

Company No.

201801034159 (1296186-U)

**THE COMPANIES ACT, 2016**

**MALAYSIA**

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**PRIVATE COMPANY LIMITED BY SHARES**

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**CONSTITUTION**

**OF**

**EVENING CREST SDN. BHD.**

**(Company No: 1296186-U)**

(Incorporated in Malaysia)

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**Incorporated on the 21<sup>st</sup> September, 2018**

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## THE COMPANIES ACT, 2016

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### PRIVATE COMPANY LIMITED BY SHARES

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### CONSTITUTION

### OF

### EVENING CREST SDN. BHD.

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1. The name of the company is **EVENING CREST SDN. BHD.**
2. The registered office of the Company will be situated in Malaysia.
3. The Company shall be capable of exercising all the functions of a body corporate and have the full capacity to carry on or undertake any business or activity as provided by the Act including but not limited to the following: -
  - (a) to carry on business as buyer, seller, importers, exporters, manufacturers, producers, dealers, buying or selling commission agents and otherwise deal in goods, merchandise, commodities, plant and machinery and articles of all descriptions.
  - (b) to carry on the business of builders and contractors or construction works of any kind and the demolition of any structure.
  - (c) to carry on the business of an investment holding company and for that purpose to acquire and hold either in the name of the company or in that of any nominee shares, stocks, debentures, debenture stock, bonds, notes, obligations and securities issued or guaranteed by any company wherever incorporated or carrying on business; depository and providing merchant acquiring business.
  - (d) to carry on the business of mining and quarrying; electrical and electronic engineering equipment; transportation component accessories; and information communication technology.
4. The liability of the members is limited.

#### *Interpretation*

5. In this constitution –
  - “constitution” means the constitution of the company;
  - “the Act” means the Companies Act 2016 [Act 777];

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“the seal” means the common seal of the company;

“secretary” means any person appointed to perform the duties of a secretary of the company in accordance with Sections 102, 235 and 241 of the Act;

expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;

words or expressions contained in these regulations shall be interpreted in accordance with the provisions of the Interpretation Act 1948 and 1967 [Act 388], and of the Act as in force at the date at which these regulations become binding on the company.

### *Share Capital and Variation of Rights*

6. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares but subject to the Act, shares in the company may be issued by the directors and any such share may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of capital, or otherwise, as the directors, subject to any ordinary resolution of the company, determine.
7. Subject to the Act, any preference shares may, with the sanction of an ordinary resolution, be issued on the terms that they are, or at the option of the company are liable, to be redeemed.
8. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking equally therewith.
9. Except as required by law, no person shall be recognized by the company as holding any share upon any trust, and the company shall not be bound by or be compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or unit of a share or (except only as by this constitution or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.
10. Every person whose name is entered as a member in the register of members shall be entitled, without payment, to receive a certificate (under the seal of the company) but in respect of share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

### *Transfer of Shares*

11. Subject to the restrictions of this constitution, any member may transfer all or any of his shares by a duly executed and stamped instrument in writing. The instrument shall be executed by or on behalf of the transferor and the transferor shall remain the holder of the shares transferred until the transfer is registered and the name of the transferee is entered in the register of members in respect thereof.
12. The instrument of transfer must be left for registration at the registered office of the company accompanied by the certificate of the shares to which it relates and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer, and thereupon the company shall, subject to the powers vested in the directors by this constitution, register the transferee as a shareholder and retain the instrument of transfer.

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13. The directors may decline to register any transfer of shares to a person of whom they do not approve and may also decline to register any transfer of shares on which the company has a lien.

*Transmission of Shares*

14. Subject to the restrictions of this constitution, in the case of the death of a member the survivor or survivors, where the deceased was a joint holder, and the executors or administrators of the deceased, where he was a sole or only surviving holder shall be the only person recognised by the company as having any title to his shares, but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share jointly held by him.
15. A person entitled to a share by transmission shall be entitled to receive, and may give a discharge for, any dividends or other moneys payable in respect of the share, but he shall not be entitled in respect of it to receive notice of or attend or vote at meetings of the company or, save as aforesaid, to exercise any of the rights, or privileges as a member unless and until he shall become a member in respect of the share.

*Alteration of Capital*

16. The company may from time to time by ordinary resolution –
- (a) consolidate and divide all or any of its share capital, the proportion between the amount paid and the amount, if any, unpaid on each subdivided share shall be the same as it was in the case of the share from which the subdivided share is derived;
  - (b) subdivide its shares or any of the shares, whatever is in the subdivision, the proportion between the amount paid and the amount, if any, unpaid on each subdivided share shall be the same as it was in the case of the share from which the subdivided share is derived; or
  - (c) convert all or any of its paid up capital into stock and may reconvert that stock into paid-up shares.
17. Subject to any direction to the contrary, all new shares shall be approved by the company in general meeting or by written resolution and any new allotment and issuance of shares shall be offered to the holders of existing shares in proportion as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, is treated to be declined, and, after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company.

*General Meetings*

18. A meeting of members of the company shall be convened by the directors or upon the requisition of members holding not less than 10% of the total voting rights of all shares.

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*Proceedings at General Meetings*

19. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, the quorum shall be in accordance with Section 328 of the Act. For the purposes of this constitution "member" includes a person attending as a proxy or as representing a corporation which is a member.

20. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstance admit:

I/We, ..... of ..... being a member/member of the above-named company, hereby appoint ..... of ..... or failing him, ..... of ....., as my/our proxy to vote for me/us on my/our behalf at the general meeting of the company, to be held on the ..... day of ..... 20 ....., and at any adjournment thereof.

Signed this ..... day of ..... 20 .....

This form is to be used \*in favour of/against of the resolution.

\*Strike out whichever is not desired. [Unless otherwise instructed, the proxy may vote as he thinks fit.]

21. A general meeting may be convened at more than one venue using any technology or method that enables the members of the company to participate and to exercise the member's rights to speak and vote at the meeting. The main venue of the meeting need not be in Malaysia.

*Written Resolutions of Members*

22. A written resolution of the company shall be in accordance with the provisions of the Companies Act 2016. Where the company has only one member, a document recording the resolution and the date and time and signed by the member shall for all purposes be a validly passed resolution. Where the one member is a company, a corporate representative approved for that company under the Companies Act 2016 may sign such resolution.

*Directors: Appointment, etc.*

23. The company must have at least one (1) director at all times and the total numbers of directors shall not exceed nine (9).

24. All the directors shall retire from office within six months from the close of the first financial year end and in every subsequent year within six months of the financial year end one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office. The retirement of a director shall be determined by a written resolution or by an ordinary resolution passed at a members' meeting.

25. A retiring director shall be eligible for re-election if he is not disqualified under the Act.

26. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

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27. The company may fill the vacated office of the retiring director by electing a person thereto, and in default the retiring director shall, if offering himself for re-election and not being disqualified under the Act from holding office as a director, be deemed to have been re-elected, unless it is expressly resolved not to fill the vacated office.
28. The company may, from time to time by written resolution or by an ordinary resolution passed at a general meeting, increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.
29. The director shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with this constitution.
30. The remuneration of the director shall from time to time be determined by the company in a general meeting. That remuneration shall be deemed to accrue from day to day. The directors may also be paid all travelling, hotel, and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connection with the business of the company.

#### *Powers and Duties of Directors*

31. The business of the company shall be managed by the directors who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not, by the Act or by this constitution, required to be exercised by the company in general meeting.
32. The directors may exercise all the powers of the company to borrow money and to mortgage or charge its undertaking, property, and uncalled capital, or any part thereof, and to issue debentures and other securities whether outright or as security for any debt, liability, or obligation of the company or of any third party.
33. The directors may from time to time by power of attorney appoint any corporation, firm, or person or body of persons, whether nominated directly or indirectly by the directors, to be the attorney of the company for such purposes and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the directors under this constitution) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorize any such attorney to delegate all or any of the powers, authorities, and discretions vested in him.
34. All cheques, promissory notes, drafts, bills of exchanges, and other negotiable instruments, and all receipts for money paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any director or in such other manner as the directors from time to time determine.
35. The directors may carry on any business which may seem to the company capable of being carried on calculated directly or indirectly to enhance the values of or render profitable any of the company's property or rights.
36. The directors may acquire and undertake the whole or any part of the business, property and liabilities of any person or a company carrying on any business which the company is authorized to carry on, or possessed of property suitable for the purpose of the company.

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37. The directors may lend and advance money or give credit to any person or company; to guarantee and give guarantees or indemnities for the payment of money or the performances of contracts or obligations by any person or company; to secure and undertake in any way the replacement of moneys lent or advances to or the liabilities incurred by any person or company; and otherwise to assist any person or company.
38. The directors may sell or dispose of the undertaking of the company or any part thereof for such consideration as the company may think fit, and in particular for shares, debentures, or securities of any other company having objects altogether or in part similar to those of the company.

*Proceedings of Directors*

39. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. A director may at any time and the secretary shall on the requisition of a director summon a meeting of the directors.
40. Subject to this constitution, questions arising at any meeting of directors shall be decided by a majority of votes and a determination by a majority of directors shall for all purpose be deemed a determination of the directors. In case of an equality of votes the chairman of the meeting shall have a second or casting vote.
41. Any director with the approval of the directors may appoint any person (whether a member of the company or not) to be an alternate or substitute director in his place during such period as he thinks fit. Any person while he so holds office as an alternate or substitute director shall be entitled to notice of meetings of the directors and to attend and vote thereat, accordingly, and to exercise all the powers of the appointor in his place. An alternate or substitute director shall not require any share qualification, and shall *ipso facto* vacate office if the appointor vacates office as a director or removes the appointee from office. Any appointment or removal under this regulation shall be effected by notice in writing under the hand of the director making the same.
42. The quorum necessary for the transaction of the business of the directors shall be two, except in the case of one director, the quorum shall be one.
43. The continuing directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the constitution of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number or of summoning a general meeting of the company, but for no other purpose.
44. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within ten minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairman of the meeting.
45. The directors may delegate any of their powers to committees consisting of such member of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.
46. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within ten minutes after the time appointed for holding the meeting, the members present may choose one of their numbers to be chairman of the meeting.

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47. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.
48. All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.
49. A resolution in writing, signed by a majority of the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held. Any such resolution may consist of several documents in like form, each signed by one or more directors. Where the company has only one director, the director may pass a resolution by recording it and signing the record.
50. A meeting of the Board may be held either-
  - a) by a number of the directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
  - b) by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

#### *Managing Directors*

51. The directors may from time to time appoint one or more of their body to the office of managing director for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment. A director so appointed shall not, while holding that office, be subject to retirement by rotation or be taken into account in determining the rotation of retirement of directors, but his appointment shall be automatically determined if he ceases from any cause to be a director.
52. A managing director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration (whether by way of salary, commission, or participation in profits, or partly in one way and partly in another) as the directors may determine.
53. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter, or vary all or any those powers.

#### *Secretary*

54. The secretary shall in accordance with the Act be appointed by the directors for such term, at such remuneration, and upon such conditions as they may think fit; and any secretary so appointed may be removed by them in accordance with the terms of appointment.
55. The secretary may resign from his office in accordance with the Act.



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*Seal*

56. The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the directors or of a committee of the directors authorized by the directors in that behalf, and every instrument to which the seal is affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for the purpose.

*Dividends and Reserves*

57. The distribution of dividends shall be in accordance with the Act but notwithstanding the Act, the directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied, and pending any such application may, at the like discretion, either be employed in the business of the company or be invested in such investment (other than shares in the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.
58. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purpose of this constitution as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank of which the dividend is paid; but if any shares is issued on terms providing that it shall rank for dividend as from a particular date that share shall rank for dividend accordingly.
59. The directors may deduct from any dividend payable to any member all sums of money, if any, presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.
60. Any written resolution or resolution passed in a general meeting declaring a dividend or bonus may direct payment of the dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid-up shares, debenture stock of any other company or in any one or more of those ways and the directors shall given effect to the resolution, and where any difficulty arises in regard to the distribution, the directors may settle the same as they think expedient, and fix the value for distribution of the specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the right of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.
61. Any dividend, interest, or other money payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other money payable in respect of the shares held by them as joint holders.

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*Capitalisation of Profits*

62. The company by a written resolution or ordinary resolution passed in general meeting may, upon the recommendation of the directors, resolve that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that the sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by those members respectively or paying up in full unissued shares or debentures of the company to be allotted and distributed, credited as fully paid up to and amongst the members in the proportion aforesaid, or partly in the one way and partly in the other, and the directors shall give effect to such resolution.
63. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits resolved to be capitalized thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorize any person to enter on behalf of all the members entitled thereto into an agreement with the company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon the capitalization, or (as the case may require) for the payment up by the company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalized, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.

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**LODGER INFORMATION**

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