

**EXHIBIT B TO THE OFFERING CIRCULAR
DEVELOPMENT AGREEMENT**







**HUNTINGTON LEARNING CENTERS, INC.
DEVELOPMENT AGREEMENT**





This HUNTINGTON LEARNING CENTERS, INC. DEVELOPMENT AGREEMENT is made this date _____ between HUNTINGTON LEARNING CENTERS, INC. a corporation incorporated in Delaware, and you, the Developer, _____ a (insert one of individual(s), corporation, partnership, or limited liability company) _____. "You" and "Developer" as used in this Agreement mean the individuals, corporation, partnership, or limited liability company referenced as the Developer in this paragraph of this Agreement.

Based upon the representations, warranties, and covenants in this Agreement and subject to this Agreement, you and the Franchisor agree as follows:

1. DEFINED TERMS

- 1.1. **Affiliate.** An "affiliate" shall mean an entity or person controlling, controlled by, or under common control with, another entity or person.
- 1.2. **Agreement.** The "Agreement" shall mean this development agreement between you and the Franchisor.
- 1.3. **Agreement Date.** The "Agreement Date" shall mean the date set forth in the opening paragraph of this Agreement.
- 1.4. **Developer.** "Developer" shall mean you, the individuals, corporation, partnership, or limited liability company referred to in the opening paragraph of this Agreement.
- 1.5. **Developer Members.** "Developer Members" shall mean all owners of any interest, directly or indirectly, in any corporation, partnership, or limited liability company that is the Developer.
- 1.6. **Development Area.** The "Development Area" is that development area described in Exhibit A to this Agreement within which each Huntington Learning Center developed under this Agreement is located.
- 1.7. **Development Schedule.** The "Development Schedule" is the schedule set forth in Exhibit A according to which you undertake the obligation to establish and operate the number of Huntington Learning Centers identified in paragraph 2.1 below.
- 1.8. **Discovery Conference Call.** A "Discovery Conference Call" is a Franchisor-organized conversation among franchisees and prospective franchisees.
- 1.9. **Exam Preparation Service.** "Exam Preparation Service" consists of tutoring provided personally to customers attending a Huntington Learning Center to prepare them for standardized entrance examinations, including, without limitation, the SAT and ACT.
- 1.10. **Franchise Agreement.** "Franchise Agreement" shall mean the then-current form of the Franchisor's franchise agreement at the time you execute the grant described in paragraph 2.1 below. Each Franchise Agreement grants the right and obligation to open and operate one Huntington Learning Center. A copy of the current form of the Franchise Agreement as of the Agreement Date is attached as Exhibit B to this Agreement.
- 1.11. **Franchised Center.** A "Franchised Center" is a Huntington Learning Center you operate under a Franchise Agreement.
- 1.12. **Franchisor.** The "Franchisor" shall mean Huntington Learning Centers, Inc., as set forth in the opening paragraph of this Agreement.



- 1.13. **Huntington Learning Center.** A "Huntington Learning Center" is a business operated at a physical location attended by customers under the Marks and the System.
- 1.14. **Huntington Services.** "Huntington Services" are those services and products, described in the Manual or authorized in writing by the Franchisor from time-to-time, that are provided personally to customers attending a Huntington Learning Center, including, without limitation, Learning Center Services and Exam Preparation Services. Huntington Services do not include School Services, as defined herein.
- 1.15. **Incapacity.** "Incapacity" shall mean the death or physical or mental incapacity of any person with an interest in this Agreement, in you, or in all or substantially all of the assets of your business operated under this Agreement.
- 1.16. **Learning Center Service.** "Learning Center Service" is individualized instruction in reading, phonics, study skills, mathematics, and related areas provided personally to customers attending a Huntington Learning Center.
- 1.17. **Manual.** The "Manual" is the written description of the System, and of mandatory standards, specifications, policies, and procedures imposed by the Franchisor, and relating to, the Marks and System.
- 1.18. **Marks.** The "Marks" are certain trade names, service marks, trademarks, logos, emblems, trade dress, and indicia of origin, including, without limitation, the marks "Huntington Learning Center" and "Huntington Exam Prep Center," as are now designated or as may in the future be designated by the Franchisor in writing for use in connection with the System. The System is identified by the Marks.
- 1.19. **School Services.** "School Services" are those educational services provided in connection with any local, state, or federal government program, including, without limitation, the federal No Child Left Behind Act of 2001, as amended, which services may be provided at a Huntington Learning Center or any other location by the Franchisor or any of its affiliates or by any franchisee of the Franchisor or of any of its affiliates.
- 1.20. **System.** The "System" is the learning center and exam preparation format and operating system designed to provide uniform, high quality instruction in a personal and professional manner on which the Franchisor has expended time, effort, and money to develop. The System consists of uniform standards and procedures for the marketing and operation of, and procedures, business practices, and management methods for, a Huntington Learning Center, which include use of the Marks and the offer and sale of Huntington Services; preparation of customer and school contacts lists; student testing and instructional materials; procedures for student administration; sales and marketing materials, operations assistance, curricula and instructional materials; computer software; procedures for staff recruitment and training; training for you and your full-time or part-time employees; standards and specifications for inventory, supplies, equipment, furniture, and fixtures for your Franchised Center; standards and specifications for the construction and decoration of your Franchised Center; promotional materials; marketing and advertising techniques and materials; design drawings and sign drawings; and accounting, business, and administrative systems (including, without limitation, accounting, bookkeeping, payroll, cash control, and finance procedures and systems); all of which may be changed, improved, and further developed by the Franchisor from time-to-time. The Franchisor has the right, in its sole and absolute discretion, to supplement, modify, and delete from, the System at any time, upon written notice to you, and you agree promptly to comply with all requirements of the Franchisor in that regard, including, without limitation, offering and selling new products and services as the Franchisor specifies.
- 1.21. **Transfer.** "Transfer" shall mean the direct, indirect, or contingent sale, assignment, transfer, conveyance, gift, pledge, mortgage or other encumbrance (whether by or among any of your Developer Members or others and whether by agreement or by law) of any interest in the Developer, this Agreement, any asset of



your business, any share of stock in a corporate Developer, any membership interest in a limited liability company Developer, or any partnership interest in a partnership Developer.

2. GRANT

- 2.1. **Grant of Rights.** Subject to the terms and conditions of this Agreement, the Franchisor grants to you the development rights, and you undertake the obligation, to execute *[in the following space, enter the number of agreements]* _____
Franchise Agreements pursuant to the Development Schedule. Each Huntington Learning Center developed under these Franchise Agreements shall be located within the Development Area.
- 2.2. **Separate Franchise Agreements.** Each Huntington Learning Center to be developed hereunder shall be established and operated pursuant to a separate Franchise Agreement to be entered into between you and the Franchisor in accordance with Paragraph 4.1 below
- 2.3. **No Rights Granted in Marks or System; No Sub-franchising.** This Agreement is not a Franchise Agreement. Only the Franchise Agreements entered into pursuant to Paragraph 4.1 below grant to you any right to use in any manner the Marks or the System. You shall have no right under this Agreement to license others to use in any manner the Marks or the System.
- 2.4. **Development Area.** Except as otherwise provided in this Agreement, the Franchisor and the Franchisor's affiliates will not establish and operate, or grant to another party the right to establish and operate, a Huntington Learning Center in the Development Area during the term of this Agreement. During the term hereof, you agree that the Franchisor and its affiliates retain the rights, among others, in their sole and absolute discretion:
- 2.4.1. To establish or operate, and license others to establish or operate, a Huntington Learning Center, at any location outside your Development Area, notwithstanding such center's proximity to your Development Area;
- 2.4.2. Within and outside your Development Area, to market, sell, or distribute, or to license or contract with others to market, sell or distribute, any educational products or services of any kind (including, without limitation, books; audio tapes; video tapes; study aids; computer software; testing materials; curricula; or teaching, training, computerized instruction, testing, instructional, counseling or guidance services) to any person, organization, or public or private entity, using the Marks or other trademarks or service marks, through any channel of distribution (including, without limitation, through any computer service, the Internet, or any computer, television, or other electronic device; bookstores or any other retail outlets; mail order; or guidance centers);
- 2.4.3. Within your Development Area, to offer, sell, and provide (and to contract with, or license, others to offer, sell, and provide) any products and services of any kind (other than Exam Preparation Services and Learning Center Services) under the Marks or other trademarks or service marks; and to develop and establish other businesses and systems using trademarks and service marks other than the Marks for any products and services (other than Exam Preparation Services and Learning Center Services), and to grant licenses thereto, without providing any rights therein to you;
- 2.4.4. Within and outside your Development Area, and notwithstanding any other provision hereof, to acquire and thereafter own and operate, and license others to own and operate, any educational business or other business of any kind, including, without limitation, any business that offers products or services the same as or similar to Exam Preparation Services and Learning Center



Services under the System or use the Marks or any other system or trademarks or service marks;

- 2.4.5. Outside your Development Area, to offer, sell, and provide (and to contract with, or license, others to offer, sell, and provide) any products and services of any kind (including, without limitation, Exam Preparation Services and Learning Center Services) under the Marks or other trademarks or service marks; and to develop and establish other businesses and systems using trademarks and service marks other than the Marks for any products and services, including, without limitation, Exam Preparation Services and Learning Center Services, and to grant licenses thereto, without providing any rights therein to you.

3. DEVELOPMENT FEE.

- 3.1. **Development Fee.** You shall pay the Franchisor, upon your execution of this Agreement, a development fee of \$10,000 for each Franchised Center you agree to develop under this Agreement, for a total of

receipt of which the Franchisor hereby acknowledges. You shall pay the development fee and all amounts due the Franchisor at the Franchisor's principal business address as listed in Exhibit D to this Agreement, or at any other address the Franchisor designates in writing from time to time. The development fee is fully earned and nonrefundable in consideration of administrative and other expenses incurred by the Franchisor in entering into this Agreement and for the Franchisor's lost or deferred opportunity to enter into this Agreement with others, and is in addition to any initial franchise fee due under any Franchise Agreement you execute pursuant to this Agreement.

- 3.2. **Credit Available.** If (a) you are in full compliance with the Development Schedule; (b) you are in full compliance with all of the terms of this Agreement; (c) have cured any default for which you have received a notice of default under any franchise agreement between you and the Franchisor; and (d) have not received three or more notices of the same or similar defaults under any one or more franchise agreements between you and the Franchisor (whether or not these defaults are cured), then, upon execution of each Franchise Agreement, Huntington shall credit \$10,000 toward the initial franchise fee payable under each Franchise Agreement for each such Franchise Agreement executed pursuant to this Agreement.

4. DEVELOPMENT OBLIGATIONS

- 4.1. **Franchise Agreement.** You shall execute a Franchise Agreement for each Huntington Learning Center at a location within the Development Area accepted by the Franchisor in accordance with this Paragraph 4. The Franchise Agreement for each Huntington Learning Center developed hereunder shall be the Franchisor's then-current form of Franchise Agreement being offered for new Huntington Learning Center, the terms and fees (except the initial franchise fee) of which agreement may be different from the current form of Franchise Agreement attached as Exhibit B. The amount of the initial franchise fee for each Franchised Center is set forth in Exhibit A.
- 4.2. **Location Information.** Before you acquire any location for a Franchised Center, you shall submit to the Franchisor, in the form specified by the Franchisor, the description of the proposed location and such information or materials as the Franchisor may require, together with a letter of intent or other evidence satisfactory to the Franchisor which confirms your favorable prospects for obtaining the proposed location. The Franchisor shall have 30 days after receipt of the description of the proposed location and other information and materials from you to accept the proposed location for development as a Franchised Center. If the Franchisor does not provide notice of location acceptance to you within such 30-day period, then such proposed location shall be deemed rejected. If the Franchisor approves a proposed location, you shall execute the Franchise Agreement for such Franchised Center and submit it to the



Franchisor within 30 days of your receipt of the Franchisor's notice of location acceptance. No proposed location shall be deemed accepted, unless it has been expressly accepted in writing by the Franchisor.

- 4.3. **Lease.** If you lease the premises for any Franchised Center, within 10 days after you execute any lease or sublease for the premises, you shall deliver a copy of such lease or sublease to the Franchisor, together with a fully-executed copy of the Franchisor's then-current form of landlord authorization as referenced in the Franchise Agreement. The Franchisor does not represent it will review or cause others to review your lease or any proposed lease you provide to the Franchisor; however, if the Franchisor conducts any review of any lease or proposed lease you provide to the Franchisor, you agree to pay to the Franchisor all its attorney's and accounts' fees and expenses related to any such lease review.
- 4.4. **Development Obligations.** Recognizing that time is of the essence, you shall develop the number of Huntington Learning Centers described in the Development Schedule by the dates described therein. If you fail to enter into a Franchise Agreement to develop any Huntington Learning Center permitted under this Agreement within the time period required in Exhibit A, this Agreement shall terminate according to its terms.
5. **TERM.** Except as otherwise provided in this Agreement, the term of this Agreement and all rights granted under it expire upon the earlier of (1) the date you satisfy the development obligations in the Development Schedule or (2) _____

6. DUTIES OF THE PARTIES

- 6.1. **Franchisor's Obligation.** The Franchisor shall furnish to you such advice relating to location selection guidelines and consultation as the Franchisor, in its sole discretion, deems necessary.
- 6.2. **Your Obligations.** You accept the following obligations:
- 6.2.1. You shall comply with all requirements of all applicable federal, state, and local laws, rules, and regulations.
- 6.2.2. You shall comply with all of the other terms, conditions, and obligations of the Developer under this Agreement.
- 6.3. **Guarantees.** You agree that, if your spouse, the Developer Members, or the spouses of the Developer Members, are not the Developer, then these individuals shall execute the Guarantee Agreement attached as Exhibit C to this Agreement.

7. TRANSFER OF INTEREST

- 7.1. **Transfer by You.** This Agreement is personal to you. The Franchisor enters into this Agreement in reliance upon, and in consideration of, your skills, qualifications, and representations and the trust and confidence reposed in you by the Franchisor. Except as described in Paragraph 7.1 below, neither you nor your Developer Members may transfer any interest in the Developer, this Agreement, or any assets of your business. Any purported Transfer shall be null and void and shall constitute a material breach of this Agreement, for which the Franchisor may immediately terminate without opportunity to cure.
- 7.2. **Incapacity.** Upon the Incapacity of any person with an interest in this Agreement, in you, or in all or substantially all of the assets of your business operated under this Agreement, the executor, administrator, or representative of such person must promptly notify the Franchisor, and must transfer such interest to a third party approved by the Franchisor within the lesser of (a) the end of the term of this Agreement, or (b) within 90 days after such Incapacity. During the period between such Incapacity and such transfer,



such executor, administrator, or personal representative must fulfill your obligations hereunder; and any failure to do so shall constitute a default under this Agreement for which the Franchisor may terminate this Agreement immediately upon written notice. In the case of transfer by will or intestate inheritance, if the heirs or beneficiaries of any such person are unable to meet the Franchisor's then-current conditions and qualifications for the Franchisor franchisees, the executor, administrator, or personal representative of the decedent must still transfer the decedent's interest to another party approved by the Franchisor and who meets the Franchisor's then-current conditions and qualifications for the Franchisor franchisees within the lesser of (a) the end of the term of this Agreement, or (b) within 90 days after such Incapacity. If the interest is not so transferred or assigned within such period, the Franchisor may terminate this Agreement, pursuant to Paragraph 8.2 below.

- 7.3. **Assignment by the Franchisor.** The Franchisor has the absolute right to transfer, assign, or sell, by agreement or by law, directly, indirectly, or contingently, this Agreement and any right and obligation under this Agreement

8. DEFAULT AND TERMINATION

- 8.1. **Bankruptcy.** You shall be deemed in default under this Agreement, and all rights granted herein shall automatically terminate, without notice to you, if you shall become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by you or such a petition is filed against and not opposed by you; if you are adjudicated a bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver of you or other custodian for your business or assets is filed and consented to by you; if a receiver or other custodian (permanent or temporary) of your business or assets, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law should be instituted by or against you; if a final judgment remains unsatisfied or of record for 30 days or longer (unless supersedeas bond is filed); if execution is levied against your business or assets; if suit to foreclose any lien or mortgage against your premises or equipment is instituted against you and not dismissed within 30 days; or if the real or personal property of any of your Huntington Learning Centers shall be sold after levy thereupon by any sheriff, marshal or constable.
- 8.2. **Non-curable Defaults.** If you fail to comply with any of the terms of this Agreement (except the Development Schedule), such action shall constitute a default under this Agreement, upon which the Franchisor, in its sole and absolute discretion, may terminate this Agreement and all rights granted hereunder, without affording you any opportunity to cure the default, effective immediately upon receipt by you of written notice of termination. If you fail to execute any Franchise Agreement by the date described in the Development Schedule, this Agreement and all rights granted hereunder shall automatically terminate without any notice to you or opportunity to cure.
- 8.3. **Post-term obligations.** Upon termination of this Agreement for any reason, you shall have no right to establish or operate any Huntington Learning Center for which a Franchise Agreement has not been executed by the Franchisor at the time of termination; and the Franchisor shall have the right to establish and operate, and to license others to establish and operate, Huntington Learning Centers within the Development Area.
- 8.4. **Cross-default.** No default under this Development Agreement shall constitute a default under any Franchise Agreement between the Franchisor and you or any of your affiliates. Default under any Franchise Agreement between the Franchisor and you or any of your affiliates shall constitute a default under this Agreement. Default under this Development Agreement shall constitute default under any other Development Agreement between the Franchisor and you or any of your affiliates.



8.5. **No Exclusive Remedy.** No right or remedy herein conferred upon or reserved to the Franchisor is exclusive of any other right or remedy provided or permitted by law or equity.

9. **NOTICES.** All notices to you and the Franchisor during the term of this Agreement and afterwards shall be in writing and shall be sent to the other party by registered or certified mail, postage fully prepaid, return receipt requested, or sent by other means which affords the sender evidence of delivery, attempted delivery, or rejected delivery, addressed to such parties' principal business address as identified in Exhibit D to this Agreement, or at any other address that you or the Franchisor designates in writing; provided, however, that you shall not designate any address that is a post office box. Notices shall be deemed delivered and received on the earliest of actual receipt; 5 business days after placement in the U.S. mail; or one business day after mailing, if placed in the U.S. mail or a courier service for next business day delivery.

10. **APPLICABLE LAW; FORUM; CLAIMS AGAINST THE FRANCHISOR; WAIVERS; LIMITATIONS; SPECIFIC PERFORMANCE; COSTS AND FEES**

10.1. **Applicable Law; Forum.**

10.1.1. This Agreement shall be interpreted and construed in accordance with the laws of the state of Delaware, except for such state's conflict-of-law rules. The parties hereto agree that the New Jersey Franchise Practices Act shall not apply to this Agreement.

10.1.2. Except as otherwise provided herein, any action, whether or not arising out of, or relating to, this Agreement, whenever and wherever incurred, whether vested or contingent, whether in law or in equity, whether directly, representatively, derivatively, or in any other capacity, brought by you or any Developer Member against the Franchisor shall be brought in the judicial district in which the Franchisor has, at the time of commencement of such action, its principal place of business, as described in Paragraph 9 above. The Franchisor shall have the right to commence an action against Franchisee in any court of competent jurisdiction. All such parties hereby waive all objections to personal jurisdiction or venue for the purpose of carrying out the purposes of this Paragraph 10.1.2, and such parties agree that nothing in this Paragraph 10.1.2 shall be deemed to prevent any party to such action from removing the action from state court to federal court.

10.1.3. You acknowledge and agree that Paragraph 10.1 of this Agreement governs any dispute under any prior or other agreement between you or any of your affiliates and the Franchisor or any of its affiliates, and that such provision shall supersede and govern any contrary obligation in any such agreement for either such party thereunder to participate in any mediation or arbitration or both in connection with filing an action or claim under such agreement, which such contrary obligation shall be null and void and of no force or effect. You further acknowledge and agree that all such prior and other agreements shall be governed by this Paragraph 10.1.

10.2. **Claims Against the Franchisor.** Notwithstanding any other provision of this Agreement, you have no right to make any claim or counterclaim against the Franchisor during the term of this Agreement in any manner other than the manner described in this Paragraph 10.1.3.

10.2.1. If, during the term of this Agreement, you have any claim against the Franchisor or any Franchisor affiliate or their present or past directors, stockholders, officers, employees, or agents, including, without limitation, any claim related to renewal or Transfer hereunder, any claim that the Franchisor failed to meet any obligation under this Agreement, defaulted under this Agreement, or did not perform under this Agreement, then you shall notify the Franchisor in writing of this claim. This written notice shall describe the claim, provide an opportunity to cure, describe the manner in which you request that the Franchisor cure, and provide a Cure Period within which the Franchisor may cure such alleged default of at least 60 days. Your written



notice shall be delivered to the Franchisor in the manner described in Paragraph 9 above. If your notice is not in writing, and does not (1) describe the claim, (2) provide an opportunity to cure, (3) describe the manner in which you request that the Franchisor cure, and (4) provide a Cure Period of at least 60 days, then your notice shall be deemed to be (a) deficient, (b) not a claim upon which the Franchisor is required to act, (c) not an actionable claim, (d) not grounds for your seeking any remedy under this Agreement or otherwise, and (e) not grounds for your termination of this Agreement.

- 10.2.2. If you do not file a legal action for such claim, as described in Paragraph 10.1 above within 30 days after the expiration of the Cure Period, then you shall have evidenced conclusively that you have no claim against the Franchisor and Franchisor affiliates and their respective present and past directors, stockholders, officers, employees, and agents; and you shall have evidenced conclusively that any claim you may have had is not a claim upon which the Franchisor is required to act, is not an actionable claim, is not grounds for your seeking any remedy under this Agreement or otherwise, and is not grounds for termination by you of this Agreement; and you shall be deemed to have agreed to have waived any right you may have had to initiate any future claim against the Franchisor for the same cause.
- 10.3. **Waiver of Rights.** You waive the right: to enforce any oral agreement, promise, representation, or warranty not in this Agreement; to amend, modify, or suspend any provision of this Agreement; to stay the effectiveness of any expiration or termination of this Agreement or any other agreement between you and the Franchisor or any pending expiration or termination thereof; and to seek damages against the Franchisor because the Franchisor insisted upon the execution of a general release or refused its consent or approval under this Agreement. Neither you nor the Franchisor shall seek to litigate as a representative of, or on behalf of, any other person, class, or entity any dispute, controversy, or claim of any kind arising out of, or relating to, this Agreement, the rights and obligations of the parties, the sale of the franchise, or other claims or causes of action relating to the performance of either party to this Agreement. No action or proceeding under this Agreement shall add as a party, by consolidation, joinder, or in any other manner, any person or party other than you and the Franchisor and any person in privity with, or claiming through, in the right of, or on behalf of, you or the Franchisor, unless both you and the Franchisor consent in writing. The Franchisor has the absolute right to refuse such consent.
- 10.4. **Limitation on Claims.** You and the Franchisor agree that any and all claims by you against the Franchisor arising out of, or relating to, directly or indirectly, the making of, interpretation of, or performance under this Agreement may not be commenced by you, unless brought before the earlier of (1) the expiration of one year after the act, transaction, or occurrence upon which such claim is based; or (2) one year after this Agreement expires or is terminated for any reason. You agree that any claim or action not brought by you within the periods required under this Paragraph 10.4 shall forever be barred as a claim, counterclaim, defense, or set off.
- 10.5. **WAIVER OF TRIAL BY JURY. YOU AND THE FRANCHISOR AGREE TO WAIVE A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING, WHETHER AT LAW OR IN EQUITY, ABOUT ANY AND ALL ISSUES THAT ARISE OUT OF, CONCERN, OR RELATE TO, THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED IN THIS AGREEMENT, YOUR PERFORMANCE OR THE FRANCHISOR'S PERFORMANCE UNDER THIS AGREEMENT, OR OTHERWISE, DURING THE TERM OF THIS AGREEMENT AND AFTERWARDS. YOU AND THE FRANCHISOR MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF YOUR AND THE FRANCHISOR'S CONSENT TO THE WAIVER OF A TRIAL BY JURY. YOU ACKNOWLEDGE AND AGREE YOU HAVE CONSULTED WITH, AND HAVE BEEN ADVISED BY, COUNSEL ABOUT THE TRANSACTION GOVERNED BY THIS AGREEMENT AND SPECIFICALLY ABOUT THE TERMS OF THIS PARAGRAPH 10.5, WHICH**



CONCERNS THE WAIVER OF RIGHT TO TRIAL BY JURY BY YOU AND THE FRANCHISOR. YOU AND THE FRANCHISOR AGREE THAT YOUR REPRESENTATIONS SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

- 10.6. **Limitation on Remedies.** Except as required to the contrary under the indemnification provisions of Paragraph 10.12 below or by law, during the term of this Agreement and afterwards, you waive to the fullest extent permitted by law any right to, or claim for, any punitive, speculative, exemplary, incidental, indirect, special, or consequential damages against the Franchisor and all of its affiliates arising out of any cause whatsoever that arises out of, concerns, or relates to, the making of, interpretation of, or performance under, directly or indirectly, this Agreement, whether such cause is based in contract, negligence, strict liability, other tort, or otherwise, including, but not limited to, your claim or counterclaim that the Franchisor unreasonably gave, withheld, or delayed its consent or approval to anything.
- 10.7. **No Exclusive Remedy.** No right or remedy conferred upon or reserved to you or the Franchisor by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.
- 10.8. **Specific Performance.** Notwithstanding any other provision of this Agreement, the Franchisor has the right to seek specific performance of any of your obligations under this Agreement or injunctive relief against any conduct that will cause it loss or damage, under customary equity rules, to prevent a breach or threatened breach of this Agreement without the need to show monetary damages and without posting a bond. An application for such a remedy shall not be deemed an election or a waiver of any other remedy. The Franchisor may file an original counterpart or a copy of this Agreement with any court as written evidence of your consent to the issuance of injunctive relief.
- 10.9. **Costs and Fees.** Except as otherwise specifically provided for herein, in any judicial or administrative action, order, or proceeding hereunder involving you and the Franchisor during the term of this Agreement or thereafter, the prevailing party shall be entitled to recover its damages, costs and expenses, including all court costs and attorneys' and accountants' fees and expenses.
- 10.10. **Taxes.** If any taxing authority, wherever located, imposes any tax, levy, or assessment on any payment made by you to the Franchisor, you must, in addition to all payments due to the Franchisor, pay such tax, levy, or assessment immediately upon demand by the Franchisor.
- 10.11. **Relationship.** In all matters pertaining to this Agreement, you are, and shall be deemed, an independent party. The Franchisor and its affiliates and their directors, stockholders, employees, and agents shall have no fiduciary obligation to you. You are not, and shall not be deemed, an agent, legal representative, joint venturer, partner, or employee of the Franchisor for any purpose whatsoever. The Franchisor is not liable for your debts, obligations, acts, or refusals to act. You have no right to bind the Franchisor in any way, and you shall not represent that you have any right to do so. You shall conduct all your obligations in your own name and not in the Franchisor's name.
- 10.12. **Indemnification.**
- 10.12.1. You, and not the Franchisor, are solely responsible for all losses, damages, and liabilities to all your customers, employees, agents, and vendors and to all others, and for all damages to property, and for all physical and mental injury and illness and death of persons arising out of, or with, your acts and omissions; and for your compliance with all federal, state, and local laws, statutes, codes, rules, regulations, and standards, including, by way of example and without limitation, the Americans with Disability Act, as amended (the "ADA"). For all time, you shall indemnify and hold harmless the Franchisor and its affiliates and their respective present and past



directors, stockholders, officers, employees, and agents from and against all claims, demands, losses, obligations, costs, attorneys' and accountants' fees and expenses, court costs, expenses, liabilities, debts, and damages of every kind and nature resulting or arising, directly or indirectly, from your acts and omissions, the conduct of your business hereunder, from any violation of any federal, state, or local laws, statute, code, rule, regulation, and standard by you, your business, your Franchised Center, your employees and agents, and from claims by any federal, state, or local governmental agency, bureau, or board and by any person, vendor, landlord, or other individual or entity, whether occasioned by neglect, omission, willful act, or otherwise, including, without limitation, all costs, including attorneys' and accountants' fees and expenses, of defending against them.

10.12.2. You shall advise the Franchisor if a notice is received that a claim has been or may be filed with respect to a matter covered by this Agreement, and you shall immediately assume the defense thereof at your sole cost and expense. At your sole expense, the Franchisor will endeavor to cooperate with you and your counsel in the defense and settlement, if any, of all such claims. In any event, the Franchisor will have the right, through counsel of its choice, to control any matter to the extent it could directly or indirectly affect the Franchisor or its affiliates or their present or past officers, directors, employees, agents, successors, or assigns. The Franchisor may defend, settle, arbitrate, and litigate such action in the manner it deems appropriate and you shall, immediately upon written demand, pay to the Franchisor all costs, including attorneys' and accountants' fees and expenses, and litigation costs, incurred by the Franchisor in effecting such defense, in addition to any sum the Franchisor may pay by reason of any settlement or judgment against the Franchisor.

10.13. **Fees and Costs.** You agree to pay the Franchisor or its designee all expenses, including, without limitation, attorneys' and accountants' fees and expenses and litigation and court costs, incurred by the Franchisor, its affiliates, and their successors and assigns (1) to issue any notice to remedy any default by you under this Agreement; (2) to issue any notice to remedy any default by you or any of your affiliates under any other agreement between you and any of your affiliates and the Franchisor or any of its affiliates; (3) to enforce any rights under this Agreement or under any other agreement between you and any of your affiliates and the Franchisor or any of its affiliates; (4) to effect termination of this Agreement; (5) to effect termination of any other agreement between you and any of your affiliates and the Franchisor or any of its affiliates; (6) to collect any amounts due under this Agreement; and (7) to collect any amounts due under any other agreement between you and any of your affiliates and the Franchisor or any of its affiliates.

10.14. **Binding Effect.** Upon its execution by you and the Franchisor, this Agreement shall bind, and inure to the benefit of, you and the Franchisor and your and the Franchisor's permitted heirs, executors, personal representatives, successors, and assigns.

10.15. **Waivers.** Either you or the Franchisor may by written notice unilaterally waive or reduce any obligation of, or restriction upon, the other under this Agreement effective upon delivery of such notice or upon any other effective date stated in such notice. Any such waiver granted by the Franchisor must be signed by a corporate officer of the Franchisor and shall not prejudice any other rights of the Franchisor and will be subject to review continually by the Franchisor, and the Franchisor retains the right to revoke such waiver at any time, effective upon delivery to you of written notice of revocation.

10.16. **Entire Agreement.** This Agreement and all its exhibits constitute the entire agreement between you and the Franchisor with reference to its subject matter. This Agreement supersedes all prior and contemporaneous negotiations, understandings, representations, and agreements, oral or written, about this Agreement's subject matter. The Franchisor's obligations to you are confined exclusively to this Agreement. Any right granted to you by the Franchisor as to the subject matter hereof is described solely



in, and limited to, this Agreement. Except for those specifically permitted to be made unilaterally by the Franchisor or you hereunder, no amendment, change, or variance from this Agreement shall be binding on either party, unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

- 10.17. **Severability.** Each article, paragraph, subparagraph, term, condition, and covenant of this Agreement and all portions of them shall be considered severable. If, for any reason, any portion of this Agreement is determined to be unconscionable or unenforceable or invalid, contrary to, or in conflict with, any applicable present or future law, rule, or regulation in a final unappealed ruling issued by any court, agency, or tribunal with valid jurisdiction in an action or proceeding to which the Franchisor is a party, that ruling shall not impair the operation of, or have any other effect upon, any other portion of this Agreement, all of which shall remain binding on you and the Franchisor and shall continue to be given full force and effect. Any invalid portion shall be deemed not to be a part of this Agreement as of the date on which the ruling becomes final, if you are a party to this action or proceeding, or on your receipt of notice of non-enforcement from the Franchisor.
- 10.18. **Representations.** If you are not a franchisee of the Franchisor, you represent that you received the Franchisor's Franchise Offering Circular (with all its exhibits and this Agreement with all its exhibits) on, or before, the earlier of your first personal meeting with the Franchisor (or the Franchisor's agent), or at least 10 business days before your signing of this Agreement, or the payment of any monies to the Franchisor under this Agreement; or, if you are a franchisee of the Franchisor, you represent that you received the Franchisor's Franchise Offering Circular (with all its exhibits and this Agreement with all its exhibits) at least 10 business days before your signing of this Agreement, or the payment of any monies to the Franchisor under this Agreement. You represent that you have not received from the Franchisor any oral or written promises, representations, or warranties, express or implied, or quantitative or qualitative, about any potential or actual success, earnings, revenue, expense, profit, or cash flow of any Huntington Learning Center that is not in the Franchisor's Franchise Offering Circular; and that you are entering into this Agreement as a result of your own independent investigation and not as a result of any oral or written representation, guarantee, earnings claim, warranty, or inducement by the Franchisor or any of its present or former directors, stockholders, officers, employees, or agents that is contrary to, or at variance with, any term of the Franchisor's Franchise Offering Circular or this Agreement.
- 10.19. **Independent Investigation.** You represent that you have been accorded ample opportunity to ask the Franchisor all questions about the Franchisor's Franchise Offering Circular and its exhibits and this Agreement and its exhibits, and the Franchisor has answered all these questions to your full and complete satisfaction; and that you have conducted an independent investigation of the business contemplated by, and the activities to be conducted under, this Agreement; and that you have been accorded ample opportunity to consult with counsel of your own choosing about the risks of entering into this Agreement; and that you have had the Franchisor's Franchise Offering Circular and its exhibits and this Agreement and its exhibits reviewed by counsel of your own choosing.
- 10.20. **Disclaimer.** You represent that you have not received from the Franchisor or any present or past Franchisor affiliate or any present or past director, stockholder, officer, employee, or agent of the Franchisor any written or oral statement, representation, or warranty inconsistent with, or contradictory to anything in, the Franchisor's Franchise Offering Circular or its exhibits or this Agreement or its exhibits; or any oral or written promises, representations, or warranties, express or implied, or quantitative or qualitative, about any service or other thing to be provided by the Franchisor that is not in this Agreement; or any oral or written promises, representations, or warranties, express or implied, or quantitative or qualitative, about the rights granted under this Agreement, any Franchised Center, Franchisor, or Franchisor policy that is contrary to the statements made in the Franchisor's Franchise Offering Circular or its exhibits or this Agreement or its exhibits.



10.21. Discovery Conference Call. You represent you have had every opportunity to speak with each and all of the Franchisor's franchisees and that the Franchisor did not limit or restrict you in any way from speaking with any of them. If you have participated in any Discovery Conference Call, you acknowledge and agree to each of the following: (a) Any information you may have received in any Discovery Conference Call does not constitute the opinions, ideas, or representations of the Franchisor; (b) all opinions, ideas, and representations made by any Discovery Conference Call participant is such participant's alone and not the Franchisor's; (c) the opinions, ideas, and representations of each Discovery Conference Call participant may not represent those of any of the Franchisor's franchisees; and (d) no Discovery Conference Call participant has been authorized by the Franchisor to provide any information regarding any potential or actual success, earnings, revenue, expense, profit, or cash flow of their franchised center or any other Huntington Learning Center.

10.22. Market Development Plan. You represent and agree that (a) you have received a market development plan for areas or markets within which you might locate the Franchised Center; (b) subject to the terms of this Agreement, the Franchisor may establish or franchise Huntington Learning Centers at any location, whether or not such locations were, now are, or will be identified in a market development plan or elsewhere; (c) the Franchisor is not obligated in any way to establish or franchise any Huntington Learning Center identified now or in the future in any market development plan; and (d) any existing or future Huntington Learning Center may compete with the Franchised Center. You represent and agree that any market development plans and any demographic or similar information you may have received from the Franchisor does not constitute any Franchisor representation as to the viability or likelihood of success of any location for a Huntington Learning Center and does not guarantee that the Franchised Center will or should be located at any specific site or in any area described in them; and that such materials are not predictive of any potential business success, revenue, or profits for the Franchised Center. You represent and agree you have not relied in any way on any market development plans or other demographic or similar material provided to you by the Franchisor in your decision to enter into this Agreement or into any other agreement with the Franchisor.

10.23. Government Programs.

10.23.1. You acknowledge and agree you have no right to, and shall not, apply, or obtain or accept approval to provide or market, School Services, without the Franchisor's prior written approval; and the Franchisor has the absolute right to refuse to grant you any such approval.

10.23.2. You acknowledge and agree the Franchisor and its affiliates have the right to apply, and to accept and obtain approval, to provide and market School Services, at any time and at any location, including at any location within the Development Area and to grant such rights to others, including, without limitation, franchisees of the Franchisor and its affiliates. You acknowledge and agree that Huntington Learning Centers or other facilities or entities operated by the Franchisor and its affiliates and by franchisees of the Franchisor and its affiliates may use the Marks to provide School Services at any time and at any location, including at any location inside the Development Area, and may compete against you without compensation of any kind to you. You agree you shall make no claim, including any claim of encroachment or loss of business or damage, due to such use of the Marks or such competition.

11. ACCEPTANCE AND AGREEMENT. I HAVE READ AND UNDERSTAND FULLY THIS AGREEMENT AND ALL OF ITS EXHIBITS. I HAVE HAD THIS AGREEMENT REVIEWED BY COUNSEL OF MY OWN CHOOSING. I HAVE CONSULTED WITH, AND HAVE BEEN ADVISED BY, COUNSEL OF MY OWN CHOOSING ABOUT THIS AGREEMENT AND THE TRANSACTION GOVERNED BY THIS AGREEMENT. I ACCEPT AND AGREE TO BE BOUND BY AND TO PERFORM ACCORDING TO THIS AGREEMENT AND EACH AND ALL OF ITS TERMS, WITHOUT RESERVATION. I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS AGREEMENT AND ALL ITS



EXHIBITS AT LEAST 5 BUSINESS DAYS BEFORE I EXECUTED IT. I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS AGREEMENT AND ALL ITS EXHIBITS AT LEAST 5 BUSINESS DAYS BEFORE I EXECUTED IT.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the date first above written.

For Huntington Learning Centers, Inc.,

Raymond J. Huntington Chairman
Print name Signature Title

Name of Developer: _____
(Enter the same name that appears in the opening Paragraph of this Agreement).

For the Developer (This is executed by all individuals comprising the Developer, if the Developer is an individual; or all officers of the corporation, if the Developer is a corporation; or all partners, if the Developer is a partnership; or all members if the Developer is a limited liability company.):

Print name Signature Title

Print name Signature Title

Print name Signature Title

Print name Signature Title





DEVELOPMENT AREA; DEVELOPMENT SCHEDULE

1. The initial franchise fees and dates for which the Franchise Agreements must be executed are listed below. Each Huntington Learning Center developed under this Development Agreement shall be located within the boundaries of the Development Area described as follows or on the attached map:

2. Recognizing that time is of the essence, you agree to satisfy the below development schedule:

Huntington Learning Centers, Inc. Franchise Agreement	Initial Franchise Fee	Date by which Franchise Agreement is to be signed.
1 st		
2 nd		
3 rd		
4 th		
5 th		

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit A contemporaneously with the Development Agreement

For Huntington Learning Centers, Inc.,

Raymond J. Huntington Chairman
 Print name Signature Title

Name of Developer: _____
 (Enter the same name that appears in the opening Paragraph of this Agreement),

For the Developer (This is executed by all individuals comprising the Developer, if the Developer is an individual; or all officers of the corporation, if the Developer is a corporation; or all partners, if the Developer is a partnership; or all members if the Developer is a limited liability company.):

 Print name Signature Title

 Print name Signature Title

 Print name Signature Title





FRANCHISE AGREEMENT

The form of Huntington Learning Centers, Inc. Franchise Agreement offered by the Franchisor as of the Agreement Date is attached.





GUARANTEE AGREEMENT

In consideration of, and in order to induce Huntington Learning Centers, Inc. (the "Franchisor") to execute the development agreement (the "Agreement"), each of the undersigned personally, unconditionally, and irrevocably, jointly and severally, accept and agree that they shall be bound by, and perform according to, each and all of the provisions, covenants, and conditions of the Agreement executed between the Franchisor and _____, the Developer (as defined in the Agreement).

Upon demand by the Franchisor, the undersigned will immediately make each payment required of Developer under the Agreement. The undersigned hereby waive any right to require the Franchisor to: (a) proceed against Developer for any payment required under the Agreement; (b) proceed against or exhaust any security from Developer; or (c) pursue or exhaust any remedy, including any legal or equitable relief, against Developer. Without affecting the obligations of the undersigned under this Guarantee, the Franchisor may, without notice to the undersigned, extend, modify, or release any indebtedness or obligation of Developer, or settle, adjust, or compromise any claims against Developer. The undersigned waive notice of amendment of the Agreement and notice of demand for payment by Developer, and agree to be bound by any and all such amendments and changes to the Agreement.

The undersigned hereby agree to defend, indemnify, and hold the Franchisor harmless against any and all losses, damages, liabilities, costs, and expenses (including, without limitation, attorneys' fees, reasonable costs of investigation, court costs and expenses) resulting from, consisting of, or arising out of or in connection with any failure by Developer to perform any obligation of Developer under the Agreement, any amendment thereto, or any other agreement executed by Developer referred to therein.

This Guarantee shall terminate upon the termination or expiration of the Agreement, except that all obligations and liabilities of the undersigned that arose from events which occurred on or before the effective date of such termination shall remain in full force and effect until satisfied or discharged by the undersigned, and any covenants that by their terms continue in force after the expiration or termination of the Agreement shall remain in force according to their terms. Upon the death of an individual guarantor, the estate of such guarantor shall be bound by this Guarantee, but only for defaults and obligations hereunder existing at the time of death; and the obligations of the other guarantors will continue in full force and effect.

Unless specifically stated otherwise, the terms used in this Guarantee shall have the same meaning as in the Agreement, and shall be interpreted and construed in accordance with the applicable law and dispute resolution provisions of Paragraph 9 of the Agreement. Notices under this Guarantee shall be furnished to the undersigned in accordance with Paragraph 9 of the Agreement at the addresses described below. Paragraphs 9 and 9 of the Agreement are hereby incorporated herein by reference.

Notices to the Franchisor: Huntington Learning Centers, Inc.; 496 Kinderkamack Road; Oradell, New Jersey 07649; Attn: Chairman

Notices to Guarantors: (Name and addresses of Guarantors): _____



I have read and understand the Agreement and this Guarantee Agreement. I agree to be bound by, and to perform according to, the Agreement and this Guarantee Agreement. I have a copy of the Agreement and this Guarantee Agreement.

IN WITNESS WHEREOF, each of the undersigned has hereunto affixed your signature.

Print name Signature Date

Print name Signature Date

Print name Signature Date



NOTICES

Franchisor address: 496 Kinderkamack Road, Oradell, New Jersey 07649, Attention: Chairman.

The Franchisor is located in Bergen County, New Jersey.

* * *

Developer address (This shall not be a post office box. If left blank, your Huntington Learning Center's address shall be your address for notices for the purposes of receiving notice under the Development Agreement.):

Name of Developer: _____
(Enter the same name that appears before the opening Paragraph of this Agreement),

For the Developer (This is executed by all individuals comprising you, if you are an individual; or all officers of the corporation, if you are a corporation; or all partners, if you are a partnership; or all members, if you are a limited liability company.):

Print name	Signature	Title
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Print name	Signature	Title
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