

Transfer instrument
Section 90, Land Transfer Act 1952



Barcode area

Land registration district

NORTH AUCKLAND

Unique identifier(s)
or C/T(s)

All/part

Area/description of part or stratum

**Continued on
Annexure Schedule**

Transferor

Surname(s) must be underlined or in CAPITALS.

CABRA HOLDINGS LIMITED

Transferee

Surname(s) must be underlined or in CAPITALS.

CABRA HOLDINGS LIMITED

Estate or interest to be transferred, or easement(s) or *profit(s) à prendre* to be created
State if fencing covenant imposed.

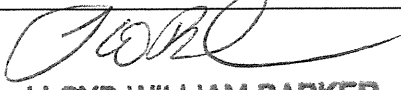

Fee simple subject to land covenants and fencing covenants (continued on Annexure Schedule)

Operative clause

The Transferor transfers to the Transferee the above estate or interest in the land in the above certificate(s) of title or computer register(s) and, if an easement or *profit à prendre* is described above, that easement or *profit à prendre* is granted or created.

Dated this day of 2006

Attestation (If the transferee or grantee is to execute this transfer, include the attestation in an Annexure Schedule).

 LLOYD WILLIAM BARKER Director	Signed in my presence by the Transferor
	_____ <i>Signature of witness</i> Witness to complete in BLOCK letters (unless legibly printed) Witness name Occupation
 IAN GORDON BOOCOOK Director	Address
Signature [common seal] of Transferor	

Certified correct for the purposes of the Land Transfer Act 1952.

Signature line for the Transferee

[Solicitor for] the Transferee

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Continuation of Certificate of Title No:

Certificate of Title

279481
279482
279483
279484
279485
279486
279487
279488
279489

Continuation of Estate or Interest or Easement to be created

1. Definitions and Interpretations

1.1 Definitions

In this Transfer:

"access lot" means each of Lot 660 and 661 on Deposited Plan 368706

"the land" means all of the land contained in the above Certificates of Title

"Transferee" means Cabra Holdings Limited

"Transferor" means Cabra Holdings Limited

"All Lots" where referred to in the Schedules to this Transfer means Lots 633-641 inclusive and Lot 662 on Deposited Plan 368706

1.2 Interpretation

In this Transfer:

- (a) words and expressions denoting the singular shall where the context so requires include the plural and vice versa.

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- (b) the Transferor and the Transferee includes the successors and assigns of the Transferor and the Transferee.
- (c) headings have been inserted for guidance only, and shall not be deemed to form part of the context of these presents.

2. Preamble

2.1 The Transferor as registered proprietor of the land formerly contained in Certificate of Title 91301 subdivided that land into Lots all of which other than Lot 662 (which may be subdivided into residential Lots in the future) are residential lots for the purposes of the sale thereof as residential lots in a residential estate ("the Lots") in the manner shown and defined on Deposited Plan 368706.

2.2 It is the Transferor's intention that each of the Lots other than Lot 662 be subject to a general scheme applicable to and for the benefit of All Lots in that the owner or occupier for the time being of each Lot should be bound by the covenants, stipulations and restrictions set out herein and that the respective owners and occupiers for the time being of the other Lots may be able to enforce the observance of such covenants, stipulations and restrictions against the owners or occupiers for the time being of any of the other Lots in equity or otherwise howsoever and the Transferor shall transfer each of the Lots subject to the like covenants as are contained in this Transfer.

2.3 The Transferor, intending pursuant to the provisions of Sections 49 and 66A of the Property Law Act 1952 to create the covenants and restrictions set out in this Transfer, will by this Transfer transfer each of the Lots comprising the land to itself.

3. Building Enhancement and Use Covenants

3.1 The Transferee for itself and its successors in title so as to bind all the Lots described in the First Schedule ("Covenanting Lots") HEREBY COVENANTS AND AGREES with itself as Transferor for the benefit of all the other Lots set out beside each Covenanting Lot described in the First Schedule ("the Benefiting Lots") and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall observe and perform all of the

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covenants set out in clause 3.2 until the 31st day of December 2050 at which time the covenants set out in clause 3.2 shall cease to apply.

3.2 The Transferee shall not:

- (a) commence any construction, development, earthworks or fill on any Covenanting Lot without having first obtained the written approval of the Transferor to the plans and specifications and the exterior design and appearance of the Transferee's proposed building and any proposed earthworks or fill and once approval is obtained, make any change to the plans and specifications or the exterior design and appearance of the Transferee's proposed building or proposed earthworks or fill.

As a guide houses should be designed so as to fit with the existing land contours so that limited earthworks (cutting or filling) is required which may necessitate part basement structures or house designs with basement garaging and which are sympathetic to and appropriate for the site.

- (b) use or permit any Covenanting Lot to be used for:
 - (i) any trading or commercial purpose other than that permitted by the local authority and which has the prior written consent of the Transferor which may be withheld at its absolute discretion or
 - (ii) display or showhomes except with the prior written consent of the Transferor which may be withheld at its absolute discretion or which may be granted subject to conditions imposed by the Transferor at its absolute discretion.
- (c) allow the duration of any building construction works on any Covenanting Lot to extend beyond the period of 12 months from the date of commencement of such works.
- (d) erect or place or permit to be erected or placed on any Covenanting Lot anything other than a single dwelling house having closed in habitable living space (exclusive of carport or garage) with a floor area of not less than 180m² and which must also have attached, closed in double car garaging or such other garaging that is approved in writing by the Transferor at its discretion.
- (e) Incorporate into the design of the single dwelling house any ancillary accommodation in the nature of a granny flat or a self-contained flat:

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- (i) unless it is permitted by the local authority; and
- (ii) without the prior written consent of the Transferor which may be withheld at its absolute discretion; and
- (iii) unless it is confined within the overall roofline of the single dwelling house and does not give the external appearance of comprising a separate unit

and the Transferee shall not subdivide any such ancillary accommodation into a separate title whether fee simple, unit title, crosslease or otherwise.

- (f) use or permit or suffer to be used on any building on any Covenancing Lot any building material other than brick, stone, concrete block, insulclad, masonry, stucco, solid plaster, or approved timber weatherboard for any outer wall facing except with the written consent of the Transferor which may be withheld at its discretion.
- (g) use or permit or suffer to be used any second-hand materials in any building on the Covenancing Lot nor use any corrugated iron roofing or corrugated iron or zincalume of any description on the exterior of the building without in each case the consent in writing of the Transferor which may be withheld at its discretion.
- (h) use or place or permit to be erected, transported or placed on any Covenancing Lot any second-hand home of any type or description
- (i) erect or permit or suffer to be erected or placed upon any Covenancing Lot any caravan, hut or shed for any kind of permanent or temporary use except relocatable builders sheds but only during the course of construction of a dwelling house provided that the Transferee may erect one garden shed having a maximum floor area of 6m² which is clad in materials approved by the Transferor and erected in a location approved by the Transferor which approvals may be withheld at the Transferor's discretion.
- (j) erect or permit or suffer to be erected or placed upon any Covenancing Lot any building where the basement (including but not limited to basement garage) is not fully enclosed to the reasonable satisfaction of the Transferor.
- (k) allow any grass or weeds on any Covenancing Lot to grow to a height greater than 150mm and if he defaults in so doing, the Transferor may take whatever action it considers necessary to remedy the default at the expense of the Transferee and if the Transferee fails to pay the Transferor upon demand for all costs so incurred the Transferor may recover the

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cost thereof from the Transferee as liquidated damages in any Court of competent jurisdiction.

- (l) erect or permit to be erected on any Covenanting Lot any fence or boundary wall higher than 1.2 metres within:
 - (i) five metres of any road boundary; or
 - (ii) the area between the exterior walls of the dwelling which are the closest to the road boundary (if they are less than five metres from the road boundary) and any road boundary.

except with the prior written consent of the Transferor which may be withheld in its discretion.

- (m) permit any dwelling house on any Covenanting Lot to be occupied for more than six calendar months unless all driveways, paths and fences are completed in permanent materials and all unpaved areas are properly grassed or landscaped.
- (n) not allow the property to remain unlandscaped without lawns and shrubs for a period greater than six months following substantial completion or occupation of a dwelling house on the property. The transferee will ensure that a minimum of 5% of the net site area is developed with landscaped gardens and that a minimum of 5 trees or shrubs of at least 2m in height are included within the landscaped areas.
- (o) carry out any earthworks (either cutting or filling) in excess of 600mm height or depth within 2 metres of any adjoining lot boundary unless such works have been consented to in writing by the Transferor which may be withheld at its absolute discretion
- (p) undertake any construction works on the Covenanting Lot without at all times complying with the following conditions and restrictions:
 - (i) the transferee shall keep the Covenanting Lot in a tidy orderly and safe condition throughout the construction period.
 - (ii) the transferee shall maintain the Covenanting Lot at all times during the course of construction free from rubbish and excessive vegetation.

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- (iii) the transferee shall not store or dump any construction materials or debris on any adjoining lot or cross any adjoining lot for goods or vehicle access unless consent has been granted by the transferor in writing and the adjoining lot owner.
- (iv) the transferee shall not allow major site works to commence unless a vehicle crossing and access drive for construction vehicles has been formed in metal aggregate or an alternative material as the transferor may approve at their discretion.
- (v) the transferee shall not allow rubbish to be placed or escape onto adjoining or nearby lots or roads.
- (vi) the transferee shall not deposit or allow any dirt gravel clay or other substance to be left on any road in the vicinity of the Covenanting Lot.
- (vii) the transferee shall contain on the lot any silt generated during the construction of the dwelling house.

(q) allow any tree, plant, shrub or other growing thing on any access lot to grow to a height exceeding 3 metres above ground level. For the purpose of this sub-clause ground level means the level of the ground which existed at the date of this transfer at the point where the relevant tree, plant, shrub or growing thing is growing.

4. Height Restriction Covenants

4.1 The Transferee for itself and its successors in title so as to bind all the Height Covenanting Lots described in the Second Schedule ("Height Covenanting Lots") HEREBY COVENANTS AND AGREES with itself as Transferor for the benefit of all the other Lots set out beside each Height Covenanting Lot described in the Second Schedule ("Benefiting Lots") and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall always observe and perform all the covenants set out in clause 4.2 to the end and intent that each of those covenants shall forever enure for the benefit of the Benefiting Lots.

4.2

(a) The Transferee shall not build or erect nor allow nor cause nor permit to be built or erected any building or other structure on any Height Covenanting Lot or any part thereof nor will the Transferee plant, cultivate or grow nor allow nor cause nor permit to be planted, cultivated or grown any tree, plant, shrub or other growing

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thing on any Height Covenanting Lot or any part thereof which in any case is of a height which exceeds the height of and protrudes or extend above a level horizontal plane which is for each Height Covenanting Lot measured at the reduced level shown beside each said Lot in the Third Schedule hereto in terms of the Lands and Survey datum (with origin of levels being ORM F as described on SO 69520 Reduced Level 49.15 metres) so that in all cases the upper limit of height for each Height Covenanting Lot shall not exceed the reduced level shown beside each said Lot in the Third Schedule hereto in terms of the said Lands and Survey datum PROVIDED THAT the Transferee may erect one chimney or flue which forms part of the dwelling on any Height Covenanting Lot and one television aerial which exceed the upper limit of height for that Height Covenanting Lot by no more than two metres.

- (b) The Transferee shall not build or erect nor cause or permit to be built or erected any building or structure on any Height Covenanting Lot without first submitting to the Transferor plans which include elevations showing proposed heights in terms of the Lands and Survey datum referred to in clause 4.2(a) and (b) and in the event any proposed building or structure shown on those plans is within 0.60 metres of the maximum allowable height for that Height Covenanting Lot a surveyor's report must be provided to the Transferor upon completion of the final roof line for the dwelling certifying that the highest point of the dwelling does not exceed the height restriction level in respect of that Height Covenanting Lot.

5.0 View Corridor Covenants

5.1 The Transferee for itself and its successors in title so as to bind all the View Corridor Covenanting Lots described in the Fourth Schedule ("View Corridor Covenanting Lots") HEREBY COVENANTS AND AGREES with itself as Transferor in respect of the view protection areas set out beside each View Corridor Covenanting Lot and described in the Fourth Schedule ("View Protection Areas") for the benefit of the other Lots set out beside each View Corridor Covenanting Lot described in the Fourth Schedule ("Benefiting Lots") and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall always observe and perform all the covenants set out in clause 5.2 to the end and intent that each of those covenants shall forever enure for the benefit of the Benefiting Lots.

- 5.2 (a) The Transferee shall not erect any structure or building on the View Protection Area relating to each View Corridor Covenanting Lot PROVIDED THAT the eaves of any dwelling house erected on a View Corridor Covenanting Lot may overhang the

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View Protection Area relating to that View Corridor Covenanting Lot by no more than 300 millimetres and PROVIDED FURTHER that the Transferee may with the consent of the Transferor (which may be withheld at the Transferors absolute discretion) erect garden structures such as pergolas on the View Protection Areas with a height not exceeding 2.5 metres above the natural ground level of the View Protection Area taken as at the date of issue of title to each View Corridor Covenanting Lot.

- (b) The Transferee shall not plant or allow to grow any tree, shrub or vegetation on the View Protection Area relating to each View Corridor Covenanting Lot which exceeds a height of 2.5 metres above the natural ground level of the View Protection Area, taken as at the date of issue of title to each View Corridor Covenanting Lot.

6.0 Access Lot

6.1 The Transferee for itself so as to bind all of the Lots described in the Fifth Schedule ("covenanting Lots") covenants and agrees with itself as Transferor for the benefit of each of the lots set out beside each covenanting Lot described in the Fifth Schedule (in this clause 6 called "the Benefiting Lots") and each registered proprietor of the benefiting lots from time to time that the Transferee shall always observe and perform all of the covenants set out in clause 6.2 to the end and intent of the covenants shall forever enure for the benefit of the Benefiting lots.

6.2 The transferee shall in respect of the access lot set beside each Covenanting Lot in the Fifth Schedule:

- (a) Use the access lot only as an access lot except for those areas on the access lot being parking bays and marked and identified as visitor carparks which may only be used for casual parking for visitors only and not for parking by any proprietor of a Covenanting Lot or any occupier of a Covenanting Lot.
- (b) Not place any building or structure on the access lot.

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- (c) Not park or leave any vehicle or other thing on any part of the access lot so as to obstruct its use by any other person entitled to use the access lot, and shall not permit or suffer any servant, agent or visitor of the transferee to do so.
- (d) Bear the cost of maintaining the access lot in good order, repair and condition in equal shares in common with the registered proprietors who own an undivided share of the access lot provided that where the need to maintain or repair the access lot arise from any wilful or negligent act of a registered proprietor or authorised person of a registered proprietor then that registered proprietor shall bear the whole cost of such maintenance or repair.
- (e) Allow each of the proprietors of the access Lot and their respective workers to lay pipes, conduits, wires and cables under the surface of the access lot for the purpose of providing services to a lot adjoining the access lot provided that the proprietor of the lot having the benefit of the services installed shall be responsible for and bear the cost of installation, maintenance and repair of the services and the re-instatement of the access lot to its former condition.

7.0 Stone Wall Covenants

7.1 The Transferee for itself and its successors in title so as to bind all the Stonewall Covenanting Lots described in the Sixth Schedule ("Stone Wall Covenanting Lots") HEREBY COVENANTS AND AGREES with itself as Transferor in respect of the Covenanting Areas set out beside each Stone Wall Covenanting Lot described in the Sixth Schedule ("Covenanting Areas") for the benefit of the other Lots set out beside each Stone Wall Covenanting Lot described in the Sixth Schedule ("Benefiting Lots") and of each registered proprietor of the Benefiting Lots from time to time that the Transferee shall always observe and perform all the covenants set out in clause 7.2 to the end and intent that each of those covenants shall enure for the benefit of the Benefiting Lots until the 31st December 2025 at which time the covenants set out in clause 7.2 shall cease to apply.

7.2 The Transferee shall not remove, damage, deface, interfere with, grow vegetation over, obstruct or alter the stone wall or walls erected on the Covenanting Areas of any Stone Wall Covenanting Lot nor shall the Transferee permit or cause any removal, damage, defacing of, interference with, the growing of vegetation over, obstruction or alteration to the stone wall or walls created on any Covenanting Area on any Stone Wall Covenanting Lot without in each case obtaining the written consent of the Transferor which may be withheld in its discretion.

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8.0 Fencing

8.1 The Transferor shall not be required nor shall it be called upon to repair or contribute towards the cost of erection or repair of any dividing or boundary fence between any Lot and any contiguous land owned by the Transferor, but this proviso shall not enure for the benefit of any subsequent registered proprietor of such contiguous land.

9.0 Indemnity and Consequences of Breach

9.1 In consideration of ONE DOLLAR (\$1.00) the Transferee covenants with the Transferor that it will at all times save harmless and keep indemnified the Transferor from all proceedings, costs, claims and demands in respect of breaches by the Transferee of the covenants on its part contained or implied herein, and also the enforcement of such covenants by the Transferor.

9.2 The Transferee acknowledges that the value of the Lots will be affected by any non-compliance with or breach of any of the covenants contained or implied herein and the Transferee covenants for itself for the benefit of each of the Benefiting Lots and of each registered proprietor of the Benefiting Lots from time to time that should the Transferee fail to comply with, observe, perform or complete any of the covenants contained or implied herein then without prejudice to any other liability the Transferee may have to the Transferor (which includes any other person or body having the benefit of such covenants) the Transferee shall:

- (a) Pay to the Transferor as liquidated damages the sum of \$5,000.00 immediately upon receipt of a written demand for payment from the Transferor; and
- (b) immediately permanently remove or cause to be permanently removed from the Lot upon which the breach or failure has occurred any offending improvement or structure or other cause of any breach or non-observance of such covenants; and otherwise forthwith remedy the breach or non-observance thereof; and
- (c) if the breach or failure is not remedied within 60 days of the date of notice of such breach or failure then the Transferor (together with its agents, employees or contractors) shall be entitled to enter onto the Lot to arrange for rectification of the Transferee’s breach or failure at the cost of the Transferee.

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10.0 General

10.1 The covenants set out in clause 3.2 of this Transfer shall run with each Covenanting Lot set out in the First Schedule for the benefit of all the Benefiting Lots described in the First Schedule TO THE INTENT that the Transferor and Transferee shall continue to be bound until the earlier of the 31st December 2050 or the date upon which they respectively cease to hold a fee simple estate in a Covenanting Lot but without prejudice to any liability for any breach of covenant under this Transfer arising before such date.

10.2 The covenants set out in clause 4.2 of this Transfer shall run with each Height Covenanting Lot set out in the Second Schedule for the benefit of all the benefiting lots described in the second schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until they respectively cease to hold a fee simple estate in a Height Covenanting Lot but without prejudice to any liability for any breach of covenant under this Transfer arising before such date.

10.3 The covenants set out in Clause 5.2 of this transfer shall run with each View Corridor Covenanting Lot set out in the Fourth schedule for the benefit of all the benefiting lots described in the Fourth schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until they respectively cease to hold a fee simple estate in a View Corridor Covenanting Lot but without prejudice to any liability for any breach of covenant under this transfer arising before such date.

10.4 The covenants set out in Clause 6.2 of this transfer shall run with each covenanting lot set out in the Fifth schedule for the benefit of all the benefiting lots described in the Fifth schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until they respectively cease to hold a fee simple estate in a covenanting lot but without prejudice to any liability for any breach of covenant under this transfer arising before such date.

10.5 The covenants set out in Clause 7.2 of this transfer shall run with each Stone Wall Covenanting Lot set out in the Sixth schedule for the benefit of all the benefiting lots described in the Sixth schedule TO THE INTENT that the Transferor and the Transferee shall continue to be bound until the earlier of the 31st December 2025 or the date they respectively cease to hold a fee simple estate in a Stone Wall Covenanting Lot but without prejudice to any liability for any breach of covenant under this transfer arising before such date.

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10.6 The Transferor shall not be required to nor obliged to enforce all or any of the covenants, nor be liable to the Transferee for any breach of the covenants by any of the registered proprietors of the Covenanting Lots and the Transferee shall be liable only in respect of breaches of the covenants which occur while the Transferee is the registered proprietor of any Covenanting Lot.

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FIRST SCHEDULE

**COVENANTING LOTS
LOTS**

Lot 633 DP 368706
Lot 634 DP 368706
Lot 635 DP 368706
Lot 636 DP 368706
Lot 637 DP 368706
Lot 638 DP 368706
Lot 639 DP 368706
Lot 640 DP 368706
Lot 641 DP 368706

BENEFITING

All Lots other than Lot 633 DP 368706
All Lots other than Lot 634 DP 368706
All Lots other than Lot 635 DP 368706
All Lots other than Lot 636 DP 368706
All Lots other than Lot 637 DP 368706
All Lots other than Lot 638 DP 368706
All Lots other than Lot 639 DP 368706
All Lots other than Lot 640 DP 368706
All Lots other than Lot 641 DP 368706

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SECOND SCHEDULE

Height Covenanting Lots

Benefiting Lots

Lot 633 DP 368706
Lot 636 DP 368706
Lot 637 DP 368706

All lots other than Lot 633 DP 368706
All lots other than Lot 636 DP 368706
All lots other than Lot 637 DP 368706

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THIRD SCHEDULE

Height Covenanted Lots

Reduced Level

Lot 633 DP 368706	64.0
Lot 636 DP 368706	64.0
Lot 637 DP 368706	63.5

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FOURTH SCHEDULE

**View Corridor
Covenantee Lots**

**View Protection
Areas**

Benefiting Lots

Lot 636 DP368706
Lot 637 DP368706
Lot 640 DP368706
Lot 641 DP368706
DP368706

T and W
V and Z
Y
X

Lots 634, 635 and 638 DP368706
Lots 635, 638 and 639 DP368706
Lots 638 and 639 DP368706
Lots 637, 638, 639 and 640

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FIFTH SCHEDULE

Covenantee Lots	Benefiting Lots	Access Lot
Lot 634 DP 368706	Lot 635 DP 368706	660
Lot 635 DP 368706	Lot 634 DP 368706	660
Lot 637 DP368706	Lot 638, 639, 640, 641 DP368706	661
Lot 638 DP 368706	Lot 637, 639, 640 and 641 DP 368706	661
Lot 639 DP 368706	Lot 637, 638, 640 and 641 DP 368706	661
Lot 640 DP 368706	Lot 637, 638, 639 and 641 DP368706	661
Lot 641 DP368706	Lot 637, 638, 639 and 640 DP368706	661

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SIXTH SCHEDULE

**Stone Wall
Covenanting Lots**

**Covenanting
Area**

Benefiting Lots

Lot 633 DP368706
Lot 636 DP368706
Lot 637 DP368706
Lot 641 DP368706

D
C
B
A

All Lots other than Lot 633 DP368706
All Lots other than Lot 636 DP 368706
All Lots other than Lot 637 DP368706
All Lots other than Lot 641 DP368706

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.