## Agreement

## Entered into and executed on \_\_\_\_ of \_\_\_, 2017

Between: **Zelnick Henry, US passport 453314959**

of [ ]

and also Yaacov Salomon, Lipschutz & Co. advocates

of 7 Abba Hillel Street Beit Silver Ramat Gan

## hereinafter: the "Seller"

of the first part,

and between: **Maurice Golker, British passport \_\_\_\_\_\_\_\_**

ID:

of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## hereinafter: the "Buyer"

of the second part;

**Whereas** Seller declares that he is the sole registered owner and exclusive holder of rights of tenure, subject to Buyer's lease, of a residential apartment and a storage room on Matzor Street, Jerusalem on the second and third floors, registered as Parcel 41 Subdivision 5 Block 30007, to which is attached: covered parking marked on the condominium diagram with letter vav, unenclosed terrace marked with letters yud-gimmel, unenclosed terrace marked with letters yud-dalet, unenclosed terrace marked with letters yud-chet, unenclosed terrace marked with letters yud-tet, tiled roof marked with letter chaf and its proportionate share of the common property is 55/150 (hereinafter - the "**Apartment**") and as described in the Land Registry extract attached as **Appendix A** to this Agreement and constituting an integral part hereof; and

**Whereas** Seller represents that the Apartment is clear and free of any Third Party Rights, as defined below;

**Whereas** Seller wishes to sell and deliver to Buyer all rights to the Apartment clear of any Third Party Rights and Buyer would like to purchase Seller's rights in the Apartment and to receive by transfer Seller's rights in the Apartment free of any Third Party Rights in return for and subject to other conditions as specified in this Agreement; and

**Therefore, this Agreement witnesses that it is stipulated, declared and agreed between the parties as follows:**

1. **Introduction, Appendixes and Interpretation**
   1. The preamble and appendices to this Agreement constitute an integral part hereof, and the obligations contained in the introduction form the basis for the will of the parties to enter into this Agreement and bind them as part of the body of the agreement.
   2. It is agreed between the parties that titles of the sections are for the sake of convenience of orientation within the Agreement alone, and do not constitute part of the body of the Agreement and do not and will not have any interpretive weight regarding the Agreement or any of its conditions.
   3. Any change to this Agreement, or any of its conditions, will bind the parties only if made in writing and signed by all parties to this Agreement.
   4. This Agreement contains all obligations of the parties, and any commitment, promise or representation made or given prior to the signing of this Agreement, orally or in writing, but which is not explicitly included in this Agreement, will have no validity in the relationship between the parties.
   5. In this Agreement the following terms shall have the meaning set out next to them:

|  |  |
| --- | --- |
| **Third Party Rights** | Lien, pledge, mortgage, foreclosure, debt, caution notice, right of way, easement, tenancy and/or lease rights and any other Third Party Rights other than "**Planning and Building Note**" as defined below; |
| **The Mortgages to the Benefit of the Bank** | Mortgages to the Bank, as defined below, registered against Seller's ownership rights to the Apartment by deed 15780/2008/3 dated 07/14/2008 and by deed 15780/2008/4 dated 07/14/2008 and by deed 22552/2008/2 dated 05/10/2008; |
| **The Bank** | Bank of Jerusalem Ltd.; |
| **Letter of Intention** | A letter from the Bank according to which the Bank will annul the Mortgages to the Benefit of the Bank in return for payment of an amount not exceeding \_\_\_\_\_\_\_\_\_\_\_\_\_ NIS [dollars ?]. The amounts stated in the Letter of Intent appended hereto and marked B are correct as at the date of signing of this Agreement and immediately prior to the handover of tenure and payment of the Balance of the Consideration the Bank shall, at Seller's behest, furnish an up-to-date Letter of Intent. |
| **Buyer's Rental Rights** | The right to use the Apartment according to the rental agreement between Buyer and Seller of [date] (the "**Rental Agreement**") the term of which will end on the date of payment of the Balance of the Consideration and delivery of tenure. [May I have it for review ?] |
| **Planning and Building Note** | Note registered against the land by deed 7532/2002/2 under regulation 27(a) and section 126 of the Law. |
| **Seller's Counsel** | Yaacov Salomon, Lipschutz & Co. advocates of 7 Abba Hillel Street Ramat Gan |
| **Buyer's Counsel** | Ephraim Abramson & Co. advocates of [ ] |

1. **Seller's Representations**

Seller hereby represents and confirms as follows:

* 1. He is the sole registered owner of the Apartment as specified in the Land Registry extract at **Appendix A**.
  2. That except as noted below, the Apartment and Seller's rights in it are free and clear of Third Party Rights and will continue to be so until fulfilment of all Seller obligations under this Agreement.
  3. That his rights in the Apartment are subject to the "Registered Mortgages" which will be annulled as stated in this Agreement and to Buyer's Rental Right as such terms are defined above.
  4. That there is no action and/or process, of any kind, in connection with the Apartment and/or his rights in it and he knows of no intention to launch any such above-stated process.
  5. There are no, and none will be created in the future, factual and/or legal obstructions to sale of his rights in the Apartment to Buyer, the handover of tenure of the Apartment to Buyer and to registration of Buyer as owner of the rights to the Apartment at the Land Registry.
  6. That he will not encumber and/or mortgage and/or grant any other rights to the Apartment to a third party and he undertakes to remove within 30 days any restrictive right and/or attachment, lien or Third Party Right which may be imposed, if imposed, on the rights to the Apartment other than those originating with Buyer.

1. **Buyer's Representations**

Buyer hereby represents and confirms as follows:

* 1. That he knows the Apartment by virtue of his residence there for several years as tenant, including its physical condition as at the time of entering into this Agreement, including the facilities of the Apartment and the building in which the Apartment is situated and that the Apartment and its facilities are suitable for his needs and his goals and its condition is fully satisfactory, that he has conducted and/or was given the opportunity to conduct all the necessary checks with the planning and construction authorities of the Jerusalem Municipality and that he does not and shall not have any contentions and/or claims of any kind whatsoever against Seller regarding the character of the Apartment, its facilities, and the building and/or in respect of its condition, and/or due to its non-conformity in any way.
  2. That he is aware that the Apartment is sold in its current state (AS IS), that Seller has not lived in the Apartment and therefore he [Buyer] has not been given any representation at all with respect to the physical state of the Apartment and its facilities and he hereby waives any contention and/or demand and/or claim of any kind whatsoever against Seller in respect of fault and/or defect and/or non-conformity in the Apartment and including hidden defects.
  3. Buyer is not aware of any legal, contractual and/or financial and/or other impediment (whether by agreement or by law) to him entering into this agreement and fulfilling its terms and upholding obligations imposed on him under the Agreement in full and on time, and that he has the financial resources required for the Agreement and compliance with its terms, including bearing full payment of the consideration.

1. **The Sale**

Seller hereby undertakes to sell Buyer the Apartment, transfer to Buyer tenure of the Apartment and transfer the rights to the Apartment into the name of Buyer, at the Land Registry, in its condition as at the date of signing of this Agreement and where the rights to it are clean and free of any Third Party Rights, subject to payment of the full amount of the consideration, as such term is defined below, by Buyer to Seller and Buyer hereby undertakes for his part to purchase the Apartment from Seller, to receive tenure of it and to receive by transfer from Seller the rights to the Apartment, and all in the manner and under the conditions set forth herein.

Upon Apartment Tenure Handover Date against the payment of the Balance of the Consideration, Buyer's Rental Right will be cancelled;

Breach of this section constitutes a fundamental breach of the Agreement.

1. **The Consideration**
   1. In consideration of sale of the Apartment by Seller to Buyer, transfer of tenure into the hands of Buyer and fulfillment of all other obligations by Seller pursuant to this Agreement Buyer hereby undertakes to pay Seller an amount of 2,000,000 dollars (two million $) at a dollar exchange rate of not less than \_\_\_\_ ₪ to 1 dollar (to be reviewed) which at the date of signature of this Agreement represents a total of \_\_\_\_\_\_\_\_\_\_ ₪, in the following manner and under the following conditions:
      1. 250,000 dollars [two hundred and fifty thousand $] will be paid by Buyer to Seller in a bank check upon the signing of this contract;
      2. The balance of the consideration in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ dollars [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ $] (hereinafter: "**the Balance of the Consideration**") will be paid by Buyer to Seller by bank transfer/ bank checks as described below payable to Seller's Counsel in trust upon and against transfer of tenure of the Apartment to Buyer as provided in section 6.2 below and subject to production of all the below-listed approvals for the purpose of registration of the rights in Buyer's name at the Land Registry (hereinafter: the "**Rights Transfer Approvals**"):
         1. Confirmation of the payment of the Land Appreciation Tax or exemption from it.
         2. Approval of the local authority directed to the Land Registrar, according to which there is no obstruction to handover of the rights. Since obtention of this approval may require payment of property tax payable by Buyer under the rental contract, Buyer will bear all property tax costs required to obtain approval and to the extent that he does not pay them Seller will be exempt from the production of this approval provided that to the extent that there were improvement fees or development fees and levies applicable to Seller in accordance with this Agreement these shall be paid by Buyer to Seller by check made out to him upon Tenure Handover Date.
         3. Irrevocable power of attorney signed by Seller in form attached as **Appendix C** to this contract.
         4. Six sale deeds signed by Seller.
   2. Should Seller not have produced to Seller, by the date of payment established in section 5.1.2, all the above certificates and documents listed in section 5.1.2, then \_\_\_\_\_\_\_\_\_\_\_\_\_ ₪ [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ₪] out of the Balance of the Consideration amount shall be deposited in trust with Seller’s Counsel who shall pay the payments falling on Seller for the purpose of production to Buyer of all documents and approvals required for registration of Buyer as holder of rights in the Apartment at the Land Registry. The balance plus return on it if any remains will be transferred to Seller. Deposit of the payments with the above Counsel will constitute payment under this contract in all respects. The Counsel shall deposit the above amount in a deposit account according to Seller's written instructions.
   3. An additional amount from the Balance of the Consideration corresponding to the payment required by the up-to-date Letter of Intent for the purpose of repayment of the Mortgages to the Benefit of the Bank will be handed over from Seller's Counsel to the Bank. After the above payment Seller's Counsel shall convey the transfer confirmation to Buyer.
   4. The Balance of the Consideration will be handed over by Seller's Counsel to Buyer.
   5. The parties will act to immediately report the transaction to [the authority in charge of] Land Appreciation Tax in order to promptly obtain approvals.
   6. In addition, the parties agree that all payments will be made by 11:00 am.
   7. The deposit amounts held by Seller's Counsel will be invested according to Seller's instructions, who shall be the legal owner of the deposits and returns on them. In the absence of instructions the deposits will be invested in renewable weekly deposit. Seller shall be entitled to instruct counsel to use the amount of the deposit (wholly or partly) for making the payments and/or the provision of guarantees required to obtain approvals as stated above falling upon him provided that tax approvals will be received in return for such payment.
   8. Payments to the trustee are considered payments to Seller for all purposes.
   9. The foregoing does not prejudice Seller's rights to petition and appeal re any debt demanded by any of the authorities for the purpose of production of any of the above approvals.
   10. It is clarified that wherever a payment under this contract is paid by bank draft, the bank draft will be considered actual payment only once actually cashed.
   11. Bank draft payment will be made by bank draft drawn on one of the five largest Israeli banks or other Israeli bank only once approved by Seller in writing and in advance. Buyer undertakes that wherever the source of funds for consideration payments comes from abroad, Buyer will transfer, prior to the date of payment, to Buyer's dollar account at an Israeli bank, such that the handover to Seller /Seller's Counsel shall be made only from an Israeli bank account.
   12. A delay of up to seven days in paying the Balance of the Consideration will not constitute a breach but will delay the obligations of Seller concomitantly. A delay in excess of seven days will be considered a fundamental breach of contract.
   13. Breach of this section, and any of its sub-sections, constitutes a fundamental breach of the agreement.
2. **Handover of Tenure of the Apartment to Buyer**
   1. Seller hereby undertakes to hand over legal tenure of the Apartment on 20.6.2017 (hereinafter: the "**Tenure Handover Date**"), subject to Buyer completing full payment of the consideration amount to Seller at the same time, subject to the provisions of section 5 above.
   2. It is hereby clarified that tenure will not be handed over by Seller de facto but it will be considered handed over as stated in this Agreement without any obligation on the part of Seller to evacuate any inhabitant from the Apartment.
   3. The Apartment will be delivered into the custody of Buyer in its condition upon the signing of this Agreement.
   4. Until the Tenure Handover Date all of the obligations of the Rental Agreement will apply to Buyer including payment of rent.
   5. Breach of this section, and any of its subsections, is a fundamental breach of the agreement.
3. **Taxes and Obligatory Payments**
   1. All taxes, fees, levies, property taxes and other current mandatory payments applicable to Buyer under the Rental Agreement will apply to him up to and after handover of tenure.
   2. All payments for electricity, water, gas, telephone, condominium fees etc. applying to the Apartment for the period until handover of the Apartment to Buyer and thereafter will fall upon Buyer.
   3. The parties will report to the authorities the change in ownership of the Apartment for the purpose of registering the name of Buyer as liable to the authorities for payments in respect of the Apartment.
   4. All expenses involved with transferring electricity, gas or water meters, cable, etc. into the name of Buyer and engagement with the body/ies providing these services will fall upon Buyer. The deposit with the gas company will belong to Seller.
   5. Land Appreciation Tax or income tax, if any, in respect of the sale transaction which is the subject of this Agreement, will fall upon Seller and be paid by him.
   6. Payment of betterment levy applicable and/or to apply, and/or to be imposed in respect of the Apartment until the date of signing this Agreement shall apply to Seller and thereafter to Buyer;
   7. Purchase tax in respect of the sale transaction which is the subject of this Agreement shall apply to Buyer and be paid by him.
   8. Expenses for registration of rights in Buyer's name at the Land Registry and any caution notice in favor of Buyer or to Buyer's order will fall upon Buyer.
   9. Each party will bear the brokerage fee for his part, if he is liable for it, and for payment of his counsel's professional fees in respect of preparation of this Agreement.
   10. The Parties undertake to settle all payments of taxes, fees, property taxes, levies, other mandatory payments of any kind whatsoever and expenses which each has been charged or will be charged in the future in accordance with the provisions of this Agreement and its appendixes without delay, immediately upon receipt of the payment request from the official agencies and/or people and/or other entities, and all, so as to ensure not to cause any delay in performing this agreement and the implementation of the parties' obligations hereunder.
   11. Breach of this section, and any of its subsections, is a fundamental breach of the Agreement.
4. **Registration of Buyer as Apartment Rights Owner**
   1. Registration of the transfer of the rights into Buyer's name at the Land Registry will be made by Buyer at his own expense.
   2. Seller will have done all required of it regarding the transfer of rights into the name of Buyer by its production of Rights Transfer Approvals as defined above in this contract but shall remove any impediment to registration relating to him insofar as this may be imposed on the rights due to him.
   3. In order to ensure the rights of Buyer according to the Agreement, Seller will sign, upon signing of this Agreement, an irrevocable power of attorney according to which Seller's and Buyer's Counsels will be empowered in his name and place to do all actions and to sign in his name and place all documents as may be necessary for the fulfillment of Seller's obligations in accordance with this Agreement. The text of the power of attorney is attached to this contract as **Appendix C**.

The power of attorney shall be held by Seller's Counsel and handed over to Buyer upon handover of tenure against payment of the Balance of the Consideration.

* 1. Breach of this section, and any of its subsections, is a fundamental breach of the Agreement.

1. **Caution Notice**
   1. Buyer will be entitled to register a caution notice at the Land Registry in favor of Buyer in respect of this Agreement after clearance of the first payment. To this end, Seller will sign the application for registration of a caution notice.
   2. Buyer will sign, upon signing this contract, an irrevocable power of attorney empowering Seller's Counsel to delete the caution notice. Seller's Counsel shall be entitled to delete the caution notice, subject to fulfillment of the following conditions:
      1. Buyer made a fundamental breach of the Agreement.
      2. Written notice of seven days to correct the breach was given to Buyer.
      3. Written notice concerning cancellation of the Agreement due to fundamental breach by Buyer was delivered to Buyer on behalf of Seller by registered mail.
   3. No cancellation of registration [of the caution notice] infringes any right of Seller to any remedy for breach of the Agreement to which he is entitled under this Agreement and pursuant to law.
   4. Buyer undertakes to carry out the transfer of rights into his name at the Land Registry within 45 (forty-five) days from the date of delivery of documents transferring rights to him.
2. **Breaches and Remedies**
   1. It is hereby agreed between the parties as follows that in any case where Buyer makes a fundamental breach of this Agreement which causes its annulment by law, Seller will be entitled to liquidated damages agreed in advance by the parties as the NIS amount equal to $250,000 (two hundred and fifty thousand US dollars) from the consideration and this without prejudice to Buyer's right to any relief and/or remedy due to him under the provisions of this agreement and/or the provisions of the law.
   2. Without prejudice to Seller's rights under this contract and according to the law, any delay in the execution of any of the payments due to Seller under this Agreement shall bear interest at the rate of \_\_\_\_\_\_ (\_\_\_\_\_\_\_\_\_\_\_\_\_) per month [or fraction of that amount corresponding to proportionate part of the month], starting seven days after the date fixed for execution of each payment until actual payment in full.
   3. Notwithstanding the provisions of any law and notwithstanding any other implied provision of this Agreement Buyer will not have any right to offset in respect of any amount due from him to Seller under this contract or any other contract between the parties. Without limiting the foregoing, Buyer shall not be entitled to take any action, including by way of attachment for himself or raise any argument which might delay or defer any payment due from him under this Agreement or condition a payment due from him upon Seller carrying out any action. Any action contrary to the provisions of this section shall constitute a fundamental breach of the contract.
   4. Notwithstanding the provisions of any law, this Agreement may be canceled due to fundamental breach conditional upon the provision of 14 days’ written warning to the offending party from the victim party to repair the breach and provided that it was not repaired within that time.
3. **General Provisions**
   1. This agreement contains, embodies, integrates and expresses all the conditions agreed between the parties, any promises, guarantees, agreements written or oral, undertakings or representations regarding this Agreement given or made by the parties prior to entering into this Agreement, including in the memorandum of understanding, and whatever is not reflected specifically herein will not have a binding effect on the relationship between the parties and the parties will not be bound by it as from the conclusion of this Agreement and such shall not add to the obligations and rights set forth in this Agreement or arising from it, or subtract from it or change it.
   2. No waiver, extension, discount or change in the terms of this Agreement and its appendices will be valid unless made in writing. Any delay in the exercise of the rights of any party shall not be deemed a waiver and such party will be entitled to exercise his rights in whole or each of them separately, both by this Agreement and by law, whenever he deems appropriate.
   3. Buyer’s rights and obligations under this contract are personal and are not transferable and/or endorsable and/or assignable whether directly or indirectly, and not by way of purchase in trust for another and all this for as long as the consideration has not been paid in full.
   4. In case of a discount, extension or waiver by one party to his fellow or any other reconciliation in connection with any breach of provision or obligation under this contract, this will not serve as a waiver of the rights of the injured party arising from such breach or the obligations of the party in default, or consent to any further breach of this contract, and will not prevent enforcement of such provision or obligation thereafter or claim thereunder nor be considered as a waiver of other breaches.
4. **Addresses and Notice**
   1. The addresses of the parties to this Agreement are as set out in the introduction to it.
   2. Each notice sent by registered mail to the addresses listed below, will be deemed to have reached its destination at the end of 72 hours of its posting at an Israeli post office and if delivered by hand will be considered to have reached its destination on the first business day after its delivery as stated.

**IN WITNESS WHEREOF the parties have signed**

**On the date and at the place first above mentioned**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_