ARBITRAL AWARD

(BAT 0424/13)

by the

BASKETBALL ARBITRAL TRIBUNAL (BAT)

Mr. Raj Parker

in the arbitration proceedings between

Ms. Shay Doron

- Claimant 1 -

Sports International Group Inc.
267 Kentlands Blvd. Suite 105, Gaithersburg, MD 20878
Maryland, Washington, USA

- Claimant 2 -

both represented by Mr. Ersü Oktay Huduti, attorney at law
Büyükdere Cad. Maya Akar Center
100-102 C Blok Ofis No: 13 Esentepe
Sisli, Istanbul, Turkey

vs.

Elitzur Ramla BC
Sport Division, City Hall Ramla, Vizman Str. 1
72100 Ramla, Israel

- Respondent -

represented by Dan Schwartz and Hagar Lugassy, attorneys at law
Gideon Fisher & Co., Azrieli Center, Triangular Tower 39th Floor
Tel Aviv 6701101, Israel

1. The Parties

1.1 The Claimants

1. Ms. Shay Doron (hereinafter "Claimant 1") is a professional basketball player of Israeli and US nationality.

2. Sports International Group Inc. (hereinafter "Claimant 2" and together with Claimant 1, “the Claimants”) is a professional basketball players’ agency based in the USA.

1.2 The Respondent

3. Elitzur Ramla BC (hereinafter the "Respondent") is a professional basketball club in Israel.

2. The Arbitrator

4. On 1 August 2013, Prof. Richard H. McLaren, the President of the Basketball Arbitral Tribunal (hereinafter the "BAT"), appointed Mr. Raj Parker as arbitrator (hereinafter the “Arbitrator”) pursuant to Article 8.1 of the Rules of the Basketball Arbitral Tribunal (hereinafter the "BAT Rules").

5. None of the Parties have raised objections to the appointment of the Arbitrator or to his declaration of independence.

3. Facts and Proceedings

3.1 Background Facts

6. Claimant 1 entered into an employment contract with the Respondent for the 2011-2012 season (hereinafter "the Previous Contract"). The Respondent failed to pay Claimant 1 certain wages due under the Previous Contract. On 31 January 2012 Claimant 1 and the Respondent signed another agreement (hereinafter "the Settlement Agreement"), pursuant to which:

   (i) the Previous Contract was terminated;

   (ii) the Respondent agreed to pay Claimant 1 NIS 133,200.00 in unpaid salary; and

   (iii) Claimant 1 agreed to pay the Respondent USD 10,000.00.

7. On 6 September 2012, Claimant 1 and the Respondent signed an employment contract for the 2012-2013 and 2013-2014 seasons (hereinafter "the First Contract"). The First Contract contains, among others, the following provisions:

   " […]

   2. Suspending Condition:

   2.1 It is hereby agreed and confirmed by the club that this agreement validity is subject to the club actual registration and participation in the 2012/13 and 2013-2014 FIBA – Eurocup or Euroleague games (hereinafter: "the Eurocup/Euroleague").

   2.2 In case the club shall not register and/or shall cancel its participation in the Eurocup/Euroleague and/or shall not report to 1 (one) game, the Player shall be entitled to terminate the

agreement at any time according to her sole discretion and the following shall prevail:

2.2.1. Upon sending termination notice on behalf of the player to the club – the player shall be deemed as "free Player" eligible to join any worldwide club and this agreement serves as "letter of Clearance".

In such case the player shall be immediately released according to art.3.

2.2.2. The club shall pay the player all payments due according to the agreement up to such terminate date.

2.2.3. The club recognizes the debt of payment to the Player for the 2011-2012 season. If the Club doesn't pay the Player the above said debt in full by October 18, 2012 the Player will have a right to terminate this Agreement, and be in title to receive all payments in accordance with Paragraph 8 below.

[…]

4. <u>Compensation</u>

4.1. As full compensation for her services under this Contract and the rights granted to the Club, the Player shall receive the Base Payment set forth in Exhibit 1a.

4.2. The Player shall receive certain bonuses (related to individual and/or Club performances) during the term of this Agreement set forth in Exhibit 1b.

4.3. The Club agrees to pay representative's fee for services rendered on behalf of the Player to Sports International Group set forth in Exhibit 2.

5. In connection with the Player's engagement with the Club, the Club on behalf of the Player shall make the following arrangements:

[…]

5.2. Accommodation:

The Club will pay 3000 shekels a month towards an apartment lease in Tel Aviv (including rent, cable, Internet) and also cover apartment expenses of 1,000 shekels per month until September 2014.

In addition, the Club will provide the Player a room in Ramle to share with a teammate when she chooses, from the first day of practice till the end of the 2013-2014 season.

5.3 Transportation:

The Club shall provide the player with a standard or automatic transmission midsize automobile appropriate for the player for her sole use from the date of signing the contract till September 2014. The team will pay all taxes, license fees, complete insurance and maintenance fees for such automobile, except the deductable insurance claim fees which the player is in fault of and parking/traffic tickets. The Club will also pay the Player 1,000 shekels a month towards gasoline expenses.

[…]

7. Jurisdiction:

7.1. Any controversy between the club and the player and agents shall be brought to the BAT – (Basketball Arbitration Tribunal of FIBA) or Israeli Court.

7.2 In case dispute arising from or related to the present contract submitted to BAT, it should be submitted to the 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 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 acquo et bono.

7.3. All parties to this agreement accept the present English version of this contractual agreement as fully binding under FIBA laws and guidelines.

8. Breach and Remedies:

8.1. A delay of 7 (seven days) will allow the Player to submit a written notice of the late payment to the Club. A delay of 14 (fourteen) days or more in the making of any payment or apartment rent whatsoever that the club is liable to pay pursuant to this Agreement shall be deemed to be a fundamental breach of this Agreement, which shall immediately entitle the player to all monies due under this Agreement.

Additionally, the player shall be entitled (at her discretion) to cease or temporarily suspend herself and her activity in the club without derogating the player's rights to collect this agreement full payment.

8.2. Such breach shall occurrence [sic] shall permit the player the right to void the agreement by so indicating in a registered letter to the club and the player shall be deemed as "Free Player" and this clause is deemed as :"letter of Clearance" to be presented to FIBA or any relevant association.

In such case the player shall be immediately released according to art. 2 above.

[…]

12. The parties agree that the Player shall sign a mandatory Israeli Basketball Federation (IBF) Standard Contract, after the Player's initial payment and the Agency fee payments are received, for the Players registration by the IBF. The Parties accept and agree that the prevailing agreement shall be the hereby agreement in case of any disputes.

[…]

17. This Agreement will automatically cancel the previously signed Agreement between the Club and the Player.

[…]

Exhibit 1 – Base payment and bonuses

A. Base payment

Season 2012-2013

1. *For rendering her services as a basketball player, the Club agrees to pay the basic salary of 1,948,000 NIS + VAT where applicable net during the full guaranteed agreement period.*

2. *The club shall pay the player as follows:*

It is hereby agreed and confirmed by the club that the above sum payment shall render the agreement as valid and binding. Non payment on schedule of the advance payment shall void and annul this agreement in such manner the player is considered as "free player" for the full 2012/13 season and according to art. 2 of the agreement and the club accordingly renounce any claim and/or demand and shall entitle the player to play worldwide during the 2012/13 and 2013-2014 seasons.

2.1. *The basis payment balance of 720,000 NIS + VAT where applicable for 2012-2013 season, and 1,228,000 NIS + VAT where applicable for the 2013-2014 season shall be paid according to the following schedules:*

Date of Payment	***Payment's Sum***
15.09.2012 salary	*15,000 NIS*
15.10.2012 salary	*15,000 NIS*
15.11.2012 salary	*15,000 NIS*
15.12.2012 salary	*15,000 NIS*
15.01.2013 payment as a contractor	*165,000 NIS + VAT*
15.02.2013 payment as a contractor	*165,000 NIS + VAT*
15.03.2013 payment as a contractor	*165,000 NIS + VAT*
15.04.2013 payment as a contractor	*165,000 NIS + VAT*
15.08.2013 payment as a contractor	*181,600 NIS + VAT*

Date of Payment	***Payment's Sum***
15.09.2013 payment as a contractor	*181,600 NIS + VAT*
15.10.2013 payment as a contractor	*181,600 NIS + VAT*
15.11.2013 payment as a contractor	*181,600 NIS + VAT*
15.12.2013 payment as a contractor	*181,600 NIS + VAT*
15.01.2014 payment as a contractor	*80,000 NIS + VAT*
15.02.2014 payment as a contractor	*80,000 NIS+ VAT*
15.03.2014 payment as a contractor	*80,000 NIS + VAT*
15.04.2014 payment as a contractor	*80,000 NIS + VAT*

[…]

The Value Added Tax (VAT) will be added to the payments detailed above and to all bonus payments. The VAT is a subject to fluctuations, and the Club will be liable for the VAT payments based on the date that the check comes due. The bonuses are to be paid within 30 days of the end of each season.

Full contract sums in gross amounts in accordance with Israeli basketball federation regulations this sums shall be inserted to the Israeli Basketball Association regulations uniform agreement and forms.

Payments shall be made in Israeli currency.

[…]

The club acknowledges that throughout the negotiation of the present

contract the player's interests are represented by: Boris Lelchitski of Sports International Group (FIBA License 2007018104). The club will pay 32,000$ USD total agent fee (plus VAT where required) to be paid in 2 even installments:

$8,000 no later than 30.10.2012 and $8,000 no later than 30.12.2012 for 2012-2013 season.

$8,000 no later than 30.10.2013 and $8,000 no later than 30.12.2013 for 2013-2014 season (in case the Player stays with the Club).

The payments will be made in USD currency according to the Bank of Israel representative currency exchange rate known on the payment date.

The club agrees that non-payment of the agency fee will permit the player the right to void the contract by so indicating in a registered letter to the club.

[…]"

8. On 4 November 2012, Claimant 1 and the Respondent signed another employment contract for the 2012-2013 and 2013-2014 seasons (hereinafter "the Second Contract"). The Second Contract contains, among others, the following provisions:

"1. <u>Preamble and nature of agreement</u>

[…]

c. This agreement is entered according to the Budget Audit Statutes of the Israel Basketball Association and is subject to the approval of the Budget Audit Authority.

[…]

The Team hereby undertakes as follows:

a. To pay the Player all the amounts specified in this agreement, in gross payments only after deducting income tax and any other deduction that the Team is required to perform according to the law.

b. The Team will duly transfer the amounts of deduction of tax at source from payments made to the Player as said in this agreement to the Income Tax Authorities and will transfer all related payments that it is obligated to pay according to the law.

[…]

6. Consideration and payment dates

a. In consideration for all the Player's obligations in this agreement, the Team undertakes to pay the Player the following payments:

1. 1,948,000 NIS (due VAT has been added to all the payments) gross per month (including living expenses, transportation, convalescence and vacation pay) to be paid in _____ equal and consecutive monthly installments and on the dates stipulated in the law starting from the month of _____.

The said amount will be paid in consecutive monthly installments (to which due VAT will be added) starting from September 15, 2012 to April 15, 2014 as follows:

September 15, 2012 – 15,000 NIS, October 15, 2012 – 15,000 NIS, November 15, 2012 – 15,000 NIS, December 15, 2012 – 15,000 NIS, January 15, 2013 – 165,000 NIS, February 15, 2013 – 165,000 NIS, March 15, 2013 – 165,000 NIS, April 15, 2013 – 165,000 NIS, August 15, 2013 – 181,000 NIS, September 15, 2013 – 181,000 NIS, October 15, 2013 – 181,000 NIS, November 15, 2013 – 181,000 NIS, December 15, 2013 – 181,000, January 15, 2014 – 80,000 NIS, February 15, 2014 – 80,000 NIS, March 15, 2014 – 80,000 NIS, April 2014 – 80,000 NIS.

[…]

7. Arbitration

a. The parties hereby agree that any disputes between the Team and the Player or between the Player and the Team regarding any of this agreement's instructions, will be decided by an arbitrator appointed by virtue of the regulations of the Association's Arbitration Institution.

*b. Signing the agreement constitutes signing an arbitration agreement as defined in the Arbitration Law 5728-1968 (hereinafter: **Arbitration Law**).*

c. The arbitration will be conducted according to the directives in the regulations of the Association's Arbitration Institution.

d. The parties agree that an arbitral award can be appealed before another arbitrator from the arbitrations of the Association's Arbitration Institution as said in section 21a of the Arbitration Law 5728-1968. Jurisdiction to deliberate a motion to cancel an arbitral award according to the Arbitration Law, referring to arbitral procedures conducted by the parties, is awarded to the court with the appropriate material jurisdiction and in the judicial district where the Team is active.

[…]

9. <u>General provisions</u>

a. The provisions of this agreement will be validity binding for the parties only after it is approved as part of the Team's approved budget submitted to the Authority and after the games season that the approved budget refers to, actually opens.

If this agreement is given a temporary approval, the Player will be entitled to the relative consideration for the period in which the agreement was temporarily approved.

b. If the agreement was not approved by the Authority, the Player will be entitled to receive liquidated damages approved as said in sections 3 d' and 3e' in the Budget Audit Statutes as final and absolute payment of any claims that the Player has against the Team, unless agreed otherwise between the Player and the Team.

[…]

d. All the parties explicitly agree that this agreement, as submitted for the approval of the Authority as part of the approved budget, will be the only binding agreement between the parties and any other agreement not submitted to the Authority or approved as aforesaid, will be nul and void, lack any validity and relevance and will not be adhered to.

[…]

Appendix to Section 8 of Agreement No.100160

1. *At the end of the 2012/13 game season, the Player will also continue to play for the Team during the 2013/14 game season, subject to the terms specified below.*

2. *The agreement is stipulated upon the Team registering with the FIBA Eurocup or Euroleague (hereinafter: **European Framework**) for each of the game season in the agreement. If the Team will not register and/or report and/or appear to a single game in the European Framework, the Player will be entitled to immediately terminate the agreement.*

3. *This agreement is a guaranteed no-cut agreement.*

[…]

17. *Any dispute between the parties will be brought before the Basketball Arbitral Tribunal (BAT – FIBA's court).*

[…]" (emphasis in the original).

9. On 5 November 2012, the FIBA Europe website announced that the Respondent would not participate in the Eurocup in the 2012-2013 season.

10. On the same day, the Respondent sent an email to Claimant 2, stating: "*in light of the team financial situation, you may search for another team for Shay. We will release her immediately*".

11. On 6 November 2012, Claimant 1 signed a contract with a Turkish club, pursuant to which: (i) Claimant 1 was paid USD 110,000.00 for the remainder of the 2012-2013 season; and (ii) Claimant 2 was paid USD 11,000.00 as an agent's fee.

12. On 5 March 2013, Claimant 1 signed a contract with a Russian club, pursuant to which: (i) Claimant 1 would be paid USD 265,000.00 (net of taxes) for the 2013-2014 season;

and (ii) Claimant 2 would receive USD 26,500.00 as an agent's fee.

3.2 The Proceedings before the BAT

13. On 11 June 2013, the BAT received the non-reimbursable handling fee of EUR 3,012.00 from the Claimants. On 18 June 2013, the Claimants filed a Request for Arbitration in accordance with the BAT Rules.

14. By letter dated 26 August 2013, the BAT Secretariat fixed a time limit until 16 September 2013 for the Respondent to file its Answer to the Request for Arbitration. By the same letter, and with a time limit for payment of 5 September 2013, the following amounts were fixed as the Advance on Costs:

"Claimant 1 (Ms Shay Doron)	*EUR 4,000*
Claimant 2 (Sports International Group Inc.)	*EUR 1,500*
Respondent (Elitzur Ramla BC)	*EUR 5,500"*

15. Claimant 1 paid the Claimants' share of the Advance on Costs on 9 September 2013. The Respondent failed to pay its share of the Advance on Costs. On 16 September 2013, Claimant 1 paid the Respondent's share of the Advance on Costs.

16. Following the Arbitrator granting an extension of the deadline for filing the Answer, the Respondent submitted its Answer on 11 November 2013.

17. The Arbitrator requested further information from the Claimants and the Respondent by way of Procedural Orders issued on 28 October 2013 (hereinafter the "First Procedural Order") and 8 November 2013 (hereinafter the "Second Procedural Order"). On 26 November 2013, the Arbitrator issued a further procedural order (hereinafter the "Third Procedural Order") in which the Parties were invited to make any final submissions.

18. The Claimants and the Respondent submitted their responses to the First Procedural

Order on 4 November 2013 and 7 November 2013 respectively. The Claimants and the Respondent both submitted their responses to the Second Procedural Order on 20 November 2013. The Claimants and the Respondent both submitted their responses to the Third Procedural Order on 4 December 2013.

19. By Procedural Order dated 23 December 2013, the Arbitrator declared the exchange of documents complete, and requested that the Parties submit detailed accounts of their costs by 7 January 2014.

20. On 7 January 2014, the Claimants submitted the following account of costs:

"Handling fee	*:*	*€3,000,-*
Advance of costs.		
(Claimants and Respondents shares).	*:*	*€11,000,-*
Attorney's fees		
(38 hours at an hourly rate of €325,-)	*:*	*€9,100,-*
Other expenses	*:*	*€100,-*
Total:	*:*	*€23,200,-"*

21. On 7 January 2014, the Respondent submitted the following account of costs:

"Attorneys Fee	*:*	*10,000$*
Translation of Documents	*:*	*1,500$"*

22. By email dated 8 January 2014, the BAT Secretariat sent the Parties' respective account of costs to one another and invited the Parties to submit any comments on the opposite Party's account of costs by no later than 15 January 2014. None of the Parties submitted any such comments.

23. On 25 February 2014, and with a time limit for payment of 6 March 2014, the Arbitrator requested that the Parties pay following amounts as an additional Advance on Costs, in light of the complexity of the dispute and the volume of submissions:

"Claimant 1 (Ms Shay Doron)	*EUR 1,250*
Claimant 2 (Sports International Group Inc.)	*EUR 250*
Respondent (Elitzur Ramla BC)	*EUR 1,500"*

24. Claimant 1 paid EUR 1,488.00 on 4 March 2014, representing the Claimants' share of the additional Advance on Costs. The Respondent failed to pay its share of the additional Advance on Costs. On 3 April 2014, Claimant 1 paid EUR 1,050.79 in respect of the Respondent's share of the additional Advance on Costs and, on 24 April 2014, Claimant 2 paid EUR 450.00 also in respect of the Respondent's share of the additional Advance on Costs.

25. 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 claim

26. The crux of Claimant 1's claim is that three separate events occurred which entitled Claimant 1 to terminate the First Contract and seek employment with another club:

(i) the Respondent did not compete in the EuroCup during the 2012-2013 season;

(ii) the Respondent failed to pay Claimant 1 NIS 133,200.00 in relation to unpaid salary for the 2011-2012 season; and

(iii) the Respondent failed to make certain salary payments to Claimant 1 in relation to the 2012-2013 season.

27. Claimant 1 submits that, on account of the above breaches and the Respondent's declared will to release Claimant 1 from its team, she terminated the First Contract and is entitled to all salaries outstanding and compensation payable pursuant to the First Contract less any amounts received from other clubs during the rest of the 2012-13 season and the entire 2013-14 season.

28. Claimant 1 also claims that the Respondent breached the First Contract by failing to pay her compensation for accommodation and car rental expenses.

29. Claimant 1 submits that the First Contract (and not the Second Contract) governs the contractual relations between the Parties because the Second Contract was merely an Israel Basketball Federation standard contract that Claimant 1 was forced to sign in order to play basketball in Israel. Furthermore, Article 12 of the First Contract provides that, while an Israel Basketball Federation standard contract will be signed by the Parties, the terms of the First Contract shall prevail in the event of any dispute.

4.2 Claimant 2's Claim

30. Claimant 2 claims that the Respondent failed to pay it agent's fees totalling USD 16,000.00 in relation to the 2012-2013 season and seeks compensation in that amount, together with interest.

31. The Claimants' request for relief states:

> *"The First Claimant seeks an award In [sic] the hereby arbitration;*
>
> *(a) declaring that Elitzur Ramla B.C. has breached the Employment Agreement,*
>
> *(b) ordering Elitzur Ramla B.C. to pay Ms. Shay Doron;*
>
> *- 53.000,- NIS + 9.576,- NIS (VAT at 18%) with interest at 5% per*

annum on such amount from 19 October 2012 onwards for the Clubs outstanding debts from 2011-2012 season.

- *411.477,50 + 74.065,95 NIS (VAT at 18%) NIS plus interest 5% per annum on such amount from the date of the hereby Request for Arbitration as compensation for damages suffered by the Player,*

- *12.000,- NIS plus interest at 5% starting from 5 November 2012 as compensation for the accommodation costs paid by the Player*

- *2.588,- NIS plus interest at 5% starting from [sic] as compensation for the car rent paid by the Player.*

- *All costs and legal expenses related to the hereby arbitration.*

32. The Second Claimant

(a) declaring that Eltzur Ramla B.C. has breached the Employment Agreement.

(b) ordering Eltzur Ramla B.C. to pay Sports International Group Inc.

- $8.000,- plus interest at 5% per annum on such amount from 30 October 2012 onwards

- $8.000,- plus interest at 5% per annum on such amount from 30 December 2012 onwards

- all costs and legal expenses related to the hereby arbitration."

32. In their response to the Third Procedural Order, the Claimants' submitted an amended request for relief as follows:

"The First Claimant seeks an award in the hereby arbitration;

(a) declaring that Elitzur Ramla B.C. has breached the Employment Agreement,

(b) ordering Elitzur Ramla B.C. to pay Ms. Shay Doron;

- 53.200,- NIS + 9.576,- NIS (VAT 18%) plus interest at 5% per annum on such amount from 19 October 2012 onwards for the Clubs outstanding debts from 2011-2012 season.

- 541.562,50 + 97.481,25 NIS (VAT at 18%) plus interest at 5% per annum on such amount from the date of the hereby Request for Arbitration as compensation fro damages suffered by the Player,

- 12.000,- NIS plus interest at % 5 starting from 5 November 2012 as compensation for the accommodation costs paid by the Player

- 2.588,- NIS plus interest at % 5 starting from as compensation for the car rent paid by the Player

- All costs and legal expenses related to the hereby arbitration

The Second Claimant seeks an award in the hereby arbitration

(a) declaring that Elitzur Ramla B.C. has breached the Employment Agreement.

(b) ordering Elitzur Ramla B.C. to pay Sports International Group Inc.

- *$8,000 plus interest at 5% per annum on such amount from 30 October 2012 onwards*
- *$8,000 plus interest at 5% per annum on such amount from 30 December 2012 onwards*
- *all costs and legal expenses related to the hereby arbitration."*

4.3 The Respondent's Submissions

33. The Respondent submits that BAT does not have jurisdiction to determine the present dispute. The Respondent submits that the Second Agreement expressly provides that the Israel Basketball Association's Arbitration Institution shall have jurisdiction to determine disputes between Claimant 1 and the Respondent in relation to the Second Contract. Therefore, the Respondent argues, BAT does not have jurisdiction to determine the present dispute.

34. In the alternative, the Respondent submits that the BAT is a *forum non conveniens*. The arbitration clause in the First Contract provides that any controversies between the

Parties "*shall be brought to the BAT… or Israeli Court*". The Respondent argues that the Israeli Court is the *forum conveniens* (see further at paragraph 53 below).

35. The Respondent claims that, even if BAT did have jurisdiction to determine the dispute and was the *forum conveniens*, the Claimants' claim would fail on the merits.

36. The Respondent claims that the Second Contract superseded the First Contract, rendering the First Contract null and void. Furthermore, the Second Contract expressly provides that it will only be valid and binding after it has been approved by the Israel Basketball Association's Budget Audit Authority (hereinafter the "Budget Authority"). The Second Contract was never approved by the Budget Authority because the request for approval was withdrawn once Claimant 1 declared her intention to join another team. The Respondent argues that, consequently, neither the First Contract nor the Second Contract are valid or binding. As such, the Respondent owes no liability to the Claimants pursuant to either of the contracts.

37. The Respondent submits that Claimant 1 did not terminate either the First Contract or the Second Contract. The Respondent asserts that Claimant 1 requested that the Respondent release her from the team so that she could compete in the EuroCup for a different team. Hence, none of the termination payments that might have been available to Claimant 1 if she had terminated either the First Contract or the Second Contract in accordance with its terms (instead of requesting that the Respondent release her) are available to her. The Respondent acted in good faith by releasing Claimant 1 and would not have done so if it thought that she would subsequently bring a claim for compensation against the Respondent. Claimant 1 is acting in bad faith by issuing the current proceedings.

38. The Respondent argues that, in the alternative, if the agreements are found to be valid and binding, the Second Contract prevails. The Respondent submits that the amounts that Claimant 1 claims in respect of unpaid salary are too high and that the actual

salary that was agreed between the Parties was USD 160,000.00 per season for the 2012-2013 and 2013-2014 seasons. Furthermore, Claimant 1 has claimed net salary amounts, plus tax on such amounts. However, the Parties agreed (and the Second Contract provides) that the salary payments made by the Respondent would be gross of any tax. Finally, the Respondent argues that the salary that Claimant 1 earned with her new teams after leaving the Respondent was greater than USD 160,000.00 per season for the 2012-2013 and 2013-2014 seasons, and so she has suffered no loss.

39. In relation the Claimant 2's claim, the Respondent argues that there was no valid agreement that the Respondent would pay the agent's fees. The Respondent submits that the arrangements regarding the agent's fees were set out in an 'agent commission form' attached to the Second Contract. However, the agent commission form, like the Second Contract, was not submitted to the Budget Authority for approval and is therefore invalid.

5. Jurisdiction

40. 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).

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

5.1 Arbitrability

42. 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]

5.2 Formal and substantive validity of the arbitration agreements

43. 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."*

44. In order to determine whether the BAT has jurisdiction to adjudicate the Claimant's claim, the Arbitrator must first determine whether the First Contract or the Second Contract governs the contractual relations between the Parties.

45. The Arbitrator notes that Article 9(d) of the Second Contract was signed second in time and that it states:

> *"All the parties explicitly agree that this agreement, as submitted for the approval of the Authority as part of the approved budget, will be the only binding agreement between the parties and any other agreement not submitted to the Authority or approved as aforesaid, will be null and void, lack any validity and relevance and will not be adhered to."*

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

46. *Prima facie*, this may suggest that the Second Contract prevails over the First Contract. However, the Arbitrator finds that the First Contract in fact governs the relationship between the Parties. This is for two reasons. Firstly, Article 12 of the First Contract states:

> *"The parties agree that the Player shall sign a mandatory Israeli Basketball Federation (IBF) Standard Contract, after the Player's initial payment and the Agency fee payments are received, for the Players registration by the IBF. The Parties accept and agree that the prevailing agreement shall be the hereby agreement in case of any disputes."*

47. Both the First Contract and the Second Contract therefore stipulate that they are the prevailing contract. There is, however an important difference between the two stipulations. Article 12 of the First Contract specifically refers to the Second Contract (in that it refers to the Parties signing a mandatory Israel Basketball Federation Standard Contract) and expressly states that the First Contract will prevail over that agreement. Whereas Article 9(d) of the Second Contract does not refer to the First Contract and appears to be generic, "boilerplate" language. If the Parties had truly intended for the Second Contract to supersede the First Contract, they should have ensured that the Second Contract specifically referred to, and invalidated, the First Contract. It is clearly not easy to reconcile Article 12 of the First Contract with Article 9(d) of the Second Contract. However, for the reason given above, the Arbitrator finds it more persuasive that the Parties intended that the First Contract would govern their contractual relationship.

48. Secondly, and in any event, the Arbitrator does not accept that the Second Contract is valid and binding. The preamble to the Second Contract and Article 9(a) provide that the Second Contract is subject to, and validly binding only after, approval by the Budget Authority. The Respondent itself submits that no such approval was sought (let alone obtained) and further submits that the Second Contract is not binding as a result. The Arbitrator accepts this submission. It is implicit from the Claimants' submissions

that they accept this submission as well, given that they are relying solely on the First Contract to bring their claims. Accordingly, the Arbitrator finds that the Second Contract is not valid or binding.

49. The Arbitrator does not accept the Respondent's submission that, effectively there is no contract in place between the Parties because the Second Contract nullified and invalidated the First Contract and the Second Contract itself is invalid. The Arbitrator considers, firstly, that the First Contract prevails over the Second Contract for the reasons given in paragraph 48 above. Secondly, if the Second Contract was never valid or effective (because approval was never obtained from the Budget Authority) it cannot have been effective to have invalidated the First Contract. Thirdly, there clearly was a contractual relationship between Claimant 1 and the Respondent because Claimant 1 played for the Respondent at the start of the 2012-2013 season. Given the invalidity of the Second Contract, the First Contract must have governed the contractual relationship.

50. Article 7 of the First Contract stipulates:

> "*Jurisdiction:*
>
> *7.1. Any controversy between the club and the player and agents shall be brought to the BAT – (Basketball Arbitration Tribunal of FIBA) or Israeli Court.*
>
> *7.2 In case dispute arising from or related to the present contract submitted to BAT, it should be submitted to the 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 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 acquo et bono.*
>
> *7.3. All parties to this agreement accept the present English version*

of this contractual agreement as fully binding under FIBA laws and guidelines."

51. The First Contract is in written form and thus the arbitration clause fulfils 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) of the PILA). In particular, the wording "*dispute arising from or related to the present contract*" clearly covers the present dispute.

52. The Respondent submits that the Israeli Court (and not BAT) is the *forum conveniens* because: the Respondent's witnesses live in Israel; the First Contract and the Second Contract were concluded in Israel; both contracts were to be performed in Israel; and the Claimants' accountant (who the Respondent submits is a material witness) lives in Israel.

53. The arbitration clause is very clear: the Parties have a choice as to jurisdiction. They may submit disputes to BAT, or they may submit them to the Israeli Court. The Claimants were therefore free to choose which forum to bring their claim in.

54. No evidence has been provided to the Arbitrator that any of the Parties will suffer prejudice if the dispute is resolved by BAT, as opposed to the Israeli Court. There is nothing to suggest that the Parties will have been put to any additional cost or inconvenience if BAT, rather than an Israeli Court determines the Claimants' claims. Nor is there any evidence that justice will not be served if BAT determines the dispute as opposed to an Israeli Court. The Arbitrator notes that while the Respondent and its witnesses may be domiciled in Israel, the Claimants are not. Moreover, the Respondent has not had to leave Israel (nor have any of its witnesses) in order to participate in these proceedings. Accordingly, the Arbitrator rejects the Respondent's argument that the BAT is a *forum non conveniens*.

55. For the above reasons, the Arbitrator has jurisdiction to adjudicate the Claimants' claim.

6. Discussion

6.1 Applicable Law – ex aequo et bono

56. 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 into English as follows:

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

57. 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."*

58. Article 7.2 of the First Contract states "[t]*he arbitrator shall decided [sic] the dispute ex aequo et bono*".

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

60. 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*[2] (Concordat),[3] 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 contrary to those rules."*[4]

61. 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*".[5]

62. 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*".

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

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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.

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

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

6.2 Findings

6.2.1 Termination of the First Contract

64. For the reasons given at paragraphs 44 to 49 above, the relationship between the Parties is governed by the First Contract.

65. Claimant 1 claims that she is entitled to compensation for the Respondent's breaches of the First Contract. The Respondent does not dispute that it breached the First Contract. However, the Respondent submits that Claimant 1 did not terminate the First Contract; instead, the Respondent released Claimant 1 from the First Contract upon the latter's request. Consequently, the contractual remedies which flow from "player termination", and may have been available to Claimant 1 had she terminated the First Contract, are not available to Claimant 1.

66. Claimant 1 submits that she was entitled to terminate the First Contract for broadly three reasons. First, Article 2.2.1 of the First Contract provides that if the Respondent does not compete in the EuroCup in the 2012-2013 season, Claimant 1 can send a termination notice to the Respondent. The Respondent failed to participate in the EuroCup. However, Claimant 1 admits that she did not send a termination notice to the Respondent.

67. Second, Article 2.2.1 of the First Contract provides that if the Respondent does not pay its debt to Claimant 1 in relation to overdue salary for the 2011-2012 season by 18 October 2012, then Claimant 1 will have the right to terminate the First Contract and receive termination payments in accordance with Article 8 of the First Contract. Article 8 provides that if any payment is overdue by fourteen days or more, Claimant 1 is entitled to (i) receive immediately all monies due under the First Contract; and (ii) terminate the First Contract by giving notice by registered letter. The Respondent paid

only NIS 80,000.00 of the NIS 132,000.00 payable under the Settlement Agreement. However, Claimant 1 did not send a notice of termination to the Respondent by registered letter.

68. Third, the Respondent also failed to make any of the salary, accommodation or car rental related payments which fell due to Claimant 1 pursuant to the First Contract. Claimant 1 was therefore entitled to terminate the First Contract in accordance with Article 8. However, again, Claimant 1 did not send a notice of termination to the Respondent by registered letter in respect of these sums.

69. There is no doubt that the First Contract has indeed terminated because none of the Parties performed their obligations under it after Claimant 1 left the Respondent in November 2012. In light of the above findings, the Arbitrator considers that the First Contract was terminated in such a manner that the termination payment provisions contained in Article 8 were not triggered.

6.2.3 The Claimants' Compensation in relation to the First Contract

70. The terms on which Claimant 1 was released from the First Contract are unclear. It appears that no compensation was agreed between the Parties, nor was it agreed that the Claimants would forego or waive their rights to any compensation. Certainly, there is no apparent commercial reason why the Claimants would forego or waive their rights to compensation when Claimant 1 had the ability to terminate the First Contract by written notice and demand payment of all sums due under the agreement.

71. The Claimant did play for the Respondent for part of the 2012-2013 season and so, *ex aequo et bono*, the Arbitrator finds that Claimant 1 is entitled to compensation from the Respondent. The compensation that Claimant 1 is entitled to can be broken down as follows:

(i) Claimant 1's compensation for unpaid salaries relating to the 2011-2012 season;

(ii) Claimant 1's compensation for unpaid salaries due under the First Contract; and

(iii) Claimant 1's compensation for accommodation and car rental expenses.

Claimant 1's compensation for unpaid salaries relating to the 2011-2012 season

72. The First Contract provides that the Respondent will pay Claimant 1 outstanding debt relating to the 2011-2012 season. Claimant 1 and the Respondent agreed in the Settlement Agreement that the amount of debt relating to the 2011-2012 season totalled NIS 133,200.00. Claimant 1 admits that the Respondent has already repaid NIS 80,000.00 of this debt, and claims the outstanding amount of NIS 53,200.00 plus VAT.

73. In its Answer, the Respondent submitted that Claimant 1 had agreed under the Settlement Agreement to pay the Respondent USD 10,000.00. The Respondent argued that this sum had not been paid and should be set off against the outstanding debt of NIS 53,200.00. The Respondent submitted that the NIS 133,200.00 salary relating to the 2011-2012 season was a gross amount and that Claimant 1 should not be entitled to VAT on that amount.

74. In her response to the First Procedural Order, Claimant 1 accepted that the sum of USD 10,000.00 should be set off against the outstanding debt of NIS 53,200.00 and submitted that NIS 7,920.00 plus VAT is therefore still payable by the Respondent.

75. The Settlement Agreement (which is signed by Claimant 1) states:

> *"The team still owes me the amount of 133,200.00 NIS gross.*
>
> **4. I have reached an arrangement with the team for payments of the balance owing as follows:*
> *The team will pay the balance of my total salary in the amount of 133,200 NIS gross…":*

76. Given that the Settlement Agreement expressly states that the payment to be made by the Respondent is a gross payment, the Arbitrator finds that Claimant 1 is not entitled to VAT on amounts relating to unpaid salaries for the 2011-2012 season. However, the Arbitrator finds that the principal amount of NIS 7,920.00 is payable by the Respondent to the Claimant.

Claimant 1's compensation for unpaid salaries due under the First Contract

77. Given that: (i) Claimant 1 did not trigger the termination payment provisions in Article 8 of the First Contract when she left the Respondent; and (ii) it appears that no agreement was reached between the Parties as to what (if any) level of compensation would be given to Claimant 1, it falls to the Arbitrator to determine how much (if any) compensation should be awarded to Claimant 1 in relation to unpaid salaries due under the First Contract. In making this determination, the Arbitrator has regard to the following factors:

    (i) Claimant 1's salary under the First Contract was NIS 720,000.00 (equivalent to approximately USD 193,000.00[6]) plus VAT at a rate of 18% per annum where applicable for the 2012-2013 season, and NIS 1,228,000.00 (equivalent to approximately USD 354,000.00[7]) plus VAT at a rate of 18% per annum for the 2013-2014 season;

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6 Based on an exchange rate of NIS 3.73 to the dollar on 1 January 2013, according to www.xe.com

7 Based on an exchange rate of NIS 3.47 to the dollar on 1 January 2014, according to www.xe.com

(ii) Claimant 1 provided services to the Respondent from 15 September 2012 to 5 November 2012;

(iii) The First Contract provided that Claimant 1's salary for the months September, October and November was NIS 15,000.00 per month;

(iv) The First Contract provided that VAT was not payable on the first four monthly salary payments for the 2012-2013 season (i.e. all of the months that Claimant 1 spent with the Respondent);

(v) Claimant 1 left the Respondent after the latter had committed multiple fundamental breaches of the First Contract, including failure to pay sums due in relation to the 2011-2012 season and any salary whatsoever in relation to the 2012-2013 season; and

(vi) Claimant 1 has submitted evidence to show that she earned at least USD 110,000.00 (net of taxes) from her new club during the 2012-2013 season, and signed a contract with another club for the 2013-2014 season with a salary of USD 265,000.00 (net of taxes). Claimant 1 submits that she has mitigated her losses to a certain extent by signing contracts worth USD 405,000.00 (equivalent to NIS 1,486,552.50).

78. The Arbitrator accepts Claimant 1's submission that she left the Respondent because it had not only failed to pay her salaries relating to the 2011-2012 and 2012-2013 seasons (in breach of contract), but also because the Respondent did not participate in the EuroCup. It was clearly important to Claimant 1 that she was able to compete in that competition and so she specifically negotiated a clause which enabled her to depart from the Respondent in the event that it did not participate in the EuroCup (and to receive all salary payments due as at the date of her departure).

79. The Arbitrator accepts the Respondent's submission that Claimant 1 failed to issue a termination notice in accordance with the terms of the First Contract. The termination payments provided for under Articles 2 and 8 of the First Contract are not, therefore, available to her. However, Claimant 1 provided services to the Respondent for approximately 7 weeks and it is fair that she is compensated for those services. In light of the above factors (and in particular the success with which Claimant 1 has mitigated her losses) the Arbitrator finds, *ex aequo et bono*, that the Respondent must pay NIS 250,000.00 gross to Claimant 1 as compensation for unpaid salaries. This figure reflects the fact that the First Contract was worth a total amount (in salary payments) of NIS 1,948,000.00 over two seasons and the fact that Claimant 1 provided services to the Respondent for approximately seven weeks. The figure also reflects the fact that it was the Respondent's fundamental breaches of the First Contract which caused Claimant 1 to leave the Respondent.

Claimant 1's compensation for accommodation and car rental expenses

80. Article 5 of the First Contract provides that the Respondent will pay NIS 3,000.00 per month towards Claimant 1's accommodation and provide Claimant 1 with a car from the date of signing the First Contract. Claimant 1 has claimed from the Respondent NIS 12,000.00 in relation to accommodation and NIS 2,588.00 in relation to vehicle expenses.

81. The Respondent does not dispute that it has not reimbursed Claimant 1 in relation to her accommodation and car rental expenses. The Respondent, however, notes that Claimant 1 has not submitted any payment receipts in relation to her accommodation. The Arbitrator accepts Claimant 1's contention that she is not required to provide accommodation related receipts because Article 5 of the First Contract simply provides that the Respondent will pay the fixed sum of NIS 3,000.00 per month towards the cost of Claimant 1's accommodation. Claimant 1 is, therefore entitled to compensation for accommodation expenses.

82. However, the Arbitrator notes that Claimant 1 joined the Respondent on 15 September 2012 and left on 5 November 2012. Absent receipts to prove otherwise, there is no evidence to show that Claimant 1 stayed in accommodation outside of this period. The Arbitrator therefore finds that the Respondent must pay NIS 6,000.00 (two months worth of accommodation expenses) to Claimant 1.

83. Claimant 1 has submitted receipts showing that she incurred expenses relating to vehicle hire which totalling at least NIS 2,588.00. The Arbitrator therefore finds that the Respondent must pay NIS 2,588.00 to Claimant 1 as reimbursement for vehicle expenses.

7.2.2 Claimant 2's claim for unpaid agent's fees

84. The Respondent submits that Claimant 2's claim for unpaid agent's fees must fail because the Respondent's obligation to pay the agent's fees was contained in an "agent commission form" attached to the Second Contract, which was invalid. As explained at paragraphs 44 to 49 above, the relationship between the Parties is governed by the First Contract and not the Second Contract.

85. The First Contract provides, at page 8, that the Respondent will make two payments of USD 8,000.00 each to Claimant 2 in relation to the 2012-2013 season and two payments of USD 8,000.00 each in relation to the 2013-2014 season. The Respondent does not dispute that it has not made any of these payments.

86. Claimant 2 claims both unpaid payments of USD 8,000.00 in relation to the 2012-2013 season from the Respondent. It does not claim the unpaid payments in relation to the 2013-2014 season.

87. In principle, Claimant 2 is entitled to be paid for his services in assisting with the contractual arrangements between Claimant 1 and the Respondent, despite the fact

that Claimant 1 left the Respondent on 5 November 2013.

88. However, the Arbitrator notes that Claimant 2 received USD 11,000.00 in agent's fees from Claimant 1's new club for the 2012-2013 season, and USD 26,500.00 in agent's fees from Claimant 1's new club for the 2013-2014 season. Thus the total amount of agent's fees that Claimant 2 received in relation to the 2012-2013 and 2013-2014 seasons was USD 37,500.00. If Claimant 1 had not left the Respondent, Claimant 2 would have only received USD 32,000.00 for the same period. In that sense, Claimant 2 is actually in a better position financially than it would have been if the Respondent had not breached the First Contract and Claimant 1 had not left the Respondent.

89. In such circumstances, the Arbitrator considers that it would be unjust to award Claimant 2 further sums as compensation for unpaid agents fees. The Arbitrator therefore rejects Claimant 2's claim.

7.2.5 Interest

90. Claimant 1 has requested interest on all unpaid sums owed by the Respondent. Although the First Contract does not provide for the payment of default interest, this is a generally accepted principle which is embodied in most legal systems. Indeed, payment of interest is a customary and necessary compensation for late payment, and the Arbitrator considers that there is no reason why Claimant 1 should not be awarded interest in this case. Also, 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 the jurisprudence of the BAT, that 5% per annum is a reasonable rate of interest and that such rate should be applied in this case.

91. The Arbitrator finds that interest should be awarded as follows:

(i) In respect of the compensation for unpaid salaries relating to the 2011-2012 season, interest at a rate of 5% per annum on the amount of NIS 7,920.00 from the day after the date it was due (pursuant to the First Contract), i.e. from 19 October 2012;

(ii) In respect of the compensation for unpaid salaries relating to the 2012-2013 season, interest at a rate of 5% per annum on the amount of NIS 250,000.00 from the date of the Request for Arbitration (as requested by Claimant 1), i.e. from 18 June 2013; and

(iii) In respect of the compensation for the accommodation and car rental expenses, interest at a rate of 5% per annum on the amount of NIS 8,588.00 from the day after the date on which Claimant 1 left the Respondent, i.e. from 6 November 2012.

7. Costs

92. 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.

93. On 8 June 2014, 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 11,520.00.

94. The Arbitrator notes that Claimant 1 was successful in establishing a large part of her claims and that Claimant 2 was unsuccessful in establishing its claim. The Arbitrator also notes that the Respondent failed to pay its share of the Advance on Costs and that the Claimants paid their share and the Respondent's share. Thus, the Arbitrator decides that in application of Article 17.3 of the BAT Rules, and in light of the circumstances of the case, the Claimants shall bear 10% of the costs of the arbitration and the Respondent shall bear 90% of the costs of the arbitration.

95. The Claimants have claimed EUR 12,100.00 in legal fees and expenses (including the non-reimbursable fee of EUR 3,000.00). The Arbitrator considers that such fees and expenses are excessive for this case, given the volume and content of submissions that were required to be made (as opposed to those that were actually made) and having in mind also the maximum contribution set out in Article 17.4 of the BAT Rules. In the circumstances, considering also the fact that Claimants did not entirely prevail in their claims, the Arbitrator finds that it would be reasonable for the Respondent to pay to the Claimants EUR 8,000.00 as a contribution towards the Claimants' legal fees and expenses.

96. Therefore, the Arbitrator decides:

(i) BAT shall reimburse EUR 2,444.79 to Claimants, being the difference between the costs advance by them and the arbitration costs fixed by the BAT President;

(ii) The Respondent shall pay to Claimants EUR 10,368.00, as reimbursement of arbitration costs advanced by them; and

(iii) The Respondent shall pay to Claimants EUR 8,000.00, as a contribution towards the Claimants' legal fees and expenses.

8. AWARD

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

1. **Elitzur Ramla BC is ordered to pay to Ms. Shay Doron NIS 7,920.00 gross as compensation for unpaid salary relating to the 2011-2012 season, together with interest payable at a rate of 5% per annum from 19 October 2012.**

2. **Elitzur Ramla BC is ordered to pay to Ms. Shay Doron NIS 250,000.00 gross as compensation for unpaid salary relating to the 2012-2013 season, together with interest payable at a rate of 5% per annum from 18 June 2013.**

3. **Elitzur Ramla BC is ordered to pay to Ms. Shay Doron NIS 8,588.00 as compensation for unpaid accommodation and vehicle rental expenses, together with interest payable at a rate of 5% per annum from 6 November 2012 until the date that payment is made.**

4. **Elitzur Ramla BC is ordered to pay jointly to Ms. Shay Doron and Sports International Group Inc. EUR 10,368.00 as reimbursement of the advance on BAT costs.**

5. **Elitzur Ramla BC is ordered to pay jointly to Ms. Shay Doron and Sports International Group Inc. the amount of EUR 8,000.00 as a contribution towards their legal fees and expenses.**

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

Geneva, seat of the arbitration, 13 June 2014.

Raj Parker
(Arbitrator)