

CAS 2023/A/9458 Marítimo da Madeira, Futebol, SAD v. Luiz Ricardo Alves

CONSENT ARBITRAL AWARD

delivered by the

COURT OF ARBITRATION FOR SPORT

sitting in the following composition:

President: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark
Arbitrators: Mr Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-Law in
Hamburg, Germany
Mr Michele A.R. Bernasconi, Attorney-at-Law in Zurich, Switzerland

in the arbitration between

Marítimo da Madeira, Futebol, SAD, Portugal

Represented by Mr Gonçalo Almeida and Mr António de Carvalho Vicente, Attorneys-at-Law in
Porto, Portugal

-Appellant-

and

Luiz Ricardo Alves, Brazil

Represented by Mr Luis Cassiano Neves and Ms Matilde Costa Dias, Attorneys-at-Law in Porto,
Portugal

-Respondent-

I. PARTIES

1. Marítimo da Madeira, Futebol, SAD (the “Appellant” or the “Club”) is a professional football club based in Madeira, Portugal, and affiliated with the Portuguese Football Federation which, in turn, is affiliated with the Fédération Internationale de Football Association (“FIFA”).
2. Mr Luiz Ricardo Alves (the “Respondent” or the “Player”) is a professional football player of Brazilian nationality.
3. The Appellant and the Respondent are jointly referred to as the “Parties”.

II. FACTUAL BACKGROUND

A. Background Facts

4. Below is a summary of the relevant facts and allegations as established by the Panel on the basis of the decision rendered by the FIFA Dispute Resolution Chamber (the “FIFA DRC”) on 13 October 2022 (the “Appealed Decision”), the written submissions of the Parties and the evidence adduced.
5. On 29 January 2021, the Club, the Player and the Brazilian football club Cruzeiro Esporte Clube (“Cruzeiro”) signed a loan agreement (the “Loan Agreement”) covering the temporary transfer of the Player from Cruzeiro to the Club starting from the date of signing until 31 December 2021.
6. The Loan Agreement stated, *inter alia*, as follows:

“[...]

3.1. Although this temporary assignment is free of charge, MARITIMO acknowledges that it owes the PLAYER the net amount of EUR \$ 90,000.00 (ninety thousand euros), referring to the part of overdue and unpaid wage commitments related to the employment contract between CRUZEIRO and the PLAYER, to be paid in six equal, monthly and consecutive instalments of EUR \$ 15,000.00 (fifteen thousand euros), starting the payment on the same days of the subsequent months.”

[...]

4.1. During the term of this instrument, Maritimo must pay directly to the player the net amount of EUR 7,500, in addition to prizes and/ or other charges related to Maritimo's employment contract”.

4.1.1 Cruzeiro will remain responsible for the payment of the wage difference found between the amount actually received by the player paid by Maritimo and the salary described in the employment contract between Cruzeiro and the athlete in effect until 31/12/2021.

4.2 During the validity of this instrument and/or any period in which the Player is training in the Maritimo, the Maritimo shall ensure that work injury insurance is made in accordance with Portuguese legislation.

4.3 In case Marítimo does not obtain insurance specified in clause 4.3 above, the Marítimo shall indemnify Cruzeiro for any and all claims, demands, actions, losses, expenses, damages, losses and costs incurred in the event of incapacity or death of ATHLETA in the amount of insurance specified in Clause 4.2 above.

5. Termination

5.1 In the event of an early termination of this Contract, the terms of the CRUZEIRO'S Employment Contract will come back into effect and the Player must return to CRUZEIRO within 72 hours of the end of the contract.

5.1.1 Since the contract between CRUZEIRO and the PLAYER also ends on 12/31/2021 and a new contract between the parties doesn't come to be done, at the end of this contract the Employment Contract between CRUZEIRO and the PLAYER also ends. [...]

[...]

11. Governing Law and Jurisdiction

11.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the various regulations of FIFA, in particular, the FIFA RSTP.

11.2 Any dispute, controversy or claim arising out of or in connection with this Agreement (or arising out of or in connection with the relationship between the parties which is created by this Agreement), including any question regarding its existence, validity or termination, may be addressed and finally resolved by the competent FIFA deciding-bodies and ultimately the Lausanne Arbitration Court for Sport (eg CAS-TAS). The decision to be rendered by the Arbitral Tribunal of Sport will be final and enforceable, so that the parties will no longer appeal to the Swiss Federal Court.

11.3 If there is any doubt and / or controversy arising from the interpretation and / or execution of this instrument, exclusively in the relationship between Cruzeiro and the Player, both elect the jurisdiction of the District of Belo Horizonte / MG, alternatively the CNRD, as competent to settle any controversial issues of this instrument, renouncing the parties to any other, however privilege it may be.”

7. On the same date, the Club and the Player signed a Sportive Labour Contract (the “Contract”), also valid from the date of signing until 31 December 2021.
8. The Contract stated, *inter alia*, as follows:

“Clause 3

1. The First Party [the Club], for the season of 2020/2021 (partially), undertakes to pay an annual net remuneration of 45.000,00 (forty-five thousand euros), to be paid in 6 (six) equal, monthly and consecutive instalments of £ 7.500,00 (seven thousand and five hundred euros), with the first one due on February 5, 2021, and the following due on the same date of consecutive months.

2. The First Party for the season of 2021/2021 (partially), undertakes to pay an annual net remuneration of 45.000,00 (forty-five thousand euros), to be paid in 6 (six) equal, monthly and consecutive instalments of £ 7.500,00 (seven thousand and five hundred euros), with the first one due on August 5, 2021, and the following due on the same date of consecutive months.

3. Included in the remuneration are agreed global values in reference to holidays and Christmas subsidies.

[...]

Clause 5

In the event of culpable or negligent breach of this contract by the Player, he undertakes to pay MARITIMO SAD, as penal clause, the value of 4.000.000,00 (four million euros), without prejudice to the civil responsibility terms of the other damages caused to MARITIMO SAD.

Clause 6

[...]

2. The player undertakes to respect and comply with the regulations established by MARITIMO SAD, namely the ones amended by their Football Department, as well as the regulations agreed between the entities that are competent without prejudice to the ones that govern the sportive labour relations.

3. The Player will work for MARITIMO SAD during the time it will stipulate, according to its service necessities and under the conditions established at its Internal Regulation of Professional Football, and under the Law, namely, under Art. 16 of Law No. 54/2017, from July 14.

4. The Player authorizes that MARITIMO SAD can suspend his payment of remuneration, whenever he is impeded to continue his sportive activity he was hired for, due to a suspension by any disciplinary organization of the Portuguese League of Professional Football, Portuguese Football Federation, UEI-'A, FIFA or Sports Arbitration Tribunal.

Clause 15

For resolution of any dispute arising from this contract, the Parties consider the Madeira Court the competent forum, with the express renunciation of any other.

[...]"

9. On 4 February 2021, the Club and the Player concluded an addendum to the Contract ("Addendum 1") stating, *inter alia*, that "*The athlete and his wife have the right for one trip per season for the route Funchal – Brazil – Funchal*". Furthermore, it was agreed that the Club was to provide the Player with "*a decent and habitable house*", or, if the Player would not accept such housing, the Player would be entitled to receive "*a monthly subsidy in the amount of EUR 500,00.*"
10. On 16 April 2021, Cruzeiro and the Parties concluded an addendum to the Loan Agreement ("Addendum 2") clarifying that payments in the total amount of EUR 90,000 paid in 6 monthly instalments to be made by the Club pursuant to clause 3.1.1 of the Loan Agreement should be made directly to the Player's personal bank account.
11. On 22 April 2021, and after the Player had sustained a serious knee injury, the Player requested permission to go to Brazil in order to undergo surgery and physical recovery with

Cruzeiro's medical staff and, on 23 April 2021, the Club and the Player signed an agreement for the suspension of the Contract (the "Suspension Agreement").

12. The Suspension Agreement stated, *inter alia*, as follows:

“ Clause First

1. Under the terms and in accordance with the provisions under item b), No.2 of Art. 294 of the Labour Code, the parties agreed that the Labour Contract, signed by them on January 29 2021, shall be suspended until June 30, 2021, starting from the 23 of April, 2021, including.

2. This suspension is made at the express Player's request, since he pretends to go to Brazil in order for him to undergo a surgery and to continue medical treatment / recovery that are deemed necessary, with a medical staff of his confidence.

3. The athlete undertakes to maintain informed the Cruzeiro Esporte Clube Medical Department and the Maritimo da Madeira Futebol, SAD, Medical Department, to whom he shall report immediately every and any update with regards to his health, sending, designated but not exclusively, the reports, medical exams, discharge notes that you have, among others.

4. The athlete will assume integrally, without the possibility to be reimbursed by Maritimo SAD, all the costs with the surgical intervention that he will undergo, as well as all the costs incurred with the treatment, complementary diagnostic, exams, medication, physiotherapy and any other health care provision that may be necessary, not being able to impute any of these costs, directly or indirectly, to Maritimo SAD, since it is at the Player's express and unilateral request that he wishes to be operated on and treated in Brazil, with a medical staff of his trust that belongs to his club of origin, Cruzeiro Esporte Clube (as he is temporarily loaned to Maritimo SAD) even though Maritimo SAD has reported to the insurance company, activating the respective Work Accidents Insurance.

Clause Second

1. During the suspension of the labour contract, the rights, duties, and guarantees of the parties that do not presuppose the effective provision of work are maintained.

2. It is hereby established between the parties that, during the entire period of suspension of the sportive labour contract, Maritimo is integrally relieved to pay the athlete's monthly remuneration, who accepts and gives his approval freely and clearly, without being allowed to claim to any sum or compensation, be it as it may, related to the period that the contract was suspended.

3. This suspension of the labour contract does not have the effect on the term of expiration, nor does it prevent either party from terminating the contract under the general terms.

4. When the suspension period ends, the rights, duties, and guarantees of the parties to the effective provision of work are restored.”

13. On 24 April 2021, and in accordance with the Suspension Agreement, the Player left Portugal and went to Brazil where, on 3 May 2021, the Player underwent a medical

examination which revealed a more severe injury than expected. The Parties are in dispute over whether the Club was informed about these results.

14. By email of 18 June 2021, the Player's agent wrote as follows to the Club:

*“Mr. President good afternoon, how are you?
How do I know about Sassa's insurance?
Maritimo paid the proportional value of his salary on 05/07 an after that nothing more was paid by the insurance.
How to know when the insurance will pay? Who will I have to talk to”*

15. By letter of 29 June 2021 to Cruzeiro, the Club wrote as follows:

*“This document serves to present to you the following:
The athlete Luiz Alves, Cruzeiro EC and Marítimo SAD signed a loan agreement for the period of January 29 until December 31, 2021.
By means of this agreement, the athlete Luiz Alves obliged himself to provide his football activities to Marítimo SAD for the abovementioned term.
In April, 2021, the athlete requested Marítimo to be treated by doctors of his trust and that knew about his history, in Brazil.
The athlete returned to Brazil, as was his pretention, so there he could analyze his situation and, if it was the case, recover. Thereunder, the athlete expressly requested Marítimo to suspend his employment contract.
His behavior outside of the field was not the best, presenting an overweight higher than what would be desirable for an athlete of high performance.
Due to the low performance during the season of 2020/2021 and also the fact of his inadaptability and instability and also due to the fact that the athlete did not show interest in continuing with Marítimo and at the Autonomous Region of Madeira, for the season of 2021/2022, we request that he would stay in Brazil, giving continuity to his career with Cruzeiro, thus, terminating the loan agreement, immediately.”*

16. On 12 July 2021, the Player put the Club in default regarding certain allegedly outstanding payments as follows:

*“Unfortunately Cruzeiro has not paid the salary of Sassá, nether has the insurance and we need that CS Marítimo complies with the payment in accordance with the loan agreement under clause 3.1.1. The athlete has 4 children and needs to pay his bills, so we count on CS Marítimo.
Of the 6 installments of EUR\$15,000 only one was paid on 28/04 and we urgently need the payments
of the installments that should have been paid on 05/03, 05/04, 05/05, 05/06 and 05/07 as below: [sic]
The athlete travels to Belo Horizonte tomorrow where he will continue his recovery in Cruzeiro in order to be 100% and return to Portugal.”*

17. By letter of 5 August 2021, but dated 5 July 2021, Cruzeiro wrote as follows to the Club:

“REF: Athlete Luiz Ricardo Alves

- Considering that Club Sport Marítimo and Cruzeiro Esporte Clube signed, on January 29, 2021, the Loan Agreement in which the athlete Luiz Ricardo Alves was temporarily transferred to Marítimo to act as a professional football player;*
- Considering that the athlete suffered an injury, and he requested to return to Brazil to conduct the surgical intervention and end his medical recovery with the doctors of his trust;*
- Considering that the Athlete ended his medical recovery and physiotherapy, and is fully capable to initiate his return to physical progression and execute his functions as a professional football player, as per the medical documents attached;*
- Considering that the Loan Agreement is in force and with its term only for the 31/12/2021;*
- Considering that Cruzeiro Esporte Clube does not intent to prematurely terminate the Loan Agreement.*

*Hereby, **Cruzeiro Esporte Clube**, respectfully comes, by means of this, to NOTIFY **Club Sport Marítimo** that, considering the full medical and physiotherapeutic recovery, and full capacity to execute his sportive functions, the athlete **Luiz Ricardo Alves** will return to **Club Sport Marítimo** to continue with the loan agreement signed by the cubs [sic], as well as his labor contract signed with the said institution.”*

18. By email of 11 August 2021, the Player’s agent wrote as follows to the Club:

“The athlete Sassá is medically cleared by Cruzeiro and can already return to Portugal for the final phase of his recovery. The Brazilian club said that they have already sent the athlete's documentation to you.

He is available to return to Maritimo and resume his activities. We are waiting for an URGENT return and the sending of the tickets so he can join the other teammates, please.”

19. The above email was followed by several WhatsApp messages to the Club during the following week, continuously informing the Club about the Player being medically cleared and requesting the Club to forward him flight tickets in order to be able to travel back to Portugal.

20. By email correspondence with an employee of the Club on 17 August 2021, the Player was informed that he was not registered as a resident of Portugal and that, due to the Covid situation, he would need an invitation from the Club in order to be able to return to Portugal, which the Player asked to receive from the Club, but apparently never did.

21. On 5 September 2021, the Player was informed in writing by the Club (the “Notice of Fault”) that internal disciplinary proceedings had been opened against him on 31 August 2021 due to his allegedly unjustified absence from the Club since 1 July 2021.

22. By letter of 10 September 2021, the Player put the Club in default, stating, *inter alia*, as follows:

“After noting the above, in accordance with the abovementioned contracts, i.e., the Loan Agreement, the Addendum to the Loan Agreement, and the Employment Contract, the Club undertook to pay Mr. Alves the following amounts:

(i) Under Article 3 of the Employment Contract:

(a) For half of the 2020/2021 season, a global net remuneration of €45.000,00 (forty-five thousand euros), paid in 6 (six) monthly instalments of €7.500,00 (seven thousand and five hundred euros) each from 5 February 2021 until 5 July 2021; and

(b) For half of the 2021/2022 season, a global net remuneration of €45.000,00 (forty-five thousand euros), paid in 6 (six) monthly instalments of €7.500,00 (seven thousand and five hundred euros) each from 5 August 2021 until 5 January 2022;

(ii) Under the Loan Agreement and the Addendum to the Loan Agreement:

In accordance with Clause 3.1.1. of the Loan Agreement, the payment of a total of €90.000,00 (ninety thousand euros) which shall be paid directly to the Player, in 6 (six) installments of €15.000,00 (fifteen thousand euros) each from 5 February 2021 until 5 July 2021.

After having established the above, it is of the utmost importance to note that the Club and the Player signed a Suspension of the Employment Contract on 23 April 2021, so that the Player could recover from an injury in Brazil (hereinafter as “Suspension Agreement”), attached hereto as Annex 5.

In this regard, in accordance with the abovementioned Suspension Agreement, the Club was relieved from paying Mr. Alves the monthly salaries established under the Employment Contract during the term of such suspension, i.e., from 23 April 2021 until 30 June 2021.

Notwithstanding the above, since the end of the suspension term established under the Suspension Agreement until the present date, the Club have failed to comply with its financial obligations towards Mr. Alves, by not paying the monthly salaries of July and August 2021 within the terms established above.

Additionally, since the payment of the first instalment of €15.000,00 (fifteen thousand euros) on 28 April 2021, as established under the Loan Agreement and the Addendum to the Loan Agreement, the Club has failed to perform the payment of all other 5 (five) instalments of €15.000,00 (fifteen thousand euros) each, within their due dates.

After having established the above, it must be concluded that the Club have failed to pay the Player the monthly salaries of July 2021 and August 2021 agreed under the Employment Contract, in addition to the instalments of March 2021, April 2021, May 2021, June 2021 and July 2021 agreed under the Loan Agreement and the Addendum to the Loan Agreement, i.e., two monthly salaries under the Employment Contract in addition to five instalments under the Loan Agreement, in a total amount of €90.000,00 (ninety thousand euros).

The above represents a blatant breach by the Club of the terms established under the Loan Agreement and the Employment Contract and will not be tolerated by Mr. Alves by any means.

For the reasoning above exposed, and for the purposes of Article 14Bis of the FIFA Regulations on the Status and Transfer of Players, the Club is hereby formally put in default and shall be granted a 15-day period to perform the payment of the total amount €90.000,00 (ninety thousand euros) i.e., by no later than 27 of September 2021.

Should the Club fail to comply with these terms within the stipulated time frame, Mr. Alves will immediately proceed to pursue its rightful claim of outstanding amounts to the fullest

extent of the law by exercising its right contained in Item “11.2” of the Loan Agreement and initiating the appropriate proceedings before the competent authorities.

The Player acknowledges that disciplinary proceedings have been initiated against him by Marítimo da Madeira – Futebol, SAD. However, such proceedings lack any material justification and serve only the purpose of granting Marítimo da Madeira – Futebol, SAD a procedural advantage, considering the very specific context of Portuguese labour law. Notwithstanding, the Player notes that the employment relationship is governed by, and subject to, the framework set by the terms of the Loan Agreement, which is governed, primarily, by FIFA regulations.”

23. Moreover, on 14 September 2021, the Player submitted his Answer to the Notice of Fault, rejecting the arguments for opening disciplinary proceedings against him.
24. On 20 September 2021, the Club issued its decision following the disciplinary proceedings, which found, *inter alia*, that the Player breached his contractual obligations due to his unjustified absence from the Club from 1 July 2021 to 31 August 2021, based on which it was decided to impose on the Player the sanction of dismissal without indemnity or compensation.
25. Moreover, on 21 September 2021, the Club’s formal decision to terminate the Contract was forwarded to, *inter alia*, the Player’s legal representative.
26. On 27 September 2021, the Club lodged a claim against the Player before the District Court of Madeira – Labour Court (the “Madeira Labour Court”), requesting payment of EUR 134,641.66 as compensation from the Player.
27. Also on the same date, the Club replied to the Player’s default letter of 10 September 2021, stating, *inter alia*, as follows:

“[...] The Club deems that the Player cannot, under any circumstances, legally expect to receive any further payment from it, but rather compensate it for his serious and repetitive contractual breaches.

15. In conclusion, contrary to the Player's apparent pretensions, the Club deems to be legally entitled to receive a financial compensation from him for all the damages caused as a consequence of his unlawful behaviour and inherent contractual breaches, the reason why a proper claim has already been filed against him before the Common Courts of Funchal, particularly addressing the relevant monthly salaries of July and August 2021, as well as the relevant transfer fee inserted in the Joan agreement, a legal dispute which is thereby currently pending before the Portuguese competent judicial instances, for analysis and a formal decision.”

28. On 21 October 2021, a preliminary hearing was planned to be held in the proceedings before the Madeira Labour Court but was rescheduled as the Player failed to appear before that court.

29. On 8 November 2021, the Player lodged a claim before FIFA against the Club as set out below under III and, on 23 November 2021, the Club was informed by FIFA about such proceedings.
30. On 24 February 2022, the Player, who was still in Brazil at that time, was notified of the proceedings before the Madeira Labour Court by the Brazilian Superior Court and, on 1 June 2022, the Brazilian Superior Court of Justice granted the exequatur to the rogatory letter sent by the Madeiran court, thus giving legal effect to the notification.
31. On 5 December 2022, the Player filed his Answer in the proceedings with the Madeira Labour Court.
32. Finally, on 16 May 2023, the Madeira Labour Court rendered its decision, finding in favour of the Player and rejecting the Club's claim.

III. PROCEEDINGS BEFORE THE FIFA DISPUTE RESOLUTION CHAMBER

33. On 8 November 2021, the Player lodged a claim before FIFA against the Club, requesting to be awarded the following:
 - EUR 75,000 as outstanding remuneration resulting from the instalments agreed upon in the Loan Agreement (5 x EUR 15,000, due between 5 March 2021 and 5 July 2021);
 - EUR 15,000 as outstanding remuneration resulting from the Loan Agreement and/or the Contract (2 x EUR 7,500 due on 5 August 2021 and 5 September 2021, respectively);
 - EUR 30,000 as compensation for breach of contract, corresponding to the residual value of the Loan Agreement and the Contract; and
 - 5% interest *p.a.* as of the due dates.
34. Alternatively, and if FIFA was to deem itself to be competent to decide only on the Loan Agreement, the Player based his claim on the Loan Agreement alone, as the salary was established therein.
35. As to FIFA's jurisdiction, the Player stressed that the main contract was the Loan Agreement, which also includes the *essentialia negotii* for the Player's contractual relationship with the Club. The jurisdiction clause in the Loan Agreement is in direct contradiction to the jurisdiction clause in the Contract, which is why FIFA is required to declare itself competent.
36. Moreover, the Player submitted that the Club had no just cause to terminate the Contract on 20 September 2021 and that he repeatedly offered his services to the Club, which was only looking for a way to "get rid of" him, while failing to honour its financial obligations towards him.

37. The Player further submitted that he was pressured by the Club to sign the Suspension Agreement, that the disciplinary proceedings were based on “*false and unfounded allegations*” and that the termination was issued without prior warning.
38. In its reply to FIFA, the Club argued that FIFA was not competent due to the jurisdiction clause in the Contract and that, in any case, it had already lodged a claim against the Player before the Madeira Labour Court on 27 September 2021, before the Player’s claim was lodged.
39. Alternatively, the Club argued that it had just cause to terminate the Contract on 20 September 2021 and, therefore, requested the rejection of the Player’s claim while requesting payment of the following:
 - EUR 4,000,000 as compensation for breach of contract, in accordance with the penalty clause in the Contract;
 - EUR 15,000 as a “result of the frustration of the Loan Agreement”;
 - EUR 90,000 as compensation; and
 - EUR 24,065.76 as “expenses” incurred (insurances etc.).
40. In this regard, the Club submitted that the Player had failed to return to the Club on 1 July 2021 and that it acted in accordance with its regulations and opened disciplinary proceedings against the Player. As the Player was absent from work for 54 days, as of 1 July 2021, the Club had just cause to terminate the Contract.
41. The Club further submitted that it was the Player’s responsibility to organise his own flight tickets in order to return to the Club and that it did not prevent him from returning to the Club by not issuing a certain form regarding the entry requirements to Portugal, as submitted by the Player.
42. In his replica, the Player rejected the Club’s counterclaim and reiterated his position.
43. The Player further held that the Club acted in bad faith when lodging its claim before a national court on the last date of its deadline to comply with its financial obligations. Moreover, he was only notified of the Club’s claim when he was notified by the Brazilian Superior Court on 24 February 2022.
44. In any case, the Loan Agreement was never suspended and the Club had failed to comply with its financial obligations towards him. Moreover, the Club had no interest in his services anymore, which is why it never reacted to his requests and never requested him to return to work.
45. On 13 October 2022, the FIFA DRC rendered the Appealed Decision and decided, *inter alia*, that:”

1. *The claim of the Claimant / Counter-Respondent, Luiz Ricardo Alves, is partially accepted insofar it is admissible.*
2. *The Respondent/Counter-Claimant, Maritimo da Madeira, has to pay to the Claimant /Counter-Respondent, the following amount(s):*
 - *EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 March 2021 until the date of effective payment;*
 - *EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 April 2021 until the date of effective payment;*
 - *EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 May 2021 until the date of effective payment;*
 - *EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 June 2021 until the date of effective payment;*
 - *EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 July 2021 until the date of effective payment;*
 - *EUR 7,500 as outstanding remuneration plus 5% interest p.a. as from 1 August 2021 until the date of effective payment;*
 - *EUR 7,500 as outstanding remuneration plus 5% interest p.a. as from 1 September 2021 until the date of effective payment;*
 - *EUR 30,000 as compensation for breach of contract plus 5% interest p.a. as from 08 November 2021 until the date of effective payment.*
3. *Any further claims of the Claimant / Counter-Respondent are rejected.*
4. *The counterclaim of the Respondent/Counter-Claimant is rejected.*
5. *Full payment (including all applicable interest) shall be made to the bank account indicated in the enclosed Bank Account Registration Form.*
6. *Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made within 45 days of notification of this decision, the following consequences shall apply:*
 1. *The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.*
 2. *The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.*
7. *The consequences shall only be enforced at the request of the Claimant I Counter-Respondent in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.*
8. *This decision is rendered without costs.”*

46. On 8 February 2023, the grounds of the Appealed Decision were communicated to the Parties.

IV. PROCEEDINGS BEFORE THE COURT OF ARBITRATION FOR SPORT

47. On 24 February 2023, the Appellant filed its Statement of Appeal in accordance with Articles R47 and R48 of the Code of Sports-related Arbitration (the “CAS Code”) against the Respondent with respect to the Appealed Decision. In its Statement of Appeal, the Appellant requested the stay of the Appealed Decision and nominated Prof. Dr Ulrich Haas, Professor in Zurich, Switzerland and Attorney-at-Law in Hamburg, Germany as arbitrator.
48. By letter of 3 March 2023, the Appellant confirmed that it withdrew its application for a stay of the execution of the Appealed Decision as “*decisions of a financial nature cannot be enforced whilst under appeal*”.
49. By letter of 10 March 2023, the Respondent nominated as arbitrator Mr Michele A.R. Bernasconi, Attorney-at-Law in Zurich, Switzerland.
50. By letter of 13 March 2023 to the CAS Court Office, FIFA renounced its right to request its possible intervention in the present proceedings (cf. Article R5 par. 2 and R41 Par. 3 of the CAS Code).
51. On 21 March 2023, the Appellant filed its Appeal Brief in accordance with Article R51 of the CAS Code.
52. By letter of 18 May 2023, the Appellant informed the CAS Court Office as follows:

”In regard to the matter of the reference, the Appellant hereby wishes to inform you that by means of a notification served to it on 16.05.2023, it was notified of the formal decision rendered by the Madeira Judicial Court Funchal Labour Court in the procedure n.º 4255/21.9T8FNV passed on the same date (enclosed for your perusal).

In accordance with such decision, the Funchal Labour Court considered that the Labour Contract concluded between the Appellant and the Respondent was terminated with just cause by the first.

In this sense, considering that the present proceedings concern the same subject matter, the same legal grounds and the same parties and that such judgement can be recognised and enforced in Switzerland as per the Lugano Convention 2007, the Appellant deems that the principle of res judicata is applicable. Under such context, the Panel should be prevented from adopting another decision on this matter.

In view of the above, the Appellant requests the Panel to set aside the decision of the FIFA Dispute Resolution Chamber passed on 13.10.2022 (ref. no. FPSD-4239).”

53. On 5 June 2023, the Parties were informed that the Panel had been constituted as follows:

President: Mr Lars Hilliger, Attorney-at-Law in Copenhagen, Denmark

Co-Arbitrators: Prof. Dr Ulrich Hass, Professor in Zurich, Switzerland and Attorney-at-Law in Hamburg, Germany
Mr Michele A.R. Bernasconi, Attorney-at-Law in Zurich, Switzerland.

54. On 2 June 2023, the Respondent filed his Answer in accordance with Article R55 of the CAS Code.
55. By letter of 10 July 2023, the Parties were informed that the hearing was to be held in Lausanne, Switzerland, on 25 October 2023. On 18 July 2023 the Order of Procedure was forwarded to the Parties to be signed and returned.
56. Both Parties signed and returned the Order of Procedure.
57. By letters of 24 July, 24 August and 28 September 2023, the Parties informed the CAS Court Office about the names of the persons who were to attend the scheduled hearing, and by letter of 6 October 2023, and following an invitation from the Panel to liaise with each other and provide the CAS Court Office with a joint hearing schedule, the Parties forwarded such joint hearing schedule to the Panel.
58. On 25 October 2023, a hearing was initiated at the CAS Court Office in Lausanne, Switzerland.
59. In addition to the Panel and Mr Antonio De Quesada, Head of Arbitration Services, the following persons attended the hearing:
- For the Appellant
- Mr Antonio de Carvalho Vicente – Counsel
- For the Respondent:
- Mr Luis Cassiano Neves – Counsel
 - Ms Matilde Costa Dias – Counsel
60. At the outset of the hearing, the Parties confirmed that they had no objections to the constitution of the Panel.
61. The Panel then addressed the representatives of the Parties and based on its initial understanding of the legal circumstances of the disputes, kindly encouraged them to consider whether it would be possible for them to reach an amicable settlement of the dispute.
62. Following the Parties’ subsequent negotiations, the Panel was then informed that the Parties had in fact managed to reach a settlement agreement (the “Settlement Agreement”) in order to terminate the proceedings and the hearing on the terms set out in the Settlement Agreement.

63. The Parties further jointly requested that the Settlement Agreement, which was duly signed on behalf of both Parties, be incorporated into a consent award, which would have the full force and legal effect of an arbitral award, further to Article R56 of the CAS Code.

V. THE SETTLEMENT AGREEMENT

64. The Settlement Agreement, duly signed on behalf of the Parties on 25 October 2023 in front of the Panel, represents the Parties' agreement regarding a complete, comprehensive and final resolution of their dispute.
65. The Panel has been requested to ratify and embody the Settlement Agreement in a consent award.
66. The Settlement Agreement entered into between the Parties contains the following terms:

*“Marítimo da Madeira – Futebol, SAD, registered under the number 511 124 724, with headquarters at Rua D. Carlos I, n.º 14, represented in this act by the undersigned board members, entrusted with the powers required to sign the present agreement.
(hereinafter, “Marítimo, SAD” or “the Club”)*

*Mr Luiz Ricardo Alves, Brazilian, born on 11/01/1994, holder of Passport n.º [...], issued by the Federative Republic of Brazil on 29/11/2016 and valid until 28/11/2026, acting on his own behalf.
(hereinafter, “the Player”)*

(hereinafter collectively referred to as the “Parties” and separately as a “Party”)

WHEREAS

- A. *Following the Loan Agreement (hereinafter, the “Loan Agreement”) entered into between the Club, the Player and Cruzeiro EC on 29 January 2021, the Club and the Player concluded an Employment Contract valid from 29 January 2021 until 31 December 2021 (hereinafter, the “Employment Contract”).*
- B. *On 21 September 2021, following the disciplinary proceedings brought against the Player, the Club unilaterally terminated the Employment Contract.*
- C. *On 8 November 2021, the Player filed a claim before the Dispute Resolution Chamber of the FIFA Football Tribunal (hereinafter, “the DRC”).*
- D. *On 13 November 2022, the DRC rendered its decision with reference number FPSD-4239. The DRC partially accepted the claim of the Player. Therefore, the DRC inter alia ordered the Club to pay the Player the following amounts (hereinafter, “the DRC Decision”):*

*“- EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 March 2021 until the date of effective payment;
- EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 April 2021 until the date of effective payment;*

- EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 May 2021 until the date of effective payment;
- EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 June 2021 until the date of effective payment;
- EUR 15,000 as outstanding remuneration plus 5% interest p.a. as from 6 July 2021 until the date of effective payment;
- EUR 7,500 as outstanding remuneration plus 5% interest p.a. as from 1 August 2021 until the date of effective payment;
- EUR 7,500 as outstanding remuneration plus 5% interest p.a. as from 1 September 2021 until the date of effective payment;
- EUR 30,000 as compensation for breach of contract plus 5% interest p.a. as from 08 November 2021 until the date of effective payment.”

E. On 21 March 2023, the Club lodged an appeal before the Court of Arbitration for Sport (hereinafter, “CAS”) against the Player with respect to the decision rendered by the DRC on 13 November 2022, with ref. no. CAS 2023/A/9458 Marítimo da Madeira, Futebol, SAD v. Luiz Ricardo Alves (hereinafter, “CAS Proceedings”).

F. On 25 October 2023, at the occasion of the hearing held at the CAS headquarters, both parties decided that it would be preferable to settle the above dispute in an amicable manner in accordance with the terms and conditions set out herein.

The whereas clauses form an essential part of the Agreement

WHEREBY IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES HEREIN CONTAINED BY THIS PRESENT AGREEMENT (“SETTLEMENT AGREEMENT”) IT IS AGREED AS FOLLOWS:

1. Terms and Conditions

1.1. For the full and final settlement of any and all claims between the parties, the Club shall pay the Player the total net amount of EUR 60.000,00 (sixty thousand Euros) (hereinafter, the “Settlement Amount”).

1.2. The aforementioned Settlement Amount of EUR 60.000,00 (sixty thousand Euros) shall be paid by the Club to the Player in one single instalment by no later than 10 (ten) days after the issuance of the CAS Consent Award.

1.3. The Club will pay the above-mentioned instalment to the following bank account of the Player:

ACCOUNT HOLDER: 14 Consulting LDA
IBAN: PT50 0010 0000 5506 3450 0030 3
BIC SWIFT: BBPIPTPL
BANK: BPI

1.4. The Club will cover all arbitration costs in relation to the proceedings CAS 2023/A/9458 Marítimo da Madeira, Futebol, SAD v. Luiz Ricardo Alves and will also be entitled to recover any remaining amount of the CAS costs which the Club had previously

advanced. Each party will bear their own legal expenses in connection with these proceedings before the CAS.

1.5. This Settlement Agreement replaces and supersedes all previous agreements signed between the two parties.

2. Waiver & Settlement

2.1. Upon signature of the present Settlement Agreement, the Player accepts the terms of this Settlement Agreement in full and as a final settlement and, therefore, releases and waives its right to initiate any proceedings against the Club in order to request the amounts awarded by the DRC under the DRC Decision and/or related to the Loan Agreement/Employment Contract entered into by the Parties.

2.2. Upon full payment of the Settlement Amount, the Parties expressly declare that they have nothing to claim against each other concerning any liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, penalties, legal costs and all other professional costs and expenses) arising out or in connection with any claim the Player may have against the Club, and vice-versa, in respect of (i) the Loan Agreement; (ii) the Employment Contract; and/or (iii) the amounts awarded by the DRC under the DRC Decision; (iv) and/or any other additional claim that either of the parties may have against each other.

3. Confidentiality

Each Party undertakes that it will not at any time hereafter use or disclose to any person, except to its professional representatives and as required by the relevant football authorities, or any legal or regulatory body, or the relevant authorities in charge of the enforcement proceedings the terms and conditions contained in this Settlement Agreement. No Party shall use any such confidential information except for the performance or execution of this Agreement or make any announcements relating to this Agreement or make any announcements relating to this Agreement save as agreed between the Parties.

4. Consent Award

By signing the present Settlement Agreement, the Parties informed the CAS, in person, at the occasion of the hearing held at the CAS headquarters, that an amicable settlement has been reached. As a result, the Parties hereby request the CAS to issue a Consent Award that embodies the present Settlement Agreement.

5. Governing Law & Disputes

5.1. This Settlement Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed and construed in accordance with the FIFA Regulations and subsidiarily, by Swiss law.

5.2. Any and all disputes arising out of or in connection with this Settlement Agreement shall be exclusively subject to the jurisdiction of the competent chamber of the FIFA Football Tribunal pursuant to the FIFA RSTP.

5.3. *As provided for in the applicable FIFA Regulations, FIFA Statutes and the CAS Code of Sports-related Arbitration, any appeal against a decision of the competent chamber of the FIFA Football Tribunal shall be lodged before the Court of Arbitration for Sport, based in Lausanne (Switzerland). The language of the arbitration shall be English and any appeal shall be submitted to a sole arbitrator.*

5.4. *Should the Club fail to complete the payment of the amount due under this Settlement Agreement, the Player shall inform the FIFA Disciplinary Committee and request the enforcement of the full Consent Award as issued by the Court of Arbitration for Sports with reference to the proceedings Ref. CAS2023/A/9458. For the avoidance of doubt, matters of execution shall not constitute a dispute or claim arising from or in connection with this Settlement Agreement, namely for the purposes of paragraphs 5.1. and 5.2 above.*

6. *Miscellaneous*

6.1. *All amendments and additions to this Settlement Agreement shall constitute an integral part hereof, however, any such amendment and additions must be in writing and expressly agreed to by both Parties.*

6.2. *If any clause or condition of this Settlement Agreement has become null, this does not lead to the annulment of this Agreement in general. If any provision of this Agreement shall be held to be illegal or unenforceable, in whole or part, the Parties shall agree in good faith an amendment to that provision to make it valid and legal reflecting as much as possible their original intent.*

6.3. *In the event an ambiguity or question of intent or interpretation arises, this Settlement Agreement shall be construed as if drafted by both Parties, and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any provision in this Settlement Agreement. The application of the principle contra proferentem is explicitly excluded.*

This Agreement is signed in two counterparts in English language – one for each Party, and in four (4) pages. A scanned copy with the signatures of the Parties shall be considered equally valid and binding.

IN WITNESS WHEREOF the Parties acknowledge their mutual consent by signing this Settlement Agreement:

Marítimo da Madeira – Futebol, SAD

Mr Luiz Ricardo Alves

*Represented by the duly authorized
Attorney-at-Law, Mr. António Vicente*

*Represented by the duly authorized
Attorney-at-Law, Mr Luis C. Neves”*

VI. JURISDICTION

67. Article R47 of the CAS Code provides, *inter alia*, 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 it prior to the appeal, in accordance with the statutes or regulations of that body. [...]”

68. The Parties requested this Panel to issue the Consent Award and thus agree that the CAS has jurisdiction insofar.

VII. RATIFICATION AND INCORPORATION OF THE SETTLEMENT AGREEMENT BY THE CAS

69. Under Swiss Law, an arbitration tribunal has authority to issue an award embodying the terms of the parties’ settlement if the disputing parties agree to a termination of their dispute in this manner. The Panel’s ratification of their settlement and its incorporation into this consent award serve the purpose of enabling the enforcement of their agreement.

70. Moreover, in accordance with Article R56 of the CAS Code “[...] *Any settlement agreement may be embodied in an arbitral award rendered by consent of the parties.*”

71. The Parties have requested that the Panel ratify and incorporate the Settlement Agreement reproduced in paragraph 86 above into a Consent Award. It is the task of the Panel to verify the bona fide nature of the Settlement Agreement to ensure that the will of the Parties has not been manipulated by them to commit fraud and to confirm that the terms of the Settlement Agreement are not contrary to public policy principles or mandatory rules of the law applicable to the dispute.

72. After reviewing the terms of the Settlement Agreement of 25 October 2023 and the circumstances of the proceeding, the Panel finds no grounds for objecting to or disapproving of the terms of the Settlement Agreement and is satisfied that the Settlement Agreement constitutes a bona fide settlement of the dispute brought to its attention.

73. Against the above background, all other motions or prayers for relief do not need to be taken into any further consideration and shall be dismissed.

X. COSTS

(...).

CONSENT AWARD

The Court of Arbitration for Sport rules that:

1. The Settlement Agreement duly signed on behalf of Marítimo da Madeira, Futebol, SAD and Luiz Ricardo Alves on 25 October 2023 is hereby ratified by the Panel with the consent of the Parties, and its terms are incorporated into this arbitral award.
2. The arbitral procedure *CAS 2023/A/9458 Marítimo da Madeira, Futebol, SAD v. Luiz Ricardo Alves* is terminated and deleted from the CAS roll.
3. The terms of the Settlement Agreement replace the decision of the Dispute Resolution Chamber of the FIFA Football Tribunal on 13 October 2022.
4. (...).
5. (...).
6. Each Party is hereby ordered to perform the obligations and duties as per the Settlement Agreement referred to above.
7. All other motions or prayers for relief are dismissed.

Seat of arbitration: Lausanne, Switzerland

Date: 27 November 2023

THE COURT OF ARBITRATION FOR SPORT

Lars Hilliger
President of the Panel

Ulrich Haas
Arbitrator

Michele A.R. Bernasconi
Arbitrator