

# The Government of the Hong Kong Special Administrative Region Mediation Rules

*(2025 Edition)*

## **Introduction**

The Department of Justice (“DoJ”) issued the Policy Statement on the Incorporation of Mediation Clauses in Government Contracts on 6 November 2024, as part of the policy initiative under the Chief Executive’s 2023 Policy Address on deepening mediation culture. The mediation clause in government contracts may refer to these Rules which are designed to facilitate the mediation process and intended to operate together with the mediation clause. These Rules may also be adopted in other non-contractual disputes involving the Government where appropriate.

Parties to a dispute not involving the Government may adopt these Rules, with suitable modification if considered appropriate, as they see fit. Independent legal advice should be sought on the mediation rules to be adopted and any potential legal implications.

These Rules shall not affect the operation of “*The Government of the Hong Kong Special Administrative Region Construction Mediation Rules (1999 Edition)*” promulgated by the then Works Bureau via the Technical Circular No. 4/99 (dated 1 February 1999), as amended by the then Environment, Transport and Works Bureau via the Technical Circular (Works) No. 4/99A (dated 21 October 2003).

These Rules may be referred to as the “*HKSARG Mediation Rules (2025)*”.

### **1. Meaning of Mediation**

Mediation under these Rules has the same meaning as in section 4 of the Mediation Ordinance (Cap. 620 of the Laws of Hong Kong).

### **2. Application of Rules**

These Rules apply to the mediation of present or future disputes where the parties seek amicable settlement of such disputes and where, either by stipulation in their contract or by agreement, they have agreed that these Rules should apply. Subject to the aforesaid Mediation Ordinance and such laws as may be applicable, the parties may agree to vary these Rules at any time. Any such variation should be fully recorded in writing and signed by the parties to the mediation.

### **3. Initiation of Mediation Process**

- (i) If a dispute or difference arises, a party may request the initiation of mediation by delivering a written request for mediation to the other party or parties. Such request

for mediation should contain a brief self-explanatory statement of the nature of the dispute, the quantum in dispute (if any), the relief or remedy sought, the proposed minimum level of participation and the nominated mediator(s) thought suitable.

- (ii) The names, correspondence addresses, phone numbers and email addresses of all parties to the dispute and those who will represent them, should be exchanged between the parties.

#### **4. Response to Request for Mediation**

A party who receives a request for mediation should notify all other party or parties by delivering a written response within 14 days after receipt of the request, whether the proposed minimum level of participation and the mediator(s) nominated are agreeable. Failure by any party to reply or specify whether the proposed minimum level of participation or the mediator(s) nominated are agreeable within 14 days should be treated as a refusal to mediate by that party.

#### **5. Appointment of Mediator**

- (i) There should be one mediator, unless the parties otherwise agreed. Where there is more than one mediator, the mediators shall act jointly.
- (ii) The appointment of mediator(s) will be effective for three months from the date of appointment, unless extended or otherwise agreed in writing by all parties to the mediation, including the mediator(s).
- (iii) Where the parties agree on a mediator who is not disqualified under Rule 6 and the proposed mediator is willing to serve, the mediation will proceed in accordance with these Rules.
- (iv) If the parties fail to agree on a mediator who is prepared to serve and not disqualified under Rule 6 within 21 days after the written response referred to in Rule 4 is delivered, they (or any party) will notify Hong Kong Mediation Accreditation Association Limited (“HKMAAL”) by a written application in the form specified in Appendix A (as may be amended by HKMAAL from time to time<sup>1</sup>), who will appoint a single accredited mediator who is prepared to serve and is not disqualified under Rule 6.

#### **6. Disqualification of Mediator**

No person should act as mediator in any dispute or difference in which that person has any financial or personal interest in the result of the mediation except by consent of the

<sup>1</sup> HKMAAL may publish the updated version of this form at <https://www.hkmaal.org.hk/en/index.php> from time to time.

parties. Before accepting an appointment, the proposed mediator should disclose to the parties (and to HKMAAL if the appointment is to be made by HKMAAL under Rule 5(iv)) any circumstances likely to create a presumption of bias or prevent a prompt resolution of the dispute. If any party takes objection to the proposed mediator within 7 days he should not be appointed. If the appointment of the proposed mediator is to be made by HKMAAL under Rule 5(iv), HKMAAL will appoint another suitable accredited mediator.

## **7. Mediation Process**

The mediator(s) should commence the mediation as soon as possible after the appointment and should use his or their best endeavours to conclude the mediation within 42 days of the appointment, unless extended or otherwise agreed in writing by the parties to the mediation.

## **8. Role of Mediator**

The mediator(s) may conduct the mediation in such manner, as he or they consider appropriate, taking into account the circumstances of the case, the wishes of the parties and the need for a speedy settlement of the dispute.

## **9. Role of Parties**

The mediator(s) may communicate with the parties together or with any party separately, including private meetings and each party should co-operate with the mediator(s). A party may request a private meeting with the mediator(s) at any time. The parties should give full assistance to enable the mediation to proceed and be concluded within the time stipulated, and participate in the mediation at least up to the minimum level of participation.

## **10. Minimum Level of Participation**

Unless otherwise agreed, the minimum level of participation for the purpose of these Rules is defined as the participation by the parties in the mediation up to and including at least one substantive joint mediation session or one substantive private mediation session for each party to the mediation (of a duration determined by the mediator(s)) with the mediator(s).

## **11. Representation**

The parties may be represented or assisted by persons of their choice. Each party should notify in advance the names and the role of such persons to the mediator(s) and the other party. Each party should have full authority to settle or be represented by a person with such authority.

## **12. Termination of Mediation**

- (i) The mediation process will come to end:-
  - (a) upon the signing of a settlement agreement by the parties;
  - (b) upon the written advice of the mediator (or in case of multiple mediators, all mediators) after consultation with the parties that in his or their opinion further attempts at mediation are no longer justified;
  - (c) upon written notification by any party at any time to the mediator(s) and the other parties that the mediation is terminated, which should only be given after the mediator is satisfied that the minimum level of participation has been met;  
or
  - (d) upon the lapse of the appointment period of the mediator(s) referred to in Rule 5(ii) above.
- (ii) Within 14 days of the termination of mediation, the government bureau or department involved should submit the Mediation Record in the form in Appendix B to the DoJ. By adopting these Rules, the parties, the mediator(s) and any person(s) representing or assisting the parties as referred to in Rule 11 consent to disclose the information in Appendix B to the DoJ.

## **13. Confidentiality**

- (i) Mediation is a private and confidential process. Without prejudice to Rule 12(ii), every document, communication or information disclosed, made or produced by any party for the purpose of or related to the mediation process should be disclosed on a privileged and without prejudice basis and no privilege or confidentiality should be waived by such disclosure. Confidentiality also extends to the settlement agreement except where its disclosure is necessary for implementation or enforcement.
- (ii) Nothing that transpires during the course of the mediation is intended to or should in any way affect the rights or prejudice the position of the parties to the dispute in any subsequent arbitration, adjudication or litigation.

## **14. Costs**

Unless otherwise agreed:-

- (i) Each party should bear its own costs regardless of the outcome of the mediation or of any subsequent arbitral or judicial proceedings. All other costs and expenses

should be borne equally by the parties and the parties should be jointly and severally liable to pay to the mediator(s) and other entities such costs, including:-

- (a) the mediator(s)' fees and expenses;
  - (b) expenses for any witness or expert advice or opinion requested by the mediator(s) with the consent of the parties; and
  - (c) any administrative costs in support of the mediation including HKMAAL's costs.
- (ii) The mediator(s) may before or at any time during the mediation require the parties to make deposits to cover any anticipated fees and expenses and suspend the process until such deposit is made. In such case, the parties should duly comply with the mediator(s)' request and pay such deposit in equal shares in the time and manner as required by the mediator(s). Failure by a party to pay such deposit should be treated as refusal of mediation by such party.
- (iii) Any surplus funds deposited should be returned to the parties at the conclusion of the mediation in equal shares.

#### **15. Mediator(s)' Role in Subsequent Proceedings**

The parties undertake that, except as required by any applicable laws or court order:-

- (i) the mediator(s) should not be appointed as adjudicator(s), arbitrator(s) or representative(s), counsel or expert witness(es) of any party in any subsequent proceedings (including judicial, arbitral, administrative or disciplinary proceedings) arising out of the mediation, the same dispute or difference, or any other dispute or difference in connection with the same contract; and
- (ii) no party should take any step or make any attempt to (i) call the mediator(s) as a witness(es) in any subsequent proceedings (including judicial, arbitral, administrative or disciplinary proceedings) arising out of or incidental to the same dispute or difference, or the same contract; or (ii) demand the mediator(s) to produce documents generated for the purpose of or in the course of the mediation (including working papers and/or notes created by the mediator(s)).

#### **16. Exclusion of Liability**

The parties jointly and severally release, discharge and indemnify the mediator(s) and HKMAAL in respect of all liability whatsoever, whether involving negligence or not, from any act or omission in connection with or arising out of or relating in any way to any mediation conducted under these Rules, save for the consequences of fraud or dishonesty.

**Department of Justice**  
**6 February 2025**



APPLICATION FORM FOR THE APPOINTMENT OF A MEDIATOR (“FORM”)

This form shall be used to apply to the Hong Kong Mediation Accreditation Association Limited (“HKMAAL”) for the appointment of a mediator, and shall be used where both parties have agreed to mediate their dispute or differences. The Parties’ agreement to mediate may be by way of:-

- (i) a mediation clause included in a HKSAR Government Contract which specifically refers to mediation under The Government of the Hong Kong Special Administrative Region Mediation Rules (the “Rules”); or
- (ii) a Joint Application on this Form by both Parties.

**1 THIS APPLICATION IS SUBMITTED JOINTLY/ UNILATERALLY\***

I/ We\* the undersigned hereby apply to the HKMAAL for the appointment of a mediator for the purpose of a mediation for all disputes or differences arising out of or in connection with a HKSAR Government Contract detailed below. (\* Delete where appropriate)

**2 DETAILS OF PARTIES:**

**PARTY 1:**

**PARTY 2:**

**Name:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Address:**

\_\_\_\_\_

**Address:**

\_\_\_\_\_

**Tel. No.:**

\_\_\_\_\_

**Tel. No.:**

\_\_\_\_\_

**Fax:**

\_\_\_\_\_

**Fax:**

\_\_\_\_\_

**Nationality:**

\_\_\_\_\_

**Nationality:**

\_\_\_\_\_

**E-mail:**

\_\_\_\_\_

**E-mail:**

\_\_\_\_\_

**PARTY 1’S REPRESENTATIVE (If any):**

**PARTY 2’S REPRESENTATIVE (If any):**

**Name:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Address:**

\_\_\_\_\_

**Address:**

\_\_\_\_\_

**Contact person:**

\_\_\_\_\_

**Contact person:**

\_\_\_\_\_

**Tel. No.:**

\_\_\_\_\_

**Tel. No.:**

\_\_\_\_\_

**Fax:**

\_\_\_\_\_

**Fax:**

\_\_\_\_\_

**Nationality:**

\_\_\_\_\_

**Nationality:**

\_\_\_\_\_

**E-mail:**

\_\_\_\_\_

**E-mail:**

\_\_\_\_\_

**3 THE RELEVANT HKSAR GOVERNMENT CONTRACT:** *(please enclose a copy or provide a brief summary)*

\_\_\_\_\_  
\_\_\_\_\_

4 **MEDIATION (DISPUTE RESOLUTION) CLAUSE OR AGREEMENT:** *(please enclose a copy to this Application)*

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5 **DISPUTE:** *(brief description on the particulars of the nature, circumstances and location of the dispute(s), issue(s) for mediation, etc.)*

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6 **AMOUNT IN DISPUTE\*:** HK\$ \_\_\_\_\_

*\*Note: Claims and Counterclaims are added up for the determination of the Amount in Dispute.*

7 **MEDIATOR:**

7.1 The Parties have agreed that the Mediator should have the following qualification(s):

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7.1 Prior to the Application, the Parties have proposed to each other the following Mediator(s):

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8 **LANGUAGE OF MEDIATION:**

English     Cantonese     Putonghua     Other (Please specify) \_\_\_\_\_

9 **OTHER RELEVANT DETAILS:**

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10 **APPOINTMENT FEE:** A cheque/Cheques\* payable to the "Hong Kong Mediation Accreditation Association Limited" for HK\$2,000 (i.e. HK\$1,000 per Party) for payment of the appointment fee is enclosed.

*(\* Delete where appropriate)*

11 **CERTIFICATE:**

I/we hereby certify that the details contained herein are true and accurate.

**PARTY 1:**

**(SIGNED)** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name and Capacity:** \_\_\_\_\_

**PARTY 2\*:**

**(SIGNED)** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name and Capacity:** \_\_\_\_\_

**Mediation Record**

1. Government bureau/department:
  
2. Nature of dispute (tick all that apply):

<input type="checkbox"/> Contract	<input type="checkbox"/> Debt
<input type="checkbox"/> Employee Compensation	<input type="checkbox"/> Employment
<input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Land
<input type="checkbox"/> Landlord and Tenant	<input type="checkbox"/> Personal Injuries
<input type="checkbox"/> Tort	<input type="checkbox"/> Others (please specify):
  
3. Name of mediator(s):
  
4. Duration of the mediation process (from the date of appointment of mediator(s) to the date of completion/ termination of mediation) (no. of days):
  
5. Duration of the substantive mediation session(s), including any joint or private mediation session(s) (total no. of hours):
  
6. Stage at which mediation concluded:

<input type="checkbox"/> Before appointment of mediator(s)
<input type="checkbox"/> After appointment of mediator(s) but before first substantive joint mediation session or substantive private mediation session with each party to the mediation
<input type="checkbox"/> After first substantive joint mediation session or substantive private mediation session for each party to the mediation
  
7. Outcome of mediation (tick all that apply):

<input type="checkbox"/> Full settlement reached	<input type="checkbox"/> Dispute abandoned <sup>[1]</sup>
<input type="checkbox"/> Partial settlement reached	<input type="checkbox"/> Dispute referred to arbitration <sup>[1]</sup>
<input type="checkbox"/> No settlement reached	<input type="checkbox"/> Dispute referred to litigation <sup>[1]</sup>
<input type="checkbox"/> Others (please specify):	

Signed:

Name:

Date:

Post Title:

File Reference:

Please submit the completed form to the Alternative Dispute Resolution Team, Civil Division of the Department of Justice by email at: [deepeningmediationculture@doj.gov.hk](mailto:deepeningmediationculture@doj.gov.hk).

<sup>[1]</sup> Only to be ticked if there is Partial settlement reached or No settlement reached