

ARBITRATION AS AN ALTERNATIVE DISPUTE RESOLUTION MECHANISM

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Arbitration is the process through which the parties to a dispute agree to submit to resolution of the said dispute by a selected person / persons, known as the arbitral tribunal, in the alternative to litigation before the courts.

Advantages of arbitration:

Arbitration is:

- generally quicker and allows the parties to agree to shorter timelines in respect of exchanging pleadings, hearing of evidence and delivery of the award;
- flexible as it allows the parties to choose the arbitral tribunal and the procedure for the conduct of hearing;
- conducted privately, this eliminates the fear of reputational damage and trade secrets, which are usually distorted by the media when reporting about ongoing litigation before the courts; and

- generally cheaper, as legal representation is not obligatory and the parties have the opportunity to agree to a shorter and less expensive procedure governing the proceedings; and
- the arbitrator is chosen because of his expertise and the parties may agree to permit the arbitrator to use his technical expertise to resolve disputes. This ensures substantive resolution of disputes without being mired in legal technicalities;

The rationale and advantages of arbitration as an agreed dispute resolution mechanism are stated in the case of **Your Friend (Pty) Ltd & Another v Time Projects (Botswana) (Pty) Ltd [2018] 3 BLR 127 (CA) per Lesetedi JA**.

In our jurisdiction, arbitration is predominantly applicable in commercial and construction agreements and has constantly proven to be a satisfactory and cost effective alternative dispute resolution mechanism. Our firm has provided legal assistance to clients in arbitrations both locally and internationally. For further advice on arbitrations please contact [Malefo](mailto:Malefo@bookbinderlaw.co.bw) at kelebileone@bookbinderlaw.co.bw or info@bookbinderlaw.co.bw