# CHARTER FACILITIES AGREEMENT BY AND BETWEEN

**IRVINE UNIFIED SCHOOL DISTRICT AND IRVINE CHINESE IMMERSION ACADEMY**

**THIS AGREEMENT** (“Agreement”) is made this 12th day of March, 2024 (the “Effective Date”), by and between the Irvine Unified School District, a public school district organized and existing under the laws of the State of California (“District”) and Irvine Chinese Immersion Academy (“Charter School”). The District and Charter School are collectively referred to as “the Parties” and individually as a “Party.”

# RECITALS

**WHEREAS**, on or about November 1, 2023, Charter School submitted to the District a request for facilities under the provisions of Education Code section 47614 and its implementing regulations set forth in Title 5 of the California Code of Regulations section 11969.9(a) *et seq*. (the “Proposition 39 Request”) for the 2024-2025 academic year;

**WHEREAS**, the Charter School and District have agreed to enter into an arrangement in lieu of Proposition 39, whereby the Charter School will occupy a portion of the District’s Westwood Training Center site, located at 1 Liberty, Irvine CA 92620 (“Westwood Training Center” shall refer to the total site and “Subject Property” shall refer to that portion offered to the Charter School), depicted in Exhibit “A” hereto and incorporated herein by this reference, for the 2024-2025 academic year (“Applicable Year”), pursuant to the conditions set forth below;

**WHEREAS**, the Parties desire to set forth the terms and conditions herein, pursuant to which the Charter School will occupy classrooms and use facilities at the Subject Property for the Applicable Year.

**NOW THEREFORE**, in consideration of the covenants and agreements hereinafter set forth, the Parties agree as follows:

1. **Use of the Subject Property.** District agrees to allow Charter School use of the Subject Property, for the sole purpose of operating the Charter School educational program in accordance with the Charter. Charter School’s right to use of the Subject Property shall be for the Applicable Year, beginning on July 1, 2024 and shall conclude at the expiration of this Agreement on June 30, 2025. The District makes no guarantee or representation that the Subject Property will be available for any additional term beyond the current Term and/or that the Subject Property shall not be required to be shared with other programs or charter schools beyond the current Term. The District retains all rights, including the right to move the Charter School in the future in conformity with law.
	1. Reversion to District. Upon the termination or expiration of this Agreement by its terms, the right to use and occupation of the Subject Property and the facilities and District equipment thereon, if any, shall revert to the District, unless the Parties mutually negotiate a successor agreement regarding the Charter School’s continued use of the Subject Property for its educational program. If the Charter School desires to have facilities provided by

the District for the 2025-2026 academic year, the Charter School must submit a new facilities request and pursue such facilities in accordance with the requirements of Proposition 39. Upon termination of this Agreement, the District shall recoup the full rights and benefits of its ownership of the Subject Property, including, but not limited to, use of such Subject Property for District programs and services.

Civic Center Act. The Charter School shall have primary use of the space allocated to the Charter School for the operation of its educational program pursuant to the Charter during its regular school hours. The Charter School acknowledges that the District has established the Irvine Unified School District Recreation Improvement and Maintenance District (RIMD) on February 18, 2003, pursuant to the provisions of the Landscape and Lighting Act of 1972, Sections 22500 of the Streets and Highways Code et seq. (“1972 Act”). The purpose of establishing the RIMD was to provide annual funding to help pay the costs related to the maintenance and operation of recreational improvements accessible to the public. In return, the District’s recreational facilities are available for public uses when school is not in session. The hours school is in session are 7:30 a.m. to 3:30 p.m. on weekdays that the Charter School is in session. Therefore, the public shall have use of the recreational facilities outside of school hours and the Charter School shall have use of the recreational facilities consistent with the District’s policy for its own schools. Subject Property shall be subject to use by the public pursuant to the Civic Center Act (Education Code section 38131 *et seq*.) and/or any joint use or recreational program use that has been deemed appropriate by the District. Charter School and District shall meet prior to the beginning of each semester and prior to the beginning of summer vacation to schedule Charter School activities (such as back to school nights, school plays and similar) outside of the times specified above. In addition, the Charter School may provide the District with additional events or uses and the District will consider Charter School’s requests pursuant to the District’s usual process for scheduling events. Civic Center Act use requests, for use of the Subject Property by users other than Charter School, shall be evaluated and handled by the District, but coordinated with the Charter School. Charter School shall direct all Civic Center Act requests for use of the Subject Property to the District’s Community Services Department. All proceeds derived from the use of the Subject Property pursuant to the Civic Center Act shall be the property of the District. Charter School may operate an after school child care program that is exempt from licensure pursuant to 22 CCR section 101158(a) utilizing its own teachers and employees until 6:00 p.m. on weekdays.

* 1. Drill Notice. In the event the Charter School conducts a fire, earthquake, or other emergency drill, Charter School shall provide District with reasonable notice of the time and nature of the drill and confirm that a District representative is aware of the time and nature of said drill.
	2. Full and Complete Satisfaction. Although the parties dispute whether the District is obligated to provide facilities to the Charter School, Charter School agrees that the provision of the Subject Property pursuant to this Agreement constitutes full and complete satisfaction of the District’s obligation to provide facilities, including furnishings and equipment,

to Charter School under Education Code section 47614 and the Proposition 39 regulations for the Applicable Year. Charter School agrees that the District has fully and completely satisfied the District’s obligation to provide furnishings and equipment by providing the items listed in Exhibit B below. Charter School agrees that, by accepting the Subject Property, it certifies that the District has fully and completely satisfied the District’s obligation to provide facilities, including furnishings and equipment, to the Charter School under Education Code section 47614 and all Proposition 39 implementing regulations for the Applicable Year. The Charter School waives and forever releases the District from any claim that the Charter School, or any successor entity, may have against the District regarding any allegation that the District has taken action to impede the Charter School from expanding its enrollment to meet pupil demand for the Applicable Year. Furthermore, the Charter School waives any rights it may have to subsequently object to the District’s perceived failure to offer facilities, including furnishings and equipment, in accordance with applicable law and waives any rights it may have to challenge those aspects of the District’s offer of facilities, including furnishings and equipment, that the Charter School believes violates the substantive or procedural requirements of Proposition 39 and its implementing regulations for the Applicable Year. Notwithstanding the foregoing, the Charter School preserves the right to argue that a similar allocation of facilities for a future academic year does not satisfy the obligations of Proposition 39 and the Implementing Regulations.

1. Furniture and Equipment. The District has provided the furnishings and equipment identified in Exhibit “B”, attached hereto and incorporated by this reference. The District will retain ownership of all furniture and equipment provided to Charter School and will expect all furniture and equipment to be returned to the District at the end of its occupation in the same condition as received, reasonable wear and tear excepted. Furniture and equipment will be replaced in accordance with District schedules and practices. Any additional furniture or equipment required for discretionary use shall be at the sole cost and responsibility of the Charter School.
2. Westwood Training Center References. Under no circumstances may the Charter School or any of its board members, administrators, employees, agents, representatives, volunteers, subcontractors, invitees, successors and/or assigns obscure, remove, paint over, permanently conceal or otherwise alter any sign, decal, mural, mascot or other reference, including but not limited to references to “Westwood Training Center,” “Irvine Unified School District” and/or any other District, or third-party program on the Subject Property (“Westwood Training Center/District Reference”) in any way. Charter School must specifically communicate this to its on-site staff. In the event that any Westwood Training Center/District Reference is damaged or obscured in any way during the Charter School’s use of the Subject Property by Charter School or its board members, administrators, employees, agents, representatives, volunteers, subcontractors, invitees, successors and/or assigns, Charter School shall be responsible for all costs associated with the full restoration of the Westwood Training Center/District Reference.
3. Signs and Murals. Charter School shall not have the right to place, construct or maintain any sign, advertisement, awning, banner, mural or other external decorations on the improvements that are a part of the Subject Property without District’s prior written consent, which shall not be unreasonably withheld, but may be conditioned. Subject to District’s approval as described herein, and subject to any other applicable laws or regulations, the Charter School may install signage customarily used by other schools in the District at the Subject Property.

Charter School may not install signage at any other locations on the Westwood Training Center. Charter School shall state on all of its signs and advertisements that Charter School is not affiliated with the District and is an independent charter school. Charter School may not use the name Westwood Training Center in any of its signs and advertisements, but may use the address of the property to refer to the site.

1. Allocation of Facilities. The allocation of classrooms and space at the Subject Property is based upon Charter School’s projection of 203.30 in-District classroom Average Daily Attendance (“ADA”) and 279.30 total classroom ADA for the Applicable Year. The Charter School must notify the District when it anticipates that it will have over-allocated space that could be used by the District. Upon notification by the Charter School that the Charter School anticipates having over-allocated space, the District may elect to use the space for District programs. The District must notify the Charter School whether or not it intends to use the over- allocated space within 30 days of the notification by the Charter School. If the District notifies the Charter School that it intends to use all or a portion of the over-allocated space, payments for over- allocated space and pro rata share payments shall be reduced accordingly beginning at the time of the District notification to use the space. If the District notifies the Charter School that it does not intend to use the space, the Charter School must continue to make payments for over-allocated space and pro rata share payments. The District may, at its sole discretion, reduce the amounts owed by the Charter School. The Charter School must report actual ADA to the District every time that the Charter School reports ADA for apportionment purposes. The reports must include in-District and total ADA and in-District and total classroom ADA. The Charter School must maintain records documenting the data contained in the reports. These records shall be provided as noted above and be available upon request by the District. The records must specify which ADA are enrolled at the Subject Property and are receiving their primary educational services at the Subject Property. Additionally, the District may request backup documentation confirming in- District classroom ADA in a manner that is reasonably acceptable to the District at any time, including, but not limited to, at least two forms of documentation to establish each student’s residency within the District consistent with the proof of residency provided for in Education Code section 48204.1.
2. Early Termination. This Agreement shall terminate upon the revocation or expiration for any reason of Charter School’s Charter, except that in the case of a revocation of the Charter School’s Charter, this Agreement shall not terminate until the Charter School has exhausted all of its statutory rights to appeal said revocation or non-renewal, or the term of this Agreement expires, whichever occurs first.
3. **Fees.** The Parties agree that, the Charter School’s pro-rata share of costs for the portion of the Subject Property housing in-District ADA (“Pro-Rata Share”) is set forth in Exhibit

D. Charter School shall make monthly payments to District in the amount of $25,347, as set forth in Exhibit D for the Applicable Year. District shall invoice Charter School each month. Charter School shall pay the amount of the invoice within 30 days of receipt. Late payments shall be subject to a four percent (4%) late fee. The District may deduct any late payments (including the late fee) from any revenues of the Charter School which are passed through the District and from the Charter School’s in lieu of property tax payments from the District. The District will provide the Charter School with documentation of any deduction taken for late payments or penalties.

1. **Utilities.** Charter School’s share of all necessary utility services (such as water, sewer, power, gas, pest and insect control, fire extinguisher maintenance, security monitoring/alarm, internet, telephone, cable, etc.) are included in the rental fee as set forth in Exhibit D. District shall provide internet services to Charter School at no cost to Charter School. Charter School shall not install, operate, or establish its own internet services on the premises.
2. **Taxes.** Charter School shall be responsible for all taxes associated with its use of Subject Property. In the event possessory interest taxes are assessed, Charter School shall be solely responsible for the payment of all Charter School’s possessory interest taxes, if any, during the term of the Agreement. Pursuant to section 107.6 of the California Revenue and Taxation Code, District hereby notifies Charter School that (i) the Subject Property is subject to possessory interest taxes, and that such taxes shall be paid by Charter School; and (ii) Charter School may be subject to the payment of property taxes levied on the possessory interest obtained by Charter School. The parties acknowledge that during the term of this Agreement, Charter School shall be solely responsible for any and all possessory interest taxes and related charges and expenses (collectively, “Possessory Interest Taxes”) imposed with respect to the Subject Property, and shall indemnify, defend, and hold harmless District against any and all possessory interest taxes. This statement is intended to comply with section 107.6 of the Revenue and Taxation Code.
3. **Maintenance.** Facilities provided to the Charter School shall remain the property of the District. The ongoing operations and maintenance of the facilities, including major maintenance and any items that would previously have been considered deferred maintenance under Education Code section 17582, shall be the responsibility of the District. This includes HVAC, mobile maintenance, electrical, plumbing, roofing, exterior and interior painting, and floor systems. The Charter School shall be responsible for custodial services. Charter School shall perform custodial services in a manner equivalent to those performed at other District school sites. Should the Charter School neglect or fail to perform custodial services consistent with current District policy and/or practice, the District reserves the right to charge the Charter School the reasonable cost for such custodial services, after it has provided the Charter School with Charter School’s failure to perform custodial services consistent with current District policy and/or practice and a failure by Charter School to cure within three (3) days. Failure for Charter School to perform custodial services as required under this Agreement shall be considered a material breach of this Agreement. District shall ensure that the lawn is mowed and maintained in safe and usable condition. Additionally, the District shall be responsible for maintaining the existing landscaping (including maintenance of shrubs, bushes and trees). District shall remove graffiti and repair any vandalism at the Subject Property as soon as possible. The cost of maintenance minus custodial services is included in the fees set forth in Exhibit D.

Notwithstanding the District’s maintenance obligations, Charter School shall be responsible for the cost of and shall pay for any repairs, replacements or services of any character whatsoever which are occasioned or are made necessary by reason of the Charter School’s negligence or misuse of the Subject Property by Charter School or otherwise caused by Charter School’s use of the Subject Property beyond ordinary wear and tear. Charter School shall immediately notify the District in the event repairs, replacements or services of any character whatsoever are necessary, including when caused by reason of the Charter School’s negligence or misuse of the Subject Property.

In the event that the Charter School requires the District to perform maintenance and repairs, as allowed for above, Charter School must submit such request via appropriate District processes. The District reserves the right to implement a different process and/or procedure for submission of maintenance/repair requests. The District will need to access the Subject Property during normal District hours of operation, which may coincide with Charter School’s hours of operation, in order to perform maintenance or repairs. District staff shall be allowed to access the Subject Property during Charter School’s hours of operation, provided that such entries do not unreasonably interfere with the operation of the Charter School or interrupt instruction to students.

1. **Installation of Improvements by Charter School.** Charter School shall not construct or install any improvements (as defined in Civil Code 660) or perform major maintenance (as defined above) on the Subject Property or otherwise alter the Subject Property without the prior written consent of District, and if required, the Division of the State Architect (“DSA”). District’s approval of any improvements, including the construction schedule, work hours, and modifications, shall be at District’s sole and absolute discretion, and District may disapprove of such improvements for any reason. Unless otherwise specified in this Agreement, in each case where prior written consent of the District is required under Section 5 or any other provision of this Agreement, such consent shall be obtained exclusively from the District’s Superintendent or designated representative and consent obtained from any other source shall be invalid. Contractors retained by Charter School with respect to the construction or installation of improvements shall be fully licensed and bonded as required by law and must maintain levels of casualty, liability and workers’ compensation insurance and performance and payment bonds consistent with District construction requirements. The construction or installation of improvements shall be performed in a sound and workmanlike manner, in compliance with all applicable laws including, but not limited to building codes, competitive bidding requirements, fingerprinting requirements and prevailing wage laws. District or District’s agent shall have a continuing right at all times during the period that improvements are being constructed or installed to enter the premises and to inspect the work, provided that such entries and inspections do not unreasonably interfere with the progress of the construction or interrupt instruction to students. Charter School shall indemnify, defend and hold harmless District, its directors, officers and employees from any loss, damage, claim, cause of action, cost, expense or liability arising out or caused by any violation by the Charter School or its directors, officers, employees or contractors of any applicable federal, state or local statute, ordinance, order, governmental requirement, law or regulation that applies to any work, including, without limitation, any labor laws and/or regulations requiring that persons performing work on any improvements be paid prevailing wage.

Charter School shall deliver to District, promptly after Charter School’s receipt thereof, originals or, if originals are not available, copies of any and all of the following instruments and documents pertaining to any testing, construction, repair or replacement of improvements on the Subject Property: (a) plans and specifications for the subject improvements, (b) test results, physical condition and environmental reports and assessments, inspections, and other due diligence materials related to the subject improvements, (c) permits, licenses, certificates of occupancy, and any and all other governmental approvals issued in connection with the subject improvements, (d) agreements and contracts with architects, engineers and other design professionals executed with respect to the design of the subject improvements, (e) construction contracts and other agreements with consultants, construction managers, general and other contractors, and equipment suppliers pertaining to the construction, repair or replacement, as the

case may be, of the subject improvements and (f) all guaranties and warranties pertaining to the construction, repair or replacement, as the case may be, of the subject improvements.

Charter School will not permit any liens or claims to stand against the Subject Property for labor or material furnished in connection with any work performed by Charter School. Upon reasonable and timely notice of any such lien or claim delivered to Charter School by District, Charter School may bond and contest the validity and the amount of such lien, but Charter School will immediately pay any judgment rendered, will pay all proper costs and charges, and will have the lien or claim released at its sole expense. Additionally, Charter School may not use or operate the improvements until the project is closed-out and certified by DSA, if applicable, and/or final approval is received from any applicable agency. Charter School shall provide evidence of close- out and certification or approval, in a form reasonably acceptable to the District.

Notwithstanding the foregoing, the Parties have agreed that the Charter School shall be entitled to perform certain improvements immediately upon occupying the Subject Property without receiving further District permission. An itemized list of these improvements is attached as Exhibit “C.”

1. **Provision of Facilities.** The facilities to be provided by the District to the Charter School for the Applicable Year include a portion of the Subject Property as set forth in Exhibit A totaling approximately 28,900 square feet. The Parties acknowledge that the District has no obligation to provide facilities for Charter School’s out-of-District students. Prior to Charter School taking occupation of and/or use of the Subject Property, Charter School must adopt a School Safety Plan and provide a copy of the minutes from the Charter School Board meeting in which Charter School’s School Safety Plan was adopted, to the District.
2. **Security.** The Parties acknowledge that the Charter School is responsible for ensuring the security of the classrooms and areas occupied by the Charter School, including the proper use of all security systems and devices provided by the District. No locks or keys shall be changed without first obtaining approval from the District’s Director of Maintenance & Operations. Within five (5) working days after new alarm codes, locks or keys have been changed or added, the Charter School shall provide new alarm codes, locks or keys to the District’s Director of Maintenance & Operations.
3. **Conduct of Charter School Employees, Contractors, Volunteers and Invitees.** Charter School shall ensure that all employees, contractors, and volunteers, have appropriate background and medical clearance and will adhere to proper standards of public conduct and comply with all District policies. There is to be no consumption of intoxicating liquors or other controlled substances, smoking, vaping, gambling, quarreling, fighting, use of profane language, or indecent exposure on or near the Subject Property. In the event the District determines, in its sole and absolute discretion, that an employee, contractor, volunteer, or invitee of Charter School is failing to adhere to proper standards of public conduct, is in violation of any applicable District policies and/or Administrative Regulations and/or is in any way materially disrupting the activities of the District’s employees, students, and/or invitees, the District reserves the right to remove said individual, and/or require Charter School to remove said individual form the Subject Property. The District shall then identify its specific concerns to the Charter School in writing and meet with the Charter School to discuss its decision to request removal of the individual from the Subject

Property, in order to identify good faith solutions to the District’s concerns. The District may prohibit future access to the Subject Property, as allowed by applicable law and consistent with relevant District policies. The Parties agree that it is the intent of this provision to protect the health and safety of both District and Charter School students, and that the Parties will work together to identify solutions that achieve this goal.

1. **Condition of Subject Property.** The District is not aware of any defect in or condition of the Subject Property that would prevent its use for the Charter School's purposes. The District has not received any notice of violation of statute, ordinance, regulation, order or holding from any state or federal agency with jurisdiction over the Subject Property that calls into question the appropriateness or sufficiency of the Subject Property for its intended purpose. The District, at its expense, shall remain responsible for compliance with all applicable laws regarding the Subject Property during the Term of this Agreement. Charter School, at its expense, shall comply with all applicable laws, regulations, rules and orders with respect to its use and occupancy of the Subject Property, including, without limitation, those relating to health, safety, noise, environmental protection, zoning compliance and approvals, waste disposal, and water and air quality. The Charter School shall not be responsible for any and all environmental conditions that existed prior to the Charter School’s occupancy of the Subject Property, so long as such environmental conditions are not exacerbated by the Charter School’s negligence or willful misconduct. The District shall remain responsible for compliance with the Americans with Disablities Act, Fair Employment and Housing Act (“FEHA”), and other applicable building code standards for any compliance issue existing prior to the date of execution of this Agreement and that are not triggered by any modifications or improvements made by the Charter School. The Charter School shall assume responsibility for compliance with Americans with Disabilities Act and FEHA access rights to the extent of any modifications or improvement made by the Charter School. Should any modifications or improvements made by the Charter School change or affect the character of any existing improvements, Charter School shall be responsible for bringing said existing improvements into compliance with Americans with Disabilities Act, FEHA, and other applicable building code standards. Charter School shall comply with all applicable licensing, payment and performance bond and prevailing wage laws with respect to all modifications it performs. District makes no representation or warranty regarding the condition of the Westwood Training Center and/or Subject Property with respect to the COVID-19 virus and shall not be responsible or liable for any harm of damage related to the COVID-19 virus incurred by the Charter School or any Charter School official, staff, student, or guest, entering the Westwood Training Center and/or Subject Property at the invitation or request of, with the permission of, and/or on behalf of the Charter School. By executing this Agreement, Charter School hereby accepts sole responsibility to take all steps necessary to comply with any law, regulation, or guidance related to its use of the Westwood Training Center and/or Subject Property to address the COVID-19 virus throughout the term of the Agreement, including, but not limited to, implementing mask requirements, social distancing protocols, and providing extra sanitation throughout the Subject Property. Charter School is solely responsible for determining COVID-19 laws, regulations, and/or guidance applicable to its use of the Westwood Training Center and/or Subject Property and ensuring compliance throughout the term of the Agreement, which may include temporarily limiting or stopping the use of the Subject Property based on current or future orders by the federal, state, or local government and implementing safety procedures, including, but not limited to, requiring face masks, implementing social distancing procedures, conducting “deep cleaning” in high traffic areas, and providing extra sanitary supplies for anyone entering the Subject Property.

By entering into this Agreement, District is not making any implied or explicit suggestion or warranty that the Westwood Training Center and/or Subject Property is protected from the COVID-19 virus or otherwise safe for use. This Agreement does not require the District to take any additional responsibility for additional cleaning or sanitation obligations with respect to the Subject Property which shall remain the sole responsibility of the Charter School.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Westwood Training Center and/or Subject Property due to the Charter School’s use and occupancy thereof, Charter School, at its expense, shall be obligated to clean all the property affected, including, if applicable, any properties in the vicinity of the Subject Property, to the satisfaction of District and any governmental agencies having jurisdiction over the Subject Property or any other properties affected by the discharge, leakage, spillage, emission, or pollution. If the Charter School fails to take steps to clean the property(ies) or otherwise fails to comply with any requirements regarding the cleanup, remediation, removal, response, abatement or amelioration of any discharge, leakage, spillage, emission, or pollution of any type, or fails to pay any legal, investigative, and monitoring costs, penalties, fines and disbursements the District reserves the right to take over the required action and to take all necessary steps to recoup any and all costs associated therewith from the Charter School, which shall remain a liability of the Charter School until paid in full.

Upon termination or expiration of the Agreement, Charter School shall return the Subject Property and any then existing improvements to the District in clean, good order, condition and repair, ordinary wear and tear excepted, free and clear of all liens, claims, and encumbrances. Charter School shall remove from the Subject Property all of Charter School’s personal property and trade fixtures. All property not so removed shall be deemed abandoned by Charter School and Charter School shall be responsible for any costs incurred by the District for removal of such abandoned property.

1. **Title to Subject Property.** The Parties acknowledge that title to the Subject Property is held by the District and shall remain in the District’s name at all times.
2. **Insurance.** Charter School shall, at Charter School’s sole cost and expense, maintain in full force and effect for the duration of this Agreement the following insurance coverages with either an admitted and/or authorized non-admitted insurance provider by the State of California with a rating equivalent to an A:VIII by the A.M. Best Company to cover any claims, damages, liabilities, costs and expenses (including attorney fees) arising out of or in connection with the Charter School’s obligations under this Agreement. Charter School may use a self- insurance program and/or joint powers authority mechanism to meet the described insurance requirements. District shall not be responsible for insuring any of the Charter School’s personal property or persons (including without limitation students or members of staff).
3. Commercial General Liability Insurance, including bodily injury, property damage and contractual liability with minimum limits set by the District.

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| (1) General Aggregate | $5,000,000 |
| (2) Each Occurrence | $4,000,000 |
| (3) Products/Completed Operations | $1,000,000 |

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| --- | --- |
| (4) Personal and Advertising Injury | $1,000,000 |
| (5) Damage to Rented Premises | $ 50,000 |
| (6) Medical Expense (any one person) | $ 5,000 |

The Commercial General Liability policy may not contain an exclusion for coverage of claims arising from sexual abuse and molestation. The policy shall include sexual abuse and molestation coverage of at least $4,000,000 for each occurrence. The sexual abuse and molestation coverage may be procured in a separate liability policy with the same insurer rating requirements.

1. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than $5,000,000 per occurrence.
2. Property Insurance for Subject Property, depicted in Exhibit “A”, with a minimum limit of $250,000 per occurrence.
3. Professional Liability Insurance with a minimum of $1,000,000 per occurrence.
4. Employee Crime Insurance with a minimum limit of $50,000 per occurrence.
5. Workers Compensation and Employers Liability Insurance in a form and amount covering Charter School’s full liability under the California Workers’ Compensation Insurance and Safety Act and in accordance with applicable state and federal laws. The policy shall be endorsed with the insurer’s waiver of rights of subrogation against the District.

It should be expressly understood, however, that the coverage and limits referred to under A., B., C., D., E., and F. above shall not in any way limit the liability of the Charter School.

No later than ten (10) days from execution of this Agreement by the Irvine Unified School District and Charter School, and prior to occupying Subject Property under this Agreement, Charter School shall provide District with certificates of insurance evidencing all coverages and endorsements required hereunder.

Charter School shall provide prior written notice to the Irvine Unified School District thirty

(30) days in advance of any non-renewal, cancellation, or modification of the required insurance.

The certificates of insurance providing the coverages shall name Irvine Unified School District, its Governing Board, officers, and employees, as an additional insured with appropriate endorsements. In addition, the certificates of insurance shall include a provision stating “Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory.” Failure to maintain the above mentioned insurance coverages shall be cause for termination of this Agreement.

The District shall maintain first party property insurance on the Subject Property at the same levels for programs it operates on the Subject Property.

1. **Indemnification.** With the exception of any liability, claims, or damages caused by the negligence or willful misconduct of the District, the Charter School shall indemnify, hold harmless, and defend the District, its trustees, officers, employees and agents against and from any and all claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions and costs, including legal costs, attorney’s fees and expert witness fees, whether or not suit is actually filed, and/or any judgment rendered against the District, its trustees, officers, employees and agents, that may be asserted or claimed by any person, firm or entity for any injury, death or damage to any person or property occurring in, on or about the Westwood Training Center and/or Subject Property after the Effective Date, arising from, or in connection with, the Charter School’s use of the Westwood Training Center and/or Subject Property or from the conduct of its business, including conduct of its board of directors, administrators, employees, agents, representatives, volunteers, subcontractors, invitees, successors and/or assigns or from any activity, work, or other things done, permitted or suffered by Charter School in or about the Westwood Training Center and/or Subject Property. Charter School’s obligation to defend the District and the other indemnitees identified herein is not contingent upon there being an acknowledgement or determination of the merit of any claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions and/or costs. With the exception of any liability, claims, or damages caused by the negligence or willful conduct of the District, the Charter School shall also defend, indemnify and hold harmless District and its Board, employees, and agents from any harm, claim, liability, or damage arising out of, caused by, or from any person claiming to have contracted, or demonstrating contraction of, COVID-19, or any related sickness or aliment as the result of entering the Westwood Training Center and/or Subject Property at the invitation/request of, with the permission of, and/or on behalf of the Charter School and any claimed violation of any rule, regulation, or guidance related to COVID-19 arising from the Subject Property or Charter School’s use.

With exception of any liability, claims or damages caused by the negligence or willful misconduct of the Charter School, the District shall indemnify, hold harmless, and defend the Charter School, its trustees, officers, employees and agents against and from any and all claims, demands, actions, causes of action, suits, losses, liability, expenses, penalties, obligations, errors, omissions, and costs, including legal costs, attorney’s fees and expert witness fees, whether or not suit is actually filed, and/or any judgment rendered against the Charter School, its trustees, officers, employees and agents, that may be asserted or claimed by any person, firm or entity for any injury, death or damage to any person or property occurring in, on or about the Subject Property after the Effective Date, arising from the District’s failure to maintain, repair or keep in good repair the Subject Property, or in connection with, the District’s use of the Subject Property.

This Section 13 shall survive the termination or expiration of this Agreement.

# Damage and Destruction of Facilities.

* 1. Partial Damage. If the Subject Property is damaged by any casualty which is covered by applicable insurance, and the Charter School still has access to at least sixty percent (60%) of the usable classroom space, then the Subject Property shall be restored provided insurance proceeds are available to pay for the cost of restoration, and provided such restoration can be completed within one hundred twenty (120) days after the commencement of the work in the opinion of a registered architect or engineer approved by District. In such event, this

Agreement shall continue in full force and effect, except that Charter School shall be entitled to proportionate reduction of all fees and payments while such restoration takes place, such proportionate reduction to be based upon the extent to which the restoration efforts interfere with Charter School’s business on the Subject Property. The District shall provide the Charter School temporary housing on the Subject Property, or another school site that is near to the Subject Property for any part of the Charter School program that is displaced by the partial damage and/or the repair work of the same. The District shall charge a pro-rata share of costs for the temporary property if the Charter School is located at a property other than the Subject Property.

* 1. Total Destruction. If the Subject Property is totally destroyed (defined as the destruction of more than forty percent (40%) of the usable classroom space), or the Subject Property cannot be restored as required herein, notwithstanding the availability of insurance proceeds, then this Agreement shall be terminated effective the date of the damage. The District and Charter School shall work together to determine if an alternative location is available.
1. **Cooperation to Address Any Traffic Concerns.** Charter School agrees to cooperate with District, the City of Irvine, and the neighborhood surrounding the Subject Property to address concerns that may arise regarding traffic near the Subject Property during student drop- off and pick-up times during the school day, brought about by operations of the Charter School. Charter School will monitor traffic conditions surrounding the Subject Property and will be proactive in taking steps to maximize safety and minimize any congestion affecting the surrounding community. Uses contemplated under this Agreement will remain within the designed and maximum occupancy/capacity limits of the specific spaces within the Subject Property as mandated by all appropriate local and state authorities and building codes. Charter School administration and staff shall park in the designated parking spaces within the Subject Property, and not in the surrounding neighborhood.
2. **Fingerprinting.** Charter School shall be responsible for ensuring compliance with all applicable fingerprinting and criminal background investigation requirements described in Education Code section 45125.1. The District will also ensure compliance with all applicable fingerprinting and criminal background investigation requirements for any employees, contractors, vendors, agents or other individuals its sends to the Subject Property.
3. **Access.** Charter School shall permit District, its agents, representatives or employees, to enter upon the Subject Property for the purpose of inspecting same or to make repairs, alterations, or additions to any portion of the Subject Property at any time. District shall attempt to give 24 hours notice where practicable but shall not be obligated to do so in the event of emergency or imminent threat to health or safety of occupants, or in order to conduct the business of the District, including but not limited to maintenance and verification of appropriate use of the Subject Property.
4. **Force Majeure.** In the event the District determines there are unsafe and/or dangerous conditions that pose a threat to life or property due to causes beyond its reasonable control, including but not limited to fires, flood, storm, explosions, earthquakes, telecommunications outages, acts of God, war, governmental action, pandemics, and epidemics (“Force Majeure Events”), District shall notify Charter School of its determination within five (5) business days. Charter School and District shall agree to meet within two (2) business days to

discuss next steps regarding use and/or operation of the Subject Property. In the event District and Charter School mutually agree to a Force Majeure Event closing of the Subject Property, the District shall not be deemed in default of any provision of this Agreement, as long as the District’s nonperformance is caused by a Force Majeure Event. The Charter School shall not be obligated to pay any pro rata share or other costs during the time that the Subject Property is closed due to a Force Majeure Event. However, should the Charter School voluntarily choose (meaning not mandated by law and/or the condition of the Subject Property) not to use the Subject Property during a Force Majeure Event, the Charter School shall continue to remain obligated to pay any pro rata share and/or other costs required under this Agreement. Once District and Charter School mutually agree to reopen the Subject Property, the terms and conditions of this Agreement shall reinstate and apply in full force and effect.

1. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served and received if given in writing and personally delivered or either deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service or facsimile transmission, addressed as follows, unless otherwise explicitly specified pursuant to the terms of this Agreement:

If to the District:

Irvine Unified School District 5050 Barranca Parkway

Irvine, California 92604

Attention: Assistant Superintendent, Business Services If to the Charter School:

Irvine Chinese Immersion Academy Yulan Chung

9 Truman Street

Irvine, CA 92620

Attention: Executive Director

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

1. **California Environmental Quality Act.** Charter School acknowledges that the California Environmental Quality Act (“CEQA”) may require the District to undertake certain studies and/or seek certain exemptions with regard to any projects described herein. Charter School acknowledges that obtaining CEQA approval for a project may cause delays and/or require that a project be modified or abandoned. The Charter School waives any claims against the District regarding delays, modifications or abandonment of a project or use due to any inability to meet CEQA requirements.
2. **No District Affiliation/Endorsement.** Charter School shall not imply, indicate, or otherwise suggest that Charter School’s use and/or any related activities are connected or affiliated

with, or are endorsed, favored or supported by the District. No signage, flyers or other material may reference the District, any school name, logo or mascot without the District’s prior written consent, except that Charter School may indicate the physical address of the Subject Property.

1. **Subcontract and Assignment.** Charter School may not assign or sublet this Agreement or any rights, benefits, liabilities and obligations hereunder, to any person or business entity without District’s express written consent, including, but not limited to, the provision of child care services before and/or after school, which consent shall be granted at District’s sole and absolute discretion and, if granted, may be conditioned or delayed.
2. **Independent Status.** This Agreement is by and between two independent entities and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association.
3. **Entire Agreement of Parties.** This Agreement, together with its attachments, constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. In the event of a conflict between this Agreement and the Charter School’s Charter, this Agreement shall control. This Agreement may be amended or modified only by a written instrument executed by the Parties.
4. **Legal Interpretation.** Should either Party be compelled to institute arbitration, legal, or other proceedings against the other for or on account of the other Party’s failure or refusal to perform or fulfill any of the covenants or conditions of this Agreement on its part to be performed or fulfilled, the Parties agree that the rules and principles applicable to licenses shall govern such actions or proceedings, except that the District agrees to comply with the provisions set forth in this Agreement. This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Orange County, California. The terms of the Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply. The Parties expressly understand and agree that this Agreement constitutes a non-exclusive license for use of the Subject Property, and is neither intended by the Parties, nor shall it be legally construed, to convey a leasehold, easement, or other interest in real property.
5. **Waiver.** The waiver by any Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
6. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns.
7. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
8. **Captions.** The captions contained in this Agreement are for convenience only and shall not in any way affect the meaning or interpretation hereof, be construed to limit or extend the meaning of this Agreement, nor serve as evidence of the interpretation hereof, or of the intention of the parties hereto.
9. **Severability.** Should any provision of this Agreement be determined to be invalid, illegal or unenforceable or contrary to law, statute, and/or ordinance, such provision shall be severed and shall be inoperative, and, provided that the fundamental terms and conditions of the Agreement remain legal and enforceable, the remainder of this Agreement shall not be affected thereby and shall continue as valid, legal and enforceable.
10. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are incorporated herein by reference.
11. **Board Approval.** In accordance with Education Code section 17604, this Agreement is not valid or an enforceable obligation against the District until approved or ratified by duly passed and adopted motion of the District’s Governing Board of Education.
12. **Scanned/Electronic Signatures.** This Agreement may be executed and transmitted to any other party by PDF, which PDF shall be deemed to be, and utilized in all respects as, an original, wet-inked document.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the Effective Date.

# IRVINE UNIFIED SCHOOL DISTRICT

By Its

# IRVINE CHINESE IMMERSION ACADEMY

By Its

# EXHIBIT “A”

MAP DEPICTION OF SUBJECT PROPERTY



# EXHIBIT “B”

FURNISHINGS AND EQUIPMENT INVENTORY

[To Be Determined]

# EXHIBIT “C”

PRE-APPROVED IMPROVEMENTS

# All pre-approved work is subject to the conditions in the Agreement (Such as Section 5, compliance with laws, etc.). Any upgrade or work that includes an ICIA logo or name is subject to removal at the end of the term.

**EXHIBIT “D”**

