

FORMAL INSTRUMENT OF AGREEMENT

THIS AGREEMENT is made on the _____ day of _____ 2025.

BETWEEN Mountwill Pty Ltd (ACN 654 540 833) As Trustee For West Parade Unit Trust (ABN 30 208 612 420), Unit 1, 678 Beaufort St, Mount Lawley WA 6050 ("Client").

And ("Consultant").

The Client confirms the appointment of the Consultant to carry out services for West Residences ("Project").

The Consultant acknowledges its appointment by the Client to render services to the Client in respect of the Project.

IT IS AGREED that the following documents in order of precedence comprise the agreement between the parties **AND** if the *Client* or the *Consultant* is two or more persons then they shall be jointly and severally bound:

1. This Formal Instrument of Agreement.
2. The completed Annexure Part A, Annexure Part B and Annexure Part C to AS 4122-2010 the General Conditions, Schedule 1 - Services to be Rendered by the Consultant; Schedule 2 – Project and Client Brief; and Schedule 3 – Consultant Fees.
3. The Australian Standard for General Conditions of Contract for Consultants – AS 4122-2010, Incorporating Amendment 1 ("*General Conditions*"), separately available from Standards Australia;

EXECUTED BY:

.....
pursuant to sub-section 127(1) of the Corporations Act 2001:

Director

Director

Full Name (Print)

Full Name (Print)

EXECUTED BY:

Mountwill Pty Ltd (ACN 654 540 833) As Trustee For West Parade Unit Trust (ABN 30 208 612 420) pursuant to sub-section 127(1) of the Corporations Act 2001:

Director

Director

Full Name (Print)

Full Name (Print)

Item 1 (Clause 1.1)	The <i>Client</i> is:	Mountwill Pty Ltd (ACN 654 540 833) As Trustee For West Parade Unit Trust (ABN 30 208 612 420), Unit 1, 678 Beaufort St, Mount Lawley WA 6050
Item 2 (Clause 1.1)	The <i>Consultant</i> is:	
Item 3 (Clause 1.1)	The <i>Contract Documents</i> are:	As defined in the Formal Instrument of Agreement.
Item 4 (Clause 1.1)	The <i>Scope</i> is described in the following Documents, or the Scope is:	Refer to Schedule 1 – Services to be Rendered by Consultant
Item 5 (Clause 5.1)	The purpose(s) for which the <i>Services</i> will be suitable is/are:	Refer to Schedule 2 – Project and Client Brief.
Item 6 (Clause 6.1)	The <i>Client's</i> representative is:	Alan Francis Development Manager Willing Property
Item 7 (Clause 6.2)	The <i>Consultant's</i> representative is:	

Item 8
(Clause 10.1)

Claims for payment must be made on the following basis:

Lump Sum: \$.....

The fee is broken down into the following stages, noting that Client approval must be obtained prior to proceeding with the next stage:

.....
.....
.....

and

Rates: Applicable to additional scope and services, as shown below:

Specify whether the basis is inclusive or exclusive of GST.

GST inclusive: ~~Yes~~ / No

(strike through as appropriate)

If rates apply, specify rates and intervals

Role/Task:

Rate (\$) / Hour

Hourly rates are subject to an annual market review in June of each year with the first review in June 2025 provided that if a variation at the time of the review is not agreed, the rates shall increase by the same percentage increase in the Consumer Price Index (All Groups for Perth) for the previous 12 months.

Specify whether claims for payment, however calculated, will be paid in a single lump sum or in stages. If payable in stages, state the fee or percentage of fee payable for each stage.

Monthly payment claims will be made by the Consultant on the basis of the agreed schedule in Schedule 3 – Consultant Fees.

Item 9
(Clause 10.2)

Disbursements for which the *Consultant* may claim payment

Item 10
(Clause 10.3)

Time to claim payment is no later than:

The last Business Day of each calendar month.

Item 11 (Clause 10.6)	The time for payment is no later than:	Within 14 calendar days after service of the payment claim under clause 10.3
Item 12 (Clause 10.9)	The rate of interest for overdue payment is:	5% p.a.
Item 13 (Clause 12.1)	Alternative 1: The date or the period after commencement of this Contract, by which the Services must be completed is:	
Item 14 (Clause 12.2)	Other causes of delay for which the Consultant may notify an extension of time:	Any delay which is beyond the reasonable control of the Consultant including but not limited to, extensions to overall programme arising from scope change, market conditions, latent site conditions, contractor delays, consultant delays, authority delays, political delays.
Item 15 (Clause 13.2)	The Approvals to be obtained by the Consultant are:	As defined in Schedule 1 – Services to be Rendered by the Consultant.
Item 16 (Clause 18)	The key personnel are:	Name: Role to be performed:
Item 17 (Clause 19.2)	Existing conflicts of interest: .	No known conflicts of interest.
Item 18 (Clause 21.3)	Copyright and other <i>Intellectual Property Rights</i> , the Alternative that applies is:	Alternative 2

Item 19 (Clause 21.3 Alternative 2)	List excluded <i>Intellectual Property Rights</i> :	Excluded IP rights may be identified from time to time. The Client may be required to pay a licensing fee, copyright fee or royalty for third party IP as a disbursement. This shall include the license fee for this AS4122-2010 Contract.
Item 20 (Clause 21.4, Alternative 2)	The additional amount payable to the Consultant for granting of <i>Intellectual Property Rights</i> to the Client is:	Nil
Item 21 (Clause 22.1)	Does clause 22 (<i>Moral Rights</i>) apply? If yes, the author is:	Yes/No
Item 22 (Clause 23.1)	The following <i>Documents</i> are confidential:	<ol style="list-style-type: none">1. Project and Client Brief2. Fee and Personnel information in this Contract.
Item 23 (Clause 24.4)	Maximum period for which <i>Client</i> may suspend the <i>Services</i> at any one time, after which the <i>Consultant</i> may terminate:	30 days
Item 24 (Clause 29.1)	The <i>Consultant's</i> liability is limited to:	The total aggregate liability of the Consultant to the Client, including its respective officers, employees, agents and contractors and whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to this contract or its subject matter, howsoever caused shall be the obligation of the Consultant to provide the services again provided that if the provision of the services again by the Consultant will not discharge the liability of the Consultant, then the liability shall be limited to an amount as defined by Items 25 and 26 of this agreement.

Item 25 (Clause 30.2)	The amount of public liability insurance is:	\$20,000,000
Item 26 (Clause 30.4)	The amount of the professional indemnity insurance is:	\$10,000,000
Item 27 (Clause 30.4)	The professional indemnity insurance must be maintained for the following period	5 years after Practical Completion.
Item 28 (Clause 30.7)	The <i>Client</i> must effect the following insurances and maintain them for the following periods:	Insurance: Nil. Period:
Item 29 (Clause 33.1)	The address for the service of notices is:	<i>Client:</i> Unit 1, 678 Beaufort St, Mount Lawley WA 6050 alan@willingproperty.com <i>Consultant:</i>
Item 30 (Clause 35)	The law governing this <i>Contract</i> is:	Western Australia If nothing is stated, the state or territory where the Services are to be substantially performed.
Item 31	Has this <i>Contract</i> been amended from its original form?	Yes, refer to Annexure Part B

DELETIONS, AMENDMENTS AND ADDITIONS

- 1 The following Clauses or parts of Clauses have been deleted from the General Conditions in AS 4122-2010:

Clause 12.3(c)

- 2 The following Clauses have been amended and differ from the corresponding Clauses in AS 4122-2010:

Clause 29 Limitation of Liability

Amend clause 29.1 to insert the following words at the end of this clause:

“and in the case of personal injury (including psychological injury) or death is limited to the amount paid under any insurance effected by the Consultant”.

Insert new subclause 29.3 as follows:

" Notwithstanding any other provision in this Contract, the Consultant will not under any circumstances, be liable for any Consequential Loss."

- 3 The following Clauses have been added to those of AS 4122-2010:

Clause 37 – Work performed prior to execution

Insert clause 37 – ‘Work performed prior to execution’ as follows:

Where, prior to the execution of this *Contract*, the *Consultant* has performed or commenced performance of the *Services*, the parties agree that such performance is to be treated as performance pursuant to and governed by this *Contract*.

Clause 38 - Entire Understanding

Insert Clause 38 – ‘Entire Understanding’ as follows:

- (a) This Contract embodies the entire understanding and agreement between the parties as to the subject matter of this Contract.
- (i) All previous negotiations, proposals, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this Contract are merged in and superseded by this Contract and shall be of no force or effect whatever and no party shall be liable to any other party in respect of those matters.

Clause 39 – Agreement not to Solicit

Neither Party shall for the duration of this Contract and for a period of 12 (twelve) months after expiry or termination thereof persuade, induce, encourage, procure or solicit (or procure such persuasion, inducement, encouragement, procurement or solicitation of) the personnel of the other Party to become employed by it, or to terminate his/her employment with the other Party.

**Moral Rights Consent Form 1
For Employees of the Consultant
(Clause 22)**

To: **[INSERT CONSULTANT]**

ABN: **[INSERT ABN]**

In relation to any work that I perform for [Consultant's name] ('you') in the course of my employment, I agree as follows:

- (a) Unless you and I agree otherwise in writing, I will not attribute personally as the author of my work and you will be described as the author of my work performed and as the author of any product that results from my work.
- (b) Alternatively you and your client may agree on the form of attribution to be given to any specific product of my work.
- (c) Without notifying or consulting me, you may use my work in any way that you consider desirable, or necessary.
- (d) You need not advise me of any intended alteration to or demolition of any project, building or structure for my work.
- (e) You may provide a copy of this consent to any client.
- (f) This consent applies to all work that I have already performed for you.

Signed by the holder of Moral Rights:

Print name of signatory

Date

____ / ____ / ____

Moral Rights Consent Form 2
For use by the Consultant with its Subconsultants or Subcontractors
(Clause 22)

To: [INSERT CONSULTANT]
ABN: [INSERT ABN]
Project name: [INSERT NAME OF PROJECT]

Note: The Project name must be inserted for this consent to be valid.

In relation to any services that we supply to [Consultant's name] (you) in the course of [project name], we agree that, given the nature of the work, and the purpose, manner and context of its intended use:

- (a) Nothing in this consent prevents you describing yourself as the author or the author of [project name] or as the project comes to be known from time to time.
- (b) We will also be attributed as an author in any statements that you consider reasonable and practicable, or as otherwise agreed with you in writing.
- (c) You need not advise us if you are notified of an intended alteration to or demolition of any project, building or structure related to the work.
- (d) You may provide a copy of this consent to any of your clients.
- (e) We have the right to use this consent on behalf of our employees and our own subconsultants and subcontractors (if any).
- (f) We will provide you with copies of such consents within a reasonable time if you request them.

Signed by the subconsultant
On behalf of each holder of
Moral Rights:

Print name and ABN of
Subconsultant/subcontractor

_____/_____/_____
Date

SCHEDULE 1

SERVICES TO BE RENDERED BY THE CONSULTANT

SCHEDULE 2

PROJECT AND CLIENT BRIEF

SCHEDULE 3

CONSULTANT FEES
