

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT

WARNING:

NO REPRESENTATION IS MADE THAT THIS FORM OF CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE COMPLIES WITH SECTION 5-702 OF THE GENERAL OBLIGATIONS LAW ("PLAIN LANGUAGE").

Contract of Sale

Contract of Sale made as of, June 25, 2024 "Effective Date"

BETWEEN

15 Terrace Road, LLC

Address: c/o Dahan Law Offices, PC, 151 South Main Street, New City, NY 10956 hereinafter called "Seller"

And

Sholem Potash Address: 9559 Collins Ave, Surfside, FL 33154, hereinafter called "Purchaser".

The parties hereby agree as follows:

1. Seller shall sell and convey and Purchaser shall purchase the property, consisting of unimproved **vacant land which is a part of** a parcel of land, situate, lying and being in the Village of Wesley Hills, Town of Ramapo, County of Rockland, and State of New York, currently designated on the Tax Map of the Town of Ramapo as Section 32.19 Block 2 Lot 8 and depicted on the annexed unfiled draft Subdivision Map dated June 7, 2022, (which together with all notes thereto, is referred to herein as the "Proposed Subdivision Map") as Lot No. 8 (the Lot marked as Lot No. 8 the Proposed Subdivision Map is referred to herein as the "Premises"), more fully described on a separate page marked "Schedule A", annexed hereto and made a part hereof.
2. Purchaser agrees to erect upon the described Premises a one-family residence in accordance with the requirements of the Approved Map. Subject to the requirements of the Approved Map, Purchaser in its sole discretion shall determine the proposed elevations and foundation location to conform to topographical conditions and the location and the orientation of the house on the plot, subject to approval by the Building Inspector of the Village of Wesley Hills. Purchaser agrees that the one-family residence shall in all respects comply with the Building and Zoning Codes of the Village of Wesley Hills, and shall not seek variances from the requirements of the Zoning Code of the Village of Wesley Hills with respect to its proposed residence. The provisions of this Paragraph 2 shall survive the Closing until such time as the Village of Wesley Hills accepts dedication of the adjacent roadway and the deed for the adjacent roadway has been recorded.
3. The purchase price is \$950,000.00 and shall be payable as follows:
 - (a) \$ 95,000.00 on the signing of this contract, by Purchaser's check payable to Dahan Law Offices PC as Escrow Agent (the "Escrow Agent") to be immediately released to Seller upon Purchaser's receipt of a fully executed Contract (the "Down payment");
 - (b) \$855,000.00 balance at Closing in accordance with paragraph 7.
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7. All money payable under this contract, unless otherwise specified, shall be paid by:

- (a) Cash, but not over \$1,000.00;
- (b) Good certified check of Purchaser drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, unendorsed and payable to the order of Seller, or as Seller may otherwise direct upon not less than 3 business days' notice to Purchaser;
- (c) As to money other than the purchase price payable to Seller at Closing, uncertified check of Purchaser up to the amount of \$1,000.00;
- (d) As otherwise agreed to in writing by Seller or Seller's attorney or
- (e) Wired funds.

8. Omitted

9. The Premises are sold and shall be conveyed "As-Is" subject to provided same does not render the Premises uninsurable:

- (a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation;
- (b) The Approved Map, and any and all Notes contained therein;
- (c) Real estate taxes that are a lien, but are not yet due and payable;
- (d) any state of facts an accurate survey of the Premises may show;
- (e) covenants, agreements, restrictions, and easements of record at Closing, if any;
- (f) zoning ordinances, restrictions and regulations of the municipalities in which the Premises is situated at the time of the execution of this Contract and at the date of Closing of title, provided same do not prohibit the erection of a one family residence and use of the Premises as such;
- (g) agreements and easements for the maintenance of sewer and other utilities as shown on the Proposed Subdivision Map, the Final Subdivision Plan and/or otherwise existing at Closing, if any;
- (h) easements for drainage, rights of way or other public improvements as shown on the Proposed Subdivision Map, the Final Subdivision Plan and/or otherwise required by the municipalities; and
- (i) Purchaser being bound by Storm Water Facility Management Escrow Agreement to be entered into with the Village of Wesley Hills as part of the Final Subdivision Plan and the Plan Approval (the "Storm Water Agreement").

10. Reserved

11. (a) Seller represents and warrants to Purchaser that:

- (i) Upon acceptance of Seller's Offer of Dedication of the roadway, the Premises abut or have

:

a right of access to a public road;

- (ii) Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract;

- (iii) Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA"); and

- (iv) The Premises are not affected by any exemptions or abatements of taxes;

- (b) The subject premises is not the subject of any bankruptcy action and is not currently in any foreclosure action with regard to any existing mortgage on the property and/or the Seller has not received any written notification of any default with regard to any existing mortgage on the property; that there is no action pending against the subject premises with regard to the enforcement of any judgment; to the best of Seller's knowledge, as of the execution date of this Contract, this transaction is not a "short sale" by reason of recorded judgments, liens and/or mortgages affecting the subject property, taking into account other standard closing costs being paid from the sale proceeds, including but not limited, real estate brokerage commissions, title fees and attorney fees

- (c) To the best of Seller's knowledge and belief, in order to induce Purchaser to enter in this Contract,

that there is no action, suit, or proceeding at law or in equity before any governmental instrumentality or other agency now pending, or threatened, against or affecting Seller or said premises, that would materially and/or adversely affect Seller's interest in the premises.

(d) Notwithstanding the provisions of the Contract, the Premises shall be delivered free and clear of all consensual liens, mortgages, judgements, and any mechanic's/materialman's liens at Closing. Seller shall be responsible to pay off and satisfy any and all monetary fines resulting from any and all violations on the Premises as of the date of Closing.

(f) It shall be a condition precedent to Purchaser's obligation to close, that there not be any condemnation clauses recorded against the Premises, no condemnation proceedings pending or affecting the Premises between the date hereof and closing, and that no material casualty shall have occurred between the date hereof and closing. Purchaser may, at its sole option, elect to waive said condition and proceed with closing subject to receiving any and all proceeds of condemnation awards or insurance proceeds, as the case may be.

(c) Except as otherwise provided herein, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive Closing.

12. Acknowledgment and Hold Harmless. The Parties hereby acknowledge that the governmental agencies having jurisdiction over the premises have set forth requirements for the approval of the Final Subdivision Plan. The Purchaser hereby agrees to obey all such governmental requirements and restrictions and to hold the Seller harmless from any monetary loss occasioned by the operations of the Purchaser deemed to be violations by such municipalities. This provision shall survive delivery of deed. In the event that any governmental agency having jurisdiction over the development shall declare a violation or impose a fine upon the Seller on account of the actions or inactions of the Purchaser or its employees and agents, then and in those events, the Purchaser shall indemnify and hold the Seller harmless for such violations and/or fines; and upon notice from the Seller of such violations and fines, the Purchaser shall cure the violations and pay such fines immediately. This provision shall survive delivery of deed.

13. The Seller shall give and Purchaser shall accept such title as a NYS licensed title or abstract company selected by Purchaser, shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the matters provided for in this contract.

14. "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a **Bargain and Sale w/ Covenants Against Grantor Acts** deed in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by sub. 5 of Section 13 of the Lien Law.

15. Closing shall take place at the office of Dahan Law Offices P.C., 151 South Main Street, New City, NY 10956, at 10:00 AM o'clock on August 5, 2024 TIME BEING OF THE ESSENCE AGAINST PURCHASER

16. This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in

this contract.

(b) The delivery by Seller to Purchaser of a certification stating that Seller is not a foreign person, which certification shall be in the form then required by FIRPTA. If Seller fails to deliver the aforesaid certification or if Purchaser is not entitled under FIRPTA to rely on such certification, Purchaser shall deduct and withhold from the purchase price a sum equal to 100% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal

Revenue Service.

(c) The delivery by the parties of any other affidavits required as a condition of recording the deed.

17. At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, **shall be delivered by the Purchaser**, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. At Closing, **Purchaser shall be solely responsible to pay any applicable New York State Mansion Tax**

18. To the extent applicable, the following shall be apportioned as of midnight of the day before the day of Closing: taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed.

19. In the event that Purchaser's construction or construction-vehicles cause damage to site improvements installed by Seller, Purchaser shall be solely responsible for the cost to repair such damage as well as replenishment of any escrow which may be required by the Village of Wesley Hills and any other municipality overseeing the Project. Purchaser shall reimburse the Seller for any and all damage caused to the infrastructure of the project by the operations or actions of the Purchaser and its employees and agents upon notice from the Seller of such damage. This provision will survive delivery of deed.

20. **SWPPP.** The Purchaser herein hereby assumes full responsibility for compliance with the requirements of the approved Storm Water Pollution Prevention Plan on file with the Village Building Department applicable to the Premises for any violations caused by the actions or inactions of the Purchaser. Purchaser shall ensure that their contractor is advised of the terms of the SWPPP prior to commencement of construction. Purchaser shall indemnify and hold harmless the Seller from any and all violations resulting from deviations from the SWPPP during construction. This provision shall survive delivery of deed.

21. **Stormwater Maintenance.** Seller shall be bound by the Provisions of the Stormwater Maintenance Agreement and Easement attached hereto as Schedule B, which provides that lot owners must deposit specified sums in escrow with the Village to compensate the Village for maintenance of all detention basins, including those on private property which are subject to easements. At Closing, Purchaser shall be responsible to reimburse the Seller for all sums that are required to be held in escrow pursuant to the Stormwater Maintenance Agreement and Easement, as attached hereto as Exhibit A, including any subsequent modifications and/or addendums thereof. The provisions of this paragraph shall expressly survive the Closing of title.

22. **Snowplowing and Roadway Maintenance.** Seller shall be responsible for maintenance and snow removal of Jeremy Court and Rockford Lane (limited only those portions shown on the Approved Subdivision) until the final paving of the road is complete and the Township has assumed responsibility for plowing same. Additionally, Seller shall maintain and ensure the roads until all bonds are released and the Township has assumed responsibility for the maintenance of the roads. The provisions of this paragraph shall expressly survive the Closing of title until such time as the Village of Wesley Hills accepts dedication of the adjacent roadway and the deed for the adjacent roadway has been recorded.

23. Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract. In the event that any drainage, telephone or utility easements as shown on the Final Subdivision Plan shall not have been recorded by the time of closing, the Seller reserves the right to file and record any such easements after the delivery of the Deed to the Premises to the Purchasers. The Premises is sold together with the right of ingress and egress over the street as shown on the subdivision map to the nearest public highway; but the Seller reserves the fee and all rights in and to the street and the right of dedication of the street to the proper governmental agency. This paragraph shall survive closing of title. Seller shall have no

obligation to clear any title objection raised by Madison Title Agency Inc Schedule B, item 3 ("Item 3"), in the report attached hereto as Exhibit B. In the event that an objection or objections should be raised to Item 3 which are required to be cured by Seller under this Agreement, the sole obligation of the Seller shall be to return the Down Payment of the Purchasers. Under no circumstances shall the Seller be obligated to take any affirmative action in excess of a cost of \$2,500.00 with regard to clearing any objection(s)

24 If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

Seller shall provide a survey to Purchaser which shall include a metes and bounds description. Purchaser shall provide Seller with the proper information for certifications to be contained in the survey at least ten (10) days prior to Closing.

25. (a) If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Down payment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Down payment constitutes a fair and reasonable number of damages under the circumstances and is not a penalty.

(b) If Seller defaults hereunder, Purchaser shall be entitled to any and all remedies at law or in equity.

26. **Soil** It is hereby acknowledged and agreed by the Parties that at any times prior to Closing of title, the Seller may reposition soil from the lots owned by the Seller to the Premises being conveyed hereunder in compliance with and in accordance with the existing grading plan. After the date of Closing, any soil placement on the Premises shall be subject to Purchaser's agreement as to location within the Premises. This provision is to survive closing of title.

27. Any notice or other communication ("Notice") shall be in writing and either (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by overnight mail, or (b) via email to such address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant to this paragraph. Each Notice mailed shall be deemed given when delivered.

28. This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignments made without such consent shall be void.

29. Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale other than Q Home Sales ("Broker") and Seller shall pay Broker any commission earned pursuant to a separate agreement between Seller and Broker. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorneys' fees, arising out of the breach on their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur, the termination of this contract.

30. (a) All prior understandings, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.

(b) Neither this contract nor any provision thereof may be waived, changed or cancelled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.

(c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.

(d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract

or any provision hereof.

(e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

(f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.

(g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.

(h) This contract is intended for the exclusive benefit of the parties hereto and, except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

31. Purchaser agrees to accept delivery of the Premises at Closing in their "As-Is" condition.

32. Utilities. The Seller has installed "stub" connections to public utilities which can later be connected by Purchaser to the Premises. It is hereby acknowledged that Purchaser shall be solely responsible for working directly with any and all third party utility suppliers and connect any and all utilities which may be required to operate the improvements to be made to the Premises by Purchaser. On and after the Closing, the Purchaser shall be solely responsible to pay for services provided by all utility providers, including the connection of residential users to such utilities. Upon such connection, Purchaser shall ensure that an account is established with such utility provider in Purchaser's name. In the event Seller is entitled to reimbursement from said utility companies for services provided on Purchaser's behalf, Purchaser further agrees that Purchaser shall not do or suffer anything whereby such reimbursements/payments to the Seller are denied or delayed. The obligations of the Parties under these Paragraphs shall survive Closing. It is understood that any utility fees are substantially based upon the Purchaser's plan and intended structure and improvements to the Premises. Purchaser acknowledges that the full final utility fees are subject to increase or decrease depending on, among other things, the ultimate permit and improvement made by Purchaser and if Purchaser builds additional permitted structures which require utility service. It is expressly agreed that Purchaser is solely responsible for directly pursuing the public utilities suppliers with respect to any such increase or decrease in the respective charges. The obligations of the Parties under this Paragraph shall survive Closing.

33. Escrow Agent's Duties and Responsibilities.

(a) Escrow Agent has signed this Agreement for the sole purpose of agreeing to act as Escrow Agent in accordance with this Article. Escrow Agent shall have no duties or responsibilities except those set forth in this Agreement and Seller and Purchaser agree and acknowledge that Escrow Agent shall act hereunder as a depository only.

(b) Escrow Agent shall be protected in relying upon the accuracy, acting in reliance upon the contents, and assuming the genuineness of any notice, demand, certificate, signature, instrument, or other document which is given to Escrow Agent without verifying the truth or accuracy of any such notice, demand, certificate, signature, instrument, or other document.

(c) The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that the duties of the Escrow Agent hereunder are purely ministerial in nature and shall be expressly limited to the safekeeping and disposition of the Down Payment in accordance with the provisions of this Agreement. Escrow Agent shall not be liable for any action taken or omitted by Escrow Agent in good faith and believed by Escrow Agent to be authorized or within its rights or powers conferred upon it by this Agreement, except for any damage caused by Escrow Agent's own gross negligence or willful default. Escrow Agent shall not have any liability or obligation for loss of all or any portion of the Down Payment by reason of the insolvency or failure of the institution of depository with whom the escrow account is maintained. Upon the disbursement of the Down Payment in accordance with

this Agreement, Escrow Agent shall be relieved and released from any liability under this Agreement, except in connection with Escrow Agent's gross negligence or willful misconduct.

(d) In the event that a dispute shall arise in connection with this Agreement, or as to the rights of the parties in and to, or the disposition of, the Down Payment, Escrow Agent shall have the right to: (i) hold and retain all or any part of the Down Payment until such dispute is settled or finally determined by litigation, arbitration, or otherwise; (ii) deposit the Down Payment in an appropriate court of law, following which Escrow Agent shall thereby and thereafter be relieved and released from any liability or obligation under this Agreement; (iii) institute an action in interpleader or other similar action permitted by stakeholders in New York State; or (iv) interplead any of the parties in any action or proceeding which may be brought to determine the rights of the parties to all or any part of the Down Payment.

(e) Escrow Agent shall not charge a fee for its services as escrow agent.

(f) All costs and expenses incurred by Escrow Agent in performing its duties as the Escrow Agent including, without limitation, reasonable attorneys' fees (whether paid to retained attorneys or amounts representing the fair value of legal services rendered to or for itself) shall be borne 50% by Seller and 50% by Purchaser, except however, if any litigation arises under this Agreement with respect to the Down Payment, all costs and expenses of the litigation shall be borne by whichever of Seller or Purchaser is the losing party.

(g) Escrow Agent has acknowledged agreement to these provisions by signing in the place indicated on the signature page of this Agreement.

(h) **Indemnification of Escrow Agent.** Seller and Purchaser hereby agree to, jointly and severally, indemnify, defend, and hold harmless Escrow Agent from and against any liabilities, damages, losses, costs, or expenses incurred by, or claims or charges made against Escrow Agent (including reasonable attorneys' fees and disbursements) by reason of Escrow Agent acting or failing to act in connection with any of the matters contemplated by this Agreement or in carrying out the terms of this Agreement, except for those matters arising as a result of Escrow Agent's gross negligence or willful misconduct.

(i) **Seller's Attorney as Escrow Agent.** Notwithstanding anything to the contrary herein contained, Purchaser acknowledges that Escrow Agent is also acting as Seller's counsel in connection with this Agreement and the transactions contemplated hereunder. Purchaser further acknowledges and agrees that the Escrow Agent may represent Seller, as Seller's counsel, in any action, suit, or other proceeding between Seller and Purchaser or in which Seller and Purchaser may be involved.

(j) **Survival.** This Article shall survive the Closing or the termination of this Agreement.

34. Performance Bond Improvements. As required by the Final Subdivision Approval, Seller shall post and maintain performance and maintenance bonds and guarantees and all other forms of surety bonds as may be required by the Village of Wesley Hills or by any other applicable governmental authority for completion of the Site Improvements (the "Seller's Bond"). The Purchaser acknowledges that Seller shall have the right, after two years from the date of the Seller's Site Map filing to make the final pavement of applicable roadway wearing coat, and if Purchaser has not yet completed construction of the home at such time, or as otherwise may be required by the Village of Wesley Hills, Purchaser may be required to post and maintain performance and maintenance bonds or escrow as may be required by the Village of Wesley Hills or by any other applicable governmental authority in order to construct a residence upon the Premises.

35. At Closing, each and all of the covenants, terms, provisions, and agreements herein contained shall be done according to Heter Iska as specified in the sefer "Chochmot Adam".

36. Access by Seller. Until such time as all public improvements are completed and Seller's obligation under all bonds has been released, Purchaser hereby grants the Seller the right of access at reasonable times and after reasonable notice has been provided to Purchaser to Premises after Closing to the extent such access is reasonably required in order to comply with any requirements of the Final Subdivision Plan or other municipal requirements, including but not limited to, access to the drainage facilities, storm water detention areas and areas to be dedicated as public roadways or rights of way. The provisions of this paragraph shall survive the Closing.

37. Access by Purchaser. Seller shall allow Purchaser reasonable access at reasonable times upon reasonable notice, to the Premises, in order to inspect the Premises; this shall include and not be limited to bringing third parties in order to inspect the Premises and granting the Purchaser's lending institution access to the premises for the purpose of inspection and appraisal.

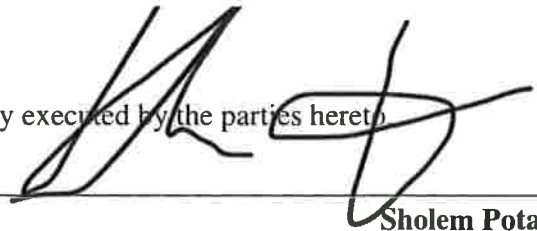
38. Seller acknowledges that Purchaser may be acquiring the Premises as part of an IRC Section 1031 Tax Deferred Exchange for Purchaser's benefit. Seller agrees to assist and cooperate in such exchange for the benefit of Purchaser provided Seller shall incur no liability, cost or expense and will execute any and all documents, subject to the reasonable approval of its counsel, as are reasonably necessary in connection with such exchange.

(Signature page to follow)

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto

Michael Mitnick

15 Terrace Road, LLC
Seller



Sholem Potash,
Purchaser

Attorney for Seller:

Dahan Law Offices P.C.
chaim@dahanlaw.net

Attorney for Purchaser:

Mark Nussbaum, Esq.
mnussbaum@nlllp.com

Tel.: 718-961-4111

Tel.: 914-414-8886

Schedule A
Proposed Subdivision Map

Schedule B
Stormwater Maintenance Agreement and Easement