

LEASE SUMMARY

BASICS

TEAM: Carolina Hurricanes

Team Owner: Hurricane Holdings, LLC, Executive Director Peter Karmanos, Jr.

[Team Website](#)

FACILITY: PNC Arena

[Facility Website](#)

Year Built: 1999

Ownership:

TYPE OF FINANCING: An \$18 million contribution from North Carolina State University (NCSU), \$48 million from Wake County and the City of Raleigh, \$22 million from the state, \$50 million from the sale of bonds, and \$20 million from the team helped finance the arena. Additionally, the state covered the infrastructure costs.

TITLE OF AGREEMENT: Entertainment and Sports Arena Lease Agreement

TERM OF AGREEMENT: The lease shall have an initial term of twenty (20) years. “The Lease Expiration Date shall be that date which is twenty (20) Lease Years after the Lease Commencement Date (the period from the Lease Commencement Date to the initial Lease Expiration Date being referred to as the ‘Initial Term’)” – Sect. 2.2, pg. 14–15

Option to extend: “Provided that this Lease has not previously been terminated . . . the Lessee shall have the option and right (each an ‘Extension Option’) to extend the Initial Term, upon the terms and conditions set forth herein, for up to two (2) additional terms (each an ‘Extension Term’) of five (5) years each, commencing on the initial Lease Expiration Date or the extended Lease Expiration Date, subject to earlier termination as provided herein.” – Sect. 2.3, pg. 15

PAYMENT/EXPENSES

RENT: Annual rent of \$3 million paid in quarterly installments on the first day of each quarter. – Section 3.1(a), pg. 16–17

Additional Rent: “Commencing with the fourth (4th) Lease Year . . . , in addition to the Annual rent, Additional rent equal to the amount by which (i) the sum of (A) Six Percent (6%) of Gross Arena Revenues during such Lease Year up to \$55,000,000 plus (B) Three Percent (3%) of Gross Arena Revenues during such Lease Year in excess of \$55,000,000 (items A and B, the ‘Additional Rent’) exceeds (ii) the Annual Rent. Additional Rent shall be computed and paid within one hundred twenty (120) days after the end of each Lease Year.” – Section 3.1, pg. 16–17

Rent Deductions: Possible rent reductions exist for “each Lease Year during the Initial Term:

- (i) Annual Game Day Costs Deduction . . . [and]
- (ii) Temporary Facilities Deduction.” – Sect. 3.2, pg. 17

INSURANCE: During the Lease Term, Lessee shall maintain insurance substantially satisfying the following requirements, the expense of which shall be treated as an Arena Operating Expense and paid by Lessee: Business Interruption, Liability, Worker’s Compensation, Property/Boiler and Machinery. – Sect. 11.1, pg. 33–34

CAPITAL IMPROVEMENTS

“Lessee shall have no responsibility for payment of Capital Improvements or Capital Repairs. Such payments may be made from Capital Fund established pursuant to Section 5.3 to the extent the extent funds are available therefor.” – Sect. 5.2, pg. 24

USE

“Lessee or its designee shall be the sole and exclusive operator of the Arena during the Lease Term, with sole responsibility and full control and discretion in the operation, direction, management and supervision of the Arena and its staff, subject to and as more fully described in this Lease.” – Sect. 2.5, pg. 15

“Lessee shall have the exclusive right to negotiate, execute and perform use agreements, licenses and other agreements: (i) with Persons who desire to present events, performances, telecasts, broadcasts or other transmissions in, from or to the Arena, or any part thereof (including the Parking Areas) or who desire otherwise to license the use of or to occupy the Arena or any part thereof (including the parking Areas); or (ii) that otherwise pertain to the use, operation and occupancy of the Arena or any part thereof (including the Parking Areas). Notwithstanding the above, the Lessee acknowledges that if another major league sports franchise (other than a hockey franchise) desires to play its home games in the Arena, the Lessee shall renegotiate this Lease in good faith to make playing dates available for such team. However, the Lessee shall not be required to accept any provision that will materially and adversely affect the Lessee’s economic benefits pursuant to this Lease. In addition, the Lessee and Lessor acknowledge that the lease or license for any such team need not be on the same economic terms as the Lessee has under this Lease and that Lessee shall continue to enjoy all of its benefits thereunder as ‘primary tenants’ including, but not limited to, a scheduling priority for all Hockey Events, its exclusive right to possess certain areas of the Arena, including, but no limited to, the Lessee Office Space and the Team’s locker room facilities, and its rights concerning parking, Concessions, marketing, and Advertising under this Lease.” – Section 4.2, pg. 21

ESCAPE CLAUSES

DESTRUCTION: “If the Arena is destroyed during the last two Lease Years of the Lease Term, then notwithstanding any contrary provision of this Article, by written notice to Lessor within thirty (30) days after the Destruction Date, Lessee may terminate this Lease, whereupon the Insurance Proceeds, if any, shall be shall be deposited into the Capital Fund.” – Sect. 12.2, pg. 37

DEFAULT: “Each of the following events shall constitute an Event of Default:

- (a) If any representation or warranty made by Lessor or by Lessee herein shall at any time prove to have been incorrect in any material respect as of the time made, and if the party making such representation or warranty fails to cause such representation or warranty to

become correct within thirty (30) days after written notice that such representation or warranty was incorrect[.]

(b) If (i) Lessee shall fail to pay any Rent within ten (10) Business Days after the date on which it was due, (ii) if Lessee shall breach its obligations under the provisions of Article 5.1 or (iii) either Lessee or Lessor shall breach its obligations under Article XI [Insurance] and any such breach is not cured within thirty (30) days after written notice by Lessor or Lessee to Lessor, as applicable.

(c) If Lessor or Lessee shall materially breach any of the other covenants or provisions in this Lease and such failure is not cured within 30 days after written notice; provided, however, that if it is not reasonably possible to cure such failure with the exercise of due diligence within such 30 day period, such cure period shall be for an unlimited period of time if within 30 days after such written notice the curing party commences diligently and thereafter continues to cure.

(d) If (i) Lessor or Lessee shall be adjudged a bankrupt or insolvent in a formal judgment that is unappealable or not appealed, (ii) any receiver or trustee of all or any part of the business or property of Lessor or Lessee is appointed and is not discharged within sixty (60) days after appointment, (iii) Lessor or Lessee makes any general assignment of its property for the benefit of creditors, (iv) Lessor or Lessee files a voluntary petition in bankruptcy or insolvency, or applies for reorganization or arrangement with its creditors, under the state, federal or other bankruptcy or insolvency laws now in force or hereinafter enacted, (v) an involuntary petition of bankruptcy or insolvency under the state, federal, or other bankruptcy or insolvency laws is filed against Lessor or Lessee and is not dismissed within sixty (60) days after filing.

(e) If either Lessee or the Team shall breach its obligations under the provisions of Article XV (Non-Relocation) of this Lease.” – Sect. 17.2, pg. 45–46

TERMINATION:

(a) Termination of Lease by Lessor. Lessor at its option may terminate this Lease upon thirty (30) days written notice following an Event of Default by Lessee specified in Section 17.1(d) or 17(e). Upon the effective date specified in such notice, Lessee shall immediately vacate the Arena and surrender possession of the premises to Lessor.

(b) Termination of Lease by Lessee. Lessee at its option may terminate this Lease upon thirty (30) days written notice following an Event of Default by Lessor specified in Section 17.1(d). Upon the effective date specified in such notice, Lessee shall immediately vacate the Arena and surrender the premises to Lessor.

(c) Automatic Termination of Lease. This Lease automatically terminates upon any lawful termination of the Development Agreement in accordance with its terms, except for a termination as a result of the delivery and acceptance of the Arena in accordance with the terms of the Development Agreement and this Lease.” – Sect. 17.7, pg. 48

RETENTION

Dispute Resolution: “In the event of any default, breach or other dispute between the parties in connection with this Lease (collectively, the ‘Dispute’), the parties shall comply with [ADR Procedures.]” – Art. XVIII, pg. 48–50

Non-Relocation Agreement: “As additional consideration for Lessor’s willingness to execute and deliver this Lease, Lessee specifically covenants and agrees that from the Lease Commencement Date and continuing until the Lease Expiration Date, (i) the Team shall play all of its Home Games and home playoff games at the Arena and shall not play any of its Home Games or home playoff games at any other location except for games at neutral sites as required by the NHL and, with Lessor’s consent, which shall not be unreasonably withheld, games played from time-to-time at other arenas in North Carolina, South Carolina or Southern Virginia, as part of the Team’s marketing program, and (ii) Lessee and the Team shall have at least 50% common ownership. All obligations of the Team to play its Home Games at the Arena pursuant to this Article shall be suspended during any Abatement Period, the cause of which prevents the playing of Hockey Events in the Arena and/or prevents the attendance by the public at such games. The Team shall hold and maintain all rights and franchises to play hockey as a member of the NHL in good standing. The Team joins in the execution of this Lease for the purpose being bound by this covenant and agreement.” – Art. XV, pg. 40–41