



## AMERICA'S CUP ARBITRATION PANEL

**ACAP36/13-02**

**IN THE MATTER**  
of the Protocol  
governing the 36<sup>th</sup> America's Cup

**IN THE MATTER**  
*of an Application by*

NYYC – American Magic ("**American Magic**")

*hereinafter the "**Applicant**"*

***regarding Auckland ACWS Entry Fee***

**12 November 2020**

**AMERICA'S CUP ARBITRATION PANEL**

**Case No. ACAP36/13 Decision 02**

**DECISION ON COSTS**

1. On 6 November 2020, the Arbitration Panel has issued a first Decision (on the merits) regarding Case ACAP36/13.
2. In such Decision on the merits, the Panel stated that:

*“43. The Panel is mindful to decide that costs are to be shared equally between all Competitors, unless one or more of them submit otherwise within 5 days of this Decision. A final decision on costs will be taken by the Panel once this time limit has passed”.*
3. By “*all Competitors*” the Panel meant all Competitors having expressed views in these proceedings. None of them have filed any submission about the suggested allocation of costs.
4. Pursuant to Article 53.4(k) of the Protocol and Art. 14.3 of the RoP the Panel is “*empowered [...] to fix and determine costs*” of an application “*as it considers just and equitable*”. In doing so the Panel shall have “*regard to all relevant matters [...]*”.
5. Pursuant to Art. 53.3 of the Protocol the fees and expenses of the Panel are to be “*recovered on a user pay basis from the Parties involved*”. Pursuant to Art. 14.3 of the RoP, the Arbitration Panel shall fix and determine the costs of an application, “*including imposing the costs to the losing party*”.
6. The Panels’ fees relating to Case ACAP36/13, including the present decision and the activity of the Administrative Secretary, amount to **NZD 28’800**. No expenses have been incurred by the Panel.
7. The Panel considers that addressing the issue which was the subject-matter of Case ACAP36/13 was in all Teams’ interest. As a result, the amount of NZD 28’800 shall be borne by all four Teams equally, namely **NZD 7’200 each**.

#### **AWARD OF COSTS**

8. The Panel fees awarded in respect of Case 36/13 (including this decision) amount to **NZD 28’800** and shall be paid by the Parties as follows:
  - a) Each of ETNZ, Ineos Team UK and COR shall transfer **NZD 7’200** on the Panel’s Bank Account, and
  - b) As American Magic has paid the application fee of NZD 8’000, the Panel will thereafter refund to American Magic an amount of **NZD 800**.
9. Each Party shall bear in full the costs of its counsel, if any.

**PAYMENTS DUE DATE**

10. All costs awards as ordered above are required to be paid to the Panel's Bank Account **within 7 days as of the date of this decision.**

David Tillett, Graham McKenzie, Henry Peter  
36<sup>th</sup> America's Cup Arbitration Panel