

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN PARALYZED VETERANS
OF AMERICA,

Plaintiff,

v.

No. 07-11702
Honorable Sean F. Cox
Magistrate Judge Steven D. Pepe

THE UNIVERSITY OF MICHIGAN,

Defendant.

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

THE UNIVERSITY OF MICHIGAN AND
THE REGENTS OF THE UNIVERSITY
OF MICHIGAN

Defendants.

CONSENT DECREE

On April 17, 2007, Michigan Paralyzed Veterans of America (“MPVA”), a chapter of the Paralyzed Veterans of America, filed a complaint against the University of Michigan. MPVA’s complaint alleged that the University of Michigan denied equal access to seating to individuals with mobility impairments at its football stadium (“the Stadium”) in violation of Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12131 *et seq.*

On November 27, 2007, the United States of America (“the United States”) filed a Complaint-in-Intervention for injunctive and declaratory relief to remedy alleged violations of Title II of the ADA and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794. The United States’ Complaint-in-Intervention alleges that the defendants, the University of Michigan and the Regents of the University of Michigan (collectively “the University”), have discriminated and continue to discriminate against individuals with disabilities, including individuals who use wheelchairs, by excluding them from participation in, and denying them the benefits of, the services, programs, and activities at the Stadium, in violation of Title II of the ADA and Section 504. Specifically, the complaint alleges that the University failed to provide program accessibility at the Stadium and failed to make alterations and additions to the Stadium so that the altered and added portions are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

Notwithstanding the assertions made by the United States and MPVA, the University denies that it has violated any of the provisions of the ADA and Section 504 with respect to the Stadium. The University denies that it has violated the implementing regulations, including the Uniform Federal Accessibility Standards, Appendix A to 41 C.F.R. part 101 – 19.6 (“UFAS”). Nothing in this Consent Decree shall constitute any admission of liability by the University. The University has agreed to entry of this Consent Decree without admitting the allegations of the complaint or any issue of fact or law to avoid the time, expense, and disruption of litigation.

MPVA, the United States, and the University agree that the entry of this Consent Decree, without further litigation, is in the public interest.

NOW, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION AND VENUE

The Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 12188(b). Venue is appropriate in this District pursuant to 28 U.S.C. § 1391.

II. BACKGROUND

A. The University is a “public entity” within the meaning of the ADA, 42 U.S.C. § 12131, and 28 C.F.R. § 35.104, and is therefore subject to Title II of the ADA, and its implementing regulations, 28 C.F.R. Part 35. It is also a “recipient” of “federal financial assistance” within the meaning of Section 504, 29 U.S.C. § 794, and 34 C.F.R. § 104 and is therefore subject to Section 504 and the relevant implementing regulations, 34 C.F.R. Part 104. The University owns the Stadium and operates “services, programs, or activities” within the meaning of the ADA, including at its Stadium. The University elected to follow UFAS as its accessibility standard for purposes of compliance with Title II of the ADA.

B. The United States Department of Justice (“DOJ”) is the federal agency responsible for initiating and pursuing enforcement proceedings in federal courts for violations, or suspected violations, of Title II of the ADA and Section 504 for public entities, such as the University, including interpretation of UFAS, when used as the accessibility standard for any Title II entity opting to adopt UFAS to comply with Title II of the ADA. *See* 29 U.S.C. § 794a, 42 U.S.C. § 2000d *et seq.*, 42 U.S.C. § 12133, 34 C.F.R. § 100.8(a), 34 C.F.R. § 104.61, 28 C.F.R. § 35.171(a)(3).

C. The United States Department of Education (“ED”) is the federal agency responsible for investigating allegations of discrimination, and pursuing administrative enforcement if any such violations are found, of Title II of the ADA and Section 504 for public institutions of higher education, 28 C.F.R. § 35.190(b)(2), 34 C.F.R. §§ 104.61, 100.7.

D. After receiving a complaint, ED opened an investigation regarding the alleged inaccessibility of the Stadium in February 1999. In 2000, ED entered into a Commitment to Resolve with the University, without issuing findings of compliance or noncompliance, and closed its investigation. After receiving two additional complaints, ED reopened its investigation in 2004.

E. During the course of its investigation, ED conducted several site surveys, reviewed architectural plans and drawings, interviewed complainants and witnesses, and met numerous times with University representatives. However, efforts to resolve this matter administratively through informal negotiations failed, and ED issued its formal Letter of Findings (“LOF”) of violations on October 26, 2007. The University disputed the conclusions of ED as set forth in the LOF. On November 20, 2007, ED formally referred this matter to DOJ for enforcement.

F. While ED’s investigation was on-going, MPVA filed its complaint in this action on April 17, 2007, claiming that the University violated Title II of the ADA and alleging that the Stadium has an insufficient number of wheelchair seats, that those wheelchair seats are limited to the end zone areas, and have obstructed views; that the Stadium has inaccessible routes, inaccessible toilets, inaccessible concession stands, inaccessible souvenir stands, and

inaccessible parking; and that the University also has undertaken significant alterations of, and additions to, its Stadium without complying with the relevant accessibility standard.

G. The University answered the MPVA complaint, denying that there have been any violations of Title II of the ADA.

H. On November 26, 2007, the United States' motion to intervene in the current litigation was granted upon the stipulation of the parties.

I. From November 27, 2007, through December 2, 2007, the United States conducted a site inspection and survey of all areas of the Stadium, including seating areas, entrance gates, exterior and interior routes, exterior and interior ramps, the "Will Call" ticketing area, toilet rooms, locker rooms, coaches and training areas, concession areas, press areas, areas reserved for the Regents of the University and President of the University, souvenir sales areas, and University parking lots servicing the Stadium.

J. The parties thereafter immediately commenced settlement negotiations in an attempt to avoid protracted litigation, leading to the agreement of the parties as set forth in this Consent Decree.

III. SPECIFIC RELIEF¹

A. ALTERATIONS AND ADDITIONS

Any alterations or additions, as described in 28 C.F.R. §§ 35.150 and 35.151, and in UFAS §§ 4.1.5 and 4.1.6, completed at the Stadium after the date of entry of this Consent Decree, or modifications made pursuant to this Consent Decree, shall comply in all respects with Title II of the ADA, 42 U.S.C. §§ 12131 *et seq.*, its implementing regulation, 28 C.F.R. pt. 35, Section 504, 29 U.S.C. § 794, its implementing regulation, 34 C.F.R. pt. 104, and UFAS.²

Any actions taken or modifications made pursuant to this Consent Decree shall not create additional obligations or liability for the University insofar as those actions and modifications are consistent with the ADA, Section 504, and UFAS.

¹ Several drawings are attached to this Consent Decree as Exhibit B. Six of those drawings, Drawing 1 (Sheet L-103), Drawing 5 (Sheet A-102), Drawing 6 (Sheet A-102.07), Drawing 7 (Sheet A-102.08), Drawing 8 (Sheet A-102.09), and Drawing 9 (Sheet A-102.10), are provided to illustrate agreed-upon modifications referenced in this Consent Decree and in Exhibit A. Any other information contained in those six drawings regarding the 2010 Expansion Project not specifically referenced in the Consent Decree or Exhibit A is not part of this Consent Decree and has not been reviewed for compliance by the United States or MPVA.

² The University elected to follow UFAS rather than the ADA Standards for Accessible Design, pursuant to the election permitted for alterations in 28 C.F.R. § 35.151. At the same time, it opted to provide companion seats as part of this Consent Decree even though UFAS does not require companion seats. Accordingly, companion seats are included in the plans for the areas of accessible seating. Pursuant to this Consent Decree, removable companion seats in those wheelchair seating areas may be reconfigured to provide additional wheelchair seating on a particular platform if: (a) the University determines not to provide companion seating, in which case additional wheelchair seating must be added in place of all removed companion seats; or (b) that is requested by particular ticket holders to permit multiple wheelchair locations together for groups of wheelchair users who are attending events together.

B. SITE ARRIVAL POINTS, CONCOURSE APPROACH ROUTES, AND CIRCULATION CONCOURSES

The University will provide UFAS-compliant accessible routes from the main site arrival points at the Stadium to all accessible seating in the Stadium and to all accessible elements within the Stadium as set forth in this Consent Decree and attached Exhibits. A detailed description of the modifications the University will make to site arrival points, concourse approach routes, circulation concourses, and the schedule for implementing these modifications, is provided in Exhibits A and B, Drawing 1 (Sheet L-103, ADA Grading & Site Plan, March 7, 2008), incorporated herein by reference.

C. WHEELCHAIR SEATING LOCATIONS

1. The University shall provide or install additional wheelchair seating at the Stadium as set forth in paragraphs 2 through 9 below.

2. In addition, each companion seat that the University provides pursuant to this Consent Decree shall be located in the same row and immediately adjacent, to the right or to the left, of the wheelchair location, and shall be of the same or better quality seating construction as the fixed seats provided in the immediate area.

3. All wheelchair seating locations required pursuant to this Consent Decree shall adjoin an accessible route, be level, and provide lines of sight comparable to those in the adjacent viewing areas. *See* UFAS §§ 4.33.1, 4.33.2, 4.33.3, 4.33.4, and Fig. 46.

4. By the start of the 2008 football season, the University shall provide permanent locations for wheelchair seats and companion seats in the Stadium as follows:

a. approximately 96 wheelchair and 96 companion seats in a continuous permanent row along the east sideline of the Stadium from the south edge of portal 39 through the north edge of portal 7 at row 54, consisting of 12 permanent platforms (“the East Sideline Row 54 Wheelchair Seating”), *see* Exhibits A and B, Drawing 2 (Wheelchair Platform Location Plan, February 27, 2008) and Drawing 3 (ADA Seating Layout Row 54 East Side, March 7, 2008)(Drawing 3 is included here simply as illustrative), incorporated herein by reference; and

b. the University shall continue to provide a total of approximately 81 permanent wheelchair seats and 81 companion seats (i) in the north end zone, from portal 31 through portal 37 at Row 72 (“North End Zone Row 72 Wheelchair Seating”) in a continuous permanent row, and (ii) in the south end zone, from portal 9 through portal 15 at Row 72 (“South End Zone Row 72 Wheelchair Seating”) in a continuous permanent row. *See* Exhibit A and B, Drawing 2 and Drawing 4 (Cross-Aisle Behind Existing Wheelchair Platforms – Typical @ North and South Endzones, January 18, 2008), incorporated herein by reference.

5. By the start of the 2010 football season, the University shall provide additional permanent locations for wheelchair seats and companion seats in the Stadium as follows:

a. approximately 56 wheelchair seats and 56 companion seats in a continuous permanent row along the east sideline of the Stadium from the south edge of portal 41 through the north edge of portal 5 on row 72, consisting of 8 permanent platforms (“East

Sideline Row 72 Wheelchair Seating”), *see* Exhibits A and B, Drawing 2 and Drawing 3 (Drawing 3 is included here simply as illustrative), incorporated herein by reference;

b. approximately 24 wheelchair seats and 24 companion seats in a continuous permanent row in the northwest corner of the Stadium from the southwest edge of portal 31 through the north edge of portal 28 on row 72, consisting of 3 permanent platforms (“the Northwest Corner Row 72 Student Wheelchair Seating”), *see* Exhibits A and B, Drawing 2 and Drawing 3 (Drawing 3 is included here simply as illustrative), incorporated herein by reference; and

c. a minimum of an additional permanent 72 wheelchair seats and 72 companion seats located on the west sideline on the new west concourse, added as part of the University’s 2010 Expansion Plan, approximately between column lines 2W and 16W and between 19W and 33W (“the West Concourse Sideline Wheelchair Seating”), *see* Exhibits A and B, Drawing 2, Drawing 5 (Sheet A-102, East Outdoor Club Level & West Overall Upper Concourse Plan, December 5, 2007), Drawing 6 (Sheet A-102.07, West Upper Concourse Sector 07, December 5, 2007), Drawing 7 (Sheet A-102.08, West Upper Concourse Sector 08, January 14, 2008), Drawing 8 (Sheet A-102.09, West Upper Concourse Sector 09, January 14, 2008), Drawing 9 (Sheet A-102.10, West Upper Concourse Sector 10, December 5, 2007), incorporated herein by reference.

6. In addition, if the senior student seating section includes the seating on the west sideline in front of the new West Concourse, all senior students who purchase tickets to events at

the Stadium and require accessible seating will be provided wheelchair seats in the new West Concourse Sideline Wheelchair Seating.

7. The University will reserve the wheelchair seating in the East Sideline Row 54 Wheelchair Seating, the East Sideline Row 72 Wheelchair Seating, the North End Zone Row 72 Wheelchair Seating, the South End Zone Row 72 Wheelchair Seating, the Northwest Corner Row 72 Student Wheelchair Seating, and the West Concourse Sideline Wheelchair Seating permanently and exclusively for individuals who use wheelchairs and their companions or other patrons with mobility impairments.

8. By the start of the 2010 football season, pursuant to paragraphs 4 and 5, the University will be providing a minimum of 329 permanent wheelchair seats and a minimum of 329 permanent companion seats vertically and horizontally dispersed throughout the Stadium as described in this Consent Decree. The location of these seats is set forth in Exhibit B, Drawing 2. This number does not include any additional wheelchair seating that the University may provide in the club seats, luxury suites, and other areas as part of the Stadium's 2010 Expansion Project (with the exception of the seats on the West Concourse Sideline Wheelchair Seating, which are included in this number but also are part of the Expansion Project).

9. If, in the future, the University moves the student seating section for all University students to a different part of the Stadium, it will seek and obtain prior written approval from MPVA and the United States to move the Northwest Corner Row 72 Student Wheelchair Seating, which approval shall not be unreasonably denied. Under no circumstances, however,

will it reduce the total number of wheelchair platforms or the total number of wheelchair seats and companion seats provided pursuant to the terms of this Consent Decree, nor will it eliminate or reduce the number of wheelchair seats in the student section.

10. At the end of the 2010 football season, the parties will negotiate in good faith regarding whether additional permanent wheelchair seating should be added to the Stadium. The parties agree to initiate such negotiations at a time and place mutually agreeable to all counsel and at the invitation of any party, consistent with the terms of this Consent Decree. In no event shall the negotiations be unreasonably delayed. The parties agree to meet no later than January 31, 2011.

D. TICKETING POLICY FOR INDIVIDUALS WHO USE WHEELCHAIRS AND THEIR COMPANIONS

1. The University shall ensure that its ticketing and pricing policies, practices, and procedures, including its Preferred Seat Donation Program and Priority Point Program, afford individuals who use wheelchairs the opportunity to fully participate in, and benefit from, the Stadium's services, programs, and activities, to the same extent as all other patrons of the Stadium, except as modified by the terms of this Consent Decree.

2. East Sideline Row 54 Wheelchair Seating, North End Zone Row 72 Wheelchair Seating, and South End Zone Row 72 Wheelchair Seating

a. Individuals who use wheelchairs and their companions may purchase season tickets for football games in the East Sideline Row 54 Wheelchair Seating, the North End Zone Row 72 Wheelchair Seating, or the South End Zone Row 72 Wheelchair Seating

without regard to any ambulatory patrons that are on the University's current waiting list for season tickets to football games. All individuals who use wheelchairs and their companions who currently have season tickets for football games or who are currently on the University's waiting list for season tickets for football games shall have first priority for these wheelchair seats. The University will market, offer, and sell these wheelchair seats only to individuals who use wheelchairs and their companions.

b. The University will create and maintain a separate waiting list for season tickets for wheelchair seats. This waiting list will be comprised solely of individuals who use wheelchairs and their companions who are interested in purchasing season tickets for wheelchair seating in the Stadium.

c. The University will assign individuals who purchase season tickets for these wheelchair seats and companion seats the same specific assigned seats for the entire season.

d. In addition, for the 2008 and 2009 football seasons, the University will waive its Priority Point Program contribution requirements both for individuals who use wheelchairs and their companions who purchase season tickets for the 2008 or 2009 football seasons for the East Sideline Row 54 Wheelchair Seating, the North End Zone Row 72 Wheelchair Seating, or the South End Zone Row 72 Wheelchair Seating. These new season ticket holders will be required to pay the applicable season ticket price and

Preferred Seat Donation each year to be eligible to purchase and to renew their season tickets for their assigned wheelchair seats or companion seats.

e. Individuals who use wheelchairs and their companions who purchase season tickets for the East Sideline Row 54 Wheelchair Seating, the North End Zone Row 72 Wheelchair Seating, or the South End Zone Row 72 Wheelchair Seating for the 2008 or 2009 football seasons will have the same ongoing right after 2009 to renew their tickets as ambulatory patrons without regard to the waiting list requirement either for ambulatory patrons or wheelchair patrons. They will be required to pay the applicable Preferred Seat Donation and ticket price, but will not be required to pay the Priority Point Program contribution as long as they maintain season tickets every season.

3. East Sideline Row 72 Wheelchair Seating, Northwest Corner Row 72 Student Wheelchair Seating, and West Concourse Sideline Wheelchair Seating

a. Individuals who use wheelchairs and their companions may purchase season tickets for football games for the East Sideline Row 72 Wheelchair Seating, the Northwest Corner Row 72 Student Wheelchair Seating, and the West Concourse Sideline Wheelchair Seating without regard to the University's waiting list for season tickets to football games for ambulatory patrons. All individuals who use wheelchairs and their companions who currently have season tickets for football games or who are currently on the University's waiting list for season tickets for football games shall have first priority

to these wheelchair seats. The University will market, offer, and sell these wheelchair seats only to individuals who use wheelchairs and their companions.

b. The University will continue to maintain a separate waiting list for season tickets for wheelchair seats. This waiting list will be comprised solely of individuals who use wheelchairs and their companions who are interested in purchasing season tickets for wheelchair and companion seats in the Stadium.

c. The University will assign individuals who purchase season tickets for these wheelchair seats and their companions specific assigned seats.

d. In addition, for the 2010 and the 2011 football seasons, the University will waive its Priority Point Program contribution requirements both for individuals who use wheelchairs and their companions who purchase season tickets for the 2010 or 2011 football seasons for the East Sideline Row 72 Wheelchair Seating, the Northwest Corner Row 72 Student Wheelchair Seating (if season ticket holders in this section otherwise would be required to so contribute) and the West Concourse Sideline Wheelchair Seating. These new season ticket holders will be required to pay the applicable season ticket price and Preferred Seat Donation each year to be eligible to purchase and to renew their season tickets for their assigned wheelchair seats or companion seats.

e. Individuals who use wheelchairs and their companions who purchase season tickets for the East Sideline Row 72 Wheelchair Seating, the Northwest Corner Row 72 Student Wheelchair Seating, and the West Concourse Sideline Wheelchair Seating for the

2010 or 2011 football seasons will have the same ongoing right as ambulatory patrons have after 2011 to renew their tickets without regard to the waiting list requirement either for ambulatory patrons or wheelchair patrons. They will be required to pay the applicable Preferred Seat Donation and ticket price, but will not be required to pay the Priority Point Program contribution as long as they maintain season tickets every season.

4. Individual Game Ticket Change-Outs. The University may retain no more than 40 wheelchair seats and 40 companion seats for individual game ticket change-outs and no change-outs may be offered to any ticket holder who does not need the seat for a person with a disability as defined by 42 U.S.C. § 12102 and 28 C.F.R. § 35.104. For purposes of the negotiation at the end of the 2010 football season, *see* paragraph III.C.10, all wheelchair seats and companion seats withheld for use as game day change-outs will be considered sold wheelchair seats and sold companion seats. These game day change-outs will be retained as follows:

- a. No more than 10 pairs of seats (wheelchair seats and companion seats) in the East Sideline Row 54 Wheelchair Seating, dispersed throughout East Sideline Row 54 Wheelchair Seating to include seats in the Blue, Maize, Valiant, and Victors seating areas;
- b. No more than 15 pairs of wheelchair seats and companion seats in the North End Zone Row 72 Wheelchair Seating area;
- c. No more than 15 pairs of wheelchair seats and companion seats in the South End Zone Row 72 Wheelchair Seating area.

5. Subject to availability of accessible seating, whenever tickets become available for sale as single game tickets to season ticket holders, individuals on the waiting list for season tickets, or to the general public, the University will also offer for sale single game tickets for wheelchair seats and companion seats to wheelchair users and their companions.

6. The University will provide individuals wishing to purchase season tickets on the East Sideline Row 54 Wheelchair Seating, the East Sideline Row 72 Wheelchair Seating, the North End Zone Row 72 Wheelchair Seating, the South End Zone Row 72 Wheelchair Seating, the Northwest Corner Row 72 Student Wheelchair Seating, and the West Concourse Sideline Wheelchair Seating the option of choosing their seats among all available wheelchair seats. If purchasers do not express a preference, the University will place them in the best seats available in the ticket price and Preferred Seat Donation category selected by those purchasers.

E. TOILETS AND TOILET ROOMS

1. The University has agreed to make numerous changes to many of its existing toilet rooms in order to make these toilet rooms accessible or as accessible as structurally practicable in compliance with the relevant statutes, regulations, and UFAS, as set forth in this Consent Decree. In addition, the University will add accessible features to several toilet rooms in 2008 that will be demolished after the 2009 football season. An itemized list of each modification the University will make to each toilet room is attached as Exhibit A, incorporated herein by reference. Set forth below is the schedule for when each toilet room will be modified.

2. By the start of the 2008 football season, the University will modify the following toilet rooms in accordance with Exhibit A:

- a. East Concourse Men's Lower Level (Section 1)
- b. East Concourse Women's Lower Level (Section 1)
- c. Southeast Women's Lower Level (Section 7)
- d. North Men's Lower Level (Section 32)
- e. North Women's Lower Level (Section 32)
- f. North Men's Upper Level (Section 32)
- g. North Women's Upper Level (Section 32)
- h. Northwest Women's (Section 29)
- i. West Men's Under Press box (Section 23) Lower
- j. West Women's Under Press box (Section 23) Lower
- k. West Women's Under Press box (Section 24) Upper North
- l. West Women's Under Press box (Section 22) Upper South
- m. Southwest Women's (Section 18)
- n. South Men's Lower Level (Section 14)
- o. South Women's Lower Level (Section 14)
- p. South Men's Upper Level (Section 14)
- q. South Women's Upper Level (Section 14)
- r. Second Floor (Print Press Area) in the Press Box Facility

3. By the start of the 2009 football season, the University will make modifications to the Northeast Men's Lower Level (Section 39) toilet room.

4. By the start of the 2010 football season, the University will make modifications to the Northeast Women's Lower Level (Section 40) toilet room.

F. PARKING

In addition to the current accessible parking provided by the University for events at the Stadium, the University will add designated-accessible parking spaces in two parking lots, the Blue Lot West parking area (Lot SC36) and the Blue Lot inside Kipke Drive (Lot SC2), which border the Stadium. These additions and modifications are set forth in Exhibits A and B,

Drawing 1, incorporated herein by reference. Also, the University will provide accessible means of transportation to ferry individuals with disabilities to and from the two drop-off locations on the north and south side of the Stadium and to and from the accessible parking lots serving the Stadium. *See* Exhibit A. In addition, the parties agree that any time after March 15, 2009, should either MPVA or the United States have concerns about the adequacy of existing accessible parking or accessible transportation to and from the two drop-off locations at the Stadium and/or to and from the accessible parking lots, the parties will negotiate in good faith regarding whether additional accessible transportation or additional accessible parking should be provided. In no event shall the negotiations be unreasonably delayed. The parties agree to meet no later than 30 days from the date when either MPVA or the United States provides written notice of such concerns.

G. TRAINING

Prior to the start of each football season, the University will provide training on all components of this Consent Decree, including all exhibits incorporated herein by reference, to all of its employees and contractors who have contact with patrons with disabilities who use the Stadium. The Department of Justice may elect to attend the training each year for the term of this Decree.

H. MARKETING

1. Beginning with entry of this Consent Decree and continuing throughout the life of this Consent Decree, the University shall aggressively publicize the availability of, location, and

ticketing prices, policies, practices, and procedures for, wheelchair seating and companion seating at the Stadium, in relevant and appropriate publications of the University. These communications and publications include, but are not limited to, those directed to its general alumni population and retiree club members; University football communications, pamphlets, programs, advertisements, publications, and mailings that contain information regarding seating or season tickets at the Stadium, and its website, particularly those sections of its website containing football game schedules and information for football season ticket holders and potential football season ticket holders. These publications and communications will include targeted outreach to the disabled community, in particular to individuals who may not be included in the University's communications to its general alumni population, its retiree club members, current football season ticket holders, and individuals on the current waiting list for football season tickets. The publications and communications targeted to the disabled community will include information informing individuals with disabilities how to timely obtain notifications from the University regarding any single game tickets that may become available.

2. The advertising, communications, and publications referenced in paragraph 1 will occur during the time period when such tickets will be offered for sale to individuals who use wheelchairs and their companions.

3. By June 1, 2008, the University will develop and submit to MPVA and the United States for review and approval, its policy and schedule for advertising and selling the wheelchair

seats and companion seats referenced in this Consent Decree, and such approval will not be unreasonably denied.

I. OTHER FACILITIES AND SERVICES AT THE STADIUM

The University has agreed to make changes to the Home Team Locker Room Facility, the remaining existing M-Den, and to signage denoting the accessible entrances, accessible seating, accessible routes, and other accessible elements of the Stadium. An itemized list of each such modification the University will make is attached in Exhibit A, incorporated herein by reference. In addition, the University has agreed that facilities and services, such as the location for pick-up and drop-off of Assistive Listening Devices, any public telephones, Automatic Teller Machines, the Lost and Found, and the “Will Call” ticket offices will be on accessible routes.

J. REVIEW AND APPROVAL OF ARCHITECTURAL DRAWINGS

Given time constraints, the University was unable to provide detailed architectural drawings for several agreed-upon modifications to the Stadium and the Stadium grounds. As such, the parties have agreed that once the University completes each such drawing, and prior to initiating implementation, it will provide each such detailed drawing to MPVA and the United States for their review and approval for compliance with UFAS and the intent of the parties under this Consent Decree. Such review and approval will not be unreasonably delayed.

Detailed drawings to be provided by the University to MPVA and the United States include:

1. the accessible routes on the Main Concourse at Level 72 (the concrete concourse circling the Stadium inside the exterior concourse and adjoining

- the portals into the Stadium bowl) including but not limited to the accessible routes connecting portals 13-15 and connecting portals 31-33, *see* Exhibit A, paragraphs II.A.1., II.A.2., III.B.1., III.C.4, and III.C.5;
2. the accessible routes into the Stadium bowl, *see* Exhibit A, paragraphs I.C.4., I.C.5., I.C.6., I.C.7., II.B.1., II.B.2., II.B.3., II.B.4., III.C.1., and III.C.2;
 3. accessible toilet rooms in the Press Box facility, *see* Exhibit A, paragraphs I.E.2.d.iv. and v.;
 4. an accessible shower area in the Glick Family Coaches Suite, *see* Exhibit A, paragraph II.D.1.a.ii.(3);
 5. a map designating the accessible parking, accessible routes, accessible entrances, accessible ramps, accessible portals, accessible seating, and all other accessible elements of the Stadium, *see* Exhibit A, paragraph I.F.

IV. REPORTING, MONITORING, AND ENFORCEMENT

A. REPORTING AND MONITORING

1. By June 1 of each year from 2008 through 2012, the University will submit to MPVA and the United States representative examples of marketing material required under the terms of this Consent Decree.

2. By August 1 of each year from 2008 through 2012, the University will submit to MPVA and the United States all training material information required under the terms of this Consent Decree.

3. On or before September 1, in each year from 2008 through 2012, the University shall submit to MPVA and the United States a written report (“Architectural Report”) detailing its compliance with those obligations referenced below and set out in this Consent Decree that were required to be completed in the preceding twelve months. In the event the University enters into contracts for third parties to complete the work, the University shall also provide MPVA and the United States with a copy of any such contracts as well as any certifications of completion or substantial performance submitted by the contractor. This Architectural Report will include, but is not limited to:

- a. Final construction drawings demonstrating the as-built condition of all wheelchair seating areas, site arrival points, concourse approach routes, circulation concourses, ramps, and portal entrances required to be modified pursuant to the Consent Decree or Exhibits A and B.
- b. Detailed statements and photographs certifying that all modifications, additions, and alterations to the wheelchair seating areas, parking, site arrival points, concourse approach routes, circulation concourses, ramps, portal entrances, toilet rooms, the Press Box facility, home team locker room facility, M-

Den, and signage required under the terms of this Consent Decree or set forth in Exhibits A and B have been completed.

4. On or before December 30, in each year from 2008 through 2012, the University shall submit to MPVA and the United States a written report (“Seating and Ticketing Report”) detailing its compliance with those obligations referenced below and set out in this Consent Decree that were required to be completed in the preceding twelve months. In the event the University enters into contracts for third parties to complete the work, the University shall also provide MPVA and the United States with a copy of any such contracts as well as any certifications of completion or substantial performance submitted by the contractor. This Seating and Ticketing Report will include, but is not limited to:

- a. A detailed description of the number, location, and total cost of each ticket sold as season tickets for seating in each of the wheelchair seating locations referenced in this Consent Decree.
- b. Whether each such wheelchair seat or companion seat was
 - (i) sold on a season ticket basis to an individual who uses a wheelchair,
 - (ii) sold on a season ticket basis to the companion of an individual who uses a wheelchair,
 - (iii) used as an individual game ticket change-out by an individual who uses a wheelchair, identified by each particular game such ticket was actually used and the location of such seat,

(iv) used as an individual game ticket change-out by a companion of an individual who uses a wheelchair, identified by each particular game such ticket was actually used and the location of such seat,

(v) sold as a single game ticket to an individual who uses a wheelchair, identified by each particular game such ticket was actually used and the location of such seat,

(vi) sold as a single game ticket to the companion of an individual who uses a wheelchair, identified by each particular game such ticket was actually used and the location of such seat.

c. If any, the number and location of any seats in each of the wheelchair seating locations referenced in this Consent Decree that are not sold as season tickets. For purposes of this reporting provision, wheelchair seats and companion seats withheld for use as game day change-outs will be considered sold wheelchair seats and sold companion seats.

d. Whether the University was able to fulfill all requests for season tickets for the wheelchair seating areas, and if not, how many such requests were denied, and the approximate locations requested for those wheelchair seats.

e. The number and exact location of wheelchair and companion seats withheld from sale for individual game ticket change-outs.

f. The number of individuals on the waiting list for wheelchair seats and/or companion seats.

5. For the 2008, 2009, 2010, 2011, and 2012 football seasons, the University will mail surveys to all individuals who purchase season tickets in the wheelchair seating sections referenced in this Consent Decree during the month of January following the end of the football season. These surveys, which the University will request be returned to them within 20 days, will solicit comments, suggestions, and information from these season ticket holders regarding their experiences and opinions with regard to the accessibility of the Stadium. Annual survey questions will include, but not be limited to, inquiries regarding the average length of time disabled individuals waited for accessible transportation to take them to and from the drop-off locations and to and from the accessible parking areas (*see* paragraph III.F.). The University will provide the actual survey responses to MPVA and the United States by March 15 of each year.

6. Upon reasonable advance notice to the University, MPVA or the United States and any person acting on their behalf (including consultants) shall be permitted full access to the Stadium to review compliance with this Consent Decree, including during home football games at the Stadium and during training sessions regarding compliance with the terms of this Consent Decree.

B. ENFORCEMENT OF THE CONSENT DECREE

1. The United States or MPVA may review compliance with this Consent Decree at any time and may enforce this Consent Decree if the United States or MPVA believe that it or

any requirement thereof has been violated. If the United States or MPVA believes that this Consent Decree or any portion of it has been violated, it will raise its concerns with the University and the parties will attempt to resolve the concerns in good faith. In the event that MPVA or the United States believes that the University has violated any provision of this Consent Decree, MPVA or the United States will give written notice (including reasonable particulars) of such violation and the University shall then respond to such notice and/or cure such non-compliance within 30 calendar days. The parties shall negotiate in good faith in an attempt to resolve any dispute relating thereto before MPVA or the United States seeks relief under paragraph B.3 below.

2. Wherever in this Consent Decree there is a requirement that the University submit material to the United States or MPVA for approval, such as in part III.J. of this Consent Decree, if the University is unable to obtain any approval that it believes has been wrongfully withheld, the University will raise its concerns with the United States or MPVA and the parties will attempt to resolve the concerns in good faith. In the event that the United States or MPVA has wrongfully withheld approval, the University will give written notice (including reasonable particulars) of the issue and the United States or MPVA shall then respond to such notice and/or issue the approval within 30 calendar days. The parties shall negotiate in good faith in an attempt to resolve any dispute relating thereto before seeking relief under paragraph B.3. below.

3. If any dispute under this Consent Decree is not resolved pursuant to paragraphs IV.B.1. and 2. above, any aggrieved party may petition the Court for relief under this Consent Decree.

V. MISCELLANEOUS

A. CONSIDERATION

In consideration of, and consistent with, all the terms of this Consent Decree, the United States and MPVA agree to refrain from undertaking further investigation into or pursuing further legal proceedings regarding all matters contained within this Consent Decree and its attachments, except as provided in paragraph IV. B, above.

B. DURATION OF THE CONSENT DECREE AND THE COURT'S CONTINUING JURISDICTION

This Consent Decree shall remain in effect for 5 years from the date of entry. The Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of the Consent Decree, after which time the case shall be dismissed with prejudice. Any party may apply to the Court for such further orders as may be necessary for, or consistent with, the enforcement of this Consent Decree.

C. ENTIRE CONSENT DECREE

This Consent Decree, including its attached exhibits and drawings, constitutes the entire agreement by the United States and the parties and no other statement, promise, or agreement, either written or oral, made by any party or agents of any party, that is not contained in this written Consent Decree shall be enforceable regarding the matters raised in this Decree.

D. BINDING EFFECT

This Consent Decree is final and has binding effect on the parties, including all principals, agents, executors, administrators, representatives, employees, successors in interest, beneficiaries, assigns, and legal representatives thereof.

E. NON-WAIVER

Failure by MPVA or the United States to seek enforcement of this Consent Decree pursuant to its terms with respect to any instance or provision shall not be construed as a waiver to such enforcement with regard to other instances or provisions.

F. COMPLIANCE WITH APPLICABLE LAWS

This agreement does not affect the duty to comply with the provisions of the ADA or Section 504 or any other law except as set forth in this Consent Decree.

G. AUTHORITY TO BIND THE PARTIES

The undersigned representatives of the parties certify that they are authorized to enter into and consent to the terms and conditions of the Consent Decree and to execute and legally bind the parties to it.

H. SEVERABILITY

If any provision of this Decree is determined by any court to be unenforceable, the other terms of this Decree shall nonetheless remain in full force and effect, provided however, that if the severance of any such provision materially alters the rights or obligations of the parties, the Department and the University shall engage in good faith negotiations in order to adopt such

mutually agreeable amendments to this Decree as may be necessary to restore the parties as closely as possible to the initially agreed-upon relative rights and obligations.

SO ORDERED

Date: March 10, 2008

United States District Court Judge

The parties hereby stipulate to entry of the foregoing Consent Decree:

For Michigan Paralyzed Veterans of America:

s/DAVID M. COHEN (w/consent)
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