



Date: 29/01/2024

Our Reference: 112398614

Box: **237559**

Sequence: **11**

INTIKAB-ALAM ESSOP ESAT

Basket: GBCOMM

**RE: Amendment to Company Information**

**Company Number: 2009/022441/08**

**Company Name: IZINGA ESTATE MANAGEMENT ASSOCIATION NPC**

We have received a COR15.2 (Amendment of Memorandum of Incorporation) from you dated 26/01/2024.

The Amendment of Memorandum of Incorporation (1) was accepted and placed on file.

Yours truly

**Commissioner: CIPC**

KXA KXA

**Please Note:**

The attached certificate can be validated on the CIPC web site at [www.cipc.co.za](http://www.cipc.co.za).

The contents of the attached certificate was electronically transmitted to the South African Revenue Services.



The Companies and Intellectual Property Commission  
of South Africa

P.O. BOX 429, PRETORIA, 0001, Republic of South Africa. Docex 256, PRETORIA.

Call Centre Tel 086 100 2472, Website [www.cipc.co.za](http://www.cipc.co.za)



**Certificate issued by the Companies and Intellectual Property  
Commission on Monday, January 29, 2024 11:27  
Certificate of Confirmation**



Registration number	<b>2009 / 022441 / 08</b>
Enterprise Name	<b>IZINGA ESTATE MANAGEMENT ASSOCIATION NPC</b>
Enterprise Shortened Name	<b>None provided.</b>
Enterprise Translated Name	<b>None provided.</b>
Registration Date	<b>18/11/2009</b>
Business Start Date	<b>18/11/2009</b>
Enterprise Type	<b>Non Profit Company</b>
Enterprise Status	<b>In Business</b>
Financial year end	<b>February</b>
Main Business/Main Object	<b>TO PROMOTE ADVANCE AND PROTECT THE INTEREST OF THE MEMBERS GENERALLY AND TO COOPERATE WITH THE LAOCAL AUTHORITY</b>
Postal address	<b>P O BOX 22319 GLENASHLEY 4022</b>
Address of registered office	<b>305 UMHLANGA ROCKS DRIVE LA LUCIA RIDGE DURBAN 4051</b>



The Companies and Intellectual Property Commission  
of South Africa  
P.O. BOX 429, PRETORIA, 0001, Republic of South Africa. Docex 256, PRETORIA.  
Call Centre Tel 086 100 2472, Website [www.cipc.co.za](http://www.cipc.co.za)



**Certificate issued by the Companies and Intellectual Property  
Commission on Monday, January 29, 2024 11:27  
Certificate of Confirmation**



Registration number **2009/022441/08**

Enterprise Name **IZINGA ESTATE MANAGEMENT ASSOCIATION NPC**

**Auditor**  
Name **BAKER TILLY MORRISON MURRAY**  
Postal Address **P O BOX 1098  
WESTVILLE  
3630**

**Active Directors / Officers**

Surname and first names	ID number or date of birth	Director type	Appoint-ment date	Addresses
GALLAGHER, KYLE	8901165251084	Director	30/08/2022	Postal: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340 Residential: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340
GOVINDASAMI, YUBENDHREN	7812295139084	Director	30/08/2022	Postal: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340 Residential: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340
NIRMAL, PRAKASH	5512195117089	Director	30/08/2022	Postal: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340 Residential: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340
PETERSEN, KAREN DEIRDRE	7112220165084	Director	30/08/2022	Postal: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340 Residential: IZEMA, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340
SONI, RASIK AMRATLAL	6510255236087	Director	25/11/2021	Postal: IZINGA PHASE III, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340 Residential: IZINGA PHASE III, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340
PERUMAL, YOGANDRA	7112205022086	Director	25/11/2021	Postal: IZINGA PARK, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340 Residential: IZINGA PARK, IZINGA, UMHLANGA, KWA-ZULU NATAL, 4340
BALLITO ESTATES, as a secretary of M2009022441	M1983007455	Secretary (Companies and CC's)	02/02/2010	Postal: P O BOX 3591, SUNNINGDALE, 4019 Residential:



The Companies and Intellectual Property Commission  
of South Africa  
P.O. BOX 429, PRETORIA, 0001, Republic of South Africa. Docex 256, PRETORIA.  
Call Centre Tel 086 100 2472, Website [www.cipc.co.za](http://www.cipc.co.za)



**Companies and Intellectual Property Commission  
Republic of South Africa**

**Form CoR 15.2****About this Notice**

- This notice is issued in terms of Section 16 of the Companies Act, 2008, and Regulation 15 (2) and (3) of the Companies Regulations, 2011.
- A notice of amendment must be filed within 10 business days after the amendment has been effected.
- If the amendment has changed the name of the Company, the provisions of the Act and Regulations applicable to company names apply.
- If the amendment has submitted a new memorandum of incorporation in place of the previous one, a copy of the new memorandum must be appended to this Notice.
- The fee for filing this notice is R 250. See item 3 of Table CR2B. A transitional amendment of a pre-existing company, filed in terms of Schedule 5, item 4 (2) is exempt from the fee.

**Contacting the  
Commission**

The Companies and Intellectual  
Property Commission of South Africa

**Postal Address**

PO Box 429  
Pretoria  
0001  
Republic of South Africa  
Tel: 086 100 2472

www.cipc.co.za

**Notice of Amendment of Memorandum of Incorporation**

Date: 26 JANUARY 2024

**Concerning:**

(Name and Registration Number of Company)

Name: IZINGA ESTATE MANAGEMENT ASSOCIATION NPC

Registration number: 2009/022441/08

The Memorandum of Incorporation of the above named company has been amended in accordance with section 16 of the Companies Act, 2008. In terms of section 16 (9), this amendment is to take effect on -



The date that this Notice is filed in the Companies Registry.



The date of the amended registration certificate to be issued by the Commission.



(Later Date as shown on Notice of Incorporation)

In support of this Notice, the company has attached a copy of the court order, board resolution or special resolution authorising the amendment and -



A copy of the amendment to the Memorandum; or



A copy of the Memorandum of Incorporation, as amended.

As a result of this amendment, the Memorandum of Incorporation:



Has no provision of the type contemplated in section 15 (2) (b) or (c).



Has provision of the type contemplated in section 15 (2) (b) or (c) as listed in Annexure A.

(Personal Liability Companies only)

As a result of this amendment, the company:



Will remain a personal liability company;



Will no longer be a personal liability company, and has complied with the requirements of section 16 (10) by giving advance notice of this filing on \_\_\_\_\_.

Name and Title of person signing on behalf of the Company:

DIRECTOR: YUBENDHREN GOVINDASAMI

Authorised Signature:



**IZINGA ESTATE MANAGEMENT ASSOCIATION NPC**

**Registration No. 2009/022441/08**

**NOTICE**

Notice is hereby given that a Special General Meeting of Members of the Association is to be held at Garlicke & Bousfield Inc, 7 Torsvale Crescent, La Lucia on the **23<sup>rd</sup>** day of **NOVEMBER 2023** at 10H00, at which the proposed undermentioned Resolution will be considered, and if deemed fit, passed, with or without modification, as a Special Resolution.

**1. INTRODUCTION**

- 1.1 The Board of Directors is of the view that the Association's Memorandum of Incorporation need to be amended for various reasons including, inter alia, to reflect the changes made in Company Law and the end of the Development Period.

**2. TERMS OF PROPOSED RESOLUTION**

**Resolution 1**

That the Association's memorandum of incorporation be replaced in its entirety by the draft memorandum of incorporation attached hereto marked Annexure "A".

**PROXIES**

A member entitled to attend and vote at a meeting is entitled, in terms of the Memorandum of Incorporation, to appoint a proxy to attend, speak and vote thereat. A copy of the Proxy form in this regard is attached hereto.

I certify that this document is a true reproduction (copy) of the original document which was handed to me for authentication. I further certify that from my observations an amendment or a change was not made to the original document.

Signature: 7137241-3

Force Number: \_\_\_\_\_ Rank: \_\_\_\_\_

Name: \_\_\_\_\_

<b>SOUTH AFRICAN POLICE SERVICE</b>
CRIME PREVENTION
2024 -01- 19
DURBAN NORTH
KWAZULU-NATAL

In default of compliance herewith, the instrument shall be treated as invalid for the purposes of attending and voting at the Meeting.

Signed at UMHANGA this 1 day of NOVEMBER 2023

D. D. GOVENDER

Name of Signatory

.....

Chairman of the Association

I certify that this document is a true reproduction (copy) of the original document which was handed to me for authentication. I further certify that from my observations an amendment or a change was not made to the original document.

Signature: N. KHUMALO

Force Number: 7137211-3 Rank: .....

Name: .....

<b>SOUTH AFRICAN POLICE SERVICE</b>
CRIME PREVENTION
2024 -01- 19
DURBAN NORTH
KWAZULU-NATAL

**MINUTES OF THE SPECIAL GENERAL MEETING OF THE  
MEMBERS OF IZINGA ESTATE MANAGEMENT ASSOCIATION NPC,  
REGISTRATION NUMBER 2009/022441/08  
HELD AT GARLICKE & BOUSFIELD, 7 TORSVALE CRESCENT, LA LUCIA RIDGE  
OFFICE ESTATE, UMHLANGA ON  
23 NOVEMBER 2023  
AT 10h00**

**ATTENDANCE**

**Present**

Graeme Phillips	G&B
Rishona van der Merwe	G&B
Vijen Govender	Proxy (Izinga Phase 1)
Dhiran Roopatun Maharaj	Managing Agent
Basil Schreiber	General Manager
Kyle Gallagher	Member (Izinga Phase 4 and Izinga Eco Estate)
Errol Perumal	Member (Izinga Park)
Yubendhren Govindasami	Member (Izinga Phase 2)

By Proxy: Vijen Govender (on behalf of D Govender)  
Apologies: Rasik Soni (Izinga Phase 3)

**1. Notice and Quorum**

It was noted that Notice of the meeting had been given timeously and that the quorum was duly constituted in accordance with the Company's Memorandum of Incorporation.

**2. Resolution 1**

All present in person and proxy unanimously agreed in favour of adopting Resolution 1 of the Notice.

Kyle Gallagher enquired whether a meeting can be set up with the Board of Directors of the Association and Balwin Properties regarding the new levy stabilization fee to be imposed for new sale agreements. Graeme Phillips recommended the Board convene a meeting in its normal course of business and have this issue added to the agenda for discussion.

**4. Closure**

Meeting closed at 10h20 am.

  
Chairman

**ANDREW OWEN FRANK DUTTON**  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY R.S.A.  
GARLICKE & BOUSFIELD INC  
7 Torsvale Crescent, La Lucia Ridge Office Estate  
Umhlanga Rocks 4320, South Africa

  
26/01/2024  
CERTIFIED A TRUE COPY OF  
THE ORIGINAL DOCUMENT

**MEMORANDUM OF INCORPORATION**  
of  
**IZINGA ESTATE MANAGEMENT ASSOCIATION NPC**

which is referred to in the rest of this Memorandum of Incorporation as “the Association”. The Association is a non-profit company with members, with the following objectives (the words used below with upper case first letters shall bear the meaning ascribed to them in Article 1):

1. To promote the development and maintenance of all properties within the Estate (as defined herein), and to ensure that all such properties are developed and maintained in such a way as to derive maximum benefit for the whole community of the Estate.
2. To ensure that the external appearance of all buildings within the Estate is in accordance with the high standards and ambiance the Members wish to maintain for the Estate.
3. To promote, advance and protect the interests of members generally and to co-ordinate with the local authority, provincial government, and all other appropriate authorities for the benefit of the Association and its Members.
4. To represent the interest of its Members and to provide a united voice by which one interest may be expressed generally.
5. To collect levies and other contributions towards the funds of the Association for the attainment of the objectives of the Association or any one of them.
6. To maintain open spaces, internal roads and other Common Spaces within the Estate, which the Association may own or otherwise be responsible for and to make and enforce regulations governing the use thereof by Members.
7. To provide security for the Estate.
8. To regulate the conduct of any person within the Estate and to prevent any nuisance of any nature to any Member.
9. To impose fines and other penalties upon Members disobeying the Memorandum of Incorporation or the Rules made in terms thereof.
10. To enter into contracts with the suppliers of services to the Estate.



The Memorandum of Incorporation is as follows:

## **1 INTERPRETATION**

In this Memorandum of Incorporation, unless the context otherwise requires –

- 1.1 “Act” means the Companies Act 71 of 2008 as amended from time to time;
- 1.2 “Association” means the Izinga Estate Management Association NPC;
- 1.3 “Beneficial Interest” means in the event of an Owner being :
  - 1.3.1 a close corporation, at least 20% of the Member’s interest in the close corporation;
  - 1.3.2 a company, at least 20% of the issued shares in the company or
  - 1.3.3 a trust, at least 20% of the Beneficial Interest in that trust (as the case may be);
- 1.4 “Board” means the board of directors of the Association for the time being;
- 1.5 “Body Corporate” means a body corporate as defined in Section 1 of the Sectional Titles Act or a Share Block Company as defined in Section 1 of the Share Blocks Control Act;
- 1.6 “Building Design Code” means the Izinga Building Design Code, a copy of which is available from the offices of the Association, and which may be amended by the Board, from time to time;
- 1.7 “Common Spaces” means the common areas within the Estate, which areas shall include, inter alia, open spaces, parks, certain areas of indigenous bush, certain road verges, private roads and public thoroughfares within the Estate;

- 1.8 “Design Review Committee” means the committee appointed by the Board, which shall consist of a minimum of 3 (three) persons, 1 (one) of whom shall be a professional architect;
- 1.9 “Directors” means the directors of the Association for the time being;
- 1.10 “Estate” means the Izinga Estate Management Association, the boundaries of which are shown on the Plan;
- 1.11 “eThekweni Municipality” means the eThekweni Municipality, its successors in title or assigns;
- 1.12 “Immovable Property” means any immovable property in the Estate including Land and sectional title units and rights therein;
- 1.13 “Individual Ownership” means ownership by a natural or juristic person or persons;
- 1.14 “Juristic Person” means a company, close corporation, trust or other legal or juristic person (excluding the body corporate of a sectional title scheme)
- 1.15 “Land” means any freehold subdivision in the Estate, capable of individual ownership, whether such Land is improved or not, but shall exclude a sectional title unit under the provisions of the Sectional Titles Act, where a sectional title scheme has been established on any such Land;
- 1.16 “Landscape Philosophy” means the Landscape Philosophy set out in the document entitled “Izinga Landscape Philosophy”, a copy of which is available from the offices of the Association, and which may be amended by the Board, from time to time;
- 1.17 “Manager” means the person, corporation or association appointed by the Association, from time to time, to undertake the management of the Estate;

1.18 “Member” means:-

1.18.1 Izinga Phase 1 Management Association NPC;

1.18.2 Izinga Phase 2 Management Association NPC;

1.18.3 Izinga Phase 3 Management Association NPC;

1.18.4 Izinga Park Management Association NPC;

1.18.5 Izinga Eco Estate Residents Association;

1.18.6 Izinga Phase 4 Management Association NPC

1.19 “Memorandum of Incorporation” means the Memorandum of Incorporation for the time being of the Association;

1.20 “Office” means the registered office of the Association for the time being;

1.22 “Owner” means any person who is the registered owner of Immovable Property or an undivided share in Immovable Property;

1.22 “Phase” means the phases of the development, namely :

1.22.1 Izinga Phase 1;

1.22.2 Izinga Phase 2;

1.22.3 Izinga Phase 3;

1.22.4 Izinga Phase 4;

1.22.5 Izinga Park and

1.22.6 Izinga Eco Estate

the boundaries of which are shown on the Plan

- 1.23 “Plan” means the plan attached hereto marked annexure “A”, (File Reference O/THDEV IZINGA/Remaining Portion : dated 18 September 2017) ;
- 1.24 “Rules” mean the rules made by the Board in accordance with the provisions of Article 8.5 hereof;
- 1.25 “Scheme” means the North Scheme of the eThekweni Municipality (or its successors thereto);
- 1.26 “Sectional Titles Act” means the Sectional Titles Act No. 95 of 1986 (as amended) and any regulations in force thereunder, as read with the Sectional Title Schemes Management Act No 8 of 2011 and all regulations thereto;
- 1.27 “Security Philosophy” means the Security Philosophy of the Association, a copy of which is available from the offices of the Association, and which may be amended by the Board, from time to time;
- 1.28 “Services” means water, sewerage, refuse removal, electricity, telecommunications, security, maintenance of Common Spaces and such other utilities or services as may be provided by the Association or any other supplier of services to the Estate, from time to time;
- 1.29 “Share Blocks Control Act” means the Share Blocks Control Act No. 59 of 1980 as amended and any regulations in force thereunder from time to time;
- 1.30 “Unit” means Land or a sectional title unit laid out on Land;
- 1.31 “Voting Percentage” means the percentage allocated to each Phase in accordance with the provisions of this Memorandum of Incorporation, namely:
- |        |                |   |     |
|--------|----------------|---|-----|
| 1.31.1 | Izinga Phase 1 | - | 37% |
| 1.31.2 | Izinga Phase 2 | - | 29% |
| 1.31.3 | Izinga Phase 3 | - | 5%  |

1.31.4	Izinga Park	-	23%
1.31.5	Izinga Eco Estate	-	3%
1.31.6	Izinga Phase 4	-	3%

It is recorded that the aforesaid Voting Percentage are subject to change by way of a special resolution of Members (see Article 3.6 in this regard).

- 1.32 Words and expressions used and not otherwise defined in this Memorandum of Incorporation shall have the meaning assigned to them by the Act.
- 1.33 Words importing the singular shall include the plural; words importing the masculine, feminine and neuter shall include the others of such genders; and words importing persons shall include bodies corporate, and vice versa in each instance.
- 1.34 The heading above any Article is intended for reference purposes only and shall not influence the interpretation of the Article.
- 1.35 In interpreting this Memorandum of Incorporation, no provision shall be construed in a limiting fashion or in accordance with the *Eiusdem Generis* Rule.
- 1.36 Any reference to any statute, legislation or regulation shall be deemed to include any lawful amendments thereto or any enactments thereof.
- 1.37 Where a number of days are prescribed, they shall consist of all days (i.e. including Saturday, Sunday and public holidays) and shall exclude the first day and include the last day.
- 1.38 If a number is referred to in numerals and words, the words shall prevail in the event of any conflict between the two.

## **2 MEMBERSHIP**

### **2.1 Membership of Association**

2.1.1 No Immovable Property shall be transferred unless it is a condition of such transfer that the transferee agrees to abide by this Memorandum of Incorporation and the Rules made in terms thereof in the manner prescribed by the Association.

2.1.2 In order to procure compliance with the provisions of this Memorandum of Incorporation, it shall be registered as a condition of ownership of Immovable Property that no Immovable Property shall be alienated without the prior written consent of the Association first being had and obtained:

2.1.2.1 such consent shall be given if the proposed transferee agrees to abide by this Memorandum of Incorporation and the Rules made in terms thereof in a manner acceptable to the Association and the transferor has complied with all its obligations to the Association (including but in no way limited to, the payment of any monies due to the Association by such transferor).

For the purposes of this article “alienate” means to alienate any Immovable Property or part thereof, and in no way detracting from the generality of the aforesaid, includes by way of sale, exchange, donation, deed, intestacy, will, cession, mortgagee, assignment, court order or insolvency, irrespective as to whether such alienation is voluntary or involuntary, and further irrespective as to whether such alienation is subject to a suspensive or resolute condition.

2.1.3 A Member may not tender resignation of his membership of the Association.

## **2.2 Admission of Members**

2.2.1 The Members of the Association shall be those persons who, from time to time, become a Member in accordance with the provisions of this Memorandum of Incorporation.

2.2.2 Members shall all be of a single class, being voting members, each of whom shall have a vote, the value of which shall be calculated in accordance with the provisions of Article 3.4 hereof;

## **2.3 Rights and duties of Members**

2.3.1 Subject to the rights of membership as prescribed by the Act, membership of the Association shall confer upon a Member, unless otherwise stipulated, the following rights:

2.3.1.1 the right to inspect and/or receive copies of the annual financial statements of the Association;

2.3.1.2 the right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for such copy, the information contained in the records of the Association as listed in Section 26 of the Act which, which it is recorded includes the following, namely:

2.3.1.2.1 the Association's Memorandum of Incorporation and any amendments to it and any Rules made by the Association;

2.3.1.2.2 the records in respect of the Association's Directors;

2.3.1.2.3 the reports to annual meetings and annual financial statements;

2.3.1.2.4 the notices and minutes of annual meetings and any communications to the Members and

2.3.1.2.5 the register of Members.

2.3.1.3 the right to vote, either personally or by proxy, at all general meetings of the Association in accordance with the provisions of this Memorandum of Incorporation;

2.3.1.4 the right to receive notices of, attend and speak at all general meetings of the Association, whether ordinary or extra-ordinary, in accordance with and subject to the provisions of this Memorandum of Incorporation;

2.3.1.5 should Members holding between them, in aggregate, not less than 15% (Fifteen Percent) of the voting rights in the Association, collectively so decide, the right to procure the convening of a general meeting in terms of Section 61 of the Act.

2.3.2 No Member shall, by reason of membership of the Association, be entitled to share in or receive any profit/surplus of the Association.

## 2.4 **Cessation of Membership**

2.4.1 Membership of the Association shall cease upon the issue of a final order of sequestration or liquidation of the Member concerned.

2.4.2 In the event of a Member ceasing to be a Member in terms of Article 2.4.1 the legal representative of such Member shall, for all purposes, be recognised and be bound as the Member under this Memorandum of Incorporation.

## 2.5 **Liability of each Member**

The liability of each Member as a member of the Association, shall be limited to R1,00 (One Rand) together with such other amount as may be owing by a Member to the Association, from time to time, from whatever cause arising.



## **2.6 Register of Members**

The Association shall maintain at its office a register of Members as provided in Section 24 of the Act. The register of Members shall be open to inspection as provided in Section 26 of the Act.

## **3 GENERAL MEETINGS**

### **3.1 Annual General Meeting**

The Association shall hold a general meeting in every year as its annual general meeting on such date and at such time and place as may be determined by the Board, and shall specify the meeting as such in the notice calling it, provided, however, that the annual general meeting shall be held not later than 6 (Six) months after the end of each financial year of the Association, and provided that not more than 15 (fifteen) months shall elapse after the holding of the last preceding annual general meeting.

### **3.2 Notice of General Meeting**

The annual general meeting and any meeting called for the passing of a special resolution shall be called by not less than 21 (Twenty One) clear business days notice in writing and any other general meeting shall be called by not less than 15 (Fifteen) clear business days notice in writing. 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 was given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Association in general meeting, to such persons as are, under this Memorandum of Incorporation, entitled to receive such notices from the Association: Provided that a meeting of the Association shall, notwithstanding the fact that it is called by shorter notice than that

specified in this article, be deemed to have been duly called if it is so agreed by all the Members having a right to attend the meeting.

### **3.3 Proceedings at General Meetings**

#### **3.3.1 Business**

The annual general meeting shall deal with and dispose of all matters prescribed by the Act, including the consideration of the audited annual financial statements, a decision on the number of Directors; and their appointment when such decision is required in accordance with the provisions of this Memorandum of Incorporation, and the appointment of an auditor, and any other business of which due notice has been given. All business laid before any other general meeting shall be considered special business.

#### **3.3.2 Quorum**

3.3.2.1 A quorum for a general meeting shall be Members holding between them, in aggregate, not less than 5% (Five Percent) of the voting rights in the Association, present, in person or by proxy, and entitled to vote (subject to a minimum of 3 (Three) Members personally present);

3.3.3 If within half-an-hour after the time appointed for the meeting, a quorum is not present, the meeting, shall stand adjourned to a date not earlier than 7 (Seven) days and not later than 21 (Twenty One) days after the date of the meeting and if at such adjourned meeting a quorum is not present within half-an-hour after the time appointed for the meeting, the Members present in person shall be a quorum.

3.3.4 Where a meeting has been adjourned as aforesaid, the Association shall, upon a date not later than 3 (Three) days after the adjournment, send written notice to each Member of the Association and publish a notice in two recognised newspapers circulating in the Umhlanga area, stating:

3.3.4.1 the date, time and place to which the meeting has been adjourned;

3.3.4.2 the matter before the meeting when it was adjourned; and

3.3.4.3 the grounds for the adjournment.

### **Chairman**

3.3.5 The chairman, if any, of the Board shall preside as chairman at every general meeting of the Association. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Members shall elect one of their members to be chairman.

3.3.6 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 from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. When a meeting is adjourned, the provisions of Articles 3.3.3 and 3.3.4 shall *mutatis mutandis* apply to such adjournment.

### **Voting**

3.3.7 Subject to the provisions of Article 3.4, at any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (at any time before or on the declaration of the result of the show of hands) demanded by the chairman or by any Member, and unless a poll is so

demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried (by a particular majority) or negatived, and an entry to that effect in a book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn. If a poll is duly demanded, it shall be taken in such a manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting in which the poll was demanded. Scrutineers shall be elected, by the Members present, to determine the result of the poll.

### **Proxy**

- 3.3.8 The instrument appointing a proxy shall be in writing, dated and signed by the Member and shall be in such other form as the Board may approve.
- 3.3.9 The instrument appointing a proxy shall be handed to the chairman of the meeting prior to the commencement of the meeting at which the proxy is appointed to act. In default of compliance herewith the instrument shall be treated as invalid for the purpose of attending or voting at that meeting or any adjournment thereof. No instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution, unless the proxy specifically otherwise provides.
- 3.3.10 A vote in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided no intimation in writing of the death or revocation shall have been received at the office or by the chairman of the meeting before the vote is given.
- 3.3.11 In the event of a Member being a Juristic Person, such as a close corporation, company, such Member shall lodge at the offices of the Association, a resolution authorising a particular natural person to represent the Member generally and to exercise the Member's vote on its behalf. Such Resolution shall be lodged at

the offices of the Association before the time for the holding of any meeting at which a Member wishes to be represented and/or vote.

### 3.4 **Votes of Members**

On a show of hands, each Member present at a meeting of the Association, in person or by proxy, shall be entitled to one vote. On a poll, which may be called for by any Member or his proxy or the chairman of the meeting, the value of the Members vote shall be calculated with reference to that Member's Voting Percentage.

### 3.5 **RESOLUTIONS OF MEMBERS**

3.5.1 For an ordinary resolution to be approved of by Members, it must be supported by more than 50% (Fifty Percent) of the voting rights exercised on the resolution.

3.5.2 For a special resolution to be approved of by members, it must be supported by at least 75% (Seventy Five Percent) of the voting rights exercised on the resolution.

### 3.6 **VOTING PERCENTAGE**

It is recorded that the Voting Percentage has been calculated with regard to the number of Units in each Phase, namely:

PHASE	NUMBER OF IMMOVABLE PROPERTIES	PERCENTAGE
Izinga Phase 1	304	37%
Izinga Phase 2	242.2	20%
Izinga Phase 3	44	5%
Izinga Park	191.4	23%
Izinga Eco Estate	25.34	3%
Izinga Phase 4	22	3%

It is envisaged that the number of Units in Izinga Eco Estate and Izinga Phase 4 shall increase and that as such additional units are completed (which for the purposes of this Article, shall mean the date that occupation of same is taken or

an occupation certificate is issued by the local authority in respect of same), the aforesaid calculation shall be redone on an annual basis, at the end of the Association's financial year, and consequently the percentages of Izinga Eco Estate and Izinga Phase 4, shall increase accordingly. Any aforesaid change to the Voting Percentage, shall require the ratification by way of a special resolution passed by Members in a general meeting.

#### **4 INSPECTION OF MINUTES**

The minutes kept of every general meeting and annual general meeting of the Association under Section 24 of the Act, may be inspected and copied as provided in Section 26 of the Act.

#### **5 DIRECTORS (TERMS OF OFFICE)**

- 5.1 There shall be a minimum of 3 (three) Directors and a maximum of 6 (six) Directors. Each Member shall be entitled to nominate a director.
- 5.2 A nominee shall be a director for so long as the Member in question does not revoke his appointment.
- 5.2 If, as a result of retirement, resignation or otherwise, the total number of Directors falls below the minimum prescribed number, the Members shall act promptly to bring the number of Directors up to the level as specified in this Memorandum of Incorporation. The validity of any resolutions taken or acts performed by the Board during a period when the number falls short of that provided in 5.1 above shall not be prejudiced by such shortfall.
- 5.4 The Directors shall have the power to co-opt persons for the purposes of assisting the Directors in carrying out any of their functions. Any person so co-opted shall be entitled to attend Board meetings but shall not be a Director and shall not be entitled to vote on any matter which comes up for consideration by the Board.

- 5.5 The chairman and deputy chairman shall be elected by the Directors at their first meeting in the financial year.

## **6 ALTERNATE DIRECTORS**

- 6.1 Any Director may for any reason, and at or for any time, appoint an alternate.
- 6.2 Any Director may obtain a leave of absence by a resolution of the majority of the Directors, and the Board may thereupon appoint an alternate to act for him during his absence with all powers and privileges enjoyed by him. The appointment of such alternate shall not, however, be valid unless confirmed by a resolution of the majority of Director's present at the meeting.

## **7 REMUNERATION OF DIRECTORS**

- 7.1 A Director shall not directly or indirectly receive any remuneration for his services as a Director of the Association, provided that nothing in this Memorandum of Incorporation shall prohibit him from reimbursement of any travelling, subsistence and other expenses properly incurred by him in the execution of his duties in or about the business of the Association and which is authorised or approved by the Board.
- 7.2 If any director commits a breach of Article 7.1 he shall forthwith cease to be a Director and shall not be eligible to be nominated as a director in future.

## **8 POWERS AND DUTIES OF DIRECTORS**

- 8.1 The business of the Association shall be managed by the Board, who may on behalf of the Association pay all expenses incurred in promoting and incorporating the Association, and may exercise all such powers of the Association as are not specifically required by the Act, or by this Memorandum of Incorporation, to be exercised by the Association in general meeting.

- 8.2 Without in any way affecting the generality of Article 8.1 the Board shall have the power to enter into contracts and agreements with third parties to give proper effect to the provisions of this Memorandum of Incorporation.
- 8.3 The Board may, pursuant to their rights, obligations and duties in terms of this Memorandum of Incorporation and as provided for and contemplated under this Memorandum of Incorporation, incur such expenditure as is necessary and/or requisite and howsoever arising to enable them to give proper effect to the provisions of the Memorandum of Incorporation of the Association.
- 8.4 The Association in general meeting, shall have the right to limit and restrict the powers of the Board, provided that no resolution of the Association shall invalidate any prior act of the Board which would otherwise would have otherwise been valid.

### **Conduct Rules**

- 8.5 The Board shall have the power to make conduct rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Estate, for the purposes of giving proper effect to the provisions of the Memorandum of Incorporation and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those Members who fail to comply with the provisions of this Memorandum of Incorporation or the Rules.
- 8.5.1 In no way detracting from the generality of the aforesaid, the Board may from time to time make conduct rules, applicable within the Estate, specifically in regard to:
- 8.5.1.1 the preservation of the natural environment;
- 8.5.1.2 vegetation and flora and fauna in the Estate;



- 8.5.1.3 the conduct of any persons within the Estate and the prevention of nuisance of any nature to any owner of Immovable Property in the Estate;
- 8.5.1.4 the use of Immovable Property within the Estate;
- 8.5.1.5 the imposition of fines and other penalties to be paid by Members of the Association and persons accredited to work on the Estate;
- 8.5.1.6 the use, management, administration and control of roads, common areas and Common Spaces;
- 8.5.1.7 the Design Guidelines for the establishment, installation and maintenance of buildings and gardens, both public and private;
- 8.5.1.8 the use by Owners and their tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;
- 8.5.1.9 the use of road frontages and parking areas;
- 8.5.1.10 security
- 8.1.5.11 generally in regard to any other matter which the Association from time to time considers appropriate.

## 8.5.2 **Enforcement of Conduct Rules**

- 8.5.2.1 The Board may take or cause to be taken such steps as they may consider necessary to remedy the breach of any Rules of which the Member may be guilty and debit the costs of so doing to the Member concerned which amount shall be deemed to be a debt owing by the Member to the Association. In addition, the Board may impose a system of fines or other penalties. The amounts of such fines and/or penalties shall be determined by the Board from time to time.

- 8.5.2.2 Notwithstanding the foregoing, the Board may in the name of the Association enforce the provisions of any Rules by an application in a Court of competent jurisdiction and for this purpose may appoint such attorneys or Counsels they may deem fit.
- 8.6 Any Rules made by the Board shall reasonably be in the interest of the Association and the Estate and, where applicable, shall apply equally to all Members or “class” of Members, as the case may be.
- 8.7 The Rules made by the Board from time to time in terms of the powers granted to them shall be binding on all Members.
- 8.8 In no way detracting from the generality of any other provision of this Memorandum of Incorporation, in the event of the Association incurring any legal costs as a result of any breach of this Memorandum of Incorporation by any Member, the Association shall be entitled to recover all such legal costs from such Member on an attorney and own client scale in full whether or not legal action is actually instituted.

## 9 **MINUTES**

- 9.1 The Board shall, as provided for in the Act, cause minutes to be kept:
- 9.1.1 of all appointments of officers;
- 9.1.2 of names of Directors present at every meeting of the Association and at every meeting of the Directors and
- 9.1.3 of all proceedings at all meetings of the Association and/or the Directors.
- 9.2 Such minutes, once they are approved as a true record of proceedings, shall be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the following meeting.

## **10 DISQUALIFICATION OR RESIGNATION OF DIRECTORS**

The office of Director shall be vacated if the director:-

- 10.1 ceases to be a director by effluxion of the period of appointment, or becomes prohibited from being a director by virtue of any provision of the Act or this Memorandum of Incorporation; or
- 10.2 resigns his office by notice in writing to the Association and the Companies and Intellectual Property Commission; or
- 10.3 becomes insolvent or assigns his estate for the benefit of or compounds with his creditors; or
- 10.4 is found to be a lunatic or of unsound mind; or
- 10.5 is absent for three consecutive regular meetings of the Directors without obtaining prior leave of absence;
- 10.6 in the case of a director nominated by a Member, on such Member revoking his appointment.
- 10.7 if the Director is otherwise ineligible or disqualified from serving as a director on the grounds set out in Section 69 of the Act.

## **11 PROCEEDINGS AT MEETINGS OF DIRECTORS**

- 11.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit but shall meet at least 4 (four) times during a financial year.
- 11.2 A Director may, on 7 (seven) day's written notice to all other Directors, at any time summon a meeting of the Directors.

- 11.3 The quorum necessary for the transaction of the business of the Directors shall be at least 50% of the total number of Directors;
- 11.4 If at a meeting neither the chairman nor the deputy chairman is present within 10 (ten) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman for that meeting.
- 11.5 Questions arising at any meeting of the Directors shall be decided by a majority of votes of the Directors, present in person or by an alternate. Each director shall be entitled to exercise 1 (one) vote.
- 11.6 All acts done in terms of any resolution passed at any meeting of the Directors or a committee of Directors or by any person acting as a Director, notwithstanding that it be afterwards discovered that there was some defect in their acting as aforesaid or that they or any of them were disqualified so to act, shall be as valid as if any such person acting as Director in a meeting of Directors or a committee of Directors had been duly appointed and had qualified to be a Director.
- 11.7 A resolution signed by all of the Directors shall be a valid resolution notwithstanding that such resolution may not have been passed at a meeting of the Board.
- 11.8 A meeting of the Board may be conducted by electronic communication or one or more Directors may participate in a meeting by electronic communication, as contemplated, and subject to the provisions of Section 73(3) of the Act.

### **Committees**

- 11.9 The Board may delegate any of their powers to committees consisting of such persons as they think fit, the chairman of which committees may be appointed by the Board. Any committee so formed shall be in an advisory capacity to the Board and shall report to and be responsible to the Board and in the exercise of the powers so delegated, conform to the Rules that may be imposed on it by the Board.

11.10 Should the Board not appoint the chairman of a committee, the members of that committee shall elect a chairman of its meetings. If at any meeting the chairman is not present within 10 (Ten) minutes after the time appointed for holding the same, the committee members present may elect one of their number to be chairman for that meeting.

11.11 A committee may meet and adjourn as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes of the committee members present and in the event of an equality of votes the chairman shall have a second or casting vote.

#### 11.12 **Limitation of Liability of Directors**

Subject to the provisions of the Act, no director shall be liable for any loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his office or in relation thereto unless the same occurs as a result of his own dishonesty, gross negligence or default, breach of duty or breach of trust.

### 12 **DELEGATION OF POWERS OF DIRECTORS**

The Board may from time to time entrust to and confer upon the Manager, or any other designated official of the Association or consultant or any other person or firm, for the time being, such of the powers and authorities vested in it as it may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and subject to such terms and conditions and restrictions as it 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 directors and may from time to time revoke or vary all or any of such powers and authorities. (In the event of the Board conferring any of its powers and authorities as aforesaid, it shall ensure that the schedule of authority vested upon any third party is reduced to writing and made available for inspection by Members).

### 13        **LEVY FUND**

13.1        The Board shall establish and maintain a levy fund sufficient in its opinion for the repair, upkeep, control, management and administration of the Association and of the Estate including, but in no way limited to the following, namely:

13.1.1      provision of security services for the Estate;

13.1.2      garden maintenance services;

13.1.3      verge and private road maintenance;

13.1.4      insurance premiums, the payment of rates and taxes and other charges of the Estate levied by the local or any other authority;

13.1.5      any charges for the supply of electric current, gas, water, fuel and sewage disposal, refuse collection and any other services to the Estate, and any services required by the Association to enable it to carry out its main and ancillary objects;

13.1.6      the covering of any losses suffered by the Association and

13.1.7      all other expenses incurred by the Association in connection with the Estate and the discharge of any other obligation of the Association

provided that nothing in this Memorandum of Incorporation shall be construed as obliging the Association to pay service charges due by Owners to the relevant authority.

13.2        All levies due by Members shall be payable to the Association immediately same become due and owing without deduction, demand or set-off.

- 13.3 The Board shall determine the proportions in which Members shall contribute towards the levy fund in accordance with the following principles, having regard to all circumstances prevailing at the time and to equity:
- 13.3.1 they shall assign those costs arising out of a particular Phase to a Member administering such Phase and
- 13.3.2 they shall assign those costs relating to the Estate generally, (including but in no way limited to the maintenance of the Common Spaces), to Members in accordance with the Voting Percentage,
- provided however that the Board may in any case where they consider it equitable to do so, assign to any Member any greater or lesser share of the costs as may be reasonable in the circumstances; and provided further that any replacement or other reserves shall be determined by the Board.
- 13.4 All contributions received from Members shall forthwith be deposited in a separate account which the Association shall open and keep with a financial institution.
- 13.5 The monies in the levy fund shall be utilised to defray the expenses referred to in article 13.1 above.
- 13.6 Notwithstanding any person ceasing to be a Member, all levies attributable to any period whilst such person was a Member, shall continue to be of full force and effect and recoverable from such person.
- 13.7 Any amount due by a Member whether in respect of a levy or any other amount falling due for payment under this Memorandum of Incorporation, which remains unpaid after the same has fallen due, shall bear interest as from the due date for payment to the date of payment at a rate of interest equal to that charged by the Standard Bank of South Africa Limited as its prime overdraft rate plus 3 (three) percentage points. Such interest shall be calculated and compounded monthly.

- 13.8 The Board shall have the power to impose additional special levies on Members in respect of any unforeseen expenditure and shall determine how such levies are to be paid in accordance with the principles set out in Article 13.3.
- 13.9 A Member shall not be entitled to demand repayment of any amount standing to the credit of his levy account.
- 13.10 All contributions levied under the provisions of this Memorandum of Incorporation shall be due and payable by Members on the passing of a resolution to that effect by the Board and may be recovered by the Association by action in any Court (including any Magistrates Court) of competent jurisdiction from the persons who were Members at the time when such contributions became due.
- 13.11 The Board shall establish a levy stabilisation fund for the purposes of meeting extraordinary expenditure and expenditure of a capital nature, to be incurred by the Association in carrying out its main objects under provisions of this Memorandum of Incorporation. In the event of any Unit being sold, alienated or otherwise transferred, the transferring Owner shall be obliged to make payment of a once off, non-refundable contribution to the levy stabilisation fund of the Association in an amount equal to 0,5% of the total purchase price (including Value Added Tax) of the Unit in question (in the event of such Unit being disposed of other than by way of a sale and no purchase price being paid in respect of the disposal, then in that event, the contribution payable by the transferor of the Unit shall be an amount equal to 0,5% of the then market value of the Unit as objectively determined by the Association).
- 13.12 Further, in the event of a Member being a Juristic Person and the Beneficial Interest in such Juristic Person being alienated or otherwise transferred/ceded, the transferor of such Beneficial Interest shall similarly be obliged to pay the levy stabilisation fund contribution as aforesaid.



- 13.13 In circumstances where a Unit has been transferred from a deceased Estate to a surviving spouse or life partner of the deceased, the transferor shall not be required to make payment of the aforesaid contribution to the Association's levy stabilisation fund.
- 13.14 Should a Member be more than 60 (Sixty) days in arrears with the payment of any levies due in terms of this Memorandum of Incorporation or any other amount of any nature whatsoever due to the Association by such Member (including by not limited to any fine that may be imposed by the Association on any such Member) and remain in arrears notwithstanding demand for payment by the Association, then in that event such Member shall not be entitled either in person or by proxy to speak or vote at a meeting of Members of the Association. A certificate by the chairman of the Board, dated not more than 14 (Fourteen) days prior to any such meeting, shall constitute proof of non-payment of any arrear levies by such Member and shall entitle the chairman of such meeting of the Members of the Association to prevent such Member or his proxy speaking or voting at such meeting (even if payment is made by such Member before such meeting but subsequent to the aforesaid certificate having been signed by the chairman of the Board).
- 13.15 In the event of there being a dispute as to the amount of any levy due by the Member, such dispute shall be referred to the Association's Auditors for a decision, whose decision shall be final and binding on the parties.

## 14 **ACCOUNTING RECORDS**

- 14.1 The Board shall cause such accounting records as are prescribed by the Act to be kept. Accounting records shall be deemed to be proper if they represent fairly the state of affairs and business of the Association and to explain the transactions and financial position of the trade or business of the Association.

- 14.2 The accounting records shall be kept at the registered office of the Association or at such other place or places as the Board think fit and shall always be open to inspection by the Members.

## 15 **ANNUAL FINANCIAL STATEMENTS**

- 15.1 The Board shall from time to time, in accordance with the Act, cause to be prepared and laid before the Association in general meeting such financial statements as are prescribed by the Act.
- 15.2 A copy of any annual financial statements shall be laid before the Association in annual general meeting. A copy of the aforesaid financial statements shall, not less than 21 (twenty one) days before the date of the meeting, be sent to every Member of the Association: provided that this Memorandum of Incorporation shall not require a copy of those documents to be sent to any person of whose address the Association is not aware.

## 16 **AUDITOR**

An auditor shall be appointed in accordance with the Act.

## 17 **NOTICES**

- 17.1 A notice may be given by the Association to any Member either by advertisement or personally, or by sending it by post by prepaid letter addressed to such Member at his registered address, or if he has no registered address in the Republic at the address (if any) within the Republic supplied by him to the Association for the giving of notices to him. Any notice which may be given by advertisement shall be inserted in such newspaper as the Board may from time to time determine.

- 17.2 Notice of every general meeting shall be given in any manner authorised:
- 17.2.1 to every Member of the Association. If a Member has not supplied the Association with an address within the Republic of South Africa for the service of notice by hand or by registered post, then it shall be considered sufficient for the Association to serve notice at the address of the Immovable Property owned by the Member;
- 17.2.2 to the auditor for the time being of the Association.
- 17.3 No other person shall be entitled to receive notice of general meetings.
- 17.4 Any notice by post shall be deemed to have been served at the time when the letter containing the same was posted, and any notice by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the newspaper, and in proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.
- 17.5 The failure to give notice to any Member or the failure of any Member to receive a notice shall not vitiate any proceedings of the Association.
- 17.6 Notwithstanding anything contained herein or elsewhere, the sending of any notice or other communication to a Member at an electronic mail address, nominated by such Member for these purposes in writing to the Association, shall be deemed to be good and proper services of such notice or other communication, in terms of this Memorandum of Incorporation, and shall be deemed to have been received by the Member on the date that such communication or other notice was sent by electronic mail.

## 18 **WINDING-UP OF ASSOCIATION**

In the event of the Association being wound up, its assets (if any) shall devolve upon such other corporation as the Members in such winding-up order determine, provided that such corporation has aims and objects similar to those

of the Association.

**19 REPAIR, UPKEEP, ADMINISTRATION, MANAGEMENT AND CONTROL OF THE ESTATE.**

19.1 Members shall at all times ensure that all buildings and structures within the Phase where such Member is the management association, comply with the Building Design Code, in every respect.

19.2 Members shall ensure that at all times all landscaping within the Phase where such Member is the management association of, is undertaken strictly in accordance with the Landscape Philosophy.

**19.3 Provision of Services**

The Association may, from time to time, contract with suppliers of services to provide services to the Estate.

**19.4 Common Spaces**

19.4.1 Members, their members and invitees shall be entitled to use all Common Spaces, owned or managed by the Association in the Estate, subject to the Rules and restrictions as the Board may lay down, from time to time.

**19.5 Security of the Estate**

The Association shall provide such security in the Estate as it deems appropriate, from time to time. The Member shall, at all times, when dealing with security within the Phase in respect of which it is the management association, comply with any Security Philosophy and other direction, given from time to time by the Board and shall ensure its members in turn do so.

## 19.6 **Maintenance of Common Spaces, Private Roads and Municipal Services**

The Association shall be responsible for the maintenance, upkeep and repair of the Common Spaces. Further, in the event of the Local Authority, or any other provider of services to an area in, or in the vicinity of the Estate, not having the means or being unwilling to maintain or provide the services normally provided by a local authority or, in the event of the Local Authority or any other service provider not maintaining the services normally provided by a local authority to a standard acceptable to the Association, then in that event, the Association may provide and maintain such services (in consultation, where possible, with such Local Authority or other service provider).

## 20 **PHASES**

20.1 The Members of the Association shall be obliged to ensure that their members in turn, together with their guests, invitees and other persons who may come upon the Estate by virtue of their rights thereto, comply in every respect with the provisions of this Memorandum of Incorporation and the Rules.

20.2 Each Member shall ensure that no Immovable Property within in its Phase is transferred until such time as, inter alia, the transferee of such Immovable Property has secured payment of the Levy Stabilisation Fund contribution (as more fully referred to in Article 13.11 hereof) to the satisfaction of the Association and has further undertaken in writing to comply with the Association Memorandum of Incorporation and Rules in every respect to the reasonable satisfaction of the Association.

## 21 **ENFORCEMENT OF OBLIGATIONS OF OWNERS**

Should any Member fail to perform any obligation incumbent upon it, if applicable, within the period of any notice given for compliance, the Board shall be entitled, but not obliged, to do such things and incur such expenditure as is, in the opinion of the Association, necessary and/or requisite to procure

compliance. The costs thereby incurred by the Association shall be a debt due by the Member concerned, which shall be payable on demand. The Member shall be obliged to bring to the attention of its members, the Rules and regulations of the Association. In addition, a Member shall utilise its best endeavours to ensure that its members comply with the Association's Rules and regulations.

## **22 DETERMINATION OF DISPUTES**

22.1 Subject to the provisions of Article 14.13 above, should any dispute or differences whatsoever arise in time between the Members inter se or between a Member and the Association as to the construction, meaning, interpretation or effect of the provisions or as to the rights, obligations or liability of the Association or any Members in terms of this Memorandum of Incorporation, the parties shall forthwith meet to attempt to settle such dispute or difference and failing such settlement within a period of 30 days, then such dispute or difference shall be submitted to arbitration in accordance with the provisions set out below.

22.2 Such arbitration shall be held:

22.2.1 at Durban;

22.2.2 under the provisions of the Arbitration Act No. 42 of 1965 of the Republic of South Africa as amended from time to time and the Association of Arbitrators Rules for the Conduct of Arbitrations (Latest Edition).

22.3 The arbitrator shall be, if the question in issue is:

22.3.1 primarily an accounting matter, a practising auditor of not less than ten (10) years standing appointed by the president for the time being of the Institute of Chartered Accountants;

- 22.3.2 primarily a legal matter, a practising attorney of not less than ten (10) years standing appointed by the president for the time being of the Legal Practice Council at the request of either party;
- 22.3.3 any other matter, an independent person agreed upon between the parties and failing agreement as may be appointed by the president for the time being of the said Legal Practice Council at the request of either party.
- 22.4 If agreement cannot be reached within seven (7) business days after a dispute has been declared and an arbitration has been demanded as to whether the question in issue falls under article 22.3.1, 22.3.2 or 22.3.3 above, then a practising attorney as agreed upon the parties and failing agreement then appointed at the request of either party by the president for the time being of the said Legal Practice Council as soon as possible thereafter, shall determine whether the question in issue falls under article 22.3.1, 22.3.2 or 22.3.3 above so that an arbitrator can be appointed in terms of article 22 and the arbitration can be held and concluded as soon as possible.
- 22.5 The parties irrevocably agree that the decision of those arbitration proceedings:
- 22.5.1 shall be binding on them;
- 22.5.2 shall be carried into effect;
- 22.5.3 may be made an order of court of competent jurisdiction.

## 23 **DISCLAIMER OF RESPONSIBILITY**

- 23.1 The Association shall not be liable for any injury to any person, damage to or loss of any property, to whomsoever it may belong, occurring or suffered, upon the Estate regardless of the cause thereof nor shall the Association be responsible for any theft of property occurring within the Estate. Members shall not, under any circumstances, have any claim or right of action whatsoever against the Association for damages, loss or otherwise, nor be entitled to

withhold or defer payment of any amount due by them for any reason whatsoever.

23.2 The Association and/or its agents shall not be liable to any Member or any of its members, or their respective employees, agents, servants, invitees or customers or any member of the public dealing with the Member for any injury or loss or damage of any description which the Member or any such other person aforesaid may suffer or sustain whether directly or indirectly in or about the Estate, regardless of the cause thereof.

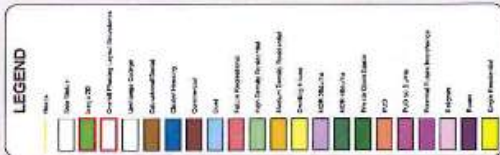
23.3 Members hereby indemnify the Association and its employees, servants and agents and lawful invitees and hold them harmless against all claims by any person arising from any injury or loss or damage as contemplated in this article 23.

## 24 **AMENDMENT TO MEMORANDUM OF INCORPORATION**

This Memorandum of Incorporation may only be amended or varied by way of a special resolution of Members.



# Overall Izinga Phasing Plan



Not to scale  
Scale 1:2,000



THESE PLANS AND SPECIFICATIONS SHALL BE USED IN THE DEVELOPMENT OF THE PROJECT. ANY CHANGES TO THE PLANS SHALL BE MADE BY THE DEVELOPER AND APPROVED BY THE LOCAL AUTHORITY. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.

