

NBA LEASE SUMMARIES

TEAM: Phoenix Suns

Team Owner: Robert Sarver

Team Website: <http://www.nba.com/suns/>

FACILITY: US Airways Center

Facility Website: <http://www.usairwayscenter.com/>

Year Built: 1992

TITLE OF AGREEMENT: First Restated Suns Licensing Agreement

Lessor: Phoenix Arena Development Limited Partnership

Lessee: Phoenix Suns Limited Partnership

Financing Information

The City of Phoenix contributed \$35 million with \$28 million going to construct the arena and \$7 million for the land. The Phoenix Suns contributed \$55 million. The city has a 30-year commitment from the Suns to repay a portion of the contribution at \$500,000 per year, with an annual 3% increase. The city will also receive 40% of revenue from luxury boxes and advertising.

Term

The License Agreement terminates on the thirtieth (30th) anniversary from the original license commencement date. – Sect. 2, pg. 2

Team Use of the Facility

The Suns have non-exclusive use of the common area of the Arena. – Sect. 3, pg. 4

Revenue Sources

Tickets

The Suns receive all the ticket revenue. – Sect. 6, pg. 9

Parking

The Suns receive no revenue from parking. All proceeds go to the Operator. – Sect. 9, pg. 12

Concessions

The Suns receive 15% of all soft concessions revenue from the Operator on the fifteenth (15th) day of every month after home games were played. The Suns retain 90% of hard concessions revenue. – Sect. 8, pg. 11–12

Advertising

The Suns retain all revenues from sponsor signs and use of the communication system. – Sect. 13, pg. 18–19

Broadcast Rights

The Suns have the exclusive right to control and to receive the revenue from all radio, television and other broadcasts. – Sect. 7, pg. 10

Maintenance

The Suns provide the Operator with any changes in the NBA requirements or procedures as adopted, and the Operator complies at its expense. The Suns incur no maintenance payments. – Sect. 11, pg. 15–16

Operating Expenses

Staffing

“At its expense, the [Suns] employ the players, officials, timers, scorekeepers, scoreboard operators, public address announcer and other persons directly engaged in the conduct of Home Games.” – Sect. 12, pg. 16

Utilities

The Suns pay for electricity and other utilities provided for practice use of the Arena monthly. – Sect. 11, pg. 15

Custodial Services

The Suns bear no custodial expense. – Sect. 12, pg. 17

Capital Improvements

“The [Suns] shall not make Additions to the Facility without the Operator's prior consent and the prior written consent of the City, such consent not to be unreasonably withheld or delayed. – Sect. 14.2, pg. 20

Insurance

The Team at its own expense provides commercial general liability insurance and insurance on a special basis providing coverage for damage and destruction of team equipment. – Sect. 15.1, pg. 21–22

Escape, Default or Termination Clauses

Team Default

The Suns default if:

1. The Team fails to pay fees seven (7) days after receiving notice or;
2. The Team fails to perform any provision within thirty (30) days of receiving notice. – Sect. 20.1.1, pg. 31

Operator Default

The Operator defaults if:

1. The Operator fails to perform any provision within thirty (30) days of receiving notice or;
2. The Operator breaches another agreement. – Sect. 20.2.1, pg. 32

Remedies

Either party may recover all damages and losses resulting from the default. – Sect. 20.1.1, pg. 31; Sect. 20.2.1, pg. 33

Force Majeure

Failure to perform by either party will not be considered a default on the agreement if due to force majeure. – Sect. 22.4, pg. 40–41

Termination

The Suns may terminate the License Agreement as provided in the Assurance Agreement. In the event of a termination pursuant to this provision, upon payment of any sums then owing by either party to the other whether because of a default or otherwise, the parties shall be released from all future obligations but neither party is released from any liability that has accrued. – Sect. 17, pg. 28