



TRIATHLON NEW ZEALAND

2018 GOLD COAST COMMONWEALTH GAMES NOMINATION POLICY

1. Introduction

- 1.1. **Scope:** This Nomination Policy explains how Tri NZ will nominate Athletes to the NZOC for the men's and women's individual triathlons ("Individual Triathlon") and the mixed team relay triathlon ("Mixed Team Relay") for the Games.
- 1.2. **Aim:** The primary aim of Tri NZ in nominating Athletes for the Games is to win one or more medals in Individual Triathlon and a medal in the Mixed Team Relay. The secondary aim is to achieve top 6 placings in the Individual Triathlons. These aims are reflected in Tri NZ's 2020 High Performance Strategy.
- 1.3. **Application:** This Nomination Policy is issued by the Tri NZ Board and takes effect from 25 November 2016. This Nomination Policy applies to:
 - (a) all Athletes wishing to be considered for nomination and selection to the Games Team; and
 - (b) the Selectors, in undertaking their role and responsibilities in considering nominations to the NZOC for the Games Team.
- 1.4. **Steps:** Consideration to represent New Zealand in the Individual Triathlon and Mixed Team Relay is a three-step process:
 - (a) **Step 1 – Application/Eligibility:** Application by the Athlete to Tri NZ to be considered for nomination and selection;
 - (b) **Step 2 – Nomination:** Nomination by Tri NZ to the NZOC; and
 - (c) **Step 3 – Selection:** Selection by the NZOC to the Games Team.
- 1.5. **Definitions:** Clause 13 of this Policy sets out the meaning of certain words used in this Policy.

2. Qualification of Quota Places

- 2.1. **Qualification Criteria:** New Zealand has been allocated 5 initial quota places in the Event, to be considered across the Individual Triathlon, to a maximum of 3 places per gender, and to encompass the Mixed Team Relay.
- 2.2. **Additional Places:** Should additional places become available at any stage, through the redistribution of unused quota places by NZOC and/or additional

quota places offered to the NZOC by the CGF (“Reallocation Process”), Athletes will be considered using this same Nomination Policy. The Reallocation Process will take place on or before 7 February 2018. There is no guarantee that Tri NZ will be allocated any additional places as a result of the Reallocation Process.

- 2.3. **No Obligation:** Tri NZ is not obliged to nominate the maximum number of Athletes permitted to fill the quota places available or nominate any Athletes under the Reallocation Process.

3. Step One – Application and Eligibility for Nomination

- 3.1. **Eligibility:** The Selectors may only consider an Athlete for nomination who is an Eligible Athlete as at the Nomination Date. An Athlete will only be an “Eligible Athlete” if the Athlete:

- (a) is eligible to represent New Zealand under the CGF constitution and NZOC Nomination and Selection Regulation; and
- (b) is a member of Good Standing of Tri NZ; and
- (c) has fully completed the application requirements set out in clause 3.2 of this Nomination Policy; and
- (d) has demonstrated to the satisfaction of the Selectors they are not suffering any physical or mental impairment that would prevent them from competing in the Games to the best of their ability; and
- (e) has in the view of the Selectors not acted in such a manner so as to bring the Athlete, the sport, Tri NZ, the CGF nor the NZOC into public disrepute; and
- (f) to Tri NZ’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 Tri NZ’s, ITU’s or NZOC’s Integrity Regulation.

- 3.2. **Application Procedure:** Athletes wishing to be considered by Tri NZ for nomination to the NZOC for the Games Team must:

- (a) return a completed Athlete Application to the NZOC prior to the Application Date; and
- (b) return a completed Athlete Agreement to the NZOC prior to 18 September 2017; and
- (c) provide their name and contact address details to the NZOC for the purposes of out of competition drug testing by DFSNZ prior to 18 September 2017.

- 3.3. **No Nomination:** If an Athlete does not meet all of the eligibility requirements specified in clause 3.1 by his or her Nomination Date, the Athlete cannot be considered by Tri NZ for nomination to the NZOC unless there are exceptional reasons and it is agreed by Tri NZ and the NZOC.

4. Step 2 - Nomination by Tri NZ

- 4.1. **Nomination:** Tri NZ will decide (in accordance with this Nomination Policy) if it will nominate Athletes to the NZOC to be considered for selection to the Games Team, and if it does, it will do so by the Nomination Date.
- 4.2. **Nomination Date:** The Nomination Date for all nominations shall be 13 October 2017.
- 4.3. **Selectors:** The Selectors shall consider the Athletes to be nominated in accordance with the process set out in the Selectors' Terms of Reference.
- 4.4. **Nomination Criteria and Factors:** In deciding on the Athletes to nominate, the Selectors, must:
- (a) apply the eligibility criteria in clause 3;
 - (b) apply the nomination criteria in clause 5;
 - (c) consider any Extenuating Circumstances in accordance with clause 6;
 - (d) consider any other factors in accordance with clause 7; and
 - (e) in all other respects, comply with this Nomination Policy.

5. Nomination Criteria

- 5.1. **Nomination Criteria:** In determining whether or not to nominate an Athlete to the NZOC, the Selectors must be satisfied in priority order that:

(a) **Primary Criteria – Medal Capable**

The Athlete is capable of achieving a medal in the Individual Triathlon ("Medal Capable"). The Athlete will be considered to be Medal Capable if the Athlete obtains two or more top 6 placings at Nomination Events on or before 24 September 2017.

(b) **Secondary Criteria – Top 6 Capable**

Where quota place(s) remain after applying the Primary Criteria, then as a secondary criteria, Athletes will be considered for capability to finish top 6 in the Individual Triathlon ("Top 6 Capable") at the Games. The Athlete will be considered to be Top 6 Capable if the Athlete obtains:

- i. at least one top 16 placing at a Nomination Event on or before 24 September 2017; and
- ii. a place in the top 16 at the “Trial Event” (clause 5.2(a)).

Note: If after the completion of the Nomination Events (by 24 September 2017), there are less Athletes who have met the Primary Criteria and/or the criteria in clause 5.1(b)(i) than quota places remaining, any of such Athletes who have obtained at least two top 16 placings in Nomination Events may request Tri NZ to waive the requirement to contest the Trial Event. Tri NZ may determine such waiver in its sole discretion and provided the Nomination Events, Trial Event and performances meet the Minimum Standard set out below.

(c) **Minimum Standard**

For the sake of clarity, the Nomination Events and the Trial Event must also have sufficiently strong fields to assist in a determination of whether the Athlete (or group of Athletes) has or have met Primary Criteria or Secondary Criteria, whichever is relevant

5.2. **Tied Athletes:** If after applying the Primary Criteria, there are more Athletes who meet the Primary Criteria than quota places available, or in the event there are more Athletes who meet the Secondary Criteria (after Primary Criteria Athletes have been allocated quota places) than there are remaining quota places available; then nomination at each stage will be decided:

- (a) firstly by the finishing position of Athletes at the 2017 Cozumel ITU Triathlon World Cup Race (the “Trial Event”);

then, if the tie remains (e.g. between genders):

- (b) by the Selectors having regard to one or more of the following factors (in no particular order):
 - (i) an Athlete’s capability to contribute to the medal-winning aim of the Games Team in the Mixed Team Relay (clause 1.2);
 - (ii) developing the potential of an Athlete for the 2020 Olympic Games;
 - (iii) the Athletes’ comparative performances in Nomination Events with similar circumstances to those in the Individual Triathlon in terms of factors such as, but not limited to, the course, the distance, and the climate;
 - (iv) the number of top 6 or top 16 placings achieved by each Athlete at the Nomination Events;
 - (v) an Athlete’s attendance, attitude, and conduct at past competitions, training sessions, training camps, trials and other events; and
 - (vi) any other information the Selectors consider relevant.

5.3. **Permission to Start:** In addition, at the sole discretion of the NZOC and subject to the Sport Manual and Sport Entry Rules for the Games, Athletes who qualify

for nomination in accordance with this Nomination Policy, on Tri NZ's request to the NZOC and if they are selected to the Games Team by the NZOC, request permission to start in the Mixed Team Relay where they are selected in accordance with this clause 5.3 and where competing in the Mixed Team Relay will not have any detrimental effect on the Individual Triathlon they have already been selected for. The final composition of the Games Team for the Mixed Team Relay will be determined at the discretion of the Selectors, in consultation with the NZOC, to maximise the Games Team's medal-winning aim. Consistent with the Selectors' Terms of Reference, following recommendations from the Tri NZ HP Coaching Team, the Selectors will name the final composition within a reasonable time of the completion of the Individual Triathlon (and may take individual performances in the Individual Triathlon into account), provided the Athletes named have received a permission to start from the NZOC.

6. Extenuating Circumstances

- 6.1. **Application:** The Selectors may, in their sole discretion, consider and place weight upon any Extenuating Circumstances when considering an Athlete for nomination under this Nomination Policy.
- 6.2. **Notification:** An Athlete who wishes the Selectors to take Extenuating Circumstances into account in considering that Athlete's potential nomination, must advise the Chair of Selectors of the specific Extenuating Circumstances in writing, with as much advance notice as reasonably possible, and:
- (a) if the Extenuating Circumstances prevent an Athlete from competing or performing in Nomination Events, then ideally 7 days and no later than 2 hours prior to the relevant race;
 - (b) if the Extenuating Circumstances occur during a Nomination Event, then as soon as practicable but in no event later than 24 hours after the completion of the race;
 - (b) if the Extenuating Circumstances occur at any other time, then as soon as reasonably practicable after it occurs.
- 6.3. **Where no Notification:** If the Chair of Selectors is not notified of any Extenuating Circumstances in accordance with clause 6.2, then the Selectors will not be obliged to consider such circumstances.
- 6.4. **Injury/Illness:** If the Extenuating Circumstances are injury or illness, Athletes may be required by the Selectors to provide a medical certificate and/or to undergo an examination by a health practitioner(s) nominated by the Selectors, and to provide that opinion and/or report to the Selectors. Any failure to agree to such a request may result in the Selectors being unable to consider the injury or illness as an Extenuating Circumstance.
- 6.5. **Verification:** If the Extenuating Circumstances are circumstances other than injury or illness, the Selectors may request evidence to verify the existence and details of the Extenuating Circumstances.

7. Other Factors

- 7.1. **Demonstration:** In considering any Athlete for nomination, the Selectors must, in their sole discretion, be satisfied that each Athlete has demonstrated:
- (a) the commitment to maintain an appropriate level of fitness, training and competition to compete in the Games to the best of their ability; and
 - (b) a strong team ethic, including, a commitment to attend relevant Tri NZ training camps, to promote Tri NZ in a positive manner, and to uphold Tri NZ team agreements.
- 7.2. **Opportunity to be Heard:** If the Selectors consider that an Athlete, who they are considering for nomination, has not or may not have demonstrated the requirements in clause 7.1, the Selectors shall, prior to any nomination:
- (a) inform the Athlete of the specific requirement in clause 7.1 which the Selectors consider has or may not have been demonstrated;
 - (b) give the Athlete an opportunity to respond, including an opportunity to provide evidence demonstrating they have satisfied the requirements.
- 7.3. **Actions:** If, having received and considered the Athlete's response in clause 7.2(b), the Selectors consider the specific requirement has not, in their discretion, been met or a satisfactory response given, the Selectors may:
- (a) decide not to nominate that Athlete;
 - (b) require the Athlete to take specific steps to satisfy the requirements before the Nomination Date;
 - (c) nominate the Athlete but notify the NZOC that the Athlete should not be selected without conditions relating to that requirement; or,
 - (c) nominate the Athlete.

8. Process & Consequences of Nomination

- 8.1. **Notification:** All Eligible Athletes will be informed by Tri NZ whether or not they have been nominated to the NZOC as Nominated Athletes.
- 8.2. **Requirements:** Every Nominated Athlete must:
- (a) maintain an appropriate level of fitness, training and competition as determined by Tri NZ prior to the Games;
 - (b) keep the Selectors apprised of their fitness via the Tri NZ High Performance Director (or such other person as may be nominated by the

Tri NZ Board). Ordinarily this will include race results and/or training data provided on a monthly basis;

(c) inform the Tri NZ High Performance Director (or such other person as may be nominated by the Tri NZ Board) and the Tri NZ HP Chief Medical Officer of any illness or injury that could impact on the Athlete's capability to compete at the Games to the best of their ability, on the understanding that the Tri NZ Chief Medical Officer will inform the Selectors of any fitness concern while upholding confidentiality; and

(d) comply with their obligations to Tri NZ.

8.3. **Replacement Athlete:** If prior to the Selection Date, a Nominated Athlete does not satisfy a requirement of their nomination (under clause 8.2), the Selectors may, in their sole discretion, nominate another Athlete to the NZOC in accordance with this Nomination Criteria.

9. Step 3 – Selection by NZOC

9.1. **Selection:** The NZOC will decide if the Nominated Athletes will be selected to the Games Team in accordance with the NZOC Selection Policy.

9.2. **Conditions:** NZOC may select an Athlete, subject to conditions. For example, conditions of may include those noted below or any other conditions specified by the NZOC:

(a) recovery from injury to the satisfaction of the NZOC, after consultation with Tri NZ, by a specified date; and

(b) meeting a specified performance or testing requirement.

9.3. **Satisfying Conditions:** If selection of a Selected Athlete is conditional, the specified conditions must be met to the satisfaction of the NZOC, after consultation with Tri NZ, before that Athlete's selection is made unconditional. If they are not met, then the Athlete will, immediately cease to be a Selected Athlete upon being informed by NZOC that the condition(s) has not been satisfied.

9.4. **Notification:** Tri NZ will inform all Nominated Athletes whether or not they have been selected by the NZOC to the Games Team, in the manner and timeframe as required by the NZOC.

9.5. **Announcement of the NZ Team:** The NZOC shall, on or around the Selection Date, publicly announce the Selected Athletes.

9.6. **Requirements:** In addition to any requirements in the Athlete Agreement, every Selected Athlete must train as directed by Tri NZ, and agree to compete in events and competitions as directed by Tri NZ.

9.7. **Replacement Athlete:** If prior the Selection Date, a Selected Athlete does not satisfy a condition of their selection (under clause 9.3), or is removed by NZOC

as a Selected Athlete in accordance with the Athlete Agreement, the Selectors may, in their sole discretion, nominate another Athlete to the NZOC in accordance with this Nomination Criteria.

10. Appeals

- 10.1. **Non-Nomination Appeal:** An Athlete may appeal to Tri NZ against their non-nomination in accordance with the Tri NZ Olympic and Commonwealth Games Nomination / Non-Nomination Appeals Policy.
- 10.2. **Non-Selection Appeal:** An Athlete may appeal to NZOC against their non-selection in accordance with the NZOC Agreement.

11. Status

- 11.1. **Status:** This Nomination Policy overrides all other correspondence, discussions, and representations (whether written or oral) by Tri NZ regarding nomination or selection to attend the Games.
- 11.2. **Inconsistency:** In the event, there is any inconsistency between this Nomination Policy and the NZOC Nomination and Selection Regulation, the NZOC Nomination and Selection Regulation shall prevail.
- 11.3. **Higher Standard:** If this Nomination Policy imposes a higher qualification standard or a lesser number of participants than stated by the rules of the Event, this shall not be regarded as an inconsistency.

12. Amendments to this Nomination Policy

- 12.1. **Amendment:** This Nomination Policy may be amended from time to time by the Tri NZ Board, provided the prior approval of the NZOC has been obtained.
- 12.2. **Notice:** The Tri NZ Board will give as much notice as possible of any amendment to this Nomination Policy to persons it considers may be affected by any such amendment.

13. Definitions

In this Nomination Policy, the following definitions apply:

- 13.1. **Application Date** means 4 June 2017 (or such other dates as specified by the NZOC) by which Athletes must submit a completed Athlete Application to the NZOC in accordance with clause 8.3 of the NZOC Nomination and Selection Regulation.

- 13.2. **Athlete** means a person seeking nomination and selection in the Games Team, and other than in clauses 1.3(a), 2 and 3, means an Eligible Athlete, unless stated otherwise.
- 13.3. **Athlete Agreement** means the agreement that must be completed by any Athlete wishing to be considered for nomination and selection for the Games Team.
- 13.4. **Athlete Application** means the application form which must be completed by any Athlete applying to be nominated and selected to the Games Team.
- 13.5. **CGF** means Commonwealth Games Federation.
- 13.6. **DFSNZ** means Drug Free Sport New Zealand.
- 13.7. **Eligible Athlete** has the meaning given to it in clause 3.1.
- 13.8. **Event** means the men's triathlon event, the women's triathlon event and the mixed team relay event at the Commonwealth Games, unless specified otherwise.
- 13.9. **Extenuating Circumstances** means the inability of an Athlete to compete or perform to an optimum level due to factors which occur to them (during a race, event, in testing or at any other time) including, but not limited to, the following:
- (a) Injury or illness;
 - (b) Travel delays;
 - (c) Equipment failure;
 - (d) Bereavement or personal misfortune; and/or
 - (e) Any other factors reasonably considered by the Selectors to constitute extenuating circumstances.
- 13.10. **Games** means the Commonwealth Games to be held in Gold Coast, Australia, from 4 to 15 April 2018.
- 13.11. **Games Team** means the New Zealand team of all the Athletes selected by the NZOC, and other personnel appointed by it, to attend the Games.
- 13.12. **Good Standing** means the Athlete must be a current registered member of Tri NZ and/or of a club affiliated to Tri NZ, and not be subject to any sanction or disciplinary action from Tri NZ or their club.
- 13.13. **ITU** means the International Triathlon Union being the international federation of Tri NZ.
- 13.14. **Nominated Athlete** means the Athletes which Tri NZ nominates to the NZOC, including those nominated subject to any conditions.

- 13.15. **Nomination Date(s)** means 13 October 2017 (and includes any alternative date as agreed between the NZOC and Tri NZ) by which Tri NZ must submit particulars of each Nominated Athlete to the NZOC for its consideration for selection to the Games Team.
- 13.16. **Nomination Events** means any of the ITU World Triathlon Series races between 1 January 2017 to 24 September 2017.
- 13.17. **Nomination Policy** means this nomination policy.
- 13.18. **NZOC** means the New Zealand Olympic Committee Incorporated.
- 13.19. **NZOC Integrity Regulation** means the regulation adopted by the NZOC, in particular in relation to anti-doping, a copy of which is available at www.olympic.org.nz/nzoc/publications-and-reports-0.
- 13.20. **NZOC Nomination and Selection Regulation** means the regulation of the NZOC relating to the nomination and selection process for all Olympic and Commonwealth Games which is available at www.olympic.org.nz.
- 13.21. **NZOC Selection Policy** means the selection policy of the NZOC for the Games.
- 13.22. **Primary Criteria** means the criteria in clause 5.1(a).
- 13.23. **Secondary Criteria** means the criteria in clause 5.1(b).
- 13.24. **Selection Date** means the date on which the NZOC publically announces which Nominated Athletes from Tri NZ have been selected to the Games Team.
- 13.25. **Selected Athlete** means an Athlete who is selected by the NZOC to the Games Team.
- 13.26. **Selectors** means the members of the Tri NZ Elite Selection Commission appointed by the Tri NZ Board in accordance with Selectors' Terms of Reference. The names of each of the Selectors will be published on the Tri NZ website.
- 13.27. **Selectors' Terms of Reference** means the terms of reference of the Tri NZ Elite Selection Commission dated June 2015, and as amended by the Tri NZ Board.
- 13.28. **Trial Event** means the Cozumel ITU World Cup on or around 30 September / 1 October 2017.
- 13.29. **Tri NZ** means Triathlon New Zealand Incorporated.
- 13.30. **Tri NZ Nomination Appeals Policy** means the nomination appeals policy attached as Schedule 1.
- 13.31. **Tri NZ Board** means the Board of Tri NZ.

SCHEDULE 1

OLYMPIC AND COMMONWEALTH GAMES NOMINATION / NON-NOMINATION APPEALS POLICY

This Nomination/Non-Nomination Appeals Policy (Policy) sets out the procedures that must be followed for any appeal against a decision by the Tri NZ Elite Selection Commission regarding an Athlete's nomination or non-nomination to the New Zealand Olympic Committee Incorporated (NZOC) for consideration for selection to Olympic and Commonwealth Games teams.

The NZOC has agreed, pursuant to clause 13.3 of the NZOC Nomination and Selection Regulation ("Regulation"), to a variation of the appeals process for Olympic and Commonwealth Games ("Games").

This Policy was adopted by the Tri NZ Board on 25 November 2016 and is effective from that date.

Procedure

Any Athlete who is eligible for consideration under a Games Nomination Policy (Nomination Policy) may appeal against their nomination or non-nomination in accordance with the procedures set out below:

1. A Nomination Appeal may be made on any one or more of the following grounds:
 - 1.1. That the Nomination Policy was not properly followed and/or implemented;
 - 1.2. The Athlete was not afforded a reasonable opportunity to satisfy the Nomination Policy;
 - 1.3. The nomination decision was affected by bias;
 - 1.4. There was no material on which the nomination decision could be reasonably based, or the nomination decision could not be reasonably based on the material available.

2. The procedure for a Nomination Appeal shall then be as follows:
 - 2.1. An Athlete wishing to appeal must give written notice of appeal ("Notice of Appeal") to the Chief Executive of Tri NZ or such other person nominated by the Tri NZ Board ("the Chief Executive") within 48 hours of being notified of the Elite Selection Commission's decision, stating:
 - 2.1.1. Full name and contact details;
 - 2.1.2. Tri NZ membership (TRIBE) number;
 - 2.1.3. The nomination or non-nomination they are appealing against;

- 2.1.4. The grounds of Nomination Appeal, with reference to those listed in clause 1, above;
 - 2.1.5. A brief explanation of their case on those grounds and of how they meet the Nomination Policy (further evidence to be called during the procedure below).
 - 2.1.6. The Notice of Appeal must be accompanied by a deposit of \$100 which is to be paid into a nominated Tri NZ bank account, fully refundable if the Nomination Appeal is successful.
 - 2.2. Within 48 hours of receipt of Notice of Appeal, the Chief Executive shall:
 - 2.2.1. Acknowledge receipt of the Nomination Appeal with the Athlete;
 - 2.2.2. Advise the Elite Selection Commission that a Nomination Appeal has been received;
 - 2.2.3. Make arrangements for the Tri NZ Ombudsman to process and hear the Appeal.
3. The role and powers of the Tri NZ Ombudsman are as follows:
 - 3.1. The Tri NZ Ombudsman is tasked with examining whether the Elite Selection Commission correctly applied the Nomination Policy in relation to the grounds of Nomination Appeal. Hence, they will:
 - 3.1.1. Review the nomination process in person, by telephone or by video telephony as soon as possible and, in any event, no later than 10 days after the date the Notice of Appeal is received by the Chief Executive; and
 - 3.1.2. Conduct any hearing on a confidential and without prejudice basis - in particular, the content of any matters discussed during such hearing may not be used by either party in respect of any further selection/nomination matters; and
 - 3.1.3. Hear the views and position of both the Athlete and the Elite Selection Commission prior to making a decision.
 - 3.1.4. The Athlete and the Elite Selection Commission may elect to have legal or other representation for the purposes of any hearing. The parties may call such evidence as they think fit.
 - 3.1.5. be independent of any member of the Elite Selection Commission.
 - 3.2. Following review of Nomination Appeal, the Tri NZ Ombudsman may:
 - 3.2.1. Make recommendation to the Tri NZ Board for changes it may wish to consider to the decision of the Elite Selection Commission, within the broader context of governing rules and claims of other athletes; or
 - 3.2.2. Refer the case back to the Elite Selection Commission for reconsideration on the grounds of fresh evidence which could

have materially affected the decision making of the Elite Selection Commission; or

3.2.3. Dismiss the Nomination Appeal.

3.3. Following the Tri NZ Ombudsman's review:

3.3.1. The Tri NZ Board will adopt as the outcome of the Nomination Appeal the Ombudsman's decision, as described in clause 3.2, above.

3.3.2. In the event that the Athlete wishes to have the decision of the Tri NZ Ombudsman reviewed then the Athlete must file an Application for Appeal with the Sports Tribunal of New Zealand (Sports Tribunal) and serve a copy of such Application for Nomination Appeal upon the Chief Executive within 5 days of the date of being notified of the Tri NZ Ombudsman's decision. A copy of such Application for Nomination Appeal to the Sports Tribunal shall at the same time be served upon the Secretary General of the NZOC.

3.3.3. Such Nomination Appeals shall be determined by the Sports Tribunal in accordance with its Rules.

3.3.4. Any party to any decision of the Sports Tribunal under this Policy may appeal such decision to the Court of Arbitration of Sport (CAS) in accordance with its rules.

3.3.5. The decision of CAS will be final and binding on the parties.

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