



AMERICA'S CUP ARBITRATION PANEL

ACAP36/16-02

IN THE MATTER

of the Protocol
governing the 36th America's Cup

IN THE MATTER

of an Application by
Circolo della Vela Sicilia ("**CVS**")
Luna Rossa Challenge Srl ("**Luna Rossa**")
Challenger of Record 36 Srl ("**COR36**")

hereinafter altogether the "**Applicant**"

against

Royal New Zealand Yacht Squadron ("**RNZYS**")
Team New Zealand Limited trading as Emirates Team New Zealand ("**ETNZ**")
America's Cup Event Limited ("**ACE**")

hereinafter altogether the "**Respondent**"

In relation to the Conduct of Final Rehearsals of the Race Management Systems for the PRADA Cup

14 January 2021

AMERICA'S CUP ARBITRATION PANEL

Case No. ACAP36/16 Decision 02

DECISION ON COSTS

1. On 8 January 2021, the Arbitration Panel has issued a Decision (on the merits) regarding Case ACAP36/16 (Decision ACAP36/16-01).
2. In such Decision on the merits, the Panel stated that:

*“15. The Panel is mindful to decide that costs are to be shared equally between the Applicant and the Respondent, unless they submit otherwise, with reasons, **within 5 days of this decision**. A final decision on costs will be taken by the Panel once this time limit has passed”.*
3. 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 [...]”.
4. 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”.
5. The Panels’ fees relating to Case ACAP36/16, including the present decision and the activity of the Administrative Secretary, amount to **NZD 14’100**. No expenses have been incurred by the Panel.
6. The Panel considers that the matter has been mostly about clarifying issues between COR and Defender and that, in view of the result, it is fair for the amount of **NZD 14’100** to be equally borne by them (namely **NZD 7’050 each**).

AWARD OF COSTS

7. The Panel's fees awarded in respect of Case 36/16 (including this decision) amount to **NZD 14’100** and shall be paid by the Parties as follows:
 - a) ETNZ shall transfer **NZD 7’050** to the Panel’s Bank Account, and
 - b) As COR has paid the application fee of NZD 8’000, the Panel will thereafter refund to COR an amount of **NZD 950**.
8. Each Party shall bear in full the costs of its counsel, if any.

PAYMENTS DUE DATE

9. ETNZ is ordered to make the payment of NZD 7'050 as aforesaid, 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