



ANNEXURE D

**REPUBLIC OF SOUTH AFRICA
COMPANIES ACT, 1973**

ARTICLES OF ASSOCIATION

OF A COMPANY NOT HAVING A SHARE CAPITAL

HOMES HAVEN EXTENSION 12 HOMEOWNERS ASSOCIATION

(ASSOCIATION INCORPORATED UNDER SECTION 21)

1. The Articles of Table "A" contained in Schedule 1 to the Companies Act shall not apply to the Association.

2. DEFINITIONS

- 2.1 In these presents the following words shall, unless the context otherwise requires, have meanings hereinafter assigned to them:

"Act"	means the Companies Act, 1973
"Association"	means the Homeowners Association.
"Association area"	the subdivisions of land on which the, Province of North West is to be established;
"Auditors"	means the auditors of the Association;
"Developer"	means Haucab (Proprietary) Limited No. 1996/002462/07
"Development period"	means the period from the establishment of the Association until all Erven and sectional title units in the association area have been fully developed and transferred by the developer to members of the Association;
"Erf"	means any residential Erf or a unit in a sectional title development in the association area and shall include consolidated Erven
"In Writing"	means written, printed or lithographed or partly one or partly another, and other modes of representing producing words in a visible form;
"Managing agent"	means any person or body appointed by the Association as an independent contractor to undertake any of the functions of the Association;
"Trustee"	means the vice-chairman of the Board of Trustees
"Member"	means a member of the Association;
"Trustee"	means the trustees of the Association who shall for the purposes of the Act, be the Directors of the Association.
"Vice-chairman"	means the vice-chairman of the Board of Trustees

- 2.2. Unless the context otherwise requires, any words importing the singular number shall also include the plural number, and vice versa and word importing any one gender shall include the other the gender.

- 2.3 Subject to aforesaid, any words or expressions defined in the Act or in any statutory

modification of such Act in force at the date on which these presents become binding on the Association shall, if not inconsistent with the subject or context, bear the same meaning in these presents.

3. MEMBERSHIP

- 3.1 Membership of the Association shall be limited to the subscribers to the Memorandum of Association, the developer in his capacity as such, his authorized nominees, and to any other person who is in terms of the Deeds Registries Act are reflected in the records of the Deed Office concerned as the registered owner of any land in the association area.
- 3.2 Where any erf is owned by more than one person, all the registered owners of that Erf shall together be deemed to be one member of the Association and have the rights and obligations of one member of the Association; provided however that all co-owners of any erf shall be jointly and severally liable for the due performance of any obligations to the Association.
- 3.3 When a member becomes the registered owner of a Erf in the association area, he shall ipso facto become a member of the Association, and when he ceases to be the owner of any such Erf in the association area, he shall ipso facto cease to be a member of the Association.
- 3.4 No member shall let or otherwise part with occupation of his Erf, whether temporarily or otherwise, unless he has agreed in writing with the proposed occupier of such Erf as a stipulatio alteri in favour of the Association that such occupier shall be bound by all the terms and conditions of these presents, and such written agreement is lodged with the Association prior to the proposed occupier taking occupation of the Erf in question.
- 3.5 A registered owner of an Erf may not resign as a member of the Association.
- 3.6 The rights and obligations of a member shall not be transferable and every member shall:
 - 3.6.1 further, to the best of his ability, the objects and interests of the Association;
 - 3.6.2 observe all rules made by the Association or the trustees;
 - 3.6.3 sign all documents and do all things necessary to enable whatever servitudes may be required for services to be registered whether over or in favour of the access Erf or any other Erf's in the association area and including the provision of security facilities;
 - 3.6.4 provided that nothing contained in these Articles of Association shall prevent a member from ceding his rights in terms of these articles as security to the mortgagee of that member's Erf.

4. GENERAL MEETINGS

- 4.1 Subject to the provisions of the Act an annual general meeting shall be held once in every year at such time and place as the directors may determine, provided however that the annual general meeting shall be held not later than six months after the end of, each financial year of the association, and provided further that no more than fifteen (15) months shall elapse between the date of one annual general meeting of the Association and that of the next.
- 4.2 All other meetings of the Association shall be called ordinary meetings but "general meeting" shall include annual meetings as the context may require.
- 4.3 The trustees may convene a general meeting whenever they deem fit, to be held at such place and such time as they may determine.
- 4.4 General meetings shall be convened by the trustees in the manner laid down in the Act if a requisition is made in terms thereof by the requisite number of ordinary members of the Association. If a meeting is not convened by the trustees as required by the Act, it may be convened by the requisitionists in the manner set out in the Act.

5. NOTICE OF GENERAL MEETINGS

- 5.1 The annual general meeting and a meeting called for the passing of a special resolution shall be by **21 (TWENTY ONE)** days in writing at the least, and a meeting of the Association other than an annual general meeting or a meeting for the passing of a special resolution shall be called by fourteen days notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in the case of special business, the general nature of that business and shall be given in a manner hereinafter mentioned, or in such manner, if any, as may be prescribed by the company in general meeting, to such persons as are under the provisions of these Articles entitled to receive such

notices of the Association, provided that a meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in this articles, be deemed to have been duly called if it is so agreed:

- 5.1.1 in the case of a meeting called as the annual general meeting by not less than 50% of the members entitled to vote thereat: and
- 5.1.2 in the case of any other meeting by a majority of the members having a right to vote at the meeting being a majority representing not less than 50% of the total voting rights of all the ordinary members.
- 5.2 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by an ordinary or Associate member shall not invalidate the proceedings at any meeting

6. PROCEEDINGS AT GENERAL MEETINGS

- 6.1 All business shall be deemed special that is transacted at a general meeting, with the with the exception of the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of trustees and other offices in the place of those retiring by rotation and fixing of the remuneration of the auditors.
- 6.3 Subject to the provisions of the Act, any member entitled to be present and vote at a meeting may submit a resolution to any general meeting, provided that not less than twenty-one (21) days before that day appointed for the meeting he shall have served upon the Association a notice in writing signed by himself and two other such members, containing the proposed resolution and stating his intention to submit the same
- 6.4 Upon receipt of such notice as mentioned in the last preceding article, the secretary shall, in any case where the notice is received before the notice of the meeting is issued, included in the notice of the meeting, and shall in any other case issue as quickly as possible to the members notice that such resolution will be proposed.
- 6.5 No business shall be transacted at any general meeting unless a quorum of seven members is present at the time when the meeting proceeds to business. A quorum shall be specified in Article 7.
- 6.6 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. If any other case it shall stand adjourned to the same day in the next week, at the same time and place, or at such place as the chairman shall appoint, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting the ordinary members present shall be a quorum.
- 6.7 The Chairman or deputy of the Board of Trustees shall preside as chairman at every general meeting of the Association.
- 6.8 If there is no such chairman or deputy, or if at any meeting neither the chairman or he deputy of the Board of Trustees is present within fifteen minutes after the time appointed for holding the same, the ordinary members present shall choose some one of their number to be chairman.
- 6.9 The Chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting adjourn the meeting from time to time and place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at the adjourned meeting
- 6.9.1 At any general meeting a resolution put to the vote of the meeting shall be decided on the aggregate of the votes cast in favour or against the resolution:
- 6.9.2 by the members present in person on a show of hands, and by members who, not being present at the meeting, have cast a valid postal vote in favour of or against the resolution in accordance with Article 8.
- 6.9.3 a declaration by the chairman that a resolution has been carried, unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the Association shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in

favour of or against that resolution.

7. QUORUM

- 7.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of a general meeting shall be:
 - 7.1.1 during the development period, all the votes of the developer plus 25 % (twenty five per centum) of the votes in number of other members of the Association entitled to vote for the time being; or
 - 7.1.2 after the development period, 40 % (forty per centum) of the votes in number of all the members of the Association entitled to vote for the time being; provided that there shall always be at least three members personally present.

1. VOTE OF MEMBERS

- 8.1 Every member present in person at any general meeting shall be entitled to one vote. Every member who is not present at any general meeting shall be entitled to one postal vote in respect of each resolution to be put to the meeting. Any such postal vote shall not be valid unless:
 - 8.1.1 it is recorded by the Association at least 48 hours before the time at which the meeting is scheduled to take place, and
 - 8.1.2 it clearly indicates in respect of each resolution on which a vote is being cast whether such vote is cast in favour or against the resolution.
- 8.2 The decision of the chairman of the meeting shall be final as to the validity of any vote or votes cast in terms of this article.
- 8.3 In the case of an equality of votes, the chairman of the meeting shall be entitled to a second or casting vote.

10. TRUSTEES

- 9.1 The number of trustees shall not be less than five.
- 9.2 The first trustees of the company will be the subscribers to the Memorandum of Association.
- 9.3 A trustee has to be a member of the company to qualify for appointment as such.
- 9.4 The business of the company shall be managed by trustees who may pay all expenses incurred in promoting and incorporating the company, and may exercise all such powers of the company as are not by the act, or by these articles, required to be exercised by the company in general meetings subject to these articles, to the provisions of the act, and to such regulations, not inconsistent with the aforesaid articles or provisions, as may be prescribed by the company in general meeting, but no regulation prescribed by the company in general meeting shall invalidate any prior act of the trustees which would have been valid if such regulation had not been made.
 - 9.5.1 The trustees may from time to time appoint a person to the office of manager for such term and at such remuneration as they may think fit but his appointment shall lapse ipso facto if the Company in general meeting decides to terminate his appointment.
 - 9.5.2 The manager shall have such powers as the Association in general meeting may determine.
- 9.6 The trustees may from time to time entrust to or confer upon a manager for the time being, such of the powers and authorities vested in them as they may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they may think expedient, and they may confer such powers and authorities either collaterally or to the exclusion of, or in substitution for all or any of the powers and authorities of the trustees and may from time to time revoke or vary all or any of such powers and authorities.
- 9.7 The trustees shall formulate a budget and a strategic plan and any amendments thereto for each financial year of the Association and shall prior to the end of each financial year, or so soon thereafter as is reasonably possible, prepare and serve upon every member the address chosen by him an

estimate in reasonable detail of the amount which shall be required by the Association to meet the expenses during the following financial year and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The trustees may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature.

- 9.8 The trustees shall cause minutes to be kept in designated books
 - 9.8.1 of all appointments of officers;
 - 9.8.2 of names of trustees present at every meeting of the company and of the trustees or committees of trustees; and
 - 9.8.3 of all proceedings at all meetings of the company and of the trustees or committees of trustees and every trustee present at a meeting of trustees or committees of trustees shall sign an attendance register kept for that purpose.
- 9.9 The office of a trustee shall be vacated if the trustee
 - 9.9.1 ceases to be a trustee by virtue of any provisions of the Act or any amendment thereof, or is barred from being a trustee by virtue of any order of court issued in terms of the Act or any amendment thereof;
 - 9.9.2 becomes mentally handicapped or retarded; or
 - 9.9.3 resigns his office by one month's written notice to the Board and his resignation is accepted by the Board;
- 9.10 The company may from time to time increase or reduce the number of trustees.
- 9.11 Unless the members otherwise determine in general meeting any casual vacancy occurring on the Board of Trustees may be filled by the Board of Trustees subject to final approval and ratification by the members in a general meeting.
- 9.12 The Company may by resolution, in respect of Section 220 of the Act, remove a trustee before the expiration of his period of office.
- 9.13 The Chairman of the Board of Trustees shall, for as long as the Developer is the owner of more than 5 erven in the Development, be the nominee of the Developer. The Chairman shall, in addition to his deliberative vote, have a casting vote in the event of a deadlock.

2. PROCEEDS OF TRUSTEES

- 10.1 The trustees may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the event of an equality of votes, the chairman shall have a second or casting vote. A trustee may, and the secretary on the requisition of a trustee shall, at any time summon a meeting of the trustees.
- 10.2 With respect to the proceedings of trustees the following shall apply
 - 10.2.1 four trustees shall constitute a quorum;
 - 10.3.2 the continuing trustees may act notwithstanding any vacancy on their body;
 - 10.3.3 a resolution in writing, signed by all the trustees, shall be as valid and effectual as if it had been passed at a meeting of trustees duly convened and held.
- 10.3 The Trustees may elect a chairman of their meetings and determine the period for which he is to hold office, (subject to Article 9.13 above) but if no such chairman is elected or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the trustees present may elect one of their number to be chairman of the meeting.
- 10.4 The trustees may delegate any of their powers to committees consisting of such members or members of their body as they think fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any rules that may be imposed on it by the trustees.
- 10.5 A committee may elect a chairman of its meetings. If no such chairman is elected or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may elect one of their number to be chairman of the meeting.

- 10.6 A committee may meet and adjourn as it thinks fit matters arising at any meeting shall be determined by a majority of votes of the members present, and in the event of an equality of votes, the chairman shall have a second casting vote.
- 10.7 All acts done by any meeting of the trustees or a committee of trustees or by any person acting as a trustee shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and were qualified to be a director.
- 10.8 Subject to the provisions of Section 234 of the Act, no trustee shall merely by reason of his office be precluded from entering into contracts or agreements with this company, whether directly or indirectly, provided that, unless his interest in a contract or any agreement appears clearly there from he shall be obliged as soon as possible to divulge the nature of his interest and provided further that such a director shall not vote in respect of any contract or proposes contract with the company in which he is interested.
- 10.9 A meeting of trustees at which a quorum is present, is competent to exercise all or any of the powers bestowed on the trustees in general.

3. BORROWING POWERS

- 11.1 The trustees may exercise all the powers of the company to borrow money and to mortgage or bind its undertaking and property or any part thereof and may open a banking or similar account at any financial institution as set out in the Memorandum of Association.
- 11.2 The directors may secure the repayment of such loans in such a manner and on such conditions as they may think fit, including the passing of mortgage bonds.

4. ACCOUNTING RECORDS

- 12.1 The trustees shall cause such accounting records as are prescribed by section 284 of the Act to be kept
- 12.2 Subject to the provisions of Section 284 of the Act, the accounting records shall be kept at the registered office of the Company or at such other place or places as the directors think fit, and shall always be open to inspection by the directors.
- 12.3 The trustees shall from time to time, in accordance with Section 284 of the Act, cause to be prepared and laid before the company in general meeting such annual financial statements and reports as are referred to in that section
- 12.4 A copy of any annual financial statements which are to be laid before the company in general meeting, shall not less than twenty one days before the date of the meeting be sent to every member of the company, provided that the article shall not require a copy of these documents to be sent to any person of whose address the company is not aware.

5. AUDITORS

An auditor shall be appointed in accordance with Chapter 10 of the Act.

6. SUNDRIES AND INDEMNITY

- 14.1 If the stipulations contained in these Articles conflict in any way with the stipulations of the Companies Act, or any amendment thereof, or any other Act, then these articles will be subject to such Act or Acts and will at all times be read in conjunction with such Act or Acts.
- 14.2 the company shall indemnify every trustee, manager, secretary or other officer of the company against all expenses, losses and expenditures (including traveling expenses) incurred by such officer or for which he may become liable in the normal course of performing his duties on behalf of the Company, and the Board shall pay such expenses, losses and expenditures out of Company funds.
- 14.3 No trustee, manager, secretary or other officer of the Company is responsible for the actions, deceit, negligence or omissions of any other director or officer or for participating in any receipt or other deed of concurrence or for any loss of expenditure incurred by the company as a result of a faulty title to any asset acquire by the Company by order of the Board, or for the inadequacy of defectiveness of any security for any investment made by the Company, or for any loss or damages resulting from the insolvency or delicates of anybody with whom any money, securities or effects have been deposited,

or for any loss or damages caused by any error of judgment or omission by a director or officer, or for any other loss, damages or adversity which may happen as a result of the normal fulfillment of his duties except if same should happen as a result of his own negligence, omission, neglect of duty or breach of faith.

7. POWERS OF ALTERNATION OR ADDITION TO THE MEMORANDUM OF ARTICLES OF ASSOCIATION

- 15.1 The Association shall be entitled and authorised to alter or add to any of the provisions of its Memorandum of Association with respect to the objects and powers of the Association or any such alternation and/or addition to the terms and conditions of its Memorandum of Association.
- 15.2 The Association may alter or add to all or any provisions of its Articles of Association.
- 15.3 The powers referred to in Articles 15.1 and 15.2 and shall be exercised by Special Resolution.
- 15.4 During the development period no provision of the Articles of Association shall be added to, amended, substituted or repealed without the written consent of the developer.

8. WINDING UP

The Association may be wound up upon the passing of a Special Resolution to that effect, subject to the terms and conditions of its Memorandum of Association.

9. LEVIES

- 17.1 The trustees may from time to time make levies upon the members for the purpose of meeting all the expenses which the Association has incurred, or to which the trustees, reasonably anticipate the Association will be put in the attainment of its objects or the in to account the extent of the improvements on a property and the services as rendered to the property concerned. Notwithstanding anything to the contrary contained herein, the developer will not be liable for any levies in respect of any of the stands registered in its name during the development period.
- 17.2 Save for Article 17.1 above, in calculating the levy payable by each member, the trustees shall as far reasonably practical, and in their sole discretion:
 - 17.2.1 Assign those cost arising directly out of or directly attributable to an Erf to the owner thereof;
 - 17.2.2 Assign those cost arising directly out of or directly attributable to more than one Erf to the owners of those erven;
 - 17.2.3 Subject to Articles 17.2.1 and 17.2.2 assign those cost relating to the estate generally to the owners of all erven equally, or if consolidated then as if the consolidation had not taken place;
 - 17.2.4 Provided however that the trustees may in any case where they consider it equitable to do so, assign to any owner a greater or lesser share of the costs as the trustees consider to be reasonable in the circumstances.
- 17.3 The Trustees shall be empowered in addition to such in other rights as the Association may have in law against its members charge interest at the rate of interest from time to time chargeable upon arrear levies, provided that such rate of interest shall not exceed the rate laid down in terms of the Usury Act No. 73 of 1968, as amended.
- 17.4 No member shall be entitled to the privileges of membership unless and until he shall have paid every levy and other sum, if any, which may be due and payable to the Association in respect of his membership. Access cards may be invalidated until all arrear levies have been paid
- 17.5 Any amount due by a member by way of levy and interest shall be a debt due by him to the Association. The obligation of a member to pay a levy and interest shall cease upon his ceasing to be a member without prejudice to the Association's right to recover arrear levies and interest. No levies or interest paid by a member shall under any circumstances be repayable by the Association upon his ceasing to be a member. A member's successor in title to an erf shall be liable as from the date upon which he becomes a member pursuant to the transfer of that erf, to pay the levy and interest attributable to that erf.

10. RULES

- 18.1 Subject to any restriction imposed or direction given at a general meeting of the Association, the

trustees may from time to time make rules which may include house rules in regard to:

- 18.1.1 the standards and guidelines for the architectural design of all buildings and outbuildings, structures of any nature and all additions and alterations to any such building, outbuildings or structures erected or to be erected in the association area, and in particular to control the design of the exterior of such buildings, outbuildings or structures and the materials and colours used on such exterior to ensure an attractive, aesthetically pleasing character to all the buildings in the association area;
- 18.1.2 the siting of all buildings, outbuildings, structures of any nature and of any additions and alterations thereto;
- 18.1.3 the standard and guidelines for the design pursuit of its business. The trustees may impose different levies on properties, taking structures, installations and projections on the area, including aerials, pergolas, side walls, jacuzzis, carports and paved pathways;
- 18.1.4 the preservation of the environment including the right to control vegetation and the right to prohibit and/or control the erection of walls, fences and hedges, whether upon or within the boundaries of any erf;
- 18.1.5 the right to prohibit, restrict or control the keeping of any material of any animal which they regard as dangerous or a nuisance;
- 18.1.6 the use, maintenance, repair and replacement any roadway to be constructed within the Association area, and of any services, connections and equipment within the Association area;
- 18.1.7 the access to and egress from any of the erven in the association area;
- 18.1.8 the right to determine and control all security measures in the association area;
- 18.1.9 the placing or fixing of ornamentation or embellishments upon the outside of buildings including the power to remove any such objects;
- 18.1.10 the conduct of any persons within the association area preservation of nuisance of any nature to any member;
- 18.1.11 the determination and recovery of charges for water and electricity consumed on the erven in the association area;
- 18.1.12 the control and collection of refuse;
- 18.1.13 the furtherance and promotion of any of the objects of the Association and/or for the better management of the affairs of the Association and/or for the advancement of the interests or members and/or residents in the association area.
- 18.2 For the enforcement of any of the rules made by the trustees in terms hereof and for the payment of any debt due to the Association, the trustees may
 - 18.2.1 give notice to the member or resident concerned requiring him to remedy a breach thereof or make payment within such reasonable period as the trustee may determine; and/or
 - 18.2.2 take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the member or resident may be guilty or recover the debt, and debit the cost of so doing to the member or resident concerned, which amount be deemed to be a debt owing by the member or resident concerned to the Association; and/or
 - 18.2.3 impose a system of fines or other penalties. The amounts of such fines shall be reviewed and confirmed at each Annual General Meeting of the Association; and/or
 - 18.2.4 take such other action including proceedings in Court, as they may deem fit.
- 18.3 In the event of the trustees instituting any legal proceedings against any member or resident within the association are for the enforcement of any of the rights of the Association in terms hereof, the Association shall be entitled to recover, on demand, all legal costs so incurred from the member or resident concerned, calculated as between attorney and own client.
- 18.4 In the event of any breach of the rules by the members of any member's or resident's household or his guests or lessees, such breach shall be deemed to have been committed by the member himself, but without prejudice to the foregoing, the trustees may take or cause to be taken such steps against the

person actually committing the breach as they in their discretion may deem fit.

- 18.5 In the event of any member or resident disputing the fact that he has committed a breach of any of the rules, a committee of three trustees appointed by the chairman for the purpose shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that natural justice shall be observed) as the chairman may direct.
- 18.6 Any fine imposed upon any member or resident shall be deemed to be a debt by the member or resident to the Association and shall be recoverable by ordinary civil process.
- 18.7 Notwithstanding anything to the contrary herein contained, the trustee may in the name of the Association enforce the provisions of any rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 18.8 The Association may in general meeting itself make any rules which the trustees may make and may in general meeting vary or modify any rules made by it or by the trustees from time to time.