

Enduring Power of Attorney and Court Order under Part II of the Mental Health Ordinance

Introduction

Reverse mortgage is a life-time loan arrangement which provides you with an additional financial planning option to improve your quality of life. As we get older, we will gradually experience varying degrees of deterioration in physical strength and cognitive ability. To avoid any interruption to your reverse mortgage due to mental incapacity, it may be advisable to consider taking certain precautionary measures so that you can enjoy peace of mind and need not worry about your financial affairs.

One of the options which you may consider is to procure an Enduring Power of Attorney (**EPA**) under the Enduring Powers of Attorney Ordinance. An EPA operates like a general power of attorney in that you, as the donor, may appoint someone, as your attorney, to handle your financial affairs, including your reverse mortgage. For more information about EPA, please refer to the “Enduring Powers of Attorney (General Information)” leaflet prepared by the Department of Justice (www.doj.gov.hk/eng/epa/pdf/EPA_leaflet.pdf).

If you have not arranged for an EPA, in the event you have lost your mental capacity, those taking care of you may need to apply to the High Court for an Order under Part II of the Mental Health Ordinance (**Court Order**) in order to handle your financial affairs.

Professional services required for EPA and Court Order

Medical service

To arrange for an EPA, a medical practitioner will need to be engaged to sign the “certificate by registered medical practitioner” contained in the EPA. Such medical practitioner can be any registered medical practitioners in Hong Kong (such as your family doctor). In relation to an application for a Court Order, two medical certificates are required for the application to the High Court, and one of which must be issued by an “Approved Doctor”.

You may approach your family doctor, or find a suitable registered medical practitioner / Approved Doctor through the following websites:

- List of registered medical practitioner maintained by The Medical Council of Hong Kong
www.mchk.org.hk/english/list_register/index.html
- List of family physicians maintained by The Hong Kong College of Family Physicians
www.hkcfp.org.hk/pages_8_93.html
- List of private psychiatrists (Approved Doctors in private practice) maintained by The Hong Kong College of Psychiatrists
http://www.hkpsych.org.hk/index.php?option=com_docman&view=docman&Itemid=465&lang=tw

Legal service

Solicitors will need to be engaged for the preparation and execution of an EPA, or for an application to the High Court of Hong Kong for a Court Order. Please consult your solicitor for professional advice, or refer to the following websites to find a suitable solicitor:

- The Law Society of Hong Kong: www.hklawsoc.org.hk
- ChooseHKLawyer.org: www.choosehklawyer.org

Through the assistance of The Law Society of Hong Kong, the HKMC has invited solicitors in Hong Kong to indicate if they would provide the relevant professional services to the public, and a list of those solicitors is set out in the table below.

List of Solicitors

Name:	AU Wing Kit Mabel
Firm:	Mabel Au and Co
Telephone:	2626 0086
Address:	Room 1106, King Centre, 23 Dundas Street, Kowloon, Hong Kong
E-mail:	Infomau@biznetvigator.com
Scope of Services:	EPA and Court Order
Name:	CHAN Kar Fung Peter
Firm:	K.F. Chan & Co., Solicitors
Telephone:	2545 4777
Address:	Room A, 15th Floor, Wing On Cheong Building, 5 Wing Lok Street, H.K.
E-mail:	kfchanco@gmail.com
Scope of Services:	EPA and Court Order
Name:	CHAN Kar Lam
Firm:	Yip, Tse & Tang
Telephone:	3968 9338
Address:	Room 2301, 23/F, Tuen Mun Parklane Square, No. 2 Tuen Hi Rd, Tuen Mun, NT
E-mail:	karenchan@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	CHAN Kwok Man, Raymond
Firm:	Ford, Kwan and Company
Telephone:	2476 6218
Address:	11/F, BOC Yuen Long Commercial Centre, 102-8 Castle Peak Road, N.T.
E-mail:	raymondchan@fordkwan.com
Scope of Services:	EPA and Court Order

Name:	CHAN Lap Tak
Firm:	Marie Tsang, Dustin Chan & Co.
Telephone:	2136 6668
Address:	Unit 2303-04, 23/F, Wing On Centre, 111 Connaught Road Central, Hong Kong.
E-mail:	dustin.chan@md-law.com.hk
Scope of Services:	EPA and Court Order
Name:	CHAN Pui Dik Beatrix
Firm:	Messrs. Ho and Wong
Telephone:	2843 8012
Address:	Rooms 1408-11, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong
E-mail:	beatrixchan@hoandwong.com.hk
Scope of Services:	EPA and Court Order
Name:	CHAN Pui Kwan Barbara
Firm:	Au-Yeung, Chan & Ho
Telephone:	2761 0218
Address:	8 th Floor, Chung Hing Commercial Building, 62-63 Connaught Road Central, Hong Kong
E-mail:	barbara@aych.com.hk
Scope of Services:	EPA and Court Order
Name:	CHAN Pui Ling
Firm:	Chiu, Szeto & Cheng
Telephone:	2529 9191
Address:	Unit 402, 4/F, Wing On House, 71 Des Voeux Road Central, HK
E-mail:	polly@csclaw.com.hk
Scope of Services:	EPA and Court Order
Name:	CHAN Raymond
Firm:	Raymond Chan Solicitors
Telephone:	2528 1380
Address:	Room 1604, 16 th Floor, Tung Chiu Commercial Centre, 193 Lockhart Road, Wanchai, Hong Kong
E-mail:	general@raymondchan.info
Scope of Services:	EPA and Court Order
Name:	CHAN Tim Yiu Raymond
Firm:	Raymond T. Y. Chan, Victoria Chan & Co.
Telephone:	2523 2820
Address:	Suites 1706-7, 17th Floor, Wing On House, 71 Des Voeux Road Central, Hong Kong
E-mail:	raymondchan@rcvc.com.hk
Scope of Services:	EPA and Court Order

Name:	CHANG Lai Shan, Eliza
Firm:	Cheng, Yeung & Co.
Telephone:	2143 8960
Address:	Suite 1302, 13 th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong
E-mail:	secec@chengyeung.com.hk
Scope of Services:	EPA and Court Order
Name:	CHANG Sai Tak
Firm:	Annie Leung & Company
Telephone:	2525 8360
Address:	Units 2001-4, 20th Floor, The Broadway, 54-62, Lockhart Road, HK
E-mail:	david@annieleungandco.com.hk
Scope of Services:	EPA and Court Order
Name:	CHAU Cham Kuen, Tony
Firm:	Ho, Wong & Wong, Solicitors & Notaries
Telephone:	2522 4088
Address:	Suite 2508, Tower 1, Lippo Centre, 89 Queensway, Hong Kong.
E-mail:	tonychau@howongnwong.com
Scope of Services:	EPA and Court Order
Name:	CHAU Wai Yin
Firm:	S.Y. Wong & Co.
Telephone:	9832 7692
Address:	Room 1207, 12/F, Harcourt House, 39 Gloucester Road, Wanchai, Hong Kong.
E-mail:	winnie.chau@sywong.com.hk
Scope of Services:	EPA and Court Order
Name:	CHENG Wing Keung Raymond
Firm:	Cheng & Co., Raymond Solicitors
Telephone:	3547 0470
Address:	Unit 1301, 13/F, Wing Tuck Commercial Centre, 177-183 Wing Lok Street, Sheung Wan, Hong Kong
E-mail:	raymond@chenglaw.com.hk
Scope of Services:	EPA and Court Order
Name:	Cheng Yi Ming
Firm:	CL & Co. Solicitors
Telephone:	3702 0322
Address:	Unit 606, 6th Floor, Unicorn Trade Centre, 127-131 Des Voeux Road Central, Hong Kong
E-mail:	sarah@clandco.com.hk
Scope of Services:	EPA and Court Order

Name:	CHENG, Kai Cheong
Firm:	So, Lung & Associates
Telephone:	3107 1122
Address:	15/F., China Taiping Tower, Phase 2, 8 Sunning Road, Causeway Bay, Hong Kong
E-mail:	ray@solung.com
Scope of Services:	EPA and Court Order
Name:	CHEUNG Timothy
Firm:	Fred Kan & Co.
Telephone:	2593 3621
Address:	3104-6 Central Plaza, Wanchai
E-mail:	timothycheung@fredkan.com
Scope of Services:	EPA
Name:	CHIU Kwok Wing Benedict
Firm:	Chiu, Szeto & Cheng
Telephone:	2529 9191
Address:	402, Wing On House, 71 Des Voeux Road Central, HK
E-mail:	ben@csclaw.com.hk
Scope of Services:	EPA and Court Order
Name:	CHIU Oi Li, Ellie
Firm:	Cheng, Yeung & Co.
Telephone:	2143 8953
Address:	Suite 1302, 13 th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong
E-mail:	secec@chengyeung.com.hk
Scope of Services:	EPA and Court Order
Name:	CHOI Pui Wai David
Firm:	Wilkinson & Grist
Telephone:	2905 4713
Address:	6 th Floor, Prince's Building, Chater Road, Hong Kong
E-mail:	davidchoi@wilgrist.com
Scope of Services:	EPA and Court Order
Name:	CHU Sau Fong Juliana
Firm:	Messrs. Ho and Wong
Telephone:	2843 8007
Address:	Rooms 1408-11, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong
E-mail:	julichu@hoandwong.com.hk
Scope of Services:	EPA and Court Order

Name:	FONG See Yin
Firm:	Messrs. Ho and Wong
Telephone:	2843 8011
Address:	Rooms 1408-11, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong
E-mail:	cindyfong@hoandwong.com.hk
Scope of Services:	EPA and Court Order
Name:	FU Peter
Firm:	Fu and Cheng
Telephone:	2155 4171
Address:	Room 1001, 10 th Floor, Beautiful Group Tower, 74-77 Connaught Road Central, Hong Kong.
E-mail:	peter@fuandcheng.com
Scope of Services:	EPA
Name:	FUNG Sik Yue
Firm:	S.Y. Fung Solicitors
Telephone:	2782 1383
Address:	Flat D, 10/F, Full Win Commercial Centre, 573 Nathan Road, Kowloon.
E-mail:	syfung.solicitors@gmail.com
Scope of Services:	EPA and Court Order
Name:	HO Kwok Wai
Firm:	Au-Yeung, Cheng, Ho & Tin
Telephone:	2521 8822
Address:	14/F., Far East Consortium Bldg., No. 121 Des Voeux Road Central, Hong Kong.
E-mail:	Ivanho@aycht.com
Scope of Services:	EPA and Court Order
Name:	HO Lai Ngan, Lillian
Firm:	Leung & Lien
Telephone:	2810 8060 / 9471 1150
Address:	Rm 710, 7/F, China Insurance Group Building, 141 Des Voeux Road Central, Hong Kong
E-mail:	Lillian.Ho.22@gmail.com
Scope of Services:	EPA
Name:	HO Pat Bobby Ying
Firm:	Wong Poon Chan Law & Co., Solicitors
Telephone:	2521 4268 (Central Office) / 2792 9811 (Sai Kung Office)
Address:	1st Floor, CTS House, Nos.78-83 Connaught Road Central, Central, Hong Kong Ground Floor, No.1796-B Po Tung Road, Sai Kung, New Territories, Hong Kong
E-mail:	wpcl@wpcl.hk (Central Office) / saikung@wpcl.hk (Sai Kung Office)
Scope of Services:	EPA and Court Order

Name:	HUI Ho Chuen
Firm:	Yip, Tse & Tang
Telephone:	3968 9541
Address:	Rooms 2301A2-4, 23/F, Nan Fung Centre, 264-298 Castle Peak Road, Tsuen Wan, N.T.
E-mail:	andyhui@ytt.com.hk
Scope of Services:	EPA
Name:	HUI Lai Yan Polly
Firm:	Yip, Tse & Tang
Telephone:	9466 9118
Address:	Units 813-814, 8/F, Tower 1, Cheung Sha Wan Plaza, 833 Cheung Sha Wan Road, Lai Chi Kok, Kowloon
E-mail:	polly@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	HUI Man Kit Patrick
Firm:	Messrs. Kenneth Sit Solicitors
Telephone:	2151 1187
Address:	Room 1203, Euro Trade Centre, 13-14 Connaught Road Central, Hong Kong
E-mail:	phui@kennethsit.hk
Scope of Services:	EPA and Court Order
Name:	HUI Tin Fook David
Firm:	David Hui & Co., Solicitors
Telephone:	2893 3087
Address:	7/F., CNT House, 120 Johnston Road, Wanchai, Hong Kong
E-mail:	dtfhui@gmail.com
Scope of Services:	EPA and Court Order
Name:	KO Man Fu
Firm:	Hau, Lau, Li & Yeung
Telephone:	2586 1881
Address:	Unit 1303, 13/F., Tower 1, Admiralty Centre, 18 Harcourt Road, HK
E-mail:	manfuko2002@yahoo.com
Scope of Services:	EPA and Court Order
Name:	KO Ming-tung, Edward
Firm:	Edward Ko & Co.
Telephone:	2520 8000
Address:	18 th Floor, Yue Thai Commercial Building, 128 Connaught Road Central, Hong Kong
E-mail:	edward@edwardko.com.hk
Scope of Services:	EPA and Court Order

Name:	KOO Christine
Firm:	Christine M. Koo & Ip, Solicitors & Notaries LLP
Telephone:	2524 8996
Address:	Rm 601, 6/F, Tower 1, Admiralty Centre, 18 Harcourt Rd, HK
E-mail:	christinekoo@cmkoo.com.hk
Scope of Services:	EPA and Court Order
Name:	KUN Kin Wai, Joseph
Firm:	Ho, Wong & Wong, Solicitors & Notaries
Telephone:	2522 4088
Address:	Suite 2508, Tower 1, Lippo Centre, 89 Queensway, Hong Kong.
E-mail:	josephkun@howongnwong.com
Scope of Services:	EPA and Court Order
Name:	KWAN Kin Yuet
Firm:	Marie Tsang, Dustin Chan & Co.
Telephone:	2136 6668
Address:	Unit 2303-04, 23/F Floor, Wing On Centre, 111 Connaught Road Central, Hong Kong
E-mail:	selena.kwan@md-law.com.hk
Scope of Services:	EPA
Name:	KWOK Hong Yee Jesse
Firm:	Jesse H. Y. Kwok & Co.
Telephone:	2881 8345
Address:	6 th Floor, Fortune Centre, Nos.44-48 Yun Ping Road, Causeway Bay, Hong Kong.
E-mail:	jessekwok@jessekwoklaw.com
Scope of Services:	EPA and Court Order
Name:	KWOK Mei Hing
Firm:	M. H. Kwok & Co.
Telephone:	2797 2268
Address:	Unit B, 21/F, Ngan House, 210 Des Voeux Road Central, Hong Kong
E-mail:	kate@mhkwok.legal
Scope of Services:	EPA and Court Order
Name:	KWOK Wing Fung
Firm:	W.F. Kwok & Co.
Telephone:	3577 8797
Address:	Unit 5, 22/F, Hollywood Plaza, 610 Nathan Road, Mongkok, Kowloon, Hong Kong
E-mail:	info@wfwok.com
Scope of Services:	EPA and Court Order

Name:	LAI Yiu Kuen Dominic
Firm:	Dominic Y.K. Lai & Co. Solicitors
Telephone:	2529 2032
Address:	Roomph1808, 18/F., Dominion Centre, 43-59 Queen's Road East, Wanchai, H.K.
E-mail:	dyklai@biznetvigator.com
Scope of Services:	EPA and Court Order
Name:	LAM Pui San Pauline
Firm:	K Y Woo & Co.
Telephone:	2523 5901 / 2524 5775
Address:	2/F, Lansing House, 41 – 47, Queen's Road, Central, HK
E-mail:	pauline.lam@kywoo.com.hk
Scope of Services:	EPA and Court Order
Name:	LAM San Yin
Firm:	Lam & Partners
Telephone:	2815 3931
Address:	Office A, 3/F, Lloyds Commercial Centre, 8 Wing Lok St. Sheung Wan, HK
E-mail:	landp@biznetvigator.com
Scope of Services:	EPA and Court Order
Name:	LAM Tze Yan
Firm:	Rowdget W Young & Co
Telephone:	2524 9968
Address:	3/floor, Wings Building, 110-116 Queen's Road Central
E-mail:	Ty.lam@rowdget.com
Scope of Services:	EPA and Court Order
Name:	LAU Chi Chung
Firm:	Yip, Tse & Tang
Telephone:	3968 9487
Address:	Unit 1701, 17/F, Hang Seng North Point Building, 339 King's Road, H.K.
E-mail:	cliff@ytt.com.hk
Scope of Services:	EPA
Name:	LAU Leong Ho
Firm:	Tsang, Chan & Woo Solicitors
Telephone:	3946 2884
Address:	12/F, Grand Building, 15-18 Connaught Road Central, Hong Kong
E-mail:	rickerl@hktcw.com
Scope of Services:	EPA and Court Order

Name:	LAU Siu Fung Queenie
Firm:	Liu, Chan and Lam, Solicitors
Telephone:	2847 9325
Address:	Office A, 9 th Floor, United Centre, No.95 Queensway, Hong Kong
E-mail:	queenielau@lcl-law.com.hk
Scope of Services:	EPA and Court Order
Name:	LAU Tai Chim
Firm:	T. C. Lau & Co.
Telephone:	2521 1488
Address:	501 China Insurance Group Building, 141 Des Voeux Road Central, HK.
E-mail:	tclaujw@biznetvigator.com
Scope of Services:	EPA and Court Order
Name:	LAU Wing Keung
Firm:	Chui & Lau
Telephone:	2523 4765
Address:	Room 703-4, 7/F, Wing On House 71 Des Voeux Road Central H.K.
E-mail:	stephenlau@clsol.com.hk
Scope of Services:	EPA and Court Order
Name:	LAU Yan Ling
Firm:	Annie Leung & Company
Telephone:	2525 8360
Address:	Units 2001-4, 20th Floor, The Broadway, 54-62, Lockhart Road, HK
E-mail:	serena@annieleungandco.com.hk
Scope of Services:	EPA and Court Order
Name:	LEE Kwok Lun
Firm:	Tai, Tang & Chong
Telephone:	2523 8141
Address:	Room 606, 6 th Floor, Wing On House, 71 Des Voeux Road Central, Hong Kong
E-mail:	info@ttsol.com
Scope of Services:	EPA
Name:	LEE Suk Ping
Firm:	Jennifer Lee & Co.
Telephone:	2186 6216
Address:	Room B, 4 th Floor, Shui Fung Building, Nos.7-13 Temple Street Kowloon
E-mail:	jenniferlee_co@yahoo.com.hk
Scope of Services:	EPA
Name:	LEE Yuk Yee
Firm:	Winnie Mak, Chan & Yeung
Telephone:	2101 0214
Address:	8 th Floor, Two Chinachem Plaza, 68 Connaught Road Central, Hong Kong
E-mail:	rita.lee@wmcy.com.hk
Scope of Services:	EPA and Court Order

Name:	LEUNG Kim Wah Andy
Firm:	Edmund Cheung & Company
Telephone:	2845 6939
Address:	13/F, Regent Centre, 88 Queen's Road Central, Hong Kong
E-mail:	andyleung@echeungco.com.hk
Scope of Services:	EPA and Court Order
Name:	LEUNG See Ming Samuel
Firm:	Li, Wong, Lam & W.I. Cheung
Telephone:	3181 6600
Address:	22nd Floor, Infinitus Plaza, 199 Des Voeux Road Central, Sheung Wan, Hong Kong.
E-mail:	sl@lwlwic.com
Scope of Services:	EPA and Court Order
Name:	LEUNG Suk Chong
Firm:	Annie Leung & Company
Telephone:	2525 8360
Address:	Units 2001-4, 20th Floor, The Broadway, Nos.54-62 Lockhart Road, Wanchai, Hong Kong
E-mail:	admin@annieleungandco.com.hk
Scope of Services:	EPA and Court Order
Name:	LI Mei Lam Danny
Firm:	Yip, Tse & Tang
Telephone:	3968 9400
Address:	Unit 1503, 15/F, Yue Xiu Building, 160-174 Lockhart Road Wanchai H.K.
E-mail:	danny@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	LIN Hoi Bun Alan
Firm:	Wong Poon Chan Law & Co., Solicitors
Telephone:	2521 4268 (Central Office) / 2792 9811 (Sai Kung Office)
Address:	1st Floor, CTS House, Nos.78-83 Connaught Road Central, Central, Hong Kong Ground Floor, No.1796-B Po Tung Road, Sai Kung, New Territories, Hong Kong
E-mail:	wpcl@wpcl.hk (Central Office) / saikung@wpcl.hk (Sai Kung Office)
Scope of Services:	EPA and Court Order
Name:	LIU Wing Ho Eric
Firm:	Ford, Kwan and Company
Telephone:	2810 8388
Address:	Suite 2205A, 22 nd Floor, No.9 Queen's Road Central, Hong Kong
E-mail:	ericliu@fordkwan.com
Scope of Services:	EPA and Court Order

Name:	LO Elsie
Firm:	Wan Yeung Hau & Co., Solicitors
Telephone:	3616 6168
Address:	13B, Full Win Commercial Centre, 573 Nathan Road, Kowloon.
E-mail:	elsielo@smartlegal.com.hk
Scope of Services:	EPA and Court Order
Name:	LO Gawan
Firm:	Wan Yeung Hau & Co., Solicitors
Telephone:	3616 6168
Address:	13B, Full Win Commercial Centre, 573 Nathan Road, Kowloon.
E-mail:	gawanlo.legal@gmail.com
Scope of Services:	EPA and Court Order
Name:	LO, Edmund Yiu Wai
Firm:	Y. W. Lo & Associates
Telephone:	2156 1128
Address:	Unit 2201, 22/F, Fu Fai Commercial Centre, No.27 Hillier Street, Sheung Wan, Hong Kong
E-mail:	ywlo_associates@mail.com
Scope of Services:	EPA
Name:	MA Chor Tak
Firm:	Ford, Kwan and Company
Telephone:	2366 0688
Address:	Suite 3304, 33/F, Tower 2, Nina Tower, No.8 Yeung Uk Road, Tsuen Wan, N.T.
E-mail:	stevema@fordkwan.com
Scope of Services:	EPA
Name:	MA Shiu Wah Ismail
Firm:	C.C. Lee & Co.
Telephone:	2523 7161
Address:	Room 803, 8 th Floor, On Lok Yuen Building, No. 25, Des Voeux Road Central, Hong Kong.
E-mail:	ismailma@clee.com.hk
Scope of Services:	EPA and Court Order
Name:	MAK Yan Yan Winnie
Firm:	Winnie Mak, Chan & Yeung
Telephone:	2101 0211
Address:	8 th Floor, Two Chinachem Plaza, 68 Connaught Road Central, Hong Kong
E-mail:	winnie.mak@wncy.com.hk
Scope of Services:	EPA and Court Order

Name:	MANN Zian Hsien David
Firm:	Yip, Tse & Tang
Telephone:	3968 9512
Address:	1309, 13/F, Tower One, Lippo Centre, 89 Queensway, Hong Kong
E-mail:	david@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	NG Ka Yin
Firm:	Yip, Tse & Tang
Telephone:	6759 9999
Address:	Unit 1503, 15 th Floor, Yue Xiu Building, 160-174 Lockhart Road, Wanchai, Hong Kong
E-mail:	kelvin@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	NG Kin Wah
Firm:	Kevin Ng & Co., Solicitors
Telephone:	2545 8181
Address:	Suite B, 13/F., Two Chinachem Plaza, 135 Des Voeux Road Central, Central, Hong Kong
E-mail:	kevinngkw@yahoo.com.hk
Scope of Services:	EPA and Court Order
Name:	NG Kin Yuen
Firm:	Liu, Chan and Lam, Solicitors
Telephone:	2847 9384
Address:	Office A, 9th Floor, United Centre, No.95 Queensway, Hong Kong.
E-mail:	ngkinyuen@lcl-law.com.hk
Scope of Services:	EPA and Court Order
Name:	NG Man Yuk
Firm:	Shaw & Ng, Solicitors & Notaries
Telephone:	2526 6767
Address:	Unit 1503, 15th Floor, Jubilee Centre, 18 Fenwick Street, Wanchai, H.K.
E-mail:	may@shawng.com
Scope of Services:	EPA and Court Order
Name:	NGAN Siu Lun
Firm:	Lau & Ngan, Solicitors LLP
Telephone:	3116 2533
Address:	Rooms 2504-05, 25/F, Hopewell Centre 183 Queen's Road East, Wanchai, Hong Kong
E-mail:	colinngan@lauandngan.com
Scope of Services:	EPA and Court Order

Name:	Nicholas MILLAR
Firm:	Littlewoods
Telephone:	2529 3866 / 2397 3354
Address:	1401 Hang Seng Mongkok Building, 677 Nathan Road, Kowloon, Hong Kong
E-mail:	jnmillar@netvigator.com
Scope of Services:	EPA and Court Order
Name:	PANG Mei Ngan
Firm:	Ford, Kwan and Company
Telephone:	2366 0688
Address:	Suite 3304, 33/F, Tower 2, Nina Tower, No.8 Yeung Uk Road, Tsuen Wan, N.T.
E-mail:	cherrypang@fordkwan.com
Scope of Services:	Court Order
Name:	SO Hop Shing, Kenneth
Firm:	Tang and So
Telephone:	2815 7993
Address:	17/F, BOC Group Life Assurance Tower, 136 Des Voeux Road Central, Hong Kong
E-mail:	tangnso@netvigator.com
Scope of Services:	EPA
Name:	TAM Chi Keung
Firm:	Wilkinson & Grist
Telephone:	2524 6011
Address:	6/F, Prince's Building, Chater Road, Hong Kong
E-mail:	dericktam@wilgrist.com
Scope of Services:	EPA and Court Order
Name:	TAM Yat Ming
Firm:	Tam & Partners
Telephone:	2601 6787
Address:	Unit 1612, 16/F., Witty Commercial Bldg, Nos 1A-1L Tung Choi St., Mongkok, Kowloon
E-mail:	tamyatming@tamandpartners.com.hk
Scope of Services:	EPA and Court Order
Name:	Tang Ka Yin Teresa
Firm:	Au-Yeung, Cheng, Ho & Tin
Telephone:	9631 7099
Address:	14/F, Far East Consortium Building, 121 Des Voeux Road Central, Hong Kong.
E-mail:	kytang@member.hklawsoc.org.hk
Scope of Services:	EPA and Court Order

Name:	TANG Tat Ming
Firm:	Yip, Tse & Tang
Telephone:	3968 9433
Address:	Room 2301A2-A4, 23/F, Nan Fung Centre, Tsuen Wan, NT
E-mail:	raymond@tang.lawyer
Scope of Services:	EPA and Court Order
Name:	TONG Mei
Firm:	Paul W. Tse
Telephone:	2838 9993
Address:	Rm 1701, Causeway Bay Plaza 1, 489 Hennessy Road, H.K.
E-mail:	helen@paul.com
Scope of Services:	EPA and Court Order
Name:	TSE Kai Chung Bobby
Firm:	Bobby Tse & Co., Solicitors
Telephone:	2851 6622
Address:	Unit 1301, 13 th Floor, Arion Commercial Centre, 8 Queen's Road West, Sheung Wan, Hong Kong
E-mail:	tsebobby@netvigator.com
Scope of Services:	EPA and Court Order
Name:	TSE Lin Chung
Firm:	Yip Tse & Tang
Telephone:	3968 9389
Address:	Unit 1503, 15/F, Yue Xiu Building, 160-174 Lockhart Road, Wan Chai, Hong Kong
E-mail:	thomas2@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	TSE Lin Fai
Firm:	Yip, Tse & Tang
Telephone:	6829 9999
Address:	Flat F, 21/F, Legeng Tower, No.7 Shing Yip Street, Kwun Tong, Kln
E-mail:	matthew@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	Tse Lin Fung Charles
Firm:	Yip, Tse & Tang
Telephone:	3968 9393
Address:	Units 813-4, 8 th Floor, Tower 1, Cheung Sha Wan Plaza, 833 Cheung Sha Wan Road, Lai Chi Kok, Kowloon.
E-mail:	charles@ytt.com.hk
Scope of Services:	EPA and Court Order

Name:	TSE Wai Chun Paul
Firm:	Paul W. Tse
Telephone:	2165 2622
Address:	1701 Causeway Bay Plaza I, 489 Hennessy Road, Causeway Bay, Hong Kong.
E-mail:	paul@paultse.com
Scope of Services:	EPA and Court Order
Name:	TSO Hei Sing
Firm:	Tso & Associates, Solicitors
Telephone:	2503 3967
Address:	Room 2101, Carnival Commercial Building, 18 Java Road, North Point, Hong Kong.
E-mail:	tsoasso@yahoo.com
Scope of Services:	Court Order
Name:	TSOI Kum Lam
Firm:	C.C.Lee & Co.
Telephone:	2523 7161
Address:	Room 803, 8/F, On Lok Yuen Building, 25 Des Voeux Road Central, Hong Kong.
E-mail:	kltsoi@cclee.com.hk
Scope of Services:	EPA and Court Order
Name:	TSUI Ka Kui
Firm:	Eli K.K. Tsui & Co., Solicitors
Telephone:	2851 9668
Address:	Room 1202B, 12th Floor, Ginza Square, Nos.565-567 Nathan Road, Kln.
E-mail:	elitsui@yahoo.com.hk
Scope of Services:	EPA and Court Order
Name:	WAN Ho Kei Ricky
Firm:	Yip, Tse & Tang
Telephone:	6889 6880
Address:	Unit 2B 2/F CNT House 120 Johnston Road Wanchai Hong Kong
E-mail:	ricky@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	WONG Che Ming
Firm:	Wong Poon Chan Law & Co., Solicitors
Telephone:	2521 4268 (Central Office) / 2792 9811 (Sai Kung Office)
Address:	1st Floor, CTS House, Nos.78-83 Connaught Road Central, Central, Hong Kong Ground Floor, No.1796-B Po Tung Road, Sai Kung, New Territories, Hong Kong
E-mail:	wpcl@wpcl.hk (Central Office) / saikung@wpcl.hk (Sai Kung Office)
Scope of Services:	EPA and Court Order

Name:	WONG Chun Nam, Duffy
Firm:	Ho, Wong & Wong, Solicitors & Notaries
Telephone:	2522 4088
Address:	Suite 2508, Tower 1, Lippo Centre, 89 Queensway, Hong Kong.
E-mail:	duffywang@howongnwong.com
Scope of Services:	EPA and Court Order
Name:	WONG Hok Ming
Firm:	Yip, Tse & Tang
Telephone:	3968 9358
Address:	Room 902, 9/F., Hollywood Plaza, 610 Nathan Road, Kowloon
E-mail:	alan@ytt.com.hk
Scope of Services:	EPA and Court Order
Name:	WONG Kwok Hong Simon
Firm:	Simon Wong & Co., Solicitors
Telephone:	2194 8300
Address:	18/F Shiu Fung Building, 51-53 Johnston Road, Wanchai, Hong Kong
E-mail:	simon.wongkh@gmail.com
Scope of Services:	EPA and Court Order
Name:	WONG Lai An Cecilia Grace
Firm:	Christine M Koo & Ip Solicitors & Notaries LLP
Telephone:	2524 8996
Address:	Room 601, 6/F, Tower 1 Admiralty Centre, 18 Harcourt Road, Hong Kong
E-mail:	gracewong@cmkoo.com.hk
Scope of Services:	EPA and Court Order
Name:	WONG Ng Kit Wah, Cecilia
Firm:	Kevin Ng & Co., Solicitors
Telephone:	2545 8181
Address:	Suite B, 13/F., Two Chinachem Plaza, 135 Des Voeux Road Central, Central, Hong Kong
E-mail:	ceciliawongkw@yahoo.com.hk
Scope of Services:	EPA and Court Order
Name:	WONG Suk Mei
Firm:	Fongs
Telephone:	2694 8330
Address:	Unit 05, 34/F., Bank of America Tower, 12 Harcourt Road, Central
E-mail:	smwongm@outlook.com
Scope of Services:	EPA and Court Order

Name:	YEUNG Wing Kuen William
Firm:	Tong Chan & Co. Solicitors
Telephone:	2375 7872
Address:	Rm 521, 5 th Floor, West Block, Star House, No.3 Salisbury Road, Tsim Sha Tsui, Kowloon
E-mail:	chantong2013@outlook.com
Scope of Services:	EPA
Name:	YEUNG Yuen Bun, Benny
Firm:	Cheng, Yeung & Co.
Telephone:	2143 8914
Address:	Suite 1302, 13 th Floor, Tower One, Admiralty Centre, 18 Harcourt Road, Hong Kong
E-mail:	secby@chengyeung.com.hk
Scope of Services:	EPA and Court Order
Name:	YIP Yun Chi
Firm:	Messrs. Ho and Wong
Telephone:	2843 8002
Address:	Rooms 1408-11, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong
E-mail:	dyip@hoandwong.com.hk
Scope of Services:	EPA and Court Order
Name:	YU Sze Tak
Firm:	Messrs. Ho and Wong
Telephone:	2843 8024
Address:	Rooms 1408-11, China Merchants Tower, Shun Tak Centre, 168-200 Connaught Road Central, Hong Kong
E-mail:	rickyyu@hoandwong.com.hk
Scope of Services:	EPA and Court Order
Name:	YUEN Ho Yee Winston
Firm:	Paul W. Tse
Telephone:	2789 9992
Address:	Rooms 1103-9, Office Tower Two, Grand Plaza, 625 & 639 Nathan Road, Mongkok, Kowloon, Hong Kong
E-mail:	winstonyuen@paultse.com
Scope of Services:	EPA

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