

THIS AGREEMENT  
BETWEEN:

- (1)  
; And  
(2) **Atlas Living Developments Limited\*** (the 'Consultant')

WHEREAS

- (1) The Client intends to proceed with the Project as described in 'Schedule 3'.  
(2) The Client wishes to appoint the Consultant to act as project manager in relation to the Project on the terms and conditions set out in this Agreement and subject to the terms and conditions of business of the Consultant, which are incorporated by reference into this Agreement.

NOW IT IS AGREED as follows:

**1 The Consultant's obligations**

- 1.1 The Client appoints the Consultant to act as project manager in relation to the Project to perform the services set out in Schedule 3 ('the Services') on the terms and conditions set out in this Agreement and subject to the terms and conditions of business of the Consultant which are incorporated by reference into this Agreement. The Consultant agrees to perform the Services in accordance with the provisions of the Sale of Goods and Services Act 1984. Where, however, in the performance of the Services, the Consultant has to exercise his discretion as between the Client and the Contractor, the Consultant shall do so properly and fairly.

- 1.2 The Consultant shall have such authority to act on behalf of the Client as is necessary for the proper performance of the Services, and shall have such access to the Site as he reasonably requires for the purposes of implementing such performance. The Consultant shall not, however, have authority to act on behalf of the Client in relation to any of the following matters without the prior written approval of the Client:

- 1.2.1 Entering into contracts for or on behalf of the Client; or  
1.2.2 the variation of the design or specification of any work, materials and/or goods produced by others for the Project or the quality or quantity of the same.

- 1.3 Subject to clause 1.2 the Consultant shall:

- 1.3.1 comply with all reasonable instructions and directions given to him by the Client on any matter connected with the Project;  
1.3.2 keep the Client fully informed of the progress of the Services and of the Project and will meet with the Client to report on the Project and the Services as appropriate;  
1.3.3 use all reasonable commercial endeavours to cause the Project to be completed within the Construction Period and within the Estimated Project Cost other than where the Client has made changes to the Project or delays or cost increases are caused by factors outside of the control of the Consultant; and  
1.3.4 Advise the Client as soon as it is reasonably practicable of any matters that will or are reasonably likely to delay the completion of the Project or increase the cost of the Project.

- 1.4 Where requested by the Client, the Consultant will purchase specific materials selected by the Client. All discounts attained by the consultants will be passed directly to the client.

- 1.5 Until the end of the period of six months after practical completion of the Works (the 'Guarantee Period') the Consultant guarantees all work and materials supplied by the Consultant (the 'Guarantee') provided that:-

- 1.5.1 only Contractors or other workman instructed by the Consultant or whom the Consultant has approved in writing have worked on the project during the Guarantee Period; and  
1.5.2 the Consultant and its Contractors have been granted full access to the Site during the Guarantee Period to inspect any work and materials supplied by the Consultant that is subject to a claim under this guarantee

Pursuant to the Guarantee the Consultant shall remedy at no additional cost to the Client any material defect in the work and materials supplied by the Consultant pursuant to this Agreement. However no Payment shall be refunded to the Client.

Any materials/equipment found to be faulty the consultant shall inform the client of the issue and discuss further action before taking any. At no point shall the consultant or associated contractors be held responsible for these items.

- 1.6 Upon completion of the Works, whence the payments have been received in full, the Consultant shall provide all documents and certificates relating to the project to the Client.

**2 The Client's obligations**

- 2.1 The Client acknowledges and agrees that this Agreement cannot be terminated by the Client until the Project is completed save in the circumstances set out in clauses 2.1.1 and 2.1.2 whereupon the Client may terminate this agreement immediately upon receipt of written notice made to the Consultant :-

- 2.1.1 the Works are more than three months behind schedule, or  
2.1.2 if as a result of the penalty clause set out in clause 5.3 the Consultant owes the Client more than the amount the Client owes the Consultant pursuant to this Agreement.

- 2.2 The Client must provide the Consultant with prior written notice of any proposed significant changes to the Project or to the Works, such notice setting out sufficient details of such proposed changes to enable to Consultant to instruct the Other Consultants and the Contractors to consider and where appropriate to implement such proposed changes to the Works. The Client acknowledges that any such proposed changes are likely to cause changes to the Estimated Project Cost. The Consultant shall not be required to effect the changes to the Project and/or the Works proposed by the Client that are not provided to the Consultant in writing as required by this clause 2.2.

- 2.3 The Client shall, if so requested by the Consultant, supply to the Consultant in such time as may be reasonable, having regard to the time and nature of any such request, any necessary and relevant information in the possession of the Client or which may only be obtained by the Client and the Client shall give or shall request the Other Consultants or any of them or the Contractor to give such assistance to the Consultant as shall reasonably be required by the Consultant in the performance of the Services. Provided that any such obligation of the Client shall be without prejudice to the Consultant's obligation to liaise directly with the Other Consultants and with the Contractor/Sub-Contractors in order to procure the production of any information properly to be supplied by such persons.

- 2.4 The Client acknowledges that any design plans shall be the property of, and in possession of Atlas Living until relevant deposit funds have been cleared; all design plans will be charged at a cost of £900.00 per design plan and shall be included in the estimated project cost. However, in the event that the Client chooses not to proceed with the Project or commenced works are aborted, with Atlas Living, for reasons howsoever arising, the Client will incur a charge of £1800.00 (per plan) for the design plans.

- 2.5 The Client shall permit Atlas Living to procure photographs of the Site for marketing purposes.

- 2.6 The Client shall provide power and water utilities on Site to enable the Contractor to perform the Works.

- 2.7 In the event that a pre-existing boiler is relocated on site, the Client is required to sign a 'boiler disclaimer' and acknowledges that Atlas Living makes no guarantee that resettlement will be successful.

- 2.8 The Client accepts responsibility for managing building control processes, unless an individual agreement has been made with Atlas Living to the contrary.

- 2.9 The Client must remove or safely store all valuables of any form prior to the Start Date specified in Schedule 2. Atlas Living accepts no responsibility whatsoever for items of value left by the Client.

- 2.10 The Client shall at all times during the Project maintain in clear and accessible funds a contingency fund amounting to between 10% and 15% of the Estimated Project Cost to cover any increase to the Estimated Project Cost caused by unforeseen circumstances that may arise.

- 2.11 The Client acknowledges and agrees that it is not permitted to commission the works referred to in the quotation prepared by the Consultant or any other works directly with an employee or contractor of the Consultant. However should this take place the Consultant is entitled to be paid by the Client 120% of the full contract sum of any such works commissioned, irrespective of whether the relevant employee or contractor is paid or the works actually commenced.

- 2.12 The Client acknowledges that both the financial terms of the contract and any information provided by the quote from Atlas Living is private and confidential and must remain so. Henceforth, the Client is not permitted to discuss any pricing issues whatsoever with contractors/subcontractors at any point before, during or after the project has been undertaken, unless prior written authorisation has been issued by the Consultant to the Client to do so. In the event that the aforementioned authorisation has not been obtained by the Client, the Consultant is entitled to be paid by the Client 120% of the full contract sum of any such works commissioned, irrespective of whether the relevant employee or contractor is paid or the works actually commenced

- 2.13 The Client accepts that delays in delivery of materials ordered are not the responsibility of Atlas Living. Such delays will result in the project completion date being extended, Atlas Living will keep you informed of such issues and resulting completion delays throughout the project.

- 2.14 The Client acknowledges and agrees that it is not permitted to change the materials, suites and appliances it has selected after being purchased. Unless agreed in writing with the consultant and any changes in project timing/ costs have been agreed.

**3 Consultant's personnel**

- The Consultant shall forthwith appoint a Director of the Consultant to direct and control the overall performance by the Consultant of the Services. Such person or any replacement by the Consultant from time to time shall have full authority to act on behalf of the Consultant for all purposes in connection with this Agreement.

**4 Remuneration**

- 4.1 The Client shall pay to the Consultant as full remuneration for the proper performance of the Services in accordance with this Agreement the Payments set out in Schedule 2.

- 4.2 Payments may be made in GB sterling in cash or by electronic CHAPS/BACS transfer to the Consultant, to such account as shall be notified to the Client by the Consultant from time to time. All payments made by the Client, including deposits, are non-refundable.

- 4.3 The due date for payment of each stage shall be the relevant date set out in Schedule 2 against each Payment, and the final date for each such payment shall be 24 hours after the due date.

- 4.4 If the Client fails to pay any sum due under this Agreement by the applicable final date for payment, his liability shall be increased to include interest on such sum from the final date for payment until the date of actual payment at that annual rate which is 5% above the base rate of Bank of Scotland Plc from time to time in effect during such period. All such interest shall be calculated on the basis of the actual number of days elapsed, over a 365 day year and compounded at monthly intervals.

- 4.5 If the Client fails to pay any sum due under this Agreement by the applicable final date for payment then the Consultant may in its absolute sole discretion suspend the provision of the Services and may instruct all Contractors and Other Consultants to suspend the provision of their services until the outstanding payment has been received in full in cleared funds into the bank account of the Consultant as notified by the Consultant to the Client from time to time.

- 4.6 Any payment that is cancelled or fails to clear will be subject to a charge of £250 or 10% of the value of the monies overdue, whichever is greater. Payments subsequent to a dishonoured cheque must be made by cash or bankers draft.

- 4.7 All project related documents, invoices and certificates will be issued once final payment for the project has been in full as cleared funds. Until this point, all project related documents, invoices and certificates shall remain the property of Atlas Living.

- 4.8 All provisional costs (quoted as P.C.) will be quoted as the minimum cost for the service/item of works. P.C. figures are quoted for items/services, which can not be accurately quoted for at the beginning of the project.

**5 Additions/deductions to the Payments**

- 5.1 The Payments shall be deemed to be inclusive payment for the Services and for all costs, expenses, disbursements and overheads of every kind incurred by the Consultant in connection therewith, except for fees for statutory approvals (such as for planning applications and for building regulation approvals) which the Client shall pay.

- 5.2 In addition to the Services, the Consultant shall perform such other services as the Client may reasonably instruct from time to time in relation to the Project. If the Consultant considers that the Client has instructed the Consultant to carry out additional services the Consultant shall advise the Client in writing before complying with the instruction of its proposed fee, and the effect on the Construction Period and Estimated Project Cost, although the failure of the Consultant to do this shall not prevent the Consultant from being entitled to any such additional fee.

- 5.3 In the event that the Client delays the Works from commencing on the Start Date as prescribed in Schedule 2 or suspends the Works at any time, the Client shall incur a delayed/suspended works charge. This shall be calculated pro-rata to the number of working days delayed/suspended, together with any associated material costs incurred.

- 5.4 In the event that the Client cancels all or part of the Works, the Client shall forfeit all deposits and be liable for full payment of the Estimated Project Cost ('abort fee'). This payment must be made within 5 working days from date of cancellation; any payments made thereafter will be subject to an incrementing daily interest of 5% of the total fee owed to Atlas Living.

**6 Insurance**

- The Consultant shall maintain professional indemnity insurance covering (up to £5,000,000 – Moorhouse Insurance Policy No: NUMHGTOP10000083) all its liability hereunder whether for breach of contract negligence or otherwise upon customary and usual terms and conditions prevailing for the time being in the insurance market, and with reputable insurers licensed to carry on such insurance business in the United Kingdom provided always that such insurance is available at commercially reasonable rates in the insurance market at large.

**7 Liability**

7.1 The Consultant will always endeavour to avoid damage to a Client's property. However, accidental damage while carrying out building works is likely to occur for which the Consultant will accept no responsibility for.

7.2 Subject to clause 7.1 the liability of the Consultant shall be restricted to liability for death or personal injury arising out of any negligent act, error or omission on the part of the Consultant, its employees, agents or contractors in the performance of any of their obligations hereunder.

**8 Time for performance**

The Consultant shall, subject to the provisions of this Agreement, proceed diligently with the Services and shall perform the same as may be necessary and having regard to the Construction Period and any program for completion of the Project as may from time to time be agreed between the Client and the Consultant. The commencement of Projects shall occur after a minimum of 5 days from the date at which deposit payments are received in full by Atlas Living Limited as cleared funds.

If the Consultant is prevented or delayed in the performance of the whole or any part of the Services for any reason (whether arising out of delay on the part of any Sub-Contractor or by any of the Other Consultants and whether amounting to force majeure or otherwise), then the Consultant shall give written notice thereof forthwith to the Client advising the specific reason for the delay or prevention together with his reasonable estimate of its effect on the Construction Period and shall use all reasonable endeavours as soon as practicable to resume and expedite the performance of the Services so as to complete the same with all reasonable speed.

**9 Hours of Work**

The regular hours of work are 8:30am – 5:30pm, Monday – Friday, excluding all British Public and Bank holidays. If Works are carried out (at the Client's request) outside of these hours, the Consultant's charges will bear uplift (which shall be agreed in advance).

**10 Termination of Consultant's engagement by Consultant**

In the event of a material breach by the Client of its obligations under this Agreement which the Client shall fail to remedy after receiving a fourteen day notice in writing from the Consultant specifying the breach and requiring its remedy, then the Consultant shall be entitled forthwith by notice in writing to the Client, to terminate his engagement under this Agreement.

**11 Consequences of the termination of the Consultant's engagement**

11.1 Upon the termination of the Consultant's engagement under clause 9 the Consultant shall take immediate steps to bring to an end the Services in an orderly manner but with all reasonable speed and economy and after all the Payments have been settled in full shall cause to be delivered to the Client all bills of quantities, valuations, details, specifications, schedules, reports, calculations and other work (whether in the course of preparation or completed) prepared in connection with the Project provided that the Consultant shall be entitled to retain copies of the same and the Consultant shall retain all copyright to designs and drawings and other documents that the Consultant has created or of which it has commissioned the creation.

11.2 Upon the termination of the Consultant's engagement howsoever arising the Consultant shall submit its account for payment due under this Agreement to the Client. The due date for such payment shall be 14 days after the date of such account and the final date for such payment shall be 14 days thereafter. Clause 4.4 shall apply to such payment. The Client shall pay to the Consultant the Payments which shall have accrued due prior to the date of such termination (less the amount of any payments in respect of the Payment previously made by the Client to the Consultant under this Agreement) and the direct costs wholly and necessarily incurred by the Consultant and resulting from such termination.

11.3 Termination of the Consultant's engagement however arising shall be without prejudice to the Consultant's rights and remedies in relation to any negligence, omission or default of the Client.

11.4 The provisions of this Agreement shall continue to bind each party insofar as and for as long as may be necessary to give effect to their respective rights and obligations hereunder.

**12 Alterations to terms**

12.1 All additions, amendments and variations to this Agreement shall be binding only if in writing and signed by the duly authorized representatives both of the Client and of the Consultant.

12.2 This Agreement supersedes any previous agreement or arrangements between the parties in respect of the Services (whether oral or written) and represents the entire understanding between the parties in relation thereto.

12.3 Notwithstanding the date of this Agreement, it shall have effect as if it had been executed upon the actual commencement of the services by the Consultant.

**13 Contracts (Rights of Third Parties) Act 1999**

No person who is not a party to this Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

**14 Notices**

A notice required to be given under this Agreement shall be in writing and shall be deemed to be properly given, if given by hand, first class mail or facsimile to the addresses of the parties first above stated or such other address as the party to be served may have previously notified in writing to the other party.

**15 Governing Law and Dispute Resolution**

15.1 The construction, validity and performance of this Agreement shall be governed in all respects by English law.

15.2 If any conflict or misunderstanding arises in respect of this Agreement, the Consultant and the Client shall attempt in good faith to resolve the situation promptly through negotiations. If the parties fail to resolve their dispute through negotiation, they are free to begin an action in the High Court of England. In such proceedings, neither party shall challenge the legal evidential standing of an electronic document and our system shall be deemed to be the definitive record of electronic communications and documentation.

15.3 If the parties fail to resolve their dispute or differences through negotiation the parties are free to begin an action in the High Court of England which shall have jurisdiction to settle the dispute and both parties agree to submit to the non-exclusive jurisdiction of the High Court of England.

15.4 No action or proceedings under or in respect of this Agreement shall be brought against the Consultant after:

- 15.4.1 the expiry of one year from the date of completion of the Project or;
- 15.4.2 where such date does not occur, or the Consultant performed services in relation to the Project later than such date, the expiry of one year from the date the Consultant last performed services in relation to the Project.

**16 Definitions and interpretations**

16.1 In this Agreement the following words and expressions shall where the context so admits be deemed to have the following meanings:

16.1.1 'Construction Period' means the period for completion of the Project as expressed in Schedule 1 or such extended or reduced period as may be agreed between the parties from time to time;

16.1.2 'Contractor' means a contractor appointed by the Consultant to supply goods, design and/or services in connection with the works for the Project or another contractor appointed by the Consultant from time to time to act in his place and shall include where the context so admits the Contractor's employees, agents, sub-contractors and suppliers;

16.1.3 'Estimated Project Cost' means the total estimated cost to the Client of executing and completing the Project prepared by the Consultant in conjunction with the Other Consultants and approved by the Client or such other estimated cost as may be approved by the Client from time to time;

16.1.4 'Other Consultants' means collectively any other consultant as may be appointed by the Contractor from time to time;

16.1.5 'Payment' means the sum provided in Schedule 2 and payable to the Consultant for the performance of the Services;

16.1.6 'Project' means the works to be carried out and completed at the Site as described in Schedule 1 and as amended in writing by agreement between the Client and the Consultant from time to time;

16.1.7 'Services' means the services to be performed by the Consultant as set out in Schedule 3 hereof and as amended in writing by agreement between the Client and the Consultant from time to time;

16.1.8 'Site' means the site described in Schedule 1;

16.1.9 'Sub-Contractors' means the persons whether sub-consultants, suppliers, or others to be appointed by the Contractor to supply services and/or materials and goods in connection with the Project;

16.1.10 'Works' means those works, including where appropriate any design and/or the selection of materials and goods therefore, described in and to be executed under Schedule 2 by the Contractor or the Sub-Contractors.

16.2 The clause headings in this Agreement are for the convenience of the parties only and do not affect its interpretation;

16.3 Words importing the singular meaning include where the context so admits the plural meaning and vice versa;

16.4 Where the context so admits words denoting the masculine gender include the feminine and neuter genders and words denoting natural persons include corporations and firms and all such words shall be construed interchangeably in that manner;

16.5 References to a clause or a Schedule are to a clause or a Schedule of this Agreement.

**17 Preparation of the quotation:**

The quotation prepared by the consultant is based on design plans and details provided by the client. All new fixtures and fittings, unless otherwise stated, are to be purchased and provided by the client. The quotation pricing is based on all client-supplied items being designed for standard UK plumbing and electrical fitting, sizes and ratings. Time frames in the quotation are given in days are working days, not calendar days and assume un-impeded access to the property and unrestricted scheduling of works. Times frames are estimated and dependent on the availability of material and labour. Items not specifically mentioned in the quotation are excluded from the works and pricing.

Unless otherwise stated, it is assumed:

- The entire property is asbestos free.
- All tiling is ceramic, non-mosaic and smaller than 20cm square.
- Spotlights supplied are standard 50w with white surround
- All plumbing, electrical and specialist services will be quoted as 'P.C. Sums'
- All planning matters (building control, planning permission, listed building consent etc) are the responsibility of the client (including costs)
- Any painting shall be conducted using 2 coats of matt emulsion paint for walls, 2 coats of oil-based eggshell paint for woodwork, and 1 coat of satin varnish for varnished woodwork.

**The quotation is subject to a site visit and structural engineer's assessment and calculations where deemed necessary by the consultant. The quotation will be valid for 28 days.**

**Day rates of trades for additional Work.**

Trade	Half/Full Day Rate* (£)
Labourer	£80
Skilled Labourer	£100
Painter/Carpenter	£120/£200
Plumber (Gas Safe Qualified)	£220/£360
Electrician (NICEIC/ELECSA Qualified)	£200/£275
Project Management/Interior design	£320 (£40/hr)

\*All prices exclude VAT and all materials.  
\*\*Note: all additional work must be agreed in writing (via RFi forms).

**Schedule 1: The Project**

The Site:	
The Project:	
Start Date:	
Construction Period:	
Estimated Project Cost:	
Materials included:	All building materials included unless specified otherwise in the Schedule 3

**Schedule 2 – Payment Structure:**

Date Due	Amount Due	Description	Percentage of Contract Sum
		Deposit	33%
		2 <sup>nd</sup> Payment	33%
		3rd Payment	33%
Completion of Snagging		Completion of Snagging	1% or £1000 (whichever is lesser)

The terms of this agreement are agreed and accepted by the parties who have signed this agreement on the below date:

Signed by: \_\_\_\_\_ Date: \_\_\_\_\_ P. Radhakrishnan Atlas Living