PERSONAL DATA (PRIVACY) ORDINANCE
DATA ACCESS REQUEST FORM

Important Notice to Requestor

1. Please read this Form and the footnotes carefully before completing this Form. Where this Form contains a summary of the relevant requirements of the Personal Data (Privacy) Ordinance ("the Ordinance"), the summary is provided for reference purpose only. For a complete and definitive statement of the law, please refer to the Ordinance itself.

2. This Form is specified by the Privacy Commissioner for Personal Data ("the Commissioner") under section 67(1) of the Ordinance with effect from 1 September 2010. The data user may refuse to comply with your data access request ("your request") if it is not made in this Form (see section 20(3)(e) of the Ordinance).

3. Please complete this Form in Chinese or English. The data user may refuse to comply with your request if your request is not made in either language (see section 20(3)(a) of the Ordinance).

4. To make a data access request, you must either be the data subject or a "relevant person" as defined in section 2 of the Ordinance (please refer to Part III of this Form).

5. You are not entitled to access data which are not personal data or personal data not belonging to you (see section 18(1) of the Ordinance). The data user is only required to provide you with a copy of your personal data rather than a copy of the document containing your personal data. In most situations the data user may elect to provide a copy of the document concerned. If the personal data you request is recorded in an audio form, the data user may provide a transcript of that part of the audio record which contains your personal data.

6. It is important that you specify in the Form clearly and in detail the personal data that you request. The data user may refuse to comply with your request if you have not supplied him with such information as he may reasonably require to locate the requested data (see section 20(3)(b) of the Ordinance).

7. Do not send this Form to the Commissioner. The completed Form should be sent directly to the data user to whom you made your request.

8. The data user may require you to provide identity proof such as your Hong Kong Identity Card and may charge a fee for complying with your request (see sections 20(1)(a) and 28(2) of the Ordinance).

9. The data user may refuse to comply with your request in the circumstances specified in section 20 of the Ordinance.

Important Notice to Data User

1. You are required by section 19(1) of the Ordinance to comply with a data access request **within 40 days** after receiving the same. To comply with a data access request means to supply a copy of the requested data. A mere notification given to the requestor to collect the requested data or a note sent to the requestor for payment of a fee is insufficient. In complying with the request, you should omit or otherwise not disclose the names or other identifying particulars of individuals other than the data subject.

2. If you are unable to comply with the data access request within 40 days or have a lawful reason for refusing to comply with the request pursuant to section 20 of the Ordinance, you must give the requestor written notification of your refusal and your supporting reasons **within the same 40 days** period (see sections 19(2) and 21(1) of the Ordinance). If you do not hold the requested data, you should inform the requestor accordingly within the same 40 days period.

3. It is an offence not to comply with a data access request in accordance with the requirements of the Ordinance. Any data user convicted of such an offence is liable to a fine at level 3 (currently set at HK$10,000) (see section 64(10) of the Ordinance).

4. You may charge a fee for complying with a data access request, but section 28(3) of the Ordinance provides that "no fee imposed for complying with a data access request shall be excessive".

5. You shall refuse to comply with a data access request –
   (a) if you are not supplied with such information as you may reasonably require –
      (i) in order to satisfy you as to the identity of the requestor;
      (ii) where the requestor purports to be a relevant person, in order to satisfy the data user –
         (A) as to the identity of the individual in relation to whom the requestor purports to be such a person; and
         (B) that the requestor is such a person in relation to that individual;
   (b) subject to subsection (2) of the Ordinance, if you cannot comply with the request without disclosing personal data of which any other individual is the data subject unless you are satisfied that the other individual has consented to the disclosure of the data to the requestor; or
   (c) in any other case, if compliance with the request is for the time being prohibited under the Ordinance.

   (see section 20(1) of the Ordinance)

6. Other circumstances in which a data user shall or may refuse to comply with a data access request :

Subject to section 20(2) of the Ordinance, if the data user cannot comply with the request without disclosing personal data of which any other individual is the data subject.
(see section 20(1)(b) of the Ordinance)

Section 20(1)(b) shall not operate -

(a) so that the reference in that subsection to personal data of which any other individual is the data subject includes a reference to information identifying that individual as the source of the personal data to which the data access request concerned relates unless that information names or otherwise explicitly identifies that individual;

(b) so as to excuse a data user from complying with the data access request concerned to the extent that the request may be complied with without disclosing the identity of the other individual, whether by the omission of names, or other identifying particulars, or otherwise.

(see section 20(2) of the Ordinance)

7. A data user may refuse to comply with a data access request if –

(a) the request is not in writing in the Chinese or English language;

(b) the data user is not supplied with such information as the data user may reasonably require to locate the personal data to which the request relates;

(c) the request follows 2 or more similar requests made by-

(i) the individual who is the data subject in respect of the personal data to which the request relates;

(ii) one or more relevant persons on behalf of that individual; or

(iii) any combination of that individual and those relevant persons,

and it is unreasonable in all the circumstances for the data user to comply with the request;

(d) subject to subsection (4), any other data user controls the use of the data in such a way as to prohibit the first-mentioned data user from complying (whether in whole or in part) with the request;

(e) the form in which the request shall be made has been specified under section 67 and the request is not made in that form; or

(f) in any other case, compliance with the request may for the time being be refused under this Ordinance, whether by virtue of an exemption under Part VIII or otherwise.

(see section 20(3) of the Ordinance)

Section 20(3)(d) shall not operate so as to excuse a data user from complying with the data access request concerned –

(a) in so far as the request relates to section 18(1)(a), to any extent;

(b) in so far as the request relates to section 18(1)(b), to any extent that the data user can comply with the request without contravening the prohibition concerned.

(see section 20(4) of the Ordinance)

Part I: Data User

Particulars of the Data User to whom this data access request is made

Name[1] *(full name in block letters):*

_____

(for the attention of[2]_____)

Address: _____

_____

Part II: Data Subject

Particulars of the Data Subject making this data access request

Name in English *(full name in block letters, surname first):* _____

Name in Chinese (if any): _____

Personal identifier, e.g. Hong Kong Identity Card number[3]/ passport number or other identification number previously assigned by the Data User (if any, such as student number, staff number, patient number, account number, membership number or other reference number):

_____

Correspondence address: _____

_____

Day time contact phone number: _____

Email address (if any): _____

[This part must be completed if this request is made by a Requestor other than the Data Subject]

Part III: The Requestor

Particulars and capacity of the Requestor[4]

Name in English *(full name in block letters, surname first):*_____

Name in Chinese (if any): _____

Correspondence address: _____

_____

Day time contact phone number: _____

Email address (if any): _____

This data access request is made in my capacity as a "relevant person" on behalf of the Data Subject as follows:

☐ the Data Subject is a minor and I have parental responsibility over the Data Subject;

☐ the Data Subject is incapable of managing his/her own affairs and I have been appointed by a court to manage those affairs or

☐ I am authorized in writing by the Data Subject to make this data access request on his/her behalf.

(Please give a tick in the appropriate box)

1 Please fill in the full name of the Data User to whom the data access request is addressed.

2 If you have previously been informed by the Data User of the name or title of the person to whom such a data access request may be made, please fill in here the name and/or title of such person.

3 For Data Subject who is Hong Kong Identity Card holder. Please note that the information may assist the Data User to retrieve or locate the Requested Data. The identity card number needs not be provided in this Form if you have reasonable grounds to believe that this will not be necessary for the unique identification of the Data Subject by the Data User in the circumstances.

4 The Data User may require reasonably sufficient personal information from you to satisfy itself as to your identity before it can comply with this data access request.

In proof of my above capacity, I hereby enclose the following:-
(Please give a tick in the appropriate box)

- ☐ copy of birth certificate
- ☐ copy of court order
- ☐ written authorization
- ☐ others, please specify : _____

Part IV: The Requested Data

This data access request is made under section 18(1) of the Ordinance for the following personal data of the Data Subject, except those specifically excluded under Part V of this Form:-

Description of the Requested Data[5]:

Date around which or period within which the Requested Data were collected (if known):

The name of the branch or staff member of the Data User who collected the Requested Data (if known):

Part V: Exclusions

I do not require any personal data[6] which are:

- ☐ contained in documents which had previously been provided to the Data User by the Data Subject (e.g. letters to the Data User and/or the Requestor from the Data Subject)
- ☐ contained in documents which had previously been provided to the Data Subject by the Data User (e.g. letters to the Data Subject and/or the Requestor from the Data User or documents the Data User had provided to the Data Subject and/or the Requestor pursuant to a previous request)
- ☐ in the public domain (e.g. newspaper clippings or entries in public registers concerning the Data Subject)
- ☐ set out below (please describe as fully as possible):

(Please tick and complete where appropriate)

5. Please specify clearly and in detail the personal data requested (e.g. personal data contained in appraisal reports, medical records, credit reports) including further information, if any, such as the particular incident or transaction in association with it, the circumstances under which the personal data were collected or held, etc. to facilitate the location of the Requested Data. Too general a description of the Requested Data, such as "all of my personal data", may render the request being refused by the Data User pursuant to section 20(3)(b) of the Ordinance where the Data User is not supplied with such information as it may reasonably require to locate the personal data to which the request relates.
6. Please tick to exclude, as far as possible, any personal data that you do not wish to include in the scope of the Requested Data. This may help to avoid any unnecessary delay or charge in complying with the data access request.

Part VI: The Request

I hereby request you:-

☐ (a) to inform me whether you hold the Requested Data[7]

☐ (b) to supply to me a copy of the Requested Data that you hold[8], subject to the exclusions in Part V above

☐ both (a) and (b)

(Please give a tick in the appropriate box)

Part VII: Preferred Manner of Compliance

I would prefer that you[9]:

☐ send by registered mail a copy of the Requested Data to me at my correspondence address given in this Form

☐ send by ordinary mail a copy of the Requested Data to me at my correspondence address given in this Form

☐ supply to me a copy of the Requested Data in the *English/Chinese/in the language in which the data are held[10] (*Please delete where appropriate).

☐ supply to me a copy of the Requested Data in the form of _____ (e.g. computer disk, microfilm, etc.)[11]

(Please tick and complete where appropriate)

Part VIII: Further Information and Payment

I understand that before complying with this request, you may require me to provide[12]:

(a) proof of my identity;

(b) proof of the Data Subject's identity if I am making this request as a relevant person and further proof of my status as a relevant person;

(c) such further information as may be reasonably required for you to locate the Requested Data;

(d) payment of a fee charged under section 28 of the Ordinance[13].

Part IX: Use of Personal Data

Except with the prescribed consent of the individual concerned, the personal data provided in this Form will be used for the purpose of processing this data access request and other directly related purposes only.

_____ Date

_____ Signature of the Requestor

7. By ticking this box, the Requestor indicates that he is requesting only for a confirmation of "Yes" or "No" as to whether the Data User holds the Requested Data and is not requesting the Data User to provide a copy of the Requested Data.
8. By ticking this box, the Requestor indicates that he is requesting only for a copy of the Requested Data. If the Requestor is uncertain whether or not the Data User holds the Requested Data, it is advisable to tick both boxes (a) and (b) so that the Data User will need to notify the Requestor even if he does not hold the Requested Data.
9. However, compliance with the data access request may not be in the preferred manner where this is not reasonably practicable.
10. If the language specified is not the language in which the data are held, it will be sufficient to provide a true copy of the document which contains the data.
11. If the Data User is unable to supply the form as specified because it is not practicable for the Data User to do so, it will be sufficient to supply the form in which it is practicable for the Data User to supply and accompanied by a written notice to inform the Requestor of the same.
12. Failure to provide the information as required by the Data User under this Part may result in the data access request being refused, or not being complied with to the desired extent.
13. Sections 28(2) and (3) of the Ordinance provide that a fee may be charged for complying with a data access request made under section 18(1)(a) or (b), which fee shall not be excessive. According to section 28(5) of the Ordinance, compliance with a data access request may be refused unless and until any such fee has been paid.