



**RESOLUTION OF THE BOARD OF DIRECTORS OF
COMPASS CHARTER SCHOOLS**

Board Resolution 2018-09

**Approving Termination of Agreement and Plan of Merger with REALM
Charter Schools and Certain Related Actions**

The Board of Directors ("Board") of Compass Charter Schools ("Compass") does hereby adopt the following resolution:

WHEREAS, Compass is a California nonprofit public benefit corporation that has been determined to be exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, whose charitable purposes include to create, manage, operate, guide, direct and promote one or more public charter schools and currently operates three public charter schools;

WHEREAS, REALM Charter Schools ("REALM") is a California nonprofit public benefit corporation that has been determined to be exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code, whose charitable purposes include to manage, operate, guide, direct and promote one or more California public charter schools and currently operates a public charter school known as REALM Charter School ("School") authorized by Berkeley Unified School District ("District");

WHEREAS, Compass and REALM entered into an affiliation agreement dated December 10, 2018 ("Affiliation Agreement") for the primary and specific purposes of supporting, benefitting and furthering the charitable and educational purposes of both parties, and subsequently entered into an Agreement and Plan of Merger ("Merger Agreement") pursuant to which REALM would merge into Compass and create a stronger, more effective and efficient organization and expend independent study opportunities;

WHEREAS, Compass has loaned to REALM, (1) an aggregate principal amount of One Hundred Thousand Dollars (\$100,000) to use towards construction of the School's middle school site ("Initial Loan") which Initial Loan remains outstanding, (2) an aggregate principal amount of Two Hundred Fifty Thousand Dollars (\$250,000) to use towards operations of its School ("Second Loan") which Second Loan also remains outstanding, and (3) an aggregate principal amount of Three Hundred Twenty Thousand One Hundred and Forty Seven Dollars and Forty Five Cents (\$320,147.45), which is a portion of the total aggregate principal amount of up to Five Hundred Thousand Dollars (\$500,000) which was originally approved by the Compass Board, to use towards the operations of its School ("Third Loan") which disbursed principal amount of the Third Loan as stated herein remains outstanding,

WHEREAS, the Initial Loan, Second Loan and Third Loan were made in accordance with loan agreements executed by Compass and REALM and related promissory notes (collectively referred to as the "Loan Agreements");

WHEREAS, on June 12, 2019, the District Board of Education voted to deny REALM's request for a material revision to the School's charter which would have authorized Compass to operate the School;

WHEREAS, at the same meeting on June 12, 2019, the District Board of Education approved a notice of intent to revoke the School's charter;

WHEREAS, Section 5.2 of the Merger Agreement requires that, among other conditions to closing of the merger, REALM must (1) maintain its charter for the School in good standing, and provide District confirmation of such good standing (good standing for purposes of the Merger Agreement includes no pending notice of concern, notice of violation, or notice of intent to revoke the charter for the School) and (2) obtain any necessary material revision of its charter for the School from the District that may be necessary to effectuate the Merger Agreement, and the operation of the School by Compass as the surviving corporation;

WHEREAS, Section 6.1.7 provides that the Merger Agreement may be terminated by Compass if any of the conditions required of REALM as set forth in Article V hereof shall become incapable of fulfillment and shall not have been waived in writing by Compass;

WHEREAS, Section 6.2 provides that termination under Article VI of the Merger Agreement shall be effected by the giving of written notice to that effect by one Party to the other Party;

WHEREAS, Section 6.3 of the Merger Agreement provides in relevant part that any loan agreement, promissory note or related documents, including all rights and obligations thereunder, shall remain in full force and effect notwithstanding the termination of this Agreement;

WHEREAS, Section 4 of the Loan Agreements, consistent with the related promissory notes, provides that REALM's failure to obtain any necessary approvals, consents, authorizations, licenses, certificates and waivers required by law or reasonably necessary to properly effectuate the Merger Agreement and/or the loan constitutes an event of default;

WHEREAS, Section 4 of the Loan Agreements, consistent with the related promissory notes, also provides that if an event of default occurs and is not cured within ten (10) days, Compass shall have the right to take such action as may be available to Compass under the Loan Agreements or under applicable law, including Compass' right, at its sole and exclusive option, to declare the remaining amounts due under the Loan Agreements to be due and payable immediately after REALM fails to cure the default within the ten (10) day cure period;

WHEREAS, REALM has failed to maintain its charter for the School in good standing and the District has denied REALM's request for a material revision of its charter for the School that would

provide for the operation of the School by Compass as the surviving corporation following the completion of the merger; and

WHEREAS, it is now in the best interests of Compass to terminate the Merger Agreement and declare all outstanding amounts loaned by Compass to REALM, and including any interest, costs or fees as provided under the Loan Agreements (including the related promissory notes), to become due and payable immediately upon REALM's failure to cure the default within the ten (10) day cure period;

NOW, THEREFORE, this Board does hereby find, resolve and order as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The Board hereby approves the termination of the Merger Agreement and directs the Superintendent and CEO ("CEO"), or his designee, to provide written notice of termination to REALM.

Section 3. The Board hereby approves the exercise of Compass's right under the Loan Agreements (including the related promissory notes) to declare all outstanding amounts loaned by Compass to REALM, and including any interest, costs or fees as provided under the Loan Agreements (including the related promissory notes), to become due and payable immediately upon REALM's failure to cure the default within the ten (10) day cure period and directs the CEO, or his designee, to provide written notice of the same to REALM.

Section 4. The CEO and the Secretary of Compass, or the duly delegated representatives of any of the foregoing (each an "Authorized Officer"), acting alone or together, are hereby authorized and directed to certify the foregoing resolutions and take or cause to be taken all such other actions as may be required to fulfill the purposes of the foregoing resolutions. All such actions and doings of said persons which are in conformity with the purposes and intent of this resolution are hereby in all respects ratified, approved and confirmed.

Section 5. If any section, paragraph, clause or provision of this resolution shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this resolution.

Section 6. This resolution shall be in full force and effect immediately upon its adoption.

* * *

IN WITNESS WHEREOF, the Board of Directors of Compass has adopted the above resolution at a special Board meeting this 17th day of June, 2019.

By:  _____
J.J. Lewis, Superintendent & CEO