

COPY

SUPPLEMENT NUMBER ONE TO THE
1995 AGREEMENT FOR PARTIAL USE AND OCCUPANCY
OF SAN DIEGO JACK MURPHY STADIUM

between

CHARGERS FOOTBALL COMPANY,
a California limited partnership

and

THE CITY OF SAN DIEGO,
a municipal corporation

DATED: as of April 7, 1997

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SAN DIEGO, CALIFORNIA

SUPPLEMENT NUMBER ONE TO THE
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DIEGO JACK MURPHY STADIUM

THIS SUPPLEMENT NUMBER ONE TO THE 1995 AGREEMENT FOR PARTIAL USE AND OCCUPANCY OF SAN DIEGO JACK MURPHY STADIUM ("Supplement") is made and entered into as of April 7, 1997, at San Diego California, by and between the CITY OF SAN DIEGO, a municipal corporation (the "City), and the CHARGERS FOOTBALL COMPANY, a California limited partnership (the "Chargers").

RECITALS

A. On May 30, 1995 the City and the Chargers entered into the 1995 Agreement for Partial Use and Occupancy of the San Diego Jack Murphy Stadium, a copy of which is on file in the Office of the City Clerk as Document Number 00-18182-1 (the "Agreement"). Pursuant to the Agreement, the City agreed to make certain improvements (the "Improvements") to the San Diego Jack Murphy Stadium (the "Stadium"), and to construct practice, training and office facilities (the "Chargers Facilities") for the Chargers use and occupancy.

B. The City, by Ordinance Number 0-18253, adopted on January 9, 1996, requested the Public Facilities Financing Authority of the City of San Diego (the "PFFA"), a joint powers agency created pursuant to Title 1, Division 7, Chapter 5, Article I, of the California Government Code, to assist the City in obtaining the necessary funding to make the Improvements and to construct the Chargers' Facilities, and to authorize and approve the issuance and sale of the Public Facilities Financing Authority of the City of San Diego Taxable Lease Revenue Bonds, Series 1996A (San Diego Jack Murphy Stadium) (the "Bonds"). By Resolution Number FA-96-7, adopted on January 9, 1996, the PFFA authorized the sale and issuance of the Bonds.

C. Pursuant to the Agreement, the City was obligated to commence and complete construction of the Improvements and the Chargers' Facilities by certain dates. As a result of litigation challenging the validity of the Bonds City of San Diego et al.v. Richard Rider et al. (Super. Ct. No. 697147)), however, the City was not able to commence construction on the requisite dates.

D. As a result of the delay caused by the litigation, the cost of the Stadium expansion project increased. By Resolutions FA-97-1 and FA-97-2,

adopted on December 10, 1996, the PFFA again authorized the sale and issuance of the Bonds and awarded the design/build contract for the construction of the Improvements to the Stadium. The Bonds were sold on December 12, 1996, and demolition of the Stadium commenced on December 31, 1996.

E. In order to pay for the additional costs to construct the Improvements as a result of the delays caused by the litigation, on December 10, 1996, the City adopted Ordinance Number 0-18365 (the "1996 Amendment"), whereby the Chargers would pay additional rent to the City and the City committed to construction of improvements to the Stadium, for which the PFFA would issue additional bonds. Ordinance Number 0-18365 was the subject of a successful referendum and therefore was repealed by the City Council by the adoption of Ordinance Number 0-18380 on February 3, 1997.

F. As a result of the repeal of Ordinance Number 18380, the City claims that the 1996 Amendment is not effective. However, the City and the Chargers desire to complete the Improvements to the Stadium notwithstanding the additional cost caused by the litigation delays.

G. In order to facilitate the completion of the Improvements and pay for the additional costs resulting from the delays, QUALCOMM Incorporated ("Qualcomm"), a prominent San Diego corporation, has offered to purchase the naming rights to the Stadium and the Chargers have agreed pursuant to the terms hereof to pay additional rent in order to effectuate the construction of the Improvements and the Chargers Facilities in accordance with the Agreement, as supplemented by this Supplement.

H. The Padres L.P. (the "Padres"), are the owners of a baseball franchise and are currently using the Stadium in accordance with the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium, by and between the City and the Padres, dated November 30, 1987, a copy of which is on file in the Office of the San Diego City Clerk as Document Number RR-269870, as modified and supplemented by Letter Agreements, between the City and the Padres, dated September 25, 1996, copies of which are on file in the Office of the San Diego City Clerk as Document Numbers RR-287881 and RR-287882-2.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Chargers and the City hereby agree as follows:

1. Modifications to Agreement.

The Chargers and the City hereby agree to the following modifications to the Agreement:

1.1 Additional Definitions. Section 1 of the Agreement is hereby modified by adding the following definitions:

"1996 Base Skybox Amount" shall mean the difference between (i) all revenue received by the Chargers or Associates from the licensing of the Skyboxes during the twelve (12) month period ending September 30, 1996 (based upon the City's gross revenue audit), and (ii) the sum of the cost of all event tickets provided by the Chargers or Associates to Skybox licensees during such period and the amount paid to Service America, Inc., the Stadium concessionaire, for food and beverage service for Skybox suite sharing during such period.

"Additional Consideration" shall mean all consideration that would have otherwise been payable by the Chargers to the City pursuant to Sections 8, 11(e) and 15 herein in excess of Projected Consideration.

"Comparison Stadiums" shall mean Joe Robbie Stadium in Miami, Florida, and Ericsson Stadium in Charlotte, North Carolina, and the Training Center at Nova University for the Miami Dolphins.

"Maximum Additional Consideration" shall have the meaning assigned thereto in subparagraph 8(b)(vii) herein.

"Net Skybox Revenue" shall mean all revenue received by the Chargers or Associates from the licensing of the Skyboxes during the twelve (12) month period ending on September 30 of the then current calendar year (based upon the City's gross revenue audit) minus the cost of all event tickets provided by the Chargers or Associates to Skybox licensees during such period.

"Padres Windows" shall mean the following:

(i) the period that begins seven (7) calendar days before the date on which the Padres play their first regular season game ("Opening Day") at the Stadium (including the last full weekend before the Opening Day), and ends one (1) calendar day after the date of the Padres' Opening Day game (to the extent the Padres are not otherwise scheduled to play a regular season game on the

following day), excluding, however, non-game dates during the 1997 baseball season during which construction is in progress for the Stadium expansion in accordance with plans and schedules previously approved by the Padres, even though such non-game dates would otherwise fall within the use "windows" described in this subparagraph (i);

(ii) the period that begins one (1) calendar day before and ends one (1) calendar day after the date of each regular season Padres game played or scheduled to be played at the Stadium, or in the case of regular season Padres games played on consecutive dates ("Homestands"), the period that begins one (1) calendar day before the first game of that Homestand and ends one (1) calendar day after the last game of the Homestand;

(iii) in a baseball season in which there are no post-season Padres games, the period that begins forty-eight (48) hours before and ends forty-eight (48) hours after the date of the last regular season Padres game played or scheduled to be played at the Stadium;

(iv) once it is determined that the Padres will play any post-season game at the Stadium, the period that begins immediately after the conclusion of the last regular season Padres game and ends forty-eight (48) hours after the last post-season Padres game played at the Stadium; and

(v) the period that begins seven (7) calendar days before, and ends three (3) calendar days after, any All-Star Game scheduled to be played at the Stadium.

"Projected Consideration" shall mean the following sums for each Pre-Season and Regular Football Season:

Pre-Season and Regular Football Season	Projected Consideration
1997	\$5,703,000
1998	\$6,014,000
1999	56,713,000
2000	S 6,642,000
2001	\$6,789,000
2002	\$6,940,000
2003	\$7,111,000

2004	S 7,271,000
2005	S7,436,000
2006	S7,606,000
2007	S7,476,000
2008	S 7,656,000
2009	S7,842,000
2010	S8,018,040
2011	S 8,197,601
2012	S 8,380,753
2013	S 8,567,568
2014	\$8,758,119
2015	S 8,952,205
2016	\$9,150,731
2017	59,352,946
2018	59,559,205
2019	\$9,769,589
2020	\$9,984,181

"Sponsor" shall have the meaning assigned thereto in Section 3(h) hereof.

"Stadium Playing Field" shall mean the standard playing field configuration for Chargers' football games including the end zones but not including the sidelines.

"Substantially Completed" shall mean the completion of the Skyboxes, seating, club lounges, and color video boards in accordance with the Approved Plans.

1.2 Revisions to Certain Definitions. Section 1 of the Agreement is hereby modified by deleting the definitions set forth in the Agreement for the following terms and adding the following definitions:

"Approved Architect" shall mean Leo A. Daily or such other architect approved by the Chargers, which approval shall not be unreasonably withheld or delayed.

"Approved Construction Schedule" shall mean the construction schedule prepared by Nielsen Dillingham Builders, dated December 23, 1996 and heretofore approved by the Chargers, which provides that construction of the Improvements shall: (i) commence 'on or before January

15, 1997, (ii) be Substantially Completed by August 31, 1997 and fully completed by December 1, 1997, and (iii) be performed in a manner so as not to prevent or interfere with the playing of any Home Game or unreasonably interfere with the use, occupancy or enjoyment of the Stadium by the Chargers or its patrons.

"Approved Facilities Construction Schedule" shall mean the construction schedule heretofore approved by the Chargers, which provides that construction of the Chargers Facilities shall (1) commence on or - before November 15, 1996 and (2) shall be fully completed by June 30, 1997.

"Approved Facilities Plans" shall mean the plans and specifications for the Chargers Facilities (and any change orders thereto) approved in writing by the Chargers.

"Approved Plans," shall mean the plans and specifications for the Improvements (and any change orders thereto) approved in writing by the Chargers.

"Gross Income" shall mean, with respect to each Home Game, the sum of:

(i) the total of all dollar amounts paid to the Chargers or to any person or entity authorized to receive the same on behalf of the Chargers from any source for admission to Home Games including any license fees charged in excess of ticket charges;

(ii) the imputed dollar value of any Trade-Outs; and

(iii) all other revenues received by the Chargers. directly or indirectly, including, without limitation, (1) all Net Parking Revenues, (2) all Net Concession Revenues and (3) all revenue derived from the sale of NFL Products; provided, however, that Gross Income shall not include, with respect to each Home Game, any of the following:

(a) any revenue -derived from the sale of broadcast rights (including, without limitation, Pay Television Receipts), commercial sponsorships or other media activities;

- (b) Net Signage Revenue;
- (c) any amounts received by the Chargers pursuant to Section 9 hereof;
- (d) any amounts actually refunded to ticket purchasers;
- (e) any federal, state or municipal taxes collected from ticket purchasers and paid as taxes;
- (f) any revenue derived from the Skyboxes;
- (g) any Additional Consideration retained by the Chargers pursuant to Section 8(b)(vi) hereof; or
- (h) the ticket and parking fees charged pursuant to Section 8(b)(iii) hereof.

1.3 Deletion of Definition. Section 1 of the Agreement is hereby modified by deleting the terms "User Fees" and "Stadium Improvement Fund." All references in the Agreement to "User Fees" shall hereafter mean the per ticket and per vehicle fees paid pursuant to Sections 8(b)(iii) hereof. All references in the Agreement to "Stadium Improvement Fund" shall hereafter mean the "Stadium Operations Fund" as defined in Section 8(b)(vii) hereof.

1.4 Parking. Section 2(b)(iii) of the Agreement is hereby deleted and replaced with the following:

Commencing with the 1997 Pre-Season and thereafter throughout the term of this Agreement, the City shall require the operators of the Parking Facilities to pay all Net Parking Revenues directly to the Chargers promptly after each Home Game. Commencing with the 1997 Pre-Season and throughout the term of this Agreement, the Chargers shall have the right (exercised in the Chargers' sole and absolute discretion) at any time and from time to time to cause parking fees charged at all On-Site Parking Facilities during Home Games to be increased in excess of the rate in existence for the 1996 Regular Football Season per vehicle without the approval of the City.

1.5 [Intentionally Deleted]

1.6 Approval of Construction Schedule. Notwithstanding anything to the contrary in Section 3(a)(ii) of the Agreement, the term "Approved Construction Schedule" shall have the meaning ascribed thereto in Section 1.2 hereof.

1.7 Approval of Plans. Notwithstanding anything to the contrary in Section 3(a)(iii) of the Agreement, the term "Approved Plans" shall have the meaning ascribed thereto in Section 1.2 hereof.

1.8 Cost of Construction. Section 3(a)(v) of the Agreement is hereby deleted and replaced with the following:

The City shall expend not less than, and shall not be required to spend more than, Seventy-Eight Million Dollars (\$78,000,000) in total Project Costs for the Construction of the Improvements (including the Ticket Office Alterations) and the Chargers' Facilities. In the event that the projected Project Costs based upon the construction bids for the construction of the Improvements and the Chargers' Facilities in accordance with the Approved Program and Estimate and Approved Plans exceed Seventy-Eight Million Dollars (\$78,000,000) and the City is not willing to pay for such excess cost, then the City shall promptly deliver revisions to the Approved Plans to the Chargers (the "Revised Plans"), which Revised Plans shall reduce the Project Costs for constructing the Improvements and the Chargers' Facilities to Sixty Million Dollars (\$78,000,000). In the event that the Chargers are not willing to approve such Revised Plans, then the Chargers shall have the right to terminate this Agreement, in which event the Prior Occupancy Agreement shall be reinstated and be in full force and effect. Notwithstanding anything to the contrary herein, once the construction of the Improvements and the Chargers' Facilities shall have commenced, the City shall pay for all costs and expenses that arise in connection with such construction (including, without limitation, any cost overruns).

1.9 Chargers Facilities. Notwithstanding anything to the contrary in Section 3(b)(i) of the Agreement, the term "Approved Facilities Plans Schedule" shall have the meaning ascribed thereto in Section 1.2 hereof. Notwithstanding anything to the contrary in Section 3(b)(ii) of the Agreement, the term "Approved Facilities Construction Schedule" shall have the meaning ascribed thereto in Section 1.2 hereof.

1.10 Performance of Construction Work. Section 3(d) of the Agreement is hereby deleted and replaced with the following:

The City shall, at its own cost and expense, construct, or cause to be constructed. (i) at the Stadium, the Improvements in accordance with the Approved Plans and the Approved Construction Schedule and (ii) at the site identified on Exhibit B attached hereto, the Chargers' Facilities in accordance with the Approved Facilities Plans and the Approved Facilities Construction Schedule. Any and all construction work shall be done diligently, in conformity with all applicable legal and environmental requirements, including, without limitation, the Americans with Disabilities Act (42 U.S.C. §12101, et. seq.) and the Building and Fire Codes of the City of San Diego, in a good and workmanlike manner and under the supervision of the Approved Architect. Once the City commences the construction of the Improvements and the Chargers' Facilities, the City will diligently prosecute such construction to completion in accordance with the Approved-Construction Schedule and the Approved Facilities Construction Schedule, respectively, subject to delays resulting from Force Majeure Events outside of the control of the City, provided that the City gives the Chargers written notice of such delays promptly after the City becomes aware of the commencement of such delays. The City shall obtain all building permits necessary for the construction of the Chargers' Facilities and shall commence construction thereof in accordance with the Approved Facilities Construction Schedule. The City shall use its best efforts to complete construction of the Improvements and the Chargers' Facilities in accordance with the Approved Construction Schedule and the Approved Facilities Construction Schedule, respectively. The City at its own cost and expense shall cause the Approved Architect to prepare and provide to the Chargers monthly progress reports describing in reasonable detail the status of the construction of the Improvements and the Chargers' Facilities, which reports shall be delivered to the Chargers within twenty (20) Business Days after the end of the applicable month.

1.11 Replacement of Seats. Section 3 of the Agreement is hereby supplemented by adding the following as Section 3(h):

(h) Replacement of Seats. The City agrees that all seats in the Field, Plaza, Press and View Levels, that are not otherwise replaced as part of the Improvements, shall be replaced with seats with cupholders acceptable to the Chargers by the beginning of the Chargers' 2000 Pre-

Season, if and to the extent that Sponsors are found for such replacement. The term "Sponsor" as used in this Section shall mean a person or entity that agrees to pay a fee sufficient to cover the cost of seat replacement in return for the appearance of the person or entity's name or company logo on the seat, or other form of consideration not in conflict with any other agreement regarding the use and occupancy of the Stadium. More than one (1) Sponsor may be found for this purpose, and the City and the Chargers agree to cooperate to the extent possible in the identification of possible Sponsors, and negotiation of sponsorships for seat replacement. All monies obtained as part of a seat replacement sponsorship shall go toward seat replacement until all seats at the Stadium are replaced. Any surplus monies from seat replacement sponsorships shall be retained by the Chargers and shall be excluded from Gross Income. It is expressly understood by the Chargers that the seat replacement described in this Section is not part of the Improvements and not part of the approved budget or funding for the Improvements, and that in no event shall the City be obligated to replace seats at the Stadium (except as otherwise provided herein) for which a Sponsor is not found. The failure to find Sponsors and obtain sponsorships for the seat replacements shall not constitute a breach of this Agreement unless such failure is the result of either party's failure to cooperate with the other party.

1.12 Padres Concurrence. Section 3 of the Agreement is hereby supplemented by adding the following as Section 3(i):^v

(i) Padres Concurrence. The Padres have executed a letter agreement with the City whereby the Padres have given their complete concurrence to the Improvements as contemplated by the Approved Plans. The parties acknowledge that in the event any changes are made to the seating capacity of the Stadium which are not contemplated in the Approved Plans, the City must obtain the written consent of the Padres to such change, which consent may not be unreasonably withheld.

1.13 Priority of Use. Section 5(b) of the Agreement is hereby deleted and replaced with the following:

(b) Priority of Use. From the effective date of this Agreement (which for these purposes shall be considered to be the date upon which the City Council of the City authorizes the City Manager's execution hereof) to the end of the term hereof, the Chargers shall have priority of

dates over any activity in the Stadium or the Stadium Premises, including, without limitation, professional, college and high school football. The City shall not schedule any high school football game at the Stadium during any ten (10) calendar day period immediately preceding any Home Game. Notwithstanding the forgoing, the Padres shall have the right to use the Stadium during Padres' Windows for holding practice sessions and promotional events related to baseball so long as that use (i) does not involve the use of the Stadium Playing Field during any Pre-Season and Regular Football Season, and (ii) does not involve the use of the Stadium on the date immediately preceding or the date of any scheduled Chargers Home Game.

1.14 Payments to the City. Section 8(b) of the Agreement is hereby deleted and replaced with the following:

(b) Payments to the City. For each Home Game played during the term of this Agreement, the Chargers shall pay the following, as consideration to the City for and on account of the Chargers' use and occupancy of the Stadium Premises hereunder:

(i) Payment for 1995 and 1996. During the 1995 and 1996 Pre-Seasons and Regular Football Seasons, an amount equal to the consideration due under Section 6 of the Prior Occupancy Agreement (provided, however, that the Gross Income received by or on behalf of the Chargers prior to the 1997 PreSeason but which is attributable to the 1997 Pre-Season or any period thereafter, subparagraph (ii) below shall apply with respect to Gross Income), and for the 1996 Pre-Season and Regular Football Season only, an amount equal to seventy-five cents (\$.75) per admission ticket sold to each Home Game at the Stadium (such seventy-five cents (\$.75) shall not be included in Gross Income for the purposes of this Agreement).

(ii) Base Payment From and After 1997. Commencing with the first Home Game of the 1997 Pre-Season and for each Home Game of each Pre-Season and Regular Football Season thereafter and throughout the term of this Agreement, a dollar amount equal to ten percent (10%) of the Gross Income for each Home Game.

(iii) Additional Payments From and After

1997.

(1) Per Ticket Payment for 1997-2006.

Commencing with the first Home Game of the 1997 PreSeason and for each Home Game of the 1997 through the 2006 Pre-Seasons and Regular Football Seasons, a dollar amount equal to two dollars (\$2.00) per admission ticket sold to each Home Game at the Stadium (such two dollars (\$2.00) shall not be included in Gross Income for the purposes of this Agreement).

(2) Per Ticket Payment From and After

2007. Commencing with the first Home Game of the 2007 Pre-Season and for each Home Game of each Pre-Season and Regular Football Season thereafter and throughout the term of this Agreement, a dollar amount equal to one dollar and fifty cents (\$1.50) per admission ticket sold to each Home Game sold at the Stadium (such one dollar and fifty cents (\$1.50) shall not be included in Gross Income for the purposes of this Agreement).

(3) Per Vehicle Payment for 1998 and

1999. Commencing with the first Home Game of the 1998 PreSeason and for each Home Game at the Stadium of the 1998 and 1999 Pre-Seasons and Regular Football Seasons, a dollar amount equal to one dollar (\$1.00) for each motor vehicle parking in the Parking Facilities (such one dollar (\$1.00) shall not be included in Gross Income for the purposes of this Agreement).

(4) Per Vehicle Payment From and After

2000. Commencing with the first Home Game of the 2000 Pre-Season and for each Home Game of each Pre-Season and Regular Football Season thereafter and throughout the term of this Agreement, two dollars (\$2.00) for each motor vehicle parking in the Parking Facilities (such two dollars (\$2.00) shall not be included in Gross Income for the purposes of this Agreement).

(iv) Payment for Skybox Revenues.

(1) Notwithstanding any other term or provision of this Agreement or the 1995 Skybox Agreement, in

addition to the consideration paid pursuant to subparagraphs 8(b)(ii) and (iii) above, the Chargers shall pay to the City the following amounts:

(A) For the 1996 Regular Football Season the Chargers shall pay to the City twenty-nine percent (29%) of the 1996 Base Skybox Amount.

(B) For the 1997, 1998 and 1999 Pre-Seasons and Regular Football Seasons the Chargers shall pay to the City a dollar amount equal to the difference obtained by subtracting (I) a dollar amount equal to the product of fifty cents (500) multiplied by the number of admission tickets sold for such period for which a two dollar (\$2.00) fee was paid to the City pursuant to Section 8(b)(iii)(1) hereof, from (II) the sum of (a) twenty-nine percent (29%) of the lesser of (x) the 1996 Base Skybox Amount and (y) the Net Skybox Revenue for such period plus (b) ten percent (10%) of the amount, if any, by which the Net Skybox Revenue for such period exceeds the 1996 Base Skybox Amount.

(2) Notwithstanding the foregoing, for the 1998 and 1999 Pre-Seasons and Regular Football Seasons the amount due the City from the Chargers pursuant to this subparagraph 8(b)(iv) shall be reduced by \$175,000; such \$175,000 may be retained by the Chargers. For the 1997, 1998, and 1999 calendar years, all revenue derived from the three (3) parry suites located at Press 59, Press 60 and Press 61 shall be excluded from this subparagraph 8(b)(iv). For calendar years 1998 and 1999, all revenues derived from six (6) additional skybox suites (the location to be identified by the Chargers from time to time but at the beginning of each calendar year) shall be excluded from this subparagraph 8(b)(iv).

(v) Payment for Post-Season Games. Notwithstanding anything to contrary herein, commencing with the 1997 Regular Football Season and thereafter and throughout the

term of this Agreement, for each Post-Season Game played at the Stadium the Chargers shall pay, as consideration to the City for and on account of the Chargers' use and occupancy of the Stadium Premises hereunder, a dollar amount equal to ten percent (10%) of the total of (1) all dollar amounts paid to the Chargers or to any person or entity authorized to receive the same on behalf of the Chargers from any source for admission to Post-Season Games less amounts actually refunded to ticket purchasers and amounts paid as taxes and (2) the imputed dollar value of all Trade-Outs.

(vi) Maximum Additional Consideration.

(1) Notwithstanding anything to the contrary herein, and commencing with the first Home Game of the 1997 Pre-Season and Regular Football Season and for each preSeason and Regular Football Season thereafter and throughout the term of this Agreement, if the consideration paid pursuant to Section 8 herein to the City in any Pre-Season or Regular Football Season equals the Projected Consideration for that Pre-Season or Regular Football Season, then the Chargers shall have the right to retain all remaining consideration otherwise due to the City for that season in excess of the Projected Consideration for that Season ("Additional Consideration"), up to an amount not to exceed Four Hundred Thirty-Five Thousand Three Hundred Dollars (\$435,300) (the "Maximum Additional Consideration"). If Additional Consideration in any Pre-Season or Regular Football Season is greater than the Maximum Additional Consideration, then payment of such excess shall be paid as required by subparagraphs 8(b)(ii), (iii), (iv) and (v) above. If, however, the Additional Consideration for any one (1) Pre-Season or Regular Football Season is less than the Maximum Additional Consideration for that Season, then any shortfall shall be carried forward to the next Pre-Season or Regular Football Season and added to the Maximum Additional Consideration for the next succeeding Pre-Season or Regular Football Season. At the end of each Pre-Season and Regular Football Season, the full amount of any carryover from the current PreSeason and Regular Football Season plus any previous Pre-Season and Regular Football Season shall be multiplied by eight percent (8%), which sum shall be added to the carryover for the following Pre-Season and Regular Football Season.

(2) With respect to any Pre-Season and Regular Football Season in which Additional Consideration is retained by the Chargers pursuant to this subparagraph 8(b)(vi), then the consideration paid to the City under subparagraphs 8(b)(iii)(1) and (2) shall only include two dollars (\$2.00) during the 1997 through 2006 Pre-Seasons and Regular Football Seasons and one dollar and fifty cents (\$1.50) during the 2007 Pre-Season and Regular Football Season and thereafter and throughout the term of this Agreement per admission ticket sold for six hundred forty thousand (640,000) tickets and all remaining amounts shall be retained by the Chargers.

(3) The existence of any carryover at the end of any Pre-Season and Regular Football Season shall not create an obligation of the City to pay any sum or any other consideration to the Chargers, other than to carryover as provided herein.

(4) If, at the termination of this Agreement any carryover exists or remains pursuant to this subparagraph 8(b)(vi), then such carryover shall not create an obligation of the City to pay any sum or any other consideration to the Chargers.

(5) In no event shall any Additional Consideration retained by the Chargers hereunder be included in Gross Income.

(6) The purpose of this subparagraph 8(b)(vi) is to provide the City sufficient revenue to finance the Improvements. In the event the NFL modifies its rules, regulations, or policies governing revenue sharing with its constituent teams such that the sum equal to \$2.00 per ticket paid to the City pursuant to Subparagraph 8(b)(iii)(1) and the sum equal to \$1.50 per ticket paid pursuant to subparagraph 8(b)(iii)(2) are excluded from Gross Income for the purposes of the NFL's revenue sharing, then as of the effective date of such modifications (A) the operation of Subparagraph 8(b)(vi) shall be of no further force and effect and (B) no additional carryover shall accumulate. Notwithstanding the foregoing, if any carryover exists pursuant to subparagraph 8(b)(vi)

as of the date of such modifications are made, then the Chargers may retain all remaining consideration in excess of the Projected Consideration from year to year until the earlier to occur of the termination of this Agreement or until no such carryover exists at which time all provisions of subparagraph 8(b)(vi) shall be terminated.

(7) In the event that the NFL either:

(A) modifies its rules, regulations, or policies governing revenue sharing with its constituent teams (including the finalization of the NFL's agreement to exclude \$1.50 of the amount to be paid to the City pursuant to Subparagraph 8(b)(iii)(1) and (2), which agreement the Chargers shall use their best efforts to cause to be finalized) such that an amount less than \$2.00 per ticket is excluded from Gross Income for NFL's revenue sharing as stated in subparagraph 8(b)(vi)(6); or

(B) does not enforce its existing rules, regulations, or policies governing revenue sharing with its constituent teams, which non-enforcement has the same effect as the modification described in the preceding subparagraph (A);

then, in either such event, the operation of subparagraph 8(b)(vi) shall be modified to reflect the proportional reduction.

(vii) Stadium Operations Fund. All amounts paid to the City pursuant to subparagraph 8(b)(iii) shall be deposited by the City into a segregated fund (the "Stadium Operations Fund"). The City shall use funds in the Stadium Operations Fund solely to finance the cost of the Improvements and/or amortize the debt incurred in connection therewith.

1.15 Guaranteed Attendance. Section 9(a) of the Agreement is hereby deleted and replaced with the following:

If, with respect to each Home Game played during the period (the "Guaranty Period") beginning with the first Home Game of the 1997 Regular Football Season and ending at the conclusion of the second Home Game of the 2007 Regular Football Season, the paid attendance for full

price general admission seats to any such Home Game (excluding all Skybox seats, club seats and one thousand (1,000). promotional seats, but including any other general admission seats sold at a discount by the Chargers) (the "Qualified Paid Attendance") does not exceed sixty thousand (60,000) per Home Game (any such shortfall being hereinafter referred to as an "Attendance Shortfall"), then on or before the thirtieth (30th) Business Day following any Home Game in which an Attendance Shortfall occurs the City shall either (i) pay to the Chargers an amount equal to the full face-ticket price of each general admission seat multiplied by such Attendance Shortfall (the "Attendance Shortfall Amount"), or (ii) grant the Chargers a credit in an amount equal to the Attendance Shortfall Amount against the consideration to be paid by the Chargers to the City for such Home Game under Section 8.(b) hereof.

Notwithstanding the foregoing, (A) with respect to the first two (2) Home Games of the Guaranty Period, the Attendance Shortfall Amount, if any, shall (i) include the first 5,000, seats of Attendance Shortfall, (ii) exclude the second 5,000 seats of Attendance Shortfall, and (iii) include any Attendance Shortfall in excess of 10,000 seats, (B) with respect to the first (1st) Home Game of the 2007 Regular Football Season, the Attendance Shortfall Amount shall be calculated with respect to only the amount of seats, if any, excluded from the Attendance Shortfall Amount pursuant to the preceding clause (A)(ii) for the first (1st) Home Game of the Guaranty Period and -(C) with respect to the second (2nd) Home Game of the 2007 Regular Football Season, the Attendance Shortfall Amount shall be calculated with respect to only the amount of seats, if any, excluded from the Attendance Shortfall Amount pursuant to the preceding clause (A)(ii) for the second (2nd) Home Game of the Guaranty Period.

Notwithstanding the foregoing, if a Force Majeure Event occurs which prevents or delays the ability of the City to install the number of seats called for in the Approved Plans, the Guaranty Period shall be delayed in accordance with Section 27 hereof.

1.16 Maintenance of Stadium Premises. Section 11 (a) of the Agreement is hereby deleted and replaced with the following:

Except as otherwise provided herein, the City shall maintain the Stadium and Stadium Premises (including, without limitation, the playing field, all Concession facilities, scoreboards, signage, sound system, Parking Facilities, club seating areas, permanent and temporary seats and seating arrangements, locker rooms and press and media facilities, the stadium club, elevators and escalators and all equipment, pipes, plumbing,

wiring, gas and electric fittings used in connection therewith) in good order, condition and repair as a state of the art facility in accordance with the highest industry standards and all applicable federal, state and local legal requirements, including, without limitation, the American Disabilities Act.

1.17 Deletion of Section 11(d). Section 11(d) of the Agreement is hereby deleted in its entirety.

1.18 Stadium Concessionaire. Section 11(e) of the Agreement is hereby deleted and replaced with the following:

The parties recognize and agree that the City has entered into a revised concession agreement with Service America, Inc. ("Service America") (a copy of which is on file in the office of the City Clerk as Document No. 00-18227-1) and that the fifteen percent (15%) increase in revenue received by the City from Service America pursuant to that agreement is not included in Net Concession Revenues, but shall be deposited into the City's Stadium Operations Fund to be used to finance the Project Costs incurred in connection with the construction of the Improvements or amortize any debt in connection therewith. Notwithstanding anything in Section 8(b) to the contrary herein, in the event that the City shall either further extend its current exclusive concession agreement with Service America or enter into an exclusive concession agreement with a successor concessionaire for the operation of Concessions at the Stadium, then any increase in the percentage share of Concession revenue paid by Service America or a successor concessionaire as consideration thereunder (or, if the consideration paid by the concessionaire is a fixed dollar amount, any increase in such dollar amount to the extent that such increase constitutes an increase in the percentage of gross Concession revenue paid as consideration by the concessionaire) solely as a result of that revised agreement, and not including the fifteen percent (15%) increase in revenue from Service America referenced above, shall be included in Gross Income. If any such extension or successor agreement results in a decrease in revenue to the City, the parties shall negotiate in good faith regarding the revenue split between them for Net Concession Revenues. Notwithstanding the foregoing, the revenue derived from the club level Concessions and club level lounges shall not be considered to be an increase in the percentage of gross Concession revenue for the purposes of this Section 11(e), but shall be included in Net Concession Revenues.

Commencing with the 1997 Pre-Season and thereafter throughout the term of this Agreement, the City shall require Service America or any successor concessionaire to pay all Net Concession Revenues directly to the Chargers promptly after each Home Game.

1.19 Deletion of Section 11(f)(iii). Section 11(f)(iii) of the Agreement is hereby deleted in its entirety.

1.20 New Signage Arrangement. Section 15(c) of the Agreement is hereby deleted and replaced with the following:

The Padres shall continue to have the exclusive right, pursuant to Section 2.4 of the Supplement Number One to the Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium between the City and the Padres dated September 10, 1984, to operate, manage and control all scoreboards and signage (other than as provided in paragraph 3.(h) hereof) at the Stadium until the Scoreboard Expiration Date, including any new scoreboard or video color board system installed in the west end of the Stadium. Notwithstanding the foregoing, upon the installation of any new scoreboard or video color board system in the west end of the Stadium, (i) the Chargers shall receive an amount equal to fifty percent (50%) of Net Signage Revenue from the new scoreboards or video colorboard system installed in the west end of the Stadium, and (ii) the Padres shall receive an amount equal to Fifty percent (50%) of Net Signage Revenue from the new scoreboards or video colorboard system installed in the west end of the Stadium. Upon the Scoreboard Expiration Date (whereupon the Padres' right to receive scoreboard, signage and advertising revenues at the Stadium shall expire), (i) the Chargers shall have the exclusive right to operate, manage and control (1) all scoreboards and signage at the Stadium at all times during the term of this Agreement (other than during Padres' home games, at which time the Padres shall have the right to operate the scoreboards, but shall have no right to sell advertising sponsorships in connection therewith) and (2) all advertising and promotional programs at all times throughout each year during the term of this Agreement and (ii) the allocation of Net Signage Revenues among the City, the Chargers and the Padres (or any other Major League Baseball Team) shall be as follows:

(1) if there is no Major
League Baseball Team occupying the Stadium Pre

mises as its home stadium during any year during the term of this Agreement, then the Chargers shall receive an amount equal to seventy-five percent (75%) and the City shall receive an amount equal to twenty-five percent (25^{1,c}) of the Net Signage Revenue; or

(2) if the Padres or any other Major League Baseball Team occupies the Stadium Premises as its home stadium during any year during the term of this Agreement, then the Chargers shall receive an amount equal to the greater of (I) thirty-seven and one-half percent (37.5%) of Net Signage Revenues or (II) the percentage of Net Signage Revenues to be paid to the Padres or such Major League Baseball Team, and the City shall receive the balance of the Net Signage Revenues.

1.21 City's Right of First Refusal. Section 31(b)(iii) of the Agreement is hereby deleted and replaced with the following:

If, within the eighteen (18) month period following the end of the ninety (90) calendar day negotiation period provided for in subparagraph 31(b)(ii) above, the Chargers execute a letter of intent providing for the Chargers' use of another stadium with any third party, the Chargers shall offer the City a ninety (90) calendar day period after the execution of such letter of intent within which to execute an amendment hereto which matches the financial and overall economic terms of the proposed third party transaction as set forth in such letter of intent. If the City does not execute such an amendment within ninety (90) calendar day period, the Chargers may terminate this Agreement at any time within sixty (60) calendar days thereafter (the "Termination Date") by giving to the City written notice of such termination at least ten (10) calendar days prior to the Termination Date and making, as of the Termination Date, the payment of the delivery of Federal Securities described below in this subparagraph 31(b)(iii). In the event such notice is not given or such payment or delivery is not made, this Agreement shall continue in full force and effect. In the event the Chargers terminate this Agreement in accordance with this subparagraph 31(b)(iii), it shall pay to the City, on the Termination Date, an amount equal to sixty percent (60%) of the amount in dollars

as necessary to pay or redeem all of then outstanding debts incurred to finance construction of the Improvements (including any debts incurred to refund any such debt, but excluding any transaction costs relating to such refunding debt) on the earliest date or dates after the Termination Date that at least sixty percent (60%) of such debt may be-paid or redeemed. In lieu of such payment, the Chargers may deliver Federal Securities to the City, which are not subject to redemption prior to their majority, the interest on and principal of which when paid will provide money, which as verified by an independent consultant reasonably acceptable to the City, shall be sufficient to pay when due the interest to become due on each sixty percent (60%) of such debt from and including the Termination Date to and including the earliest date or dates on which any sixty percent (60%) of such debt may be paid or redeemed as well as sixty percent (60%) of the principal thereof and any redemption premium thereon, less in either case, the sum of (1) sixty percent (60%) of the amount in any debt reserve fund on the Termination Date which may be used for the payment or redemption of such debt, (2) sixty percent (60%) of any amount paid to the City pursuant to subparagraphs 8(b)(i), 8(b)(ii), 8(b)(iii), 8(b)(iv) and 11(e) (the parties acknowledge the provisions of subparagraph 11(e) apply only to the fifteen percent (15%) increase in consideration paid by Service America to the City pursuant to the 1995 concession agreement with Service America, Inc. a copy of which is on file in the office of the City Clerk as Document No. 00-18227-1); and (3) sixty percent (60%) of the unamortized (on a straight line basis over the term of the Improvement debt) reasonable actual costs incurred by the City in connection with the issuance of such debt which were not reimbursed out of the proceeds of such debt.

1.22 Deletion of Section 39. Section 39 of the Agreement is hereby deleted. The parties acknowledge that the NFL has approved the Chargers' application for a "premium waiver" under Section 19.1(A)(3) of the Constitution and Bylaws of the NFL.

1.23 Exhibits A and B. Exhibits A and B to the Agreement are hereby deleted and replaced with Exhibits A and B attached hereto.

2. Air Conditioning at Club Level Concourse.

Upon the completion of the Improvements and prior to the commencement of the 2000 Pre-Season, the parties shall meet in good faith to evaluate whether an air conditioning system is needed in the club level concourse of the Stadium.

3. • Improvements to the Stadium Field.

Upon the completion of the Improvements and prior to the commencement of the 2000 Pre-Season, the City and the Chargers shall meet in good faith to evaluate lowering the playing field or otherwise eliminating or minimizing the obstructed view of the field level seats.

4. Sponsorship at the Stadium.

4.1. Sponsorship Revenues. On or before the date hereof, the City and Qualcomm have entered into an agreement pursuant to *which* Qualcomm purchased the naming rights to the Stadium for \$18,000,000 (the "Qualcomm Purchase Price"). The City and the Chargers agree that such funds shall be used exclusively for the payment of costs incurred in connection with the construction of the Improvements in accordance with the Approved Plans. Except as otherwise provided in Section 3(h) of the Agreement, all consideration (other than the Qualcomm Purchase Price) derived from sponsorships at the Stadium, if any, shall constitute Gross Income for the purposes of the Agreement.

4.2 Qualcomm Skybox. As an inducement to Qualcomm for the payment of the Qualcomm Purchase Price to the City, the Chargers agree to provide Qualcomm, without any license fee charge, a Skybox (the "Qualcomm Skybox") containing 12 seats commencing with the first Home Game of the 1997 Pre-Season and terminating on May 17, 2017, provided that the Agreement is in full force and effect for such period. Qualcomm will be responsible for the purchase of all event tickets, food, beverage and concession items. Qualcomm will be required to execute the Chargers' standard skybox license agreement (as the same may be modified from time to time) in connection with the Qualcomm Skybox, however, the license fees will be waived.

5. Additional Revenue.

The City and the Chargers agree that in the event the State of California provides revenue to the City, that is not otherwise limited in its use, solely and

exclusively for-Stadium purposes, the City and the Chargers will meet in good faith and confer regarding the uses of that revenue. The City acknowledges that it is the Chargers' desire that any such additional revenue be spent on additional improvements at the Stadium, including, without limitation, the matters set forth in Section 3(h) of the Agreement and Sections 2 and 3 of this Supplement, rather than be used to retire outstanding debt. The Chargers acknowledge that the City cannot presently commit to such expenditures but agrees to consider them in good faith.

6. Club Seat Ticketholders' and Skybox Licensees' Right of First Refusal.

The City agrees that, throughout the term of the Agreement, the City shall provide each person who has entered into a club seat or Skybox license agreement with the Chargers (such persons being referred to herein as "Special Ticketholders") with a right of first refusal to purchase the ticket to the seat(s) occupied by such Special Ticketholder for each event at the Stadium (other than events for which season tickets are sold, including, without limitation, Padres baseball games) (such events being referred to herein as "Special Events") during the term of such Special Ticketholders license agreement with the Chargers. On or about the time that tickets for any Special Event are being offered for sale to the public, the City shall offer (or cause to be offered) the Special Ticketholders the right to purchase the ticket for the applicable seat(s) for such Special Event on terms no less favorable than those offered to the public for comparable seats at the Stadium. In the event that the Special Ticketholder fails to purchase such tickets in accordance with the terms of such offer within ten (10) days after such offer is delivered, then the City shall have the right sell the ticket to such seat(s) to any party on any terms. For the purposes of this Section 6, the term "Chargers" shall be deemed to include the Chargers Football Company, Chargers Associates and their respective successors and assigns. The Chargers shall manage and administer the right of first refusal program provided for in this Section 6; provided, however, the City shall cooperate with the Chargers to insure the proper implementation and enforcement of such program.

7. General Provisions.

7.1 Effect of Supplement. In the event of any inconsistency between the Agreement and this Supplement, the terms of this Supplement shall prevail. Except as expressly set forth herein, the terms and conditions of the Agreement shall remain unmodified and in full force and effect, and the terms, provisions and conditions thereof are hereby ratified and reaffirmed. The Agree

ment, as supplemented and modified by this Supplement, represents the entire agreement between the parties hereto with respect to the subject matter thereof and supersedes all other written and oral agreements with respect to such subject matter. In the event that this Supplement does not become effective or is rescinded for any reason whatsoever, then the Chargers hereby reserve all of their rights and remedies under the Agreement and, if any, under the 1996 Amendment.

7.2 Governing Law. This Supplement shall be construed in accordance with, and this Supplement and the transactions described herein shall be governed by, the laws of the State of California as to all issues, including, without limitation, issues of validity, interpretation, effect, performance and remedies.

7.3 Amendments. This Supplement may not be amended or modified, except in writing signed by both of the parties hereto.

7.4 Severability. In the event that any provision contained in this Supplement shall for any reason be held to be illegal or invalid under the laws of any jurisdiction, such illegality or invalidity shall in no way impair the effectiveness of any other provision hereof, or of such provision under the laws of any other jurisdiction; provided, that in the construction and enforcement of such provision under the laws of the jurisdiction in which such holding of illegality or invalidity exists, and to the extent only of such illegality or invalidity, this Supplement shall be construed and enforced as though such illegal or invalid provision had not been contained herein.

7.5 Headings. Section headings used herein are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Supplement.

7.6 Counterparts. This Supplement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, and all of which shall together constitute but one and the same instrument.

ment, as supplemented and modified by this Supplement, represents the entire agreement between the parties hereto with respect to the subject matter thereof and supersedes all other written and oral agreements with respect to such subject matter. In the event that this Supplement does not become effective or is rescinded for any reason whatsoever, then the Chargers hereby reserve all of their rights and remedies under the Agreement and, if any, under the 1996 Amendment.

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7.6 Counterparts. This Supplement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, and all of which shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, this agreement is executed as of the date first written above by The City of ~~San Diego, acting by and through its City~~ Manager, pursuant to Ordinance No. 0- 1A219.8 authorizing such execution, and by the Chargers.

THE CITY OF SAN DIEGO

By: Jack McGrory
City Manager

CHARGERS FOOTBALL COMPANY

By: Alex G.
Spanos General
Partner

HEREBY APPROVE the form and legality of the foregoing Supplement this day of _____ 199°.

J
C
A
S By Kelly 7. Salt U .
E Deputy City Attorney
Y
GWINN,
City
Attorney

Q-18398

- Escalators to club lounge..
- All seats shall have cupholders. Upscale restrooms and concessions.
- Construction and FF&E for club seat ticket and game day operations offices (which offices shall, in the aggregate, occupy approximately 2,000 square feet).

LOGE AND PRESS LEVEL SUITES

Purpose: Increase the number and improve the quality of Skybox suites on the loge and press levels.

Description: • Demolish, renovate and construct suites on the loge and press levels, resulting in a minimum of 110 Skybox suites and 3 large party suites which in the aggregate include approximately 1,640 seats. Each party suite shall be twice the size of the average skybox suite.

- Relocate owners box from the north sideline to the south sideline.
- FF&E for Skybox suites substantially similar to that found at Comparison Stadiums.
- Upgraded Press Level Restrooms.
- Rubber Flooring on Concourse.
- New Padded seats, 22 inches wide to the extent possible, with cupholders.

FIELD AND PLAZA LEVELS

Purpose: Increase the seating capacity of the Stadium

Description: Premises.

- Demolish existing cross aisle at front of Plaza seating with exception of that portion of cross aisle between the foul poles; which portion shall be filled with seats promptly following the expiration of the current Partial Use and Occupancy Agreement between the City and the Padres.
- Renovation of systems for irrigation and drainage of playing

field.

- New permanent seating, with cupholders at west end zone. City shall install approximately 1,400 seats in the west end zone. For the 1997 Pre-Season and Regular Football Season only, the City may install bleacher seats. Such bleacher seats shall be at the City's sole cost and expense.
- New seating with cupholders at north and east sidelines.
- New amenities on plaza level concourse.

COLOR BOARDS

Description: Replace the screen at the east end with a Jumbotron or comparable color board screen and install a new Jumbotron or comparable color board screen at the west end of the Stadium Premises, which has advertising panels surrounding the screens.

STADIUM CLUB

Description: Renovate existing Stadium Club at the Press and Loge Levels with FF&E substantially similar to the Club Lounges.

EXHIBIT B

DESCRIPTION OF CHARGERS' FACILITIES

Purpose: To provide the Chargers with a "state of the art" practice field, training facility and offices.

Description: • Two (2) full natural grass fields and one (1) artificial turf field.

The building shall include the following elements: weight room, sports medicine facility, locker rooms, showers, other amenities, team meeting room, with new fixed seats approved by the Chargers, video suites, video tape storage area, offices and other storage and shall be substantially similar to the Comparison Stadiums.

A "Swim-X" type facility at a cost not to exceed \$60,000.

- A maintenance building.
- A five (5) lanes, twenty-five (25) meters and five (5) to six (6) feet in depth swimming pool.
- Sod farm with soil base and drainage comparable to the two (2) natural grass fields described above.