

EXHIBIT C TO THE OFFERING CIRCULAR

SOFTWARE LICENSE AGREEMENT





This HUNTINGTON LEARNING CENTERS, INC. SOFTWARE LICENSE AGREEMENT (the "Agreement") is made and entered into on \_\_\_\_\_ (the "Agreement Date") between Huntington Learning Centers, Inc. (the "Franchisor"), a corporation incorporated in Delaware, or its successors and assigns, and you, the Licensee, \_\_\_\_\_ a [insert one of individual or partnership or corporation, or limited liability company in the following:] \_\_\_\_\_ "You", "Licensee", and "Franchisee" as used in this Agreement mean the individuals, corporation, partnership, or limited liability company referenced as Licensee 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. **Franchise.** You and the Franchisor have entered into that certain franchise agreement (the "Franchise Agreement") dated \_\_\_\_\_ regarding the operation of a franchised Huntington Learning Center (the "Center") under the System for the Exclusive Area identified in your Franchise Agreement as \_\_\_\_\_.

The "System" is the learning center and exam preparation format and operating system defined in the Franchise Agreement.

2. **Term.** Except as otherwise provided in this Agreement, the term of this Agreement and all rights granted under it expire upon the expiration of the current term of your Franchise Agreement.

3. **Grant.**

- 3.1. The Franchisor developed and owns the software entitled "Learning Center Operation System" (the "Software") for use in the System and has the right, but not the obligation, to develop other versions of such software or other software, from time to time, for use in the System. The Software includes all amendments, bulletins, and changes that may be made by the Franchisor. The "Manual" describes the Software and its use. The Franchisor may change the Software and Manual from time to time. The Franchisor grants to you, and you accept, the limited and non-exclusive right and obligation (the "License") to use the Software solely in your Center according to this Agreement and only during its term. The Franchisor reserves all rights not granted in this Agreement. The Franchisor may grant licenses to the Software to others and upon other or different terms whenever and wherever it decides to do so.
- 3.2. This Agreement licenses you a specific version of the Software. The Franchisor has the right, but not the obligation, to change the version from time to time. The Software may cease functioning, unless the Franchisor supplies a restoration code to you and you implement it. The Software requires a Licensee-changeable password and, upon Franchisor request, you shall inform the Franchisor of the password.
- 3.3. If the Franchisor provides you with any subsequent version, you shall implement it immediately or within the time period required by the Franchisor in writing, cease using any previous version, remove all copies of any previous version from all of your computers, and, at the Franchisor's election, return all copies of any previous version to the Franchisor. Any subsequent version of the Software may include material changes from any previous version. If the Franchisor decides to replace the Software with other software for business reasons, the Franchisor may terminate this Agreement in the Franchisor's sole discretion, in which case you will execute any new agreement licensing your use of such other software upon fees, terms, and conditions that may differ significantly from those in this Agreement.

4. **Fees; Payment.**

- 4.1. You shall pay the Franchisor, upon execution of this Agreement, a fee (the "License Fee") for the License of \_\_\_\_\_ and the pro-rated portion of the first year's Maintenance Fee of \_\_\_\_\_. On each January 1 during the term of this Agreement and without prior

demand or notice, you shall pay the Franchisor a fee (the "Maintenance Fee") of \_\_\_\_\_. You shall pay all amounts due the Franchisor at the Franchisor's principal business address as listed in Paragraph 33 below, or at any other address the Franchisor designates in writing. The License Fee and the first year's Maintenance Fee are fully earned by the Franchisor upon the Franchisor's execution of this Agreement. Each annual Maintenance Fee is fully earned by the Franchisor on January 1 of that year. The License Fee may be refunded only as provided in this Agreement. No Maintenance Fee is refundable.

- 4.2. You agree to pay the Franchisor promptly upon demand any fees it pays or becomes obligated to pay on your behalf, including, but not limited to, any fee it pays or becomes obligated to pay on your behalf to any vendor or third-party provider of software, software-related services or equipment, or computer-related services or equipment. You shall pay promptly to the Franchisor upon written notice to you all amounts due to the Franchisor and its affiliates for such fees.
  - 4.3. Any Maintenance Fee or other payment due the Franchisor under this Agreement that is not paid when due shall be subject to the then-current late fee and shall bear daily interest at the rate of 10% per annum, but no more than the highest rate permitted by applicable law. Entitlement to such late fee and interest shall be in addition to any other remedies the Franchisor may have. This Paragraph 4.3 shall not bind the Franchisor to accept any payment after its due date. If you are delinquent in any payment to the Franchisor, the Franchisor has the right to apply any of your payments to any late fee, interest charge, or past due indebtedness. You shall have no right to withhold any payment of any Maintenance Fee or any other monies due to the Franchisor or its affiliates on any grounds (including, without limitation, any claim or counter-claim hereunder, or otherwise) and shall have no right to set-off any amount due to the Franchisor or its affiliates against any monetary claim against the Franchisor or its affiliates.
  - 4.4. The Franchisor has the right to require that you make any payments required under this Agreement by electronic funds transfer, on-line banking, pre-authorized auto-draft arrangement, or such other means as the Franchisor may specify from time-to-time, notwithstanding any other provisions of this Agreement, and you agree to comply with such requirement. You must furnish the Franchisor, the Franchisor's bank or other financial institution, and any other recipient of payment with such information and authorizations as may be necessary to permit such persons to make withdrawals by electronic funds transfer, on-line banking, or auto-draft arrangement. You shall bear all expenses, if any, associated with such authorizations and payments.
  - 4.5. You agree to reimburse the Franchisor for any fees imposed on the Franchisor or its affiliates by any third party to process any payment you make to the Franchisor under this Agreement. Such third party fees include, without limitation, any fees imposed by a bank or credit card company to process any credit card payment you make to the Franchisor or its affiliates.
5. Use.
- 5.1. If you are not in default under this Agreement or your Franchise Agreement, you may use the Software as described in this Agreement and in the Manual; and the Franchisor will attempt to answer your questions about the Software during the Franchisor's normal business hours and to inform you of all necessary restoration codes for the Software.
  - 5.2. You agree to install, upgrade, and maintain continually throughout the term of this Agreement, at your sole expense, in accordance with the Manual and as required by the Franchisor in writing from time to time all items used in connection with the Software, including, without limitation, the following: your computers and related equipment and software; communications hardware and software; and network equipment and related software. The Franchisor is not obligated to purchase or buy back anything you may lease, acquire, purchase, or license, whether or not you leased, acquired, purchased, or licensed any such thing at the Franchisor's direction. You have no right to use the Software or Manual after this Agreement terminates or expires.

- 5.3. The Software may be used only by you and your shareholders, partners, and employees in the Center's operation during the term of this Agreement and as described in this Agreement and the Manual. You may not use the Software or Manual in competition with the Franchisor. You may not use the Software in any way not permitted by this Agreement.
- 5.4. Unless permitted by the Franchisor in writing, you may not copy, reproduce, or translate any of the Software or Manual; or change, reverse engineer, decompile, disassemble, or create derivative works of the Software; or incorporate the Software into any other software or any other software into the Software; or remove or obscure the Franchisor's copyright or trademark notices in the Software or Manual.
- 5.5. The computer(s) on which the Software licensed to you resides is referred to herein as the "Computer", whether such computer(s) are located at the Center or otherwise. The data input into, and developed by, the Software is referred to herein as the "Data". You agree the Data are owned by the Franchisor. You agree the Franchisor has the right to inspect, audit, access, record, and copy the Computer, Software, Data, and all data, software, and computer programs on the Computer; and you agree to cooperate fully with the Franchisor in such activity at your sole cost. You agree to permit the Franchisor to communicate, in any manner determined by the Franchisor, including over the Internet, with the Computer. You agree to purchase, install, and to maintain and upgrade continually throughout the term of this Agreement and as required by the Franchisor in the Manual and in writing from time to time, at your sole cost, all communication equipment, software, and Internet connections required to accomplish the purposes of this Agreement, including, without limitation, those of this Paragraph 5.5. You agree to use the highest-speed Internet connection available for the purposes of this Agreement. You agree to submit to the Franchisor, in the manner and frequency required by the Franchisor in the Manual and in writing from time to time, any report or data as requested by the Franchisor developed or available through the Software. You agree that, if the Franchisor is unable for any reason to support the Software or communicate with the Software or the Data using an Internet connection, then the Franchisor may charge you materials, handling, support, and communication charges for such support and communication, and you agree to pay all related charges, including, but not limited to, any charges incurred by the Franchisor, promptly upon demand.

## 6. Transfer.

- 6.1. "Transfer" includes, without limitation, transfer of contract or assets or ownership change. You shall not Transfer this Agreement without first obtaining the Franchisor's written approval. Any purported Transfer not having the prior, written consent of the Franchisor 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. You may only Transfer this Agreement in connection with a simultaneous transfer of the Franchise Agreement to the same transferee. You shall not transfer any interest in the Franchisee, this Agreement, or of any of the assets of your business to a trust.
- 6.2. You shall give the Franchisor written notice of any proposed Transfer at least 30 days before such Transfer is proposed to take place. Such notice shall provide the following: (1) the name and address of the proposed transferee and the price and terms of the Transfer and a copy of the proposed sales contract with its attachments, if any; (2) any related information and documentation reasonably requested by the Franchisor; and (3) at the time you submit such notice, full payment to the Franchisor of the transfer fee described in Paragraph 6.2.6 below (the "Transfer Fee"). The Franchisor shall have 30 days from receipt of such notice and the Transfer Fee, and receipt of all information and documentation requested by the Franchisor under this Paragraph 6 to approve or disapprove the Transfer. Such approval shall be in writing and shall be effective for 30 days. If the Transfer is not completed within 30 days of your receipt of the Franchisor's written approval, such approval shall be deemed withdrawn without notice. The Franchisor shall not unreasonably withhold its consent to any Transfer, but the Franchisor may, in its sole and absolute discretion, require any or all of the following as conditions of its approval, each of which is a material condition to the Transfer. If you fail to fulfill any of the following conditions, the Franchisor

shall have the right to refuse any proposed Transfer:

- 6.2.1. At the Franchisor's option, the proposed transferee shall have assumed in writing for the benefit of the Franchisor all your obligations under this Agreement or, unless exempted by the Franchisor in writing, the proposed transferee shall execute the Franchisor's then-current software license agreement, which may include, without limitation, a higher maintenance fee, and other and different fees, and terms and obligations significantly different from, in addition to, and less favorable than granted to you in this Agreement; except that its term shall expire on the same date as the transferee's franchise agreement, and the transferee shall not be obligated to pay an initial license fee to the Franchisor;
- 6.2.2. You shall not be in default of this Agreement or under any other agreement with the Franchisor or any of its affiliates, and all your obligations to the Franchisor and its affiliates (including monetary obligations), whether arising under this Agreement, the Franchise Agreement, or otherwise, shall be fully satisfied at, or before, the effective date of the Transfer;
- 6.2.3. Your Center complies with the Franchisor's then-current standards, including, without limitation, standards for computer equipment and related software, as determined by the Franchisor; and your computer hardware, communications equipment and software, software, and related equipment are in compliance with the Franchisor's then-current standards for such vendors;
- 6.2.4. Before or upon the effective date of the Transfer, you and each Franchisee Member (as defined in this Paragraph 6.2.4) and guarantor shall execute the Franchisor's then-current general release of the Franchisor and the Franchisor's affiliates, and their respective officers, directors, shareholders, agents, and employees, releasing any and all claims against the Franchisor and its affiliates, and their respective officers, directors, shareholders, agents, and employees, whether arising out of, or relating to, the making of, interpretation of, or performance under, directly or indirectly, this Agreement, the Franchise Agreement, and all other agreements entered into between you and the Franchisor and any of the Franchisor's affiliates, if not prohibited by law. A "Franchisee Member" shall mean each owner of any interest, directly or indirectly, in any corporation, partnership, or limited liability company that is the Franchisee;
- 6.2.5. If the proposed Transfer is to a corporation, limited liability company, or other entity formed solely for convenience of your ownership, you shall use the Franchisor's then-current corporation or limited liability company assignment agreement, and the transferee corporation or limited liability company shall assume and agree to be bound by and perform all the terms of this Agreement; and
- 6.2.6. For all Transfers you shall pay to the Franchisor a Transfer Fee of \$6,000; provided, however, the Transfer Fee shall be waived for any transfer within 90 days of the Agreement Date to a corporation or limited liability company formed for the convenience of your ownership. The Transfer Fee shall be deemed fully earned by the Franchisor and is not refundable, if the Franchisor does not exercise its right of first refusal under your Franchise Agreement and the Transfer is completed. If the Franchisor exercises its right of first refusal, the Transfer Fee shall be refunded in full, or, at the Franchisor's option, credited to any amount owed by you to the Franchisor or any affiliate of the Franchisor. If the Franchisor disapproves the Transfer or if the Franchisor approves the Transfer and the Transfer is not completed as described in this Paragraph 6, 25% of the Transfer Fee shall be earned in full by the Franchisor and not refundable and the balance shall be refunded, or, at the Franchisor's option, credited to any amount owed by you to the Franchisor or any the Franchisor affiliate. For any Transfer hereunder, you shall pay to the Franchisor all its costs and expenses associated with the Transfer, including, without limitation, attorneys' and accountants' fees and expenses.

- 6.3. 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 240 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 to you or to your heirs or beneficiaries or to your executor, administrator, or personal representative. In the case of Transfer by will or intestate inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions in this Paragraph 6, the executor, administrator, or personal representative of the decedent must still Transfer the decedent's interest to another party approved by the Franchisor within the lesser of (a) the end of the term of this Agreement, or (b) within 240 days after such Incapacity, which disposition shall be subject to all the terms and conditions for Transfers contained in this Agreement. If the interest is not so Transferred or assigned within the lesser of (a) the end of the term of this Agreement, or (b) within 240 days after such Incapacity, the Franchisor may terminate this Agreement immediately upon written notice to you.
- 6.4. The Franchisor may Transfer this Agreement to another party who, upon Transfer, shall assume and be solely responsible for performance under this Agreement.
7. **Copyright, Ownership, Confidentiality.** To some extent, the Software and Manual have been copyrighted by the Franchisor. Nothing in this Agreement is, or shall be interpreted as, a waiver of any Franchisor right under the copyright laws or any other laws of the United States or any of its states or territories or of any foreign country. The Software and Manual are owned by the Franchisor, and are, and always shall be, secret and confidential. Included in the Software and Manual are ideas represented by them as well as the physical materials in which they are contained, such as disks, books, etc. You shall protect the confidentiality of the Software and the Manual and insure that they are used only as permitted under this Agreement and in the Manual.
8. **WARRANTY DISCLAIMER.** YOU ARE SOLELY RESPONSIBLE FOR USE OF THE SOFTWARE. THE FRANCHISOR DOES NOT MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER SUCH WARRANTY BE EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY FROM COURSE OF DEALING OR USAGE OF TRADE WITH RESPECT TO THE SOFTWARE, THE MANUAL, OR ANY RELATED MATERIAL, TRAINING, OR ASSISTANCE. THE SOFTWARE, MANUAL, AND ANY RELATED MATERIAL, TRAINING, OR ASSISTANCE ARE PROVIDED "AS IS." WITHOUT LIMITING THE FOREGOING, THE FRANCHISOR MAKES NO REPRESENTATION OR WARRANTY ABOUT THE SOFTWARE'S OR MANUAL'S RESULTS, CORRECTNESS, ACCURACY, RELIABILITY, OR CURRENTNESS; MAKES NO REPRESENTATION OR WARRANTY THAT THE SOFTWARE'S OPERATION WILL BE UNINTERRUPTED OR ERROR FREE; AND MAKES NO REPRESENTATION OR WARRANTY THAT THE FRANCHISOR HAS USED THE SOFTWARE OR MANUAL.
9. **LIMITATION OF LIABILITY.**
- 9.1. IN NO EVENT SHALL THE FRANCHISOR BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSSES OR EXPENSES INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS, LOSS OF DATA OR LOSS OF GOODWILL RELATING TO YOUR LICENSING OR USE OF THE SOFTWARE, EVEN IF THE FRANCHISOR OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE FRANCHISOR BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN FURNISHING THE SOFTWARE UNDER THIS AGREEMENT.
- 9.2. THE LIABILITY OF THE FRANCHISOR TO YOU FOR DAMAGES OR MONETARY PAYMENTS

OF ANY NATURE UNDER THIS AGREEMENT, WHETHER IN CONTRACT, WARRANTY OR TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), SHALL IN NO EVENT EXCEED THE LICENSE FEE PAID TO THE FRANCHISOR PURSUANT TO THIS AGREEMENT. THE FOREGOING DESCRIBES YOUR SOLE, AND EXCLUSIVE REMEDY FOR DAMAGES OR MONETARY PAYMENTS AS DESCRIBED ABOVE.

**10. Limitation of Services or Benefits.**

- 10.1. If you are in default of any material obligation hereunder, you agree the Franchisor has the right, in its sole and absolute discretion, to temporarily or permanently limit, curtail, or remove certain services or benefits provided or required to be provided to you under this Agreement in lieu of exercising its right to terminate this Agreement under the terms hereof, including, without limitation:
  - 10.1.1. To terminate or limit your right to use or your use of some or all of the Software;
  - 10.1.2. To refuse to supply a restoration code to you;
  - 10.1.3. To refuse to provide you with advice about the Software; and
  - 10.1.4. To prohibit you from transferring this Agreement.
- 10.2. Any services or benefits removed, curtailed, refused, or limited under this Paragraph 10 may be reinstated at any time by the Franchisor in its sole and absolute discretion and you hereby agree to accept immediately any such reinstatement of any services or benefits so removed, curtailed, refused, or limited. If the Franchisor reinstates any services or benefits, it has no obligation to provide you any service or benefit previously removed, curtailed, refused, or limited under this Paragraph 10.
- 10.3. You acknowledge and agree that the Franchisor's exercise of its rights under this Paragraph 10 shall not be deemed a constructive termination of this Agreement or of any other agreement between you and the Franchisor, and shall not be deemed a breach of any provision of this Agreement by Franchisor.
- 10.4. You agree the Franchisor shall not be liable for any loss, expense, or damage incurred by you or the Franchised Center because of any action the Franchisor takes under this Paragraph 10. The Franchisor is not obligated to reimburse or compensate you in any way for any service or benefit removed, curtailed, refused, or limited under this Paragraph 10. 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 any action the Franchisor takes under this Paragraph 10.
- 10.5. Nothing in this Paragraph 10 constitutes a waiver of any right or remedy of the Franchisor under this Agreement or at law or in equity or under any other agreement between you and the Franchisor, including, without limitation, the right to terminate this Agreement under Paragraph 11 below.

**11. Default; Termination; Obligations upon Termination or Expiration.**

- 11.1. If you are in default under your Franchise Agreement, you are in default under this Agreement. This Agreement and License terminate immediately upon termination or expiration of your Franchise Agreement for any reason. The Franchisor may terminate this Agreement, without an opportunity to cure, if you breach this Agreement, or if you commit a non-curable breach of your Franchise Agreement, or if you are in default of your Franchise Agreement pursuant to a written notice to cure that has not been cured within the time period required or permitted in said notice. The Franchisor may terminate this Agreement with an opportunity to cure if you are in default of your Franchise Agreement pursuant to a written notice to cure and you are within the cure period of said written notice.
- 11.2. Upon expiration or termination of this Agreement for any reason: (a) you shall immediately cease using the Software and Manual; (b) you shall return the Software, Manual, and all computer discs and related



information and materials to the Franchisor; (c) you shall delete the Software from all computers on which it had been installed; (d) you shall pay all amounts you owe the Franchisor; and (e) you shall comply with all terms and conditions in this Agreement that survive its termination. Notwithstanding any other provision of this Agreement, if, due to any default by you, this Agreement is terminated or the Software is not restored, then you shall pay the Franchisor immediately all related costs, expenses, and fees (including, without limitation, attorneys' fees and accountants' fees) incurred by the Franchisor.

12. **Liquidated Damages.** If you continue to use the Software after expiration or termination of this Agreement and in addition to Franchisor's other legal or equitable remedies, you and the Franchisor agree the Franchisor will be damaged and that, at the time of execution of this Agreement, damages are difficult to estimate. Accordingly, you agree that, if you continue to use the Software after expiration or termination of this Agreement for any reason, you will pay the Franchisor an amount equal to the then-current License Fee as reasonable liquidated damages, and not as a penalty, for such use, immediately upon demand. In addition, you will pay one percent of the then-current License Fee to the Franchisor per day as additional liquidated damages, and not as a penalty, for each day after 30 days during which such violation continues, or such lesser amount as shall be permitted under local law. You agree this is a reasonable estimate of Franchisor's damages and you hereby waive your right to contest such determination. Nothing herein shall bar Franchisor from obtaining injunctive relief.

13. **Applicable Law; Forum.**

- 13.1. 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.
- 13.2. 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 Franchisee 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. 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 13.2, and such parties agree that nothing in this Paragraph 13.2 shall be deemed to prevent any party to such action from removing the action from state court to federal court. You acknowledge and agree that this Agreement is made in New Jersey and is to be performed in part through services rendered to you in New Jersey.
- 13.3. You acknowledge and agree that Paragraph 13 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 13.
14. **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 13.3.
- 14.1. 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 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 33 below. 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.

- 14.2. If you do not file a legal action for such claim, as described in Paragraph 13 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.
15. **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.
16. **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 16 shall forever be barred as a claim, counterclaim, defense, or set off.
17. **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 17, 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.**
18. **Limitation on Remedies.** Except as required to the contrary under the indemnification provisions of Paragraph 24 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.

19. **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.
20. **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.
21. **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.
22. **Taxes.** You shall pay the Franchisor an amount equal to any sales tax, use, or other tax (other than income tax) imposed on the Franchisor with respect to any payments you make to the Franchisor required under this Agreement, unless the tax is credited against income tax otherwise payable by the Franchisor.
23. **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.
24. **Indemnification.**
  - 24.1. 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 or 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.

24.2. 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.

24.3. Software Claims.

24.3.1. Notwithstanding the provisions of Paragraphs 24.1 and 24.2 hereof, the Franchisor will, at its expense, defend you against any claim that the Software infringes a patent, copyright, or trade secret right in the United States and will pay all costs, damages, and attorneys' fees that a court finally awards as a result of such claims, but such defense and payment are conditioned on you: (1) giving the Franchisor prompt written notice of any such claim; (2) giving the Franchisor sole control over the defense and all related settlement negotiations; and (3) cooperating fully with the Franchisor in the defense or settlement of such claim. Should the Software or any part thereof become, or, in the Franchisor's opinion, be likely to become, the subject of a claim for infringement, the Franchisor may, at its own expense and option: (1) procure for you the right to continue using the Software; (2) replace the same with non-infringing software and which results in equally suitable functionality; (3) modify the Software so that it becomes non-infringing and which results in equally suitable functionality; or (4) require the Software's return upon a refund to you of the License Fee therefor less a reasonable monthly charge (based on a 120-month straight line amortization of the total License Fee) for each whole month of the use thereof by you. The Franchisor shall have no obligation with respect to any such claim based upon your modification of the Software or its combination, operation or use with apparatus, data or programs not furnished by the Franchisor.

24.3.2. PARAGRAPH 24.3.1 ABOVE DESCRIBES YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY INFRINGEMENT OR CLAIM OR INFRINGEMENT RELATING TO THE SOFTWARE OR ANY PART THEREOF, OF ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHT.

25. **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.
26. **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.
27. **No Right to Withhold Release.** Unless prohibited by law, agree you shall have no right to withhold or delay providing to the Franchisor any release of the Franchisor required or permitted under this Agreement on any grounds, including, without limitation, due to (a) any claim or counter-claim by you under this Agreement or any

other agreement between you and the Franchisor or any of its affiliates; or (b) the Franchisor's delay in demanding you provide a release required or permitted under this Agreement. Whenever you are required to execute a release in favor of the Franchisor upon your execution of a right under this Agreement, you agree that such requirement is a material condition to your execution of such right.

28. **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.
29. **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 you or the Franchisor 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.
30. **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.
31. **Independent Investigation.** You represent that you have been accorded ample opportunity to ask the Franchisor all questions about this Agreement and its exhibits and the Software, and the Franchisor has answered all these questions to your full and complete satisfaction; 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 this Agreement and its exhibits reviewed by counsel of your own choosing.
32. **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 Software or the rights granted under this Agreement, any franchised Huntington Learning Center, the 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.
33. **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 party's principal business address as identified in the Franchise 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.

34. **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.

IN WITNESS WHEREOF, each of the undersigned has affixed his signature on the Agreement Date.

For the Franchisor, Huntington Learning Centers, Inc.,

Raymond J. Huntington Chairman  
Print name Signature Title

Name of Licensee: \_\_\_\_\_

*(Enter the same name that appears before Paragraph 1 of this Agreement)*

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

\_\_\_\_\_  
Print name Signature Title

\_\_\_\_\_  
Print name Signature Title

\_\_\_\_\_  
Print name Signature Title

\_\_\_\_\_  
Print name Signature Title





**EXHIBIT A TO THE SOFTWARE LICENSE AGREEMENT  
GUARANTEE**

In consideration of, and in order to induce Huntington Learning Centers, Inc. (the "Franchisor") to execute the Software License 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 Licensee (as defined in the Agreement), for use of the Software.

Upon demand by the Franchisor, the undersigned will immediately make each payment required of Licensee under the Agreement. The undersigned hereby waive any right to require the Franchisor to: (a) proceed against Licensee for any payment required under the Agreement; (b) proceed against or exhaust any security from Licensee; or (c) pursue or exhaust any remedy, including any legal or equitable relief, against Licensee. 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 Licensee, or settle, adjust, or compromise any claims against Licensee. The undersigned waive notice of amendment of the Agreement and notice of demand for payment by Licensee, 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' and accountants' fees and expenses, costs of investigation, and court costs, fees, and expenses) resulting from, consisting of, or arising out of or in connection with any failure by Licensee to perform any obligation of Licensee under the Agreement, any amendment thereto, or any other agreement executed by Licensee referred to therein. This Guarantee shall terminate upon the termination or expiration of the Agreement, except that all obligations and liabilities of the undersigned which 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 all covenants which 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 dispute resolution provisions of the Franchise Agreement (as defined in the Agreement). Notices under this Guarantee shall be furnished to the undersigned in accordance with the Franchise Agreement at the addresses described below.

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

Notices to Guarantors: \_\_\_\_\_

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

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

\_\_\_\_\_  
Print name Signature

\_\_\_\_\_  
Print name Signature

\_\_\_\_\_  
Print name Signature

