



COMPANIES LIMITED BY GUARANTEE IN MALAYSIA

Companies Limited By Guarantee (“CLBG”) may be incorporated under the Malaysian Companies Act 2016 (“CA 2016”) as public companies.

CLBG is defined under the CA 2016 as a company formed on the principle of having the liability of its member limited by the constitution to such amount as the members may respectively undertake to contribute to the assets of the company in the event of it being wound up. No company may be formed as, or become, a company limited by guarantee with a share capital.

Type of CLBG under CA 2016

- > CLBG without the word “Berhad” or “Bhd”; and
- > CLBG with the word “Berhad” or “Bhd”.

Objects of CLBG

- > Providing recreation or amusement;
- > Promoting commerce and industry;
- > Promoting art;
- > Promoting science;
- > Promoting religion;
- > Promoting charity;
- > Promoting pension or superannuation schemes; or
- > Promoting any other objects useful for the community or country, such as:
 - > Environment;
 - > Health;
 - > Education;
 - > Research;
 - > Social; or
 - > Sports

Name of CLBG

- > Words which may be used are Foundation (Yayasan), Institute (Institut), Academy (Akademi), Corporation (Badan), Alliance (Gabungan), Federal (Persekutuan), Chamber (Dewan), Council (Majlis), Fund (Tabung), Memorial (Peringatan) and Centre (Pusat).

Note: CLBG with “Berhad” or “Bhd” is not allowed to use the word “Foundation (Yayasan)” as part of its name.

- > Words such as Association (Persatuan), Union (Kesatuan) and Society (Pertubuhan) are not allowed.
- > Names which are related or connected with any political party will not be allowed.
- > Usage of names connected with government agencies will not be allowed unless the incorporation and activities of the CLBG are sponsored by the government agencies concerned.

Constitution

- > A company limited by guarantee is required to have a constitution and shall be submitted to the Registrar upon an application for incorporation. The CLBG may adopt the model constitution prepared by the Registrar.
- > Prior approval from the Registrar must be obtained to amend the constitution of a CLBG.



Requirement of founder or director

- > A founder or director of a CLBG must be a person who is fit and proper and is not disqualified under the CA 2016.
- > For the purposes of determining whether a person is fit and proper, the Registrar may:
 - > consider the experience, qualification and competency of the founder or director which would assist him in carrying out his duties as director of the CLBG;
 - > consider the reputation, character and integrity of the founder or director;
 - > conduct a security vetting on the potential founder or director,
 and a safety filter (security vetting) for the potential founder or director shall be conducted by the Royal Malaysian Police and/or other agencies.
- > The Registrar may, if he is satisfied that the applicant is fit and proper and competent to perform the duties of a director under CA 2016, approve the applicant as a director of a CLBG.

Segmental reporting

- > The Registrar may require a CLBG to submit segmental reporting together with its financial statements.

If a CLBG gives to or receives from any organization any fund/donation/contribution, the CLBG is required:

- (a) to make appropriate disclosure on the funds/donations/contributions in the notes to the financial statements; and
 - (b) to make appropriate disclosure on the operational expenses in the notes to the financial statements.
- > A CLBG should keep a list of the fund, donations or contribution at all time as follows:
 - (a) List of fund, donation or contribution given to the respective party:
 - > name of individual / company / associate / counterpart etc.;
 - > correspondence address;
 - > amount of fund, donation or contribution by each party. Please specify whether in Ringgit Malaysia or foreign currency;
 - > date of transaction; and
 - > types of accounting records and supporting documents that is relevant to that particular transaction.
 - (b) List of fund, donation or contribution received from the respective party:
 - > name of individual / company / associate / counterpart etc.;
 - > correspondence address;
 - > amount of fund, donation or contribution by each party;
 - > date of transaction; and
 - > types of accounting records and supporting documents that is relevant to that particular transaction.

- > At any time, the Registrar may issue a notice and require a CLBG to submit the Financial Information Form (*Borang Maklumat Kewangan – BMK*) annually.

General prohibitions

A CLBG must ensure that none of its members or directors uses the company or its financial resources to conduct any form of political or unlawful activities. In conducting its activities, it must ensure that it does not depart from the objects for which it was established for.

Other general requirements

Unless prior approval has been obtained from the Registrar, a CLBG:

- > is prohibited to appoint new directors;
- > is prohibited from paying any fees, salaries, fixed allowances or any benefits to its directors;
- > must use the profits and other income for the purposes stated in the objects of the company;
- > is prohibited to solicit any contribution or donation or make any money collection from the public;
- > is prohibited from incorporating or holding any subsidiary (save for CLBG with the word Berhad incorporated prior to 31 January 2017 where its existing Constitution does not contain similar restriction); and
- > is required to comply at all times with all the provisions set forth in the constitution, other than the conditions mentioned above.

Application to hold, dispose or charge land or property

- > A CLBG shall not hold, acquire, charge, mortgage, sell, lease or dispose, a land or property unless a licence has been obtained from the Minister.
- > A CLBG shall hold, acquire, charge, mortgage, sell, lease or dispose, the land or property subject to the approval of the Minister and the terms and conditions of licence as provided.
- > The Minister may impose special terms and conditions relating to the holding, acquiring, charging, mortgaging, selling, leasing or disposing the land or property as he thinks fit.

Licence to omit the word “Berhad” or “Bhd”

- > A CLBG may apply to the Minister for a licence to omit the word “Berhad” or the abbreviation “Bhd” from its name. However, any CLBG intending to use the words “Foundation” or “Yayasan” must omit the word “Berhad” or “Bhd” from its name.
- > The Minister may impose terms and conditions as he thinks fit in approving the application.
- > If a CLBG fails to comply with any of such terms and conditions, the license may be revoked.



Omitting the word “Berhad” or “Bhd” at the end of an existing CLBG

- > A CLBG which had been incorporated for a period of three (3) years may also apply to omit the word “*Berhad*” or “*Bhd*”.
- > The basis to support the approval of omitting the word “*Berhad*” or “*Bhd*” is that the CLBG must have a fund amounting to **RM1 million cash**. The CLBG is required to get all of the cash has been pledged by potential contributors **within six (6) month after it is established**.

A CLBG with the word “*Berhad*” or “*Bhd*” could omit the said word subject to approval of the Minister.
- > The CLBG must provide an information with comments on the financial position at least for the last three (3) years and the latest financial statements for the period of three (3) years, audited and presented at the annual general meeting.

CLBG incorporated prior to the commencement of the CA 2016

- > For avoidance of doubt, in the event that any CLBG incorporated pursuant to corresponding previous written law have objects that fall outside the list provided in this document, such CLBG shall be deemed to have been properly incorporated under the CA 2016.
- > Any licences issued by the Minister pursuant to corresponding provisions under the Companies Act 1965 are still valid until otherwise revoked. Similarly, CLBG which are issued with the licences are bound by the terms and conditions attached with those licences.



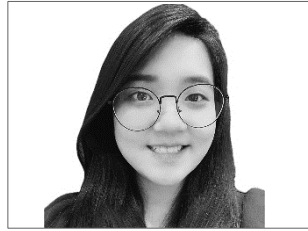
KEY CONTACTS



MANDY CHUA

Associate Director
Kensington Trust Labuan Limited
Kensington Corporate Services (Malaysia)
Sdn Bhd

T: +603 2201 9689
E: malaysia@kensington-trust.com



YIH SHAN

Assistant Manager of
Kensington Corporate Services (Malaysia)
Sdn Bhd

T: +603 2201 5929
E: malaysia@kensington-trust.com

ABOUT JTC KENSINGTON

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC, offering trust, fiduciary and corporate services and fund administration.

JTC is a publicly listed, global professional services business with deep expertise in fund, corporate and private client services.

Every JTC person is an owner of the business and this fundamental part of our culture aligns us with the best interests of all of our stakeholders.

Our purpose is to maximise potential and our success is built on service excellence, long-term relationships and technology capabilities that drive efficiency and add value.

IMPORTANT INFORMATION: The content of this factsheet is intended for general information purposes only. It does not constitute, should not be interpreted as constituting and cannot be relied upon as providing (i) legal, investment or tax advice or any other form of professional advice, (ii) an offer to sell, a solicitation of an offer to buy, or a recommendation of any service or any other product or service regardless of whether such security, product or service is referenced in this factsheet. JTC has sought to ensure that the information provided in this factsheet is adequate, accurate and complete as at the time of publication but offers no assertion or warranty as to its adequacy, accuracy or completeness either at the time of publication or thereafter. No responsibility or liability will be accepted for any losses resulting from reliance places upon the content of this article.

REGULATION AND TERMS OF BUSINESS

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC Group. Kensington Trust Group entities that carry on regulated business are (respectively): regulated by the Labuan Financial Services Authority, the Companies Commission of Malaysia and the Monetary Authority of Singapore.

For full details of those JTC Group entities that carry on regulated business and certain other JTC Group entities, please visit our website: www.jtcgroup.com/legal-and-regulatory

