

Russell Weir

From: Christopher Green
Sent: Friday, 15 April 2016 10:48 a.m.
To: 'Glen Heath'
Cc: 'Phil Hinton'; 'Luke Fitzgibbon'; 'Brooke Finch'
Subject: RE: 4 Graham Street - Capex deed and Deed of Assignment of Warranties and Guarantees
Attachments: AKLDOC01-#4826867-v3-Deed_of_assignment_of_development_warranties_15_04_2016.DOCX

Thanks Glen – Augusta accepts the reinstatement of clause 3.2, and I **attach** the finalised form of Deed of Assignment of Warranties and Guarantees reflecting that final edit.

Regards

CHRIS GREEN
SENIOR ASSOCIATE

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From: Glen Heath [<mailto:Glen@manson.co.nz>]
Sent: Friday, 15 April 2016 7:50 a.m.
To: Christopher Green
Cc: 'Phil Hinton'; 'Luke Fitzgibbon'; Brooke Finch
Subject: RE: 4 Graham Street - Capex deed and Deed of Assignment of Warranties and Guarantees

Thanks Chris

We confirm our agreement to:

1. The revised Deed of Warranty.
2. The revised Deed of Assignment, subject to the reinstatement of clause 3.2 – this is included in the form agreed as attached to the S&P agreement, and was acceptable to Augusta at Spark. Once sold, Mansons no longer controls the building and the purchaser is the one who has that control and should be under that obligation to preserve the warranties. While Mansons has some protection against this in clause 2.5(b)(ii) of the Deed of Warranty, the two provisions are consistent and should remain accordingly.

Regards

Glen Heath BCom/LLB
Chief Executive Officer

mansons
TCLM LIMITED

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From: Christopher Green [<mailto:Christopher.Green@chapmantripp.com>]
Sent: Thursday, 14 April 2016 5:20 p.m.
To: Glen Heath
Cc: 'Phil Hinton'; 'Luke Fitzgibbon'; Brooke Finch
Subject: 4 Graham Street - Capex deed and Deed of Assignment of Warranties and Guarantees

Hi Glen,

Further to our telephone call this afternoon, please see **attached** revised drafts of the Capex Deed and Deed of Assignment of Warranties and Guarantees.

In each document, I have accepted all of the recent Mansons changes and marked up my proposed further amendments (please be aware that these edits have not yet been approved by Augusta).

I will send you updated drafts of the other documents we discussed during our call as soon as possible this afternoon.

Regards,
Chris

CHRIS GREEN
SENIOR ASSOCIATE

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Mansons Properties (151 Victoria) Limited

[Augusta entity]

Deed of Assignment of Warranties and Guarantees

Deed dated:**Parties**

- 1 Mansons Properties (151 Victoria) Limited ("Assignor")
- 2 [Augusta Entity] ("Assignee")

Background

- A. The Assignor and the Assignee are parties to the Agreement.
- B. Pursuant to clause 23 of the Agreement the Assignor and the Assignee are required to enter into this deed.

Operative provisions**1 Definitions**

In this deed, unless the context otherwise requires:

- (a) "Agreement" means the agreement for sale and purchase dated [insert date] between the Assignor as vendor and the Assignee as purchaser in respect of the Property.
- (b) "Assignment Date" means the date upon which settlement of the Agreement is completed.
- (c) "Contractor" means the party bound by the relevant Warranties and Guarantees, as specified in the schedule to this deed.
- (d) "Deed of Warranty" means the Deed of Warranty in respect of the Property between the Assignor and the Assignee dated on or about the same date as this deed.
- (e) "Defect" means a defect in the building constructed on the Property which is due to defective workmanship or materials, arises after the Assignment Date, and is within the ambit of any of the Warranties and Guarantees.
- (f) "Property" means the property situated at 4 Graham Street, Auckland, New Zealand, and being freehold in Lot 3 DP 490577 together with an undivided share in Lot 1 DP 490577, comprised and described in Identifier 708753.
- (g) "Warranties and Guarantees" means the warranties and guarantees relating to the Property specified in the schedule to this deed.

2 Assignment

2.1 Pursuant to clause 23 of the Agreement the Assignor hereby:

- (a) Assigns all of the Assignor's rights and interests under the Warranties and Guarantees to the Assignee with effect from the Assignment Date.
- (b) Covenants to give written notice of such assignment to the other parties to the Warranties and Guarantees.

2.2 The Assignor shall use its best endeavours to obtain the consent of any Contractor to the extent such consent is required under the Warranties and Guarantees to enable assignment in accordance with this deed. Where the Assignor is unable to obtain the consent of any Contractor to the assignment of the Warranties and Guarantees and as a result is unable to lawfully assign such Warranties and Guarantees to the Assignee, the Assignor shall from the Date of Assignment hold such interests on trust for the Assignee and shall enforce them at the request and cost, and for the benefit, of the Assignee.

2.3 The Assignor shall:

- (a) On the Assignment Date, deliver all documents connected with or evidencing the Warranties and Guarantees to the Assignee.
- (b) Do all acts and things, including the execution of all such documents, as may be required by the Assignee to give effect to the assignment contemplated by this deed.

3 Warranties

3.1 The Assignor warrants that:

- (a) It has the benefit of all the Warranties and Guarantees.
- (b) It has full power to assign the Warranties and Guarantees to the Assignee and where such power is subject to the consent of any Contractor it has obtained the Contractor's consent.

3.2 The Assignee warrants that it will not do or omit to do, or permit any third party to do, anything that invalidates, or otherwise prejudices the ability to require a Contractor to remedy (or compensate in respect of) a Defect pursuant to, any of the Warranties and Guarantees.

4 General provisions

4.1 This deed will be governed by the laws of New Zealand.

4.2 Any dispute that may arise in respect of this deed and the matters contemplated by it shall be subject to the dispute resolution provisions of the Agreement.

Execution by the parties

**Mansons Properties
(151 Victoria) Limited** by:

In the presence of:

Director/Attorney name

Witness name

Director/Attorney signature

Witness signature

Witness occupation

Witness address

[Augusta entity]

by:

Director name

Director signature

Director name

Director signature

Schedule of Warranties and Guarantees

Works	Contractor	Period (years)
Waterproof roofing membrane	Watertight – the Water Proofing People Limited	20
Carpet – product	[TBA]	5-15
Profile metal roofing	Tasman Roofing a division of Barnett Roofing Limite	15
Aluminium shop fronts and glazing, curtain walling, solar shading, plant room louvres, and composite panelling	Wight Aluminium Limited	10
Internal and external painting	FSB Limited	5
Suspended Ceiling Tiles and grid	Super City Interiors Limited	10
Toilet/cubicle partitions	[TBA]	2
Tiling – installation	E&D Petersen Contracting Limited	2
Fire rating to structural steel	Firetherm Contracts Limited	2
Active Fire Protection	Triangle Fire Protection Limited	2
Lifts	Schindler Lifts N.Z. Limited	2
Mechanical services	McAlpine Hussman Limited	2
Electrical services	CGI Electrical Limited	2
Standby Generators	Appleby Engineering Limited	2
Security system	I.Q. Security 2015 Limited	2
Sanitary plumbing and fixtures		
Plumbing and drainage	Express Plumbing Limited	2
Access Equipment	Hale Manufacturing Limited	2
Polymer modified mastic asphalt to plant room surfaces	Asphaltech Waterproofing Limited, Pacoflex ®	20

Note: the Period of each Warranty and Guarantee commences from the date of Practical Completion of the Development.