



3/23/2017

# GOLD COAST 2018

## ASSOCIATION AGREEMENT

SWAZILAND OLYMPIC & COMMONWEALTH  
GAMES ASSOCIATION

**Contents**

BACKGROUND ..... 2

1. DEFINITIONS..... 3

2. TERM OF AGREEMENT ..... 4

3. APPLICATION, NOMINATION AND SELECTION PROCESS ..... 4

4. SOCGA SELECTION POLICY ..... 4

5. NOMINATION CRITERIA ..... 4

6. ATHLETE APPLICATION AND ATHLETE AGREEMENT:..... 6

ELIGIBILITY FOR NOMINATION AND SELECTION PROCEDURE ..... 6

7. NOMINATION OF ATHLETES BY NSO..... 7

8. SELECTION OF ATHLETES BY SOCGA ..... 9

9. SUPPORT STAFF..... 10

10. APPEALS..... 11

11. NOMINATION APPEALS ..... 12

12. SELECTION APPEALS ..... 13

13. SOCGA JURISDICTION DURING THE GAMES..... 14

14. INDEMNITIES ..... 15

15. BREACH OF AGREEMENT AND TERMINATION ..... 16

15.3 Effect of Termination:..... 16

16. ENTIRE AGREEMENT ..... 16

17. NO PARTNERSHIP ..... 17

18. APPLICATION OF LAW..... 17

19. DISPUTES ..... 17

EXECUTION: ..... 18

**THIS AGREEMENT** is made this.....day of 2017

**BETWEEN**

**SWAZILAND OLYMPIC & COMMONWEALTH GAMES ASSOCIATION**

a not for profit organisation having its registered office at 147  
Sheffield Road Industrial Sites Mbabane

(“SOCGA”)

**AND**

.....,  
A not for profit sports organisation

.....

(“NSO”)

## **BACKGROUND**

- A. The SOCGA is recognised by the Commonwealth Games Federation (“CGF”) as the Commonwealth Games Association for Swaziland. The CGF is the supreme authority in all matters concerning the Olympic Games.
- B. The SOCGA has the sole and exclusive power to determine its representation at the 2018 Commonwealth Games to be held in Gold Coast, Australia from 4 to 15 April 2018 (“the Games”).
- C. The SOCGA wishes to promote awareness and clear understanding of the process for nomination of Athletes by the NSO and selection by the SOCGA for the Swazi Commonwealth Team to compete in the Games (“the Team”).
- D. The NSO wishes to have a clear understanding of the process for nomination and selection of Athletes for the Team, and has agreed to the terms and conditions of this Agreement for that purpose.
- E. This Agreement sets out the application, nomination and selection process by which eligible Athletes may be considered for nomination by the NSO, and selection by the SOCGA, for the Team.
- F. This Agreement also sets out the procedures that must be followed for any appeal against a decision by the NSO regarding an Athlete’s nomination or non-nomination or a decision by the SOCGA regarding an Athlete’s selection or non-selection to the Team.

## 1. DEFINITIONS

### 1.1 INTERPRETATION

In this Agreement unless the context indicates otherwise:

**“Agreement”** means this agreement and includes the Schedules.

**“Athlete”** means a person who competes in the sport of the NSO who wishes to be considered for nomination and selection to the Team.

**“Athlete Agreement”** means the Athlete Agreement between SOCGA and the Athlete that an Athlete applying to be nominated and selected to the Team must fully complete and return to the NSO prior to the Nomination Date.

**“Athlete Application”** means the Athlete Application form which is attached to this Agreement as Schedule A.

**“Application Date”** means the date, as specified by the SOCGA but to be no later than the Nomination Date, by which the NSO must submit a completed and certified Athlete Application or a completed Support Staff Application with recommendation (whichever is relevant) to the SOCGA in accordance with clauses 6.1(a) and 9.6 of this Agreement.

**“CAS”** means the Court of Arbitration for Sport.

**“RADO Zone VI”** means **Regional Anti-Doping Agency in Region 5**, established by the World Anti-doping Agency to manage the Doping programme in the Region for those that do not have independent Anti-Doping Agencies in their countries.

**“Games”** means the 2018 Commonwealth Games to be held in Gold Coast, Australia between 4 and 15 April 2018.

**“IF Qualification System”** means the IF Qualification System – Games of the Commonwealth Games Gold Coast 2018

**“CGF”** means the International Olympic Committee.

**“Nomination Appeal”** means an appeal against nomination or non-nomination brought in accordance with the provisions of clause 10 of this Agreement.

**“Nomination Criteria”** means the nomination criteria of the NSO for the Games as outlined in clause 5 of this Agreement.

**“Nomination Date”** means the date, as specified by the SOCGA, by which the NSO must submit particulars of each Athlete to the SOCGA for consideration for selection to the Team.

**“Notice of Appeal”** means the notice filed with the Sports Tribunal in accordance with its rules.

**“SOCGA’s Anti-Doping Bylaw”** means the SOCGA anti-doping bylaw which is attached as Schedule E or any replacement bylaw, regulation or policy by the SOCGA on anti-doping.

**“SOCGA Selection Policy”** means the SOCGA selection policy for the Games which is attached as Schedule F, together with any variation.

**“Selection Appeal”** means an appeal against selection or non-selection brought in accordance with clause 12.2 of this Agreement.

**“Selection Date”** means the date on which the SOCGA publicly announces which Athletes from the Sport have been selected to the Team.

**“Sports Tribunal”** means the Sports Tribunal of SOCGA.

**“Support Staff”** means a person/s appointed by the SOCGA in accordance with clause 9 of this Agreement.

**“Support Staff Application”** means the Support Staff Application form which is attached to this Agreement as Schedule B.

**“Support Staff Agreement”** means the applicable Support Staff Agreement that a support staff member (e.g. coach, manager) must sign in accordance with clause 9.5(b) of this Agreement.

**“Team”** means The Swaziland Olympic Team for the Games.

**1.2 Rules for interpretation:** In this Agreement unless the context requires otherwise:

**1.2.1 Headings:** Sections, clauses and other headings are for ease of reference only and will not affect this Agreement’s interpretation.

**1.2.2 Schedules:** The Schedules to this Agreement and the provisions and conditions contained in the Schedules have the same effect as if set out in the body of this Agreement.

## 2. TERM OF AGREEMENT

**2.1 Term:** This Agreement shall commence upon completion of signing by both parties and shall terminate, subject to this Agreement, on 30 April 2018.

## 3. APPLICATION, NOMINATION AND SELECTION PROCESS

**3.1 Application, Nomination and Selection Process:** The process for application, nomination and selection of the Athletes for the Team shall be as follows:

(a) The adoption of the SOCGA Selection Policy by the SOCGA pursuant to clause 4;

(b) The adoption of the Nomination Criteria by the NSO in accordance with clause 5;

(c) The completion and return to the NSO of an Athlete Application and Athlete Agreement, which shall be certified and submitted to the SOCGA by the NSO in accordance with clause 6; and Nomination Criteria, by the NSO; and accordance with clause 8.

## 4. SOCGA SELECTION POLICY

**4.1 Adoption of SOCGA Selection Policy:** The SOCGA Selection Policy for the Games was adopted by the Board of the SOCGA on \_\_\_\_\_

**4.2 SOCGA Selection Policy Binding on NSO:** The NSO acknowledges and agrees that it is bound by the terms of the SOCGA Selection Policy.

## 5. NOMINATION CRITERIA

**5.1 NSO to submit proposed Nomination Criteria:** The NSO must submit proposed Nomination Criteria, to the SOCGA by such date as is specified by the SOCGA.

**5.2 Format of Nomination Criteria:** The proposed Nomination Criteria shall be in the form of the Nomination Criteria Template attached as Schedule C (unless otherwise agreed in writing by SOCGA) and shall comply with the qualification, eligibility and any other requirements of the International Federation (“IF”) and the CGF as set out in the relevant IF Qualification System.

**5.3 Content of Nomination Criteria:** The proposed Nomination Criteria shall clearly indicate:

(a) How objective criteria (including specified results, performances, or standards) shall be assessed in determining the nomination of Athletes.

(b) How subjective criteria, where specified, shall be assessed in determining the nomination of Athletes.

(c) How, where both objective and subjective criteria are specified, the decision whether to nominate an Athlete or not will be made.

**5.4 Approval of Nomination Criteria:** Upon receipt, the SOCGA shall determine whether the proposed Nomination Criteria complies with clauses 5.2 and 5.3 and is otherwise satisfactory to the SOCGA and, if so satisfied, shall notify the NSO of its approval of the Nomination Criteria.

**5.5 Revision of Nomination Criteria:** If not satisfied with the proposed Nomination Criteria the SOCGA shall notify the NSO of such fact, identify the matters which it considers require amendment, and shall consult with the NSO about its content. The SOCGA shall notify the NSO of the date by which any revised proposed Nomination Criteria must be submitted to the SOCGA. Upon receipt of any revised proposed Nomination Criteria, the procedure in clause 5.4 shall apply.

**5.6 No amendment to Nomination Criteria after approval by SOCGA:** No amendment or alteration shall be made to the Nomination Criteria after the SOCGA has approved the proposed Nomination Criteria without the written approval of the SOCGA.

**5.7 Failure to Submit Nomination Criteria:** If the NSO fails to submit proposed Nomination Criteria to SOCGA by the date specified by SOCGA or such other date as is agreed, or if the proposed Nomination Criteria is not, after revision, in a form satisfactory to SOCGA, SOCGA may publish Nomination Criteria determined by it and select Athletes in accordance with such Nomination Criteria and the SOCGA Selection Policy. Alternatively the SOCGA may decline to select Athletes from the NSO for the Team, or take such other steps as it considers appropriate in the circumstances.

**5.8 Publication of Nomination Criteria:** The SOCGA and NSO shall each take steps to publish and distribute the approved Nomination Criteria (and any subsequent amendments to it), together with the SOCGA Selection Policy, as widely as possible, including their respective websites.

#### **5.9 Inconsistencies**

(a) Where any inconsistency arises between the Nomination Criteria for the NSO and the qualification, eligibility or other requirements of the IF for that NSO as set out in the IF Qualification System, as amended from time to time, the latter shall prevail to the extent of that inconsistency.

(b) Where any inconsistency arises between the SOCGA Selection Policy and the IF Qualification System for the NSO, the latter shall prevail to the extent of such inconsistency.

(c) Where any inconsistency arises between the Nomination Criteria proposed by the NSO and the SOCGA Selection Policy, the latter shall prevail to the extent of such inconsistency.

(d) The fact that the Nomination Criteria imposes a higher qualification standard or lesser number of participants than stated in the IF Qualification System shall not be regarded as an inconsistency.

## 6. ATHLETE APPLICATION AND ATHLETE AGREEMENT:

### ELIGIBILITY FOR NOMINATION AND SELECTION PROCEDURE

#### 6.1 Athlete to complete and submit Athlete Application and Athlete

**Agreement:** Any Athlete applying to be nominated and selected to the Team must:

(a) Fully complete and return to the NSO, prior to the Application Date, an Athlete Application in the form of Schedule A to this Agreement; and

(b) Fully complete and return to the NSO, prior to the Nomination Date, an Athlete Agreement.

**6.2 Effect of submission of Athlete's Application and Athlete's Agreement:** By completing and returning the Athlete Application and the Athlete Agreement, the Athlete warrants that he or she has met, or will by the Nomination Date have met, the obligations and requirements set out in the Athlete Application and the Athlete Agreement.

**6.3 Distribution of Athlete Application and Athlete Agreement:** Notwithstanding clause 6.7, it is the responsibility of the NSO to make the Athlete Application and Athlete Agreement available to all Athletes it is aware may apply to be considered for nomination and selection to the Team, to publish the Athlete Application and Athlete Agreement on the NSO's website (if applicable), and to provide such documents on request to any Athlete wishing to apply for nomination and selection.

**6.4 NSO to certify Athlete Application:** Upon receipt of an Athlete Application, the NSO shall certify that:

(a) The Athlete is a member of the NSO or a member of one of its affiliated organisations; and

(b) To the NSO's knowledge, the Athlete has not breached, or currently under investigation for a breach of, any rules or regulations of the NSO, the IF, the CGF, or the World Anti-Doping Agency; and

(c) The Athlete is not currently under disqualification or suspension under the rules of the NSO or the IF.

**6.5 Non-Certified Athletes:** If the NSO is unable to provide a certificate in respect of any Athlete in accordance with clause 6.4, it must notify the Athlete of such non-certification. An Athlete, whose Athlete Application has not been certified by the NSO, may apply for

nomination and selection on a further occasion (or occasions) by completing a fresh Athlete Application, provided the Athlete does so before the Application Date.

**6.6 NSO to submit certified Athlete Applications by Application Date:**

The NSO shall submit each certified Athlete Application received prior to the Application Date, to the SOCGA by the Application Date. The SOCGA reserves the right, in its sole discretion, to accept a certified Athlete Application from an NSO after the Application Date.

**6.7 Distribution and Completion of Athlete Agreement:** Upon receipt of each duly completed and certified Athlete Application, SOCGA shall notify each Athlete of the procedure for obtaining a copy of the Athlete Agreement from the SOCGA website for completion by the Athlete.

**6.8 Amendment of Athlete Agreement:** The SOCGA may amend the Athlete Agreement at any time prior to the Nomination Date. If this occurs, the SOCGA will notify the NSO of such amendment and require it to notify Athletes whose Athlete Application it has certified of such amendment. After the Nomination Date, the SOCGA may amend the Athlete Agreement in respect of an Athlete or Athletes save that no amendment to the Athlete Agreement will be effective until signed by or on behalf of the affected Athlete.

**6.9 NSO Not to Cause Breach of Athlete Agreement:** The NSO acknowledges the terms and conditions set out in the Athlete Agreement and undertakes not to do anything, or omit to do anything, which might cause or induce, whether directly or indirectly, the Athlete to breach such Agreement.

## 7. NOMINATION OF ATHLETES BY NSO

**7.1 NSO to nominate Athletes:** The NSO shall be responsible for nominating Athletes to the SOCGA to be considered for selection in the Team.

**7.2 Conditions of Nomination:** The NSO may only nominate an Athlete who:

(a) has returned a completed Athlete Application to the NSO which Athlete Application has been certified by the NSO under clause 6.4 of this Agreement and submitted to the SOCGA by the Application Date (or such later date as agreed by the SOCGA pursuant to clause 6.5); and

(b) has returned a completed Athlete Agreement to the NSO prior to the Nomination Date; and

(c) has demonstrated to the satisfaction of the NSO that they are not suffering any physical or mental impairment that would prevent them from competing in the Games to the highest possible standard; and

(d) has acted in such a manner so as not to bring the himself/herself, the NSO (and the sport it governs) or the SOCGA into public disrepute; and

(e) to the NSO's knowledge, has not used or administered any substance which if it had been detected as being present in the Athlete's body tissue or fluids would have constituted doping or used any prohibited method or committed any other doping offence as defined in the NSO's, IF's or SOCGA's Anti-Doping Bylaw; (Schedule E attached). This sub-clause



(e) shall not apply to any doping offence for which the Athlete has been sanctioned where such sanction has been satisfied in full; and

(f) from 4 October 2017 provides their name and contact address details to the SOCGA for the purpose of out of competition drug testing by the Swaziland Anti-Doping Control Officers under RADO; and

(g) has met the Nomination Criteria; and

(h) in the case of a team event or discipline, the team has qualified a place under the applicable IF Qualification System and the individual members of the team have met the Nomination Criteria.

**7.3 Number of Nominated Athletes:** Subject to clause 7.8, the NSO may only nominate the number of Athletes permitted under the IF Qualification System for that NSO's participation in the Games (as advised in advance by the SOCGA to the NSO) unless otherwise agreed in writing with the SOCGA. This clause does not prevent an NSO nominating less than the number of Athletes permitted under the IF Qualification System.

**7.4 No Obligation to Fill Available Number of Nominations:** The NSO is not obliged to nominate Athletes to fill all available places if it does not consider that sufficient Athletes meet the Nomination Criteria.

**7.5 Procedure for Nomination:** The NSO shall by the Nomination Date deliver to the SOCGA particulars of each Athlete the NSO nominates for consideration by the SOCGA for selection in the Team (the "Nominated Athlete"), such particulars to be accompanied by:

(a) A completed Athlete Agreement (unless already provided to the SOCGA);

(b) Written confirmation signed by the Chief Executive or nominee of the NSO that each Nominated Athlete has met the Nomination Criteria; and

(c) In accordance with the Nomination Criteria, evidence satisfactory to the SOCGA of the results, performances and standards achieved by the Nominated Athlete to the NSO in determining the nomination of the Athlete.

**7.6 NSO to inform Athletes of nomination or non-nomination:** The NSO must by the Nomination Date advise each Athlete who has returned a completed Athlete Application to the NSO (which has been certified pursuant to clause 6.6) prior to the Application Date (or such later date as agreed by the SOCGA pursuant to clause 6.5) of their nomination or non-nomination. The NSO must also advise each non-nominated Athlete of the procedure for a Nomination Appeal in accordance with clause 11.2 of this Agreement.

**7.7 SOCGA may accept late nomination:** The SOCGA may accept a nomination after the Nomination Date where it is made as a result of a Nomination Appeal brought in accordance with the Nomination Appeal procedures set out in this Agreement.

**7.8 Reserves:** The NSO must apply the Nomination Criteria in determining any reserve Athletes who may be nominated to the SOCGA, and Athletes must also be certified

by the NSO under clause 6.4 of this Agreement. Such reserve Athletes shall be notified to the SOCGA by the Nomination Date save that this clause does not prevent an Athlete becoming a Nominated Athlete if they were not notified to the SOCGA as a reserve.

**7.9 Nomination No Guarantee of Selection:** The NSO must not represent in any way that the nomination of any Athlete to the SOCGA will guarantee or secure selection of that Athlete to the Team.

**7.10 NSO to Obtain Clearances:** The NSO is solely responsible for securing, at its cost and expense, all permission and clearances required in respect of its Nominated Athletes to participate in the Games.

## 8. SELECTION OF ATHLETES BY SOCGA

**8.1 SOCGA to Select Athletes:** The SOCGA shall be solely responsible for selecting from amongst the Nominated Athletes those Athletes who will be members of the Team (“the Selected Athletes”).

**8.2 Requirements of Selection:** The SOCGA must in considering the selection of any Nominated Athlete to the Team, be satisfied that the Nominated Athlete:

conditions of nomination in clause 7.2 of this Agreement;

(b) Has met the SOCGA’s Selection Policy and is continuing to train and achieve results consistent with such policy;

(c) If requested by SOCGA, has undertaken medical and/or fitness assessment/s with results which satisfy the SOCGA that they are not physically or mentally impaired so as to prevent them from competing in the Games to the highest possible standard;

(d) Will comply with the Team protocols attached to the Athlete Agreement; and

(e) In the SOCGA’s opinion has acted and will continue to act as a positive example to the sporting youth of Swaziland.

**8.3 NSO to provide Information:** To enable the SOCGA to satisfy itself that each Nominated Athlete has met the conditions of nomination in clause 7.2 of this Agreement, the NSO must provide to the SOCGA such information as it has in its possession and control regarding the Athlete or about which it is aware.

**8.4 SOCGA to seek Information:** The SOCGA may also seek its own information about a Nominated Athlete. However, this does not remove the NSO’s obligation to provide information under clause 8.3 of this Agreement.

**8.5 Selection if Criteria met:** If the requirements of selection set out in clause 8.2 are met to the satisfaction of the SOCGA in respect of each Nominated Athlete, it will then select from amongst those Nominated Athletes those it considers meet the SOCGA Selection

Policy.

**8.6 Selection may be subject to conditions:** Notwithstanding clause 8.2, the SOCGA may select a Nominated Athlete with conditions to be satisfied by a date prior to the commencement of the Games, as determined by the SOCGA. The SOCGA may, in its sole discretion, consult with the NSO to determine appropriate and applicable conditions, which conditions will be communicated to the Nominated Athlete by SOCGA (or the NSO on SOCGA's behalf). If such conditions are met by the specified date, the Athlete's selection to the Team will be confirmed by SOCGA.

**8.7 Selection following Nomination or Selection Appeal:** The SOCGA may decide not to select a Nominated Athlete or to terminate the Athlete Agreement of a Selected Athlete (and in so doing withdraw a Selected Athlete from the Team) and select another Nominated Athlete in their place as a result of a Nomination Appeal or Selection Appeal which is upheld and brought in accordance with this Agreement.

**8.8 Announcement of Selection:** The SOCGA shall on a date determined in consultation with the NSO ("the Selection Date") publicly announce the Selected Athlete to the media (including a Nominated Athlete who has been selected subject to conditions pursuant to clause 8.6).

**8.9 NSO to inform Athletes:** The NSO must advise each Selected Athlete of their selection and each Athlete not selected of their non-selection no later than the date determined by the SOCGA to publicly announce the Selected Athlete. The NSO shall ensure an Athlete notified is aware of his/her obligations to keep such information confidential until such time as the media announcement has been released. The NSO must also advise each Athlete not selected of the procedure for Selection Appeals pursuant to clause 12.2 of this Agreement.

**8.10 Commencement of Athlete Agreement:** The Athlete Agreement which has been duly signed by the Selected Athlete shall take effect from the Selection Date.

## 9. SUPPORT STAFF

**9.1 SOCGA to appoint Support Staff:** The appointment of Support Staff to the Team will be determined by the SOCGA in its sole discretion, following recommendation by the NSO as set out in this Agreement.

**9.2 SOCGA may provide guidelines:** The SOCGA may provide guidelines as to the number of Support Staff the SOCGA may appoint as a member of the Team and the capabilities, skills and experience it seeks in considering the appointment of those Support Staff. These shall not be binding and shall not be construed as nomination or selection criteria.

**9.3 NSO to recommend Support Staff:** The NSO shall recommend to the SOCGA for appointment as Support Staff of the Team persons it believes:

(a) are suitable and qualified to fill the required positions in respect of the section of the Team relating to the sport of the NSO;

(b) have the capabilities, skills and experience specified in any guidelines published by the SOCGA;

(c) will work effectively and harmoniously with the Chef de Mission and performance support personnel of the Team.

9.4 **SOCGA may accept late recommendation:** The SOCGA may accept a recommendation by the NSO for Support Staff after the Application Date, if the SOCGA believes, in its sole discretion, there are exceptional circumstances warranting such acceptance.

9.5 **Conditions of Appointment:** The appointment of every Support Staff person will be conditional upon him or her:

(a) returning a completed Support Staff Application. The Support Staff Application must include a recommendation by the NSO under clause 9.3 of this Agreement and be submitted to the SOCGA by the Application Date (or such later date as agreed by the SOCGA pursuant to clause 9.4); and

(b) returning a completed Support Staff Agreement in respect of the Games by the date directed by the SOCGA.

9.6 **SOCGA to advise NSO of appointed Support Staff:** The SOCGA shall inform the NSO of the Support Staff it has appointed in the section of the Team relating to the sport of the NSO.

9.7 **No right of appeal:** There is no right of appeal against a decision of the NSO to recommend or not recommend any person to SOCGA as Support Staff, nor is there any right against any decision of the SOCGA regarding the appointment or otherwise of a person as Support Staff.

## 10. APPEALS

10.1 **Nomination Appeals:** Any Athlete who has returned a completed Athlete Application by the Application Date and an Athlete Agreement by the Nomination Date may appeal against their nomination or non-nomination by the NSO in accordance with the procedures set out in this Agreement (“a Nomination Appeal”).

10.2 **Selection Appeal:** Any Athlete who has been nominated for selection to the Team by an NSO by the Nomination Date may appeal against their selection or non-selection by the SOCGA in accordance with the procedures set out in this Agreement (“a Selection Appeal”).

## 11. NOMINATION APPEALS

11.1 Grounds of Appeal: A Nomination Appeal may be made on any one or more of the following grounds:

- (a) That the applicable Nomination Criteria was not properly followed and/or implemented; or
- (b) The Athlete was not afforded a reasonable opportunity by the NSO to satisfy the applicable Nomination Criteria; or
- (c) The nomination decision was affected by apparent bias; or
- (d) There was no material on which the nomination decision could reasonably be based.

11.2 **Procedure for Nomination Appeals:** Subject to clause 11.3, the procedure for a Nomination Appeal shall be as follows:

- (a) An Athlete wishing to appeal must give written notice of appeal (“Notice of Nomination Appeal”) to the Chief Executive of the NSO within 2 days of the Nomination Date.
- (b) Within 2 days of receipt of Notice of Nomination Appeal, the NSO may in consultation with the Athlete arrange a meeting between the parties and their representatives (if any) at which meeting the parties shall endeavour to resolve the Nomination Appeal by discussion. Such a meeting, which may be held in person, by telephone or by videotelephony/voice over IP, shall be held as soon as possible and in any event no later than 10 days after the date the Notice of Nomination Appeal notice is received by the NSO.
- (c) Any meeting conducted in accordance with clause 11.2(b) shall be held on a confidential and without prejudice basis. In particular, the content of any matters discussed during such meeting may not be used by either party in respect of any hearing of the Nomination Appeal.
- (d) If the Nomination Appeal is not resolved at the meeting referred to in clause 11.2(b) or otherwise, and the Athlete wishes to proceed the Athlete must file an application for Appeal with the Sports Tribunal and serve a copy of such application for Appeal upon the Chief Executive of the NSO within:
  - (i) 5 days of the date of the meeting referred to in clause 11.2(b) (if held); or
  - (ii) 10 days of the Nomination Date, whichever is the later.
- (e) A copy of such Notice of Appeal shall at the same time as it is filed with the Sports Tribunal and served upon the NSO, be served upon the Secretary General of the SOCGA.

(f) Nomination Appeals shall be determined by the Sports Tribunal in accordance with its Rules.

(g) Any party to any decision of the Sports Tribunal under clause 11.2(f) may appeal such decision to CAS in accordance with its rules.

(h) No party to a Nomination Appeal may institute or maintain proceedings in any Court or Tribunal other than as specified in this Agreement.

**11.3 NSO Nomination Appeal Process:** For Nomination Appeals only, the SOCGA may, in its discretion, approve an appeal process which has been adopted by the NSO prior to the date of this Agreement ("NSO Nomination Appeal Process"). Where the SOCGA approves an NSO Nomination Appeal Process that process shall apply to any Nomination Appeal.

## 12. SELECTION APPEALS

**12.1 Grounds of Appeal:** A Selection Appeal may be made on any one or more of the following grounds:

- (a) That the SOCGA Selection Policy was not properly followed and/or implemented; or
- (b) That the selection decision was affected by apparent bias; or
- (c) That there was no material on which the selection decision could reasonably be based.

**12.2 Procedure for Selection Appeals:** The procedure for a Selection Appeal shall be as follows:

- (a) An Athlete wishing to appeal must give written notice of the appeal ("Notice of Selection Appeal") to the Secretary General of the SOCGA within 2 days of the Selection Date.
- (b) Within 2 days of the SOCGA receiving the Notice of Selection Appeal, the SOCGA may in consultation with the Athlete and the NSO arrange a meeting between the parties and their representatives (if any) at which meeting the parties shall endeavour to resolve the Selection Appeal by discussion. Such a meeting, which may be held in person or by telephone or by videotelephony/voice over IP, shall be held as soon as possible and in any event no later than 10 days after the date the Notice of Selection Appeal is received by the SOCGA.
- (c) Any meeting conducted in accordance with clause 12.2(b) shall be held on a

confidential and without prejudice basis. In particular, the content of any matters discussed during such meeting may not be used by other party in respect of any hearing of the Selection Appeal.

(d) If the Selection Appeal is not resolved at the meeting referred to in clause 12.2(b) or otherwise and the Athlete wishes to proceed the Athlete must file for a Notice of Appeal with the Sports Tribunal and serve a copy of such Notice of Appeal upon the Secretary General of the SOCGA within:

- (i) 5 days of the date of the meeting referred to in clause 12.2(b) (if held); or
- (ii) 10 days of the Selection Date, whichever is the later.

### 13. SOCGA JURISDICTION DURING THE GAMES

(e) A copy of such Notice of Appeal shall, at the same time as it is filed with the Sports Tribunal and served upon the Secretary General of the SOCGA, be served on the NSO.

(f) A Selection Appeal shall be determined by the Sports Tribunal in accordance with its Rules.

(g) Any party to a decision of the Sports Tribunal under clause 12.2(f) may appeal such decision to CAS in accordance with its rules.

(h) The decision of CAS shall be final and binding on the parties.

(i) No party to a Selection Appeal may institute or maintain proceedings in any Court or Tribunal other than as specified in this Agreement.

**13.1 Athlete Bound:** The NSO acknowledges and agrees that each Selected Athlete is bound by the terms of the Athlete Agreement signed by the Athlete.

**13.2 Support Staff Bound:** The NSO acknowledges and agrees that each Support Staff appointed by the SOCGA for the Team is bound by the terms of the Support Staff Agreement signed by the Support Staff.

**13.3 Jurisdiction:** The NSO acknowledges that for the term of the Athlete Agreement or Support Staff Agreement the SOCGA shall, subject to clause 13.6, have exclusive

jurisdiction in respect of any matter concerning any Selected Athlete which is governed by the Athlete Agreement or appointed Support Staff which is governed by the Support Staff Agreement (whichever is relevant), unless agreed in writing with the SOCGA.

**13.4 Athlete Misconduct:** Any allegation of misconduct by or involving a Selected Athlete where the incident giving rise to such allegation occurs during the term of the Athlete Agreement (including during the Games) shall, subject to clause 13.5, be dealt with by the SOCGA in accordance with the provisions of the Athlete Agreement. The SOCGA shall wherever practicable consult with the NSO in relation to any matter that affects the Selected Athlete and may involve the NSO in any investigations and enquiries, so that the matter can be dealt with in the most effective manner.

**13.5 Support Staff Misconduct:** Any allegation of misconduct by or involving Support Staff where the incident giving rise to such allegation occurs during the term of the Support Staff Agreement (including during the Games) shall, subject to clause 13.6, be dealt with by the SOCGA in accordance with the provisions of the Support Staff Agreement. The SOCGA shall wherever practicable consult with the NSO in relation to any matter that affects the Support Staff person and may involve the NSO in any investigations and enquiries, so that the matter can be dealt with in the most effective manner.

**13.6 Referral to NSO:** Where any matter to which clause 13.3, 13.4 and/or 13.5 arises the SOCGA may, where it considers it appropriate to do so, refer the matter to the NSO to be dealt with in accordance with the constitution of the NSO. The NSO shall in such a case consult with the SOCGA in relation to any matter that affects the Selected Athlete or the Support Staff person and may involve the SOCGA in any investigations and enquiries so that the matter can be dealt with in the most effective manner.

## 14. INDEMNITIES

**14.1 NSO Indemnity:** The NSO indemnifies and will keep indemnified the SOCGA and its directors, officers, employees, and agents from and against all claims, demands, action, proceedings, costs and expenses (including reasonable legal costs calculated on a solicitor-client basis) and liability to third parties arising out of or incidental to any breach of this Agreement by the NSO.

**14.2 SOCGA Indemnity:** The SOCGA indemnifies and will keep indemnified the NSO and its directors, officers, employees, and agents from and against all claims, demands, action, proceedings, costs and expenses (including reasonable legal costs calculated on a solicitor-client basis) and liability to third parties arising out of or incidental to any breach of this Agreement by the SOCGA.

**14.3 No Indirect or Consequential Loss:** Neither party shall have any liability to the other party in respect of any loss of revenue, loss of actual or anticipated profits, or any indirect, consequential or special loss, damage, cost or expense, suffered or incurred by one party as a direct or indirect result of a breach by the other party of any of its obligations under this Agreement.



## 15. BREACH OF AGREEMENT AND TERMINATION

15.1 **Breach Capable of Remedy:** If either party breaches any term or condition of this Agreement, and such breach is, in the opinion of the other party capable of being remedied, the other party shall give notice to the party in breach requiring it to remedy such breach and the date by which it must do so ("a Breach Notice").

15.2 **Breach not Remedied:** If either party breaches any term or condition of this Agreement:

(a) for which a Breach Notice has been issued and such breach has not been remedied to the other party's satisfaction and/or within the time period specified, or

(b) such breach is not, in the opinion of the other party capable of being remedied, the other party may terminate this Agreement by giving written notice to that effect to the party in breach of this Agreement.

## 15.3 Effect of Termination:

### 15.3.1 If this Agreement is terminated prior to the Nomination Date:

(a) The NSO shall not be entitled to nominate Athletes to the SOCGA for consideration for selection to the Team;

(b) The SOCGA may determine and publish Nomination Criteria in respect of the NSO's sport and may select Athletes in accordance with such criteria for the Team;

(c) Alternatively, the SOCGA may choose not to select any Athletes from the NSO's sport for the Team;

15.3.2 If this Agreement is terminated after the Nomination Date, the SOCGA retains the right to make any decisions in respect of any Nominated Athlete or Selected Athlete that it deems appropriate.

## 16. ENTIRE AGREEMENT

16.1 **Entire Agreement:** This Agreement, including the SOCGA Selection Policy and the Schedules, contains the entire agreement between the parties and may only be amended by agreement in writing signed by or on behalf of each of the parties to this Agreement,

unless specified otherwise in this Agreement.

## 17. NO PARTNERSHIP

17.1 **No Partnership:** This Agreement does not constitute and may not be construed as constituting an agency, joint venture or partnership between the SOCGA and the NSO.

## 18. APPLICATION OF LAW

18.1 **Governing Law:** This Agreement is governed by and is to be construed in accordance with the laws of Swaziland.

## 19. DISPUTES

19.1 **Internal Escalation:** Any dispute or difference arising between the SOCGA and the NSO concerning the interpretation or application of this Agreement will be addressed in the first instance between the Secretary General of the SOCGA and the Chief Executive of the NSO, in accordance with the constitution of the SOCGA.

19.2 **Sports Tribunal:** If any dispute or difference arises between the SOCGA and the NSO concerning the interpretation or application of this Agreement that cannot be resolved in accordance with clause 19.1, it shall be solely and exclusively determined by the Sports Tribunal. The decision of the Sports Tribunal will be final and binding on the parties and neither party may commence or maintain proceedings in any court or tribunal.

**EXECUTION:**

**SIGNED** for and on behalf of

.....  
**[SOCGA]**

by .....

**SIGNED** for and on behalf of the

.....  
**[name of NSO]**

by .....)