Arbitration CAS 2016/A/4606 Al-Arabi Sports Club Co. For Football v. Houssine Kharja, award of 22 March 2017

Panel: Mr José Juan Pintó (Spain), President; Mr Rui Botica Santos (Portugal); Prof. Massimo Coccia (Italy)

Football
Termination of the employment contract without just cause by the club
Effective date of termination
Just cause
Respect of the principle pacta sunt servanda when assessing the amount of compensation for damages

1. **For a contract to be terminated, it is essential that the party affected by the termination has full knowledge and consciousness of the termination will of the other party. A distinction must be made between ordinary communications between the employer and the employee, which have a purely informative function, and communications that are intended to have some legal effects over contractual rights such as, in particular, the termination of the employment contract. In order to protect legal certainty, this second type of communications requires a certain degree of formality. Therefore, absent any official instructions to the effect that the player's agent has powers to receive the termination notice on the player's behalf, and regardless of the potential fault or lack of care by the player's agent in contacting the player to this effect, a termination notice sent by email to the player's agent does not prove that the player received such notice, Therefore, the effective date of the termination of the employment contract cannot be that of the termination notice sent by email to the player's agent.**

2. **"Just cause" is any situation, in the presence of which the party terminated cannot in good faith be expected to continue the employment relationship. If more lenient measure or sanctions, such as written warnings or temporal suspensions, can be imposed by an employer to ensure the employee's compliance with his contractual obligations of his contractual duties, such measures should be implemented before terminating the employment contract. Furthermore, although the FIFA Regulations on the Status and Transfer of Players (RSTP) do not foresee a specific timeframe in which an employer shall communicate the unilateral termination of a contract to an employee in breach, an employer wishing to dismiss an employee for just cause must act swiftly after the relevant facts. A period of reflection of two to three business days is a maximum.**

3. **A compensation clause providing for different compensation amounts depending on the party breaching the contract is not *per se* null and void. Such a clause is not forbidden by the RSTP. In absence of any proof that it is invalid under the applicable national law or of a vice in the consent of the party (error, threats, etc.), and *a fortiori* if**

the party is an experienced professional football player that received advice from his agent throughout the negotiations, the principle *pacta sunt servanda* must be respected and the effects of the clause must be applied to the dispute.

I. PARTIES

1. Al-Arabi Sports Club Co. For Football ("Al-Arabi", the "Club" or the "Appellant") is a Qatari football club, with its registered office in Doha (Qatar), affiliated to the *Qatar Football Association* ("QFA"), which is in turn affiliated to the *Fédération Internationale de Football Association* ("FIFA").

2. Mr. Houssine Kharja ("Mr. Kharja", the "Player" or the "Respondent") is a French/ Moroccan professional football player born on 9 November 1982.

3. The Appellant and the Respondent will be hereinafter jointly referred to as the "Parties".

II. FACTUAL BACKGROUND

4. A summary of the most relevant facts and the background giving rise to the present dispute will be developed based on the Parties' written submissions, the evidence filed with these submissions, and the statements made by the Parties and the evidence taken at the hearing held in the present case. Additional factual background may be set out, where relevant, in connection with the legal discussion which follows. The Panel refers in its Award only to the submissions and evidence it considers necessary to explain its reasoning. The Panel, however, has considered all the factual allegations, legal arguments, and evidence submitted by the Parties in the present proceedings.

5. On 28 June 2012, the Player entered into an employment contract with the Club (the "Contract" or the "Employment Contract") for two seasons, 2012/2013 and 2013/2014, ending on 31 May 2014. In its most relevant parts the Contract reads as follows:

*"**Article (1)** The following elements form an integral part of this Contract:*

a. Statutes and Regulations of the FCC [i.e. the Club].

b. Professional Local Players Regulations.

c. Statutes and Regulations of the Qatar Football Association (QFA);

d. Statutes and Regulations of Qatar Stars League Management (QSLM)

e. Statutes and Regulations of AFC and FIFA (including the Laws of the Game)

The Player acknowledges the aforementioned statutes and regulations as strictly binding on him, in so far as they are consistent with legal provisions and public order.

***Article (2) Player's Obligations**:*

1. *The Player pledges to apply all his energy and sporting ability without restraint for the benefit of the FCC, to do his utmost to maintain and enhance the FCC, and to refrain from doing anything which could generally be detrimental to the FCC, in particular, before, during, and after events in which the FCC participate.*

2. In accordance with these principles, the Player is subject to the following specific obligations:

[…]

f. To conduct himself in public and in private in such a way as to not harm the image of the FCC, the QFA, QSLM and football in general, and to refrain from commenting to third parties on internal FCC-related matters; similarly, the FCC acknowledges the right of the player to free expression, provided it discredits neither the FCC nor the game of football.

[…]

Article (5) Disciplinary Measures

1. *If the Player violates any of the obligations to which he is subject under this Contract, the FCC may impose the following penalties:*

   a. Caution

   b. Fine up to 5000 EURO (currency/amount) FIVE THOUSAND EURO (max. One basic monthly salary).

   c. Suspension.

   d. Expulsion.

2. *These contract-related penalties are laid down in the FCC's own disciplinary regulations, and must occur with the provisions of the QFA and QSLM and the Professional Local Players Regulations.*

[…]

Article (9) Contract Commencement and Termination:

This Contract begins on 01/07/2012 and terminates on 31/05/2014. (To extend the contract for third and fourth year is option of the club (The club shall pay the player (Euro 3.000.000)) (Three million Euro) each year). The validity of the Contract is subject to the specific approval of the QFA and the confirmation that the Player is eligible to play and the approval of GSLM (ratification of the contract).

Article (10) Termination by the Club or the Player:

1. *The FCC and the Player may terminate this Contract, before its expiring term, by mutual agreement.*

2. *The FCC and the Player shall be entitled to terminate this Contract, before its expiring term, by fifteen (15) days' notice in writing for just cause according with the FIFA Regulations governing this matter as well as the Law of the State of Qatar.*

3. *When the termination of the Contract is not due to a just cause or a mutual agreement between the Parties concerned, the FCC or the Player shall be entitled to receive from the other party in breach of the Contract a compensation for a net amount of:*

    - *To the FCC: AL-ARABI CLUB. Total amount of the contract.*

    - *To the player: HOUSSINE KHARJA. Remaining salaries of the same season.*

[…]

Article (13) Applicable Law and Jurisdiction

In case of any contractual dispute the applicable law shall be firstly the law of the State of Qatar and subsequently, the QFA, AFC and FIFA Regulations governing this matter. The parties agree to submit this Contract to the non exclusive jurisdiction of the Qatari Courts or of any other arbitral tribunal established by QFA and QSLM in accordance to its Statutes and the FIFA National Dispute Resolution Chamber, if applicable.

Football Player's Contract Schedule

(a) Total amount

(EURO 5.000.000) = (EURO FIVE MILLON* (sic) *ONLY) for season 2012/2013 – 2013/2014.

(b) Monthly Salaries for the first season 2012/2013 as follows:

1- First Month Salary (Euro 295.454) (Euro Two Hundred Ninety Five Thousand Four Hundred Fifty Four Only) for July 2012.

2- Monthly Salary (Euro 170.454) (Euro One Hundred Seventy Thousand Four Hundred Fifty Four Only) from 01/08/2012 to 31/05/2013.

(c) Monthly Salaries for the Second Season 2013/2014:

1- First Month Salary (Euro 281.250) (Euro Two Hundred Eighty Thousand Two Hundred Fifty Only) for June 2013.

2- Monthly Salary (Euro 156.250) (Euro One Hundred Fifty Six Thousand Twenty Hundred Fifty Only) from 01/07/2013 to 31/05/2014.

2- Monthly Housing allowance (for the first year only).

Nil.

3- Advanced payment for the first year.

EURO 500.000 (EURO FIVE HUNDRED THOUSAND) for each season 2012/2013 and the season 2013/2014.

4- Other benefits in favour of the player.

- *Car*
- *Tickets (For the player 2 Business class per season (Paris –Doha – Paris) for his wife and Three children under 18 year One Ticket in the season for each year).*
- *Bonuses:*

1/Euros (250.000.00) for winning the Q.S.L. League.

2/Euro (150.000.00) for winning Amir Cup.

3/Euro (10.000.00) for winning Heir Apparent Cup.

4/Euro (350.000.00) for winning Asian Championship.

5/The First party shall pay the second party (Euro 100.000) (Euro One Hundred Thousand) in scoring each seven goals in the official matches in the League Amir Cup and Heir Apparent Cup.

The player's income refers to gross amounts. Regarding the payment of eventual taxes and social costs, the legal provisions applicable at the club's domicile apply.

[…]".

6. On the same day, the Parties signed an annex to the Employment Contract (the "Annex Contract") with the following content:

"Both Parties agreed the following:

1. As agreed in the main contract the First Party shall pay the Second Party 25% as a down payment from the amount of each season which is equal to ***(625.000 Euro)*** *(Six Hundred Twenty Five Thousand Euro Only).*

Both parties agreed that this amount shall be paid as follow [sic]*:*

First season 2012/2013

- *500.000 Euro – (Five Hundred Thousand Euro Only) 20% Down payment*
- *125.000 Euro – (One Hundred Twenty Five Thousand Euro Only) 5% Down payment with the First salary of season 2012/2013.*

Second Season 2013/2014

- *500.000 Euro – (Five Hundred Thousand Euro Only) 20% Down payment*
- *125.000 Euro-(One Hundred Twenty Five Thousand Euro Only) 5% Down payment with the First salary of season 2013/2014.*

[…]".

7. On 19 March 2013, the *Qatar Stars Cup* semi-final match was held between Al-Arabi and Al-

Gharafa. Towards the end of the match, a challenge for the ball took place between the players Anderson Luis de Carvalho ("Nenê") and the Respondent, which resulted in a brawl among several players from the two teams. Due to that brawl some players were red-carded and sent off from the field, including the Respondent.

8. One day after the match, on 20 March 2013, the following statement was published in the Club's website:

"Houssine Kharja apologizes for the events to meet Gharafa

[…]

Hussein said narrated: I apologize to the public about what happened and what Badr me towards any player was important to Otmaic the nerves more than that, but any person who is in my position would help but what has happened.

Houssine Kharja added: I am a professional player and not of troublemaking quality and this is the first time that touch upon such things and I respect all the players and there is no any problems with any colleagues of mine on the pitch and I respect all competitors and this is normal for me.

[…]" [Translation from Arabic submitted by the Respondent].

9. The Club alleges that its former Head of Football, Mr. Abdulla Saad, and First Team Manager, Mr. Salah Al-Maliki, ordered the Player not to speak up in public or issue any type of official statement without prior permission of the Club.

10. Despite the instructions allegedly issued by the Club, the Player went to the Al-Gharafa's headquarters to reconcile with Nenê. A second official communication was published in the Club's website on 20 March 2013:

"Kharja reconcile with Nene Gharafa

Our team player keen Aerbawi (sic) *Moroccan Houssine Kharja on the presence of the headquarters of Al Gharafa to reconcile with the Brazilian Nene professional Gharafa after Alhoushh* (sic) *that occurred between them yesterday in the semi-final Cup QNB.*

And the keenness of Kharja, who went to the headquarters of Al the willies Stadium Gharafa to emphasize that what happened to but remain in the end of the spirit is what was agreed upon Brazilian Nene, who stressed that it was sad what happened during the match between Al Gharafa and the Arab and he did not imagine this happening.

[…]" [Translation from Arabic submitted by the Respondent].

11. Notwithstanding the above, on 21 March 2013, the Club issued the following statement in its website:

"[…]

Arab club confirmed its refusal to act done by Houssine Kharja player first team football club to go to Al Gharafa and reconciliation with the player Nene, considering this act of personal player and the administration is not satisfied with it and does not represent their point of view in that crisis.

[…] *this act is not acceptable in terms have not been coordinated with the Club General Secretary of directors or president of football* […].

The club's management confirms that the natural in the case of any initiatives for reconciliation between the two players is through the club's management or soccer device, until the club evaluates things in order to achieve its interests […] *because what happened to him in the game was something unacceptable resulted to him losing a number of players before the final for the tournament.*

[…]*"* [Translation from Arabic submitted by the Appellant].

12. On 27 March 2013, the QFA Disciplinary Committee imposed penalties on several players from both Al-Gharafa and Al-Arabi as regards the facts that occurred in the match of reference. The Player was sanctioned with ten games of suspension and a fine amounting QAR 380,000. The Club was fined with QAR 10,000.

13. On 28 March 2013, the Player's counsel claimed the payment of the outstanding remunerations as follows:

"On behalf of Mr. Houssine Kharja from whom I have been formally appointed to act, I kindly ask you to pay the amount for the unpaid salaries.

The above mentioned amount, shall be paid no later than 10 (ten) days starting from today […]*".*

14. On 31 March 2013, the Player made the following declarations to a French journalist:

"Je ne suis au courant de rien. On m'a appelé hier (samedi) pour m'indiquer l'heure de l'entrainement de lundi à 18 heures. On ne casse pas des contrats comme ça". […] *"C'est mon agent qui s'occupe des choses extra-sportives et il ne sera là que la semaine prochaine".*

Which can be translated into English[1] as follows:

"I'm not aware of anything. They called me yesterday (Saturday) to give me the time of Monday's training – 18:00am". It does not terminate the contract like that. […] *"It's my agent who deals with non-sporting matters and that will be next week".*

15. On 7 April 2013, the Club appealed the decision of the QFA Disciplinary Committee, also on behalf of the Player, before the QFA Appeal Committee, as it considered that the sanctions imposed were unlawful and disproportionate.

[1] Translation provided by the Appellant in its Reply filed on 12 September 2016 and not contested by the Respondent.

16. The Club did not pay the Player's salary of March 2013 in due time.

17. On 16 April 2013, the QFA Appeal Committee reduced the Player's sanction to eight games of suspension and a fine of QAR 50,000, and confirmed the fine imposed on the Club by the QFA Disciplinary Committee.

18. According to the Club, on 24 April 2013 the General Manager of the Club, Mr. Saber Farrag Aboetah, and the former Head of Football of the Club, Mr. Abdulla Saad, held a meeting with the Player at the Club's offices to communicate to him the Club's decision imposing a one month salary fine on the Player and the Club's intention of terminating his Employment Contract. The Club contends that the Respondent declined to be handed over any type of written communication and asked that both the notice of the disciplinary fine and the notice of the termination of the Contract be delivered to his agent. The Club also alleges that, following the Player's instructions, on that same day it sent to his agent an email enclosing the penalty notice and, on the following day, the unilateral termination notice.

19. The notice of the disciplinary fine ("Penalty Notice"), dated 24 April 2013, reads as follows:

"Subject: Penalty Notice

Dear Mr. Hussine Kharja,

Please be informed that the club's board of directors decided according to Article No5: (Disciplinary measures) of the contract signed with you on 28/06/2012 to deduct one month salary from you as a penalty for your behaviour in our clubs' (sic) match with Al-Gharafa Club in the semifinal of QNB Cup championship, in which and as a result of what has happened the Qatar Football Association applies penalties against you "paying a fine and you had been stopped of playing Eight official games".

Moreover the fine amount applied by Qatar Football Association shall be deducted from your salaries and going to be paid to the Qatar Football Association".

20. With regard to the termination of the Employment Contract ("Notice of Termination"), dated 25 April 2013, its relevant part reads as follows:

"Re.: Notice of Contract Termination

Dear Mr. Hussine Kharja,

First we would like to convey to you the best regards of our Executive board.

We would like to inform you that the Executive Board has decided to terminate the Professional Football Player Contract has signed between the club and the player Hussine Kharja, which has signed on 28/06/2012, this termination effective from 28th April 2013.

AL-ARABI SPORTS CLUB keeping the right to claim you at any time to pay compensation for material and moral damage, which occurred on AL-ARABI SPORTS CLUB.

We wish you all the success in your future life […]*"*.

21. Nevertheless, the Player and his agent contend not to have received the aforementioned communications at the time.

22. The Club did not pay the Player's salary of April 2013 in due time.

23. On 22 June 2013, the Club sent a letter to the German Embassy in Doha enclosing a list of the players who were supposed to participate in the Club's preseason training in Germany and requested the issuance of the corresponding visas for that purpose. The name of the Player was not included in this list.

24. At the beginning of July 2013, the Player and his agent travelled to Doha with the purpose of meeting the Club's executives. On 8 July 2013, a meeting between the Player, his agent, the General Manager of the Club, Mr. Saber Farrag Aboetah, and the First Team Manager, Mr. Salah Al-Maliki, took place.

25. According to the Player, after knowing about the QFA Appeal Committee decision, he continued training as usual with the main team. To prove such fact he provided some pictures taken by his agent during such trip made to Doha in July 2013, in which he was taking part in the Club's training sessions. In that regard, the Club alleges that these pictures were taken in a fitness session, since the Player was not anymore attending the official trainings and was only exercising with the purpose of not losing his shape.

26. On 15 July 2013, the Club's First Team Manager sent to the Player the following text message:

"Hi Hussan [sic] *just now I got call from our lower* [lawyer] *regarding your situation and I'm very sorry to tell you that stop training with the team until we solve the situation, thank you, sincerely, Salah"*.

27. On the same date, the Player received a second text message from Dr. Al-Emadi with the following content:

"dear Hussain today our manager went to Football Federation and met Atori. Atori talked to your agent and gave him the deal. He (Atori) told us that you cant [sic] *participate in the training any more. This is for your information. Thanks dear"*.

28. On 20 July 2013, the Club received a letter from the Player stating, *inter alia*, the following:

"I am learning in astonishment of a communication from your part, during a meeting with my agent and me the 08 July 2013, dated 25 April 2013 whereby you informed me that the Executive Board of Al-Arabi SC decided to terminate, with effect from 28 April 2013, the Professional Football Player Contract signed on 28 June 2012 (hereafter the "Contract").

I hereby express my astonishment and disbelief regarding such ungrounded decision due to the following arguments.

1) I have never received any written notice to my residence in Doha and nor did my wife and family.

2) The termination of the contract, does not refer to any particular reason. At my rate, as I always complied with the terms and conditions established by the Contract, such termination has to be considered without any just cause which can justify it.

3) Should the reason at the basis of such termination be the suspension for eight matches imposed by the QFA […], *your decision is late and disproportionate. Besides, it is in blatant bad faith and inconsistent with your own "penalty notices" dated 24 April 2013. In fact, by the penalty notice you unequivocally decided to deduct one month salary as a disciplinary measure for such event.*

4) If this was true, your behaviour would obscure as I was summoned to pre seasonal training camp in Doha, and I practiced regularly with the team until the day 15/07/2013.

5) Another situation that results being totally opposite to what would be an unilateral termination of the contract is the proposal made to my agent, with witness present, to terminate the contract with a money offer.

It seems that your unilateral termination of the Contract attempts to hide all the outstanding remuneration that Al-Arabi SC owes me so far. In particular, according to the Contract and the Annex Contract signed between the parties, Al-Arabi SC still has to pay me:

***EUR. 1.193.178,00** as for the salary of November, December, January, February, march, april, may*

***EUR. 500.000,00** as for the advanced payment for the season 2013/14*

***EUR. 281.250,00** first month salary season 2013/14*

***EUR. 94.000,00** as for the House*

***EUR. 12.700,00** as for the flight*

TOTAL: EUR 2.081.128,00

In light of all the above, and in order to avoid any judicial proceedings:

1) *I hereby **offer my services to your club**. You are therefore requested to reinstall me with immediate effect into your first team.*

2) *I put you on notice to pay me **no later than Monday 29 July 2013** the outstanding overall amount of **EUR 2.081.128,00***

[…]*".*

29. On 22 July 2013, the Club made two payments to the Player:

- **EUR 852.270** as *"Salary of the player for the period from November 2012 until April 2013 with deduction of one (1) month salary* (EUR 170.454) *pursuant to the penalty imposed against the player on 24 April, 2013".*

- **EUR 170.454** as *"compensation for the termination of the employment contract as per Article 10 par.3 to the end of season 2012 - 2013"*.

30. On 23 July 2013, the Club sent a letter to the Player stating, *inter alia*, that due to the Player's behaviour *"the administration of the club informs your* [sic] *officially of the end of your relationship as a personality with Doha in one week, after which the appropriate steps to officially cancel your visa in the country shall be taken"*.

31. On 30 July 2013, the Club sent a letter to the Player, a copy of which was sent to the Player's counsel by email, with the following content:

"[…]

First and foremost, we would like to express our great astonishment and surprise on your statement that supposedly only after our joint meeting on 08 July 2013 you were informed about the termination of your employment contract. In this respect, we would like to remind you that the relevant termination letter was duly sent via email to your agent on 25 April 2013, since you had expressly denied signing acceptance of such letter, whereas you requested that such correspondence should be notified only to your agent. As such, it was upon your request that Al Arabi Sports Club notified your agent about the termination of our employment contract effective as of 28 April 2013. For ease of reference, kindly find attached once again for your consideration the respective email dated 25 April 2013 as well as its attachment, i.e. the notice of termination (Exhibit no.1), which are self-explanatory. As a side note though, it is quite contradictory on the one hand to allege that you have personally never received such letter, while on the same time making considerations as to its content.

Having clarified the above, in relation to the issue of the termination of your employment contract, due consideration was given to your misconduct during the match against Al-Gharafa Sports Club dated 19 March 2013, and the subsequent sanction of suspension for eight (8) matches imposed by the competent judicial bodies of the Qatar Football Association, which resulted to a significant damage for the image and the sporting performance of the club. Under such circumstances, it is clear that the Club could not in good faith be expected to continue this employment relationship and, hence, decided to terminate your employment contract pursuant to Art. 10 par. 3 thereto. Suffice to mention that Art. 10 par. 3 is a fully valid and enforceable contractual provision, to which you had consented by your free will and decision and which you never challenged during your employment relationship.

Furthermore, Al Arabi SC would like to vehemently object to the false and inaccurate allegations related to your supposed summoning in the pre seasonal trainings of the Club or your alleged regular trainings. First of all, Al Arabi SC never called you to attend any pre seasonal training of the club, whereas, for the sake of good order, we would like to remind you that it was your request to keep training with the club unofficially and without any further obligation in order solely to keep in shape for your future professional endeavours. It is clear that the acceptance of your request by Al Arabi SC was an exceptional gesture of good will and intention to help you in your future career, hence without any legal consequences related to the employment relationship between us, which had been terminated as of 28 April 2013.

Finally, with regards to your outstanding remuneration, first of all, Al Arabi SC would like to apologize for any inconvenience caused, since any delay in the respective payments was due to temporary financial difficulties, a fact that you were well aware of. Having clarified the above, kindly be informed that Al Arabi SC paid as

of 22 July 2013, via the Professional Players' Committee of Qatar Football Association, to your respective bank account the following amounts:

1. *EUR 852,270 corresponding to your monthly salaries for the period as from November 2012 until April 2013 with the deduction of one (1) month salary pursuant to the penalty imposed against you on 24 April 2013; and*

2. *EUR 170,454 corresponding to the compensation for the termination of your employment contract pursuant to Art. 10 par. 3, i.e. your contractual entitlements until the end of the sporting season 2012/2013, i.e. until the end of May 2013.*

[…]

In conclusion, in view of your final considerations stated in your letter dated 20 July 2013, and in particular your alleged offer of your services to our club as well as your request for reinstallation with the first team, our Club refers once again to the content of its termination letter sent to your authorised agent and representative on 25 April 2013, by means of which the employment contract dated 28.06.2012 has been duly terminated by Al Arabi SC as of 28 April 2013. As such, we regret to inform you that your above mentioned requests are fully rejected by our Club".

32. The aforementioned letter dated 23 July 2013 was returned to the Club which, on 5 August 2013, sent it as an enclosed document of the following communication for the QFA:

"Subject: The notice the Club for the French professional player/ Houssine Kharja

By terminating his obligation within the country to cancel his residency.

[…]

With regards to the above matter with regards to the club's notice for the French professional player/ Houssine Kharja; it is necessary to end his attachment within the country in order to begin the procedures to cancel his residency and as per the letter sent by the club by registered mail sent to the player on the date of (24/07/2013) and to which it has been replied to the club again from the administration of the registered mail on (04/08/2013) given the inability of the administration of the registered post in contacting the player several times to receive the notice, without success.

As such, we attach for your consideration a copy of the notice addressed to the player in addition to an image of the discarded mail receipt for your knowledge and to take the necessary measures under the mandate of the club to your union with regards to this issue".

33. On 29 August 2013, the Club received the following communication from the Player's counsel:

"On behalf of Mr. Housseine Kharja, I acknowledge receipt of Your letter dated July 30, 2013, sent to my law firm via email and fax, the content of which I am forced to oppose globally, since it does not comply with the truth.

As a matter of fact, no termination letter of the employment contract has ever been sent to my client's address and not even a notice sent to Mr. Accardi, my client's agent – if any – could have restored a lack of notice whatsoever, since, in compliance with the terms of the contract signed by the parties, any correspondence and/or notice should be sent to Mr. Kaharja's address in Terni or in Milan or, alternatively, should be personally handed to the same.

[…]

To further demonstrate the lack of foundation of Your assumptions, we would like to point out that on 5 July, 2013, Mr. Accardi, the player's agent, was invited to go to Qatar to discuss about the contingent contract termination (this meeting took place on 8 July).

Once in Qatar Mr. Accardi not only saw that Mr. Kharja regularly trained with the team, but also met Mr. Saoud Al Mohannadi secretary general of QFA, to discuss about the unpleasant issue between the player and the club.

In any case, given the unlawfulness of Your behaviour, I would like to inform You that Mr. Kharja is willing to have resort to the FIFA judicial bodies to see his rights protected and, finally, in order not to compromise his career and professionality, Mr. Kharja should be immediately reintegrated in the club's shortlist because of the unlawfulness of the contract termination in evident breach of the regulations on the status and transfer of FIFA players, having Mr. Kharja, as to date, not received any formal communication whatsoever concerning the contract resolution, not the notice sent to Mr. Accardi's address represents a formal communication of this kind having the effect of notification.

I also would like to invite You to pay Mr. Kharja the sums required for accommodation expenses (EUR 94,000.00) – as provided for by agreement stated by the parties – plus the expenses for flight tickets for the player and his children (EUR 12,700.00), as well as the monthly salaries of June 2013 (EUR 281,250.00), July 2013 (EUR 156,250.00) and the advance payment for the 2013-14 season (EUR 500,00.00)".

34. On 6 September 2013, the Club received a second communication from the Player's counsel in the following terms:

"On behalf of Mr. Houssine Kharja I inform you that, so far, the player as [sic] *not been reintegrated in the main team.*

Failing this to happen within Thuesday (sic) *10 September, we will consider the employment contract resolved exclusively due to your fault".*

35. On 11 September 2013, the Club answered the previous communications as follows:

"With reference to the above matter, we acknowledge receipt of your latest correspondence dated 22 August 2013, sent to our Club in your capacity as legal representative of our former player Houssine Kharja (hereinafter, the "Player"), the content of which has received our full attention.

[…]

It is important, however, to stress that in your aforesaid letter as the Player's legal representative you have not contested – and hence acknowledged – the payments made towards the Player on 22.07.2013 for the amount of EUR 852,270 and EUR 170,454 respectively as well as their relevant justification. Related to the payment of EUR 170,454 particularly, we would like to remind you that such payment corresponds to the compensation for the termination of the Player's employment contract pursuant to Art. 10 par. 3 thereto, as already submitted to your attention via our correspondence of 30.07.2013.

On this account, we would like to emphasize once again that Al Arabi Sports Club has fully complied with its contractual obligations towards the Player until the end of their employment relationship, i.e. 28 April 2013, therefore, we consider the matter as closed.

[…]*".*

36. On 26 October 2013, the Player sent a final communication to the Club in which he considered the payments made by the Club as an advance on the total existing debt towards him:

"I inform you that the amounts paid by your Club to Mr Kharja, are considered as advanced payments of the higher amounts still due to the player as overdue salaries and compensation for the breach of his employment contract by Al-Arabi SC".

III. PROCEEDINGS BEFORE THE FIFA DISPUTE RESOLUTION CHAMBER

37. On 14 March 2014, the Player filed a claim before the FIFA's Dispute Resolution Chamber (the "FIFA DRC") against the Club requesting, *inter alia*, the payment of EUR 3,709,653, plus interests of 5% p.a. in accordance with the following breakdown: (i) EUR 1,022,308 as outstanding salaries, (ii) EUR 1,643,145 as compensation for the breach of contract, (iii) EUR 937,500 as compensation for specificity of sport, (iv) EUR 94,000 as housing allowance for the first season and, (v) EUR 12,700 for costs of flight tickets.

38. On 1 December 2015, the FIFA DRC rendered the following decision:

"1. The claim of the Claimant, Houssine Kharja, is partially accepted.

2. The Respondent, Al-Arabi Sports Club, has to pay to the Claimant, within 30 days as from the date of notification of this decision, the outstanding amount of EUR 459,404[2] plus 5% interest p.a. as from 16 July 2013 until the date of effective payment.

3. The Respondent has to pay to the Claimant, within 30 days as from the date of notification of this decision, compensation for breach of contract in the amount of EUR 2,218,750[3] plus 5% interest p.a.

[2] Corresponding to (i) salary April 2013 with deduction of EUR 5,000 in concept of fine, i.e. EUR 165,454, plus (ii) salary of June 2013 which amounts EUR 281,250 and, (iii) EUR 12,700 as flight expenses. The gratia payment made by the Club of EUR 170,454 is compensated against the salary of May 2013.

[3] Advanced payment for the season 2013/2014 amounting EUR 500,000, plus the monthly payments from July 2013 to May 2014, *i.e.* EUR 1,718,750.

on said amount as from 14 March 2014 until the date of effective payment.

4. *In the event that the amounts due to the Claimant in accordance with the above mentioned numbers 2. and 3. are not paid by the Respondent within the stated time limits, the present matter shall be submitted, upon request, to the FIFA Disciplinary Committee for consideration and formal decision.*

5. *Any further claim lodged by the claimant is rejected.*

6. *The Claimant is directed to inform the Respondent immediately and directly of the account number to which the remittance is to be made and to notify the Dispute Resolution Chamber of every payment received".*

39. On 21 April 2016, the findings of the decision passed by the FIFA DRC were served to the Parties. These findings may be briefly summarized as follows:

(i) The Club did not provide enough evidence to prove that it communicated the Contract's termination to the Player and the agent in April 2013 as it sustains. Likewise, the Club confirmed that the Player continued training with the Club after April 2013.

(ii) The Contract shall be deemed terminated on 8 July 2013, the day on which the meeting in Doha was held between the Player, his agent and the Club and on which the Player was told about the Club's intention to terminate the Contract.

(iii) There was not just cause for the Club to unilaterally terminate the Employment Contract. Only a breach or misconduct which is of a certain severity justifies the termination of a contract without prior warning, which did not happen in the present case.

(iv) Concerning the deduction of April's 2013 salary as a penalty imposed by the Club on the Player as regards of the brawl that took place on 19 March 2013, the FIFA DRC is of the view that an economic sanction cannot be set off against a payment obligation. Consequently, such a deduction is rejected except for a part of it (EUR 5,000) accepted by the Player.

(v) Clause 10(3) of the Contract foresees the compensation to be paid by each party in case of unilateral termination of the Contract without just cause. However, this clause is null and void as it establishes unfair financial consequences for the Parties, in the sense that if it is the Club terminating the Contract, it would have to pay the remaining salaries of the season in which the termination takes place, while if it is the Player the one breaching the Contract he shall pay the total value of the Contract. In consequence, the compensation to be awarded to the Player is to be calculated according to Art. 17(1) of the FIFA Regulations on the Status and Transfer of Players ("RSTP").

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

40. On 11 May 2016, Al-Arabi filed a Statement of Appeal before the Court of Arbitration for Sport (the "CAS") against the Player and FIFA, challenging the Decision passed by the FIFA DRC on 1 December 2015 (the "Appealed Decision") with the following requests for relief:

Based on the foregoing, the Appellant respectfully requests that the CAS:

(a) Annuls the Challenged Decision and issues a new decision;

(b) Declares that the Employment Contract was either:

(i) Terminated with just cause; or

(ii) Terminated in accordance with its terms;

(c)

(i) Declares that the Appellant is not liable to make any payment to the First Respondent; or

(ii) In the alternative, orders that the Appellant is liable only to pay compensation in the amount required by clause 10.3 of the Employment Contract; or

(iii) In the further alternative, orders that compensation be paid at the discretion of the Panel which shall reduce the excessive, disproportionate and/or incorrectly determined amount set out in the Challenged Decision and/or give due regard to mitigation;

(d) Orders that:

(i) No interest shall be payable on any sums awarded;

(ii) The First Respondent shall reimburse the Appellant for all costs incurred by the Appellant in respect of the procedures before the DRC;

(iii) The Respondents shall be jointly and severally liable for all the costs of this arbitration; and

(iv) The Respondents shall be jointly and severally liable for all the Appellant's costs incurred in relation to this arbitration, including but not limited to legal fees, disbursements and any all fees payable to the CAS.

41. On 17 May 2016, the Appellant requested an extension of fourteen days to file the Appeal Brief on the basis that there were some papers relevant to the proceedings pending to arrive from Qatar and other significant documents which needed to be translated from Arabic into English.

42. On the same date, the Appellant informed the CAS of its intention to withdraw the appeal against FIFA, keeping the Player as the only Respondent.

43. On 19 May 2016, the Player informed the CAS that it objected to the request for extension of the time limit for filing the Appeal Brief that had been requested by the Appellant and mentioned that *"the Appellant knew since 3 December 2015 about the needing to prepare all the relevant documents to comply with its own will to appeal the challenged FIFA DRC Decision"*.

44. On 20 May 2016, the CAS Court Office informed the parties that the President of the CAS Appeals Arbitration Division had decided to grant the Appellant an extension of ten days, until 30 May 2016, to file its Appeal Brief.

45. On 30 May 2016, the Appellant filed the Appeal Brief with the following petitions:

Based on the foregoing the Club respectfully requests that the CAS:

(a) annuls the Challenged Decision and issues a new decision ;

(b) declares that the Employment Contract was either:

(i) terminated with just cause; or

(ii) terminated in accordance with its terms;

(c)

(i) declares that the Club is not liable to make any payment to the Player; or

(ii) in the alternative, orders that the Club was liable only to pay compensation in the amount required by clause 10.3 of the Employment Contract; or

(iii) in the further alternative, orders that compensation be paid at the discretion of the Panel which shall reduce the excessive, disproportionate and/or incorrectly determined amount set out in the Challenged Decision and/or give due regard to mitigation;

(d) orders that:

(i) no interest shall be payable on any sums awarded;

(ii) the Player shall reimburse the Club for all of the costs incurred by the Club in respect of the procedures before the DRC;

(iii) the Player shall be liable for all the costs of this arbitration; and

(iv) the Player shall be liable for all of the Club's costs incurred in relation to this arbitration, including but not limited to legal fees, disbursements and any all fees payable to the CAS.

46. On the same date, the Appellant sent a letter to the CAS Court Office enclosing three witness statements, one expert report and the bundle of exhibits of the Appeal Brief and informed of two other exhibits with respect to which it was still pending to receive their translation into

English, which were finally submitted on 3 June 2016.

47. On 7 June 2016, the Player requested the CAS Court Office that the deadline to file his Answer be set upon receipt of the Appellant's share of the advance of costs. On the next day, the CAS Court Office informed the Parties that the deadline for the Player to file his Answer would be fixed upon receipt by the CAS of the Appellant's payment of his share of advance of costs.

48. On 7 July 2016, the CAS Court Office informed the Parties that the Panel appointed to decide this dispute was constituted as follows:

President:	Mr. José Juan Pintó Sala, attorney-at-law in Barcelona, Spain
Arbitrators:	Mr. Rui Botica Santos, attorney-at-law in Lisbon, Portugal Prof. Massimo Coccia, attorney-at-law in Rome, Italy

49. On 2 August 2016, the Player filed his Answer with the following petitions:

In view of the foregoing, Houssine Kharja respectfully requests that the Court of Arbitration for Sport rules as follows:

i. The appeal filed by Al Arabi SC Co. for Football, in this arbitration procedure is dismissed.

ii. The decision issued by the Dispute Resolution Chamber of FIFA on 1 December 2015 is confirmed.

iii. Al Arabi SC Co. for Football is ordered to sustain all the costs of this arbitration procedure.

iv. Al Arabi SC Co. for Football is ordered to reimburse Houssine Kharja all the legal fees and other costs suffered in connection with this arbitration procedure, in an amount to be determined at the Panel's discretion.

50. On 5 August 2016, the CAS Court Office informed the Parties that, pursuant to Arts. R57 and R44(3) of the Code of sports-related arbitration (the "CAS Code"), the Panel had decided to grant them a second round of written submissions.

51. On 12 September 2016, the Appellant filed its Reply to the Respondent's Answer restating the petitions previously set forth in its Appeal Brief.

52. On 14 October 2016, the CAS Court Office invited the Parties to inform about their availability for the hearing to be held on 30 November 2016.

53. On 18 and 26 October 2016, the Respondent and the Appellant, respectively, informed the CAS of their availability for holding a hearing on 30 November 2016.

54. On 24 October 2016, the Respondent filed his Rejoinder before the CAS, requesting the following:

In view of the foregoing, Houssine Kharja hereby respectfully maintains that the Court of Arbitration for Sport

rules as follows:

i. The appeal filed by Al Arabi SC. For Football, in this arbitration procedure is dismissed.

ii. The decision issued by the Dispute Resolution Chamber of FIFA on 1 December 2015 is confirmed.

iii. Al Arabi SC Co. for Football is ordered to reimburse Houssine Kharja all the legal fees and other costs suffered in connection with this arbitration procedure, in an amount to be determined at the Panel's discretion. In such regard, Player requests that the Panel consider the bad faith attempt to adduce allegedly new ungrounded factual elements and exhibits only before CAS when granting a contribution to the Player for the legal fees he suffered to defend himself in this procedure.

55. On 3 November 2016, the Appellant sent a letter to the CAS requesting Mr. Abdulla Saad and Mr. Ahmed Al-Sayed to be examined at the hearing by telephone. The day after, the Respondent informed the CAS Court Office of his objection to the Appellant's petition. Nevertheless, the Panel decided to examine both witnesses by video-conference.

56. On 4 November 2016, the CAS Court Office informed the Parties that the decision on the Respondent's request to *"exclude from the file the evidence produce by the Appellant at Tab 1 of the Reply Bundle"* would be taken by the Panel after the hearing or in the final award.

57. The hearing of the present procedure took place in Lausanne on 30 November 2016. The hearing was attended by:

a) <u>For the Appellant:</u>

- Mr. Stephen Sampson, counsel for Al-Arabi.
- Mr. Lloyd Thomas, counsel for Al-Arabi.
- Mr. Mohammed Adam, in-house legal counsel for Al-Arabi.
- Mr. Saber Farrag Aboetah, General Manager of Al-Arabi.
- Mr. Abdulla Saad, former Head of Football of Al-Arabi, who attended the hearing by video-conference.
- Mr. Ahmed Al-Sayed, current Head of Football of Al-Arabi, who attended the hearing by video-conference.
- Mr. Justice Ali, expert witness on Qatari Law.

b) <u>For the Respondent:</u>

- Mr. Houssine Kharja, who attended the hearing in person.
- Mr. Luca Tettamanti, counsel for the Player.
- Mr. Eduardo Chiacchio, counsel for the Player.
- Ms. Annalisa Rosetti, counsel for the Player.
- Mr. Federico Venturi Ferriolo, co-counsel for the Player.
- Mr. Giuseppe Accardi, Player's agent.

58. Mr. Daniele Boccucci, Counsel for the CAS, and Ms. Cristina Moga Onandía, *ad hoc* clerk, assisted the Panel at the hearing.

59. At the outset of the hearing, the Parties confirmed that they had no objections with respect of the composition of the Panel. With regard to Exhibit 1 (*Tab 1*) of the Appellant's Reply Bundle, the Panel, after hearing all the Parties and taking into account the facts of the proceedings, informed the parties that it admitted this exhibit into the case file and that it would assess its evidentiary value together with the rest of the circumstances and evidence provided by the Parties.

60. Moreover, the Appellant informed the Panel that Mr. Mohammed Adam, who had not been previously announced by the Appellant, was attending the hearing as in-house legal counsel. The Respondent did not object to his presence.

61. After the opening statements of the Parties, the following persons gave evidence: (i) Mr. Saber Farrag Aboetah, (ii) Mr. Abdulla Saad, (iii) Mr. Ahmed Al-Sayed, (iv) Mr. Giuseppe Accardi and (v) Mr. Justice Ali, expert witness on Qatari Law.

62. At the hearing, the Parties had the opportunity to present their case, to submit their arguments and to answer the questions posed by the Panel. At the end of the hearing, all the Parties expressly declared that they did not have any objection with respect to the procedure and that their right to be heard and to be treated equally had been fully respected.

63. Both parties countersigned the Order of Procedure issued by the CAS Court Office on behalf of the Panel.

V. SUMMARY OF THE PARTIES' SUBMISSIONS

64. The following summary of the Parties' positions is only illustrative and does not necessarily comprise each and every contention put forward by the parties. The Panel, however, has carefully considered, for the purposes of the legal analysis which follows, all the submissions made by the Parties, even if there is no specific reference to those submissions in the following summary.

A. The Appellant: Al-Arabi

1. Date of termination of the Employment Contract

65. The Appellant argues that the FIFA DRC erred in the determination of the Contract's date of termination. During the meeting held on 24 April 2013 between the Club and the Player, the latter refused to receive the notification of the one month salary penalty and the notification of the termination of the Employment Contract. After such refusal the Player himself requested that any communication be delivered directly to his agent. Thus, on 25 April 2013, the aforementioned notifications were sent by email to the agent, with copy to the QFA, and, on 28 April 2013, by courier to the domicile of the Player in Doha and to his residence

in Italy. Consequently, the Contract was duly terminated by the Club on 25 April 2013 with effects from 28 April 2013.

66. The Appellant objects to the Respondent's allegation that his agent never received the said notifications sent by email on 25 April 2013. According to the Club, this Player's statement is completely false as the Appellant has provided as evidence a letter from the QFA in which it can be read, *inter alia*, the following: *"it is hereby confirmed that on 25 April 2013 Qatar Football Association duly received in its email address info@qfa.com.qa your email concerning the Notice of Contract Termination of Mr. Hussine Kharja together with its respective attachment"*.

67. Al-Arabi submits that the first team's players started the training sessions for the season 2013/2014 on 25 June 2013. However, the Player remained on vacation until 30 June 2013, the date on which he informed the Club that he was looking for a new team to hire him. This explains why on 26 June 2013, the Respondent's name was not included in the list of players for which the issuance of a visa was requested for the pre-season to be held in Germany.

68. According to the Appellant, at the end of June 2013, the Player contacted the Club asking to be allowed to continue training with the Club for the purpose of not losing his physical shape until he found a new team. Likewise, he explained that he had to remain in Qatar until his daughters finished their school courses. Mr. Al-Sayed, current Head of Football of Al-Arabi, initially refused the abovementioned request. Nevertheless, given the insistence of the Player, the Club allowed him to participate only in fitness exercises but not in the official training sessions of the first team. As an act of good faith, the Club allowed the Player to train until 15 July 2013, date when the Club's First Team Manager, Mr. Salah Al-Maliki, ordered the Player to stop attending the training sessions.

69. For all these reasons, the Appellant submits that FIFA DRC was wrong in considering 8 July 2013 as the date of termination of the Contract. In the meeting held on such date, both the General Manager of the Club and the Player's agent tried to discuss the payment of the outstanding salaries and the expedition of the Player's visa, which turned out to be impossible because of the denial of the Player and his agent who only wanted to discuss the Respondent's reincorporation to the team.

2. Unilateral termination of the Contract with just cause

70. The Appellant underlines that both the behaviour of the Player during the game against Al-Gharafa on 19 March 2013, with the related consequences of such conduct for the Club, and the Player's subsequent disobedience are unacceptable and a clear violation of the employment commitments of the Respondent. Such conduct of the Player, of criminal nature, must be considered beyond the sport level and constitutes a clear ground justifying the termination of the Contract.

71. When assessing if the Player's behaviour constituted "just cause" for the early termination of the Contract, the Panel shall take into account not only the brawl of the match of 19 March 2013 itself but also the severe consequences suffered by the Club. The incident was widely reported within Qatar and the harm caused to the Club's reputation is undeniable. For this

reason, the nature of the conduct of the Player has to be assessed not only from a purely sportive point of view but more importantly from a public policy perspective. Likewise, the behaviour of the Player during the match resulted in a sanction from the QFA that the Panel cannot disregard. Not only Al-Arabi was deprived of the Player's services but also a financial penalty was imposed on the Club.

72. The Appellant emphasizes that the conduct of the Player constituted an infringement of the obligations imposed on him in the Contract, Art. 2 of which expressly provided that the Player should *"refrain from doing anything which would generally be detrimental to the [Club]"* and *"behave in a sporting manner towards anyone involved in a match* […]*"*. Likewise, Art. 13 of the Contract established that the Player would be subject to the Law of the State of Qatar as the applicable legal framework in case any dispute arose. In view of this, under Qatari civil law, all employees are subject to a duty of good faith and Art. 42(1) of the Qatari Labour Code foresees that employees shall *"perform the work by himself and exert the ordinary man's care in his performance"*. By the same token, Art. 59 of the aforementioned Labour Code foresees the dismissal among the possible actions to be taken by the employer in case of disciplinary violations by an employee.

73. Thus, the dismissal of the Player was permitted as a disciplinary measure, not only under the aforementioned Qatari Law, but under the Contract itself, whose Art. 5 provided the expulsion in case of contractual violation by the Player. The imposition of an economic sanction because of a disciplinary offence does not exclude the possibility of terminating the labour Contract and both sanctions can be applied to the same infraction.

3. Outstanding salaries and compensation to be awarded to the Player

74. The Club contends that it ended the employment relationship with just cause; therefore, the only sums that the Player could be entitled to would be his outstanding salaries, and the Club has never denied that there were some delayed payments. In particular, on 22 July 2013 the Club paid the Player (i) EUR 852,270 corresponding to the Player's salaries for the months of November 2012 until April 2013 and (ii) EUR 170,454 being an *extra gratia* payment in order to seek to avoid any kind of future dispute. Actually, it was the QFA and not the Club who issued the bank receipt in which was written the concept *"compensation for the termination of your employment contract pursuant to Art. 10. Par. 3…"*. Thus, the Club denies owing the Player any salary prior to the due termination of the Contract, which took place on 25 April 2013 with effect from 28 April 2013.

75. In case the Panel considers that the Club terminated the Contract without just cause – which is denied – the compensation of the Player shall be calculated according to Art. 17 RSTP which gives primacy to what the parties agreed in this respect in the employment contract. In this regard, Art. 10(3) of the Contract established that if the Club broke the Contract the Player would be entitled to the *"remaining salaries of the same season"*. As the Club duly terminated the Contract on 25 April 2013 with effects from 28 April 2013, the Club should pay the Player his remaining salaries of the 2012/2013 season that, as described above, have already been paid.

76. The Appellant argues that Art. 10(3) of the Contract is not a null and void clause. These kinds

of penalty clauses are enforceable both under FIFA Regulations and Qatari Law and the clause was negotiated and agreed by the Parties.

77. As a subordinate submission, in the event the Panel considers that the Contract was terminated without just cause and that Art. 10(3) of the Contract is null and void – *quod non* – the Appellant asks that the Panel substantially reduce the compensation to be paid by the Club to the Player, on the basis of (i) the difficulty in the calculation of the total harm caused to the Club by the violent behaviour of the Player, (ii) the fine imposed by the QFA to the Club amounting QAR 10,000 because of the facts occurred during the match of reference, and (iii) the fact that the Player did not even attempt to mitigate his loss, as he took more than one year after the termination of the Contract to find another football club.

B. The Respondent: Houssine Kharja

1. Date of termination of the Employment Contract

78. The Respondent submits that the Employment Contract cannot be considered terminated on 25 April 2013 with effects from 28 April 2013, as the Club contends. The Player and his agent only became aware of this termination at the meeting held in Doha on 8 July 2013.

79. The Respondent finds unpersuasive the confirmation letter from the QFA exhibited by the Appellant as evidence that he actually received the email dated 25 April 2013 by which the Club notified the termination of the Player's Contract. As is incomprehensible why the Club did not provide such evidence previously, its authenticity should be put into question by the Panel. Even if the Panel considered its content as true, it does not prove that the agent correctly received this email.

80. The Respondent underscores that, if the real willingness of the Appellant was to terminate the Employment Contract, the complete lack of communication between the Club and the Player or his agent is surprising. There were no communications on the part of the Club between 25 April 2013 and 8 July 2013. Al-Arabi never notified the Player the termination of the Contract in person, email or post at his domicile either in Doha or his residence in Italy.

81. Contrary to what the Club alleges, the Player asserts that it is completely false that he asked to continue training with the Club merely in order to keep his physical shape. The Player continued training normally after his summer vacation. This has been proven by the pictures taken by the agent during his visit in Doha in July 2013, when the 2013/2014 season had already started. In these pictures the Player can be seen wearing the official Al-Arabi shirt and training together with members of the technical staff. This understanding was confirmed by the FIFA DRC, when it correctly considered that the Player had continued training with the team at least until 15 July 2013, date in which he received the following text message without any explanation: *"I'm very sorry to tell you that stop training with the team until we solve the situation"*.

82. From the beginning of the employment relationship, the Club violated its undertakings towards the Player by not paying his salaries in due time. Likewise, the Appellant did not pay the Player agent's remuneration; the latter thus had to start proceedings in FIFA against the

Club, which ended with a FIFA DRC decision dated 7 May 2014 favourable to the agent. In fact, the 8 July 2013 meeting was organised to discuss the outstanding salaries of the Player. Contrary to what was expected to occur in such meeting, the General Secretary of the Club, Mr. Ahmed Aburrah Al-Amadi, delivered the penalty notice and the termination notice to the Player. Consequently, the Employment Contract shall be considered terminated on 8 July 2013.

2. The unilateral termination of the Contract without just cause

83. The Respondent remarks that, until its defence before CAS, the Club did not even allege a purported just cause for the termination. The Club never considered the dismissal as being necessary. Otherwise it would have immediately fired the Player and not appealed the QFA Disciplinary Committee decision on behalf of the Player. While before the QFA the Club requested the annulment of the Player's sanction, it is only now before the CAS that it describes the Player's behaviour as criminal.

84. According to the Player, if the Club considered that the facts occurred during the match against Al-Gharafa constituted a just cause for termination, it should have immediately terminated the Contract or even sued the Player. In this regard, the Club only alleges that on 21 March 2013 an internal investigation was ordered. However, such allegation not only was never brought before FIFA but also has not been proven in any way by the Club.

85. The Respondent emphasizes that the events of the match cannot be the basis for a termination of the Contract for just cause. CAS jurisprudence only admits in limited cases and as an *ultima ratio* measure the early termination of a contract without prior notice to the damaged party. Likewise, what turns out to be rather remarkable is the fact that no explanation was expressed in the Termination Notice concerning the reason of its issuance. In this regard, having the Appealed Decision the force of *res indicata*, it is not comprehensible how after three months of its issuance the Club decided to appeal it before CAS arguing the existence of just cause for the termination.

86. The Panel should take into account the consideration of the FIFA DRC, according to which a ban for some matches and a pecuniary fine had already been imposed on the Player by the QFA in light of the incident and that no other incident had occurred since, which meant that the Club could not justify the imposition of a new sanction, let alone the unilateral termination.

87. The text message of 15 July 2013 sent to the Player (*"dear Hussain today our manager went to Football Federation and met Atori. Atori talked to your agent and gave him the deal"*) and the letter dated 23 July 2013 (the Club *"has offered a fair financial settlement offer between yourself and the club and your agent has refused"*) reveal that the Club was intending to settle the conflict existing with the Player.

88. From the beginning, the Club admitted having terminated the Contract without just cause. The payment made on 22 July 2013 amounting EUR 170,454 was not an extra salary in good faith as the Club tried to suggest, but as foreseen in the bank receipt it was a *"payment on behalf of Al-Arabi Sports Club of the compensation for the termination of the employment contract as per artide 10*

par. 3 to the end of the season 2012-2013".

3. Compensatory amount to be awarded to the Player

89. The Player contends that, as correctly understood by the FIFA DRC, Art. 10(3) of the Contract shall be deemed null and void as it creates a situation of inequality between the parties in case of unilateral breach of the Contract without just cause. Facing the same scenario, the financial consequences to be borne by the Club and the Player are completely different. In applying Art. 10(3), if it was the Player the one terminating the Contract without just cause he should pay the Club the total value of the Contract, while if it was the Club it would only have to pay the Player the remaining salaries of the season in which the breach occurred.

90. The terms of the Contract, and thus Art. 10(3), were not negotiated by the Parties as a QFA standard contract was used. This was recognised by Mr. Saber Farrag Aboetah, General Manager of the Club, in his witness statement: *"*[…] *We explained to the Agent that the draft of the contract had been based on the standard employment contract of the Qatar Football Association. We explained that the Club would not derogate from those standard clauses. The Agent (and therefore the Player) eventually agreed with this approach. Specifically, the draft contract included Article 10.3.* […]*"*. Consequently, given the nullity of Art. 10(3), the compensation to be awarded to the Player shall be calculated on the basis of Art. 17 RSTP. On the contrary, in case the Panel considers Art. 10(3) of the Contract as a valid clause – which is denied –, taking into account its wording (*To the player: HOUSSINE KHARJA. Remaining salaries of the same season),* and the fact that the Contract was terminated on 8 July 2013, the Club shall pay the Player the outstanding salaries of all the season 2013/2014.

91. Finally, the Player reminds that he proved before the FIFA DRC that it was not possible for him to mitigate the damage suffered due to the fact that clubs usually prefer to hire players that do not have pending proceedings before FIFA. Actually, the Player was not hired again until 31 March 2014 by the Italian club Novara Calcio, almost one year after the termination of the Contract. The Club did not collaborate with the Player and, due to not answering the request for information from the *Federatione Italiana Giouco Calcio* (FIGC, i.e. the Italian Football Association), the Player and Novara Calcio had to terminate the labour contract.

VI. JURISDICTION

92. Art. R47 of the CAS Code reads as follows:

"An appeal against the decision of a federation, association or sports-related body may be filed with CAS if the statutes or regulations of the said body so provide or if the parties have concluded a specific arbitration agreement and if the Appellant has exhausted the legal remedies available to him prior to the appeal, in accordance with the statutes or regulations of that body".

93. In the present case, the jurisdiction of the CAS, which has not been disputed by any of the parties, arises out of Art. 67 of the FIFA Statutes, in connection with the above-mentioned

Article R47 of the Code. In addition, the Parties signed without reservations the Order of Procedure confirming the jurisdiction of the CAS.

94. Therefore, the Panel holds that the CAS has jurisdiction to hear this appeal.

VII. ADMISSIBILITY

95. Art. R49 of the CAS Code provides as follows:

"In the absence of a time limit set in the statutes or regulations of the federation, association or sports-related body concerned, or in a previous agreement, the time limit for the appeal shall be twenty-one days from the receipt of the decision appealed against […]".

96. In accordance with Art. 67 of the FIFA Statutes, the Appellant had 21 days from the notification of the Appealed Decision to file its Statement of Appeal before the CAS. The grounds of the Appealed Decision were communicated to the Club on 21 April 2016, and the Statement of Appeal was filed on 11 May 2016, *i.e.* within the time limit required both by the FIFA Statutes and Art. R49 of the CAS Code.

97. The appeal lodged by the Club is thus admissible.

VIII. APPLICABLE LAW

98. Art. R58 of the CAS Code provides that the Panel shall decide the dispute according to the applicable regulations and, subsidiarily, to the rules of law chosen by the parties or, in the absence of such a choice, according to the law of the country in which the federation, association or sports-related body which has issued the challenged decision is domiciled or according to the rules of law that the Panel deems appropriate.

99. Art. 66 of the FIFA Statutes provides that in the appeals before the CAS, *"(T)he provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law".*

100. Art. 13 of the Employment Contract reads as follows:

"In case of any contractual dispute the applicable law shall be firstly the law of the State of Qatar and subsequently, the QFA, AFC and FIFA Regulations governing this matter".

101. Taking the aforementioned provisions and clause in mind and the fact that the parties have made reference in their submissions to the application of the FIFA Regulations to the present dispute (in particular to Arts. 14 and 17 of the RSTP), the Panel considers that the present dispute shall be resolved according to the FIFA Regulations (which are to be considered herein as "applicable regulations" in the sense of Art. R58 of the CAS Code and are additionally referred to in Art. 13 of the Employment Contract) and, subsidiarily, to the Law of the State of Qatar as law contractually chosen by the parties.

IX. MERITS

102. Taking into account the facts of the case and how the Parties have presented their arguments and requests, the Panel considers that to adjudicate this dispute, the following issues shall be addressed and decided:

(i) When did the Club terminate the Contract?

(ii) Was the Contract terminated with just cause?

(iii) What are the financial consequences, if any, of the early termination of the Contract?

(i) When did the Club terminate the Contract?

103. The Panel notes that the Parties strongly disagree, among other issues, on the date to be taken into account as the moment when the Employment Contract was terminated. While the Appellant asserts that the Player became aware of the Contract's termination during a meeting held on 24 April 2013 and that the Contract is to be considered terminated at that time, the Respondent contends that he did not know about the Club's willingness to end the employment relationship until 8 July 2013. In turn, the FIFA DRC established that the Contract was deemed to be terminated on 15 July 2013.

104. In this case, the burden of proof rests with the Appellant as the party which pleads having duly notified to the Player the termination of the Contract and the existence of a legitimate cause for such termination. Indeed, CAS jurisprudence has established that *"According to the general rules and principles of law, facts pleaded have to be proved by those who plead them […]"* (CAS 2007/A/1380).

105. The Panel observes that, for a contract to be terminated, it is essential that the party affected by the termination has full knowledge and consciousness of the termination will of the other party. In this case, the Club indeed alleges that during the aforementioned meeting on 24 April 2013, and due to the refusal of the Player to accept the notices, the Appellant received clear instructions from the Player to send any notification directly to his agent, a fact emphatically refused by the Player. However, the Panel observes that these Club's statements are not supported by any evidence. The Club did not even record in writing the alleged refusal of the Player, when it would have been easy for the Club to do it.

106. The Club also alleges having sent the penalty notice to the Player's agent´s email address with a copy to the QFA, and that the day after it sent the notice of termination of the Contract by email as well as via post to both the Player and his agent. Although the Player rejects having been notified, the Panel observes that the Club submits as evidence a letter from the QFA confirming that it received the copy of the email dated 25 April 2013 in which the Club informed about the termination of the Respondent's Contract. The Panel also observes that the Player's agent received the termination notice in his email – this fact has been established by the Player's agent testimony – and that he was negligent in contacting the Player in regard to this matter. Nevertheless, and regardless of the fault or lack of care by the Player's agent in

assisting the Player, the Panel is of the view that this does not prove that the Player received notice of the termination given that the email was not sent to the Player, and the Club had not received any official instructions to the effect that the Player's agent had powers to receive the termination notice on the Player's behalf.

107. The Panel remarks that a distinction must be made between ordinary communications between the employer and the employee, which have a purely informative function, and communications that are intended to have some legal effects over contractual rights such as, in particular, the termination of the employment contract. The Panel is of the opinion that, in order to protect legal certainty, this second type of communications requires a certain degree of formality, which was certainly not present in the case at hand. Moreover, the Panel notes that it was not foreseen in the Contract nor in other contractual documents that the communications regarding the Player should be made directly to the agent.

108. On the aforementioned basis, the Panel reaches the conclusion that the Appellant was not able to prove that the Respondent was duly notified of the Contract's termination in April 2013 and that he only became aware of the termination on 8 July 2013 at the meeting held in Doha, this being the date of the Contract's termination in the Panel's opinion.

109. Additionally, the Panel, especially in light of some of the arguments raised by the Appellant on this issue, wants to make the following considerations:

a) Concerning the French press article dated 31 March 2013 submitted by the Appellant in which it is mentioned that the Club had decided to terminate the Respondent's Contract after becoming aware of the content of the QFA Disciplinary Committee's decision, the Panel is of the view that said article does not have evidentiary relevance and in any case such alleged termination would be at least illogical when only seven days after this article's publication, the Club appealed the aforementioned decision with the QFA Appeal Committee on behalf of the Player.

b) Both Parties agree on the fact that the Player went on vacation to France on 16 June 2013 and returned to Doha on 30 June 2013. The Club alleges that the Player requested to train with the team until the end of July in order to keep his physical shape while waiting for his daughters to finish the school year. However, in accordance with the school calendar provided by the Respondent, the Panel observes that the school period ended in mid-June, which would be in line with having started the holidays on 16 June 2013 and in contradiction with the Appellant's mentioned argument.

c) The Player has provided some pictures during a training session of the season 2013/2014 that the agent took while being in Doha. In those pictures it can be seen the Player normally training with his teammates all of them wearing the same clothes. The Panel is thus of the opinion that these photos show the Player normally training with his teammates and considers that the Club failed to provide convincing evidence to prove the contrary.

d) In line with the above, the Panel highlights the two text messages that were sent to the

Player on 15 July 2013, in which he was requested *"to stop training with the team"* and was advised that he could not *"participate in the training any more"*. The Panel is of the view that the fact that the Player returned to Doha at the end of June and continued training with the Club for at least two weeks proves that the Appellant did not truly consider the Contract terminated yet.

e) The Appellant invokes that the Respondent's name was not included between those for which the issuance of a visa was requested on 22 June 2013 for the preseason in Germany. However, this would only prove that the Club apparently did not intend to include the Player in its roster for the season 2013/2014, but not that the Contract was terminated.

110. Therefore the Panel concludes that the Contract shall be considered terminated on 8 July 2013.

(ii) Was the Contract terminated with just cause?

111. Also in this respect there is a serious discrepancy between the Parties. The Appellant contends that it was entitled to terminate the Employment Contract with just cause based on the following grounds: (i) the conduct of the Player during the match against Al-Gharafa, (ii) the Player's subsequent disobedience when contacting Nenê and the press and, (iii) the consequences caused to the Club's reputation. Therefore, due to the alleged considerable damage caused, the Player could no longer expect to keep providing his services under the Employment Contract. In contrast, the Respondent rejects the aforementioned grounds and asserts that the Club now intends to build its defence on the basis of new arguments not brought before FIFA with the purpose of defending the existence of a purported just cause for the termination of the Contract which never existed.

112. According to the Appealed Decision, the Club did not have just cause to unilaterally terminate the Employment Contract as only conducts of certain severity can justify the termination of a labour relationship, not being the Player's conducts alleged by the Club of that kind.

113. In order to determine whether the facts invoked by the Appellant justify an early termination of the Contract, the Panel starts his reasoning by taking into account Art. 14 RSTP, which states that *"A contract may be terminated unilaterally by either party without consequences of any kind (either payment of compensation or imposition of sporting sanctions), where there is just cause"*.

114. The CAS has previously assessed the concept of "just cause" and, among other decisions, it has ruled that "just cause" is *"any situation, in the presence of which the party terminated cannot in good faith be expected to continue the employment relationship"* (CAS 2008/A/1517).

115. Considering the grounds alleged by the Club as just cause for the termination, the Panel has to start its reasoning by assessing the facts which occurred during the match against Al-Gharafa. After having carefully observed the video-recordings of the facts, the Panel reaches the conclusion that it was a collective brawl not caused exclusively by the Player, who in fact was provoked by the player Nenê – as recognised by both Parties – when the later gave him a lateral punch in the minute 94 after the break. Thus, the Panel considers that the brawl itself

did not constitute just cause sufficiently severe for the termination of the Player's Contract.

116. With regard to the Respondent's subsequent disobedience, the Club alleges that once the match finished, instructions had been given to the Player not to talk with the media or take any further action on the matter in order to avoid negative association with Al-Gharafa. In this regard, the Panel observes that no convincing evidence has been brought by the Appellant to prove that those instructions were given to the Player. Furthermore, contradictory allegations of the Club exist in this regard as while it maintains that the Player disobeyed its instructions when he went to Gharafa to reconcile with Nenê, a press media release dated 20 March 2013 was published in its official website reporting such visit without complaints or reproaches. In keeping with its incoherent behaviour, on the next day 21 March 2013, the Club published another press media release rejecting the trip of the Player to Gharafa for not having been coordinated with the Club. Furthermore, the Panel cannot reach a clear conclusion from the testimony on this subject by the Appellant's witnesses as they were contradictory and insufficiently persuasive. Consequently, the second ground alleged by the Club cannot justify the termination of the Employment Contract.

117. Lastly, the Appellant bases the termination of the Contract on the harm caused to the Club's reputation because of the incident in the match against Al-Gharafa. In this respect, the Panel observes that the Club did not prove that real negative consequences existed for the Club's reputation for the involvement of the Player in the brawl. Additionally, even in the event that any harm was created to the Club's reputation, the incident, as said above, was not caused exclusively by the Player for what the Panel considers that it cannot be deemed as a justification for the dismissal. In addition, the Panel wishes to recall that the Club defended the Player's interests before the QFA Disciplinary Committee and subsequently before the QFA Appeal Committee.

118. Finally, as stated by the FIFA DRC in its decision, the Panel has taken into account that the CAS jurisprudence has stated in the past that *"if more lenient measure or sanctions can be imposed by an employer to ensure the employee's compliance with his contractual obligations of his contractual duties, such measures should be implemented before terminating the employment contract"* (*inter alia*, CAS/2014/A/3684 & 3693). Consequently, taking into account the Contract's premature termination's *ultima ratio* nature, the Appellant could not apply this measure in the present case. Other measures, such as written warnings or temporal suspensions, could be potentially understandable, but not the dismissal of the Player. In these circumstances, the Panel concludes that the grounds alleged by the Club cannot be considered as a just cause to terminate the Contract.

119. The Panel also notes that the Club's behaviour is quite revealing in terms of inexistence of a just cause for termination, in particular with regard to the fact that the Appellant waited for so long to terminate the Contract and the fact that the Club made a payment to the Player in compensation for the early termination of the Contract. The Club alleges that an internal investigation on the facts was ordered on 21 March 2013 and was then suspended pending the decision of the QFA disciplinary bodies. However, it does not bring any evidence to support this allegation. Additionally, the Appellant alleges that it became aware of the seriousness of the situation only on 16 April 2013, when the QFA Appeal Committee issued

its decision, while up to that moment it had defended the position of the Player. The Panel notes that the FIFA Regulations do not foresee a specific timeframe in which an employer shall communicate the unilateral termination of a contract to an employee in breach. However, the CAS jurisprudence has stated that an employer wishing to dismiss an employee for just cause must act swiftly after the relevant facts (*"the party prepared to put an immediate end to the employment agreement on the grounds of a just cause has only a short period of reflection, after which it must be assumed that the said party chose to continue the contractual relationship until the expiry of the agreed period. A period of reflection of two to three business days is a maximum"*, CAS 2014/A/3643). In the light of such jurisprudence, the time taken by the Appellant in this case to terminate the Contract would anyway be excessive. In addition, the Panel is of the view that a club terminating a contract for a player's breach would not be willing to pay compensation to that player; however, in the present case the Appellant, on 22 July 2013, made a payment of EUR 170,545 to the Respondent as *"compensation for the termination of the employment contract as per Article 10 par.3 to the end of season 2012-2013"*.

120. Therefore, the Panel considers that the Contract was unilaterally terminated by the Club without just cause.

(iii) What are the financial consequences of the early termination of the Contract?

121. The Panel observes that the FIFA DRC, which (like this Panel) deemed that the Contract was terminated without just cause, ordered the Club to pay the Player the following amounts:

- With regard to outstanding remuneration, the amount of EUR 459,404 plus 5% interest p.a. as from 16 July 2013, which comprises the following amounts:

  i. The outstanding salary of April 2013 (less the penalty of EUR 5,000), amounting to EUR 165,454.

  ii. The outstanding salary of June 2013, amounting to EUR 281,250.

  iii. Flight tickets expenses, amounting to EUR 12,700.

- As compensation for the unilateral termination of the Contract without just cause, the amount of EUR 2,218,750 plus 5% interest p.a. as from 14 March 2014, which comprises the following amounts:

  i. Monthly salaries from July 2013 to May 2014, amounting to EUR 1,718,750.

  ii. Advanced payment for the season 2013/2014, amounting to EUR 500,000.

122. With regard to compensation, the Panel takes into account that Art. 17(1) of the RSTP so reads: *"In all cases, the party in breach shall pay compensation. Subject to the provisions of article 20 and Annexe 4 in relation to training compensation, and* ***unless otherwise provided for in the contract****, compensation for the breach shall be calculated with consideration for the law of the country concerned, the specificity of sport, and any other objective criteria. These criteria shall include, in particular, the remuneration*

and other benefits due to the player under existing contract and/or the new contract, the time remaining on the existing contract up to a maximum of five years, the fees and expenses paid or incurred by the former club (amortised over the term of the contract) and whether the contractual breach falls within a protected period".

123. The Panel observes that Art. 10(3) of the Contract foresaw the compensations to be paid by either party in the event of unilateral termination without just cause of the Contract. In case the Club were the party in breach, it was stipulated that it would be obliged to pay to the Player the *"Remaining salaries of the same season"*.

124. The FIFA DRC upheld the Respondent's submission that Art. 10(3) of the Contract must be considered null and void as it creates an unjustified disadvantage for the Player, because if he were in breach he would have to pay as compensation, regardless of the time of termination, the *"Total amount of the contract"*. Therefore, the FIFA DRC did not apply such contractual clause and resorted to the criteria foreseen in Art. 17 RSTP instead.

125. Unlike the FIFA DRC, the Panel is of the opinion that the evidence on file is not sufficient to state that Art. 10(3) of the Contract is null and void. The existence of different compensation amounts depending on the party breaching the contract does not *per se* imply the nullity of the compensation clause. The Respondent did not submit any particular evidence or argument to prove that such clause is forbidden by the FIFA Regulations or is invalid under Qatari law. It has not been proven that a vice in the consent of the Player (error, threats, etc.) ever existed when he accepted the clause. In addition, it is to be noted that the Respondent is a professional football player that received advice from his agent throughout the negotiations. Therefore, the Panel deems it necessary to respect the principle *pacta sunt servanda* and to apply the effects of the aforementioned clause to the present dispute.

126. Bearing in mind the wording of Art. 10(3) and the fact that the Contract was terminated on 8 July 2013, that is to say, after the season 2013/2014 had started – 1 June 2013 –, the Panel finds that the Respondent must receive from the Club the outstanding remunerations, some expenses due to him and a compensation equivalent to the remaining salaries of the season 2013/2014.

127. Furthermore, the Panel considers that a sum equivalent to one monthly salary (EUR 170,454), and not only EUR 5,000 as stated in the Appealed Decision, is to be discounted as regards of the facts arising out of the brawl in which the Player was involved. These facts do not justify the termination of the Contract, but they implied that the Club was deprived from the Player's services for a number of matches with regard to the sanction imposed by the QFA disciplinary bodies, and in accordance with Art. 5 of the Contract (and even if it could have been drafted in a clearer manner) it can be sustained that the Club was entitled to impose a fine to the Player up to a monthly salary.

128. That being said, the Club didn't pay to the Player the following salaries: i) April 2013 which amounts EUR 170,454; ii) May 2013 which amounts EUR 170,454 and; iii) June 2013 which amounts EUR 281,250, making a total of EUR 622,158. As explained in the previous paragraph, in accordance with the penalty that the Club is entitled to apply, such amount must be reduced by EUR 170,454 (which is equivalent to April 2013 salary), so the Club shall pay

to the Player by way of outstanding salaries EUR 451,704 (EUR 622,158 – EUR 170,454). The Panel also understands that interest at the rate of 5% p.a. on the amount of May 2013 salary (EUR 170,454) shall be applied from 1 June 2013 and, concerning the amount of June 2013 salary (EUR 281,250) interest at the rate of 5% p.a. shall be applied from 1 July 2013.

129. In addition, the Panel considers that the Player is entitled to receive from the Club the expenses in concept of flight tickets incurred by the Player before the termination of the Contract (the existence of which has not been contested by the Club in these proceedings). Therefore, the Appellant shall pay to Respondent the amount of EUR 12,700 plus 5% interest p.a. from 30 July 2013, the day after the deadline given by the Respondent to the Appellant to pay these expenses in the letter of default of 20 July 2013.

130. Regarding the compensation for early termination of the Contract without just cause, the Club must pay to the Respondent the monthly salaries from July 2013 to May 2014 amounting EUR 1,718,750 (156,250 x 11 monthly payments) and the down payment of EUR 500,000 foreseen in the Annex Contract (*"remaining salaries of the same season"* as per Art. 10(3) of the Contract), as compensation for early termination of the Contract without just cause, that is to say the total amount of EUR 2,218,750, plus 5% interests p.a. from 14 March 2014, date on which the Respondent filed its claim before FIFA. The fact that the Respondent did not appeal the FIFA DRC decision impedes the Panel to also consider in this respect the down payment of EUR 125,000 for the season 2013/2014 stipulated in the Annex Contract.

131. However, given that on 22 July 2013, the Club paid EUR 170,454 as *"compensation for the termination of the employment contract as per Article 10 par.3 to the end of the season 2012-2013"*, this amount shall be deducted from the total compensation for the early termination of the Contract. Thus, the final compensation that the Club shall pay to the Player amounts to EUR 2,048,296 (EUR 2,218,750 – EUR 170,454), plus its corresponding interests as explained in the precedent paragraph.

X. CONCLUSION

132. After taking into due consideration all the evidence produced by the Parties and the arguments raised, the Panel concludes the following:

- The Employment Contract was terminated by the Club on 8 July 2013;
- The Club terminated the Employment Contract without just cause;
- The Club has to pay the amount of EUR 451,704, as outstanding remuneration due to the Player, plus interest as explained in paragraph 128 above.
- The Club shall pay the amount of EUR 12,700 in concept of flight tickets' expenses, plus interest as explained in paragraph 129 above.
- The Club has to pay to the Player a compensation for termination of the Contract without just cause in the amount of EUR 2,048,296, plus interest as explained in

paragraph 130 above.

ON THESE GROUNDS

The Court of Arbitration for Sport rules that:

1. The appeal filed by Al-Arabi Sports Club Co. For Football against the decision rendered by the FIFA Dispute Resolution Chamber on 1 December 2015 is partially upheld.

2. The items 2 and 3 of the decision of the FIFA DRC of 1 December 2015 are replaced by the following paragraphs:

   - Al-Arabi Sports Club Co. For Football is ordered to pay to Houssine Kharja the amount of EUR 451,704 plus interest at the rate of 5% p.a. as follows:

     a. As of 1 June 2013 until the date of effective payment, on the amount of EUR 170,454;

     b. As of 1 July 2013 until the date of effective payment, on the amount of EUR 281,250.

   - Al-Arabi Sports Club Co. For Football is ordered to pay to Houssine Kharja the amount of EUR 12,700 plus interest at 5% p.a. as of 30 July 2013 until the date of effective payment.

   - Al-Arabi Sports Club Co. For Football is ordered to pay Houssine Kharja compensation for the breach of contract in the amount of EUR 2,048,296, plus 5% interest p.a. as of 14 March 2014 until the date of effective payment.

3. (…).

4. (…).

5. All other or further motions or prayers for relief are dismissed.