

Edwards County  
991219DECLARATION IMPOSING PROTECTIVE COVENANTS, CONDITIONS  
AND RESTRICTIONS AND CREATING SUBDIVISION LANDOWNERS  
ASSOCIATION  
FOR  
INDIAN CREEK RANCHES, PHASE 1

THE STATE OF TEXAS

COUNTY OF EDWARDS

\*  
\* KNOW ALL MEN BY THESE PRESENTS:  
\*

WHEREAS, HIGH COUNTRY LAND & CATTLE CO., a Texas corporation, acting by and through its duly authorized President, WILLIAM C. COCKE, SR., of Nueces County, Texas, whose address is 3866 S. Staples, Corpus Christi, Nueces County, 78413, hereinafter referred to as "DECLARANT", is the present legal and equitable owner and holder of all that certain tract or parcel of real property situated in Edwards County, Texas, hereinafter referred to as the "Property" or the "Subject Property", more fully described as follows:

INDIAN CREEK RANCHES, PHASE I, a Subdivision situated about 13.1 miles S 35° W of Rocksprings in Edwards County, Texas, being 1513.95 acres out of a 10892.22 acre tract of land conveyed as an assignment of note to Mary Peterson Wyatt Trust by Deed dated July 12, 1984, and recorded in Vol. 65, Page 30, of the Deed of Trust Records of Edwards County, Texas, as shown by the map or plat thereof recorded in Volume 2, Pages 56A and 56B, Map Records of Edwards County, Texas.

**Easement.** Phase 1, as described herein above includes a non-exclusive sixty foot (60') road easement over, on and across that portion of Phase 1 as noted in and on the recorded plat of Indian Creek Ranches, Phase 1, a subdivision in Edwards County, Texas, recorded in Volume 2, Pages 56A and 56B of the Plat Records of Edwards County, Texas. In addition to the sixty foot (60') road easement located on Phase 1, there is an additional sixty foot (60') easement from the southeast corner of Tract 15 to County Road No. 15. This road easement connecting Phase 1 with County Road 15 was granted by deed of Phase 1 to Declarant from Thomas Brockett Hudson and wife, Dorothy Hudson recorded in the Real Property Records of Edwards County, Texas. The road easements are collectively referred to herein as the "Easement".

AND WHEREAS, the Declarant hereby dedicates and will convey all the Property subject to certain protective covenants, conditions and restrictions as hereinafter set forth establishing the INDIAN CREEK RANCHES PHASE 1 SUBDIVISION LANDOWNERS ASSOCIATION (referred to as the "Subdivision Landowners Association") and ultimately wishes to submit the Subject Property to the supervision and control of the INDIAN CREEK RANCHES PHASE 1 SUBDIVISION LANDOWNERS ASSOCIATION for the purpose of supervising, controlling, constructing and maintaining the windmill/water well located on Tract 5 and the Easement, roads and rights-of-way presently in existence or to be built or placed in the future, as the case may be, in, upon, over, across and along the sixty (60) foot wide ingress, egress and regress passageway or roadway Easement to be for the non-exclusive, free and uninterrupted use, liberty, privilege and easement of passing by the Owners, their tenants, guests and invitees.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby expressly declared that all of the Subject Property shall be held, sold and conveyed subject to this Declaration and Dedication, which is for the purpose of protecting the value and desirability of the Subject Property and of supervising, controlling, constructing and maintaining of windmill/water well the Easement, which shall run with and bind the Subject Property, which shall be binding upon any and all parties having any right, title or interest in or to any of the acreage which comprises the Subject Property and their respective legal representatives, successors and assigns, and which shall inure to the benefit of and be enforceable by the Declarant and each and every Owner and Holder of any portion of the acreage which comprises the Subject Property. Notwithstanding the foregoing, Declarant reserves the right to replat, alter, reconfigure, and/or withdraw any portion of Phase 1 of the Subject Property until its conveyance of said Phase 1 tracts, as the case may be, provided such action does not decrease the size of any platted tract below 100 acres. This is a right coupled with an interest and every Owner, by accepting title to a tract, appoints Declarant as his agent for this limited purpose, and Declarant, as agent, can act for any Owner in consenting to any action to replat, alter, reconfigure and/or withdraw the Subject Property. Further, Declarant represents and advises all future Owners that contemplated future Phases adjacent to the Subject Property is or may be subject to one or more liens and lien instruments which are filed of record in Edwards County, Texas.

DEFINITIONS, INCLUDING THE FOLLOWING:

- (A) The term "Owner" shall refer to the record owner or holder, whether one (1) or more or whether masculine, feminine or neuter, of the record title to any portion of the acreage which comprises the Subject Property.
- (B) The term "Declarant" shall refer to, HIGH COUNTRY LAND & CATTLE CO., a Texas corporation, its legal representatives, successors and assigns, or Declarant's designated successors or assigns which shall assume all of the rights and responsibilities of Declarant herein.
- (C) The term "Committee" shall refer to the INDIAN CREEK RANCHES PHASE 1 SUBDIVISION ROAD MAINTENANCE COMMITTEE.
- (D) The term "Association" shall refer to the INDIAN CREEK RANCHES PHASE 1 SUBDIVISION LANDOWNERS ASSOCIATION.
- (E) The terms "Property" or "property" and "Subdivision" shall include any additional real property owned by Declarant or Declarant's successors or assigns (whether by contract or title), now or in the future, as long as such additional real property is:
  - (i) contiguous or adjacent to the real property now constituting the Subdivision as set forth in the Plat or to any real property contiguous or adjacent to any such additional real property; and



throughout the Subdivision. Any Owner of Tract 5 takes title subject to these matters which run with the land.

13. In order to preserve the current open-space land valuation for ad valorem tax purposes, each owner of any unfenced tract shall, upon acquisition of the tract, execute a lease agreement with Declarant (or their assigns) which provides for a one year lease of the tract to Declarant (or their assigns) for grazing cattle only with automatic one year extensions at the yearly rental of \$10.00 without right of termination by Lessor unless their tract is separately qualified for open-space land valuation by the Edwards County tax authority.

**CREATION OF THE INDIAN CREEK RANCHES SUBDIVISION ROAD AND  
WINDMILL/WATER WELL MAINTENANCE COMMITTEE AND  
LANDOWNERS ASSOCIATION**

**I.**

**INDIAN CREEK RANCHES SUBDIVISION  
ROAD AND WINDMILL/WATER WELL MAINTENANCE COMMITTEE:**

There is hereby created and activated the INDIAN CREEK RANCHES SUBDIVISION ROAD AND WINDMILL/WATER WELL MAINTENANCE COMMITTEE for the purpose of supervising, controlling, constructing and maintaining the road Easement and maintaining, repairing or replacing the windmill and water well located on Tract 5 and for the further purpose of performing such other duties and responsibilities as are allocated under any of the other terms, conditions and provisions of this Declaration. The Committee is also given the authority to enforce this Declaration in any manner it deems appropriate and to act for the best interest of the INDIAN CREEK RANCHES SUBDIVISION, PHASE 1, a subdivision in Edwards County, Texas. The initial member of the Committee shall be Declarant's President, William C. Cocke, Sr.. Thereafter and upon the sale of all of the acreage which comprises INDIAN CREEK RANCHES SUBDIVISION, PHASE 1, the Committee shall be composed of three (3) members who shall be chosen by the Association as hereinafter provided. If any one (1) or more of the Committee fails, refuses or is unable to serve, the remaining members are hereby authorized to appoint a person or persons as replacement members. In the event all of the members of the Committee fail, refuse or are unable to serve, then the Association shall elect a new Committee, each Owner to have one (1) vote in such election for each tract which said Owner owns.

**II.**

**INDIAN CREEK RANCHES PHASE 1  
LANDOWNERS ASSOCIATION:**

2.01 There is hereby created and established the INDIAN CREEK RANCHES PHASE 1 LANDOWNERS ASSOCIATION. Each Owner shall be a Member of the Association. By the acceptance of a Deed to any portion of the acreage which comprises the Subject Property, the Owner thereof personally agrees to be and becomes a Member of the Association and agrees to be and becomes bound and obligated by the terms, conditions and provisions of this Declaration. The Association shall be activated at such time as may be determined by the Declarant in its sole and only discretion, but in no event shall such Association be activated later than thirty (30) days following the date that the Declarant has sold all of the acreage which comprises the Subject Property. A meeting of all of the Members of the Association shall be called within thirty days (30) following the date of the activation of the Association for the purpose of electing a new INDIAN CREEK RANCHES SUBDIVISION ROAD AND WINDMILL/WATER WELL

MAINTENANCE COMMITTEE and conducting such other business as may properly be brought before such meeting. Each Member shall be entitled to one (1) vote in the Association for each tract owned. When more than one (1) person owns an interest in any of the acreage which comprise the Subject Property, all persons shall be Members of the Association, but they shall collectively cast only one (1) vote for each tract owned. The Association shall not be incorporated but shall act by simple majority vote in accordance with the terms, conditions and provision of this Declaration; provided however, should a majority of the owners so elect for good cause, then the Association may become a corporation under the Texas Non-Profit Corporation Act, subject to its Articles and By-laws being substantially in compliance with the terms hereof.

### III. ASSESSMENTS OR CHARGES:

**3.01 Annual Assessments.** Each tract which comprises the Subject Property is subject to an annual road/windmill/waterline maintenance assessment or charge, as follows. Each owner authorizes the Declarant, and Declarant's successors and assigns, including the Committee, to improve and maintain the Easement and to maintain, repair and replace, if necessary, the windmill located on Tract 5 and the waterline laid throughout the Subdivision. Further, the Declarant, and the Association (when formed) is authorized to assess and charge each tract owner a fee of \$2.00 per acre per year, not to exceed \$300.00 per year. Such charge shall not be assessed against the Declarant, or Declarant's successors and assigns. Such charge shall be made by direct billing to each property owner. If any property owner refuses to pay the charge, then at Declarant's option, Declarant may deduct the charge from payments made by the property owner on any purchase money promissory note owing by property owner to Declarant, and any such charge, so deducted, will not be credited to the payment on the balance owing on any such promissory note, principal or interest. The maintenance charge, if not paid within 60 days from the date of the billing date, will become a lien against the tract so assessed, and the enforcement of the lien will be made according to the provisions contained herein and as allowed by law. The annual charge may be increased annually by majority vote of the Committee provided, said increase may not exceed ten percent (10%) without a majority vote of the votes entitled to be cash a special meeting of the Association called for that purpose.

If such annual maintenance charge is not paid within the 60 day period, then the annual maintenance charge shall be deemed delinquent and shall bear interest in the amount of ten percent (10%) per annum. As used in this Declaration, the terms "annual assessment" and "maintenance charge" shall be considered to be the same.

**3.02 Special Assessments.** In addition to the annual assessments authorized above, and subject to the assent of fifty-one percent (51%) of the owners who are voting in person or by proxy at a meeting duly called for that purpose, the Association may levy only as provided herein, in any assessment year, a single special assessment applicable to that year only for the purpose of defraying, in whole or in part, the expense and cost of any construction, renewal, maintenance, repair or replacement of the Easement, the windmill/water well, the waterline and for any other purpose as may be deemed necessary or desirable by the Association to maintain, operate or improve the Subdivision in the manner which it considers to be the greatest general benefit to the owners. Notice of the meeting called for this purpose shall be sent to all owners not less than fifteen (15) days nor more than fifty (50) days in advance of the meeting, with the meeting to be



held in Edwards County, Texas as directed in the notice. Any such special assessment charge, as the case may be, must be fixed at a uniform rate for all of the acreage which comprises the Subject Property.

**3.03 Electrical Service Charge.** Each Owner agrees to pay to the Declarant 1/15 of the actual total cash incurred by Declarant for Declarant's installation of an electric service meter loops to each tract in the Subdivision. This is a one time charge and shall not exceed \$1,500.00 for each tract. This charge shall be paid by each respective Owner within 30 days one (1) year after the electric service is provided to their tract. Failure to timely pay such charge shall entitle Declarant to the same remedies the Association has for collection of assessments, including the enforcement of a lien against the Tract. Each respective Owner shall be personally liable for the charge.

#### IV. OBLIGATIONS OF THE OWNERS:

**4.01 Payment of Assessments.** Each Owner of any portion of the acreage which comprises the Subject Property covenants and agrees, by acceptance of a Deed to any such acreage or tract, to pay to the Association an annual assessment or charge, as the case may be, each year, as well as any special assessment duly authorized. The annual assessment and/or special assessment or charge, together with interest, cost and reasonable attorneys fees, shall, to the full extent permitted by law, be a charge against and a lien upon that portion of the acreage which comprises the Subject Property owned or held by each respective Owner and shall be a continuing lien upon that portion of the acreage which comprises the Subject Property against which such annual assessment or charge, as the case may be, is made. Each such annual assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of that portion of the acreage which comprises the Subject Property against which such assessment is made at the time such assessment or charge, as the case may be, was due. The Committee is expressly authorized and may collect and administer all assessments or charges, as the case may be.

**4.02 Lien for Annual Assessment or Charge, as applicable.** The lien for any assessment or charge, as the case may be, shall be subordinate to the lien created by any superior mortgage securing a purchase money or improvement loan. The sale or transfer, as the case may be, of any portion of the acreage which comprises the Subject Property shall not affect the assessment or charge, as the case may be, lien and such sale or transfer, as the case may be, shall be subject to such lien. No sale or transfer, as the case may be, shall relieve the Owner of any portion of the acreage which comprises the Subject Property against which such assessment or charge, as the case may be, is made from individual liability for the assessment or charge, as the case may be, made during the period of his, her, their, or its ownership and extinguishment of the lien shall not relieve such Owner of his, her, their or its personal obligation and liability. No lien for any assessment or charge, as the case may be, shall be impressed against any portion of the acreage which comprises the Subject Property as long as the Veterans Land Board of the State of Texas holds record title thereto; provided, however, that this only applies to purchases made under The Veterans Land Board of the State of Texas Program.



V.  
NOTICE AND RESERVATION, AND SPECIAL PROVISIONS

3.01 Pursuant to the Edwards County Comprehensive Regulations For The Subdivision of Land, as amended, and in lieu of placing same on the original plat as filed (or in addition to inserting same on the Subdivision Plat), the conveyance herein is subject to and shall be subject to the following regulations and/or notices, including any circumstance or condition reflected thereby, and the Owners and public are hereby given notice regarding same:

A. Reference to Regulation 3.00d.(1)(L)(II),(C)(I). If Private Access to Remain Private or Access is in whole or part by Existing County Road.

(c) (I) If the developer's, subdivider's or owner's written easement agreement covering that portion or portions of the route accessing the subdivision that is to remain private does not satisfy the minimum design and construction requirements then in effect for county roads, e.g. the written easement right-of-way width is less than sixty feet, then there shall be placed on the plat a notice indicating that such access route may never qualify or become eligible for dedication as a county road to be maintained by Edwards County. Plat Form 18-3.Ood.(1)(L)(ii)(c)(1) shall be used for this purpose.

B. Reference to Plat Form 18-3.Ood(I)(L)(ii)(c)(I) of Regulations:

PRIVATE ACCESS ROAD TO SUBDIVISION.

NOTICE: Those portions of the access road(s) to this subdivision which are private, and not public, may not meet the minimum design and construction requirements currently in effect for county roads, such that said private roads may never qualify or become eligible for dedication as a county road to be maintained by Edwards County, and therefore such maintenance may be perpetually the responsibility and cost of the users thereof.

C. Reference to Regulation 3.00d.(1)(L)(ii)(c)(II). If Private Access To Remain Private or Access is in whole or Part by Existing County Road.

(c)(II) If the developer, subdivider or owner is unable to provide a written county road dedications covering that portion or portions of the route accessing the subdivision that appears to be a county road, then there shall be placed on the plat a notice indicating that such county road has not been dedicated in writing to Edwards County and that the public status, as well as the duty of Edwards County to maintain such roads, may be subject to change through litigation or other action of governmental entities having jurisdiction over same. Plat-Form 19-3.Ood.(i)(L)(ii)(c)(II) shall be used for this purpose.



D. Reference to Plat-Form 19-3.00d.(1)(L)(ii)(c)(II) of the Regulations.

COUNTY ROAD ACCESS TO SUBDIVISION.

NOTICE: Those portions of the access road(s) to this subdivision which appear to be county roads have not been dedicated in writing to Edwards County and the public status, as well as the duty of Edwards County to maintain such road(s), may be subject to change through litigation or other action of governmental entities having jurisdiction over same.

5.02 COUNTY ROAD ACCESS TO SUBDIVISION.

NOTICE: Be advised that the access road(s) to this subdivision which appear to be county roads may in fact not have been dedicated in writing to Edwards County and the public status, as well as the duty of Edwards County to maintain such road(s), may be subject to change through litigation or other action of governmental entities having jurisdiction over same. Provided, however, private access easements as recorded are applicable to the Subject Property.

5.03 Plats. There is reserved unto Declarant, and Declarant's successors and assigns, the right to plat and/or replat the Property, as well as any property adjacent to the Property owned by Declarant (whether at date or as is acquired in the future) and added to the subdivision by Supplemental Declaration, and the Owners and Owner's Association formed herein do by acceptance of Deed and benefit appoint and constitute the Declarant (and Declarant's successors and assigns as applicable) as their agent and attorney in fact for the purpose of planning, preparing and filing of plats and/or repeats (including road and easement configuration) to meet and fulfill governmental regulations or requirements, including but not limited to the regulation of subdivisions and roads by Edwards County, Texas, and/or as may be required by the Texas Veterans Land Board.

5.04 Easements. There is reserved unto Declarant and Declarant's successors and assigns the right to the use of the Easement described herein for purpose of access, ingress and egress, and for the installation and maintenance of utilities, and as provided herein and granted otherwise regarding said Easement, to and for the benefit of and access to any adjacent property owned, now or in the future, by the Declarant or Declarant's successors and assigns. "Adjacent property" as used herein means the property which constitutes this subdivision phase or plat, or any property of Declarant owns or might own in the future adjacent to or in proximity to the original 1513.90 acre tract. Provided, however, an Owner other than Declarant shall not grant all easement to third parties for access to property not encompassed in Indian Creek Ranches Phase 1 Subdivision without the consent of the Declarant, or Declarant's successors in interest. It is contemplated that Declarant will develop adjacent property and the easement will be necessary for the owners of any future development. The Association and all owners agree to grant to future owners of developed adjacent property all rights of access, ingress and egress, and the right of installation of utilities which they now acquire.

5.05 NOTICE. IT IS HEREBY EXPRESSLY AGREED AND UNDERSTOOD BY AND BETWEEN THE DECLARANT, EACH AND EVERY MEMBER OF THE ASSOCIATION AND THE ASSOCIATION, THAT NEITHER THE DECLARANT, NOR ANY SUCH OWNER NOR THE ASSOCIATION HAS THE RIGHT TO REQUEST THE COUNTY OF EDWARDS, STATE OF TEXAS, TO SUPERVISE, CONTROL, CONSTRUCT OR MAINTAIN THE ROAD EASEMENT UNTIL SUCH TIME AS SAID ROAD EASEMENT HAS BEEN IMPROVED TO SUCH AN EXTENT THAT IT MEETS THE COUNTY SPECIFICATIONS FOR LIKE OR SIMILAR ROADS THAT ARE IN EXISTENCE AT THE TIME ANY SUCH REQUEST BE MADE.

#### VI.

#### GENERAL PROVISIONS

6.01 The Declarant or any Owner shall have the right to enforce by any legal proceeding at law or in equity, as the case may be, all of the covenants, conditions restrictions now or hereafter imposed under and by virtue of the terms, conditions and provisions of this Declaration. Failure to enforce any covenant, condition or restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter.

6.02 Invalidation of any one (1) or more of the covenants, conditions or restrictions contained in this Declaration by judgment and/or court order and/or otherwise, as the case may be, shall in no way affect any of the other covenants, conditions and restrictions herein contained and all such other covenants, conditions and restrictions herein contained shall remain in full force and effect.

6.03 The terms, conditions and provisions of this Declaration shall run with and bind the Subject Property and shall inure to the benefit of and be enforceable by the Declarant or the Owner of any of the acreage which comprises the Subject Property, as the case may be, and their respective legal representatives, successors, and assigns, and shall be effective for a period of twenty (20) years from the date of this Declaration, after which time the terms, conditions, and provisions of this Declaration shall be automatically extended for successive periods of ten (10) years.

6.04 The terms, conditions and provisions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners of the acreage which comprises the Subject Property and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners of the acreage which comprised the Subject Property. These Deed Restrictions may be amended by the Declarant without joinder for four (4) years after filing hereof by Declarant if said amendment does not materially affect the owners and serves (i) to correct a minor error or errors herein, and/or (ii) for the reasonable improvement of the Subdivision. No amendment shall be effective until recorded in the Office of the County Clerk of Edwards County, Texas, nor until the approval of any governmental regulatory body which is required shall have been obtained.

6.05 The liability of any Owner of any of the acreage which comprises the Subject Property for performance of any of the terms, conditions and provisions of this Declaration shall terminate upon sale and/or transfer and/or assignment and/or other divestiture, as the case may be, of said



Owner's entire interest in and to his respective portion of any of the acreage which comprises the Subject Property with respect to any obligations arising from and after the date of such sale and/or transfer and/or assignment and/or other divestiture, as the case may be.

6.06 As used in this Declaration, the singular shall include the plural and the masculine shall include the feminine and the neuter unless the context requires the contrary. All headings are not a part hereof and shall not affect the interpretation of any of the terms, conditions and provisions of this Declaration.

6.07 This Declaration, as well as any supplement or amendment thereto and any valid action or directive, as the case may be, made under and by virtue of it, shall be binding upon the Declarant and the Owners of any of the acreage which comprises the Subject Property, their legal representatives, successors and assigns.

#### CONSENT BY MORTGAGEE

6.08 The owner and holder of the only lien covering the Subject Property has executed this Declaration to evidence their joinder in, consent to, and ratification of the imposition of the foregoing covenants, conditions and restrictions. However, the joinder of the lienholder is not to be construed as a representation by the lienholder as to the adequacy of this Declaration or the Subject Property in general, but instead their joinder is merely to evidence their consent to this Declaration. No violation of any restriction or covenants herein shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Subject Property, provided however, that any mortgagee in actual possession, or any purchaser at any mortgagee's foreclosure sale, shall be bound by and subject to this Declaration as fully as any Owner of any portion of the Subject Property.

Effective Date: October 26, 1999.

#### DECLARANT:

HIGH COUNTRY LAND & CATTLE CO.,  
a Texas corporation

By: 

William C. Cocke, Sr., President