



AMERICA'S CUP ARBITRATION PANEL

ACAP36/15-02

IN THE MATTER
of the Protocol
governing the 36th America's Cup

IN THE MATTER
of an Application by

Emirates Team New Zealand ("**ETNZ**")
New Zealand Yacht Squadron ("**RNZYS**")

*hereinafter altogether the "**Applicant**"*

regarding the interpretation of Article 15.1 of the Protocol

1 December 2020

AMERICA'S CUP ARBITRATION PANEL

Case No. ACAP36/15 Decision 02

DECISION ON COSTS

1. On 24 November 2020, the Arbitration Panel has issued a first Decision (on the merits) regarding Case ACAP36/15.
2. In such Decision on the merits, the Panel stated that:

*“30. 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 ACAP36/15, including the present decision and the activity of the Administrative Secretary, amount to **NZD 13’125**. No expenses have been incurred by the Panel.
7. The Panel considers that addressing the issue which was the subject-matter of Case ACAP36/15 was in all Teams’ interest. As a result, the amount of NZD 13’125 shall be borne by all four Teams equally, namely **NZD 3’281.25 each**.

AWARD OF COSTS

8. The Panel fees awarded in respect of Case 36/15 (including this decision) amount to **NZD 13’125** and shall be paid by the Parties as follows:
 - a) Each of NYYC-American Magic, Ineos Team UK and COR shall transfer **NZD 3’281.25** to the Panel’s Bank Account, and
 - b) As ETNZ has paid the application fee of NZD 8’000, the Panel will thereafter refund to ETNZ an amount of **NZD 4’718.75**.
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
36th America's Cup Arbitration Panel