

# Marcus & Millichap

## Real Estate Investment Services

### PURCHASE AGREEMENT

THIS DOCUMENT IS MORE THAN A RECEIPT FOR MONEY. IT IS INTENDED TO BE A LEGALLY BINDING AGREEMENT. READ IT CAREFULLY.

Irvine Housing Opportunities shall be hereafter referred to as "Buyer".

Behrens Family LTD Partnership shall be hereafter referred to as "Seller".

Buyer shall deliver to Escrow Holder as defined in Paragraph 3 or to Marcus & Millichap Real Estate Investment Services ("Agent"), as agent for  Seller  Buyer  Seller and Buyer the sum of Fifty Thousand dollars (\$ 50,000 ) in the form of Check. This sum is a deposit ("Deposit") to be applied to the purchase price of that certain real property (referred to as the "Property") located in the City of Anaheim, County of Orange, State of California, and more particularly described as follows:

14 Units  
641 South Velare Street, Anaheim CA 92804  
APN: 127-171-02

### TERMS AND CONDITIONS

Seller agrees to sell the Property, and Buyer agrees to purchase the Property, on the following terms and conditions:

- PURCHASE PRICE:** The purchase price for the Property is Two Million Fifty Thousand dollars (\$ 2,050,000 ). Buyer's Deposit, pending Seller's execution of this Purchase Agreement (the "Agreement"), shall be delivered directly to the Escrow Company indicated in Paragraph 3 of this Agreement, by check or wire, upon mutual execution of this Agreement. Agent shall deliver and deposit same in escrow as provided in Paragraph 3 below. The balance of the purchase price shall be payable at close of escrow pursuant to the terms stated below.
- DOWN PAYMENT:** A) Buyer shall make a cash down payment of One Million Twenty Five Thousand dollars (\$ 1,025,000 ) or B) N/A.
- ESCROW:** Within Seven ( 7 ) calendar days after the Effective Date (as defined in a separate paragraph below) Buyer & Seller shall open escrow with Seller's Choice (the "Escrow Holder") by the simultaneous deposit of a copy of this Agreement and Buyer's Deposit with the Escrow Holder.

Seller and Buyer agree to prepare and execute such escrow instructions as may be necessary and appropriate to close the transaction. Close of escrow (or the "Closing Date", which shall mean the date on which the deed transferring title is recorded) shall occur within Sixty ( 60 ) calendar days of the Effective Date of this Agreement (as defined in paragraph 38 below). Escrow fee shall be paid by 50% Buyer / 50% Seller. County transfer taxes shall be paid by Seller. City transfer taxes, if any, shall be paid by Seller. All other closing costs shall be paid as follows \*\*\*.

- PRORATIONS:** Real property taxes, premiums on insurance acceptable to Buyer, interest on any debt being assumed or taken subject to by Buyer, and any other expenses of the Property shall be prorated as of the Closing Date. Security deposits, advance rentals, and the amount of any future lease credits shall be credited to Buyer. The amount of any bond or assessment which is a lien and not customarily paid with real property taxes shall be (select one "X") X paid by seller or \*\*\* assumed by buyer. Delinquent or unpaid rents and C.A.M. reconciliations shall be handled outside of escrow and neither Agent nor escrow shall be responsible for same. Buyer agrees to assume any existing laundry lease, if applicable to the Property.

LEASED PROPERTY PRORATIONS: Rents actually collected (prior to closing) will be prorated as of the Closing Date and rent collected thereafter applied first to rental payments then owed the Buyer and their remainder paid to the Seller. All free rent due any tenant at the close of escrow for rental periods after the closing shall be a credit against the Purchase Price. Other income and expenses shall be prorated as follows: \*\*\*.

- 5) **TITLE:** Within Ten (10) calendar days after the Effective Date of this Agreement, Seller shall procure and cause to be delivered to Buyer a preliminary title report issued by Sellers Choice (the "Title Company") on the Property. Within Ten (10) calendar days following receipt thereof, Buyer shall either approve in writing the exceptions contained in said title report or specify in writing any exceptions to which Buyer reasonably objects. If Buyer objects to any exceptions, Seller shall, within Ten (10) calendar days after receipt of Buyer's objections, deliver to Buyer written notice that either (i) Seller will, at Seller's expense, attempt to remove the exception(s) to which Buyer has objected before the Closing Date or (ii) Seller is unwilling or unable to eliminate said exception(s). If Seller fails to so notify Buyer or is unwilling or unable to remove any such exception by the Closing Date, Buyer may elect to terminate this Agreement and receive back the entire Deposit, in which event Buyer and Seller shall have no further obligations under this Agreement; or, alternatively, Buyer may elect to purchase the Property subject to such exception(s).

Seller shall convey by grant deed to Buyer (or to such other person or entity as Buyer may specify) marketable fee title subject only to the exceptions approved by Buyer in accordance with this Agreement. Title shall be insured by a standard California Land Title Association owner's policy of title insurance issued by the Title Company in the amount of the purchase price with premium paid by Seller.

6) **FINANCING CONTINGENCIES:**

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- 6.1) **NEW FIRST LOAN:** Buyer agrees to use Buyer's best efforts, at Buyer's expense, to obtain a new first loan in the amount of One Million Twenty Five Thousand dollars (\$ 1,025,000). Said loan shall be secured by a new first mortgage or deed of trust on the Property. Buyer shall submit a written application to obtain said loan to a bona fide lender within Fourteen (14) calendar days of the Effective Date and shall authorize said lender to confirm in writing to Seller that lender has received said application. Seller and Buyer agree that the lender's production of loan documents shall satisfy the financing contingency. If Buyer applies for a loan as stated above and the lender refuses to finance the purchase, then this Agreement will be rendered null and void and Buyer's Deposit shall be returned to Buyer.

If Buyer fails to apply as required hereinabove or if Buyer fails to notify Seller in writing that Buyer has obtained such a loan within Forty Five (45) calendar days of the Effective Date, then at Seller's option this Agreement shall be null and void, and the entire Deposit shall be returned to Buyer. Seller agrees to pay any prepayment penalties due on the existing loan(s).

7) **PEST CONTROL CONTINGENCIES:**

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- 7.1) The improvements on the Property shall be inspected by a licensed pest control operator, and a termite and fungus inspection report shall be prepared and delivered to Buyer within Ten (10) calendar days following the Effective Date. This inspection and report and any additional inspections by other experts recommended by said report shall be ordered and paid by Seller. The cost of any corrective repairs shall be paid by Seller. The cost of work which is Seller's obligation shall be credited to Buyer in escrow. In the event the cost of these repairs exceeds the specified maximum, Seller shall have the option to pay the extra costs or cancel this Agreement, in which event the entire Deposit shall be returned to Buyer and the parties shall have no further obligations thereunder; provided, however, that the Agreement shall remain in effect if Buyer elects to pay or waive the extra cost and so advises Seller in writing. Seller shall not be responsible for any work recommended to correct conditions usually deemed likely to lead to infestation or infection by wood-destroying pests or organisms, or merely cosmetic repairs, provided there is no evidence of active infestation or infection found in connection with such conditions.

8) **INSPECTION CONTINGENCIES:**

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- 8.1) **BOOKS AND RECORDS:** Seller agrees to provide Buyer with items a, b, d, e, f, g, h, I, j listed below within Ten (10) calendar days following the Effective Date:
- All rental agreements, leases, service contracts, insurance policies, latest tax bill(s) and other written agreements, written code violations or other notices which affect the Property.
  - The operating statements of the Property for the Twenty Four (24) calendar months immediately preceding the Effective Date hereof.
  - For commercial properties, copies of whatever documents the Seller may have regarding the financial condition, business prospects or prospective continued occupancy of any tenant (including but not limited to financial statements, credit reports, etc.).
  - All notes and security instruments affecting the Property.
  - A complete and current rent roll, including a schedule of all tenant deposits and fees.
  - A written inventory of all items of Personal Property to be conveyed to Buyer and included as part of the purchase price at close of escrow.

- g. A report paid for by Seller by a professional provider, containing the Natural Hazard Disclosures (as defined below) concerning the Property. "Natural Hazard Disclosures" shall mean whether the Property is located within: (1) Special Flood Hazard Area; (2) Dam Failure Inundation Area; (3) Earthquake Fault Zone; (4) Seismic Hazard Zone; (5) High Fire Severity Area; and/or (6) Wildland Fire Area. Seller represents and warrants that, unless otherwise noted by Seller to Buyer in writing, Seller is unaware of any inaccuracies in the Natural Hazard Disclosures.
- h. Any and all documents, of any type or nature, that in any way reference the existence of mold or mold-related problems with the Property or other toxic substances on or about the Property.
- i. Any and all documents, of any type or nature, that in any way reference the existence of lead-based paint or lead-based paint problems with the Property.
- j. Any and all documents, of any type or nature, that in any way reference the existence of litigation affecting the property.
- k. The following items, if readily available to Seller:                     \*\*\*                    .

Buyer shall acknowledge receipt of these items in writing. Buyer shall have Twenty (20) calendar days following the Effective Date to review and approve in writing each of these items. If Buyer fails to approve these items within the specified time, this Agreement shall be rendered null and void, Buyer's entire deposit shall be returned, and Buyer and Seller shall have no further obligations hereunder.

8.2) **PHYSICAL INSPECTION:** Buyer shall have Twenty (20) calendar days following the Effective Date to inspect the physical condition of the Property, including, but not limited to the soil conditions and the presence or absence of lead-based paint and other hazardous materials on or about the Property, and to notify the Seller in writing that Buyer approves same. If Buyer fails to approve the physical condition of the Property within the specified time, this Agreement shall be null and void, Buyer's entire deposit shall be returned, and Buyer and Seller shall have no further obligations hereunder.

8.3) **STATE AND LOCAL LAWS:** Buyer shall have Twenty (20) calendar days following the Effective Date to investigate State and local laws to determine whether the Property must be brought into compliance with minimum energy conservation or safety standards or similar retrofit requirements as a condition of sale or transfer and the cost thereof, and to notify Seller that Buyer approves same. If approved by Buyer, Buyer shall comply with and pay for these requirements. If Buyer fails to approve these requirements, if any, within the specified time, this Agreement shall be rendered null and void, Buyer's entire Deposit shall be returned, and Buyer and Seller shall have no further obligations hereunder.

9) **DEPOSIT INCREASE:** Upon removal of the inspection contingencies set forth in paragraph(s) 5, 6.1, 7.1, 8.1, 8.2, 8.3 hereof, Buyer shall deposit in Escrow sufficient funds to increase the Deposit to Seventy Five Thousand dollars (\$ 75,000 ). The entire Deposit shall be credited to the purchase price at the close of escrow unless otherwise provided herein.

10) **DEPOSIT TRANSFER:** Buyer's Deposit shall remain in escrow, until removal of the inspection contingencies set forth in paragraph(s) 5, 6.1, 7.1, 8.1, 8.2, 8.3 hereof. Upon removal of said contingencies, Buyer's Deposit shall be delivered to escrow by Agent (if same has been held in trust by Agent); a grant deed duly executed by Seller, sufficient to convey title to Buyer, shall be delivered to escrow by Seller; and Buyer and Seller shall execute escrow instructions directing the Escrow Holder to release immediately from escrow and deliver to Seller Buyer's entire Deposit (including increases, if any). Buyer acknowledges and agrees that, in the event Buyer defaults on this Agreement after removal of contingencies, Buyer's Deposit is non-refundable and is forfeited to Seller. Seller shall hold Buyer's Deposit subject to the remaining terms and conditions of this Agreement. If the Property is made unmarketable by Seller, or acts of God, or Seller should default on this Agreement, the Deposit shall be returned to Buyer and deed shall be returned to Seller. If Seller defaults on this Agreement after Seller has received the Deposit, Seller understands and agrees that Buyer's Deposit must be returned to Buyer immediately.

11) **ESTOPPEL CERTIFICATE CONTINGENCY (Leased Properties):**  
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12) **INDEPENDENT CONSIDERATION:** Notwithstanding anything to the contrary in this Agreement, Buyer and Seller agree that Fifty Dollars (\$50.00) of the Deposit will be non-refundable and will be distributed to Seller upon any termination of this Agreement as full payment and independent consideration for Seller's performance under this Agreement ("Independent Consideration"). If this Agreement is properly terminated by the Buyer, subject to paragraph 5, 6.1, 7.1, 8.1, 8.2, or 8.3 above, the Deposit less the non-refundable portion will be promptly returned to Buyer and the parties will have no further rights or obligations under this Agreement except for any that expressly survive the termination of this Agreement.

13) **SERVICE AND TENANT CONTRACTS/OTHER MATERIAL CHANGES:** After Buyer has removed all contingencies, Seller shall not, without the prior written consent of Buyer which may not be unreasonably withheld, enter into any new service or tenant contracts that cannot be canceled with 30 days notice and without penalty. Seller shall not make any material changes to the property, do any act, or enter into any agreements of any kind that materially changes the value of the property or the rights of the buyer as they relate to the property.

- 14) **PERSONAL PROPERTY:** Title to any personal property to be conveyed to Buyer in connection with the sale of the Property shall be conveyed to Buyer by Bill of Sale on the Closing Date free and clear of all encumbrances (except those approved by Buyer as provided above). The price of these items shall be included in the Purchase Price for the Property, and Buyer agrees to accept all such personal property in "as is" condition.
- 15) **CONDITION OF PROPERTY:** It is understood and agreed that the Property is being sold "as is"; that Buyer has, or will have prior to the Closing Date, inspected the Property; and that neither Seller nor Agent makes any representation or warranty as to the physical condition or value of the Property or its suitability for Buyer's intended use. "Property Condition" means each and every matter of concern or relevance to Buyer relating to the Property, including without limitation the financial, legal, title, physical, geological and environmental condition and sufficiency of the Property and all improvements and equipment thereon; applicable governmental laws, regulations, and zoning; building codes, and the extent to which the Property complies therewith; the fitness of the Property for Buyer's contemplated use; the presence of hazardous materials; title matters; and contracts to be assumed by Buyer.

Upon Buyer's satisfaction or waiver of the contingencies in Paragraph 7.1, 8.1, 8.2, 8.3, Buyer agrees, and represents and warrants that upon Closing Buyer will purchase the Property "as is" and solely on reliance on its own investigation of the Property. Seller had no obligation to repair, correct or compensate Buyer for any Property Condition, and upon closing, Buyer shall be deemed to have waived any and all objections to the Property Condition, whether or not known to Buyer. Upon Closing, Buyer hereby waives, releases, acquits, and forever discharges Seller, and Seller's agents, directors, officers, and employees to the maximum extent permitted by law from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has or which may arise in the future on account of or in any way growing out of or connected with Property Condition. BUYER EXPRESSLY WAIVES ANY OF ITS RIGHTS GRANTED UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Buyer's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_

- 16) **RISK OF LOSS:** Risk of loss to the Property shall be borne by Seller until title has been conveyed to Buyer. In the event that the improvements on the Property are destroyed or materially damaged between the Effective Date of this Agreement and the date title is conveyed to Buyer, Buyer shall have the option of demanding and receiving back the entire Deposit and being released from all obligations hereunder, or alternatively, taking such improvements as Seller can deliver. Upon Buyer's physical inspection and approval of the Property, Seller shall maintain the Property through close of escrow in the same condition and repair as approved, reasonable wear and tear excepted.
- 17) **POSSESSION:** Possession of the Property shall be delivered to Buyer on Closing Date.
- 18) **LIQUIDATED DAMAGES:** By placing their initials immediately below, Buyer and Seller agree that it would be impracticable or extremely difficult to fix actual damages in the event of a default by Buyer, that the amount of Buyer's Deposit hereunder (as same may be increased by the terms hereof) is the parties' reasonable estimate of Seller's damages in the event of Buyer's default, and that upon Buyer's default in its purchase obligations under this agreement, not caused by any breach by Seller, Seller shall be released from its obligations to sell the Property and shall retain Buyer's Deposit (as same may be increased by the terms hereof) as liquidated damages, which shall be Seller's sole and exclusive remedy in law or at equity for Buyer's default.

Buyer's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_

- 19) **SELLER EXCHANGE:** Buyer agrees to cooperate should Seller elect to sell the Property as part of a like-kind exchange under IRC Section 1031. Seller's contemplated exchange shall not impose upon Buyer any additional liability or financial obligation, and Seller agrees to hold Buyer harmless from any liability that might arise from such exchange. This Agreement is not subject to or contingent upon Seller's ability to acquire a suitable exchange property or effectuate an exchange. In the event any exchange contemplated by Seller should fail to occur, for whatever reason, the sale of the Property shall nonetheless be consummated as provided herein.
- 20) **BUYER EXCHANGE:** Seller agrees to cooperate should Buyer elect to purchase the Property as part of a like-kind exchange under IRC Section 1031. Buyer's contemplated exchange shall not impose upon Seller any additional liability or financial obligation, and Buyer agrees to hold Seller harmless from any liability that might arise from such exchange. This Agreement is not subject to or contingent upon Buyer's ability to dispose of its exchange property or effectuate an exchange. In the event any exchange contemplated by Buyer should fail to occur, for whatever reason, the sale of the Property shall nonetheless be consummated as provided herein.
- 21) **DISCLOSURE OF REAL ESTATE LICENSURE:**

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21.1) The \_\_\_\_\_ in this transaction is a licensed real estate agent acting as a principal, and is associated with \_\_\_\_\_, a licensed real estate broker.

22) **AUTHORIZATION:** Buyer and Seller authorize Agent to disseminate sales information regarding this transaction, including the purchase price of the Property.

23) **AGENCY DISCLOSURE:**

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23.1) **BUYER'S AGENT:** Marcus & Millichap Real Estate Investment Services is the broker representing the Buyer (and the Buyer only) in this transaction. \_\_\_\_\_ Investment Property Group \_\_\_\_\_ is the broker representing the Seller (and the Seller only).

24) **OTHER BROKERS:** Buyer and Seller agree that, in the event any broker other than Agent or a broker affiliated with Agent is involved in the disposition of the Property, Agent shall have no liability to Buyer or Seller for the acts or omissions of such other broker, who shall not be deemed to be a subagent of Agent.

25) **LIMITATION OF LIABILITY:** Except for Agent's gross negligence or willful misconduct, Agent's liability for any breach or negligence in its performance of this Agreement shall be limited to the greater of \$50,000 or the amount of compensation actually received by Agent in any transaction hereunder.

26) **SCOPE OF AGENT'S AUTHORITY AND RESPONSIBILITY:** Agent shall have no authority to bind either Buyer or Seller to any modification or amendment of this Agreement. Agent shall not be responsible for performing any due diligence or other investigation of the Property on behalf of either Buyer or Seller, or for providing either party with professional advice with respect to any legal, tax, engineering, construction or hazardous materials issues. Except for maintaining the confidentiality of any information regarding Buyer or Seller's financial condition and any future negotiations regarding the terms of this Purchase Agreement or as otherwise required by law, Buyer and Seller agree that their relationship with Agent is at arm's length and is neither confidential nor fiduciary in nature.

27) **BROKER DISCLAIMER:** Buyer and Seller acknowledge that, except as otherwise expressly stated herein, Agent has not made any investigation, determination, warranty or representation with respect to any of the following: (a) the financial condition or business prospects of any tenant, or such tenant's intent to continue or renew its tenancy in the Property; (b) the legality of the present or any possible future use of the Property under any federal, state or local law; (c) pending or possible future action by any governmental entity or agency which may affect the Property; (d) the physical condition of the Property, including but not limited to, soil conditions, the structural integrity of the improvements, and the presence or absence of fungi or wood-destroying organisms; (e) the accuracy or completeness of income and expense information and projections, of square footage figures, and of the texts of leases, options, and other agreements affecting the Property; (f) the possibility that lease, options or other documents exist which affect or encumber the Property and which have not been provided or disclosed by Seller; or (g) the presence or location of any hazardous materials on or about the Property, including, but not limited to, asbestos, PCB's, or toxic, hazardous or contaminated substances, and underground storage tanks.

Buyer agrees that investigation and analysis of the foregoing matters is Buyer's sole responsibility and that Buyer shall not hold Agent responsible therefore. Buyer further agrees to reaffirm its acknowledgment of this disclaimer at close of escrow and to confirm that it has relied upon no representations of Agent in connection with its acquisition of the Property.

**Buyer's Initials** \_\_\_\_\_ **Seller's Initials** \_\_\_\_\_

28) **LEAD-BASED PAINT HAZARDS:** Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. **(SELLER TO INITIAL ONE BELOW):**

1. Seller warrants that the Property was constructed after 1978. **Seller's Initials** \_\_\_\_\_

2. Seller is not sure when the Property was constructed and/or has reason to believe that lead-based paint hazards may be present. **Seller's Initials** \_\_\_\_\_

**LEAD WARNING STATEMENT**

*Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.*

**SELLER'S DISCLOSURE**

(a) Presence of lead-based paint and/or lead-based paint hazards (check one below):

Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

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Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the Seller (check one below):

Seller has provided the Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

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Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

**SELLER'S INITIALS** \_\_\_\_\_

**BUYER'S ACKNOWLEDGMENT**

(c) Buyer has received copies of all information listed above.

(d) Buyer has received the pamphlet "Protect Your Family from Lead in Your Home".

(e) Buyer has (check one below):

Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or

Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

**BUYER'S INITIALS** \_\_\_\_\_

29) **MOLD/ALLERGEN ADVISORY AND DISCLOSURE:** Buyer is advised of the possible presence within properties of toxic (or otherwise illness-causing) molds, fungi, spores, pollens and/or other botanical substances and/or allergens (e.g. dust, pet dander, insect material, etc.). These substances may be either visible or invisible, may adhere to walls and other accessible and inaccessible surfaces, may be embedded in carpets or other fabrics, may become airborne, and may be mistaken for other household substances and conditions. Exposure carries the potential of possible health consequences. Agent strongly recommends that Buyer contact the State Department of Health Services for further information on this topic.

Buyer is advised to consider engaging the services of an environmental or industrial hygienist (or similar, qualified professional) to inspect and test for the presence of harmful mold, fungi, and botanical allergens and substances as part of Buyer's physical condition inspection of the Property, and Buyer is further advised to obtain from such qualified professionals information regarding the level of health-related risk involved, if any, and the advisability and feasibility of eradication and abatement, if any.

Buyer is expressly cautioned that Agent has no expertise in this area and is, therefore, incapable of conducting any level of inspection of the Property for the possible presence of mold and botanical allergens. Buyer acknowledges that Agent has not made any investigation, determination, warranty or representation with respect to the possible presence of mold or other botanical allergens, and Buyer agrees that the investigation and analysis of the foregoing matters is Buyer's sole responsibility and that Buyer shall not hold Agent responsible therefore.

30) **WATER HEATER DISCLOSURE:** Seller certifies that it has complied with the water heater earthquake protection requirements set forth in California Health and Safety Code section 19211.

Buyer is advised that Agent has no expertise in this area and is, therefore, incapable of conducting any level of inspection of the Property for the possible non-standard and/or unsafe water heater bracing, anchoring, or strapping to resist movement due to earthquakes. Buyer understands that Agent has not made any investigation, determination, warranty or representation with respect to the possible unfit water heater bracing, anchoring, or strapping or other standards, and Buyer agrees that the investigation and analysis of the foregoing matters is Buyer's sole responsibility and that Buyer shall not hold Agent responsible therefore.

31) **ARBITRATION OF DISPUTES:** If a controversy arises with respect to the subject matter of this Purchase Agreement or the transaction contemplated herein (including but not limited to the parties' rights to the Deposit or the payment of commissions as provided herein), Buyer, Seller and Agent agree that such controversy shall be settled by final, binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

**NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.**

**WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.**

Buyer's Initials \_\_\_\_\_ Seller's Initials \_\_\_\_\_

Buyer's Agent's Initials \_\_\_\_\_ Seller's Agent's Initials \_\_\_\_\_

32) **SUCCESSORS & ASSIGNS:** This Agreement and any addenda hereto shall be binding upon and inure to the benefit of the heirs, successors, agents, representatives and assigns of the parties hereto.

33) **ATTORNEYS' FEES:** In any litigation, arbitration or other legal proceeding which may arise between any of the parties hereto, including Agent, the prevailing party shall be entitled to recover its costs, including costs of arbitration, and reasonable attorneys' fees in addition to any other relief to which such party may be entitled.

34) **TIME:** Time is of the essence of this Agreement.

- 35) **NOTICES:** All notices required or permitted hereunder shall be given to the parties in writing (with a copy to Agent) at their respective addresses as set forth below. Should the date upon which any act required to be performed by this Agreement fall on a Saturday, Sunday or holiday, the time for performance shall be extended to the next business day.
- 36) **FOREIGN INVESTOR DISCLOSURE:** Seller and Buyer agree to execute and deliver any instrument, affidavit or statement, and to perform any act reasonably necessary to carry out the provisions of this Foreign Investment in Real Property Tax Act and regulations promulgated thereunder. Seller represents that Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code and withholding of any portion of the purchase price is not required under Sections 18662 or 18668 of the California Revenue and Taxation Code.
- 37) **ADDENDA:** Any addendum attached hereto and either signed or initialed by the parties shall be deemed a part hereof. This Agreement, including addenda, if any, expresses the entire agreement of the parties and supersedes any and all previous agreements between the parties with regard to the Property. There are no other understandings, oral or written, which in any way alter or enlarge its terms, and there are no warranties or representations of any nature whatsoever, either express or implied, except as set forth herein. Any future modification of this Agreement will be effective only if it is in writing and signed by the party to be charged.
- 38) **ACCEPTANCE AND EFFECTIVE DATE:** Buyer's signature hereon constitutes an offer to Seller to purchase the Property on the terms and conditions set forth herein. Unless acceptance hereof is made by Seller's execution of this Agreement and delivery of a fully executed copy to Buyer, either in person or at the address shown below, or by facsimile or e-mail with a legitimate confirmation of receipt, on or before May 27th, 20 11, this offer shall be null and void, the Deposit shall be returned to Buyer, and neither Seller nor Buyer shall have any further rights or obligations hereunder. Delivery shall be effective upon personal delivery to Buyer or Buyer's agent or, if by mail, on the next business day following the date of postmark. The "Effective Date" of this Agreement shall be the later of (a) the date on which Seller executes this Agreement, or (b) the date of or written acceptance (by either Buyer or Seller) of the final counter-offer submitted by the other party. Buyer and Seller both acknowledge and agree that a facsimile copy of this Agreement with a party's signature is as legally valid and binding as the original Agreement with an original signature. If Buyer is not an individual but a legal entity, Buyer's representative represents that he/she is authorized on behalf of the legal entity to sign this Agreement.
- 39) **OTHER BUYERS:** Buyer understands that Agent represents other buyers who may have an interest in similar, or the same property that Buyer is considering purchasing. Buyer understands, consents and agrees that Agent, at all times before, during and after his representation of Buyer, may also represent other prospective buyers in the purchase of any property offered for sale. Buyer understands, consents and agrees that, regardless of the particular agency relationship between Buyer and Agent, Agent's representation of other buyers does not constitute a breach of any duty to Buyer.
- 40) **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- 41) **OTHER TERMS AND CONDITIONS:**
1. If a unit becomes vacant during escrow, Seller to make the unit rent ready but not rent the unit. The Buyer will pay the Monthly Rent that tenant was paying from the time of vacancy until the close of escrow. (Prorated if necessary)
  2. Investment Property Group to pay 3% Buy Side Commission to Marcus & Millichap.

THE PARTIES ARE ADVISED TO CONSULT THEIR RESPECTIVE ATTORNEYS WITH REGARD TO THE LEGAL EFFECT AND VALIDITY OF THIS PURCHASE AGREEMENT. THE PARTIES AGREE THAT THIS AGREEMENT CAN BE SIGNED IN COUNTERPART WITH THE SAME LEGAL FORCE AND EFFECT AS IF NOT SIGNED IN COUNTERPART.

The undersigned Buyer hereby offers and agrees to purchase the above-described Property for the price and upon the terms and conditions herein stated.

This offer is made by Buyer to Seller on this 26th day of May, 20 11. The undersigned Buyer hereby acknowledges receipt of an executed copy of this Agreement, including the Agency Disclosure contained in Paragraph 23, above.

All individuals signing below on behalf of a legal entity hereby represent that they are authorized by, and on behalf of, said entity to enter into this Agreement.

BUYER: \_\_\_\_\_ ADDRESS: Care of Agent  
Irvine Housing Opportunities

DATE: 5/26/11 TELEPHONE: Care of Agent

BUYER: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

DATE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

**SELLER'S ACCEPTANCE AND AGREEMENT TO PAY COMMISSION**

The undersigned Seller accepts the foregoing offer and agrees to sell the Property to Buyer for the price and on the terms and conditions stated herein. Seller acknowledges receipt of an executed copy of this Agreement and authorizes Agent to deliver an executed copy to Buyer.

Where Seller has agreed to pay a commission, Seller acknowledges and agrees that payment of said commission is not contingent upon the closing of the transaction contemplated by this Agreement, and that, in the event completion of the sale is prevented by default of Seller, then Seller shall immediately be obligated to pay to Agent the entire commission. Seller agrees that in the event completion of the sale is prevented by default of Buyer, then Seller shall be obligated to pay to Agent an amount equal to one half of any damages or other monetary compensation (including liquidated damages) collected from Buyer by suit or otherwise as a consequence of Buyer's default, if and when such damages or other monetary compensation are collected; provided, however, that the total amount paid to Agent by Seller shall not in any case exceed the brokerage commission hereinabove set forth. Seller acknowledges and agrees that the existence of any direct claim which Agent may have against Buyer in the event of Buyer's default shall not alter or in any way limit the obligations of Seller to Agent as set forth herein. The provisions of this paragraph may not be amended or modified without the written consent of Agent.

SUBJECT TO ATTACHED COUNTER-OFFER

SELLER: \_\_\_\_\_ ADDRESS: Care of Agent  
Behrens Family LTD Partnershp

DATE: \_\_\_\_\_ TELEPHONE: Care of Agent

Agent accepts and agrees to the foregoing. Agent represents and warrants that Agent is unaware of any incorrect or incomplete information contained in any Natural Hazard Disclosures.

**AGENT: MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES**

BY: \_\_\_\_\_ ADDRESS: 19800 MacArthur Blvd #150  
Mark Bridge  
Irvine, CA 92612

LICENSE NO. 01316702

DATE: 5/26/11 TELEPHONE: 949-419-3200

PARTIES UNDERSTAND AND ACKNOWLEDGE THAT BROKER IS NOT QUALIFIED TO PROVIDE, AND HAS NOT BEEN CONTRACTED TO PROVIDE, LEGAL, FINANCIAL OR TAX ADVICE, AND THAT ANY SUCH ADVICE MUST BE OBTAINED FROM PARTIES' ATTORNEY, ACCOUNTANT OR TAX PROFESSIONAL