# ARBITRAL AWARD

**(BAT 1373/19)**

by the

# BASKETBALL ARBITRAL TRIBUNAL (BAT)

**Mr. Rhodri Thomas**

in the arbitration proceedings between

**Ms. Aneika Henry**

**- Claimant 1 -**

**Sports International Group**
267 Kentlands Blvd., Suite 105, Gaithersbury, MD 20878, USA

**- Claimant 2 -**

**Mr. Mustafa Bozkurt**

**- Claimant 3 -**

all represented by Mr. Jonathan Ackerman Jordan, attorney at law,
267 Kentlands Blvd., Suite 105, Gaithersburg, MD 20878, USA

vs.

**Orman Genclik ve Spor Kulubu**
Bestepe Mahallesi Sögütözü Caddesi No: 8/1, 06560 Yenimahalle,
Ankara, Turkey

**- Respondent -**

represented by Mr. Sahin Aybal, President

BASKETBALL
ARBITRAL TRIBUNAL

## 1. The Parties

### 1.1 The Claimants

1. Ms. Aneika Henry (hereinafter "Claimant 1") is a professional basketball player, Sports International Group (hereinafter "Claimant 2") is a sports agency and Mr. Mustafa Bozkurt (hereinafter "Claimant 3") is a sports agent (together hereinafter the "Claimants").

### 1.2 The Respondent

2. Orman Genclik ve Sport Kulubu (hereinafter the "Respondent") is a professional basketball club located in Turkey.

## 2. The Arbitrator

3. On 25 April 2019, Prof. Ulrich Haas, the then-Vice President and current President of the Basketball Arbitral Tribunal (hereinafter the "BAT") appointed Mr. Rhodri Thomas as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal (hereinafter the "BAT Rules").

4. None of the Parties has raised objections to the appointment of the Arbitrator or to his declaration of independence.

## 3. Facts and Proceedings

### 3.1 Background Facts

5. On 25 July 2018, Claimant 1 entered into an employment contract with the Respondent in relation to the 2018-2019 season (hereinafter the "Employment Contract"). The Employment Contract contains, among others, the following provisions:

> "***2. Compensation***
>
> *a. As full compensation for her services and the rights granted to the Club under this contract the Player shall receive the Base Salary set forth in Exhibit 1a.*
>
> *b. The Player shall receive certain bonuses during the term of this Agreement set forth in Exhibit 1b.*
>
> *c. Player's agent shall receive representative's fees for services rendered on behalf of the Player set forth in Exhibit 2.*
>
> *3. In connection with the Player's employment, the Club on behalf of the Player shall make the following arrangements:*
>
> ***a. Transportation.***
>
> *During the term of the present Agreement the Club shall provide the Player with 2 (two) roundtrip Delta Airlines comfort economy class tickets from the Player's city of choice to Turkey.*
>
> […]
>
> ***7. Unilateral Termination of the Contract by the Club***
>
> *Should the Club decide to unilaterally terminate the hereby agreement at any time during the term of this Agreement, it shall pay the Player her guaranteed salary for the full term of this Agreement. The Club shall also pay the full amount of Agent Fees set forth in Exhibit 2. The Club accepts and agrees that all remaining payments shall immediately become due in such a case.* […]
>
> ***8. Due Dates Penalties and Termination of the Contract by the Player or Her Representatives***

*a. Payments mentioned in both Exhibits of the hereby contract which are received (or partially received) five (5) days later than the dates noted shall be subject to a penalty of 50 US dollars per day of delay. In the case of payment not being made by the Club within ten (10) days to the Player (or the agent) the Player shall not have any obligations arising from the contract on by-laws or any other related document until all scheduled payments have been made plus appropriate penalties. In case of failure of payment after fifteen (15) days the Player shall have the right to unilaterally terminate the hereby agreement while the Club shall still be obligated to pay the full amount of the base salary and the Agents fees. All payments shall become due immediately in such a case. It is agreed that non-working days will be considered as due dates and will not entitle the Club to delay any payments mentioned in the hereby agreement* [sic].

*b. The Club also accepts and declares that the Player (or Players representatives) shall be entitled to terminate the hereby contract unilaterally with just case if the club fails to fulfil any of its obligations arising from the hereby contract (which are not mentioned in the hereby clause) within 15 days after being notified or breaches terms of hereby contract several times,*

*The Club shall still be obliged to pay all remaining salaries and agents' fees in such a case and all the mentioned payments become due immediately.*

*c. It is agreed that the Club shall be obliged to pay the full amounts of Player's salaries, bonuses and Agency Fees set forth in both Exhibits of the hereby contract if the contract is terminated by the Player (or her Agents) by any just cause. The Club accepts and declares that these provisions on termination are not limiting and there can be other reasons justifying a unilateral termination. It is also agreed that all remaining payments become due immediately if the contract is terminated with a just cause.*

[…]

***9. Dispute Resolution***

*Any dispute arising from or related to the present contract shall be submitted to the Basketball Arbitral Tribunal (BAT) in Geneva, Switzerland and shall be resolved in accordance with the BAT Arbitration Rules by a single arbitrator appointed by the BAT President. The seat of the arbitration shall be Geneva, Switzerland. The arbitration shall be governed by Chapter 12 of the Swiss Act on Private International Law (PIL), irrespective of the parties' domicile. The language of the arbitration shall be English. The arbitrator shall decide the dispute ex aequo et bono.*

[…]

***Exhibit 1 – Base Salary and bonuses***

***A. Base salary.***

***A. 2018-2019 Season Base salary.***

*For rendering her services as a team Player, The Club agrees to pay Aneika Henry, a fully guaranteed base salary of $ 240,000.00- (Two Hundred and Forty Thousand US Dollars) according to the following schedule:*

*Upon arrival and passing medical exam 15.000,00 (Fifteen Thousand USD)*

*October 15, 2018 – 20,000.00 (Twenty Thousand USD)*

*November 15, 2018 – 20.000,00 (Twenty Thousand USD)*

*December 15, 2018 – 20.000,00 (Twenty Thousand USD)*

*January 15, 2019 – 30.000,00 (Thirty Thousand USD)*

*February 15, 2019 – 30.000,00 (Thirty Thousand USD)*

*March 15, 2019 – 35.000,00 (Thirty Five Thousand USD)*

*April 15, 2019 – 35.000,00 (Thirty Five Thousand USD)*

*May 15, 2019 – 35.000,00 (Thirty Five Thousand USD)*

***B. Bonuses***

***Turkish Cup:***

*Makes Final Eight – 750,00 (Seven Hundred Fifty USD)*

*Makes Semi Final – 1.500,00 (One Thousand Five Hundred USD)*

*Makes Final – 2.500,00 (Two Thousand Five Hundred USD)*

*Championship – 4.500,00 (Four Thousand Five Hundred USD)*

***Turkish League Playoffs:***

*Makes Turkish League Play off – 1.000,00 (One Thousand USD)*

*Makes Semi final – 2.000,00 (Two Thousand USD)*

*Makes Final – 3.000,00 (Three Thousand USD)*

*Championship – 5.000,00 (Five Thousand USD)*

***Euro Cup:***

*Makes Quarter Final – 1.000,00 (One Thousand USD)*

*Makes Semi Final – 2.000,00 (Two Thousand USD)*

*Makes Final – 4.000,00 (Four Thousand USD)*

*Championship – 6.000,00 (Six Thousand USD)*

*Bonuses in each category shall be assumed cumulative. Bonuses are net of taxes and will be paid earned with first salary after the event entitling the Player to receive bonuses occurs. If the event occurs after all salary payments are made, the payment will be due on 10th day.*

[…]

***Exhibit 2 – Representative's fee.***

*The Club agrees to pay a guaranteed total of $24,000.00 (Twenty Four Thousand US Dollars) as representative's fee to Sports International Group Inc. for negotiating and bringing about the hereby agreement on behalf of the Player, Aneika Henry for the 2018-2019 season. The agent fee payment is only contingency of the Player's arrival to Ankara, and passing a medical exam.*

*1. The Club shall pay $ 24.000,00 (Twenty Four Thousand US Dollars) no later than February 15, 2019 as follows:*

*$ 16.800,00 (Sixteen Thousand Eight Hundred US Dollars) by bank wire to,*

*Sports International Group Inc.*

[…]

*$7,200.00 - (Seven Thousand Two Hundred US Dollars) by bank wire to Mustafa Bozkurt* […]"

### 3.2 The Proceedings before the BAT

6. On 3 April 2019, Claimant 1, Claimant 2 and GoaBasket Sports (which is solely owned and operated by Mr. Mustafa Bozkurt and was named in the Request for Arbitration as Claimant 3) filed a Request for Arbitration in accordance with the BAT Rules. On 2 April 2019, the BAT received the non-reimbursable handling fee of

EUR 3,000 (plus an overpayment of EUR 207.13) from the Claimants.

7. By letter dated 3 May 2019, the BAT Secretariat fixed a deadline of 28 May 2019 for the Respondent to file an Answer to the Request for Arbitration. By the same letter, and with a deadline of 17 May 2019 for payment, the following amounts were fixed as the Advance on Costs:

| | |
|---|---|
| *"Claimant 1 (Ms Aneika Henry)* | *EUR 3,292.87 (after the deduction of the overpaid handling fee)* |
| *Claimant 2 (SIG)* | *EUR 1,000.00* |
| *Claimant 3 (Goabasket Sports)* | *EUR 500.00* |
| *Respondent (Orman Genclik)* | *EUR 5,000.00"* |

8. Claimant 1 paid her share of the Advance on Costs on 14 May 2019. Claimant 2 paid his share of the Advance on Costs on 15 May 2019. Mr. Mustafa Bozkurt paid the Claimant 3 share of the Advance on Costs on 10 May 2019. The Respondent paid its share of the Advance on Costs on 14 May 2019.

9. On 20 May 2019, the Respondent submitted its Answer to the Request for Arbitration.

10. By Procedural Order dated 5 June 2019, the Arbitrator requested that the Parties provide further information by 21 June 2019 (hereinafter the "First Procedural Order").

11. On 18 June 2019, Claimant 1, Claimant 2 and "GoaBasket Sports (AKA Mr. Mustafa Bozkurt)" submitted their response to the First Procedural Order. Further to a request from the Arbitrator, in their response, the identity of Claimant 3 was amended from GoaBasket Sports to Mr. Mustafa Bozkurt. On 19 June 2019, the Respondent submitted its response to the First Procedural Order.

12. By Procedural Order dated 3 July 2019 (hereinafter the "Second Procedural Order"), the Arbitrator granted the Claimants' request to change the identity of Claimant 3 from GoaBasket Sports to Mr. Mustafa Bozkurt and requested that the parties provide additional further information by 12 July 2019. On 7 July 2019, the Claimants

submitted their response to the Second Procedural Order. The Respondent failed to submit a response to the Second Procedural Order.

13. By Procedural Order dated 24 July 2019, the Arbitrator declared the exchange of documents complete, and requested that the Parties submit detailed accounts of their costs by 1 August 2019.

14. On 25 July 2019, the Claimants submitted the following account of costs:

***Aneika Henry***

| *Specific Cost* | *Date* | *Euros* |
|---|---|---|
| *Claimant 1's Advance on Costs (Partial from Handling Fee)* | *2/4/2019* | *207.13€* |
| *Claimant 1's Advance on Costs* | *14/5/2019* | *3,410.01€* |
| *Legal Fees (17 hours x $300 an hour)* | *25/7/2019* | *4,576.23€* |
| ***Total*** | | ***8,193.37€*** |

***Sports International Group***

| *Specific Cost* | *Date* | *Euros* |
|---|---|---|
| *Claimant 2's Advance on Costs* | *15/5/2019* | *1,054.41€* |
| *Legal Fees (11 hours x $300 an hour)* | *25/7/2019* | *2,961.09€* |
| ***Total*** | | ***4,015.50€*** |

***Mustafa Bozkurt***

| *Specific Cost* | *Date* | *Euros* |
|---|---|---|
| *Claimant 3's Advance on Costs* | *9/10/2018* | *535.00€* |
| *Legal Fees (11 hours x $300 an hour)* | *25/7/2019* | *2,961.09€* |
| ***Total*** | | ***3,496.09€*** |

15. The Respondent failed to submit an account of costs.

16. Since none of the Parties filed an application for a hearing, the Arbitrator decided, in accordance with Article 13.1 of the BAT Rules, not to hold a hearing and to deliver the award on the basis of the written submissions of the Parties.

## 4. The Parties' submissions

### 4.1 Claimant 1's claims

17. In summary, Claimant 1 claims that the Respondent failed, in accordance with the terms of the Employment Contract, to pay her half of the January Instalment (defined below in para 18) of her salary and the full amount of the February Instalment (defined below in para 20) of her salary and that it subsequently unilaterally terminated her Employment Contract without just cause on 19 March 2019. In light of this unilateral termination, Claimant 1 claims that she is entitled to receive all outstanding salary and bonuses payable under the terms of the Employment Contract.

18. Claimant 1 submits that she received all salary instalments on time, until 15 January 2019 when she received only half of the amount payable to her then in accordance with the payment schedule set out in Exhibit 1 of the Employment Contract (the "January Instalment").

19. Following the Respondent's failure to pay half of the January Instalment of her salary, Claimant 1 submits that she wrote to the Respondent on 4 February 2019 to inform it that, if it failed to make payment of the remaining balance of the January Instalment by 19 February 2019, she would exercise her right, as set out in Article 8 of the Employment Contract, to sit out of all team functions until payment of the outstanding sum was made.

20. By 19 February 2019, the Respondent had also failed to pay the 15 February 2019 instalment of her salary (the "February Instalment"), Claimant 1 therefore exercised her right, pursuant to Article 8 of the Employment Contract, to sit out of team practices. Claimant 1 claims that, despite this, she nevertheless attended team practices on 19 and 20 February 2019 where she watched from the side-lines, stretched and received treatment but did not participate in the sessions.

21. On 23 February 2019, Claimant 1 submits that she received a letter from the Respondent asserting that she:

    a. had failed to attend team practice sessions on 21 and 22 February 2019;

    b. had attended team practice on 23 February 2019 but had failed to participate;

    c. had indicated that she did not intend to attend a team game on 24 February 2019; and

    d. had behaved in a "*disrespectful and undisciplined*" manner.

22. Claimant 1 submits that she was informed in this letter that, as a result of her behaviour outlined in para. 21 (a) – (d) above, the Respondent's administrators had "*decided to make her out of roster and giving a Money punishment* [sic]" (hereinafter "the First Letter").

23. Claimant 1 submits that on 23 February 2019, she received a further letter from the Respondent indicating that the club's president had resigned from his position and that, as a result, it had become necessary for the Respondent to undertake an early election process to nominate a new club president. The Respondent indicated in the correspondence that it had attempted to undertake the election process as quickly as possible but had been required to postpone the election process due to issues with obtaining an adequate majority. As a result of the issues in electing the new club president, issues had also arisen relating to the transfer of the club's budget which had resulted in a delay to the payment of players' salaries. The letter went on to state that the club's presidential election would be held shortly and indicated that, in advance of that election, the Respondent was due to play two official games as well as the Turkish Cup. Claimant 1 alleges that in this letter, the Respondent threatened that if Claimant 1 refused to play with the team during this interim period she would

not be welcomed by the club's newly elected administration and would "*lose* [her] *chance of being in our staff in the future*".

24. Claimant 1 responded to the First Letter by way of email also dated 23 February 2019, drawing the Respondent's attention to Article 8 of the Employment Contract and reminding it that it was not entitled to penalise her for refusing to participate in practices as a result of the Respondent's own breaches of the Employment Contract.

25. On 24 February 2019, the Respondent responded by letter indicating that it did not consider that Claimant 1 was "*well-intentioned*" and requested a period of 15 days in which to pay the outstanding salary instalments due to Claimant 1. Claimant 1 submits that, by this time, the Respondent owed her salary payments totalling USD 45,000.00, USD 15,000.00 of which was thirty-nine days overdue and USD 30,000.00 of which was nine days overdue.

26. On 25 February 2019, Claimant 1 responded to the Respondent, reminding it of the amount of the outstanding sums payable to her and indicating that, if she were to wait a further 15 days for payment of her outstanding salary instalments "*that would be close to two months overdue*". Claimant 1 again reminded the Respondent that it was her contractual right, pursuant to Article 8 of the Employment Contract, to sit out of team practices if the Respondent was fifteen days' late in paying salary instalments.

27. Claimant 1 submits that, by way of a compromise, however, she agreed in her email to resume playing for the period of 15 days requested by the Respondent, if the Respondent immediately paid the outstanding USD 15,000.00 of the January Instalment of her salary which, she submits was by this point, 40 days late. Claimant 1 submits that she would also have allowed the Respondent an additional 15 days to make payment of the remaining USD 30,000.00 of the February Instalment of her salary that was also outstanding.

28. Claimant 1 submits that the Respondent failed to respond to this letter and it subsequently came to her attention that it had been paying other players in the club

but not her. Following this, on 13 March 2019, she again wrote to the Respondent stating that other players had received their outstanding salaries but that she had not, and also that USD 15,000.00 of the January instalment of her salary was now 58 days overdue and that USD 30,000.00 of the February instalment of her salary was now 27 days overdue. The letter asked the Respondent to confirm whether its new administration had any intention of honouring its obligations under the Employment Contract and requested that the Respondent indicate, within 3 days, when Claimant 1 would receive her overdue salary and when the outstanding agency fees (dealt with in further detail below) would be paid. The letter explained that, if the Respondent failed to respond, Claimant 1 would be left with no choice but to assume that the Respondent was unwilling to ever pay the outstanding salary instalments and would therefore effectively be terminating the Employment Contract.

29. On 19 March 2019, the Respondent wrote to Claimant 1, indicating that the management of the club had changed and that all other players' salaries (with the exception of Claimant 1's) had now been paid. Further, the Respondent's new management would be willing to pay the January Instalment and February Instalment with outstanding agent's fees (as described in further detail below) "*as a goodwill indicator*" but that it wanted to "*negotiate the terms of the contract. Because we don't want her to be with us…* [w]*e want to cancel the salaries of March, April and May in the terms of mutual agreement"*.

30. Claimant 1 submits that the Respondent's words "*we don't want her to be with us*" amounted to a termination of the Employment Contract, made in bad faith and in breach of contract. This triggered Article 7 of the Employment Contract which provides that, if the Club decides unilaterally to terminate the Employment Contract, it will be required immediately to pay the player the full amount of her guaranteed salary for the full term of the Employment Contract.

31. Claimant 1 therefore submits that she is entitled to all outstanding salary instalments and bonus sums payable under the Employment Contract together with a late penalty fee in respect of each instalment.

32. Claimant 1 further submits that, although she tried to mitigate her losses by signing for a new club for the remainder of the season, she has been unable to do so owing to the Respondent's failure to inform her of its intention to terminate the Employment Contract until 19 March 2019.

33. Claimant 1 submits that, as at the date of termination of the Employment Contract on 19 March 2019, all relevant transfer deadlines had passed, in particular:

    a. the WNBL (Australia) and WBCA (China) seasons were already complete;

    b. under Turkish Federation rules, Claimant 1 could not transfer to another Turkish Club at that point in the season; and

    c. she had contacted other clubs or partner agents located in Poland, France, Czech Republic, Spain, Italy, Hungary, Russia, WKBL (Korea), and Israel but all of their transfer deadlines had passed.

34. Claimant 1 also claims that the Respondent has, in breach of the Employment Contract, failed to reimburse her for the airfares relating to (i) a round trip flight that she took before the Employment Contract was terminated; and (ii) her flight home, following termination.

### 4.2 Claimant 2 and Claimant 3's claims

35. Claimant 2 and Claimant 3 submit that they were entitled, in accordance with Exhibit 2 of the Employment Contract, to payment of the following agents fees by 15 February 2019:

    a. USD 16,800.00 to Claimant 2; and

b. USD 7,200.00 to Claimant 3 (together hereinafter the "Agents Fees").

36. Claimant 2 and Claimant 3 allege that the Respondent has, despite repeated requests, failed to make payment of the Agents Fees.

### 4.3 Claimants' request for relief

37. The Claimants have submitted the following request for relief:

> "*Claimant(s) request(s):*
>
> *Claimant 1 seeks:*
>
> *a) $15,000 salary payment with a $50 per day late penalty starting on January 21, 2019.*
>
> *b) $30,000 salary payment with a $50 per day late penalty starting on February 21, 2019.*
>
> *c) $35,000 salary payment with a $50 per day late penalty starting on March 21, 2019.*
>
> *d) $35,000 salary payment with a $50 per day late penalty starting on April 21, 2019.*
>
> *e) $35,000 salary payment with a $50 per day late penalty starting on May 21, 2019.*
>
> *f) $750.00 bonus for finishing in the Final Eight at EuroCup with a $50 per day late penalty starting on January 15, 2019.*
>
> *g) $1,000 bonus for making the Turkish playoffs with a $50 per day late penalty starting on April 15, 2019.*
>
> *h) €654.62 EUR reimbursement for roundtrip flight during break in November 2018.*
>
> *i) $540.00 reimbursement for return flight from Turkey after Respondent's termination.*
>
> *Claimant 2 seeks $16,800 with interest at 5% on February 16, 2019.*
>
> *Claimant 3 seeks $7,200 with interest at 5% starting on February 16, 2019.*

*Total amount in dispute*: ***$176,290 + €654.62 EUR***

*(excluding late payment/interest amounts & legal/arbitral costs)*"

### 4.4 Respondent's submissions in response to Claimant 1's claims

38. The Respondent accepts that the outstanding salary instalments sought by Claimant 1 have not been paid. The Respondent claims that it experienced difficulties in paying its players' salaries in early 2019 for two main reasons. The first reason was unforeseen fluctuations in the US Dollar / Turkish Lira exchange rate, and the second reason was that the management of the Respondent's club changed during this period. The Respondent submits that it discussed these issues with both the club's players and managers to reassure them that their salaries would be paid as soon as possible once these issues had been resolved.

39. The Respondent submits that, although it failed to pay Claimant 1 the January and February Instalments of her salary, it does not consider that she is entitled to (or deserves) payment of the outstanding salary and bonus payments that she is now seeking for various reasons which are set out below.

40. First, the Respondent submits that it was in fact Claimant 1 who immediately terminated the Employment Contract, by refusing to perform her obligations under it. The Respondent submits that Claimant 1 should have provided it a 30-day grace period to remedy the breaches (i.e. non-payment of salary) prior to 'terminating' the Employment Contract in this manner. However, Claimant 1 failed to provide this 30-day grace period.

41. Secondly, the Respondent submits that it has an excellent track record of paying its players, managers and trainers and that, until the present situation involving Claimant 1, no disputes had ever arisen as a result of any wage and / or fee problem. The Respondent submits that, even when its team had not performed well and had dropped out of competitions, it nevertheless complied with all of its payment

obligations. In the case of Claimant 1, the Respondent had actually paid her salary before payment was due under the Employment Contract prior to January 2019. The Respondent therefore asserts that Claimant 1's failure, during its financial difficulties, to trust in its eventual ability to pay her outstanding salary and to continue practising and playing in the meantime was incompatible with the 2nd article of the Turkish Civil Code relating to "*good faith*".

42. Thirdly, the Respondent submits that the unexpected fluctuation in US Dollar / Turkish Lira exchange rates amounted to "*extraordinary conditions*" which entitled it to alter or change the Employment Contract in circumstances where it was acting in good faith. In support of this contention, the Respondent relies on various authorities, including a decision of the Turkish Court of Appeal 'Number 2012/13817', 'Merits No. 2012/8973' dated 30 May 2012; s313 of the German Civil Code, a decision of the German Federal Court 'BGH, VIII ZR 221/76; U.v. 08.02.1978, BeckRS 1978 (E.T. 24.05.2015); and article 138 of the Turkish Code of Obligations.

43. The Respondent submits that these authorities support the proposition that, if an extraordinary condition (such as an unexpected exchange rate fluctuation) arises which was not foreseen at the outset of the contractual relationship, and is not caused by the debtor who is acting in good faith, then the debtor will have the right "*to demand an amendment to the agreement*" and, if such amendment is not possible "*the debtor will have the right to renege on the agreement*".

44. The Respondent also claims that during its period of financial difficulties, Claimant 1 behaved disrespectfully towards club officials and her fellow team mates. In particular, the Respondent alleges that Claimant 1 "*yelled to our director, manager and team mates loudly and she demotivated the team and last but not least did not participated to exercises and our team's matches* [sic]". In support of this allegation, the Respondent submitted statements signed by its Administrator, General Manager, Head Coach and Captain confirming that this is the case which are dated 21 February 2019, 22 February 2019 and 23 February 2019.

45. The Respondent claims that both it and Claimant 1 are subject to rules of the Turkish Basketball Federation (hereinafter "TBF"), including the 'Contracted Sportsman, Registry and Transfer Directive' (hereinafter the "TBF Directive"). The Respondent submits that, in accordance with Article 35 of the TBF Directive, it is entitled to terminate players' employment contracts if they act non-compliantly towards "*disciplinary rules and public decency*". Such non-compliant behaviour might entail behaviour such as that exhibited by Claimant 1, i.e. behaving "*in a disrespectful manner, using foul language, vulgarities or yelling loudly or shouting, using the club's facilities under the influence of alcohol, malevolent behaviours, disgraceful offenses, violence, depreciatory actions*".

46. The Respondent also submits that according to "DRC and CAS decisions", Claimant 1's disrespectful behaviour provided it with sufficient justification to terminate the Employment Contract. The Respondent claims that, in spite of this, it "*showed good faith* [towards Claimant] *and did not terminate the agreement*".

47. The Respondent also alleges that Claimant 1 had a hidden agenda, namely to escape the Employment Contract so that she would be able to return to the USA to live with her husband. The Respondent alleges that this was evidenced by her words "[a]*nyway I want to be with my husband; if the club doesn't pay me on time, I will return to the USA and apply to court and I will get all my money back*". The Respondent submits that Claimant 1's desire simply to return to the USA to live with her husband as opposed to continuing to comply with her contractual obligations pursuant to the Employment Contract is further demonstrated by the fact that she has not entered into any further employment contracts after her departure from the Respondent.

48. In light of the above, the Respondent submits that Claimant 1 is not entitled to receive the outstanding salary and bonus payments which she is claiming. The Respondent did not make any submissions in relation to Claimant 1's claims for reimbursement of air fares.

### 4.5 Respondent's submissions in response to Claimant 2 and Claimant 3's claims

49. The Respondent does not dispute that it has not paid the Agents Fees claimed by Claimant 2 and Claimant 3.

### 4.6 Respondent's request for relief

50. The Respondent did not submit a formal request for relief but rather concluded in its Answer as follows:

> "[…] *the claimed fee and demands are injudicious and unjust.*
>
> *We expect a just decision from your arbitration court with all our respect."*

51. Moreover, in its last submission dated 15 June 2019 and filed on 19 June 2019, the Respondent concluded as follows:

> "*Our only request from you is that; don´t charge the money from us on behalf of our player who didn´t earn or deserve it."*

## 5. Jurisdiction

52. Pursuant to Article 2.1 of the BAT Rules, "*[t]he seat of the BAT and of each arbitral proceeding before the Arbitrator shall be Geneva, Switzerland*". Hence, this BAT arbitration is governed by Chapter 12 of the Swiss Act on Private International Law (PILA).

53. The jurisdiction of the BAT presupposes the arbitrability of the dispute and the existence of a valid arbitration agreement between the Parties.

54. The Arbitrator notes that the dispute referred to him is clearly of a financial nature and

is thus arbitrable within the meaning of Article 177(1) PILA.[1]

55. The existence of a valid arbitration agreement is to be examined in light of Article 178 PILA, which reads as follows:

> *"1 The arbitration agreement must be made in writing, by telegram, telex, telecopier or any other means of communication which permits it to be evidenced by a text.*
>
> *2 Furthermore, an arbitration agreement is valid if it conforms either to the law chosen by the parties, or to the law governing the subject-matter of the dispute, in particular the main contract, or to Swiss law.*
>
> *3 The validity of an arbitration agreement may not be contested on the grounds that the principal contract is invalid or that the arbitration agreement concerns a dispute which has not yet arisen."*

56. Article 9 of the Employment Contract is an arbitration clause in favour of the BAT which stipulates:

> "*9. Dispute Resolution*
>
> *Any dispute arising from or related to the present contract shall be submitted to the Basketball Arbitral Tribunal (BAT) in Geneva, Switzerland and shall be resolved in accordance with the BAT Arbitration Rules by a single arbitrator appointed by the BAT President. The seat of the arbitration shall be Geneva, Switzerland. The arbitration shall be governed by Chapter 12 of the Swiss Act on Private International Law (PIL), irrespective of the parties' domicile. The language of the arbitration shall be English. The arbitrator shall decide the dispute ex aequo et bono.*"

57. In addition, the Respondent has not challenged the jurisdiction of the BAT.

58. For these reasons, the Arbitrator has jurisdiction to adjudicate the Parties' claims.

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[1] Decision of the Federal Tribunal 4P.230/2000 of 7 February 2001 reported in ASA Bulletin 2001, p. 523.

## 6. Applicable Law – *ex aequo et bono*

59. With respect to the law governing the merits of the dispute, Article 187(1) PILA provides that the arbitral tribunal must decide the case according to the rules of law chosen by the Parties or, in the absence of a choice, according to the rules of law with which the case has the closest connection. Article 187(2) PILA adds that the Parties may authorize the arbitrators to decide *"en équité"* instead of choosing the application of rules of law. Article 187(2) PILA is generally translated into English as follows:

> *"the parties may authorize the arbitral tribunal to decide ex aequo et bono".*

60. Under the heading "Applicable Law", Article 15.1 of the BAT Rules reads as follows:

> *"Unless the parties have agreed otherwise the Arbitrator shall decide the dispute ex aequo et bono, applying general considerations of justice and fairness without reference to any particular national or international law."*

61. Article 9 of the Employment Contract states that *"[t]he arbitrator shall decide the dispute ex aequo et bono"*.

62. In light of the above, the Arbitrator will decide the issues submitted to him in this proceeding *ex aequo et bono*.

63. The concept of *équité* (or *ex aequo et bono*) used in 187(2) PILA originates from Article 31(3) of the *Concordat intercantonal sur l'arbitrage*[2] (Concordat),[3] under which Swiss courts have held that arbitration *en équité* is fundamentally different from arbitration *en droit* :

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2 That is the Swiss statute that governed international and domestic arbitration before the enactment of the PILA (governing international arbitration) and, most recently, the Swiss Code of Civil Procedure (governing domestic arbitration).

3 P.A. KARRER, Basler Kommentar, No. 289 *ad* Art. 187 PILA.

> *"When deciding ex aequo et bono, the arbitrators pursue a conception of justice which is not inspired by the rules of law which are in force and which might even be contrary to those rules."*[4]

64. This is confirmed by Article 15.1 of the BAT Rules *in fine* according to which the arbitrator applies "*general considerations of justice and fairness without reference to any particular national or international law*".

65. In light of the foregoing matters, the Arbitrator makes the following findings.

## 7. Findings

### 7.1 Claimant 1's claim

66. The Respondent does not dispute that it has not paid Claimant 1 the sums that she has claimed. Therefore, Claimant 1's claim largely turns on whether: (i) the Respondent was entitled to withhold salary and bonus payments; and (ii) Claimant 1 was entitled to terminate the Employment Contract.

67. In relation to the first of these questions, the Respondent submitted that an unexpected fluctuation in US Dollar / Turkish Lira exchange rates amounted to an extraordinary circumstance which would have entitled it to alter or change the terms of the Employment Contract in circumstances where it was acting in good faith. First, the Arbitrator disagrees that a fluctuation in the exchange rates is an "extraordinary circumstance"; currency fluctuations vary in scale but are relatively common occurrences. Secondly, in accordance with BAT jurisprudence, exchange rate fluctuations will generally not affect a party's payment obligations under an employment contract. As stated by the arbitrator in BAT 1187/18 (at paragraph 37):

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4 JdT 1981 III, p. 93 (free translation).

"*[a]bsent any agreement to the contrary, the debtor principally bears the risk of a detrimental development of exchange rates when he agrees to pay the obligor in a foreign currency*." Accordingly, the Respondent was not entitled to withhold Claimant 1's salary payments on the basis of currency fluctuations.

68. The Respondent also argued that it did not meet payment deadlines in relation to the January Instalment and the February Instalment because of a change of management. The Arbitrator finds that this does not provide any justification for late payment of an employee's salaries, and certainly does not justify a total failure to make salary payments.

69. The Respondent further argued that it withheld payments from Claimant 1 because she acted in bad faith, including by refusing to perform her obligations under the Employment Contract (such as participating in practice sessions). The Arbitrator does not accept this argument. Claimant 1 was entitled to refuse to participate in practice sessions and games when she did, in light of Article 8(a) of the Employment Contract which provides that "*[i]n the case of payment not being made by the Club within ten (10) days to the Player (or the agent) the Player shall not have any obligations arising from the contract on by-laws or any other related document until all scheduled payments have been made plus appropriate penalties.*" It is not disputed that the Respondent failed to make a payment due on 15 January 2019. Claimant 1 was therefore not obliged to perform any obligations under the Employment Contract (including participating in practice sessions) from 26 January 2019. In the event, the first practice session that Claimant 1 did not participate in was on 19 February 2019. The Arbitrator considers that Claimant 1 did not act in bad faith or breach the Employment Contract by failing to participate in practice sessions, as alleged. The Arbitrator notes that Claimant 1 made it clear in a letter to the Respondent dated 4 February 2019 that she would exercise her right to sit out of practice session if the remainder of the January Instalment was not paid by 19 February 2019. Consequently, the Arbitrator finds that the Respondent was not entitled to withhold any part of Claimant 1's salary.

70. As to whether Claimant 1 was entitled to terminate the Employment Contract, the Arbitrator notes that the Employment Contract envisages termination in *inter alia* the following circumstances and with the following consequences:

    a. under Article 7, if the Respondent decides "*to unilaterally terminate the … agreement at any time during the term of this Agreement, it shall pay the Player her guaranteed salary for the full term… [t]he Club shall also pay the full amount of Agent Fees set forth in Exhibit 2. The Club accepts and agrees that all remaining payments shall immediately become due in such a case*"; and

    b. under Article 8(a), if the Respondent is fifteen days late in paying Claimant 1 sums to which she is entitled in accordance with the exhibits to the Employment Contract, Claimant 1 will obtain the right to "*unilaterally terminate the hereby agreement while the Club shall still be obligated to pay the full amount of the base salary and the Agents fees*".

71. Claimant 1 submits that the Respondent unilaterally terminated the Employment Contract in its letter dated 19 March 2019, in particular through its use of the words "*we don't want her to be with us*" thereby triggering its obligations under Article 7 to pay Claimant 1 her guaranteed salary and any applicable bonus payments for the intended full term of the Employment Contract. In response, the Respondent has submitted that, although it was technically entitled to terminate the Employment Contract owing to Claimant 1's disrespectful behaviour, it chose out of "*good faith*" not to do so and submits that Claimant 1 sought to terminate the Employment Contract so that she could return to the USA to live with her husband rather than continuing to fulfil her contractual obligations.

72. In support of its contention that it would have been entitled to terminate the Employment Contract owing to Claimant 1's disrespectful behaviour, the Respondent refers to the TBF Directive and decisions of the DRC and CAS. However, the Respondent has failed to explain in any real detail how these authorities support its argument. In any event, the Arbitrator is required to decide this dispute *ex aequo et*

*bono* and so is not bound by any of the authorities cited by the Respondent. Moreover, the Arbitrator does not find them persuasive when set against the facts of this case, in particular that the Respondent has failed to make salary payments to Claimant 1 and the "*disrespectful behaviour*" complained of by the Respondent is essentially Claimant 1's refusal to participate in training as a consequence of the Respondent's failure to pay.

73. The Arbitrator notes that in a letter dated 19 March 2019, Respondent informed Claimant 1 that it intended to pay the remainder of the January Instalment and the February Instalment as a "*goodwill indicator*", but intended to "*cancel the salaries of March, April and May in the terms of mutual agreement*". The letter also stated that the Respondent was seeking "*to negotiate the terms of the contract. Because we don't want her [Claimant 1] to be with us. She hasn't been with us for certain amount of important games*". The Arbitrator finds that this language amounts to an unequivocal statement by the Respondent of its intention no longer to pay Claimant 1 her salary instalments in respect of March, April and May 2019 to which she was entitled in accordance with Exhibit 1 of the Employment Contract. This is particularly so given that these statements were made by the Respondent at a time when the remaining amount of Claimant 1's January Instalment had been overdue (at that point) for 63 days and the entirety of the February Instalment overdue for 32 days.

74. Consequently, the Arbitrator considers that Claimant 1 was entitled to treat this letter, if not as a unilateral termination of the Employment Contract by the Respondent, then as a repudiatory breach of the Employment Contract such that Claimant 1 could treat it as in fact having been terminated.

75. For completeness, the Arbitrator notes that Article 8 of the Employment Contract provides that "[i]*n case of failure of payment after fifteen (15) days the Player shall have the right to unilaterally terminate the hereby agreement while the Club shall still be obligated to pay the full amount of the base salary and the Agents fees. All payments shall become due immediately in such a case*". Claimant 1 was therefore contractually entitled to terminate the Employment Contract in accordance with Article

8 from 31 January 2019 onwards.

*7.1.1 Salary payments*

76. Given that the Employment Contract was unilaterally terminated by the Respondent without just cause, Claimant 1 is *prima facie* entitled to all outstanding salary payments under the Employment Contract.

77. The Arbitrator accepts Claimant 1's submission that the Employment Contract was terminated only a handful of weeks before the end of the season, at a point in time when it would have been difficult for her to obtain a new contract. Claimant 1 produced evidence that she contacted alternative clubs, however they were not recruiting, or indeed transfers were not permitted under league rules, from the time the Employment Contract was terminated. In these circumstances, the Arbitrator considers *ex aequo et bono* that it would not be fair to expect Claimant 1 to have mitigated her losses in any meaningful way by joining a new club after 19 March 2019. Therefore, the Arbitrator finds that Claimant 1 is entitled to payment of a total of USD 150,000.00[5] in unpaid salaries, comprising the following amounts:

a. USD 15,000.00 payment in respect of salary instalment due on 15 January 2019;

b. USD 30,000.00 payment in respect of salary instalment due on 15 February 2019;

c. USD 35,000.00 payment in respect of salary instalment due on 15 March 2019;

[5] Article 2(g) of the Employment Contract provides that all salary and bonus payments are to be made to Claimant 1 "net" of taxes. The Arbitrator notes that Claimant has not specifically requested payment of outstanding salary and bonus to be "net".

d. USD 35,000.00 payment in respect of salary instalment due on 15 April 2019; and

e. USD 35,000.00 payment in respect of salary instalment due on 15 May 2019.

*7.1.2 Bonus payments*

78. Claimant 1 also claims the following bonus payments in accordance with section B of Exhibit 1 of the Employment Contract:

a. USD 750.00 for finishing in the Final Eight at EuroCup (hereinafter "Bonus Payment 1"); and

b. USD 1,000.00 for making the Turkish playoffs (hereinafter "Bonus Payment 2").

79. Claimant 1 submitted evidence to show that the Respondent did qualify to the final eight of the Eurocup and so the Arbitrator finds that she is entitled to receive USD 750.00 from the Respondent in respect of Bonus Payment 1.

80. In relation to Bonus Payment 2, Claimant 1 submitted evidence showing that the Respondent qualified for the Turkish League Playoffs on 30 March 2019. At that point in time, the Employment Contract had already been terminated. Accordingly, the Arbitrator finds that Bonus Payment 2 is not payable in full (because Claimant 1 had left the Respondent before the bonus was fully earned). Instead however, a pro-rata amount of the bonus should be paid, to reflect the fact that some of the relevant games to qualify for the Turkish League Playoffs were played after Claimant 1 left the Respondent. The Respondent had played 24 games in the league and there were two further League games remaining. This approach is consistent with BAT

jurisprudence.[6] As at the date of termination of the Employment Contract, the Respondent had played 22 of the 26 league games for the 2018-2019 season. Accordingly, the Arbitrator finds that Claimant 1 is entitled to 85% of Bonus Payment 2 (i.e. USD 850.00).

*7.1.3* *Late payment penalties*

81. Claimant 1 also claims late payment penalties in respect of each of the outstanding salary instalments and bonus payments claimed, in accordance with Article 8(a) of the Employment Contract. Article 8 provides that "*[p]ayments mentioned in both Exhibits… which are received (or partially received) five (5) days later than the dates noted shall be subject to a penalty of 50 US dollars per day of delay*".

82. It is well established BAT jurisprudence that late payment penalty provisions in contracts are enforceable, provided that they are construed in a manner that does not lead to excessive results (see, for example, BAT 0036, 0306 and 0769). In the present case, the Arbitrator considers that the conditions required to trigger the penalty fees payable in accordance with Article 8(a) have been met as, in order to be triggered, as both Claimant 1's salary instalments and bonus payment were unpaid for more than 5 days beyond their due date.

83. It falls to the Arbitrator to determine whether: (i) late penalty fees shall apply in respect of *each* of the outstanding salary payments and the bonus payment (as is claimed by Claimant 1); (ii) one penalty shall apply in respect of all of the outstanding salary payments and one in respect of the bonus payments; or (iii) one penalty shall apply in respect of all of the outstanding payments (i.e. salary and bonus payments combined).

84. The Arbitrator determines that one penalty shall apply in respect of all of the

[6] See, for example, BAT 0815/16.

outstanding payments (i.e. salary and bonus payments combined) on the basis that: (i) if multiple fees were applied, it would lead to an excessively high total penalty; and (ii) there is no explicit wording in Article 8(a) of the Employment Contract that in circumstances where multiple payments are overdue, multiple penalty fees should accrue simultaneously.

85. The Arbitrator is also required to determine the date until which the late payment penalties accrue. The Employment Contract does not expressly state the point that late payment penalties accrue to and so the question is again a matter of construction for the Arbitrator, having regard to the BAT jurisprudence that penalty clauses should be interpreted such that they do not lead to excessive results.

86. The provision for late payment penalties in the Employment Contract is found within Article 8(a). That same Article provides Claimant 1 with a right to terminate the Employment Contract in circumstances where payments are more than 15 days late. Where the Employment Contract is so terminated, Article 8(a) provides that "*All payments shall become due immediately in such a case*". Hence Article 8(a) sets out that all payments due to the Claimant 1 will become due and must be paid immediately upon termination in such circumstances. The Arbitrator considers it reasonable that a similar approach is adopted in relation to the late payment fees, i.e. that they shall accrue until the date of termination of the Employment Contract.

87. In light of the above, the Arbitrator determines that a single penalty payment of USD 50.00 per day shall apply from 21 January 2019 (being 5 days after the day on which the January Instalment and Bonus Payment 1 were both due) until 19 March 2019. This amounts to 58 days, and so a total of USD 2,900.00 in penalty payments is due in relation to unpaid salary and bonuses.

*7.1.4 Air fares*

88. Claimant 1 claims reimbursement in the amounts of EUR 654.62 and USD 540.00 in respect of flights that she took during the term of the Employment Contract and

shortly after the Employment Contract's termination. In support of her claim for reimbursement, Claimant 1 has submitted two invoices in respect of:

a. a Delta Airlines round-trip ticket for use between 12 November 2018 and 19 November 2018 costing EUR 654.62; and

b. a KLM round-trip ticket for use between 30 March 2019 and 17 April 2019 costing USD 540.00.

89. The Arbitrator notes that Article 3(a) of the Employment Contract provides that "*the Club shall provide the Player with 2 (two) roundtrip Delta Airlines comfort economy class tickets from the Player's city of choice to Turkey*". The Arbitrator therefore finds that Claimant 1 is entitled to reimbursement of EUR 654.62 in respect of the Delta Airlines roundtrip plane ticket.

90. However, Claimant 1 is not entitled to reimbursement of USD 540.00 in respect of the KLM round-trip ticket as Article 3(a) specifies that the plane tickets purchased must be '*Delta Airlines comfort economy class tickets'*. The invoice (which relates to a flight taken after the Employment Contract was terminated) which Claimant 1 has submitted is not for a Delta Airlines ticket.

### 7.2 Claimant 2 and Claimant 3's claims

91. Claimant 2 and Claimant 3 submit that they are entitled to payment of Agents Fees totalling USD 24,000.00 in accordance with Exhibit 2 of the Employment Contract. The Respondent has not disputed that these sums are outstanding and owed to Claimant 2 and Claimant 3. The Arbitrator has also taken note that Exhibit 2 of the Employment Contract specifically names both Claimant 2 and Claimant 3 as the recipient of the Agents Fees ("*by bank wire to Sports International Group Inc*." and "*by bank wire to Mustafa Bozkurt*").

92. Exhibit 2 of the Employment Contract specifically states that the Agents Fees are payment "*for negotiating and bringing about the hereby agreement*" and that the "*agent fee payment is only contingency of the Player's arrival to Ankara, and passing a medical exam.*" The Arbitrator is satisfied that the Agents Fees did not relate to services being provided by Claimants 2 and 3 that were still ongoing at the time the Employment Contract was terminated. Moreover, the Agents Fees were due and payable on 15 February 2019, and so before the Employment Contract was terminated.

93. Accordingly, the Arbitrator therefore finds that the Respondent must pay:

    a. USD 16,800.00 to Claimant 2; and

    b. USD 7,200.00 to Claimant 3.

### 7.3 Interest

94. Claimant 2 and Claimant 3 have claimed interest on the sums due to them from the Respondent at 5% per annum from 16 February 2019. The Employment Contract does not provide for the payment of interest. However, default interest is a generally accepted principle which is embodied in most legal systems. Indeed, payment of interest is often a customary and necessary compensation for late payment and, according to BAT jurisprudence, default interest can be awarded even if the underlying agreement does not explicitly provide for an obligation to pay interest. The Arbitrator further considers, in line with BAT jurisprudence, that 5% per annum is a reasonable rate of interest.

95. The Agents Fees were due and payable on 15 February 2019, and so the Arbitrator finds that interest shall run from 16 February 2019 (as requested by Claimants 2 and 3) until the date of payment.

96. Claimant 1 has not claimed interest in respect of the sums due to her from the Respondent. However, she has not been awarded late payment penalties for the period following the termination of the Employment Contract. In these circumstances, the Arbitrator considers it fair (and consistent with BAT jurisprudence) that Claimant 1 should be awarded interest at a rate of 5% per annum from the date following termination of the Employment Contract. The Arbitrator therefore finds *ex aequo et bono* that Claimant 1 is entitled to interest at a rate of 5% per annum from 20 March 2019 until the date of payment.

**8. Costs**

97. Article 17.2 of the BAT Rules provides that the final amount of the costs of the arbitration shall be determined by the BAT President and may either be included in the award or communicated to the Parties separately. Furthermore, Article 17.3 of the BAT Rules provides that the award shall grant the prevailing party a contribution towards its reasonable legal fees and expenses incurred in connection with the proceedings.

98. On 10 October 2019, considering that, pursuant to Article 17.2 of the BAT Rules, "*the BAT President shall determine the final amount of the costs of the arbitration which shall include the administrative and other costs of BAT and the fees and costs of the BAT President and the Arbitrator*", and that "*the fees of the Arbitrator shall be calculated on the basis of time spent at a rate to be determined by the BAT President from time to time*", taking into account all the circumstances of the case, including the time spent by the Arbitrator, the complexity of the case and the procedural questions raised, the BAT President determined the arbitration costs in the present matter at EUR 10,015.23.

99. Article 17.3 of the BAT Rules provides that the award shall determine which party shall bear the arbitration costs and in which proportion and that, as a general rule, the award shall grant the prevailing party a contribution towards its reasonable legal fees and expenses incurred in connection with the proceedings. In doing so, "*the Arbitrator*

*shall primarily take into account the relief(s) granted compared with the relief(s) sought and, secondarily, the conduct and financial resources of the parties.*"

100. The Claimants have been successful in respect of overwhelming majority of their claims (failing only to be awarded compensation in respect of one air fare and certain late payment penalties). The Arbitrator considers that this is the starting point for determining the proportion of the arbitration costs to be borne by the Respondent. The Arbitrator notes that all parties paid their share of the advance on costs and generally conducted themselves well within these proceedings. In the circumstances of the case, the Arbitrator considers it is fair and in application of Article 17.3 of the BAT Rules, that 90% of the costs of the arbitration be borne by the Respondent and 10% of the costs be borne by the Claimants.

101. The Claimants have claimed EUR 10,498.41 in legal fees and expenses. The Arbitrator notes that the Claimants' legal representative is the in-house counsel for Claimant 2. In light of the circumstances of this case, in particular the volume, number and complexity of submissions made by the Parties, the Arbitrator considers that a fair contribution towards the Claimants' legal fees (including the non-reimbursable handling fee) would be EUR 9,000.00.

102. Therefore, the Arbitrator decides:

    a. the Respondent shall pay jointly to the Claimants EUR 4,013.70, as reimbursement of arbitration costs advanced by the Claimants;

    b. the Respondent shall pay to the Claimants EUR 9,000.00, as a contribution towards the Claimants' legal fees.

## 9. AWARD

For the reasons set forth above, the Arbitrator decides as follows:

1. **Orman Genclik ve Spor Kulubu shall pay USD 150,000.00 to Ms. Aneika Henry in respect of outstanding salary payments plus interest at a rate of 5% per annum from 20 March 2019 until payment.**

2. **Orman Genclik ve Spor Kulubu shall pay USD 1,600.00 to Ms. Aneika Henry in respect of unpaid bonus payments plus interest at a rate of 5% per annum from 20 March 2019 until payment.**

3. **Orman Genclik ve Spor Kulubu shall pay USD 2,900.00 to Ms. Aneika Henry in respect of late payment penalties.**

4. **Orman Genclik ve Spor Kulubu shall pay EUR 654.62 to Ms. Aneika Henry as reimbursement for the cost of airline tickets.**

5. **Orman Genclik ve Spor Kulubu shall pay USD 16,800.00 to Sports International Group in respect of outstanding agents fees plus interest at a rate of 5% payable from 16 February 2019 until payment.**

6. **Orman Genclik ve Spor Kulubu shall pay USD 7,200.00 to Mr. Mustafa Bozkurt in respect of outstanding agents fees plus interest at a rate of 5% payable from 16 February 2019 to until payment.**

7. **Orman Genclik ve Spor Kulubu shall pay jointly to Ms. Aneika Henry, Sports International Group and Mr. Mustafa Bozkurt the amount of EUR 4,013.70 as reimbursement of the advance on BAT costs.**

8. **Orman Genclik ve Spor Kulubu shall pay jointly to Ms. Aneika Henry, Sports International Group and Mr. Mustafa Bozkurt the amount of EUR 9,000.00 as a contribution towards their legal fees and expenses.**

9. **Any other or further-reaching requests for relief are dismissed.**

BASKETBALL
ARBITRAL TRIBUNAL

Geneva, seat of the arbitration, 15 October 2019

Rhodri Thomas
(Arbitrator)