the Association is relinquished by the Declarants) a unit owner may be permitted to use and occupy a unit located on a tract of not less than 35 acres as a commercial hunting lodge or outfitter facility. In granting such permission the Declarants (or the Board of Directors of the Association) may restrict the number of hunters to be accommodated by the facility and require the submission of plans and specifications for such facilities for review and approval.

Section 5. Each lot and the improvements thereon shall be maintained by the respective owner thereof in good condition and neat appearance and no lot shall be used or maintained as a dumping ground for trash, junk or rubbish. Trash, garbage and otherwise wasteful materials shall not be kept on any lot except in containers designated for storage and disposal of the same, which containers shall be kept in a clean and sanitary condition at all times.

Section 6. A unit may be resubdivided in such a manner as to create addition units; provided, however, that no unit shall be less than five (5) acres. (The subdivision of land into

tracts of less than 35 acres shall be accomplished only pursuant to applicable subdivision regulations of the County of Delta, Colorado.) Any extension of the High Park Road to serve units within such resubdivision shall be constructed at the expense of the owners served thereby to specifications established by the Board of Directors of the Association and shall be deemed limited common interests for the use and benefit of the owners of such additional units. Such units shall bear their proportionate share of the expenses of maintenance and repair of such road extension in addition to their proportionate share of the expenses of the maintenance and repair of the High Park Road as reallocated pursuant to Section 2 of Article VIII hereinabove.

Section 7. Any unit owner desiring to fence out livestock from his tract may do so at his expense and the provisions of the Colorado partition fence statute (C.R.S. 35-46-112 and 35-46-113) shall not apply, except as to perimeter boundaries of the Association property; provided, however, that any unit owner who fences his or property shall install at his expense, a cattle guard at each location at which such fence would cross the High Park Road and an adjoining livestock gate to permit the passage of livestock through his lands.

Section 8. Portions of the property may be subject to an easement for the movement of cattle to and from National Forest grazing lands located above the Association property and no owner shall have any objection to the seasonal movement of cattle through his lands to and from the National Forest lands or the lands of other unit owners; provided, however, that cattle shall not be grazed or pastured upon the lands of any unit owner without the prior written consent of the unit owner.

Section 9. Unit owners shall make use of the High Park Road in a reasonable manner, traveling said road only at speeds which are safe for the prevailing road conditions with due regard for the minimization of damage to the roadway in wet weather and for the safety of other users of the road.

Section 10. The High Park Road shall be and remain a private road for the use of members of the High Park Road Association, being owners of the Association property; provided, however, that the Association may grant, convey and dedicate the roadway to public use upon the following conditions:

a. The County Commissioners of Delta County, Colorado, shall have approved the incorporation of the High Park Road into the county road system for maintenance and repair; and

b. Such dedication or conveyance shall have been approved by the affirmative vote of not less than eighty percent (80%) of the membership of the High Park Association, as required for the conveyance of any property

of the Association pursuant to C.R.S. 38-33.3-312.

Section 11. Any owner of any unit within the High Park Road Association, and the Board of Directors of the Association, shall have the right to enforce these covenants by maintaining an action at law or in equity against any person or persons violating or attempting to violate any restriction or covenant herein, by seeking either to enforce said covenant or restrain said violation or to recover damages for the violation thereof, or both injunctive relief and the recovery of such damages and costs of such proceeding, including reasonable attorney fees incurred connection therewith.

Section 12. Invalidation of any one of these restrictions by judgment or court order shall in no way affect any of the other provisions or covenants herein stated.

ARTICLE X. Rules and Regulations

Section 1. Power to adopt regulations. The Board of Directors shall be entitled to establish reasonable rules and regulations for the use of the road including the establishment of speed limits, the restriction of heavy trucks and trailers under bad weather conditions, and such other reasonable provisions as they may determine to be appropriate from time to time. In the event that a violation of such rules and regulations results in damage to the road or constitutes a threat to the safety of the members of the Association, the Board of Directors shall be entitled in the name of the Association to bring an action in any court of competent jurisdiction for recovery of damages or injunction, or both such remedies, and the Association shall further be entitled to recover all costs of such judicial action including reasonable attorney fees.

Section 2. Status of roadway. The subject roadway shall at all times remain a private road for the sole and exclusive use of the members of the Association, their families and invitees. No member shall have the right or authority to grant or convey any right, title or interest in and to said roadway to any person other than the purchaser of such member's parcel or tract of land, as such rights are appurtenant thereto under these Articles.

Section 3. Locked gates. The board of directors may maintain locked gates restricting access to the roadway to the membership, their families and invitees and each member shall be entitled to access through such gates by key or combination.

Section 4. Responsibility of members. Each member shall be responsible for the actions and omissions of his family members

and invitees with respect to their compliance with the Rules and Regulations of the Association governing the use of the roadway and shall be liable for any and all damages to the roadway arising out of the use or misuse of the roadway by such family members and invitees.

ARTICLE XI.
Covenants Running with the Land

The provisions of this Common Interest Community Declaration shall constitute covenants running with the lands of the members and shall be binding upon and inure to the benefit of the undersigned, their heirs, assigns, personal representatives, and successors from and after the recording of these Articles of Association in the records of the Clerk and Recorder of Delta County, Colorado.

ARTICLE XII
Reservation of Control of Association

Pursuant to C.R.S. 38-33.3-303, the Declarants hereby reserve control of the Association, including the right to appoint and remove officers and members of the executive board of the Association until either (1) a date 60 days after the conveyance of seventy-five percent (75%) of the units that may be created, (2) a date two years after the last conveyance of a unit by a declarant in the ordinary course of business, or (3) two years after any right to add new units was last exercised. Not later than sixty (60) days after the conveyance of twenty-five percent (25%) of the units that may be created to unit owners other than declarants, at least one member and not less than twenty-five percent (25%) of the members of the executive board must be elected by the unit owners other than the declarants. Not later than sixty (60) days after the conveyance of fifty percent (50%) of the units that may be created to unit owners other than declarants, not less than thirty-three and one-third percent (33 1/3rd%) of the members of the executive board must be elected by the unit owners other than the declarants.

ARTICLE XII.
Amendments to Declaration

This Declaration may be amended or repealed, in whole or in part, only in accordance with the provisions of C.R.S. 38-33.3-218, as amended.

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SCHEDULE A

Lands of Edwin J. Fischer:

Parcel 1: A part of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and a part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T 13 S, R 95 W of the 6th P.M. and a part of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, T 13 S, R 95 W of the 6th P.M. more particularly described as follows:

Beginning at the SE corner of SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T 13 S, R 95 W, 6th P.M.; thence S 0°13'40" E 57.79 feet, along the Subdivision line; thence leaving the subdivision line S 87°34'27" W 866.91 feet; thence N 0°08'39" W 327.08 feet; thence N 39°35'06" W, 293.75 feet; thence S 87°56'01" W, 447.47 feet; thence N 0°49'58" W, 816.28 feet to a point on the subdivision line; thence 88°42'32" E, 1488.35 feet along the subdivision line to the NE corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, T 13 S, R 95 W, of the 6th P.M.; thence S 1°07'04" E, 1292.19 feet along the East side of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 2 to the point of beginning and containing 39.12 acres more or less.

Parcel 2: A TRACT OF LAND SITUATE IN PARTS OF THE SW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ AND THE SE $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SECTION 2 AND THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ TO SECTION 11 ALL IN T13S, R95W OF THE 6TH P.M. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHENCE THE SW CORNER OF SECTION 2, T13S, R95W OF THE 6TH P.M. BEARS S67°32'39"W A DISTANCE OF 1379.91 FEET AND CONSIDERING THE WEST LINE OF THE NW $\frac{1}{4}$ OF SAID SECTION 11 TO BEAR N00°44'22"W AND ALL OTHER BEARINGS RELATIVE THERETO;

1. THENCE N87°56'01"E 447.47 FEET;
2. THENCE S39°35'06"E 293.75 FEET;
3. THENCE S00°08'39"E 327.08 FEET;
4. THENCE S00°11'15"E TO THE CENTER LINE OF A 60 FOOT WIDE COUNTY ROAD EASEMENT A DISTANCE OF 606.90 FEET;
5. THENCE NORTHERLY ALONG CENTER LINE OF A 60 FOOT WIDE COUNTY ROAD EASEMENT THE FOLLOWING COURSES AND DISTANCES:
 - A. N58°13'38"W 142.29 FEET;
 - B. ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 116.62 FEET, THE LONG CHORD OF WHICH BEARS N41°36'37"W 114.99 FEET, THE RADIUS OF SAID CURVE BEING 201.05 FEET;
 - C. N24°59'36"W 41.53 FEET;
 - D. ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 195.69 FEET, THE LONG CHORD OF WHICH BEARS N39°31'36"W 193.60 FEET, THE RADIUS OF SAID CURVE BEING 385.75 FEET;
 - E. N54°03'36"W 71.36 FEET;
 - F. ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 197.85 FEET, THE LONG CHORD OF WHICH BEARS N43°47'36"W 196.79 FEET, THE RADIUS OF SAID CURVE BEING 552.04 FEET;
 - G. N33°31'30"W 91.04 FEET;
 - H. ALONG THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 119.38 FEET, THE LONG CHORD OF WHICH BEARS N26°23'30"W 119.07 FEET, THE RADIUS OF SAID CURVE BEING 479.43 FEET;
 - I. N19°15'30"W 250.46 FEET;
 - J. ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 135.76 FEET, THE LONG CHORD OF WHICH BEARS N57°17'46"W 126.01 FEET, THE RADIUS OF SAID CURVE BEING 102.24 FEET;
 - K. S84°39'31"W 119.60 FEET;
 - L. ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 84.91 FEET, THE LONG CHORD OF WHICH BEARS S74°06'52"W 84.43 FEET, THE RADIUS OF SAID CURVE BEING 230.61 FEET;
6. THENCE NORTH 145.67 FEET;
7. THENCE N87°56'01"E A DISTANCE OF 387.23 FEET MORE OR LESS TO THE POINT OF BEGINNING.

Land of Edwin J. Fischer and Charles T. Frey:

Parcel 1: The E $\frac{1}{2}$ of Lot 2, The E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 34, and Lots 1, 4, 5 and 8 (being the E $\frac{1}{2}$ of the W $\frac{1}{2}$) of Section 34, and the W $\frac{1}{2}$ of the NE $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and Lot 9 (the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$) of Section 34, all in Township 12 South, Range 95 West of the 6th P.M., and containing 375.0 acres.

Parcel 2: Lot 1 (the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$), the W $\frac{1}{2}$ of the NE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Lots 4 and 7 (the W $\frac{1}{2}$ of the SE $\frac{1}{4}$), and the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 33, and the W $\frac{1}{2}$ of Lot 2, the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 34, all in Township 12 South, Range 95 West of the 6th P.M. containing 340 acres.

Lands of Cedaredge Park Development Co. Ltd.:

Lots 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, all in Section 3, Township 13 South, Range 95 West of the 6th P.M.

Lots 5 and 12, Section 3, Township 13 South, Range 95 West of the 6th P.M. Lot 10, the E $\frac{1}{2}$ NE $\frac{1}{4}$, the NE $\frac{1}{4}$ SE $\frac{1}{4}$ all in Section 34, Township 12 South, Range 95 West of the 6th P.M.

Also: 1) Lots 4 and 5, Section 35, Township 12 South, Range 95 West of the 6th P.M., and Lots 5, 6, 7, 8, 11, and 12 in Section 2, Township 13 South, Range 95 West of the 6th P.M.