

MEDIATION SCHEME

WIN-WIN PLAN

調解方案 雙贏計畫

Introduction 介紹

1 This Mediation Scheme Win-Win Plan (“Win-Win Plan”) is offered by Hong Kong Mediation Services Limited (“HKMSL”) with the aim to resolve those non-insurance claims or disputes between the disputed parties before commencing any court proceedings.

這個調解方案的雙贏計畫(“雙贏計畫”)是由香港調解服務有限公司(“HKMSL”)提供，旨在鼓勵各方當事人在展開任何法庭訴訟程序前解決各方當事人之間的非涉及保險申索或爭議。

Goals 目標

2 Regardless of whether you are preparing to sue or will be sued in respect of the claims or disputes, it is advisable to inform the other party your attempt to mediate with a view to settling the claims or disputes before commencing action in the Court. Being able to deal with these claims or disputes amicably and in an objective manner, and to come up with a solution acceptable to all parties involved without resorting to court proceedings is time and costs efficient. This Win-Win Plan provides mediation services that will enable the disputed parties to experience an easily accessible and effective mediation process and all the innate benefits mediation can bring. It is hoped that our society will develop a culture of using mediation as the first line solution finding mechanism before resorting to litigation in courts.

無論您是否準備就索賠或爭議提起訴訟或將被起訴，建議您在訴訟提起之前通知對方您希望嘗試以調解方式去解決該索賠或爭議。能夠以友好和客觀的方式處理這些索賠或爭議，並在不訴諸法庭程式的情況下提出所有各方當事人都可以接受的解決方案，既省時又省錢。這個“雙贏計畫”提供的調解服務將使各方當事人在調解過程中體驗到其帶來的好處。期望我們的社會能建立起一種調解文化，即是在訴諸法庭訴訟之前，將調解作為尋找解決方案的第一步。

Win-Win Plan 雙贏計畫

3 Our Mediation Scheme is made accessible to standard claims / disputes only. Standard claims / disputes covered by our Mediation Scheme for each case is as follows

Total amount of Standard claims / disputes raised by party / parties	Mediator’s fee	HKMSL’s administrative and room rental charges
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Non-monetary claim / dispute	HK\$2,000	HK\$2,000
Less than HK\$500,000	HK\$3,000	HK\$3,000
Between HK\$500,000 and HK\$1,000,000	HK\$4,000	HK\$4,000
More than HK\$1,000,000	HK\$5,000	HK\$5,000
The HKMSL's administrative charges for any additional service will be quoted upon the parties' request		
Service will be charged fully for any unused time reserved, and less than an hour will be counted as an hour		
Each party is required to contribute and pay a sum of HK\$5,000 to the HKMSL as deposit upon lodging Application For Service Under Mediation Scheme Win-Win Plan, unless otherwise agreed. Subject to development of circumstances, the maximum amount of Contribution for each case is HK\$10,000 (" Contribution "), which shall be paid to the HKMSL upon signing an Agreement To Mediate.		

我們的調解方案適用於每個案件所涵蓋的標準索賠/爭議如下

每一位或各方當事人索賠/爭議總金額	調解員費用	HKMSL 的行政和會議室租用費
非金錢索賠/爭議	港幣 2,000 元	港幣 2,000 元
少於 港幣 500,000 元	港幣 3,000 元	港幣 3,000 元
港幣 500,000 元及港幣 1,000,000 元 之間	港幣 4,000 元	港幣 4,000 元
多於港幣 1,000,000 元	港幣 5,000 元	港幣 5,000 元
HKMSL 的任何額外調解服務的行政費用將根據當事人的要求而報價。		
任何服務已預約的時間未完全使用， 剩餘的時間， 仍需要全數支付		
除非另有約定， 否則各方當事人應在提交調解方案的服務申請-雙贏計畫時， 向 HKMSL 交付 5,000 港元作為分攤費用的按金。視情況發展而定， 每宗個案的最高分攤費用金額為港幣 10,000 元 ("分攤")， 須於簽署調解協議時支付予 HKMSL。		

4. The Contribution will cover fee for the mediation meeting with no more than 4 hours and preparation time by the Mediator. In the event of unexpected situations calling for additional mediation hours beyond the 4 hours offered, an additional fee to the mediator, room rental charges and other incidental cost will have to be paid and shared by the mediation participating parties equally on joint and several basis, unless otherwise agreed:

a The additional fee payable to the mediator will be charged at HK\$1,500 per hour calculated from the expiry of the pre-arranged 4 hours mediation meeting.

b The additional room rental will be charged by HKMSL at HK\$300 per hour per room for joint conference and a small room for caucus (if the mediation process is held at the HKMSL's office).

c Other incidental costs as quoted by the facility provider.

“分攤”將會包括不超過 4 小時的調解會議和調解員的準備時間所花的費用。如果出現意外情況，需要在提供這 4 小時的調解會議之外再增加調解時間，除非另有約定，調解員的額外費用、房間租金和其他雜費必須由參與調解的當事人按連帶和共同責任的方式平均支付：

a 調解員的額外費用將由預先安排的 4 小時調解會議完結後，按每小時港幣 1,500 元計算。

b HKMSL 將收取額外房間租金，以每小時 300 港元提供一個房間作為聯合會議之用和一個小型房間為單獨會面之用（如果該調解程式在 HKMSL 辦公室進行）。

c 其他附帶費用，金額由設備提供者報價。

5 The additional mediator’s fee and room rental charges are chargeable upon all the mediation participating parties entering into a written agreement to continue beyond the pre-arranged 4-hour mediation meeting (“Extension Agreement To Mediate”); and the mediation will only proceed beyond the pre-arranged 4-hour mediation meeting upon payment of a deposit, the amount of which shall be agreed by the mediation participating parties and the Mediator (“**Deposit**”). The Mediator will advise the mediation participating parties as soon as she / he sees the likelihood of the mediation process not concluding within the pre-arranged 4-hour mediation meeting. Without the Extension of Agreement To Mediate being signed and payment of the Deposit before starting a new round mediation process, the mediation will be terminated.

在預先安排的 4 小時調解會議完結後的調解員和租房的額外費用支出，需要由所有參與調解的當事人共同簽訂另一書面協議以繼續進行調解（“延長調解同意書”）後，需要繳付額外的由當事人與調解員商定的金額，作為“按金”。當各位當事人繳交了按金，而該預先安排的 4 小時調解會議亦完結，延續該調解程式才開始計算。調解員一旦發現調解程式可能無法在早前預先安排的 4 小時調解會議內結束，便應立即通知參與調解的當事人。在開始新一輪調解程式之前未簽署延長書面協定及支付按金，調解將終止。

Initiating mediation under the Win-Win Plan 在雙贏計畫下啟動的調解

6 Mediation under the Win-Win Plan will be conducted in accordance with the Mediation Scheme Win-Win Rules (“Win-Win Rules”). Under the Win-Win Plan Rules, the Requesting Party may send an Application For Service Under Mediation Scheme Win-Win Plan to the HKMSL indicating their intention to resolve a dispute by mediation. The Requesting Party refers to:

- (i) A Claimant who has a claim or dispute against the Respondent.
- (ii) A Respondent who will be sued by a Claimant for a claim or dispute.

在雙贏計畫下進行的調解將按照調解方案的雙贏規則進行（“雙贏規則”）。根據雙贏規則，請求方可向 HKMSL 發送調解方案的服務申請-雙贏計畫，表明其打算通過調解來解決爭議。請求方是指：

- (i) 對被申請人提出索賠或爭議的申請人。
- (ii) 將會因索賠或爭議而被原告起訴的應訴方。

7 Upon receiving the Requesting Party's Application For Service Under Mediation Scheme Win-Win Plan together with a prescribed fee of HK\$5,000 as deposit, the HKMSL shall send a notice to the other party of the claim or dispute (“**Responding Party**”) giving notice of the Requesting Party's request for mediation with a view to settling the claim or dispute between them, and invite the Responding Party to join in a mediation.

當在收到請求方的調解方案的服務申請-雙贏計畫以及訂明費用港幣 5,000 元作為按金後，HKMSL 將會向索賠或爭議的另一方（“應訴方”）通知關於請求方為解決雙方之間的索賠或爭議而提出的調解請求，並邀請應訴方參與調解。

8 Failure of the Responding Party to reply of the HKMSL's notice shall be treated as a refusal to mediate. The HKMSL will report to the Requesting Party in this regard and will charge the Requesting Party a sum of HK\$600 being the HKMSL's administrative charges, and refund the balance to the Requesting Party.

倘若應訴方沒有回復 HKMSL 的調解通知，會被視為拒絕調解。HKMSL 將會就此事向請求方報告，並向請求方收取 HKMSL 的行政費用 600 港元，及將餘額退還給請求方。

9 If the Responding Party is agreeable to mediation, it shall send an Application For Service Under Mediation Scheme Win-Win Plan together with a prescribed fee of HK\$5,000 as deposit to the HKMSL, indicating its consent to mediation.

如果應訴方同意調解，則請填寫並將調解方案的服務申請-雙贏計畫連同訂明費用港幣 5,000 元作為按金送交 HKMSL，表示同意調解。

10 In the event that an Agreement To Mediate between parties is not signed, as all parties' Application For Service Under Mediation Scheme Win-Win Plan has been received, the HKMSL will charge each party a sum of HK\$600 being the HKMSL's administrative charges, and refund the balance to the parties.

如果雙方當事人未能簽署調解協定，由於已收到各方當事人的調解方案的服務申請-雙贏計畫，HKMSL 仍會向每一方的當事人收取港幣 600 元作為 HKMSL 的行政費用，及將餘額退還給當事人。

Appointment of Mediator 委任調解員

11 Parties who agree to mediation can jointly request the HKMSL to appoint a Mediator
同意調解的各方當事人可以共同要求 HKMSL 委任一位調解員。

12 If the parties do not agree with the HKMSL's appoint mediator, they should inform the HKMSL in writing with reason within 7 days from the date of HKMSL's notice. If agreeable to the parties, HKMSL will appoint a HKMSL's mentee mediator to be an observer in the mediation process ("the Appointed Observer"). Neither the Mediator nor the Appointed Observer should have any financial or personal interest in the result of mediation.

如當事人不同意該 HKMSL 委任的調解員，應於 HKMSL 的通知之日起七日內以書面形式通知 HKMSL，並說明理由。如果各方當事人同意，HKMSL 將任命一位 HKMSL 的實習調解員作為觀察員（“指定觀察員”）出席調解會議。調解員和指定的觀察員均不可對調解結果有任何經濟或個人利益。

The Role of the Mediator, Appointed Observer and HKMSL

調解員、指定觀察員和 HKMSL 的職責

13 The Mediator must remain impartial, neutral, and assist all parties as much as possible in reaching a settlement. The Appointed Observer will not perform any part of the role of the Mediator. The Mediator may meet parties separately or jointly. The Mediator must not provide any legal or other professional advice to any party and must not impose any decision unto any party or make decisions for them.

調解員必須保持公正、中立，並協助各方當事人達成和解。指定觀察員不會擔任調解員職責的任何部分。調解員可以分別會見或聯合見當事人。調解員不得向任何一方提供任何法律或其他專業意見，不得將任何決定強加給任何一方或代其作出決定。

14 The HKMSL shall assist the Mediator and the parties to arrange for mediation appointments, venue for mediation meeting, exchange and forward of documents, as well as collection, safe custody and refund of Contribution and / or Deposit (if any).

HKMSL 將協助調解員和當事人安排舉行調解的日期、會議地點、交換和轉發文件，以及收取、保管和退還分攤金額和/或按金（如有）。

Mediation procedure 調解程序

15 The Mediator will assist all parties as much as possible in reaching a settlement within the pre-arranged 4 hours of mediation process. The Mediator may conduct the mediation in such manner as she / he considers appropriate, taking into account the circumstances of the case, the wishes and needs of the parties. The mediation process will come to an end upon the signing of a settlement agreement by the parties; or upon written advice of the Mediator, after consultation with the parties, that in her / his opinion further attempts at mediation are no longer

justified; or upon written notification by any party at any time to the Mediator that mediation should be terminated.

調解員將盡可能協助各方當事人在預先安排的 4 小時調解程式內達成和解。調解員可考慮情況、當事人的意願和需要，以她/他認為適當的方式進行調解。調解程式將在雙方簽署和解協議後結束；或根據調解員的書面建議，在與各方當事人協商後，她/他認為進一步嘗試調解不再合理；或任何一方在任何時候以書面通知調解員應終止調解。

Nature of mediation 調解的性質

14 Mediation is a private and confidential process. Any document, communication or information disclosed, made or produced by any party for the purpose of or related to the mediation process shall be disclosed on a privileged and without prejudice basis and its confidentiality shall not be waived by such disclosure. Such confidentiality also extends to the settlement agreement.

調解的過程是私人和保密的。任何一方為調解的目的或與調解過程相關而披露、製作或呈交的任何檔、通訊或資料均應在不損害權益的基礎上進行披露，而且此類披露不會被視作放棄其保密性。這種保密性也延伸到和解協議的簽訂。

Costs of mediation 調解的費用

15 After an Agreement To Mediate is signed, both disputed parties shall be responsible to pay the Mediator's fee and the HKMSL's administrative charges jointly and severally. Subject to Paragraph 3 aforesaid, for each Win-Win Plan case, the HKMSL and the Mediator will receive honorarium from the Contribution for the mediation meeting with no more than 4 hours, preparation time and room services. Should the parties agree in writing to extend the mediation beyond the pre-arranged 4 hours, the Mediator shall receive a fee of HK\$1,500 per hour, plus room rental charge and other incidental cost for such additional time, to be shared by parties.

當調解協議簽訂後，爭議各方當事人將一起承擔連帶的責任支付調解員費用和 HKMSL 行政費用。根據上述第 3 段，每個雙贏方案的個案，HKMSL 和調解員將會為提供不超過 4 小時調解會議和準備工作後，收取酬金。當超過 4 小時調解會議，各方當事人亦以書面同意延長調解時間，調解員其後將會收取每小時 HK\$1,500 的費用，另加房租費和其他費用。這些額外費用將會由各方當事人平均分攤支付。

16 The parties are free to attend with their own legal representative at their own expense.

各方當事人可自由攜同其合法代表出席調解會，費用自理。

17 Applications received for mediation service under the Win-Win Plan will be reviewed for compliance with the scope and suitability of the Win-Win Plan. The HKMSL shall have the absolute discretion to accept or refuse any such applications.

全部依據雙贏計畫下的調解服務申請將會被覆核，以確定是否符合雙贏計畫的範圍和

適用性。 HKMSL 擁有絕對酌情權接受或拒絕任何該等申請。

If you have any enquiries, please contact
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Procedure Flowchart 流程

Requesting Party 請求方 (Req)	HKMSL	Responding Party 應訴方 (Res)	Note 注意
Sent Application to HKMSL 送交申請書給 HKMSL			
	Sent mediation notice to Res 發出調解通知給應訴方		
		Within 14 days sent positive reply to HKMSL 14 日內送 交正面回覆給 HKMSL	If no positive reply, attempt mediation failed 若果沒有正面回覆，調 解安排終止
	Arranged mediation including appointments of Mediator and Observer, collecting the parties' documents, fixing date of mediation meeting 安排調 解包裝任命調解員及觀察 員，接收當事人的文件，訂 定調解會議日期		If objection with reason received, HKMSL will select and appoint new Mediator and/or Observer 若果 HKMSL 收到異議和理由，將重 新選擇及任命新的調解 員及/或觀察員
Attended mediation meeting		Attended mediation meeting`	

出席調解會		出席調解會	
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