

**AFFILIATION AGREEMENT  
BETWEEN  
Compass Charter Schools  
AND  
REALM Charter Schools**

THIS AFFILIATION AGREEMENT (“Agreement”) is entered into and executed as of December 10, 2018, by and between, Compass Charter Schools, a California nonprofit public benefit corporation (“ACQUIRER”), and, REALM Charter Schools, a California nonprofit public benefit corporation (“PARTNER”) (ACQUIRER and PARTNER are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”), with respect to the following facts:

A. ACQUIRER is a California nonprofit public benefit corporation organized to create, manage, operate, guide, direct and promote one or more public charter schools and currently operates three public charter schools.

B. PARTNER is a California nonprofit public benefit corporation organized to manage, operate, guide, direct and promote or more California public charter schools and currently operates a public charter school known as REALM Charter School (“School”) authorized by the Berkeley Unified School District (“District”).

C. ACQUIRER and PARTNER have agreed to enter into this affiliation and execute this Agreement for the primary and specific purposes of supporting, benefiting and furthering the charitable and educational purposes of both Parties.

D. ACQUIRER has administrative personnel and resources that, as set forth in this Agreement, it will make available to PARTNER and which PARTNER desires to utilize for the benefit of its students and the School. ACQUIRER will benefit from this affiliation by expanding its opportunities to provide independent study programs.

NOW, THEREFORE, in consideration of their mutual promises, the Parties agree as follows:

**I.  
GOVERNANCE**

1.1 PARTNER and ACQUIRER will each maintain their respective separate corporate existences, and ACQUIRER will continue to operate the School under its existing charter and school name.

1.2 Except for any obligations created under this Agreement or any other written agreement entered into by and between the Parties, neither Party shall (i) assume or become obligated in any way for the debts, liabilities or obligations of the other Party or (ii) have any rights or interests in or to any asset of the other Party.

1.3 If, by the later of (i) May 31, 2019, or (ii) date on which ACQUIRER completes its due diligence with respect to PARTNER and ACQUIRER's board of directors approves the results of such due diligence, the ACQUIRER Board determines that it would be beneficial for ACQUIRER to merge with PARTNER (pursuant to a corporate merger), or otherwise pursue a closer tie between the corporations including but not limited to ACQUIRER becoming the sole statutory member of REALM (the "Merger"), the respective Parties will determine the terms of such a Merger, which Merger shall be subject to the approval of the boards of directors of both Parties consistent with requirements of the California Nonprofit Public Benefit Corporation Law, and approval of the authorizers of the charter schools operated by the Parties, if necessary.

## II. INTEGRATION

2.1 To achieve ever-improving student performance and success, PARTNER shall make commercially reasonable efforts to collaborate with ACQUIRER to provide an opportunity for students enrolled in PARTNER'S School to participate in independent study. ACQUIRER has experience and expertise in creating a collaborative virtual learning community, inspiring scholars to appreciate the ways in which arts and sciences nurture a curiosity for life-long learning, and prepare scholars to take responsibility for their future success. Providing this opportunity for students enrolled in the School would be consistent with PARTNER'S mission to cultivate resiliency, develop critical thinking skills, advance knowledge through rigorous studies, and equip students to serve their communities and the world in the 21<sup>st</sup> century.

2.2 In connection with the affiliation and the integration described above, the Parties will at all times comply with the requirements of California law including, without limitation, the California Charter Schools Act (Education Code Sections 47600 *et seq.*) and the California Nonprofit Public Benefit Corporation Law (Corporations Code Sections 5110 *et seq.*).

## III. AGREEMENT FOR ADMINISTRATIVE SERVICES

3.1 ACQUIRER's leadership team will act as advisors to PARTNER's leadership team. At the option of ACQUIRER, and within seven (7) calendar days following written notice from ACQUIRER to PARTNER, the Parties shall enter into an employee leasing agreement for the provision of the senior administrative leadership services ("Administrative Services Agreement") under which ACQUIRER will provide senior administrative leadership services for the efficient operation of PARTNER.

3.2 By January 23, 2019, PARTNER will approve, and the PARTNER administration promptly will implement, a debt-reduction plan for PARTNER, which debt-reduction plan shall be subject to a periodic formal assessment of the progress in meeting the goals thereof. Such assessment shall be submitted to the PARTNER Board and ACQUIRER Board not less often than monthly.

## IV.

### FINANCIAL ASSISTANCE

4.1 Simultaneously with the execution of this Agreement, the Parties shall enter into a loan agreement in the form attached hereto as Exhibit 4.1 (Loan Agreement, including unsecured promissory note), in the aggregate principal amount of One-Hundred Thousand Dollars (\$100,000) with a one-year term and which shall bear interest at a rate equal to Three and a Half Percent (3.5%) per annum, or the maximum rate allowable by law, whichever is lower.

4.1.1 Events of default under the Loan Agreement shall include but not be limited to:

4.1.1.1 PARTNER defaults in the payment of any amount owing under the unsecured promissory note when it becomes due and payable pursuant to the Maturity Date set forth in the Loan Agreement.

4.1.1.2 PARTNER commits any default or fails to fulfill any obligation under the unsecured promissory note or the Loan Agreement.

4.1.1.3 PARTNER fails to cure any breach of this Agreement within five (5) business days of notice from ACQUIRER.

4.1.1.4 PARTNER uses Loan funds for reasons other than for construction of its middle school site at the Pacific School of Religion's Seeley Mudd Building, 1798 Scenic Drive, Berkeley, CA 94709 ("Middle School Site") within the District boundaries.

4.1.1.5 PARTNER fails to commence school operations at its Middle School Site within the District boundaries by January 23, 2019.

4.1.1.6 PARTNER fails to resolve the Notice of Intent to Revoke, issued by the District to Borrower dated November 19, 2018 ("Notice of Intent to Revoke"), prior to such revocation.

4.1.1.7 PARTNER fails to provide ACQUIRER with any notice of concern, notice to cure, notice of violation, or notice of intent to revoke the School's Charter, within one (1) business day of PARTNER's receipt of such notice.

4.1.1.8 PARTNER's Charter for the School is revoked for any reason.

4.1.1.9 PARTNER fails to submit any material revisions of its School Charter to the District that may be necessary to resolve the Notice of Intent to Revoke and/or continue operation of the School under its Charter, no later than December 31, 2018.

4.1.1.10 PARTNER fails to use commercially reasonable efforts to reduce its debt and liabilities, which shall include negotiations with its other creditors.

4.1.1.11 PARTNER has failed to obtain any necessary approvals, consents, authorizations, licenses, certificates and waivers required by law or reasonably necessary to properly effectuate the Affiliation Agreement and/or the Loan.

4.1.1.12 PARTNER has failed to disclose to ACQUIRER in writing all material actions, suits, proceedings, inquiries or investigations, before any court or federal, state, municipal or other governing authority, or defaults of any agreement or obligation, pending, or to the knowledge of the PARTNER, after reasonable investigation, threatened, against or affecting PARTNER.

4.1.1.13 PARTNER enters into any loan agreement, indenture, bond, note, sale of receivables or any indebtedness without prior a minimum of three (3) business days prior written notice to ACQUIRER, unless a shorter time period is agreed to by ACQUIRER in writing.

4.2 The Parties may enter into additional loan agreements in consideration and furtherance of this Affiliation Agreement. Any additional loans to PARTNER from ACQUIRER shall be approved by the governing boards of PARTNER and ACQUIRER and shall be subject to terms and conditions stated in a separate loan agreement and related documents. Any additional loan agreements may include conditions and obligations different from the initial loan agreement as described in Section 4.1, above.

## V

### CONDITION TO EFFECTIVENESS OF AGREEMENT

As a condition to the effectiveness of this Agreement and to the consummation of the affiliation, PARTNER shall (i) obtain all approvals, consents, authorizations, licenses, certificates and waivers, in form and substance acceptable to ACQUIRER, required by law or reasonably necessary to properly effectuate the affiliation (including, without limitation, any approvals, consents, authorizations and/or waivers required under or in connection with (A) any loan agreement, line of credit, note, debt instrument, guarantee, security agreement, lease or other agreement under which PARTNER is liable or to which PARTNER is a party or (B) any guarantee, security agreement, pledge or similar agreement or instrument given by any third party for the benefit of, or to secure or guarantee any liability of, PARTNER), and (ii) simultaneously with the execution of this Agreement, deliver to ACQUIRER such approvals, consents, authorizations, licenses, certificates and waivers. Should PARTNER fail to satisfy this condition, such failure shall not terminate PARTNER's obligations, or limit ACQUIRER's rights, under any loan agreement or promissory note pursuant to which ACQUIRER has provided funds to PARTNER.

## VI

### TERM

6.1 The term of this Agreement shall commence upon execution of this Agreement by both Parties, and shall continue in full force and effect until terminated as follows:

(a) A Party's notice of termination given not less than one hundred eighty (180) days prior to termination.

(b) By mutual agreement of the Parties.

(c) Upon execution of a merger agreement by both Parties.

(d) Either Party commences a voluntary case under bankruptcy, insolvency, or similar law, or any involuntary case under any bankruptcy, insolvency, or similar law shall be filed against either Party.

(e) The revocation or non-renewal of PARTNER's charter to operate the School.

6.2 Any loan agreement and/or Administrative Services Agreement entered into by the Parties, including all rights and obligations thereunder, shall remain in full force and effect notwithstanding the termination of this Agreement.

## VII. GENERAL

### 7.1 Entire Agreement.

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations, or other agreements.

### 7.2 Further Assurances.

Each Party hereto agrees to perform any further acts and to execute and deliver any further documents which may be reasonably necessary to carry out the provisions of this Agreement.

### 7.3 Notices.

All notices, which may be given by either Party to the other, shall be in writing and delivered personally by overnight courier service such as Federal Express, or by United States mail, first class postage prepaid, certified return-receipt-requested and addressed as follows:

TO ACQUIRER:      Compass Charter Schools  
                            850 Hampshire Road, Suite P  
                            Thousand Oaks, CA 91361  
                            Attention: Superintendent and CEO

TO PARTNER:      REALM Charter Schools  
                            2023 8<sup>th</sup> Street  
                            Berkeley, CA 94710  
                            Attention: Executive Director

Notices shall be deemed received upon the earlier of actual delivery or three (3) days after deposit in the United States mail in the manner provided for above. Either Party may change a notice address by giving notice in the manner specified herein.

#### 7.4 Amendments.

No amendment to this Agreement shall be binding on either Party unless such amendment is in writing and executed by both Parties.

#### 7.5 Parties As Independent Entities.

None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between ACQUIRER and PARTNER other than for the purpose of effecting the provisions of this Agreement. Neither of the Parties hereto, nor any of their respective officers, directors, or employees, shall be construed to be the agent, employer, or representative of the other except as specifically provided herein. Neither Party is authorized to speak on behalf of the other for any purpose whatsoever without the prior consent in writing of the other. The Parties shall select a spokesperson for the affiliation.

#### 7.6 Construction.

To the extent that there are any rights, duties, obligations, or responsibilities enumerated in the recitals or otherwise in this Agreement, they shall be deemed a part of the operative provisions of this Agreement and fully binding upon the Parties. This Agreement shall be construed as establishing a contractual relationship between ACQUIRER and PARTNER. It is not intended to establish any contractual relationships between the Parties and their employees. This Agreement is only for the benefit of the Parties of this Agreement and there are no third-party beneficiaries.

#### 7.7 Waivers.

Waiver by any Party of any breach or provision of this Agreement or warranty or representation herein set forth shall not be construed as a waiver of any subsequent breach of the same or any other provision. Failure to exercise any right hereunder shall not operate as a waiver of such right. Any waiver of any terms and conditions hereof must be in writing and signed by the Parties hereto.

#### 7.8 Exhibits.

Any and all exhibits and other agreements between the Parties referenced herein and/or attached hereto are incorporated herein by reference and made a part of this Agreement.

#### 7.9 No Assignment of Rights.

Neither Party hereto shall have the power or the right to assign this Agreement in whole or in part to any person or entity without the prior written consent of the other Party, and any attempt to do so shall be void and of no legal effect.

7.10 Governing Law.

This Agreement shall be construed in accordance with the laws of the State of California.

7.11 Headings.

Articles and section or paragraph headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

7.12 Severability.

If any provision or any part of a provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable any other portion of this Agreement.

7.13 Survival.

Provisions contained in this Agreement that by their sense and context are intended to survive completion of performance, termination, or cancellation of this Agreement, shall so survive.

7.14 Remedies.

Any rights of cancellation, termination, or other remedies prescribed in this Agreement are cumulative and are not exclusive of any other remedies to which the injured Party may be entitled.

7.15 Force Majeure.

Neither ACQUIRER nor PARTNER shall be deemed to be in violation of this Agreement if either is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control, including but not limited to strikes, regulation or rule of the federal or any state or local government or any agency thereof, or decision rendered by any court, including decisions rendered against or affecting either ACQUIRER or PARTNER.

7.16 Authorization Warranty.

Each Party hereby represents that the person(s) executing this Agreement on behalf of such Party is an authorized agent who has actual authority to bind such Party to each and every term, condition, and obligation set forth in this Agreement and that all requirements of such Party have been fulfilled to provide such actual authority.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

ACQUIRER

PARTNER

By: \_\_\_\_\_  
Title: Superintendent and CEO

By: \_\_\_\_\_  
Title: Executive Director



**EXHIBIT 4.1**  
**LOAN AGREEMENT**