

**DISPUTE RESOLUTION RULES ADOPTED BY THE BOARD OF WBHOA NPC IN TERMS OF SCHEDULE 5 OF THE  
MEMORANDUM OF INCORPORATION**

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## **PART ONE SERVING AND FILING DOCUMENTS**

### 1. What is a Dispute Manager

- 1.1. The office of the dispute manager is established in terms of Article 4.6 of the Articles of Association of the Westford Bridge Home Owners Association (hereinafter referred to as “WBHOA” and “Articles” respectively) to attempt to resolve any disputes through a process of conciliation and arbitration.
- 1.2. The Dispute Manager is a natural person elected at the annual general meeting of members.
- 1.3. It will be the duty of the Dispute Manager to facilitate a dispute resolution process which will ensure the speedy and cost effective resolution of disputes.
- 1.4. The Dispute Manager will assist the parties to formulate and prepare their cases in the appropriate format, discover all factual evidence relevant to the dispute, and then pursue the settlement of the dispute.
- 1.5. Once the Dispute Manager certifies that his/her office has been unable to resolve the dispute, and if called upon to do so, he or she should then take such steps as are necessary to ensure that the dispute is finally adjudicated by arbitration in terms of Schedule 5 of the Articles.

### 2. How do I contact the Dispute Manager?

The contact details of the dispute manager can be obtained from any director of the board and will be published at [www.westfordbridge.co.za](http://www.westfordbridge.co.za).

### 3. How do I refer a dispute?

- 3.1. A dispute is referred when the disputant has delivered a written document (hereinafter called "The Statement of Case") or letter, signed by the referring party preferably similar to Form" DM1" annexed hereto, which concisely sets out:
  - 3.1.1. the names, description and addresses of the parties;
  - 3.1.2. a statement of the material facts, in chronological order, on which the dispute is based, which statement must be sufficiently particular to enable any person opposing the relief to reply to the document;
  - 3.1.3. a statement of the legal issues that arise from the material facts, which statement must be sufficiently particular to enable any party to reply to the document; and
  - 3.1.4. the relief sought.
- 3.2. The Dispute Manager may call on the referring party to supplement such statement of case and/or document with more particulars and/or any further supporting documents or facts in order to clarify any issue relevant to the dispute.
- 3.3. For the purposes of rule 3.2 the Dispute Manager may impose reasonable deadlines or time periods on the referring party to provide such further particulars.
- 3.4. Any referral of a dispute is only considered complete once such further particulars have been furnished.

### 4. Who must sign documents?

- 4.1. A document that a party must sign in terms of these Rules may be signed by the party or by a person entitled in terms these Rules to represent that party in the proceedings.
- 4.2. If proceedings are jointly instituted or opposed by more than one party, documents may be signed by a party who is mandated by the other parties to sign such documents. A list in writing, of the parties who have mandated the party to sign on their behalf must be attached to the referral document.

### 5. How will documents be served on other parties?

All documents delivered in terms of these rules will be served by fax or email on the opposing parties by the Dispute Manager, provided that the Dispute Manager may require of a party to deliver a document or bundle of documents by hand to any other party and may call on such party to deliver a service affidavit in the appropriate form affirming that this has been done.

### 6. How do I oppose any relief sought against me?

In the event that a Statement of Case, as provided for in Rule 3.1, has been delivered to any party, such party may file a written document (hereinafter called an "Opposing Statement of Case") preferably similar to Form" DM2" annexed hereto, within 10 days of the date on which such statement of case was delivered, which must respectively contain, with the changes required by the context, the same information required by sub-rules 3.1.2 and 3.1.3.

**PART TWO**  
**CONCILIATION OF DISPUTES****7. How does the Dispute Manager conciliate disputes?**

- 7.1. The Dispute Manager, will ensure that the parties' respective documents contain all the necessary and relevant particularity to ensure the efficient and speedy resolution of the dispute and that the matter is ripe for final arbitration.
- 7.2. The Dispute Manager may then contact the parties by telephone or other means, in order to seek to resolve the dispute.
- 7.3. If the dispute cannot be resolved, the Dispute Manager will select an Arbitrator from the approved list of arbitrators and refer the documents to such Arbitrator for final adjudication.

**8. What happens if a party fails to participate in the Dispute Resolution Process?**

- 8.1. If a party to the dispute fails to participate in the conciliation, arbitration or any process incidental to the Dispute Resolution Process, (hereinafter referred to as the defaulting party) by:
  - 8.1.1. Failing to file any document as required by these Rules or as requested by the Dispute Manager;
  - 8.1.2. Failing to meet any time period provided for by the Rules or imposed in terms of the Rules;
  - 8.1.3. Avoiding and/or ignoring or avoiding any communications or telephone calls from the Dispute Manager or Arbitrator, and/or refuses to attend any meetings or hearings;
  - 8.1.4. Or committing any act or refusing or avoiding to commit any act that may frustrate the speedy and cost effective completion of the dispute resolution process;
  - 8.1.5. then and in such circumstances:
    - 8.1.5.1. if the defaulting party referred the dispute, the Dispute Manager or Arbitrator may dismiss the matter by issuing a written ruling; or
    - 8.1.5.2. if relief is sought against the defaulting party, the Arbitrator may continue with the proceedings in the absence of that party;
- 8.2. Before an Arbitrator may grant relief in terms of this Rule 8.1.5.2 in the absence of any party, the Arbitrator must be satisfied that the party had been properly notified of the dispute, was advised of these Rules and was warned that his failure to participate in the Dispute Resolution Process or his frustration or disturbance of the process, may result in relief being granted against him in his absence.

**PART FOUR  
ARBITRATIONS****9. When will arbitration commence?**

Once the parties to a dispute have been notified by the Dispute Manager that the dispute could not be resolved, or if the period of 30 days from the date on which the dispute was referred has lapsed, then a dispute can be referred for final adjudication by arbitration.

**10. How is a dispute referred for arbitration?**

10.1. A party can refer a dispute for final adjudication by arbitration within 30 days of the date on which notice was given by the Dispute Manager that the dispute could not be resolved.

10.2. A dispute is referred for final arbitration by delivering to the Dispute Manager an affidavit in a form similar to Form “DM3”.

**11. How do I oppose relief sought at arbitration?**

11.1. Any opposing party may oppose the relief sought by delivering to the Dispute Manager an opposing affidavit similar to Form “DM4” within 10 days of receipt of the referral.

11.2. The form of such opposing papers must be preferably in a form similar to annexure “DM3”

11.3. The referring party may deliver a replying affidavit to the Dispute Manager within 5 days from the day on which any notice of opposition and/or answering affidavit is delivered.

11.4. The replying affidavit must address only those issues raised in the answering affidavit and may not introduce new issues of fact or of law.

**12. How is an Arbitrator selected?**

An Arbitrator is selected by the Dispute Manager from a list of Arbitrators adopted by the members at a General Meeting in terms of article 4.6.3.

**13. What form does arbitration proceedings take?**

13.1. Arbitrators will make their findings on evidence set out in the parties’ affidavits.

13.2. However, an arbitrator may allow oral evidence and cross-examination in order to adjudicate relevant and material factual disputes.

13.3. An Arbitrator is required to determine any dispute fairly, quickly and cost effectively, but must deal with the substantial merits of the dispute with the minimum of legal formalities.

**PART FIVE**  
**RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS**

14. Where will conciliation or arbitration take place?

- 14.1. Conciliation and arbitration proceedings need not take the form of a formal hearing and may be conducted informally, by telephone, conference call or by utilising any available technology to ensure a speedy and cost effective resolution of the dispute.
- 14.2. Proceedings should not necessarily be conducted at any particular place unless the Dispute Manager or the Arbitrator *mero motu* or on application of any party is of the view that fairness requires such personal contact.
- 14.3. Proceedings may be limited to written exchanges and submissions, however nothing in this rule should detract from the necessity on occasion to hear oral evidence or to allow cross-examination in a formal way.

15. Representation

A party to the dispute may appear in person or be represented only by-

- 15.1. a director or employee of that party and if a close corporation also a member thereof; a partner, office bearer, trustee or official if that party is any other type of corporation.
- 15.2. a legal practitioner;
- 15.3. or a person who in the opinion of the Arbitrator is sufficiently able and/or competent to represent such party.

16. How to join or substitute parties to proceedings?

- 16.1. The Dispute Manager or an Arbitrator may join any number of persons as parties in proceedings if their right to relief depends on substantially the same question of law or fact.
- 16.2. A Dispute Manager or Arbitrator may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.
- 16.3. A Dispute Manager or Arbitrator may make an order in terms of sub-rule 16.2-
- 16.3.1. of its own accord;
- 16.3.2. on application by a party; or
- 16.3.3. if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.
- 16.4. An application in terms of this rule must be made in terms of Rule 20.

- 16.5. When making an order in terms of sub-rule 16.2, a Dispute Manager or Arbitrator may-
- 16.5.1. give appropriate directions as to the further procedure in the proceedings; and
  - 16.5.2. make an order of costs in accordance with these Rules.
- 16.6. If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Dispute manager or Arbitrator for an order substituting that party for an existing party, and the Dispute manager or Arbitrator may make such order or give appropriate directions as to the further procedure in the proceedings.
- 16.7. An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.
- 16.8. Subject to any order made in terms of sub-rules (5) and (6), a joinder or substitution in terms of this rule does not affect any steps already taken in the proceedings.

### 17. How to correct the citation of a party?

If a party to any proceedings has been incorrectly or defectively cited, the Dispute manager or Arbitrator may, on application and on notice to the parties concerned, correct the error or defect.

### 18. When the Dispute Manager or Arbitrator may consolidate disputes

The Dispute Manager or Arbitrator, of its own accord or on application, may consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.

### 19. Disclosure of documents

- 19.1. Either party may request a Dispute Manager or Arbitrator to make an order as to the disclosure of relevant documents.
- 19.2. The parties may agree on the disclosure of documents.

**PART SIX  
GENERAL****20. How to bring an application**

- 20.1. This rule applies to any-
- 20.1.1. application for condonation, joinder, substitution, variation or rescission;
  - 20.1.2. application in a jurisdictional dispute;
  - 20.1.3. other preliminary or interlocutory application.
- 20.2. An application must be brought on notice to all persons who have an interest in the application.
- 20.3. The party bringing the application must sign the notice of application in accordance with rule 4 and must state-
- 20.3.1. the title of the matter; the relief sought;
  - 20.3.2. the address at which the party delivering the document will accept delivery of all documents and proceedings;
  - 20.3.3. that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen days after the application has been delivered to it;
  - 20.3.4. that the application may be heard in the absence of a party that does not comply with subparagraph (20.3.3) ;
  - 20.3.5. that a schedule is included listing the documents that are material and relevant to the application.
- 20.4. The application must be supported by an affidavit. The affidavit must clearly and concisely set out-
- 20.4.1. the names, description and addresses of the parties;
  - 20.4.2. a statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;
  - 20.4.3. a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
  - 20.4.4. if the application is filed outside the relevant time period, grounds for condonation; and

20.4.5. if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in the ordinary course.

- 20.5. Any party opposing the application may deliver a notice of opposition and an answering affidavit within fourteen days from the day on which the application was served on that party.
- 20.6. A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by sub-rules (20.4.2) and (20.4.3) respectively.
- 20.7. The party initiating the proceedings may deliver a replying affidavit within seven days from the day on which any notice of opposition and answering affidavit are served on it.
- 20.8. The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.
- 20.9. An arbitrator or Dispute Manager may permit the affidavits referred to in this rule to be substituted by a written statement.
- 20.10. In an urgent application, the Arbitrator or Dispute Manager -
- 20.10.1. may dispense with the requirements of this rule; and
  - 20.10.2. may only grant an order against a party that has had reasonable notice of the application.
  - 20.10.3. Despite this rule, the arbitrator or dispute manager may determine an application in any manner it deems fit.

## 21. How to apply to vary or rescind arbitration awards or rulings

- 21.1. An application for the variation or rescission of an arbitration award or ruling must be made within fourteen days of the date on which the applicant became aware of-
- 21.1.1. the arbitration award or ruling; or
  - 21.1.2. a mistake common to the parties to the proceedings.
- 21.2. A ruling made by an arbitrator or dispute manager which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.

## 22. Condonation for failure to comply with the rules, and award or ruling

The arbitrator or dispute manager may condone any failure to comply with the time frames in these Rules, on good cause shown.

## 23. Recordings of proceedings

The Dispute Manager or Arbitrator will not have any obligation to keep a record of proceedings. Parties

are encouraged to keep their own record of proceedings.

24. How do I calculate time periods?

For the purpose of calculating any period of time in terms of these Rules-

24.1. day means a calendar day; and

24.2. the first day is excluded and the last day is included, subject to sub-rule (24.3).

24.3. The last day of any period must be excluded if it falls on a Saturday, Sunday, public holiday or on a day during the period between 16 December to 7 January.

25. Arbitration Act

All arbitration proceedings are subject to the provisions of the Arbitration Act.

26. What words mean in these Rules

Any expression in these Rules means-

'**association**' means any unincorporated body of persons;

'**Arbitrator**' means a person selected from a list of Arbitrators adopted at an Annual Meeting of members in terms of article 4.6.3 of the Articles;

'**deliver**' means serve on other parties and file with the Dispute Manager as described in Rule 5;

'**Dispute Manager**' means a natural person appointed in terms of article 4.6 of the Articles;

'**Documents**' means any written document or process provided for in terms of these Rules;

'**Legal practitioner**' means a person duly admitted to practise as an attorney or advocate;

'**party**' means any party to the dispute resolution procedures provided for in these Rules;

'**serve**' means to serve in accordance with rule 5 and '**service**' and '**file**' have corresponding meanings;

ANNEXURES

Annexure DM1

DISPUTE RESOLUTION – WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC)

In the matter between:

JOHN DOE

Claimant

and

WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC)

Respondent

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STATEMENT OF CASE

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1. The parties:

1.1. The Claimant is JOHN DOE, the owner of plot 1, Westford Bridge, Knysna, who will accept notices and service of all documents and process in these proceedings at the following addresses:

email: [johndoe@gmail.com](mailto: johndoe@gmail.com)

Tel: \_\_\_\_\_

Cell: \_\_\_\_\_

Postal: \_\_\_\_\_



DISPUTES RESOLUTION



4. The claimant will rely on the supporting documents annexed hereto.

*(Please attach copies of all or any documents you intend to rely on pursuant to this dispute.)*

5. The relief sought

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Dated on this day \_\_\_\_ of \_\_\_\_\_ 20\_\_

Presented for service and filing by:

Name: \_\_\_\_\_

Plot Number: \_\_\_\_\_

Annexure DM2

DISPUTE RESOLUTION – WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC)

In the matter between:

JOHN DOE

Claimant

and

WESTFORD BRIDGE HOME OWNERS ASSOCIATION

Respondent

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OPPOSING STATEMENT OF CASE

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2. The Respondent

The Respondent is WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC), a section 21 Company duly incorporated in terms of the company laws of the republic of South Africa who will accept notices and service of all documents and process in these proceedings at the following addresses at:

email: allan@rtlonline.net  
Cell: 082 560 3619  
Postal: P.O.Box 2474, Knysna, 6750



DISPUTES RESOLUTION



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Dated on this day \_\_\_\_ of \_\_\_\_\_ 20\_\_

Presented for service and filing by:

Name: \_\_\_\_\_

Annexure DM3

DISPUTE RESOLUTION – WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC)

In the matter between:

JOHN DOE

Claimant

and

WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC)

Respondent

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REFERRAL OF THE DISPUTE TO ARBITRATION -  
FOUNDING AFFIDAVIT

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I, the undersigned

JOHN DOE

do hereby make oath and state that:

1. I am JOHN DOE the claimant in this matter, a major male and beneficial owner of plot 1 Westford Bridge residing at 1 Westford bridge, Knysna.



I **CERTIFY** that this affidavit was signed and sworn to before me at \_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_ **20\_\_** by the deponent who acknowledged that she knew and understood the contents of this affidavit, had no objection to taking this oath, considered this oath to be binding on her conscience and who uttered the following words: "I swear that the contents of this affidavit are true, so help me God".

\_\_\_\_\_

**COMMISSIONER OF OATHS**

**Date:**

**Address:**

**Capacity:**

Annexure DM4

DISPUTE RESOLUTION – WESTFORD BRIDGE HOME OWNERS ASSOCIATION (WBHOA NPC)

In the matter between:

JOHN DOE Claimant

and

WESTFORD BRIDGE HOME OWNERS ASSOCIATION Respondent

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RESPONDENT’S OPPOSING AFFIDAVIT

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I, the undersigned

XXXXXXX

do hereby make oath and state that:

1. I am, XXXXX, the chairperson of the respondent, a major male residing at 2 Westford bridge, Knysna.

