BASKETBALL
ARBITRAL TRIBUNAL

ARBITRAL AWARD

(BAT 0404/13)

by the

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Ms. Annett Rombach

in the arbitration proceedings between

Mr. Brian Cusworth

- Claimant -

represented by Mr. Guillermo Lopez Arana and Mr. Mikel Abete Vecino,
attorneys at law, U1st Sports, C/ Maestro Ripoll 9, 28006 Madrid, Spain

vs.

Club Basquet Manresa S.A.D.
Crta. Manresa-St. Joan s/n, Pavelló Nou Congost,
08241 Manresa, Spain

- Respondent -

represented by Mr. Josep Vives Portell, CEO

1. The Parties

1.1 The Claimant

1. Mr. Brian Cusworth (the “Player” or “Claimant”), is a professional basketball player of U.S. nationality.

1.2 The Respondent

2. Club Basquet Manresa S.A.D. (the “Club” or “Respondent” and together with Claimant the “Parties”) is a professional basketball club located in Manresa, Spain.

2. The Arbitrator

3. On 17 June 2013, Prof. Richard H. McLaren, the President of the Basketball Arbitral Tribunal (the "BAT"), appointed Ms. Annett Rombach as arbitrator (the “Arbitrator”) pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal (the "BAT Rules"). Neither of the Parties has raised any objections to the appointment of the Arbitrator or to her declaration of independence.

3. Facts and Proceedings

3.1 Summary of the Dispute

4. On 12 July 2010, the Player and the Club entered into a contract (the “Player Contract”), pursuant to which the Club engaged the Player as a professional basketball player for the season of 2010-2011. The Player was to receive a net salary of USD 170,000 to be paid in monthly instalments from September 2010 until June 2011.

5. As of October 2010, the Club had not made any payments to the Player under the Player Contract. On 17 February 2011, the Player filed a Request for Arbitration with the BAT, requesting payment of the outstanding salary amounts under the Player Contract, together with late payment penalties and default interest of 5% (case BAT 0162/10).

6. On 8 July 2011, while the BAT proceedings were still pending, the Parties entered into and signed an "agreement of acknowledgement of debt" (the "Settlement Agreement") with the interest to "*[reach] an agreement in order to conclude such proceeding* [i.e. BAT 0162/10]*, terminate their relation and ultimately clear the owed amounts corresponding to the 2010-2011 season*". Pursuant to Clause 1 of the Settlement Agreement, the Club undertook to make the following net payments to the Player:

> *"- SEVEN THOUSAND FIVE HUNDRED EUROS NET (7,500 EUR) within fifteen days following the signing of this agreement, by bank wire to the player's bank account.*
> - *ONE HUNDRED SIXTY THOUSAND DOLLARS NET (160,000 USD), distributed in twenty monthly installments* [sic] *of eight thousand dollars net each (8,000 USD), the 30th day of each month, from August 2011 to March 2013, both included, by bank wire to the player's bank account"*

7. In case of non-payment of any of the agreed amounts, the Player was entitled to a late payment penalty in the amount of USD 1,000 (net) per every 30 days of delay (Clause 3 of the Settlement Agreement). The Settlement Agreement was intended "*to clear every single obligation*" of the Player Contract (Clause 5 of the Settlement Agreement), and the Player agreed "*to ultimately abandon the claim to the FIBA Arbitral Tribunal (proceeding 162/2011)* [sic]" (Clause 6 of the Settlement Agreement).

8. Finally, with respect to the Parties' right to seek legal protection in case of a Parties' default on any of the obligations stipulated therein (Clause 7 of the Settlement Agreement) the Settlement Agreement provided as follows:

> *"Notwithstanding the above, the player reserves the right to turn to the same Arbitral Tribunal and to file a new claim, in case of failure to comply any* [sic] *of the terms specified in the present agreement."*

9. Shortly after the signing of the Settlement Agreement, on 1 August 2011, the Arbitrator in BAT Case 0162/10 – apparently not having been made aware of the Parties' settlement – issued a final award, deciding as follows:

> *"1 Club Basket Manresa SAD shall pay Mr. Brian Cusworth an amount of USD 102,500, as compensation for remuneration due under the contract of 12 July 2010, plus interest at 5% per annum on such amount from the date of this award onwards.*
>
> *2. Club Basket Manresa SAD shall pay Mr. Brian Cusworth an amount of EUR 55,700, as a penalty for late payments, plus interest at 5% per annum on such amount from the date of this award onwards.*
>
> *3. Club Basket Manresa SAD shall pay Mr. Brian Cusworth an amount of EUR 4,500 as reimbursement for the advance on arbitration costs paid by him.*
>
> *4. Club Basket Manresa SAD shall pay Mr. Brian Cusworth an amount of EUR 6,915 as a contribution to his legal fees and expenses.*
>
> *5. Any other or further requests for relief are dismissed."*

10. After the issuance of the Arbitral Award in Case 162/10, Claimant's counsel wrote a letter to FIBA requesting that "*the FIBA does not enforce such award*" in light of the settlement reached between the Parties.

11. The Club has made certain payments under the Settlement Agreement, but allegedly still owes the Player the amount of USD 64,000 relating to the instalments from August 2012 to March 2013 (USD 8,000 each).

12. On 7 May 2013, the President of the Club sent a letter to the Player explaining that the Club was facing immense financial difficulties as a result of the economic crisis and that it was therefore unable to meet its payment obligations. He promised "*to try to find the best way to proceed with the payment of the outstanding amounts*".

3.2 The Proceedings before the BAT

13. On 2 April 2013, the Claimant filed a Request for Arbitration together with several exhibits in accordance with the BAT Rules, which was received by the BAT Secretariat on 10 April 2013. The non-reimbursable handling fee of EUR 2,000 was received in the BAT bank account on 4 April 2013.

14. On 25 June 2013, the BAT informed the Parties that Ms. Annett Rombach had been appointed as Arbitrator in this matter, invited Respondent to file its Answer in accordance with Article 11.2 of the BAT Rules by no later than 16 July 2013 (the "Answer"), and fixed the amount of the Advance on Costs to be paid by the Parties by no later than 5 July 2013 as follows:

"Claimant (Mr. Brian Cusworth)	*EUR 3,500*
Respondent (Club Basque Manresa SAD)	*EUR 3,500"*

15. On 16 July 2013, Respondent filed its Answer.

16. By letter to the Parties dated 7 August 2013, the BAT Secretariat acknowledged receipt of the full amount of the Advance on Costs. The Arbitrator declared the exchange of documents completed and invited the Parties to submit a detailed account of their costs by no later than 14 August 2013.

17. By e-mail of 14 August 2013, Claimant submitted the following account of costs:

"- Arbitral fees:	
• *Handling fee:*	*2,000 €*
• *Advance on costs (Claimant)*	*3,500 €*
- Legal report	*800 €*
- Legal advising during the procedure	*500 €*
- Translations	*150 €*

- Copies of documents *25 €*

TOTAL: 7,975 EUROS [sic][1] *"*

18. Respondent did not file any cost account.

19. On 19 August 2013, the BAT Secretariat forwarded Claimant's account of costs to the Respondent and invited it to comment by no later than 23 August 2013. No comments were filed by Respondent.

20. As none of the Parties requested to hold a hearing, the Arbitrator decided, in accordance with Article 13.1 of the BAT Rules, not to hold a hearing and to render the award based on the written record before her.

4. The Positions of the Parties

4.1 Claimant's Position and Request for Relief

21. Claimant submits that the Club failed to make compensation payments relating to the months from August 2012 to March 2013, as stipulated under the Settlement Agreement (USD 64,000 net in total). He further argues that he is entitled to late payment penalty fees in the amount of USD 28,000 (net) as a result of Respondent's payment default.

22. In his Request for Arbitration, Claimant requests the following relief:

> *"a) To award Claimant with amount of* ***SIXTY FOUR THOUSAND DOLLARS NET (64,000 USD)*** *plus* ***TWENTY EIGHT THOUSAND DOLLARS NET (28,000 USD)*** *plus interest at the applicable Swiss statutory rate, starting from the 30th of August 2012.*

[1] Adding up the single items listed in Claimant's letter, the total amount is in fact EUR 6,975.

[bank account information]

b) To award the claimant with the full covered the costs [sic] *of this arbitration."*

4.2 Respondent's Position and Request for Relief

23. The Club summarizes its arguments as follows:

> *"Six are the issues on which MANRESA BASKETBALL CLUB, SAD, justified this response:*
>
> *a/ The unarbitrability of the issue submitted to arbitration for breach of Article 177 of the Federal Law of 18 December 1987.*
>
> *b/ The nullity of a clause referring to BAT of legal disputes related to employment*
>
> *c/ The disproportion of the penalty clause built into the contract breach of good faith, and the balance of benefits that should govern a contractual relationship.*
>
> *d/ The sentence to pay interest on late payments with penalties, calculating that interest as well, also on the amount of the penalty."*

24. The Club, in its Answer, submits the following request for relief:

> *"REQUESTS TO BAT formalized opposition to request for arbitration by Mr Brian Cusworth, and dismissed, with imposition of arbitration costs that this part fixed at 5,000 Euros."*

5. The Jurisdiction of the BAT

25. The dispute between the Parties arises out of the Settlement Agreement dated 8 July 2011, which, under Clause 7, contains the following arbitration agreement in favour of BAT:

> *"Notwithstanding the above, the player reserves the right to turn to the same Arbitral Tribunal and file a new claim, in case of failure to comply any* [sic]

> *terms specified in the present agreement. In this sense, any dispute arising from or related to the present agreement shall be submitted to the Basketball Arbitral Tribunal 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."*

26. Pursuant to Art. 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 (as the Parties have foreseen in their arbitration clause) governed by Chapter 12 of the Swiss Act on Private International Law (PILA).

27. Under the provisions of Chapter 12 of the PILA, the jurisdiction of the BAT presupposes the arbitrability of the dispute and the existence of a valid arbitration agreement between the Parties.

28. In this proceeding, the Club is challenging the arbitrability of the Player's claim on the ground that such claim is not financial in nature due to its (alleged) object being the validity of the termination and also on the ground that, under mandatory rules of Spanish law, labour law claims of this nature are not arbitrable.

29. In relation to the arbitrability of the claim brought forward in this proceeding, the Arbitrator finds that the Spanish law prohibiting arbitration of labour law disputes does not apply.[2] The Parties, in their arbitration agreement, expressly agreed on the applicability of Swiss arbitration law (Chapter 12 PILA). This is consistent with the Swiss Supreme Court's well-established case law that the arbitrability of a dispute

[2] See also BAT Case 0162/11 (Cusworth vs. Club Basquet Manresa S.A.D.), para. 64.

where the seat of the arbitration is Switzerland shall be determined exclusively pursuant to Article 177 (1) PILA.[3]

30. According to Art. 177 (1) PILA, it is sufficient for the dispute to be of a financial nature for it to be deemed arbitrable. The compensation claim referred to the Arbitrator is clearly of a pecuniary nature and is thus arbitrable within the meaning of Art. 177(1) PILA. The Player requests financial compensation under the Settlement Agreement, the validity of which is not in dispute between the Parties. The Club itself admits the financial nature of the current dispute, stating, in his Answer:

> *"In* [sic] *July 8, 2011, the parties signed an agreement to decide a payment schedule to pay off the debts that had been claimed in the arbitration proceeding 162/11, and it is the defective performance of this agreement which is the subject of this procedure."*

31. Accordingly, the Arbitrator considers that the claims submitted to her in this arbitration are arbitrable in the meaning of Article 177 (1) PILA.

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

33. With respect to substantive validity, the Arbitrator considers that there is no indication in the file which could cast any doubt on the validity of the arbitration agreement in the present matter under Swiss law (cf. Article 178(2) PILA). In particular, the wording *"[a]ny dispute arising from or related to the present agreement"* in Clause 7 of the Settlement Agreement clearly covers the present dispute.

34. For the above reasons, the Arbitrator has jurisdiction to decide the present dispute.

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[3] ATF 118 II 353, at 358. See also CAS 2010/A/2234 (Basquet Menorca SAD v. Vladimir Boisa), para. 43, deciding upon appeal from a BAT award.

6. Other Procedural Issues

35. Under the principles of *res judicata*, the parties are precluded from re-litigating an identical claim, i.e. a claim concerning the same subject matter between the same parties. Accordingly, any attempt of a party to re-litigate such a claim is barred by the conclusive and preclusive effects of the prior award.[4]

36. In the present case, the Arbitrator has to determine whether the award rendered by the BAT in Case No. 0162/10, which involves the same parties and a payment claim at least similar to the one at issue here, bars the present proceeding by way of *res judicata*.

37. The answer to that question can only be no. The present dispute does not involve the same subject-matter as BAT Case No. 0162/10. In the latter, the Player claimed salary payments under the Player Contract which was in place between the Parties before the signing of the Settlement Agreement. In the present case, the Player's payment claim arises out of the Settlement Agreement, which renews the original obligations under the Player Contract and sets forth a new basis for the Player to claim different compensation amounts under a different payment schedule. The Parties' understanding that the Settlement Agreement was to form a new basis for their relationship finds expression in Clause 7, stating that "*the player reserves the right to turn to the same Arbitral Tribunal and to file a new claim, in case of a failure to comply* [sic] *any of the terms specified in the present agreement.*"

38. In light of the above, the Arbitrator finds that this proceeding is not barred by the *res judicata* effects of the award in BAT Case No. 0162/10.

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[4] See, e.g., Berger/Kellerhals, 2nd. ed., para. 1498.

7. Applicable Law – *ex aequo et bono*

39. 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 reads as follows:

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

40. 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."*

41. In Clause 7 of the Settlement Agreement, the Parties have explicitly directed and empowered the Arbitrator to decide this dispute *ex aequo et bono* without reference to any other law. Consequently, the Arbitrator will decide the issues submitted to her in this proceeding *ex aequo et bono*.

42. 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* :

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5 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).

6 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."*[7]

43. 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]

44. 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*".

45. In light of the foregoing considerations, the Arbitrator makes the findings below.

8. Findings

46. Claimant's requests, which will be examined in turn, are the following:

(i) Payment of USD 64,000 as outstanding compensation under the Settlement Agreement;
(ii) Payment of USD 28,000 in penalty payments; and
(iii) Payment of interest at the applicable Swiss statutory rate, starting as of 30 August 2012.

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

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

8.1 Outstanding Compensation in the Amount of USD 64,000

47. According to Clause 1 of the Settlement Agreement, the Player was entitled to net amounts of EUR 7,500 and USD 160,000, the latter of which was to be paid in twenty monthly instalments of USD 8,000 each from August 2011 to March 2013. Claimant alleges that Respondent failed to pay the monthly instalments from August 2012 onwards, adding up to a total of USD 64,000 (8 x USD 8,000).

48. Respondent neither disputed the existence, nor the quantum of the claimed amounts before or during this arbitration. To the contrary, in its letter to the Player dated 7 May 2013, the Club implicitly acknowledges its obligation by expressing regrets for "*the delay in payment of the debt we have outstanding with you*" and points to its difficult economic situation.

49. Based on the record before her, the Arbitrator finds that there is no indication that would cast doubt on the existence of the Club's obligation to pay the Player the (outstanding) compensation as stipulated under the Settlement Agreement. The Club's alleged economic distress does not affect its legal obligation to make the payments owed to the Player. The Arbitrator therefore finds that Claimant is entitled to the claimed compensation payments in the amount of USD 64,000.

8.2 Late Payment Penalties in the Amount of USD 28,000

50. According to Clause 3 of the Settlement Agreement, Respondent is obliged to pay a penalty of USD 1,000 net for every 30 days of delay with respect to each payment instalment. The monthly payments became due on the 30th of each month, meaning that (absent any contractual agreement to the contrary) Respondent was in default as of the day following the 30th of each month (from August 2012 to March 2013).

51. The Club argues that this penalty clause is disproportionate.

52. The BAT has consistently held that late payment penalty clauses are generally lawful but subject to review by the Arbitrator so as to ensure that they are not disproportionate to the amount claimed as principal.[9]

53. Pursuant to Clause 3 of the Settlement Agreement and given that Claimant requests the penalty to be paid until the date of the Request for Arbitration (i.e. 2 April 2013), the late payment penalties to be paid by Respondent are as follows:

Payment Due	**Penalties**		
	Starting Date	Times 30 days late	Penalty Amount (USD)
30 August 2012	31 August 2012	7	7,000
30 September 2012	1 October 2012	6	6,000
30 October 2012	31 October 2012	5	5,000
30 November 2012	1 December 2012	4	4,000
30 December 2012	31 December 2012	3	3,000
30 January 2013	31 January 2013	2	2,000
28 February 2013	1 March 2013	1	1,000
30 March 2013	31 March 2013	0	0
TOTAL			**28,000**

54. The Arbitrator finds that the amount of USD 28,000 (net) is not excessive because it is not disproportionate to Respondent's basic obligation, i.e. USD 64,000.

[9] *See* BAT 0158/11, Stimac vs. KK Crvena Zvezda Beograd; BAT 0155/11, Kikowski vs. KK Union Olimpija Ljubljana; FAT 0114/10, U1st Sports Overseas Ltd. & U1st Sports Atlanta LLC vs. Club Baloncesto Valladolid SAD; FAT 0109/10, Plaisted vs. Basketball Club Zadar (KK Zadar); FAT 0100/10, Taylor vs. KK Crvena Zvezda Beograd; FAT 0086/10, Queenan vs. Basketball Club Pecsi Noi Kosariabda Kft; FAT 0036/09, Tigran Petrosean & TP Sports vs. WBC "Spartak" St. Petersburg.

55. Respondent's difficult economic situation – the apparent reason for its payment default – does not affect Claimant's right to claim late payment penalties because the Parties agreed on such payments irrespective of the reason of the default.

8.3 Interest

56. Claimant requests the payment of interest on the outstanding remuneration and the late payment penalties at the applicable Swiss statutory rate starting from 30 August 2012 (the date the first outstanding payment became due).

57. As a preliminary matter, the Arbitrator finds that the issue of (default) interest is one that is governed by the same substantive law applicable to Claimant's principal claims, i.e. must be decided in accordance with the principles of *ex aequo et bono*.

58. The Settlement Agreement does not provide for any obligation by the Club to pay interest in case of a non-payment. However, it is a generally accepted principle embodied in most legal systems and reflected in the BAT jurisprudence,[10] that default interest can be awarded even if the underlying agreement does not explicitly provide for a respective obligation. The Arbitrator, deciding *ex aequo et bono* and in accordance with constant BAT jurisprudence, considers an interest rate of 5% per annum to be fair and just to avoid that the Club derives any profit from the non-fulfillment of its obligations.

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[10] See*, ex multis*, the following BAT awards: 0092/10, Ronci, Coelho vs. WBC Mizo Pecs 2010; 0069/09,Ivezic, Draskicevic vs. Basketball Club Pecsi Noi Kosariabda Kft; 0056/09, Branzova vs. Basketball Club Nadezhda); 0237/11, Ivanovic, GPK Sports Management Limited vs. Kolossos Rhodes Basketball Club.

59. However, to avoid any sort of "double recovery", which would be deemed unfair, the Arbitrator, deciding *ex aequo et bono*, finds (in accordance with BAT jurisprudence)[11] that for the period of time for which Claimant is entitled to late payment penalties, no additional default interest has to be paid, and no default interest accrues on the late payment penalties. Thus, Respondent is obliged to pay interest of 5% p.a. only on the amount of USD 64,000 (outstanding remuneration) since 1 April 2013.

9. Costs

60. Article 17 of the BAT Rules provides that the final amount of the costs of the arbitration shall be determined by the BAT President and that the award shall determine which party shall bear the arbitration costs and in what proportion; and, as a general rule, shall grant the prevailing party a contribution towards its legal fees and expenses incurred in connection with the proceedings.

61. On 6 November 2013 – 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"; 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", and 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 to be EUR 6,215.

62. Considering that Claimant prevailed with all of his claims, it is appropriate that all of the costs related to this arbitration be borne by Respondent and that Respondent be

[11] See BAT 0155/11, Kikowski vs. KK Union Olimpija Ljubljana; BAT 0168/11, Rice, Priority Sports, Star Vision Enterprises Ltd vs. Panionios KAE.

required to cover its own legal costs as well as Claimant's legal costs (i.e. EUR 1,475), which, in the Arbitrator's view, are not excessive.

63. Additionally, pursuant to Articles 17.1 and 17.3 of the BAT Rules, Claimant is entitled to the handling fee, which qualifies as "other expenses" incurred in connection with the present arbitration.

64. Given that both Claimant and Respondent paid their respective shares of the Advance on Costs in the amount of EUR 3,500, respectively, the Arbitrator decides that in application of Article 17.3 of the BAT Rules:

(i) BAT shall reimburse EUR 785 to Claimant, being the difference between the costs advanced by the parties and the arbitration costs fixed by the BAT President;

(ii) Respondent shall pay EUR 2,715 to Claimant, being the difference between the costs advanced by Claimant and the amount to be reimbursed by the BAT;

(iii) Furthermore, as stated above, the Arbitrator considers it appropriate to take into account the non-reimbursable handling fee of EUR 2,000 when assessing the expenses incurred by Claimant in connection with these proceedings. Hence, because the Arbitrator considers an amount of EUR 1,475 for Claimant's legal fees and expenses to be reasonable, the Arbitrator fixes the contribution towards Claimant's legal fees and expenses at EUR 3,475.

10. AWARD

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

1. **Club Basquet Manresa S.A.D. is ordered to pay to Mr. Brian Cusworth USD 92,000 net together with interest of 5% p.a. since 1 April 2013 on the amount of USD 64,000.**

2. **Club Basquet Manresa S.A.D. is ordered to pay to Mr. Brian Cusworth EUR 2,715 as a reimbursement of the Advance on Costs.**

3. **Club Basquet Manresa S.A.D. is ordered to pay to Mr. Brian Cusworth EUR 3,475 as a contribution towards his legal fees and expenses.**

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

Geneva, seat of the arbitration, 12 November 2013

Annett Rombach
(Arbitrator)