

DEVELOPMENT AGREEMENT

BY AND AMONG

**THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,**

**THE SPORTS AUTHORITY OF
THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,**

HOUSTON OILERS, INC.,

AND

CUMBERLAND STADIUM, L.P.

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DEVELOPMENT AGREEMENT

This Development Agreement (this "*Agreement*") is entered into as of the Effective Date by and among The Metropolitan Government of Nashville and Davidson County (the "*Metropolitan Government*"), The Sports Authority of The Metropolitan Government of Nashville and Davidson County, a Tennessee public, nonprofit corporation created pursuant to the Tennessee Sports Authority Act of 1993 (the "*Sports Authority*"), Houston Oilers, Inc., a Texas corporation (the "*NFL Team Entity*"), and Cumberland Stadium, L.P., a Tennessee limited partnership ("*Cumberland*").

RECITALS

WHEREAS, the Metropolitan Government and the Sports Authority found and do hereby restate their findings that the attraction of professional sports franchises will enhance the image of the State and Nashville and Davidson County, Tennessee as sports centers, will encourage and foster economic development and prosperity for the citizens of Davidson County and the State, and will provide recreational and other opportunities for the citizens of Davidson County and the State; and

WHEREAS, in furtherance of such findings and the Metropolitan Government's and the Sports Authority's determination that the acquisition and construction of a new football stadium in Nashville and that the relocation of the NFL franchise currently owned by the NFL Team Entity from Houston, Texas to Nashville will be significant assets to the Governments and their citizens, the Parties desire to enter into this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the Parties contained herein, and other good and valuable consideration, the Parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE 1. DEFINITIONS

1.1 Certain Definitions. Capitalized terms used in this Agreement but not defined in the body hereof shall have the meanings ascribed to them in Annex I. Capitalized terms defined in the body of this Agreement are listed in Annex I by location herein.

ARTICLE 2. DEVELOPMENT ACTIVITIES

2.1 Development Generally. On and subject to the terms set forth in this Agreement, including the scheduling of items set forth in this Agreement, the budget set forth in Annex II (as modified from time to time pursuant to Section 3.3(e), the "*Budget*"), and the

Stadium criteria set forth in Annex X (as modified and amended in accordance herewith), the Parties shall endeavor in good faith to design, construct, operate and use the Facilities in the manner described herein and in the Stadium Lease.

2.2 Obligations of Metropolitan Government. In addition to any other obligations of the Metropolitan Government set forth in this Agreement, the Metropolitan Government (together with the Sports Authority when expressly identified) shall, or shall cause MDHA or another Governmental Authority to, subject to the other terms of this Agreement:

(a) (i) acquire the then necessary portion of the Stadium Site and cause Commencement of the Work to occur on or before June 15, 1996, (ii) from time to time after June 15, 1996, acquire the remaining portions of the Stadium Site at such times as will not delay the construction of the Facilities or Substantial Completion by the Scheduled Completion Date and (iii) cause the construction of the Facilities to proceed with reasonable diligence after the Commencement of the Work until Substantial Completion, and, after Substantial Completion, cause any uncompleted insubstantial details referred to in the definition of "Substantial Completion" (including all such details that are listed on all punch lists prepared as of the date of Substantial Completion) to be completed with reasonable diligence, and in no event later than four months after the date of Substantial Completion;

(b) select and contract with Project Providers in accordance with Section 3.1;

(c) cause, or contract with the State to cause, (i) the construction of the Infrastructure Improvements to be completed prior to the Scheduled Completion Date, (ii) the payment of all operating expenses (other than utility services to be paid by Cumberland under the Stadium Lease) and capital expenses with respect to the Infrastructure Improvements and (iii) the Infrastructure Improvements to be in good condition and repair at all times during the Operating Period;

(d) enter into the Professional Agreements in accordance with Section 3.2;

(e) pay or cause to be paid all Project Costs (other than Cumberland Project Costs);

(f) obtain and maintain, or cause to be kept and maintained, each of the Insurance Policies until Substantial Completion and at all times during the Term maintain in the Reserve Account sufficient funds to cover any Deductible Amount applicable to any Insurance Policy or applicable to any Lessor Policy;

(g) together with the Sports Authority, assist the NFL Team Entity in arranging for an annual training camp for the Team in accordance with Section 9.5;

(h) appoint a representative with respect to the Project in accordance with Section 4.2;

(i) cause the Facilities to be conveyed to the Sports Authority on or before the date of Substantial Completion in accordance with Section 4.4;

(j) provide to Cumberland "as built" drawings for the Project within 90 days after the date of Substantial Completion; and

(k) cause Damaged Facilities, if any, to be repaired, restored and replaced in accordance with Article 5.

2.3 Obligations of Sports Authority. In addition to the obligations of the Sports Authority to be performed together with the Metropolitan Government in accordance with Section 2.2 and any other obligations of the Sports Authority set forth in this Agreement, the Sports Authority shall, subject to the other terms set forth in this Agreement:

(a) execute and deliver the Stadium Lease in accordance with Section 9.9(b);

(b) provide the NFL Team Entity with an interim practice facility in accordance with Section 9.4;

(c) pay or cause to be paid the Reimbursement Fee in accordance with Section 9.3; and

(d) pay the NFL transfer fee, if any, in accordance with Section 9.10.

2.4 Obligations of Cumberland. In addition to any other obligations of Cumberland set forth in this Agreement, Cumberland shall, subject to the other terms of this Agreement:

(a) execute and deliver the Stadium Lease and the Team Contract in accordance with Section 9.9(b);

(b) pay the Cumberland Project Costs, if any; and

(c) appoint a representative with respect to the Project in accordance with Section 4.2.

2.5 Obligations of the NFL Team Entity. In addition to any other obligations of the NFL Team Entity set forth in this Agreement, the NFL Team Entity shall, subject to the other terms of this Agreement:

(a) execute and deliver the Guaranty and the Team Contract in accordance with Section 9.9(b);

(b) upon Substantial Completion, cause the Team to relocate its home stadium for Team Home Games to the Facilities and, subject to Section 9.13, cause the NFL Team Entity Franchise Offices to be situated at the Facilities;

(c) upon either (i) the sale, transfer or assignment of the NFL franchise owned by the NFL Team Entity, currently known as Houston Oilers, or (ii) the termination of the NFL franchise currently known as Houston Oilers and the granting of an NFL franchise to an Affiliate of the NFL Team Entity, cause this Agreement and the rights and obligations of the NFL Team Entity hereunder to be assigned to, and assumed by, such transferee or Affiliate, as the case may be, and from and after the date of such assignment the term "NFL Team Entity" for the purposes hereof and the Stadium Lease shall refer to such assignee; and

(d) not cause the NFL franchise currently known as Houston Oilers, to be surrendered or terminated.

**ARTICLE 3.
PROJECT PROVIDERS; PROFESSIONAL AGREEMENTS;
PLANS AND SPECIFICATIONS**

3.1 Project Providers: Master Program Schedule.

(a) The Metropolitan Government shall from time to time select and engage, or cause the Construction Manager or other Project Providers to select and engage, such Architects, Engineers, Environmental Consultants, Construction Managers and other professionals and consultants (collectively, "*Project Providers*") as may be necessary to achieve Substantial Completion by the Scheduled Completion Date and otherwise on the terms set forth in this Agreement. The Metropolitan Government has selected Tennessee Stadium Group, a Limited Partnership (the partners of which are McDevitt, Street & Bovis, Jones & Jones Construction, Sims Associates, and Beers Construction), to serve as Construction Manager for the development of the Project and Hellmuth, Obata & Kassabaum, Inc. to serve as Principal Architect for the design of the Project. Prior to selecting or engaging any other Person to serve as Construction Manager or Principal Architect, the Metropolitan Government shall submit to Cumberland for its approval (which approval shall not be withheld unreasonably) such Person's name, references, qualifications, financial statements or similar financial information and other information as Cumberland reasonably requests.

(b) With respect to any other Project Provider not previously selected as identified in Section 3.1(a), Cumberland shall have the following rights: (i) if the engagement of a Project Provider is not subject to bidding requirements under Applicable Law and neither the Metropolitan Government, the Construction Manager nor any other applicable Project Provider has otherwise elected to select such Project Provider through a bidding process, Cumberland shall have the right to request references, qualifications, financial statements or similar financial information for each prospective Project Provider and to disapprove any Person as a Project Provider (provided that Cumberland may not disapprove any Person as a Project Provider unreasonably), and (ii) if the engagement of a Project Provider is subject to a bidding process (whether as a matter of Applicable Law or otherwise), Cumberland shall have the right to review and comment upon all bidding criteria, in which case the Metropolitan Government shall cause all reasonable comments made by Cumberland with respect to such bidding criteria to be included therein. The Metropolitan Government shall select, award and engage all Project

Providers in accordance with Applicable Law (or cause all Project Providers to be selected, awarded and engaged in accordance with Applicable Law). Should Cumberland unreasonably disapprove of any proposed Project Provider that is otherwise financially sound and bondable, and if, as a result of such unreasonable disapproval, the Metropolitan Government is required to obtain another Project Provider at an additional cost or if, as a result of such unreasonable disapproval, the Metropolitan Government is delayed in obtaining another Project Provider in place of the disapproved Project Provider and such delay results in an extension of the time necessary to achieve Substantial Completion, the increase costs, if any, resulting from Cumberland's unreasonable disapproval shall be considered Cumberland Project Costs and the additional time, if any, necessary to achieve Substantial Completion resulting from Cumberland's unreasonable disapproval shall be considered a Permitted Extension Period. If Cumberland withholds its consent with respect to any proposed Project Provider that does not have demonstrable and material experience in its area of expertise in connection with projects similar to the Project, such withholding shall not be deemed unreasonable.

(c) The Metropolitan Government will cause the Construction Manager to prepare a draft of the Master Program Schedule for review and comment by the Metropolitan Government, Cumberland and the Principal Architect, and to deliver such draft to the Metropolitan Government, Cumberland and the Principal Architect as soon as possible. The Metropolitan Government and Cumberland (each acting reasonably and in good faith) will cooperate with one another and with the Construction Manager and the Principal Architect to finalize the Master Program Schedule as soon as possible after their receipt thereof and in no event later than the latter of the Effective Date and 20 days after the date that the Metropolitan Government and Cumberland shall have received the initial draft of the Master Program Schedule. The Parties recognize that (i) the Master Program Schedule must be prepared so that, if followed by the Parties and the Project Providers, the Master Program Schedule will result in Substantial Completion prior to the Scheduled Completion Date, (ii) in order to achieve such timetable, the Project must be designed and constructed on a "fast track" schedule (as described in Section 3.3(b)), and (iii) the Parties must act reasonably and in good faith in commenting on the Master Program Schedule to achieve such goal. Nevertheless, the Parties also acknowledge that Cumberland shall be entitled to reasonable opportunities to review and comment on the Professional Agreements and the Plans and Specifications, so that Cumberland shall not be required to approve a Master Program Schedule that unduly limits Cumberland's right to review and comment on the Professional Agreements and the Plans and Specifications. Upon the approval of the Master Program Schedule by the Metropolitan Government, Cumberland, the Construction Manager and the Principal Architect, the Metropolitan Government and Cumberland shall initial the Master Program Schedule to indicate their approval. If the Parties are unable to agree upon the Master Program Schedule within the period contemplated by this Section 3.1(c), then either the Metropolitan Government or Cumberland may terminate this Agreement in accordance with Sections 7.1(h), 7.2(c), 7.3(g) and 7.3(i). The Parties agree that the applicable periods within which Cumberland is permitted or required to act under the Master Program Schedule will be extended in a reasonable and equitable manner if other relevant actions permitted or required under such Master Program Schedule are taken or performed by any other Person after the date permitted or required in the Master Program Schedule. The Metropolitan Government and Cumberland will cooperate with one another and shall act reasonably and in good faith with the Construction Manager and the Principal Architect to amend and modify the

Master Program Schedule as necessary or advisable in the opinion of the Construction Manager, subject, however, to the rights of Cumberland set forth herein. Except as expressly provided herein or in the Master Program Schedule, no amendment, modification or supplement to the Master Program Schedule shall be effective unless it shall have been approved by the Metropolitan Government and Cumberland.

3.2 Professional Agreements.

(a) The agreements that relate to the acquisition, design, development, construction or equipping of the Project and that are between any two or more of the Metropolitan Government, the Construction Manager, the Architect, and all other Project Providers (the "Professional Agreements") will contain the terms and conditions described in Sections 3.2(c) and 3.3(a) and such other terms and conditions as may be necessary or appropriate to permit the Metropolitan Government to comply with its obligations under this Agreement and to cause Substantial Completion to occur by the Scheduled Completion Date.

(b) Each of the Professional Agreements with the Construction Manager and the Principal Architect shall grant third party beneficiary status to each of the Team Parties and permit the assignment thereof by the Metropolitan Government to Cumberland or its designee (provided that such designee is an Affiliate of Cumberland) without the need to obtain the consent from the other party or parties to such agreement. Except as expressly provided in such Professional Agreements, no assignment of such Professional Agreement shall relieve the assignor of any of its obligations under the assigned Professional Agreement. Notwithstanding the preceding sentence, the release of any obligations that the Metropolitan Government has under any Professional Agreement with either the Construction Manager or the Principal Architect shall not relieve the Metropolitan Government of any of its obligations to the other Parties under this Agreement or the Stadium Lease.

(c) In addition to the requirements set forth elsewhere in this Agreement, the Professional Agreements shall require or provide for (i) the design, development, construction, equipping and completion of the Facilities in accordance with the For Construction Plans and Specifications, (ii) a lump sum or guaranteed maximum price for the design, development, construction, equipping and completion of the Facilities, (iii) guaranteed Substantial Completion by not later than the Scheduled Completion Date and (iv) the periodic payment of Project Costs incurred under such Professional Agreements pursuant to procedures and requirements customary in the industry for projects similar to the Project. In particular, each Professional Agreement shall contain, as appropriate, (I) a payment schedule setting forth the payment amounts to be made upon the completion of specific portions of the work required under such Professional Agreement or provisions requiring payment for the value of work completed on a monthly basis, (II) procedures to withhold from payment appropriate retention amounts (including any retention amounts required by Applicable Law), (III) requirements for the receipt of releases from Project Providers and their agents, and (IV) requirements for the delivery of a "payment request certificate" from the Construction Manager and the Principal Architect certifying that the work to which the requested payment relates has been completed in accordance with the For Construction Plans and Specifications and that such requested payment is not the subject of another outstanding or previously paid payment request. The Professional Agreements shall

require the Project Providers to deliver monthly progress reports along with invoices setting forth the amounts due for work performed to date for review and approval by the Construction Manager or, in the case of the Construction Manager, the Principal Architect. The Provider Agreement with the Construction Manager also will contain provisions requiring the Construction Manager to cooperate with Cumberland following Substantial Completion in such a manner that Cumberland may use the Facilities for the purposes contemplated by the Stadium Lease, that the work to be performed by or under the Construction Manager after Substantial Completion will not be performed during any Lessor Event or Lessee Event and requiring that such work will be performed in such a manner as to interfere as little as possible with the use of the Facilities during Lessee Events and Lessor Events.

(d) Cumberland shall have the right to approve each of the Professional Agreements (except Professional Agreements existing as of February 13, 1996 between the Metropolitan Government and either the Construction Manager or the Principal Architect), which approval shall not be unreasonably withheld; provided Cumberland shall be permitted to withhold such approval with respect to any Professional Agreement not meeting the requirements of this Agreement. Any notice by Cumberland that it is withholding its approval with respect to any Professional Agreement must be given within the time period set forth in the Master Program Schedule and shall state all objections or reasons for withholding approval of any Professional Agreement to allow the applicable Persons the opportunity to satisfy the objections.

3.3 Plans and Specifications.

(a) The Professional Agreements regarding the design of the Facilities shall contain terms requiring the development and preparation, in accordance with the Master Program Schedule, of Final Schematic Drawings, Design Development Documents for each Working Division, and For Construction Plans and Specifications for each Work Division. Such Professional Agreements shall require that all such Plans and Specifications (i) be based upon (I) in the case of the Design Development Documents for each Work Division and all drafts thereof, the Final Schematic Drawings and all relevant portions of previously approved Design Development Documents for other Work Divisions, and (II) in the case of the For Construction Plans and Specifications for each Work Division and all drafts thereof, the Design Development Documents for such Work Division and all relevant portions of previously approved For Construction Plans and Specifications for other Work Divisions; (ii) contain site plans, floor plans, elevations, sections, outline specifications and all requirements for the construction of the Facilities, in each case designed to minimize to the greatest extent possible (consistent with the Budget) the Operating Expenses, and (iii) subject to the provisions of Section 3.4(b) and 3.4(c), incorporate and reflect all reasonable requests and change orders heretofore or hereafter made by Cumberland. The Plans and Specifications (including the Final Schematic Drawings) will be consistent with the requirements and parameters set forth in Annex X hereto, and the Professional Agreements regarding the design of the Project will include requirements to that effect.

(b) It is contemplated that the Project will be designed and constructed on a "fast track" schedule and, therefore, all of the Design Development Drawings for all portions of the Project will not be completed prior to the completion of the For Construction Plans and Specifications for certain Work Divisions of the Project, and all of the For Construction Plans

and Specifications for all portions of the Project will not be completed prior to Commencement of the Work. Rather, the Design Development Drawings and the For Construction Plans and Specifications will be prepared in parts for the various Work Divisions of the Project, and the Design Development Drawings and the For Construction Plans and Specifications for each of the Work Divisions will be produced in a sequence that will insure that no portion of the design or work will proceed without Design Development Drawings and For Construction Plans and Specifications that are approved (or deemed to have been approved) by Cumberland. Accordingly, the Professional Agreements will require the Principal Architect to prepare working drawings for each of the Work Divisions and make the same available to the Metropolitan Government and Cumberland in a timely manner consistent with the Master Program Schedule.

(c) If Cumberland wishes to request any changes to drafts of the Final Schematic Drawings, the Design Development Documents for any Work Division or the For Construction Plans and Specifications for any Work Division, Cumberland shall notify the Metropolitan Government, the Construction Manager and the Principal Architect within the time period permitted by the Master Program Schedule. If Cumberland does not notify the Metropolitan Government, the Construction Manager and the Principal Architect of any such requested changes within such permitted period for the applicable Plans and Specifications, then such Plans and Specifications shall be deemed approved by Cumberland.

(d) Within ten days after completion of the Final Schematic Drawings, (i) Cumberland and the Metropolitan Government shall indicate their approval thereof by initialing the Final Schematic Drawings, and (ii) the Metropolitan Government shall cause the Construction Manager to prepare and present to both Parties, in accordance with the Master Program Schedule, a guaranteed maximum price ("*GMP*") to cause Substantial Completion to occur by the Scheduled Completion Date. In the event that the Construction Manager's GMP is within the Budget for construction and guarantees Substantial Completion on or before the Scheduled Completion Date, the Metropolitan Government shall incorporate the Construction Manager's GMP into the Construction Manager's Professional Agreement and shall direct the Principal Architect and the Construction Manager to complete the development and preparation of the Design Development Drawings and the For Construction Plans and Specifications in accordance with the Master Program Schedule.

(e) In the event that the Construction Manager's GMP exceeds the Budget for construction, representatives of the Metropolitan Government and Cumberland shall, within the ten days following the Construction Manager's presentation of the GMP (the "*Revision Period*"), confer with the Construction Manager and the Principal Architect in an effort to agree on revisions to the Final Schematic Drawings and the cost of construction in order to establish a lower GMP. At any time during the Revision Period, the Metropolitan Government shall have the option to increase the Budget to cover the amount by which the Construction Manager's original or revised GMP exceeds the original Budget. Upon agreement among the Parties by any means contemplated by this Section 3.3(e) that brings the Construction Manager's GMP within the Budget for construction and that retains the guarantee of Substantial Completion on or before the Scheduled Completion Date, (i) Cumberland and the Metropolitan Government shall indicate their approval of the revised Final Schematic Drawings by initialing them, and (ii) the Metropolitan Government shall incorporate the Construction Manager's GMP into the

Construction Manager's Professional Agreement and shall direct the Principal Architect and the Construction Manager to complete the development and preparation of the Design Development Drawings and the For Construction Plans and Specifications in accordance with the Master Program Schedule.

(f) If, (i) the Parties are unable to agree upon the Final Schematic Drawings as contemplated by Sections 3.3(d) and 3.3(e) by April 15, 1996, or (ii) after employing the procedures indicated in Section 3.3(e), the Construction Manager's GMP continues to exceed the Budget or the Construction Manager will not guarantee Substantial Completion on or before the Scheduled Completion Date, then either the Metropolitan Government or Cumberland may terminate this Agreement in accordance with Sections 7.1(h), 7.2(c), 7.3(g) and 7.3(i).

(g) The Metropolitan Government and Cumberland will negotiate in good faith to determine a materially more detailed Budget for the Project than the Budget set forth at Annex II (which detailed Budget will be within the total Budget amount set forth in Annex II), to determine the precise boundaries of the Stadium Site as contemplated by Annex VIII, and to determine materially more detailed criteria for the Stadium (including the furniture, fixtures, equipment and systems to be included therewith) than those criteria set forth in Annex X. If such Parties are unable to agree upon such detailed Budget, the precise boundaries of the Stadium Site or the detailed Stadium criteria by April 15, 1996, then either the Metropolitan Government or Cumberland may terminate this Agreement in accordance with Sections 7.1(h), 7.2(c), 7.3(g) and 7.3(i).

3.4 Change Orders.

(a) Cumberland shall be entitled to submit from time to time requests to change the Plans and Specifications that do not materially alter the overall function or design of the Facilities (each, a "Change Request").

(b) If Cumberland shall submit a Change Request within the period permitted under the Master Program Schedule for a Work Division prior to the completion of the For Construction Plans and Specifications for such Work Division, the Metropolitan Government shall cause the Construction Manager and the Principal Architect to furnish to Cumberland and the Metropolitan Government as promptly as possible after receipt of any such Change Request a good faith estimate of (i) the cost of designing and implementing such Change Request (or the net savings that would result from such Change Request) including all costs associated with the design and management of the requested change, and (ii) the Permitted Extension Period, if any, that would result from such Change Request. If, after receipt of such estimates, Cumberland wishes to proceed with the definitive design and pricing of such Change Request, the Metropolitan Government shall cause the Construction Manager and the Principal Architect to furnish to Cumberland and the Metropolitan Government, as promptly as possible, (I) detailed quotations and bids (which shall be stated on a lump sum or guaranteed maximum price basis) for the Change Request showing the increase or decrease in the Project Costs that would be attributable to the work covered by such Change Request and (II) a more definitive estimate of the Permitted Extension Period that would result from such Change Request. Within five business days of its receipt of the information required in the preceding sentence, Cumberland

shall notify the Metropolitan Government whether it still desires the work set forth in the Change Request to be incorporated into the Plans and Specifications. If the estimates described at clauses (I) and (II) indicate that any such Change Request would not cause the Project Costs (after taking into account all increases and decreases in the Project Costs attributable to such Change Request and all prior Cumberland Change Orders) to exceed the total Budget amount set forth in Annex II and that such change request would not result in a Permitted Extension Period, the Metropolitan Government shall issue a change order (a "Cumberland Change Order") with respect to such Change Request, shall cause such Change Request to be incorporated into the subsequently developed Plans and Specifications and shall pay all of the Project Costs attributable to any such Change Request. If such estimates indicate that such a Change Request would cause the Project Costs (after taking into account all increases and decreases in the Project Costs attributable to such Change Request and all prior Cumberland Change Orders) to exceed the total Budget amount, or that such Change Request would result in a Permitted Extension Period, the Metropolitan Government shall not be required to issue a Cumberland Change Order with respect to such Change Request unless (A) (i) the Metropolitan Government and Cumberland shall have mutually agreed upon the payment of such excess Project Costs, if any, or (ii) Cumberland shall have agreed to pay such excess Project Costs, if any, as and when required to be paid under all Professional Agreements relating to such Change Request (in which case, such excess costs shall be considered Cumberland Project Costs), and (B) if applicable, Cumberland shall have agreed that a Permitted Extension Period will result from such Change Request. In determining whether or not a Change Request would cause (or has caused) the Project Costs to exceed the total Budget amount set forth in Annex II (and, therefore, whether any portion of the costs of a Cumberland Change Order would be considered a Cumberland Project Cost), Cumberland shall have the benefit of any savings enjoyed by the Metropolitan Government under any of its Professional Agreements (or under any other agreement relating to the acquisition, design, development, construction or equipping of the Project) arising from costs being below the guaranteed maximum amount included in such agreements or otherwise (but only to the extent that Cumberland shall have incurred Cumberland Project Costs), provided that Cumberland shall not be entitled to that portion of any such savings that the Metropolitan Government is required to pay to the Construction Manager or any other Person as a result of such cost savings. Cumberland shall be entitled to such benefits upon completion of the Project to the extent that Cumberland has paid any Cumberland Project Costs under any Cumberland Change Orders. If, as a result of any such savings, Cumberland shall have paid a Project Cost that is not, in whole or in part, a Cumberland Project Cost, the Metropolitan Government shall reimburse Cumberland the amount of any excess payment made by Cumberland. The Metropolitan Government will cause the Construction Manager to advise the Metropolitan Government and Cumberland routinely of the Construction Manager's estimated costs and expenses, the cost savings, if any, that the Construction Manager estimates the Metropolitan Government will enjoy and the sources of any such cost savings. Notwithstanding the foregoing, a Change Request that is submitted prior to the completion of the For Construction Plans and Specifications for a Work Division and within the time permitted under the Master Program Schedule for such Work Division shall be treated as a Change Request submitted after the completion of the For Construction Plans and Specifications for such Work Division if such Change Request would require the material modification of For Construction Plans and Specifications previously issued with respect to another Work Division of the Project. If, after the Parties' approval of the Final Schematic Drawings, Cumberland submits a Change Request that is governed by this Section 3.4(b) and such Change Request is not implemented, all

costs associated with the design and management of the requested change shall be considered Cumberland Project Costs. For purposes of this Section 3.4(b), the total Budget amount shall exclude the \$20 million allocated to the payment of the NFL transfer fee contemplated under Section 9.10(a), which, to the extent not required to be paid in full to the NFL pursuant to Section 9.10(a), will reduce the rent payable under the Stadium Lease and, to the further extent available, is to be paid into the NFL Fee Account pursuant to Section 9.10(c).

(c) After completion of the For Construction Plans and Specifications and during the construction of the Facilities, Cumberland shall be entitled to submit Change Requests to the For Construction Plans and Specifications with respect to any Work Division. The Metropolitan Government shall cause the Construction Manager and the Principal Architect to furnish to Cumberland and the Metropolitan Government as promptly as possible after receipt of any such Change Request a good faith estimate of (i) the cost of designing and implementing such Change Request (or the net savings that would result from such Change Request) including all costs associated with the design and management of the requested change and (ii) the Permitted Extension Period, if any, that would result from such Change Request. If, after receipt of such estimates, and subject to the Metropolitan Government's approval of any such Change Request (which approval will not be unreasonably withheld), Cumberland wishes to proceed with the definitive design and pricing of such Change Request, the Metropolitan Government shall cause the Construction Manager and the Principal Architect to furnish to Cumberland and the Metropolitan Government, as promptly as possible, (I) detailed quotations and bids (which shall be stated on a lump sum or guaranteed maximum price basis) for the Change Request showing the increase or decrease in the Project Costs that would be attributable to the work covered by such Change Request and (II) a more definitive estimate of the Permitted Extension Period that would result from such Change Request. Within five business days of its receipt of the information required in the preceding sentence, Cumberland shall notify the Metropolitan Government whether it still desires the work set forth in the Change Request to be incorporated into the For Construction Plans and Specifications. The Metropolitan Government shall issue a Cumberland Change Order with respect to any changes that Cumberland requests to be incorporated into the For Construction Plans and Specifications in accordance with the preceding sentence; provided, however, that the Metropolitan Government shall not be required to issue a Cumberland Change Order with respect to any such Change Request unless and until Cumberland shall have agreed with the Metropolitan Government that (A) Cumberland will pay the Cumberland Project Costs, if any, relating to such Change Request as and when such costs are required to be paid under all Professional Agreements relating to such Change Requests and (B) if applicable, a Permitted Extension Period will result from such Change Request. The Project Costs shall be deemed to be increased or decreased, as applicable, by the additional costs or cost savings attributable to such Cumberland Change Orders. Irrespective of whether the requested change is made, if Cumberland submits a Change Request governed by this Section 3.4(c), all costs associated with the design and management of the requested change shall be considered Cumberland Project Costs.

(d) Cumberland's approval of any of the Plans and Specifications shall constitute only an approval of the aesthetic features of the Facilities described in the drawings, and Cumberland's acknowledgment that site plans and floor plans and the spatial relationship of

the various parts of the plans are satisfactory to it shall not be construed as an approval of the quality of the architectural, structural or engineering design of the Facilities or any of its components, or an acknowledgment that the design complies with Applicable Law. No such approval shall constitute a waiver of any warranties or guaranties set forth in any of the Professional Agreements or release any party thereto from liability for any errors or omissions.

3.5 Project Costs. The Metropolitan Government shall pay all of the Project Costs (other than the Cumberland Project Costs), and Cumberland shall pay the Cumberland Project Costs, if any. Each of the Metropolitan Government and Cumberland shall pay the Project Costs to be borne thereby in accordance with the terms of the Professional Agreements and such other agreements as may exist from time to time governing the payment of the Project Costs relating to all Cumberland Change Orders, except to the extent the Metropolitan Government is required to pay such Project Costs in accordance with Section 3.4(b).

3.6 Performance Bond. To the extent required by Applicable Law, and in any event for Professional Agreements in excess of \$100,000 (unless otherwise agreed to by the Metropolitan Government and Cumberland), each of the Project Providers (with the exception of the Principal Architect) shall be required to furnish and maintain in full force and effect, from the date of the Professional Agreements to which it is a party until the expiration of the warranty period set forth in such Professional Agreements, a performance bond and a labor and material payment bond in the full amount of the lump sum or guaranteed maximum price payable for the work under such Professional Agreement in form and substance and issued by a corporate surety satisfactory to the Metropolitan Government and Cumberland. The bonds shall be in favor of the Metropolitan Government, the Sports Authority, the Team Parties and the Construction Manager and shall conform in all respects to all requirements imposed by Applicable Law, and if Applicable Law authorizes any special form of labor and material payment bond that removes mechanics and similar Liens from the real property upon which the Facilities will be located, such special form shall be provided. The Metropolitan Government shall pay, or arrange for the Contractor to pay, all premiums for such bonds.

ARTICLE 4.

MATTERS CONCERNING CONSTRUCTION OF THE FACILITIES

4.1 Construction Delays: Liquidated Damages.

(a) If the Facilities are not Substantially Complete on or before the Scheduled Completion Date, (i) subject to the limitations on the liability for liquidated damages provided in Annex III, the Metropolitan Government shall pay the NFL Team Entity in liquidated damages the amount determined by reference to Annex III, and (ii) at the Team Parties' request, the Metropolitan Government and the Sports Authority shall use reasonable efforts to assist the NFL Team Entity to secure for the benefit of the Team Parties an alternate playing site (for the period prior to Substantial Completion) in the State. Payment of such liquidated damages by the Metropolitan Government is not intended to affect any rights the Metropolitan Government may have against the Project Providers. In the event notice is given under Section 7.3(e), the

Metropolitan Government's obligations to pay liquidated damages under this Section 4.1 shall terminate with respect to such liquidated damages attributable to the period after such notice.

(b) The Parties agree that the amount of damages suffered by the NFL Team Entity if Substantial Completion does not occur on or before the Scheduled Completion Date would be impossible, impracticable or extremely difficult to establish or ascertain and, in the case of any such failure, the amount set forth in Annex III (when coupled with the other rights set forth in this Section 4.1) is a reasonable estimate of the NFL Team Entity's Damages in such event and is not intended as a penalty.

(c) If Substantial Completion does not occur by January 15, 2000, the Metropolitan Government shall direct the Principal Architect to issue a written opinion (the "*Update Opinion*") by February 15, 2000 to the Team Parties indicating whether or not, in the Principal Architect's good faith opinion, (i) Substantial Completion will occur on or before September 1, 2000 (regardless of the reason for any delay), (ii) Substantial Completion will occur on or before June 1, 2000 and (iii) as of the date of such Update Opinion, not more than 90 days of delay in achieving Substantial Completion have been attributable to reasons other than (I) Force Majeure events, (II) the Team Parties' failure to perform their obligations under this Agreement in a timely manner, (III) Permitted Extension Periods or (IV) any combination thereof.

4.2 Construction Representatives. Each of the Metropolitan Government and Cumberland shall appoint a representative (respectively, the "*Government Representative*" and the "*Cumberland Representative*") to be available and actively involved in the activities contemplated by this Agreement from the date hereof until Substantial Completion. Each of the Metropolitan Government and Cumberland may remove and replace its representative as and when it so desires and shall promptly notify the other Parties of any such change. Each of the Representatives shall have full access to the Stadium Site (subject to safety considerations) and shall be permitted to review all Professional Agreements and Plans and Specifications, including all drafts thereof (and to permit such other persons from the respective Representative's organization and such advisors and consultants as such Representative considers advisable or appropriate to review such Professional Agreements and Plans and Specifications), and shall be notified in advance of and invited to attend all material meetings relating to the design and construction of the Facilities, including, without limitation, any meetings relating to the preparation of the For Construction Plans and Specifications and any periodic meetings with Project Providers concerning the status or quality of the construction of the Facilities. Each of the Representatives shall be permitted to take such other persons from the respective Representative's organization and such advisors and consultants as such Representative considers advisable or appropriate onto the Stadium Site (subject to safety considerations) and to such meetings.

4.3 Acquisition of Site Parcels.

(a) The Metropolitan Government agrees that as and when each parcel of real property that will comprise the Stadium Site (each such parcel, a "*Site Parcel*") is acquired, then until such time as such Site Parcel is conveyed to the Sports Authority in accordance with Section

4.4, such Site Parcel shall be subject to all of the terms and conditions set forth in the Stadium Lease, and Cumberland shall be entitled to exercise any rights or privileges that it may have under the Stadium Lease with respect to such Site Parcel and any improvements constructed thereon (other than those to be demolished as part of the Site Preparation Work).

(b) Upon acquisition of each Site Parcel, the Metropolitan Government will execute and record in the appropriate public records of Davidson County, Tennessee an instrument in the form attached hereto as Annex IV committing such Site Parcel for the use of the Sports Authority and Cumberland pursuant to the terms and conditions of the Stadium Lease and this Agreement.

4.4 Conveyance of Facilities. On or before the date Substantial Completion occurs, the Metropolitan Government shall convey the then constructed Facilities to the Sports Authority free and clear of any Liens other than Permitted Encumbrances, Liens securing all or a portion of the Public Debt and a Lien securing the State Interest (in each case, to the extent permitted by the Stadium Lease and subject to the provisions of Article 11 of the Stadium Lease). The Metropolitan Government and the Sports Authority shall effect the conveyance of the Facilities by a general warranty deed duly executed and delivered by the Metropolitan Government and sufficient for recording in the appropriate real property records of Davidson County, Tennessee. Promptly upon receipt of such deed, the Sports Authority shall record the same and a memorandum of the Stadium Lease in the appropriate real property records of Davidson County, Tennessee. The Metropolitan Government shall deliver such further deeds, certificates and documents as the Sports Authority or Cumberland may reasonably request to further effect such conveyance.

ARTICLE 5. DAMAGE TO THE FACILITIES

5.1 Damage or Destruction Prior to Substantial Completion. If, at any time prior to Substantial Completion, the Facilities or any part thereof shall be damaged or destroyed by a Casualty (the "*Damaged Facilities*"), the Metropolitan Government, utilizing the funds of its insurance carriers or, where applicable, its own funds, and at no cost to the Team Parties, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the Damaged Facilities so as to cause same to be in accordance with the For Construction Plans and Specifications.

5.2 Insurance Proceeds.

(a) The Parties recognize that the Metropolitan Government currently self-insures, and intends to continue to self-insure, a portion (up to but not more than \$2,000,000 but subject to reasonable increases by the Metropolitan Government, upon the approval of Cumberland, which approval may not be unreasonably withheld) of its property and casualty insurance with respect to the Facilities through a fully funded segregated reserve account (the "*Reserve Account*"). The Metropolitan Government shall maintain and from time to time replenish sufficient monies in the Reserve Account to fully fund 100% of any self-insured

amount, deductible, retrospective premium or other similar risk-sharing term (collectively, the "**Deductible Amount**") applicable to the property and casualty insurance program required to be maintained by the Metropolitan Government or the Sports Authority under this Agreement or the Stadium Lease. No funds may be withdrawn from the Reserve Account except to cover any Deductible Amount. The Metropolitan Government and the Sports Authority anticipate that the Sports Authority's obligations to maintain insurance, including property and casualty insurance, pursuant to the Stadium Lease (the "**Lease Insurance Program**") will be satisfied by the Metropolitan Government including the Sports Authority and the Facilities within a blanket insurance program maintained by the Metropolitan Government from time to time. The Metropolitan Government further anticipates that a Deductible Amount will apply to the property and casualty insurance program under the Lease Insurance Program. Therefore, to insure that the Sports Authority's obligations under the Stadium Lease to repair, restore and replace from time to time the Facilities affected by Casualty loss are not reduced by any Deductible Amount applicable to the Lease Insurance Program, the Metropolitan Government shall during the Term (i) name the Sports Authority as beneficiary of the Reserve Account and the amounts deposited therein, (ii) maintain, fund and when applicable replenish to a fully funded status the Reserve Account with such monies as may be necessary to cover at all times 100% of any Deductible Amount applicable to the Lease Insurance Program, and (iii) promptly make all amounts in such account available to the Sports Authority, as beneficiary of such account, to fully cover any Deductible Amount under the Lease Insurance Program.

(b) All proceeds from insurance maintained by the Metropolitan Government in accordance with this Agreement and by the Sports Authority in accordance with the Lease Insurance Program and paid on account of any damage or destruction to the Facilities shall be deposited into an additional segregated, special account established by the Metropolitan Government for its benefit and the benefit of the Sports Authority (the "**Special Account**"). During the Term, the Metropolitan Government shall maintain the Special Account and all funds deposited therein for the benefit of the Metropolitan Government to fund its repair, restoration and replacement obligations under this Agreement and for the benefit of the Sports Authority to fund its repair, restoration and replacement obligations under Article 8 of the Stadium Lease. The Metropolitan Government shall not permit any funds deposited into the Special Account to be withdrawn prior to the completion of the repair, restoration or replacement of all of the Damaged Facilities, except (i) for the purpose of making payments from time to time as repair, restoration or replacement work progresses in amounts equal to the sum of the cost of labor and materials incorporated into and used in such work and builders', architects' and engineers' fees and other charges in connection with such work and (ii) upon delivery to the Metropolitan Government of a certificate of the Principal Architect certifying that the amounts to be paid are then due and payable and have not theretofore been paid, a copy of which shall be provided to Cumberland and the Sports Authority. Notwithstanding the foregoing, the Metropolitan Government shall not permit any funds to be withdrawn from the Special Account unless each member of the Oversight Committee has approved such withdrawal, which approval shall not be unreasonably withheld. Neither the unavailability of funds in the Special Account nor the failure of Oversight Committee to approve any requested withdrawal, other than any approval unreasonably withheld by the representative of Cumberland on the Oversight Committee, shall diminish the Metropolitan Government's obligations under this Agreement or the Sport

Authority's obligations under the Stadium Lease to repair, restore or replace the Damaged Facilities at their respective sole cost and expense.

ARTICLE 6. INSURANCE

6.1 Insurance of the Metropolitan Government. Throughout the construction period, the Metropolitan Government, at no cost to the Team Parties, shall keep and maintain, or shall cause to be kept and maintained, in full force and effect a policy or policies containing the following types of coverages, deductibles, limits and other terms (each, an "Insurance Policy"):

(a) Comprehensive builder's casualty and property insurance against any and all casualty or property loss or damage to the Facilities on an "all risk" peril basis (other than earthquakes and floods) including coverage against fire, extended coverage, vandalism, malicious mischief and special extended perils as contained in customary "all risk" policies;

(b) Comprehensive builder's casualty and property insurance against any and all loss or damage to the Facilities caused by earthquake or flood in an amount not less than \$25,000,000;

(c) Commercial general liability insurance, including coverage for injury or death of any person or damage to property occurring with respect to the Facilities with a single combined minimum limit coverage of not less than \$1,000,000 per occurrence; and

(d) (i) Non-Metropolitan Government Employees - Workers' compensation insurance - in accordance with Applicable Law;

(ii) Metropolitan Government Employees - the employee benefit program provided pursuant to Applicable Law in lieu of worker's compensation coverage;

(e) (i) Non-Metropolitan Government Employees - Employer's liability insurance, as follows:

bodily injury by accident-not less than \$1,000,000 each accident
bodily injury by disease-not less than \$1,000,000 each employee
bodily injury by disease-not less than \$1,000,000 policy limit;

(ii) Metropolitan Government Employees - liability program provided pursuant to Applicable Law;

(f) Automobile liability insurance - not less than \$1,000,000 combined single limit each accident; and

(g) Umbrella liability insurance - not less than \$24,000,000 combined single limit each occurrence in excess of each of the coverages described in clauses (c), (e) and (f).

If any Insurance Policy containing the coverage and other terms set forth herein is not available on a reasonable basis, the Metropolitan Government shall in lieu thereof keep and maintain in full force and effect such policy as is then available on a reasonable basis that most nearly approximates the terms described above. Other than the Metropolitan Government's self insurance fund maintained and administered in accordance with Section 5.2, the Metropolitan Government and the Sports Authority shall not obtain or maintain separate insurance coverage specifically related to the Facilities that is concurrent in form, or contributing in the form of loss, to the coverage required by this Agreement or the Stadium Lease unless both of the Team Parties are named in such concurrent or other coverage as additional insureds and loss payees in the same manner as required by this Agreement and the Stadium Lease with respect to the Insurance Policies or the Lessor Policies, respectively. The Metropolitan Government and the Sports Authority shall promptly notify each of the Team Parties whenever any such separate insurance coverage is obtained and shall deliver to each of the Team Parties such certificates of insurance and other documentation (other than blanket policies) reasonably required by the Team Parties to ensure compliance with the requirements set forth in the immediately preceding sentence.

6.2 Additional Terms of Insurance Policies.

(a) Each Insurance Policy shall be with companies that are nationally recognized and, if underwriting primary coverage, that have a policyholder's rating of at least A, X, as listed at the time of issuance by *A. M. Best Insurance Reports*, or such other rating as the Metropolitan Government and Cumberland may mutually agree, and are qualified to issue such insurance in Tennessee.

(b) Each Insurance Policy shall provide that it may not be canceled, terminated, reduced or materially changed unless at least 30 days' advance notice thereof has been provided to Cumberland, except in the case of cancellation or termination due to a lapse for nonpayment, in which case only 10 days' advance notice shall be required.

(c) Each Insurance Policy shall include waivers of (i) all rights of subrogation against the Team Parties and their Affiliates and (ii) any recourse against any parties other than the Metropolitan Government for payment of any premiums or assessments under such policy.

(d) Each Insurance Policy covering third-party liability shall contain a "cross-liability" endorsement or a "severability of interest" endorsement providing that coverage, to the maximum amount of the policy, shall be available despite any suit between the insured and any additional insured under such policy.

(e) The Insurance Policies shall not in the aggregate have deductibles in excess of \$2,000,000 or such higher dollar amount permitted under Section 5.2(a).

(f) Each Insurance Policy obtained in accordance with Sections 6.1(a) and 6.1(b) shall be on a "completed value" form including "boiler and machinery" coverage, with

"course of construction" business interruption insurance in such amount as may be determined by the Metropolitan Government, and shall contain an endorsement providing that, in the case of loss, if the Facilities cost more to restore due to changes in Applicable Law, then such increased costs shall be insured.

(g) Each Insurance Policy shall provide that it may not be invalidated by any act, omission or negligence of the Team Parties; provided that the commercial general liability insurance coverage may contain customary provisions excluding from its coverage loss or injury arising from acts of Cumberland or the NFL Team Entity intended to result in such loss or injury.

(h) Each Insurance Policy maintained in accordance with Sections 6.1(a) and 6.1(b) shall name the Team Parties as joint loss payees. Each Insurance Policy maintained in accordance with Section 6.1(c) shall name as additional insureds the Team Parties and the following Affiliates thereof: Cumberland Stadium Management, Inc., Dream Suites, L.P., Cumberland Promotional Enterprises, L.L.C. and such other Affiliates thereof that Cumberland requests by giving the Metropolitan Government at least 60 days' advance notice.

(i) Each Insurance Policy providing liability coverage shall contain an endorsement specifying this Agreement, the Stadium Lease and the Team Contract as "insured contracts."

6.3 Certificates of Insurance. The Metropolitan Government shall deliver, or cause to be delivered, to the Team Parties certificates of insurance and any other documentation reasonably requested by the Team Parties evidencing the existence of the Insurance Policies, such delivery to be made at least three business days prior to the Commencement of the Work. Within 21 days after the issuance of any additional policies or amendments or supplements to any of the Insurance Policies, the Metropolitan Government shall deliver revised certificates of insurance reflecting any such addition, amendment or supplement. With respect to any Insurance Policy that expires by its terms prior to the date on which Substantial Completion occurs, the Metropolitan Government shall deliver certificates of insurance and any other documentation reasonably requested by the Team Parties evidencing the existence of a renewal or replacement of such Insurance Policy, such delivery to be made at least three business days prior to the expiration of such Insurance Policy; provided that the Metropolitan Government may instead deliver a facsimile of the binder of insurance, such facsimile delivery to be made on or prior to the expiration of such Insurance Policy, and within ten days after the expiration of the such Insurance Policy, the actual certificate of insurance and other requested documentation shall be furnished to the Team Parties.

6.4 Additional Coverage. In addition to the policies required to be maintained by the Metropolitan Government in accordance with the other provisions of this Agreement, if from time to time requested by the Team Parties, if commercially available and if permitted by Applicable Law, the Metropolitan Government shall also keep and maintain, at the Team Parties' sole cost, commercial general liability insurance covering such risks and on such terms as so requested by the Team Parties. Each such policy shall name the Team Parties and their respective Affiliates as additional insureds. The Team Parties shall promptly reimburse the

Metropolitan Government for its out-of-pocket incremental premiums and costs paid by the Metropolitan Government in procuring insurance requested pursuant to this Section 6.4.

ARTICLE 7. TERMINATION

7.1 Termination by the Team Parties. Any one or more of the following shall constitute a "Team Party Termination Event":

(a) the termination of the Stadium Lease in accordance with its terms or the giving of notice under Section 11.3 to terminate the Stadium Lease in accordance with Section 11.3;

(b) except with respect to the failures described in Sections 7.1(c), 7.1(d), 7.1(e), 7.1(f), 7.1(g), 7.1(h), 7.1(i), 7.1(j), 7.1(k), 7.1(l), and 7.1(m), the failure by the Metropolitan Government or the Sports Authority to observe or perform in any material respect any of its material covenants or agreements in this Agreement or the breach in any material respect by the Metropolitan Government or the Sports Authority of any of its representations or warranties under this Agreement, and if such failure or breach shall continue for more than 60 days following notice thereof to the Metropolitan Government and the Sports Authority by either of the Team Parties; provided that no Team Party Termination Event shall occur with respect to any matter under this Section 7.1(b) that cannot be reasonably cured within such 60-day period so long as within such 60-day period the Metropolitan Government or the Sports Authority, as applicable, has commenced such cure and diligently proceeds in a reasonable manner thereafter to complete the same and provided further that no notice given under this Section 7.1(b) shall be effective unless the obligation to cure under this Section 7.1(b) is specifically referenced therein;

(c) the failure by the Metropolitan Government to comply with its obligations under Section 2.2(a)(i) of this Agreement;

(d) the Principal Architect indicates in the Update Opinion that Substantial Completion (i) will not occur by September 1, 2000, for any reason whatsoever or (ii) will not occur by June 1, 2000, and for purposes of this clause (ii), further indicating that not more than 90 days of delay in achieving Substantial Completion have been attributable to reasons other than those described in Sections 4.1(c)(iii)(I)-(IV);

(e) an Update Opinion satisfying the requirements of Section 4.1(c) is not delivered to the Team Parties on or before March 15, 2000, if the issuance of an Update Opinion is required pursuant to such Section 4.1(c);

(f) Substantial Completion has not occurred by October 1, 2000, for any reason whatsoever;

(g) any Tennessee Governmental Authority enacts any Tennessee Adverse Law; provided that no Team Party Termination Event shall occur with respect to any matters under this

Section 7.1(g) unless (i) either of the Team Parties shall have notified the Metropolitan Government and the Sports Authority that a Tennessee Adverse Law has been enacted by a Tennessee Governmental Authority (which notice shall not be effective unless such notice specifies that it is a notice under this Section 7.1(g)) and (ii) within 60 days after such notice is given such Tennessee Adverse Law shall not have been either (I) rescinded by the Governmental Authority that enacted it, or (II) modified or amended by the Governmental Authority that enacted it such that such Tennessee Adverse Law no longer is a Tennessee Adverse Law;

(h) the Parties are unable to agree upon the Master Program Schedule, the Final Schematic Drawings, the detailed Budget, the detailed Stadium criteria or the Stadium Site boundaries under the circumstances and as of the dates described in Sections 3.1(c), 3.3(f) and 3.3(g);

(i) if any provision of this Agreement or the Stadium Lease that requires the performance of a material obligation by the Metropolitan Government or the Sports Authority is unenforceable under Applicable Law and the Metropolitan Government or the Sports Authority, as applicable, does not, within 60 days after such performance otherwise would have been required, take other action in lieu of such performance that places the applicable Team Party in substantially the same position as it would have been in had such performance timely occurred;

(j) the failure of any of the Required Approvals to be obtained as follows:

- (i) the approval of the NFL to the relocation of the Team to Nashville, Tennessee, and to the Stadium Lease, the Guaranty and the Team Contract, on or before March 15, 1996;
- (ii) the final approval of this Agreement, the Stadium Lease, the Guaranty and the Team Contract by the Metropolitan County Council, on or before March 6, 1996;
- (iii) the final authorization by the Metropolitan County Council and the Sports Authority of the issuance and sale of the portion of the Public Debt to be issued by either of them, not later than the time that the approval referred to in clause (ii) occurs;
- (iv) the final approval by the State (including, with respect to the TSU Agreement, the approval of TSU and the Tennessee Board of Regents) of the issuance and sale of the State's share of the Public Debt, the Infrastructure Improvements and the TSU Agreement, on or before March 10, 1996; and
- (v) the approval of this Agreement, the Stadium Lease, the Team Contract and the Guaranty by, as applicable, the Board of Directors of the NFL Team Entity and the general partner of Cumberland (which approval may be granted or withheld in the sole discretion of the applicable entity, without regard to good faith or any other

standard), not later than one business day prior to the approval provided for under clause (ii);

(k) the failure of the Sports Authority to execute and deliver the Stadium Lease as and when required by Section 9.9(b);

(l) the failure or refusal of legal counsel for either the Metropolitan Government or the Sports Authority to deliver legal opinions as and when contemplated by Section 9.9(c); and

(m) if the Election Commission determines that a Referendum is required with respect to all or any portion of the Referendum Public Debt and one of the following shall not have occurred on or before the Referendum Determination Date: (i) a court of competent jurisdiction shall have issued a final, non-appealable order holding that no Referendum is required in connection with the issuance of such Referendum Public Debt or (ii) the Metropolitan Government determines and declares in accordance with Applicable Law that the results of the Referendum permit the issuance of the Referendum Public Debt to which the Referendum applied.

7.2 Termination by the Metropolitan Government or the Sports Authority.

Any one or more of the following shall constitute a "Government Termination Event":

(a) the termination of the Stadium Lease in accordance with its terms or the giving of notice under Section 11.3 to terminate the Stadium Lease in accordance with Section 11.3;

(b) except with respect to the failures described in Sections 7.2(c), 7.2(d), 7.2(e), 7.2(f), 7.2(g), 7.2(h) and 7.2(i), the failure by either of the Team Parties to observe or perform in any material respect any of its material covenants or agreements under this Agreement or a breach in any material respect of any of its representations or warranties under this Agreement, if such failure or breach shall continue for more than 60 days following notice thereof to the Team Parties by the Sports Authority and the Metropolitan Government; provided, no Government Termination Event shall occur with respect to any matter under this Section 7.2(b) that cannot be reasonably cured within such 60-day period, if within such 60-day period Cumberland or the NFL Team Entity, as applicable, has commenced to cure such matter and diligently proceeds in a reasonable manner thereafter to complete the same and provided further that no notice given under this Section 7.2(b) shall be effective unless the obligation to cure under this Section 7.2(b) is specifically referenced therein;

(c) the Parties are unable to agree upon the Master Program Schedule, the Final Schematic Drawings, the detailed Budget, the detailed Stadium criteria or the Stadium Site boundaries under the circumstances and as of the dates described in Sections 3.1(c), 3.3 (f) and 3.3(g);

(d) if any provision of this Agreement or the Stadium Lease that requires the performance of a material obligation by Cumberland or the NFL Team Entity is unenforceable

under Applicable Law and Cumberland or the NFL Team Entity, as applicable, does not, within 60 days after such performance otherwise would have been required, take other action in lieu of such performance that places each of the Metropolitan Government and the Sports Authority, as applicable, in substantially the same position as it would have been in had such performance timely occurred;

- (e) the failure of any of the Required Approvals to be obtained as follows:
 - (i) the approval of the NFL to the relocation of the Team to Nashville, Tennessee, and to the Stadium Lease, the Guaranty and the Team Contract, on or before March 15, 1996;
 - (ii) the final approval of this Agreement, the Stadium Lease, the Guaranty and the Team Contract by the Metropolitan County Council, on or before March 6, 1996;
 - (iii) the final authorization by the Metropolitan County Council and the Sports Authority of the issuance and sale of the portion of the Public Debt to be issued by either of them, not later than the time that the approval referred to in clause (ii) occurs;
 - (iv) the final approval by the State (including, with respect to the TSU Agreement, the approval of TSU and the Tennessee Board of Regents) of the issuance and sale of the State's share of the Public Debt, the Infrastructure Improvements and the TSU Agreements, on or before March 10, 1996; and
 - (v) the approval of this Agreement, the Stadium Lease, the Team Contract and the Guaranty by, as applicable, the Board of Directors of the NFL Team Entity and the general partner of Cumberland (which approval may be granted or withheld in the sole discretion of the applicable entity, without regard to good faith or any other standard), not later than one business day prior to the approval provided for under clause (ii);

(f) the failure of Cumberland to execute and deliver the Stadium Lease or the Team Contract as and when required by Section 9.9(b);

(g) the failure of the NFL Team Entity to execute and deliver the Team Contract and the Guaranty as and when required by Section 9.9(b);

(h) the failure or refusal of legal counsel for the Team Parties to deliver legal opinions as and when contemplated by Section 9.9(c); and

(i) if the Election Commission determines that a Referendum is required with respect to all or any portion of the Referendum Public Debt and one of the following shall not

have occurred on or before the Referendum Determination Date: (i) a court of competent jurisdiction shall have issued a final, non-appealable order holding that no Referendum is required in connection with the issuance of such Referendum Public Debt or (ii) the Metropolitan Government determines and declares in accordance with Applicable Law that the results of the Referendum permit the issuance of the Referendum Public Debt to which the Referendum applied.

7.3 Effect of Termination Event. This Agreement may be terminated as follows:

(a) upon the occurrence of a Termination Event described in Section 7.1(a) or 7.2(a), this Agreement shall automatically terminate without notice to any Party;

(b) upon the occurrence of a Termination Event described in Section 7.1(c), this Agreement shall terminate on the date either of the Team Parties notifies the Metropolitan Government so long as such notice is given while such failure of the Metropolitan Government continues;

(c) upon the occurrence of a Team Party Termination Event described in Section 7.1(d), this Agreement shall terminate on the date either of the Team Parties notifies the Metropolitan Government so long as such notice is given on or before the later of (i) March 1, 2000, and (ii) the 15th day after the Team Parties' receipt of an Update Opinion complying with the provisions of Section 4.1(c);

(d) upon the occurrence of a Team Party Termination Event described in Section 7.1(e), this Agreement shall terminate on the date either of the Team Parties notifies the Metropolitan Government so long as such notice is given on or before April 1, 2000;

(e) upon the occurrence of a Team Party Termination Event described in Section 7.1(f), this Agreement shall terminate on the date either of the Team Parties notifies the Metropolitan Government so long as such notice is given on or before October 15, 2000;

(f) upon the occurrence of any Team Party Termination Event described in Section 7.1(b), 7.1(g), 7.1(j), 7.1(k) or 7.1(l), this Agreement shall terminate on the date that either of the Team Parties notifies the Metropolitan Government so long as such notice is given while the failure, circumstance or status resulting in the Team Party Termination Event continues;

(g) upon the occurrence of any Team Party Termination Event described in Section 7.1(h) or 7.1(i), if either of the Team Parties notifies the other Parties of its intent to terminate this Agreement (giving a reasonable description of the Team Party Termination Event), this Agreement shall terminate on the 30th day following the giving of such notice unless within such 30 day period (i) in the case of a Team Party Termination Event described in Section 7.1(h), the Parties agree upon the Master Program Schedule, the Final Schematic Drawings, the detailed Budget, the detailed Stadium criteria or the Stadium boundaries as the case may be or (ii) in the case of a Team Party Termination Event described in Section 7.1(i), the Metropolitan

Government or the Sports Authority, as applicable, has not taken the action contemplated by Section 7.1(i);

(h) upon the occurrence of any Government Termination Event described in Section 7.2(b), 7.2(e), 7.2(f), 7.2(g) or 7.2(h), this Agreement shall terminate on the date that either the Metropolitan Government or the Sports Authority notifies the Team Parties so long as such notice is given while the failure, circumstance or status resulting in the Government Termination Event continues; and

(i) upon the occurrence of any Government Termination Event described in Section 7.2(c) or 7.2(d), if the Metropolitan Government or the Sports Authority notifies the other Parties of its intent to terminate this Agreement (giving a reasonable description of the Government Termination Event), this Agreement shall terminate on the 30th day following the giving of such notice unless within such 30 day period (i) in the case of a Government Termination Event described in Section 7.2(c), the Parties agree upon the Master Program Schedule, the Final Schematic Drawings, the detailed Budget, the detailed Stadium criteria or the Stadium boundaries as the case may be, or (ii) in the case of a Government Termination Event described in Section 7.2(d), Cumberland or the NFL Team Entity, as applicable, has not taken the action contemplated by Section 7.2(d).

(j) Upon the occurrence of a Team Party Termination Event described in Section 7.1(m), this Agreement shall terminate on the date either of the Team Parties notifies the Metropolitan Government.

(k) Upon the occurrence of a Government Termination Event described in Section 7.2(i), this Agreement shall terminate on the date either the Metropolitan Government or the Sports Authority notifies the Team Parties.

No notice given under this Section 7.3 shall be effective as a termination notice unless termination under this Section 7.3 is specifically referenced therein. Except with respect to remedies available hereunder or under the Stadium Lease that are designated as being "exclusive remedies" with respect to a particular matter, the Party exercising its termination rights in accordance with this Section 7.3 shall have such other rights and remedies as may be available at law or in equity.

7.4 Obligations Following Termination. Upon the termination of this Agreement in accordance with the terms of this Agreement (including termination pursuant to Section 9.7), none of the Parties shall have any further obligations or liabilities accruing hereunder after such termination; provided that, subject to Section 9.7, termination of this Agreement shall not affect any obligations or liabilities attributable to the period prior to such termination.

7.5 Agreement Never Effective. In addition to the provisions of this Article 7 providing for the termination of this Agreement, Section 9.9(a) sets forth circumstances under which this Agreement shall never become effective.

**ARTICLE 8.
REPRESENTATIONS AND WARRANTIES**

8.1 Representations and Warranties of the Metropolitan Government and the Sports Authority. Each of the Metropolitan Government and the Sports Authority, severally and only with respect to itself, represents and warrants to the Team Parties as of the Effective Date, as follows:

(a) the Metropolitan Government has all requisite municipal power and authority to execute, deliver and perform its obligations under this Agreement, and the Sports Authority has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement and the Stadium Lease;

(b) the Sports Authority is a public, nonprofit corporation, duly organized, validly existing and in good standing under the laws of the State and is a "Sports Authority" as defined in the Tennessee Sports Authorities Act of 1993, as amended;

(c) this Agreement has been duly authorized, executed and delivered by the Metropolitan Government and constitutes the legal, valid and binding obligation of it, enforceable against it in accordance with the terms hereof, except to the extent enforceability is limited by bankruptcy, reorganization and other similar laws affecting the rights of creditors generally and by general principles of equity;

(d) this Agreement has been duly authorized, executed and delivered by the Sports Authority and constitutes, and the Stadium Lease has been duly authorized by the Sports Authority and, upon the execution and delivery thereof by the Sports Authority, will constitute, the legal, valid and binding obligations of it, enforceable against it in accordance with the terms hereof and thereof, except to the extent enforceability is limited by bankruptcy, reorganization and other similar laws affecting the rights of creditors generally and by general principles of equity;

(e) each of the Metropolitan Government and the Sports Authority has obtained all authorizations, consents or approvals required for the execution, delivery and performance by it of this Agreement and, with respect to the Sports Authority, the Stadium Lease;

(f) the execution, delivery, and performance of this Agreement by each of the Metropolitan Government and the Sports Authority and of the Stadium Lease by the Sports Authority do not conflict with, nor will they result in a breach or violation of, any of the terms, conditions or provisions of (i) any Applicable Law or (ii) any charter document, indenture, mortgage, material contract or other material agreement or instrument to which either of them is a party or by which either of them or any of their respective properties are bound;

(g) the Sports Authority may, in compliance with Applicable Law, lease the Facilities to Cumberland pursuant to the terms of the Stadium Lease, even if the terms thereof include rent payments less than the amounts required to service and pay the Public Debt;

(a) except as stated below in this Section 8.1(h), (i) neither the Metropolitan Government nor the Sports Authority is or shall be required to hold any referendum or election in connection with the issuance and sale of any portion of the Public Debt or the Stadium Lease or the Team Contract, and (ii) the issuance and sale of the Public Debt by each of the Metropolitan Government and the Sports Authority, and the use of the proceeds thereof as contemplated by this Agreement, the Stadium Lease and the Team Contract, do not conflict with, nor with they result in a breach of violation of, any Applicable Law. the foregoing provisions of this Section 8.1(h), the Metropolitan Government will be required to hold a referendum prior to (and as a condition to) the Metropolitan Government's issuance and sale of its portion of the Public Debt if a petition satisfying the requirements of Tennessee Code Annotated Section 9-21-207 is filed in accordance with such Section 9-21-207 on or before February 28, 1996.

8.2 Representations and Warranties of the Team Parties. The NFL Team Entity and Cumberland jointly and severally represent and warrant to the Metropolitan Government and the Sports Authority as of the Effective Date, as follows:

(a) the NFL Team Entity is a duly organized and validly existing corporation under the laws of the State of Texas, is in good standing under the laws of the State of Texas, and has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, the Team Contract and the Guaranty;

(b) Cumberland is a duly organized and validly existing limited partnership under the laws of the State, is in good standing under the laws of the State, and has all requisite partnership power and authority to execute, deliver and perform its obligations under this Agreement, the Stadium Lease and the Team Contract;

(c) this Agreement has been duly authorized, executed and delivered by the NFL Team Entity and constitutes, and the Team Contract and the Guaranty have been duly authorized by the NFL Team Entity and, upon due execution and delivery by the NFL Team Entity, will constitute, the legal, valid and binding obligations of it, enforceable against it in accordance with the terms hereof and thereof, except to the extent enforceability is limited by bankruptcy, reorganization and other similar laws affecting the rights of creditors generally and by general principles of equity;

(d) this Agreement has been duly authorized, executed and delivered by Cumberland and constitutes, and the Stadium Lease and the Team Contract have been duly authorized by Cumberland and, upon due execution and delivery by Cumberland, will constitute, the legal, valid and binding obligations of it, enforceable against it in accordance with the terms hereof and thereof, except to the extent enforceability is limited by bankruptcy, reorganization and other similar laws affecting the rights of creditors generally and by general principles of equity;

(e) except with respect to the Required Approvals described in Sections 7.1(j)(i) and 7.2(e)(i), the NFL Team Entity has obtained all authorizations, consents, or approvals required for the execution, delivery and performance by it of this Agreement, the Team Contract and the Guaranty;

(f) except with respect to the Required Approvals described in Sections 7.1(j)(i) and 7.2(e)(i), Cumberland has obtained all authorizations, consents, or approvals required for the execution, delivery and performance by it of this Agreement, the Stadium Lease and the Team Contract;

(g) except with respect to the Required Approvals described in Sections 7.1(j)(i) and 7.2(e)(i), the execution, delivery and performance of this Agreement, the Team Contract and the Guaranty by the NFL Team Entity do not conflict with, nor will they result in a breach or violation of, any of the terms, conditions or provisions of (i) any Applicable Law or (ii) any charter document, indenture, mortgage, material contract or other material agreement or instrument to which it is a party or by which it or any of its properties are bound;

(h) except with respect to the Required Approvals described in Sections 7.1(j)(i) and 7.2(e)(i), the execution, delivery and performance of this Agreement, the Stadium Lease and the Team Contract by Cumberland do not conflict with, nor will they result in, a breach or violation of any of the terms, conditions or provisions of (i) any Applicable Law or (ii) any charter document, indenture, mortgage, material contract or other material agreement or instrument to which it is a party or by which it or any of its properties are bound;

(i) except with respect to the Required Approvals described in Sections 7.1(j)(i) and 7.2(e)(i), Cumberland may, in compliance with Applicable Law and with all contractual obligations of Cumberland, lease the Facilities pursuant to the terms of the Stadium Lease;

(j) except with respect to the Required Approvals described in Sections 7.1(j)(i) and 7.2(e)(i), the NFL Team Entity may, in compliance with Applicable Law and with all contractual obligations of the NFL Team Entity, move the Team to Nashville at the end of the 1997 NFL season and thereafter play Possible Stadium Games at the Facilities;

(k) the NFL Team Entity approached the Governments unilaterally without solicitation by the Metropolitan Government or the Sports Authority or their agents with a view to discussing the relocation of the Team;

(l) the Team Parties, collectively, are financially capable of performing all of the obligations of Cumberland and the NFL Team Entity under this Agreement and the Stadium Lease; and

(m) the NFL Team Entity is the valid and legal holder of, and has the exclusive rights with respect to, the NFL professional football franchise currently known as Houston Oilers, which franchise is in full force and effect.

ARTICLE 9.
CERTAIN COVENANTS

9.1 Arrangements Regarding Utilities. The Metropolitan Government and the Sports Authority shall use reasonable efforts to assist Cumberland in securing such utility services as Cumberland deems necessary or advisable to perform its obligations under the Stadium Lease at such rates and on such terms that are no less favorable than rates and terms granted during the Term to any other private party with respect to utility services (other than services supplied with respect to the Facilities) by the Governments or any political subdivision thereof.

9.2 Targeted Tax; Condemnation. The Metropolitan Government and the Sports Authority shall use reasonable efforts to prevent the imposition by any Governmental Authority (other than the Metropolitan Government) of any Targeted Tax including any Targeted Ticket Tax and to prevent any Governmental Authority (other than the Metropolitan Government) from condemning through the power of eminent domain or otherwise the whole or any part of the Facilities during the Term.

9.3 Oilers Expenses Reimbursement Fee

(a) The Sports Authority shall pay the NFL Team Entity an amount equal to \$28 million to reimburse the NFL Team Entity for certain costs incurred thereby in relocating the Team from Houston, Texas to Nashville, including, without limitation, legal and consulting fees, relocation and moving allowances for front office employees, coaches, players and staff, costs associated with name change, uniform redesign and logo development, lost profits and business opportunities and significant other relocation costs (the "*Reimbursement Fee*"). The Reimbursement Fee shall be payable by the Sports Authority to the NFL Team Entity as follows:

- (i) an amount equal to \$7.0 million concurrently with the execution of the Stadium Lease and the Team Contract;
- (ii) an amount equal to \$3.5 million on August 1, 1996;
- (iii) an amount equal to \$3.5 million on March 1, 1997;
- (iv) an amount equal to \$7.0 million on August 1, 1997; and
- (v) an amount equal to \$7.0 million within 15 days after the Team plays its first Possible Stadium Game (other than any such game played during either the 1996 or 1997 NFL football seasons) in the State, either at the Facilities or at an alternate site.

(b) If any Party terminates this Agreement pursuant to Section 7.3(g) (upon the occurrence of a Team Party Termination Event described in Section 7.1(h)) or 7.3(i) (upon the occurrence of a Government Termination Event described in Section 7.2(c)), the NFL Team

Entity will repay the Reimbursement Fee that shall have been paid to it within 60 days after the date of such termination.

9.4 Interim Practice Facility. The Sports Authority will provide the Team, at no cost to Cumberland and the NFL Team Entity, an interim practice facility in Nashville reasonably acceptable to the Team Parties and available to be utilized after the 1997 NFL season (or at such earlier time as may be applicable under the circumstances described in Section 9.6) at any time after reasonable advance notice is given by the Team Parties to the Sports Authority that such interim practice facility will be needed pending Substantial Completion. The Sports Authority shall pay up to \$250,000 for the costs of upgrading and refurbishing the interim practice facility to meet the Team's requirements. Such sum shall be paid by the Sports Authority to the NFL Team Entity or to any Person designated by the NFL Team Entity as the Person entitled to receive such payment. Payment of such sum (or portions thereof) shall be payable from time to time within 30 days following receipt by the Sports Authority of reasonable evidence of periodic incurrences of such costs.

9.5 Annual Training Camp. The Metropolitan Government and the Sports Authority will use reasonable efforts to assist the NFL Team Entity in arranging for a long-term lease with a city and suitable institution within the State to conduct an annual training camp for the Team, which lease and training camp will provide comparable benefits as other first-class annual training facilities made available to other NFL teams.

9.6 Early Relocation. In the event the Team is not required (either contractually or legally) to play its NFL home games in Houston, Texas in either the 1996 NFL season or 1997 NFL season and desires to relocate to the State during either such season, the NFL Team Entity will notify the Metropolitan Government and the Sports Authority of its intent to relocate prior to the 1997 post-season period. Upon receipt of such notice, the Metropolitan Government and the Sports Authority will use reasonable efforts to assist the NFL Team Entity in obtaining an alternate stadium site or sites in the State for the Team for use during the 1996 NFL season and the 1997 NFL season, as required, upon terms satisfactory to the Team Parties, and the NFL Team Entity shall obtain, at its sole cost and expense, such stadium site or sites for such season or seasons.

9.7 Tennessee Adverse Law. It is not intended by the Parties that any Tennessee Governmental Authority shall be restricted by this Agreement from enacting any Tennessee Adverse Law; provided, however, it is the expectation of the Parties that no Tennessee Adverse Law will be enacted. If a Tennessee Adverse Law is enacted at any time during the Term, then in addition to any other rights the Team Parties may have under Sections 7.1(g) and 7.3(f) or otherwise at law or in equity, the Metropolitan Government and the Sports Authority shall be obligated to pay (the "*Payment Obligation*") to the Team Parties an aggregate amount equal to the Damages suffered by reason of the enactment and effect of any Tennessee Adverse Law. If (a) a Tennessee Adverse Law shall be enacted by a Tennessee Governmental Authority, other than the Metropolitan Government or a Governmental Authority under the Metropolitan Government, and (b) either or both of the Team Parties make a claim for any such Damages in connection with such Tennessee Adverse Law against either or both of the Metropolitan Government and the Sports Authority, then the Metropolitan Government and the Sports

Authority may notify the Team Parties that the Metropolitan Government and the Sports Authority desire to terminate the Payment Obligation with respect to such Tennessee Adverse Law. If such notice is so given, then unless within 60 days thereafter the Team Parties notify the Metropolitan Government and the Sports Authority that the Team Parties are waiving any further right to such Damages with respect to such Tennessee Adverse Law effective from and after the time of the giving of such notice by the Metropolitan Government and the Sports Authority, this Agreement shall terminate as of the end of such 60 day period, and neither party shall have any further rights or obligations hereunder, except for rights and obligations that have accrued prior to such termination or, with respect to Damages in connection with a Tennessee Adverse Law, that have accrued prior to the Metropolitan Government's giving of the notice described above.

9.8 Team Contract Review and Approval Rights. The Sports Authority has reviewed and approved the portions of the Team Contract affecting the public interest, including the portions governing the NFL Team Entity's commitment to cause the Team to play the Team Home Games in the Facilities. The Team Parties agree not to enter into any amendment, restatement or modification of any nature to the Team Contract without first obtaining the Sports Authority's written consent, which consent shall not be unreasonably withheld. As a condition to giving such consent, the Sports Authority shall be entitled to review the portions of any such amendment, restatement or other modification that directly affect the public interest (as contrasted with portions that govern the sharing of revenues between the Team Parties, rent payable by the NFL Team Entity to Cumberland and other provisions governing the economic rights of the Team Parties with respect to one another), including, without limitation, any modification of Section 2.1(c) of the Team Contract. The Team Parties may, to the maximum extent permitted by Applicable Law, redact and omit (prior to furnishing any such document to the Sports Authority) from the Team Contract and any amendment, restatement or modification thereto any portions thereof that are confidential and do not directly affect the public interest, provided that the Team Parties provide the Sports Authority with a general description of the types of matters covered by the portions that have been omitted, such as, by way of illustration only, a description that states only that such matters involve revenue allocations between the parties thereto. The Sports Authority shall be deemed to have given its consent to any amendment, restatement or other modification to the Team Contract if the Sports Authority does not furnish written objections (giving reasonable detail of the reasons underlying such objections) to the Team Parties within 15 days after the Sports Authority's receipt of those portions of any such document to which it is entitled to review pursuant to the terms of this Section 9.8.

9.9 Delivery of Executed Documents; Legal Opinions.

(a) The Metropolitan Government shall execute and deliver fully executed copies of this Agreement to the Sports Authority and each of the Team Parties not later than the second business day after the Metropolitan County Council has given its final approval to this Agreement, the Stadium Lease and the Team Contract by the adoption of an appropriate ordinance. The date on which the Metropolitan Government executes and delivers this Agreement and files a copy of the same with the Metropolitan Clerk of the Metropolitan Government shall be the effective date of this Agreement (the "*Effective Date*"), and notwithstanding anything to the contrary in this Agreement, this Agreement shall not be binding

on the parties until the Effective Date. The Metropolitan Government hereby acknowledges its prior receipt of copies of this Agreement that have been fully executed by all Parties other than the Metropolitan Government. The Metropolitan Government shall fill in the Effective Date in the space opposite its name on the signature page hereof. If the Effective Date does not occur on or before March 7, 1996, this Agreement shall never become effective and the offers of Cumberland, the NFL Team Entity and the Sports Authority to enter into this Agreement with the Metropolitan Government shall be withdrawn automatically with no further act or notice by any of such Parties.

(b) The "*Execution Date*" shall be the second business day after both of the following shall have occurred: (i) the final Required Approval shall have been obtained; and (ii) the applicable date set forth below shall have occurred: (I) if no Referendum Petition shall have been filed with the Metropolitan Government on or before February 28, 1996, the applicable date shall be February 28, 1996; (II) if one or more Referendum Petitions shall have been filed with the Metropolitan Government on or before February 28, 1996 and the Election Commission certification to the Metropolitan Government required by Tennessee Code Annotated Section 9-21-207(b) establishes that a Referendum is not required as the result of the filing of any such Referendum Petition, the applicable date shall be the date of such certification; or (III) if one or more Referendum Petitions shall have been filed with the Metropolitan Government on or before February 28, 1996 and the Election Commission certification to the Metropolitan Government required by Tennessee Code Annotated Section 9-21-207(b) establishes that a Referendum is required as a result of the filing of any such Referendum Petition, the applicable date shall be the latter of (A) the day on which a court of competent jurisdiction issues a final, non-appealable order holding that no such Referendum is required or (B) the day on which the Metropolitan Government determines and declares in accordance with Applicable Law that the results of the Referendum permit the issuance of the Public Referendum Debt to which the Referendum applied. On the Execution Date, (I) the Sports Authority and Cumberland will execute and deliver copies of the Stadium Lease to one another and to the Metropolitan Government and the NFL Team Entity; (II) the Team Parties will execute and deliver copies of the Team Contract to one another, and to the Metropolitan Government and the Sports Authority; and (III) the NFL Team Entity will execute and deliver copies of the Guaranty to each of the other Parties.

(c) Simultaneously with the execution and delivery of the Stadium Lease, the Team Contract and the Guaranty pursuant to Section 9.9(b), the Metropolitan Government, the Sports Authority and the Team Parties, respectively, will cause their respective legal counsel to deliver to the other Parties legal opinions in the respective forms attached hereto collectively as Annex V. Such opinions will be dated as of such delivery date.

9.10 NFL Franchise Transfer Fee: NFL Fee Account.

(a) The Parties acknowledge that in certain instances the NFL has conditioned its approval of the relocation of other NFL franchises from one city to another upon the payment to the NFL of substantial fees. The Parties agree, however, that none of the Parties anticipates that the NFL will condition the Team's relocation to Nashville, Tennessee upon the payment to the NFL of a franchise transfer or other fee due to numerous factors, including, without limitation, the following: (i) the relocation of the Team from Houston, Texas to Nashville,

Tennessee satisfies each of the franchise relocation criteria established by the NFL, and (ii) the NFL has not considered Nashville, Tennessee as a possible city for an expansion franchise. Notwithstanding the foregoing, the Sports Authority agrees that it will pay to the NFL Team Entity an amount equal to such transfer or other fee if the NFL conditions the relocation of the Team to Nashville, Tennessee upon the payment to the NFL of such a fee in an amount not to exceed \$20,000,000, which amount shall be due and payable by the Sports Authority in accordance with substantially the same payment schedule imposed upon the NFL Team Entity by the NFL; and the NFL Team Entity agrees that it will pay to the NFL the amount that the Sports Authority pays to the NFL Team Entity pursuant to this Section 9.10(a) promptly upon its receipt of such payment. If the NFL conditions such relocation upon the payment to the NFL of such a fee in an amount in excess of \$20,000,000, none of the Parties shall be required to pay any portion of such fee and, for purposes of this Agreement, the approval of the NFL contemplated in Sections 7.1(j)(i) and 7.2(c)(i) shall be deemed not to have been obtained unless such fee is paid in full.

(b) The Parties also acknowledge and agree that (i) the inclusion of a transfer fee condition in the NFL's approval of the transactions contemplated hereby would damage each of the Parties, (ii) the agreements in this Section 9.10 are not intended to be a consent by the Parties to the NFL's inclusion of a transfer or similar fee of any amount as a condition to the NFL's approval of the transactions contemplated hereby, and (iii) neither this Agreement nor any payment by any Party to the NFL of such a transfer fee constitutes a waiver of any rights, claims or actions that any Party may have against the NFL in connection with its approval or disapproval of the transactions contemplated hereby or the relocation of the Team to Nashville (all of which rights, claims and actions against the NFL are specifically reserved).

(c) If the amount of any transfer or other fee that the Sports Authority is required to pay to the NFL Team Entity and that the NFL Team Entity is required to pay to the NFL in accordance with Section 9.10(a) is less than \$6,200,000, the Metropolitan Government shall, or shall cause the Sports Authority to, deposit into a segregated account (the "*NFL Fee Account*") an amount equal to the difference between \$6,200,000 and the amount of the fee that the Sports Authority is required to pay the NFL. Such amount shall be paid into the NFL Fee Account on or before the date of Substantial Completion. Funds deposited in the NFL Fee Account may be used only to pay for obligations of the Sports Authority arising under this Agreement or the Stadium Lease (and, without limiting the generality of the foregoing, may not be used for general or administrative expenses of the Sports Authority) and may be invested only in Permitted Investments. The Metropolitan Government will maintain the NFL Fee Account for the benefit of the Sports Authority and will cause the funds in the NFL Fee Account to be used only for the purposes specified above. All funds in the NFL Fee Account shall be the property of the Sports Authority. Notwithstanding anything else in this Agreement or the Stadium Lease to the contrary, the Sports Authority's financial responsibility with respect to its obligations under this Agreement or the Stadium Lease shall not be limited to the funds in the NFL Fee Account or in the Capital Fund.

9.11 Environmental Matters.

(a) The Metropolitan Government has selected Barge, Waggoner, Sumner & Cannon as its environmental engineering firm and environmental consulting firm with respect to the Metropolitan Government's acquisition of the Stadium Site and the development of the Facilities. The Team Parties hereby consent to such selection. The Metropolitan Government's or the Sports Authority's selection of any other Person to serve as an environmental consultant or environmental engineer shall be subject to the provisions of Section 3.1. Any Persons now or hereafter engaged by the Metropolitan Government to serve as an environmental consultant or an environmental engineer with respect to the Stadium Site (or any improvements thereon, whether now or hereafter existing) or any development or environmental remediation thereof are referred to collectively as "*Environmental Consultants.*"

(b) All agreements between either the Metropolitan Government or the Sports Authority and any Environmental Consultant relating to the Stadium Site (or any portion thereof) shall be considered Professional Agreements. Each Professional Agreement with an Environmental Consultant shall require the Environmental Consultant (i) to name each of the Team Parties and their Affiliates as recipients of, and parties who are permitted to rely upon, all reports prepared by such Environmental Consultant under such Professional Agreement, including, but not limited to, Phase I environmental assessment reports, Phase II environmental assessment reports and all other environmental assessment reports (collectively, "*Environmental Reports*"), and (ii) to deliver all Environmental Reports prepared by or at the direction of such Environmental Consultant to Cumberland at or about the same time that the Environmental Consultant delivers such Environmental Report either to the Metropolitan Government or the Sports Authority.

(c) The Metropolitan Government, at its sole cost and expense, shall cause an Environmental Consultant to prepare a Phase I Environmental Report with respect to each parcel of real property to be included in the Stadium Site as soon as commercially practicable following the Effective Date.

(d) To the extent any Phase I Environmental Report or any other Environmental Report indicates the presence or possible presence of any underground storage tanks, any Hazardous Materials or any Solid Wastes on any portion of the Stadium Site or the existence or possible existence of any item of noncompliance with any Environmental Laws on any portion of the Stadium Site, or if either the Metropolitan Government or the Sports Authority is otherwise advised of the presence or possible presence of any underground storage tanks, any Hazardous Materials or any Solid Wastes on any portion of the Stadium Site or the existence or possible existence of any item of noncompliance with any Environmental Laws on any portion of the Stadium Site, the Metropolitan Government, at its sole cost and expense, promptly will: (i) advise Cumberland of any such matter (unless such matter is disclosed in an Environmental Report), and (ii) either (I) remediate or cause the remediation of such matter at the sole cost and expense of the Metropolitan Government in accordance with applicable standards established under Applicable Law or, in the absence of such standards, to the satisfaction of TDEC or such other Governmental Authority or Authorities that have jurisdiction over the given matter, or (II) cause an Environmental Consultant to make such further investigation and prepare such additional

Environmental Report with respect to such matter as is reasonable and prudent under the circumstances. If the Metropolitan Government elects to further investigate in accordance with the preceding clause (ii)(II), and such further investigation confirms the presence or likely presence of any underground storage tank, any Hazardous Materials or any Solid Wastes on any portion of the Stadium Site or the existence or likely existence of any item of noncompliance with any Environmental Laws on any portion of the Stadium Site, the Metropolitan Government, at its sole cost and expense, promptly will remediate or cause the remediation in accordance with applicable standards established under Applicable Law or, in the absence of such standards, to the satisfaction of TDEC or such other Governmental Authority or Authorities that have jurisdiction over the given matter. In addition to any other remediation obligations that the Metropolitan Government has under this Section 9.11, the Metropolitan Government will remove or close all underground storage tanks described in this Section 9.11(d) in accordance with applicable standards established under Applicable Law or, in the absence of such standards, to the satisfaction of TDEC or such other Governmental Authority or Authorities that have jurisdiction over the given matter. The obligations of the Metropolitan Government under this Section 9.11(d) shall not apply to any matter that results from the breach by Cumberland of its obligations under Section 9.11(e).

(e) During the Operating Period, Cumberland shall maintain and operate the Facilities in compliance with all applicable Environmental Laws; provided, however, that the Metropolitan Government and the Sports Authority shall be responsible for any non-compliance with Environmental Laws (including any non-compliance resulting from a change in any Environmental Law that becomes effective before or after either the Effective Date or after Substantial Completion) resulting from activities occurring or conditions existing prior to Substantial Completion or from the migration of Hazardous Substances onto the Stadium Site from other properties, whether such migration occurred before or after Substantial Completion.

(f) If the Metropolitan Government, the Sports Authority or Cumberland shall fail to perform their respective obligations under this Section 9.11, the non-defaulting Party may undertake the defaulting Party's defaulted obligations if the non-defaulting Party notifies the defaulting party of such default and the defaulting Party does not perform such obligations within a period that is reasonable under the circumstances. Under such circumstances, the defaulting Party shall pay any such non-defaulting Party such non-defaulting Party's Damages resulting from or arising out of its performance of the defaulting Party's obligations.

(g) The agreements set forth in this Section 9.11 shall survive the termination or expiration of this Agreement or the Stadium Lease.

9.12 PSL Marketing and Sales. The Parties acknowledge that (a) the Sports Authority has marketed and sold prior to the date hereof, on terms and conditions that have been mutually agreed upon between Cumberland and the Sports Authority, certain club seat and permanent seat licenses with respect to seating at the Facilities, and (b) the Sports Authority may continue to market and sell such licenses until (but excluding) June 1, 1998, on terms and conditions that are mutually agreed upon between Cumberland and the Sports Authority (the agreements containing the terms and conditions of such club seat and permanent seat licenses described in clauses (a) and (b) being referred to collectively as the "PSL Agreements"). The

Sports Authority shall not assign, transfer, pledge or otherwise encumber the PSL Agreements, except for the assignment thereof to Cumberland or its designee when requested by Cumberland on the terms contemplated in the PSL Agreements. The Sports Authority shall be entitled to all revenues received by it as of June 5, 1998 (but not thereafter) from the sale of PSLs marketed prior to June 1, 1998. Cumberland shall have the exclusive right (i) to receive all revenues from the sale of PSLs (I) if the sale occurs on or after June 1, 1998 or (II) if the revenues from the sale are received after June 5, 1998 and (ii) to market and sell PSLs for its own account from and after June 1, 1998 on such terms as Cumberland, in its sole judgment and discretion, finds desirable; provided that, Cumberland shall conduct such marketing and sales in a manner that will not conflict with the obligations assumed by Cumberland or its designee under the PSL Agreements. From the Effective Date until June 1, 1998, the NFL Team Entity will assist and jointly market the PSLs with the Sports Authority, with the revenues therefrom to be allocated as provided above. The Sports Authority may not sell PSLs for prices below the prices at which PSLs located in comparable sections of the Stadium have been sold prior to February 15, 1996.

9.13 Oilers Option. The Parties currently contemplate that the Facilities will include, without limitation, the following improvements that would be used exclusively by the Team Parties: office space, including, without limitation, the offices for the coaching staff, the cafeteria, the auditorium, meeting and conference rooms and the Practice Facility (collectively, the "Option Improvements"). The Team Parties will have the exclusive right to eliminate all or substantially all of the Option Improvements from the design and construction of the Facilities. To exercise this right (the "Oilers Option"), the Team Parties must give notice to the Metropolitan Government and the Sports Authority by no later than June 1, 1996, which notice must specify those Option Improvements to be eliminated from the design and construction of the Facilities. If, because of the exercise of the Oilers Option, certain portions of the Stadium Site are available for parking that would not otherwise so be available (such as the site intended for the Practice Facility), such portions shall be improved to serve as parking areas by the Metropolitan Government as part of the construction of the Facilities. If the Team Parties exercise the Oilers Option, the NFL Team Entity will cause the NFL Team Entity Franchise Offices to be located in Davidson County, Tennessee throughout the Operating Period.

9.14 Assurances. The Metropolitan Government shall use all reasonable efforts to assist the Team Parties to obtain all permits and licenses necessary for the use and occupancy of the Facilities. The Team Parties shall be required to pay all fees customary and lawfully required by the Metropolitan Government or any other applicable Governmental Authority in connection with the issuance of such licenses and permits. The Metropolitan Government agrees that the Team Parties will be able to provide at the Stadium the type of services, products and amenities customarily available in other stadiums at which NFL games are played.

9.15 Capital Fund.

(a) On or before the fifth day of each Lease Year, the Metropolitan Government will grant, contribute and pay to the Sports Authority an amount equal to the excess, if any, of (i) the amount that the Sports Authority was obligated to deposit into the Capital Fund with respect to such Lease Year pursuant to Section 7.3 of the Stadium Lease, over (ii) the amount theretofore actually deposited by the Sports Authority with respect to such Lease Year.

(b) The Metropolitan Government agrees to maintain the Capital Fund on behalf of the Sports Authority as a segregated account, to invest the funds in the Capital Fund only in Permitted Investments, and to permit the funds in the Capital Fund to be used only to pay for Capital Project Expenses and Improved Item Expenses for which the Sports Authority is financially responsible under the Stadium Lease.

(c) The Metropolitan Government shall cause a procedure to be established and maintained in effect so that Cumberland may, in accordance with Section 7.6(a) of the Stadium Lease, obtain from the Capital Fund the funds to which it is entitled under said Section 7.6(a). The Metropolitan Government shall advise Cumberland of all details of such procedure at least 60 days prior to the date of Substantial Completion and shall advise Cumberland in advance of any changes therein.

ARTICLE 10. INDEMNIFICATION

10.1 Indemnification.

(a) The Team Parties, jointly and severally, shall indemnify and hold harmless the Metropolitan Government, the Sports Authority and their respective Affiliates, directors, officers, official representatives, employees, successors and permitted assigns (collectively, the "*Government Indemnified Parties*") from and against any and all Damages resulting from, and shall defend the Government Indemnified Parties against all Claims arising from, any material inaccuracies (as of the Effective Date) in any of the representations and warranties made by it in Section 8.2.

(b) Each of the Metropolitan Government and the Sports Authority, severally and not jointly, shall indemnify and hold harmless the Team Parties and their respective Affiliates, directors, officers, shareholders, partners, employees, successors and permitted assigns (collectively the "*Team Party Indemnified Parties*") from and against any and all Damages resulting from, and shall defend the Team Party Indemnified Parties against all claims arising from, any material inaccuracies (as of the Effective Date) in any of the representations and warranties made by it in Section 8.1.

10.2 Exercise of Certain Remedies. The Parties agree that significant costs will be incurred by the Parties to maintain the insurance coverages required by this Agreement and, with respect to Cumberland and the Sports Authority, the Stadium Lease. Accordingly, each Party agrees to pursue all available recoveries under such policies with respect to any loss suffered by, as applicable, a Government Indemnified Party or a Team Party Indemnified Party and covered, in whole or in part, by such insurance policies before asserting any claim for Damages with respect to such loss against another Party or its Affiliates.

**ARTICLE 11.
ADDITIONAL RIGHTS**

11.1 The Obligation. The NFL Team Entity hereby covenants and agrees with the Metropolitan Government and the Sports Authority that the NFL Team Entity shall comply with its obligation (the "*Obligation*") to cause the Team to play Possible Stadium Games in the Facilities throughout the Operating Period in accordance with the Team Contract.

11.2 Specific Performance. The Parties hereby acknowledge and agree that monetary damages would not be sufficient to compensate either the Metropolitan Government or the Sports Authority for any breach by the NFL Team Entity of the Obligation. Thus, in the event of such a breach, or any threatened breach, the Parties agree that the Metropolitan Government and the Sports Authority shall be entitled to an affirmative injunction requiring the NFL Team Entity to fulfill the Obligation without the posting of any bond or other security and without any further showing of irreparable harm, balance of harms, consideration of the public interest, or the inadequacy of monetary damages as a remedy. The NFL Team Entity acknowledges and agrees that the administration of an order for injunctive relief would not be impractical and that, in the event of any such breach, the balance of hardships would weigh in favor of the entry of injunctive relief.

11.3 Other Relief. In the event that a court of competent jurisdiction refuses to order injunctive relief of the type described in Section 11.2 upon a breach by the NFL Team Entity of the Obligation (after a request therefor in good faith by the Sports Authority and the Metropolitan Government), the Parties agree that the Damages that would be incurred by the Sports Authority and the Metropolitan Government are likely to be uncertain and not easily proven. However, the Parties reasonably estimate that, in the event of such a breach, damages will occur to the Sports Authority and the Metropolitan Government in the sum set forth below, and the parties agree that the Sports Authority and the Metropolitan Government shall then have the right, as the sole and exclusive remedy of the Sports Authority and the Metropolitan Government for such breach, to send a notice to the NFL Team Entity that specifies that it is a notice under this Section 11.3, and upon the giving of such notice, (a) the NFL Team Entity shall be required to make a liquidated damage payment to the Sports Authority and the Metropolitan Government in the aggregate amount of (i) \$117 million should such a breach occur during the first 12 years of the Initial Term; (ii) \$87 million should such a breach occur during the next 10 years of the Initial Term; (iii) \$34 million should such a breach occur during the remainder of the Initial Term; and (iv) \$15 million should such a breach occur during the First Extension Period or the Second Extension Period; and (b) the Stadium Lease shall be terminated.

**ARTICLE 12.
MISCELLANEOUS PROVISIONS**

12.1 Notices. All notices, consents, approvals, and other communications given to any of the Parties under this Agreement shall be in writing to such Party at the address set forth below or at such other address as such Party may designate by notice to the other Parties hereto in accordance with this Section 12.1 and may be delivered personally (including delivery

by private courier services, including overnight courier delivery) or by telecopy (with a copy of such notice sent by private courier service for overnight delivery or by registered or certified mail), or by first-class United States mail, postage prepaid, registered or certified mail with return receipt requested, to the party entitled thereto, and shall be deemed to be duly given or made when received:

If to the Metropolitan Government, addressed to:

The Metropolitan Government of Nashville and Davidson County
106 Metropolitan Courthouse
Nashville, TN 37201
Attention: Director of Finance
Telecopy No.: (615) 862-6156

With copy to:

Director of Law of the Metropolitan Government
204 Metropolitan Courthouse
Nashville, TN 37201
Telecopy No.: (615) 862-6352

If to the Sports Authority, addressed to:

The Sports Authority of The Metropolitan Government of Nashville
and Davidson County
106 Metropolitan Courthouse
Nashville, TN 37201
Attention: Chair
Telecopy No.: (615) 862-6156

with a copy to:

Director of Law of the Metropolitan Government
204 Metropolitan Courthouse
Nashville, TN 37201
Telecopy No.: (615) 862-6352

If to Cumberland, addressed to:

Cumberland Stadium, L.P.
414 Union Street, 10th Floor
Nashville, TN 37289
Attention: Michael D. McClure
Telecopy No.: (615) 880-1035

With a copy to:

Steve Underwood
Houston Oilers, Inc.
6910 Fannin, Lower Level
P. O. Box 1516
Houston, TX 77251-1516
Telecopy No.: (713) 797-9816

If to the NFL Team Entity, addressed to:

Houston Oilers, Inc.
6910 Fannin, Lower Level
P. O. Box 1516
Houston, TX 77251-1516
Attention: Michael D. McClure
Telecopy No.: (713) 797-6631

With a copy to:

Steve Underwood
Houston Oilers, Inc.
6910 Fannin, Lower Level
P. O. Box 1516
Houston, TX 77251-1516
Telecopy No.: (713) 797-9816

12.2 Assignment.

(a) Neither Cumberland nor the NFL Team Entity shall assign its interests in this Agreement without the consent of the Metropolitan Government and the Sports Authority, which consent shall not be unreasonably withheld, except that no consent shall be required if all of the following applicable requirements are met: (i) after any such assignment, Cumberland or its assignee, as applicable, shall continue to be an Affiliate of the NFL Team Entity or its assignee, as applicable; (ii) if Cumberland is an assignor, such assignment shall be made in connection with the assignment to the same Person of Cumberland's interests under the Stadium Lease and the Team Contract; (iii) if the NFL Team Entity is an assignor, such assignment shall be made in connection with the assignment of (I) the Team and the NFL franchise therefor to an assignee (i.e., the successor NFL Team Entity) approved by the NFL and (II) the Team Contract to such successor NFL Team Entity; and (iv) upon an assignment by either or both of Cumberland and the NFL Team Entity, each respective assignee must assume the obligations of its assignor under this Agreement, the Stadium Lease and the Team Contract, as applicable, including, without limitation, in the case of an assignment by the NFL Team Entity to such successor NFL Team Entity, the assumption of the obligations of Cumberland or its assignee by such successor NFL Team Entity in the same manner as provided in the Guaranty. The occurrence of an event (other than the death of one or more individuals and the transfer of any

equity interest in Cumberland or the NFL Team Entity, as the case may be, as a result thereof to any one or more parents, siblings, spouse or lineal descendants of such individual, or any spouse of the foregoing, or a trust or trusts in which any one or more of such persons are the primary beneficiaries) that results in Cumberland's not being an Affiliate of the NFL Team Entity (or a successor NFL Team Entity) shall require the prior consent of the Metropolitan Government and the Sports Authority, which consent shall not be unreasonably withheld.

(b) Except as provided in this Section 12.2(b), no assignment described in Section 12.2(a) shall relieve either Cumberland or the NFL Team Entity from any of its liabilities and obligations under this Agreement. Cumberland shall be relieved from all liabilities and obligations under this Agreement upon an assignment of this Agreement to the same Person to which Cumberland assigns its interest in the Stadium Lease pursuant to a Qualified Assignment. The NFL Team Entity shall be relieved from all liabilities and obligations under this Agreement (including the Guaranty) upon an assignment of this Agreement to the same Person to which the NFL Team Entity assigns its interest in the Team Contract pursuant to a NFL Team Entity Qualified Assignment.

(c) Nothing in this Section 12.2 shall prohibit or restrict in any manner Cumberland from exercising the rights granted to Cumberland in Section 3.5 of the Stadium Lease.

(d) Neither the Metropolitan Government nor the Sports Authority shall assign this Agreement or its rights herein or delegate any of its duties hereunder to any other Person without the consent of the Team Parties; provided that, the Team Parties shall consent to any assignment or delegation by the Metropolitan Government or the Sports Authority arising by reason of a reorganization of responsibilities as among the Metropolitan Government or the Sports Authority, on the one hand, and the Governments or other public or quasi-public entities, on the other hand, so long as (i) the obligations of the Metropolitan Government or the Sports Authority under this Agreement are expressly assumed by one or more assignees or delegates, each of which is a public or quasi-public entity that, in the reasonable judgment of the Team Parties, is at least as financially responsible as such assigning Party, and (ii) in the reasonable judgment of the Team Parties, such reorganization would not impair the realization by either of the Team Parties of the expected benefits from the rights granted to either of them under this Agreement, the Stadium Lease or the Team Contract.

12.3 Choice of Law. This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the internal laws of the State.

12.4 Entire Agreement; Amendments and Waivers. On the Effective Date, this Agreement shall constitute (and, upon the execution and delivery of the Stadium Lease, the Team Contract and the Guaranty, this Agreement, the Stadium Lease, the Team Contract and the Guaranty shall constitute) the entire agreement among the Parties pertaining to the subject matter hereof and shall, on the Effective Date and not before, supersede all prior agreements (including that certain Stadium and Relocation Agreement, dated as of November 15, 1995, between the Metropolitan Government and the NFL Team Entity), understandings, negotiations and discussions, whether oral or written, of the Parties, and, as of the Effective Date, there shall be

no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as set forth specifically herein and in the Stadium Lease and Team Contract. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected party. The referenced Stadium and Relocation Agreement, and all milestones therein, shall remain in full force and effect, subject to the terms thereof, until the Effective Date.

12.5 References. Any reference herein to an Article or Section shall be deemed to refer to the applicable Article or Section of this Agreement unless otherwise expressly stated herein. Any reference to an Annex shall be deemed to refer to the applicable Annex attached hereto, all such Annexes being incorporated herein and made a part hereof by this reference.

12.6 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties, and their successors and assigns permitted under this Agreement, and the Government Indemnified Parties and the Team Indemnified Parties with respect to Section 10.1, and no provisions of this Agreement shall be deemed to confer upon any other Person any remedy, claim, liability, reimbursement, cause of action or other right.

12.7 No Merger. The terms and provisions of this Agreement (including, without limitation, the representations, warranties and covenants) shall not merge, be extinguished or otherwise affected by the delivery and execution of any document delivered pursuant to this Agreement unless such document shall specifically so state and shall be signed by the Parties.

12.8 Applicable Standard. Any approval, consent, decision or election to be made or given by a Party hereunder may be made or given in such Party's sole judgment and discretion, unless a different standard (such as reasonableness) is provided for explicitly.

12.9 Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.10 Interest. Any payment not made on the date required by this Agreement shall accrue interest at the Default Rate from the due date of such payment until the date such payment is paid.

12.11 Non-Binding Mediation. In the event of (a) a dispute between the Parties arising out of or relating to this Agreement or (b) an alleged breach by a Party of its obligations hereunder, any Party may with five days' notice initiate non-binding mediation to attempt to resolve the dispute or alleged breach. Any such mediation shall be conducted (i) by a single mediator selected jointly by agreement of the Parties or (ii) if the Parties are unable to agree upon a mediator within five days after receipt of notice initiating mediation, by an impartial mediator selected by any Chancellor of any Chancery Court of Davidson County, Tennessee (acting in his or her individual capacity and not officially) so long as such mediator is licensed by the Supreme Court of Tennessee to practice law, is actively engaged in the practice of law

and maintains law offices in Davidson County. The mediation shall take place in Davidson County within 30 days of the receipt of the notice initiating mediation, and each Party will bear its own expenses and attorneys' fees and an equal share of the fees and expenses of the mediator. In the absence of Applicable Law regulating or administering non-binding mediation, the mediator, acting reasonably and in accordance with the scope of this Section 12.11, shall establish the dates, times, places and general conduct of the mediation sessions. All discussions, negotiations and written materials produced for or made during any such mediation, including, without limitation, the statements, positions and offers of any Parties, their attorneys, other participants and the mediator, shall be considered for all purposes to be compromises, offers to compromise and attempts to compromise pursuant to Rule 408, Tennessee Rules of Evidence. No Party shall be compelled to participate in any meeting or meetings with the mediator pursuant to this Section 12.11 for more than two days, or at any time more than 30 days after the receipt of notice initiating such mediation. Nothing contained herein shall toll any applicable notice, cure, or termination provision of this Agreement. If any dispute or alleged breach is not resolved by such mediation, the Parties may resort to remedies permitted by Applicable Law, and nothing contained herein shall be construed to preclude any Party from seeking and obtaining injunctive or other emergency relief to protect its rights pending mediation. No request for injunctive or other emergency relief shall be deemed a waiver of mediation hereunder.

12.12 Interpretation. Each of the parties has agreed to the use of the particular language of the provisions of this Agreement, and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the draftsman, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the Parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

12.13 Additional Assurances. From time to time after the date hereof, without further consideration and subject to the other terms of this Agreement, the Parties shall promptly execute and deliver such other instruments and take such other action as any other Party reasonably may request to consummate the transactions contemplated hereby.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date, but have actually executed this Agreement on respective dates set forth opposite their names below.

Date: February 13, 1996.

ATTEST: Kevin P. Lavender
Kevin P. Lavender
Secretary/ Treasurer

THE SPORTS AUTHORITY OF THE
METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

By: Richard Lodge
Richard Lodge
Chair

Date: February 13, 1996.

CUMBERLAND STADIUM, L.P.

By: Cumberland Stadium Management, Inc.,
General Partner

By: K. S. "Bud" Adams, Jr.
K. S. "Bud" Adams, Jr.
President

Date: February 13, 1996.

HOUSTON OILERS, INC.

By: K. S. "Bud" Adams, Jr.
K. S. "Bud" Adams, Jr.
President

Date: 7 March, 1996
(this being the Effective Date)

APPROVED AS TO
AVAILABILITY OF FUNDS:

Director of Finance
Director of Finance

APPROVED AS TO
FORM AND LEGALITY:

Metropolitan Attorney
Metropolitan Attorney

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

By: Phillip N. Brudacean
Phillip N. Brudacean
Mayor

ATTEST: Marilyn A. Swing
Marilyn A. Swing
Metropolitan Clerk

ANNEX I

Defined Terms

"Affiliate" shall mean, with respect to any Person, any Person that, directly or indirectly, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") as used in the preceding sentence means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"Agreement" – Introductory paragraph.

"Applicable Law" shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by Governmental Authorities.

"Architects" shall mean Hellmuth, Obata & Kassabaum, Inc. or such other qualified, licensed architectural firm or firms having demonstrable experience in designing projects similar to the Project that are selected by the Metropolitan Government to be an architect or architects for the Project.

"Budget" – Section 2.1.

"Capital Fund" shall have the meaning given such term in the Stadium Lease.

"Casualty" shall mean any fire, storm, earthquake, tornado, flood, or natural disaster or other sudden, unexpected or unusual cause.

"Change Request" – Section 3.4(a).

"Claims" shall mean demands, claims, suits, actions, proceedings or investigations brought against a Person by an unrelated or unaffiliated Person.

"Commencement of the Work" shall mean the commencement of significant construction activities on the Stadium Site (including Site Preparation Work), as contrasted with ceremonial ground breaking activities.

"Construction Manager" shall mean Tennessee Stadium Group, a Limited Partnership (the partners of which are McDevitt, Street & Bovis, Jones & Jones Construction, Sims Associates, and Beers Construction), or such other qualified, licensed construction manager having demonstrable experience in managing the design and construction of projects similar to

the Project that is selected by the Metropolitan Government and approved by Cumberland in accordance with Section 3.1 to be the construction manager for the Project.

"Cumberland" – Introductory paragraph.

"Cumberland Change Order" - Section 3.4(b).

"Cumberland Project Costs" shall mean (a) the increase in the Project Costs attributable to Cumberland Change Orders (after deducting the decrease in the Project Costs attributable to Cumberland Change Orders), provided that no such increase from a Cumberland Change Order issued pursuant to Section 3.4(b) shall be considered a Cumberland Project Cost except to the extent that such increase causes the Project Costs to exceed the total Budget amount, plus (b) the costs specifically stated to be Cumberland Project Costs in Article 3. Cumberland Projects Costs shall not include any increase in the Project Costs that the Metropolitan Government or the Sports Authority expressly agrees to bear at the time.

"Cumberland Representative" – Section 4.2.

"Damaged Facilities" – Section 5.1.

"Damages" shall mean losses, penalties, fines, assessments, liabilities, judgments, damages costs and expenses, including reasonable fees and expenses of counsel, and with respect to damages relating to a breach of the obligations under Section 9.11, shall also include, without limitation, the following: (a) the costs of remediation of any and all Hazardous Materials, Solid Wastes and underground storage tanks at the Stadium Site to the standard described in Section 9.11(d); and (b) any costs incurred to comply with all applicable Environmental Laws.

"Deductible Amount" - Section 5.2.

"Default Rate" shall mean a rate per annum equal to the lesser of (a) a varying rate per annum that is equal to four percent per annum over the interest rate quoted from time to time by NationsBank of Tennessee, N.A., or its successor, as its prime commercial or similar reference rate, with adjustments in that varying rate to be made on the same date as any change in that rate, and (b) the maximum nonusurious rate permitted by Applicable Law, with adjustments in that varying rate to be made on the same date as any change in that rate.

"Design Development Documents" shall mean such documents that (a) are further advancements of the Final Schematic Drawings, (b) indicate in substantially greater detail than the Final Schematic Drawings the spaces within the structures of the Facilities, (c) indicate the elements and functions that affect the site work for the Facilities, (d) indicate in substantially greater detail than the Final Schematic Drawings the sections and interior and exterior elevations, and (e) include more detailed outline specifications and systems narratives than those in the Final

Schematic Drawings, all as approved or deemed to have been approved in accordance with Section 3.3.

"Effective Date" - Section 9.9(a).

"Election Commission" shall mean the Election Commission of the Metropolitan Government.

"Environmental Consultants" - Section 9.11(a).

"Environmental Laws" shall mean all federal, state (including specifically, but not by way of limitation, the State), regional, county, municipal and local environmental, health or safety laws, regulations, ordinances, rules, orders, judgments and policies, and the common law, relating to the use, refinement, handling, treatment, removal, storage, production, manufacture, transportation, disposal, emissions, discharges, releases or threatened releases of Materials of Environmental Concern, or otherwise relating to protection of the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), as the same may be amended or modified from time to time including, without limitation, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Comprehensive Environmental Response Compensation and Liability Act, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, and Rodenticide Act and the Safe Drinking Water Act.

"Environmental Reports" - Section 9.11(b).

"Engineers" shall mean Barge, Waggoner, Sumner & Cannon or such other engineering firm or firms having demonstrable experience in engineering projects similar to the Project, including, experience in soil analysis, geological conditions and state and local permitting requirements and processes, that are selected by the Metropolitan Government in accordance with Section 3.1 to be the engineer or engineers for the Project.

"Execution Date" - Section 9.9(b).

"Facilities" shall mean the Stadium Site and all improvements now or hereafter located thereon (other than those to be demolished as part of the Site Preparation Work), including the Stadium, parking facilities, and all improvements, additions, alterations, fixtures, equipment and installations constructed, provided or added thereto at any time, excluding, however, personal property that is owned by Cumberland or its invitees that may from time to time be brought into the Stadium Site, and subject to additions thereto and releases therefrom in accordance with the Stadium Lease.

"Final Schematic Drawings" shall mean the Schematic Drawings of the Facilities that have been approved or deemed to have been approved in accordance with Section 3.3.

"First Extension Period" shall have the meaning given such term in the Stadium Lease.

"For Construction Plans and Specifications" shall mean the finalized plans and specifications for the Facilities that have been approved or deemed to have been approved in accordance with Section 3.3 and that include drawings, plans and specifications in sufficient detail to indicate complete construction of the Facilities.

"Force Majeure" shall mean any of the following events: strikes, lockouts, labor disputes, embargoes, flood, earthquake, storm, dust storm, lightning, fire, epidemic, acts of God, war, national emergency, civil disturbance or disobedience, riot, sabotage, terrorism, threats of sabotage or terrorism, restraint by court order or order of public authority, and similar occurrences beyond the reasonable control of the Party in question, that make compliance with any of its material obligations under this Agreement in a timely manner impracticable or impossible.

"GMP" - Section 3.3(d).

"Governmental Authorities" shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence.

"Government Indemnified Parties" - Section 10.1(a).

"Government Representative" - Section 4.2.

"Government Termination Event" - Section 7.2.

"Governments" shall mean the Metropolitan Government and the State.

"Guaranty" shall mean that certain Guaranty in the form attached hereto as Annex VI to be executed and delivered by the NFL Team Entity in favor of the Sports Authority.

"Hazardous Materials" shall mean asbestos, polychlorinated biphenyls, petroleum products, radioactive materials, medical or infectious wastes and any other hazardous or toxic materials, wastes and substances that are defined, determined or identified as such in or regulated under any Environmental Laws.

"Improved Item Expenses" shall have the meaning given such term in the Stadium Lease.

"Infrastructure Improvements" shall mean any and all improvements to be made to road, water, sewer, drainage, electrical, communications and other public facilities serving the

Facilities or otherwise required in connection with the Project, whether located on or off the Stadium Site.

"Initial Term" shall have the meaning given such term in the Stadium Lease.

"Insurance Policy" - Section 6.1.

"Lease Insurance Program" - Section 5.2.

"Lease Year" shall have the meaning given such term in the Stadium Lease.

"Lessee Event" shall have the meaning given such term in the Stadium Lease.

"Lessor Event" shall have the meaning given such term in the Stadium Lease.

"Lessor Policies" shall have the meaning given such term in the Stadium Lease.

"Lien" shall mean any lien, statutory lien, pledge, condemnation award, claim, restriction, charge, security interest, mortgage, deed of trust, title defect, lease, tenancy, license, covenant, right of way, easement, encroachment, right of refusal or encumbrance of any nature whatsoever.

"Master Program Schedule" shall mean the schedule issued by the Construction Manager and approved in accordance with Section 3.1(c) that reflects the master schedule of the design, purchase, construction and development of the Facilities, as further modified, amended or supplemented in accordance with Section 3.1(c).

"Materials of Environmental Concern" shall mean any toxic or hazardous waste, pollutants or substances, including, without limitation, asbestos, polychlorinated biphenyls, petroleum products and byproducts, and substances defined or listed as a "hazardous substance," "toxic substance," "tox pollutant," "medical waste" or similarly identified substance or mixture in, or pursuant to, the Environmental Laws.

"MDHA" shall mean the Metropolitan Development & Housing Agency.

"Metropolitan County Council" shall mean the Metropolitan County Council of the Metropolitan Government.

"Metropolitan Government" - Introductory paragraph.

"NFL" shall mean the National Football League (of which the Team is now a member) and any successor thereto.

"NFL Fee Account" - Section 9.10(c).

"NFL Rules and Regulations" shall mean the constitution, bylaws, rules, regulations and practices of the NFL in effect at the time in question.

"NFL Team Entity" - Introductory paragraph.

"NFL Team Entity Franchise Offices" shall mean the offices where the business administration and marketing staff of the NFL Team Entity are principally located and which office shall serve, without limitation, as the NFL Team Entity's office to which the purchase price for tickets, club seat licenses and suite licenses shall be remitted and from which invoices for such tickets and licenses shall be mailed.

"NFL Team Entity Qualified Assignment" shall mean an assignment by the NFL Team Entity of its interest in the Team Contract, provided that the assignee thereof (a) has acquired the Team and the NFL franchise therefor and (b) has satisfied the requirements of Sections 13.1(b)(iii) and (iv) of the Stadium Lease.

"Obligation" - Section 11.1.

"Oilers Option" - Section 9.13.

"Operating Expenses" shall have the meaning given such term in the Stadium Lease.

"Operating Period" shall have the meaning given such term in the Stadium Lease.

"Option Improvements" - Section 9.13.

"Oversight Committee" shall mean a three-person committee comprised of the Director of Finance of the Metropolitan Government, a representative selected by the Sports Authority and a representative selected by Cumberland.

"Parties" shall mean the parties to this Agreement.

"Payment Obligation" - Section 9.7.

"Permitted Encumbrances" shall mean (a) utility, access or other easements and rights of way of record, (b) laws regulating the use or enjoyment of the Stadium Site or the Facilities, and (c) any other matters approved by the Team Parties in writing; provided that none of the matters described in clauses (a) or (b), either individually or in the aggregate, unreasonably or materially interfere with or impair the use or operation of the Stadium Site, the Facilities or any part thereof.

"Permitted Extension Period" shall mean the additional time period, if any, following the Scheduled Completion Date that will be required to achieve Substantial Completion and that results solely from the inclusion of a Cumberland Change Order submitted pursuant to Section 3.4(b) or 3.4(e), provided that any such additional time periods resulting from a Cumberland Change Order that is made with respect to draft Schematic Drawings of the Facilities pursuant to a Change Request that satisfies the criteria set forth in Section 3.4(a) shall not be considered "Permitted Extension Periods."

"Permitted Investments" shall have the meaning given such term in the Stadium Lease.

"Person" shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body or government or other entity.

"Plans and Specifications" shall mean the Final Schematic Drawings, the Design Development Documents, the For Construction Plans and Specifications and all drafts of each of them.

"Possible Stadium Game" shall mean each pre-season football game of the Team, each regular season football game of the Team, and each "wildcard" and divisional playoff game, conference championship football game or other NFL football game in which the Team is a participating team (excluding a Super-Bowl game) as to which the Team shall have the right or the obligation to furnish the home playing site or arena under NFL Rules and Regulations.

"Practice Facility" shall mean practice fields and associated facilities for the Team that will be separate from the Stadium, but located on the Stadium Site.

"Principal Architect" shall mean Hellmuth, Obata & Kassabaum, Inc. or such other Architect as may serve as the principal Architect with respect to the Project.

"Professional Agreements" - Section 3.2(a).

"Project" shall mean the entire project that is the subject of this Agreement and the Stadium Lease, including, without limitation, the acquisition of the Stadium Site, the performance of the Site Preparation Work and the design and construction of the Facilities and the Infrastructure Improvements.

"Project Costs" shall mean all fees, costs and expenses whatsoever incurred in connection with the preparation for and undertaking and completion of the Project, including, without limitation, all connection charges and impact fees for utility services for the Facilities.

"Project Providers" - Section 3.1(a).

"PSL" shall mean a permanent seat license permitting the holder thereof to purchase tickets to Team Home Games for the type of seat in the Facilities described in such license.

"PSL Agreements" - Section 9.12.

"Public Debt" shall mean the notes, bonds, or other indebtedness incurred or to be incurred from time to time prior to or on or about the date of Substantial Completion to finance the Project Costs and any refinancings or refundings of such notes, bonds or indebtedness.

"Qualified Assignment" shall mean an assignment by Cumberland of its interest in the Stadium Lease that, pursuant to the terms of the Stadium Lease, relieves Cumberland from its obligations thereunder.

"Referendum" shall mean an election upon the proposition for the issuance of all or any portion of the Referendum Public Debt held pursuant to Tennessee Code Annotated Section 9-21-207.

"Referendum Determination Date" shall mean May 21, 1996, unless the Referendum described in Sections 7.1(m) and 7.2(i) shall have occurred prior to May 21, 1996 but the Metropolitan Government shall not have received the statement of votes with respect to the Referendum from the Election Commission on or before May 21, 1996, in which case "Referendum Determination Date" shall mean June 4, 1996.

"Referendum Petition" shall mean a petition protesting the issuance of all or any portion of the Public Debt.

"Referendum Public Debt" shall mean the Public Debt for which the Metropolitan County Council adopted an initial bond resolution on February 6, 1996.

"Reimbursement Fee" - Section 9.3.

"Representatives" shall mean the Cumberland Representative and the Government Representative.

"Required Approvals" shall mean the approvals and authorizations described in Sections 7.1(j) and 7.2(e).

"Reserve Account" - Section 5.2.

"Revision Period" - Section 3.3(e).

"Scheduled Completion Date" shall mean August 1, 1998.

"Schematic Drawings" shall mean such documents as are customarily referred to in the architecture, design and construction industries as "schematic drawings," including, without limitation, drawings that indicate the relative proportion and adjacencies of the functional areas of the Facilities (including floor plans, site plans and basic building sections), outline specifications and system narratives of the Facilities, and such other documents, drawings and information regarding the Facilities as are customarily included in schematic drawings for a project comparable to the Facilities.

"Second Extension Period" shall have the meaning given such term in the Stadium Lease.

"Site Parcel" - Section 4.3.

"Site Preparation Work" shall mean the demolition of any existing improvements on the Stadium Site, permitting activities, the remediation of any hazardous materials that may be located on the Stadium Site at the time that the Stadium Site shall be acquired by the Metropolitan Government, and similar activities and functions.

"Solid Wastes" shall mean such materials, wastes and substances which are defined, determined or identified as such in, or regulated by rules or regulations promulgated under, the Tennessee Solid Waste Disposal Act, Tenn. Code Ann. § 68-211-102, *et seq.*, as amended from time to time.

"Special Account" - Section 5.2.

"Sports Authority" - Introductory paragraph.

"Stadium" shall have the meaning given such term in the Stadium Lease.

"Stadium Lease" shall mean that certain Stadium Lease in the form attached hereto as Annex VII to be entered into by and between Cumberland and the Sports Authority.

"Stadium Site" shall mean the real property described in Annex VIII, subject to additions thereto and releases therefrom in accordance with the Stadium Lease.

"State" shall mean the State of Tennessee.

"State Interest" shall mean the State's right to obtain an undivided ownership interest in the Facilities in the event that the amount paid under Section 11.3 is insufficient to pay in full the Public Debt incurred in connection with the Infrastructure Improvements.

"Substantial Completion" of the Project shall be established and the Project shall be "Substantially Complete" upon receipt by the Team Parties of (a) a substantial completion

certificate issued by the Architects stating the date on which the Project was completed substantially in accordance with the For Construction Plans and Specifications, except for certain uncompleted insubstantial details of construction, mechanical adjustment or decoration, the non-completion of which does not materially interfere with the occupancy or operation of the Facilities as a football stadium suitable for play by the Team and for viewing by the Team's spectators (and if such completion certificate does not cover completion of the Infrastructure Improvements, receipt of an additional comparable certificate from another appropriate Project Provider covering the Infrastructure Improvements), (b) a certificate of occupancy from all appropriate Governmental Authorities permitting the Facilities to be used as a football stadium suitable for play by the Team and for viewing by the Team's spectators, and (c) all appropriate or required acknowledgments from the NFL that the Facilities, in their then current state of completion, comply with the then current NFL rules and procedures for a stadium for the playing of NFL professional football games, a copy of which rules and procedures shall be provided to the Metropolitan Government on or before April 1, 1996, and copies of any and all amendments thereto shall also be promptly provided thereafter upon their adoption.

"Targeted Tax" shall have the meaning given such term in the Stadium Lease.

"Targeted Ticket Tax" shall have the meaning given such term in the Stadium Lease.

"Tax" shall have the meaning as such term in the Stadium Lease.

"TDEC" means the Tennessee Department of Environment and Conservation or any successor agency of the State.

"Team" shall mean the NFL team owned by the NFL Team Entity pursuant to rights granted to it as an NFL franchisee, currently named Houston Oilers.

"Team Contract" shall mean that certain Team Contract in the form attached hereto as Annex IX to be entered into by and between Cumberland and the NFL Team Entity.

"Team Home Game" shall mean each NFL pre-season football game of the Team, each NFL regular season football game of the Team, and each NFL "wildcard" and divisional playoff game, conference championship football game or other NFL professional football game between the Team and any other team fielded by an NFL franchisee (excluding a Super Bowl game) that is to be played at the Facilities.

"Team Parties" shall mean Cumberland and the NFL Team Entity.

"Team Party Indemnified Parties" - Section 10.1(b).

"Team Party Termination Event" - Section 7.1.

"Tennessee Adverse Law" shall mean an Applicable Law (other than an Applicable Law pursuant to which a Tax is enacted) that (a) makes compliance with the obligations of either of the Team Parties under this Agreement or the Stadium Lease materially more onerous, or (b) has the effect of materially frustrating the exercise of any rights (i) of either of the Team Parties under either of such agreements or (ii) of the NFL Team Entity under the Team Contract.

"Term" shall have the meaning given such term in the Stadium Lease.

"Termination Event" shall mean a Team Party Termination Event or a Government Termination Event.

"TSU" means Tennessee State University.

"TSU Agreement" shall mean that certain lease to be entered into by the Sports Authority and TSU with respect to the leasing of the Facilities as provided in the Stadium Lease.

"Update Opinion" - Section 4.1(c).

"Work Divisions" shall mean discrete portions of the Project that are designed and bid as packages, such as mass excavation, finish grading, foundations, concrete framework, structural framework and other similar portions of the Project.

ANNEX II

Budget

Project Development Costs

Land, relocation and demolition	47.2
Oilers Relocation	28.0
Administration and Legal	1.0
	<u>76.2</u>

Site Development and Infrastructure

Vehicular Access Improvements	6.5
Shelby Street Bridge	6.0
Site Finish (including parking)	8.1
Practice Facility	2.5
Riverfront Improvements and Other	11.0
	<u>34.1</u>

Stadium Construction

Foundations and superstructure	42.7
Exterior Skin	10.7
Interior	12.4
Building Systems	31.9
Conveying Systems	2.6
FF&E	9.5
Signage	1.0
Video and Scoreboards	7.5
Concessions & food service	6.0
	<u>124.3</u>

Soft Costs

Design Fees	11.0
Construction Management	6.5
Geological and Testing	2.0
Contingency	30.0
Legal and Financial	5.5
	<u>55.0</u>

289.6

ANNEX III
Liquidated Damages

With respect to any event listed below in this Annex III, the Metropolitan Government shall pay to the NFL Team Entity as liquidated damages the amounts set forth opposite such event.

<u>Event</u>	<u>Liquidated Damage Amount Per Game</u>
1. The inability to play any Possible Stadium Game in the Facilities during the 1998 and 1999 NFL seasons, not to exceed ten pre-season and regular season games for such season and any playoff games therefor, due to delays in the Substantial Completion of the Facilities attributable to events of Force Majeure	\$500,000
2. The inability to play any Possible Stadium Game in the Facilities during the 2000 NFL season but prior to October 15, 2000, not to exceed ten pre-season and regular season games for such season and any playoff games therefor, due to delays in the Substantial Completion of the Facilities attributable to events of Force Majeure	\$800,000
3. The inability to play any of the below listed Possible Stadium Games in the Facilities during the 1998 NFL season, not to exceed ten pre-season and regular season games for such season and any playoff games therefor, due to delays in the Substantial Completion of the Facilities for reasons other than (a) events of Force Majeure, (b) a failure by either of the Team Parties to perform its obligations under this Agreement and (c) Permitted Extension Periods:	
First such Possible Stadium Game:	\$280,000
Second such Possible Stadium Game:	\$440,000
Third such Possible Stadium Game:	\$600,000
Fourth such Possible Stadium Game:	\$760,000
Fifth such Possible Stadium Game:	\$920,000
Sixth such Possible Stadium Game:	\$1,080,000
Seventh such Possible Stadium Game:	\$1,240,000
Eighth such Possible Stadium Game:	\$1,400,000
Ninth such Possible Stadium Game:	\$1,560,000
Tenth such Possible Stadium Game:	\$1,720,000
Any playoff Possible Stadium Game:	\$1,000,000

4. The inability to play any Possible Stadium Game in the Facilities during the 1999 and 2000 NFL seasons, but prior to October 15, 2000, not to exceed ten pre-season and regular season games for such season and any playoff games therefor, due to delays in the Substantial Completion of the Facilities for reasons other than (a) events of Force Majeure, (b) a failure by either of the Team Parties to perform its obligations under this Agreement and (c) Permitted Extension Periods \$1,250,000

For the purposes of this Annex III, it shall be assumed that there would be two home pre-season games per NFL season for each of the four event categories listed above. If the inability to play any particular Possible Stadium Game in the Facilities is due to delays described under more than one of the four event categories listed above, then for purposes of determining the controlling event and the resulting liquidated damage amount, the Metropolitan Government shall cause the Principal Architect to issue a certificate stating which of the four events described above most fairly characterizes the delay that has prevented the playing of such Possible Stadium Game in the Facilities.

ANNEX IV

Use Restriction

THIS INSTRUMENT PREPARED BY:
Waller Lansden Dortch & Davis
511 Union Street, Suite 2100
Nashville, Tennessee 37219-1760

THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY (the "*Declarant*"), the owner of the real property described in Exhibit A, attached hereto and incorporated herein by this reference (the "*Property*"), hereby commits the Property for the use of The Sports Authority of The Metropolitan Government of Nashville and Davidson County (the "*Authority*") and Cumberland Stadium, L.P. (the "*Lessee*"), pursuant to the terms and conditions of that certain Stadium Lease by and between Authority and Lessee, dated as of _____, 1996, and that certain Development Agreement by and among Declarant, Authority, Lessee and Houston Oilers, Inc., dated as of _____, 1996.

NOTARY

ANNEX V

Legal Opinions

Legal opinions from counsel for each Party shall be provided to each other Party, in form reasonably satisfactory to the receiving Parties.

ANNEX VI

GUARANTY

BY

HOUSTON OILERS, INC.

IN FAVOR OF

THE SPORTS AUTHORITY OF
THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY

_____, 1996

A COPY OF THIS DOCUMENT AS
EXECUTED AND DELIVERED IS
INCLUDED IN THIS BINDER AT TAB 7.
THE TEXT OF THIS DOCUMENT IN ITS
ANNEX FORM IS NOT INCLUDED.

ANNEX VII

STADIUM LEASE

BY AND BETWEEN

**THE SPORTS AUTHORITY OF
THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY, AS LESSOR**

AND

CUMBERLAND STADIUM, L.P., AS LESSEE

_____, 1996

**A COPY OF THIS DOCUMENT AS
EXECUTED AND DELIVERED IS
INCLUDED IN THIS BINDER AT TAB 4.
THE TEXT OF THIS DOCUMENT IN ITS
ANNEX FORM IS NOT INCLUDED.**

ANNEX VIII

Stadium Site

An approximately 105 acre tract of land located on the bank of the Cumberland River in downtown Nashville, Tennessee, in the area bounded by the Victory Memorial Bridge, the Shelby Street Bridge, the Cumberland River, and Interstate 65, the precise boundaries of which shall be determined by agreement of the Parties as a portion of the Final Schematic Drawings.

ANNEX IX

TEAM CONTRACT

BY AND BETWEEN

HOUSTON OILERS, INC.

AND

CUMBERLAND STADIUM, L.P.

_____, 1996

A COPY OF THIS DOCUMENT AS EXECUTED AND DELIVERED IS INCLUDED IN THIS BINDER AT TAB 8. THE TEXT OF THIS DOCUMENT IN ITS ANNEX FORM IS NOT INCLUDED.

ANNEX X

Stadium Criteria

1. A modern, first class, open air, stadium designed primarily for football, with a grass playing surface, to be located on the Stadium Site.
2. The Stadium will provide chair-back seating, luxury suites and premium club seating with a manifested capacity of at least 65,000 and not more than 70,000 permanent seats, and shall have the ability to have additional temporary seats.
3. The Stadium will be totally equipped, with all incidentals so as to be ready for game play.