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FIBA Arbitral Tribunal (FAT)

ARBITRAL AWARD

(0028/09 FAT)

rendered on 4 May 2009 by the

FIBA ARBITRAL TRIBUNAL (FAT)

Mr. Raj Parker

in the arbitration proceedings

Mr. Roberto Bergersen c/o Priority Sports, 325 N La Salle Drive, Suite 650, Chicago, IL 60610, U.S.A.

- Claimant 1 -

Priority Sports, 325 N La Salle Drive, Suite 650, Chicago, IL 60610, U.S.A.

- Claimant 2 -

Jointly the "Claimants"

vs.

Aliaga Belediyesi Spor Klubu, Enka Spor, Tesisleri Enka Spor, Salonu Aliaga, Izmir, Turkey

- Respondent -

together with the Claimants, the "Parties"



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1. The Parties

1.1. The Claimants

Roberto Bergersen (hereinafter "Claimant 1" or the "Player") is a citizen of the United States of America and a professional basketball player. Claimant 1 is represented by Brad Ames, a certified FIBA agent.

Priority Sports (hereinafter "Claimant 2") is a sports agency domiciled in the United States of America. Claimant 2 is represented by Brad Ames, a certified FIBA agent.

1.2. The Respondent

Aliaga Belediyesi Spor Klubu (hereinafter the "Respondent") is a Turkish basketball club with its seat in Izmir, Turkey. The Respondent is not represented by counsel.

2. The Arbitrator

On 23 January 2009, the President of the FIBA Arbitral Tribunal (the "FAT") appointed Raj Parker as arbitrator (hereinafter the "Arbitrator") pursuant to Article 8.1 of the Rules of the FIBA Arbitral Tribunal (hereinafter the "FAT Rules").



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3. Facts and Proceedings

3.1. Background Facts

On 3 July 2008, the Claimants and the Respondent entered into a player contract (the "Contract"), under which the Respondent agreed to pay Claimant 1 certain salary and bonus payments in return for the Player playing for the Club during the 2008 - 2009 season. The Respondent also agreed to pay Claimant 2 and 1x1 Sports Management each an agent's commission in return for certain services regarding the Player.

In relation to salary payments, Article 2 of the Contract states:

"The Club agrees to pay Player a fully guaranteed Base Salary of \$120,000.00 USD for the 2008/2009 basketball season, in accordance with the payment schedule set forth below [...]"

2008/2009:

<i>August 25, 2008</i>	<i>\$21,000.00 USD</i>
<i>September 25, 2008</i>	<i>\$11,000.00 USD</i>
<i>October 25, 2008</i>	<i>\$11,000.00 USD</i>
<i>November 25, 2008</i>	<i>\$11,000.00 USD</i>
<i>December 25, 2008</i>	<i>\$11,000.00 USD</i>
<i>January 25, 2009</i>	<i>\$11,000.00 USD</i>
<i>February 25, 2009</i>	<i>\$11,000.00 USD</i>
<i>March 25, 2009</i>	<i>\$11,000.00 USD</i>
<i>April 25, 2009</i>	<i>\$11,000.00 USD</i>
<i>May 25, 2009</i>	<i>\$11,000.00 USD"</i>

In relation to bonus payments, Article 6 of the Contract states:

"Bonuses: In addition to the guaranteed Base Salary to be paid to Player in Paragraph 2 above, the Club shall pay Player the following bonuses (collectively, "Bonuses") for each specific goal listed in this Paragraph 6 that is achieved by the Club in the 2008/2009



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season (all payable in US Dollars) [...]

c) Player shall earn the following cumulative bonuses for Club's participation in the Turkish Cup:

(i) Player shall receive \$2,000 USD if Club shall qualify for the Turkish Cup Final Eight; [...]

All Bonuses will be fully guaranteed by Club in the same manner that all payments to Player are guaranteed hereunder."

The document entitled "Agent's Commission", which was filed together with the Contract states:

"Aliaga Belediyesi Spor Klubu ("Club") agrees to pay \$6,000.00 USD to Priority Sports & Entertainment and \$6,000.00 USD to 1x1 Sports Management upon the Player's passage (or deemed to have passed) of his physical examination for the Agreement year 2008/2009 [...]

All of these payments for the 2008/2009 season shall become guaranteed and vested to each party upon Player passing (or deemed to have passed) the team's physical examination [...]"

3.2. The Proceedings before the FAT

On 14 January 2009 the Claimants filed a Request for Arbitration in accordance with the FAT Rules. The non-reimbursable fee was received in the FAT account on 19 January 2009.

By email dated 22 January 2009 the Arbitrator accepted his appointment, and signed a declaration of acceptance and independence. Neither Party has raised objection to the appointment of the Arbitrator or to the declaration of independence rendered by him.

By letter dated 23 January 2009, a time limit was fixed until 16 February 2009 for the



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Respondent to file its Answer to the Request for Arbitration. By the same letter dated 23 January 2009, and with a time limit until Monday, 9 February, the following amounts were fixed as an advance on costs:

<i>"Claimant 1 (Mr Bergersen)</i>	<i>EUR 2,500.00</i>
<i>Claimant 2 (Mr Ames)</i>	<i>EUR 2,500.00</i>
<i>Respondent (Aliaga Belediyesi SK):</i>	<i>EUR 5,000.00"</i>

On 10 February 2009, the Claimants paid their share of the advance on costs.

The Respondent has failed to submit an Answer and to pay its share of the advance of costs. Accordingly, and by letter dated 19 February 2009, the FAT Secretariat informed the Parties that the arbitration would not proceed until the full amount of the advance on costs was received. The letter referred to Article 9.3 of the FAT Arbitration Rules which provides that: "*If a party fails to pay its share, the other party may substitute for it.*" A time limit until 2 March 2009 was fixed for the Claimants to pay Respondent's share of EUR 5,000.

On 24 February 2009 Claimant 2 paid Respondent's share of the advance on costs.

By letter dated 9 March 2009, the FAT Secretariat informed the Parties that the exchange of documents was complete. The FAT Secretariat also invited the Parties to submit their detailed accounts of costs.

The Parties did not request the FAT to hold a hearing.

On 20 March 2009, the Claimants submitted the following account:



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“PRIORITY SPORTS COSTS

2,100.00 EUR	<i>Advance on Claimant’s Share of Costs paid by Priority Sports</i>
5,000.00 EUR	<i>Advance on Respondent’s Share of Costs paid by Priority Sports</i>
7,100.00 EUR	<i>Total Costs paid by Priority Sports</i>

1x1 SPORTS MANAGEMENT COSTS

3,000.00 EUR	<i>Handling Fee paid by 1x1 Sports</i>
2,500.00 EUR	<i>Advance on Claimant’s Share of Costs paid by 1x1 Sports</i>
5,500.00 EUR	<i>Total Costs paid by 1x1 Sports</i>

ROBERTO BERGERSEN COSTS

400.00 EUR	<i>Advance on Claimant’s Share of Costs paid by Roberto Bergersen</i>
400.00 EUR	<i>Total Costs paid by Roberto Bergersen”</i>

The Respondent failed to submit an account of costs.



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4. The Parties' Submissions

4.1. The Claimant's Submissions

4.1.1 The Player's Salary and bonus

The Claimants submit that the Respondent has only paid USD 32,000.00 of the Player's base salary, representing salary payments due on 25 August 2008 and 25 September 2008, and has failed to make any of the remaining payments due under the Contract. The Claimants also state that a bonus of USD 2,000.00 became due to the Player because the Club reached the Turkish Cup Final Eight.

The Claimants submit that the Player suffered an injury early in the 2008/2009 season which required surgery. After the surgery, in late October, the Club told the Player that it was terminating the Contract. The Claimants state that they refused the Club's attempts to terminate the Contract as the Club had no grounds to do so.

The Claimants further submit that they tried on several occasions in October and November 2008 to negotiate a settlement with the Club, but failed. The Claimants therefore exercised the Player's right under Article 2 of the Contract to terminate the contract and to accelerate all payments due under it.

4.1.2 The Agents' Commission

The Claimants submit that an agent's commission of USD 6,000.00 fell due to each of Claimant 2 and 1x1 Sports Management under the Contract and that neither of the payments have been paid by the Respondent.



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4.1.3 Request for Relief

The Claimants have made the following requests for relief:

- (1) Immediate payment to Claimant 1 of USD 97,550.00, representing:
 - (i) USD 88,000.00 in outstanding base salary;
 - (ii) USD 2,000.00 in outstanding bonus; and
 - (iii) USD 7,550.00 in late payment penalties.
- (2) Immediate issue of a FIBA Letter of Clearance for Claimant 1.
- (3) Immediate payment to Claimant 2 of USD 6,000.00, representing its agent's commission.
- (4) Immediate payment to 1x1 Sports Management of USD 6,000.00, representing its agent's commission.
- (5) Reimbursement to 1x1 Sports Management of EUR 3,000.00, representing the non-reimbursable handling fee, which was paid for by 1x1 Sports Management on behalf of the Claimants.
- (6) Reimbursement to the Claimants for any and all further expenses relating to the proceedings.



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4.2. The Respondent's Submissions

Despite several invitations, the Respondent has not made any submissions.

5. Jurisdiction and other Procedural Issues

Pursuant to Article 2.1 of the FAT Rules, “[t]he seat of the FAT and of each arbitral proceeding before the Arbitrator shall be Geneva, Switzerland”. Hence, this FAT arbitration is governed by Chapter 12 of the Federal Statute on Private International Law (PILA).

5.1. The jurisdiction of FAT

5.1.1 Review *ex officio*

As a preliminary matter, the Arbitrator wishes to emphasize that, since the Respondent did not participate in the arbitration, he will examine his jurisdiction *ex officio on* the basis of the record as it stands.¹

5.1.2 Arbitrability

The jurisdiction of the FAT requires the arbitrability of the dispute and the existence of a valid arbitration agreement between the parties.

¹ ATF 120 II 155, 162.



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The Arbitrator notes that the dispute referred to him is clearly of financial nature and is thus arbitrable within the meaning of Article 177(1) PILA.²

5.1.3 Formal and substantive validity of the arbitration agreement

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."

Article 11 of the Contract contains the following arbitration clause:

"Any dispute arising from or related to the present contract shall be submitted to the FIBA Arbitral Tribunal (FAT) in Geneva, Switzerland and shall be resolved in accordance with the FAT Arbitration Rules by a single arbitrator appointed by the FAT 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 (PILA), irrespective of the parties' domicile.

The language of the arbitration shall be in English.

Awards of FAT can be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland. The parties expressly waive recourse to the Swiss Federal Tribunal against awards of the FAT and against decisions of the Court of Arbitration for Sport (CAS) upon appeal, as provided in Article 192 of the Swiss Act on Private International Law.

²

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



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The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono.”

The Contract is in written form and thus the arbitration agreement fulfills the formal requirements of Article 178(1) PILA.

With respect to substantive validity, the Arbitrator considers that there is no indication in the file that could cast doubt on the validity of the arbitration agreement under Swiss law (referred to by Article 178(2) PILA). In particular, the wording “[a]ny dispute arising from or related to the present contract” clearly encompasses the present dispute.

Although the Respondent has not made any submissions, the Arbitrator wishes to point out that even if the document entitled “Agent’s Commission” were considered a separate contract between Claimant 2 and Respondent, this would not affect the Arbitrators jurisdiction over Claimant 2’s claim, despite the fact that it does not contain an agreement to arbitrate. Indeed, Claimant 2 has signed the Contract (between Claimant 1 and Respondent) and the dispute over the “Agent’s Commission” is clearly a “dispute arising from or related to” the Contract.

5.2. Other Procedural Issues

Article 14.2 of the FAT Rules states that “*the Arbitrator may nevertheless proceed with the arbitration and deliver an award*” if “*the Respondent fails to submit an Answer*”. The Arbitrator’s authority to proceed with the arbitration in the case of default by one of the parties is in accordance with Swiss arbitration law³ and the practice of FAT⁴.

³ Swiss Federal Tribunal SJ 1982, 613, 621; see also KAUFMANN-KOHLER/FIGOZZI, Arbitrage international, Bern 2005, No. 483; LALIVE/POUDRET/REYMOND; Le Droit de l’arbitrage interne et international en Suisse, Lausanne, 1989, No 8 ad Art, 182 PIL; RIGOZZI; L’Arbitrage international en matière de Sport, Basie 2005, No. 898; SCHNEIDER, Basler Kommentar, No. 87 ad Art. 182 PILA.



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However, the Arbitrator must make every effort to allow the defaulting party to assert its rights.

This requirement is met in the current case. The Respondent was informed of the initiation of the proceedings and of the appointment of the Arbitrator in line with the relevant rules. It was also given ample opportunity to respond to the Request for Arbitration. However, the Respondent chose not to respond at all. In light of these circumstances, the Arbitrator considers himself fit to proceed with the arbitration and deliver the award.

6. Discussion

6.1. Applicable Law – *ex aequo et bono*

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*”, as opposed to a decision according to the rule of law referred to in Article 187(1). Article 187(2) PILA is generally translated

⁴ See for instance FAT Decision 0001/07 (Ostojic, Raznatovic vs. PAOK) and; FAT Decision 0018/08 (Nicevic v Besiktas JK)



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into English as follows:

“the parties may authorize the arbitral tribunal to decide ex aequo et bono”.

Under the heading “Applicable Law”, Article 15.1 of the FAT 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.”

Article 11 of the Contract states:

“The arbitrator and CAS upon appeal shall decide the dispute ex aequo et bono”

The Arbitrator will therefore decide the present matter *ex aequo et bono*.

The concept of *équité* (or *ex aequo et bono*) used in Article 187(2) PILA originates from Article 31(3) of the *Concordat intercantonal sur l'arbitrage*⁵ (Concordat),⁶ under which Swiss courts have held that arbitration *en équité* is fundamentally different from arbitration *en droit* :

“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

⁵ That is the Swiss statute that governed international and domestic arbitration before the enactment of the PIL. Today, the Concordat governs exclusively domestic arbitration.

⁶ P.A. KARRER, Basler Kommentar, No. 289 *ad* Art. 187 PILA.



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*contrary to those rules.*⁷

In substance, it is generally considered that the arbitrator deciding *ex aequo et bono* receives “a mandate to give a decision based exclusively on equity, without regard to legal rules. Instead of applying general and abstract rules, he/she must stick to the circumstances of the case”.⁸

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

In light of the foregoing developments, the Arbitrator makes the following findings:

6.2. Findings

6.2.1 Salary payments

Under the Contract, the Respondent was obliged to pay Claimant 1 a total salary of USD 120,000.00 for the 2008/2009 season, comprising a one off payment of USD 21,000.00 and nine consecutive monthly payments of USD 11,000.00. The Claimants have produced a statement of account which shows that the Club has paid the initial one-off payment but has paid only one of the nine monthly payments.

Article 2 of the Contract states:

⁷ JdT 1981 III, p. 93 (free translation).

⁸ POUURET/BESSON, Comparative Law of International Arbitration, London 2007, No. 717, pp. 625-626.



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"The payment of the guaranteed Base Salary, as stated in this Paragraph 2, to Player is not contingent upon anything other than the Player passing the Club's physical examination given anytime prior to the start of the 2008/2009 training camp, and the Player not materially breaching this Agreement. Club agrees that this Agreement is a one (1) full basketball season (2008/2009) fully guaranteed agreement. In this regard, even if Player is removed or released from the Club or this Agreement is terminated or suspended by Club due to Player's lack of failure to exhibit sufficient skill, Player's death, illness, injury or other mental or physical disability (whether incurred on or off the court) or for any other reason whatsoever other than Player's direct and material breach of this Agreement, Club shall nevertheless be required to pay to Player, on the dates set forth above, the full amounts set forth above."

[...]

"If Player participates in any of Club's practices or games for the 2008/2009 season prior to Club fulfilling its obligations immediately above, Player shall be deemed to have unconditionally passed his physical examination."

The Arbitrator notes that the Player has played for the Club in the 2008 / 2009 season. The Arbitrator therefore finds that the Player is deemed to have passed the medical examination for the purposes of the Contract, if indeed the Player has not in fact taken and passed the actual examination. Accordingly, the Arbitrator finds that the outstanding salary payments are still payable, despite the Player's injury and despite the Club's attempts to terminate the Contract.

6.2.2 Bonus Payments

Article 6(c)(i) of the Contract provides that the Club will pay the Player a bonus of USD 2,000.00 if the Club qualifies for the Turkish Cup final eight in the 2008 / 2009 season. The Arbitrator is satisfied that the Club did qualify for the Turkish Cup final eight⁹. The Claimants have produced a statement of account which shows that the Club has not paid the bonus and so the Arbitrator finds that the bonus payment of USD 2,000.00 is due.

⁹

This is confirmed for instance on the website of Euroleague <http://www.euroleague.net/item/44707>



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6.2.3 Termination of the Contract

Article 2 of the Contract states:

"In addition, if any scheduled payment is not received by Player's bank within twenty (20) days of the date due, the Player's performance obligations shall cease. Player shall have the right, at Player's option, to terminate this agreement and accelerate all future payments required under this Agreement and Player shall be free to leave Turkey with his FIBA Letter of Clearance to play basketball anywhere in the world Player chooses, but the duties and liabilities of Club under this Agreement shall continue in full force and effect."

According to Article 1 of the Contract, the second monthly salary payment was due on 25 October 2008. The Claimants submit that this payment has still not been made and the Arbitrator has been provided with no evidence to the contrary. The Claimants therefore became entitled to terminate the Contract on 16 November 2008.

On 30 November the Claimants' representative, Brad Ames, wrote to the Club on behalf of the Player, quoting the above section of Article 2 of the Contract. In the letter, Mr Ames exercised the Player's option to terminate the contract and to accelerate payments due under the Contract. The effect of exercising this option is that all payments due at the date on which the option was exercised fell immediately due, as well as all future salary payments provided for under the Contract. The Arbitrator therefore finds that the Contract has been validly terminated and all outstanding payments, past and future, under it are due.

For the sake of clarity, the Arbitrator wishes to point out that given the clear wording of Article 2 of the Contract, and in particular the indication that termination will "accelerate all future payments required under this Agreement", the amounts claimed became payable as at the date that notice was given by Mr Ames. Deciding *ex aequo and bono*, and taking into consideration the specific circumstances of this case, the Arbitrator considers that, for the purpose of the present proceedings, the question of



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whether the Player concluded or could have concluded another player agreement in place of the Contract does not arise.

6.2.4 Late Payments

Article 2 of the Contract states:

"It is agreed that any payment to Player pursuant to the above shall be subject to an interest penalty of Fifty Dollars (\$50.00 USD) per day for each day after the date said payment was due"

The Arbitrator finds that the Player is entitled to invoke this article. The statement of account submitted by the Claimants shows that the Club failed to make payments due on 25 October 2008, 25 November 2008 and 25 December 2008. As a result, each of those payments are subject to the above penalty provision, up until the date on which the Request for Arbitration was filed. The Arbitrator therefore finds that the Player is entitled to interest penalty payments totaling USD 7,550.00.

6.2.5 Agents Commission

According to "Agent's Commission" submitted together with the Contract, the Respondent had an obligation to pay Claimant 2 and 1x1 Sports Management USD 6,000.00 each, in the event that the Player passed the Club's medical examination or was deemed to have passed the medical examination. As noted above, the Player is deemed to have passed the medical examination for the purposes of the Contract, if indeed the Player has not in fact taken and passed the examination. As a result, the two agent's commissions payable under the Contract did fall due.

On the basis of the documentary evidence submitted to the FAT, the Arbitrator finds that neither of the agent's commissions payments were made and that the Respondent



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is in breach of the contract in this respect.

However, 1x1 Sports Management USD is not a party to the present arbitration and there is no indication that it assigned its rights arising from the “Agent’s Commission” to Claimant 2. Accordingly, the Arbitrator rejects Claimants request for “[i]mmediate payment to 1 x 1 in the amount of \$6,000.00 USD which represent past due Agent’s Commission”

The Arbitrator awards the sum of USD 6,000.00 owed by the Respondent to Claimant 2.

6.2.6 Letter of Clearance

In the Request for Arbitration, the Claimants asked for the immediate issue of the Player’s Letter of Clearance. The Arbitrator notes that the FAT does not have the authority to issue letters of clearance. Instead, letters of clearance are issued by a club’s national federation, and in some circumstances, by FIBA.

7. Costs

Article 19.2 of the FAT Rules provides that the final amount of the costs of the arbitration shall be determined by the FAT President and may either be included in the award or communicated to the parties separately. Furthermore Article 19.3 of the FAT 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.

On 30 April 2009 the President of the FAT rendered the following decision on costs:



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Considering that pursuant to Article 19.2(1) of the FAT Rules “the FAT President shall determine the final amount of the costs of the arbitration which shall include the administrative and other costs of FAT and the fees and costs of the FAT President and the Arbitrator”.

Considering that Article 19.2(2) of the FAT Rules adds that ‘the fees of the Arbitrator shall be calculated on the basis of time spent at a rate to be determined by the FAT President from time to time’.

Considering all the circumstances of the case, including the time spent by the Arbitrator, the complexity of the case and of the procedural questions raised, the President of the FAT determines the arbitration costs as follows:

<i>Arbitrator’s fees</i>	
<i>(23 hours at an hourly rate of EUR 300 plus 15% VAT)</i>	<i>EUR 7,935.00</i>
<i>Arbitrator’s costs</i>	<i>-----</i>
<i>Administrative and other costs of FAT</i>	<i>-----</i>
<i>Fees of the President of the FAT</i>	<i>EUR 1,500.00</i>
<i>Costs of the President of the FAT</i>	<i>-----</i>
<i>TOTAL</i>	<i>EUR 9,435.00</i>

In the present case, the costs shall be borne by the Respondent alone, in line with Article 19.2 of the FAT Rules, as the Claimants have been awarded their claim in its entirety and there is no indication that either the financial resources of the parties or any other circumstance compels otherwise.

Moreover, the Arbitrator wishes to note that, given the above allocation, there is no need to take into account the handling fee when allocating the costs of the arbitration to the parties as provided for by Article 19.1(2) of the FAT Rules.

The Arbitrator notes that part of the advance on arbitration costs was paid by 1x1 Sports Management. However, because the Respondents did not pay any of the advance on the arbitration costs of EUR 10,000 fixed by the Arbitrator, the Arbitrator



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decides that:

- (i) the FAT shall reimburse EUR 282.50 to Claimant 1 and EUR 282.50 to Claimant 2;
- (ii) the Respondent shall pay to the Claimants the difference between the total advance on arbitration costs and the amount which is going to be reimbursed to the Claimants, i.e. EUR 2,358.75 to Claimant 1 and EUR 7,076.25 to Claimant 2 .
- (ii) Furthermore, the Arbitrator considers it is appropriate that the Claimants are entitled to the payment of a contribution towards their expenses (Article 19.3 of the FAT Rules). The Arbitrator considers it appropriate to take into account the non reimbursable fee when assessing the expenses incurred by the Claimants in connection with these proceedings. However, the Arbitrator notes that the non reimbursable fee was paid by 1x1 Sports Management. Hence, and after having reviewed and assessed the submissions by the Claimants, the Arbitrator fixes the contribution towards the Claimants' expenses at EUR 2,000.00.



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8. AWARD

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

- I. Aliaga Belediyesi Spor Klubu is ordered to pay to Roberto Bergersen USD \$97,550.00, in respect of:
 - i) USD 88,000.00 of outstanding base salary;**
 - ii) USD 2,000.00 of earned bonus; and**
 - iii) USD 7,550.00 of late payment penalties.****
- II. Aliaga Belediyesi Spor Klubu is ordered to pay to Priority Sports USD 6,000.00 in respect of outstanding agent's commission.**
- III. Aliaga Belediyesi Spor Klubu is ordered to pay to Roberto Bergersen EUR 2,358.75 as a reimbursement of the advance of FAT costs.**
- IV. Aliaga Belediyesi Spor Klubu is ordered to pay to Priority Sports EUR 7,076.25 as a reimbursement of the advance of FAT costs.**
- V. Aliaga Belediyesi Spor Klubu is ordered to pay to Claimants EUR 2,000.00 as a contribution towards their expenses.**
- VI. Any other or further-reaching claims for relief are dismissed.**

Geneva, place of the arbitration 4 May 2009

Raj Parker
(Arbitrator)



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Notice about Appeals Procedure

cf. Article 17 of the FAT Rules
which reads as follows:

"17. Appeal

Awards of the FAT can only be appealed to the Court of Arbitration for Sport (CAS), Lausanne, Switzerland and any such appeal must be lodged with CAS within 21 days from the communication of the award. The CAS shall decide the appeal *ex aequo et bono* and in accordance with the Code of Sports-related Arbitration, in particular the Special Provisions Applicable to the Appeal Arbitration Procedure."