

GENTING MALAYSIA BERHAD (“GENM” OR “COMPANY”)

- I. PROPOSED ACQUISITION BY GENM OF SHARES IN EMPIRE RESORTS, INC. FROM KIEN HUAT REALTY III LIMITED (“KH”)
- II. PROPOSED JOINT VENTURE BETWEEN GENM AND KH TO PRIVATISE EMPIRE RESORTS, INC. (“EMPIRE”)

Unless otherwise stated, the exchange rate of USD1.00:RM4.19, being Bank Negara Malaysia’s middle rate as at 5.00 p.m. on 6 August 2019, is used throughout this announcement for purposes of translation of USD into RM.

1. INTRODUCTION

The Board wishes to announce that GENM had, on 5 August 2019 (United States Pacific Standard Time), entered into a binding term sheet (“**Term Sheet**”) with KH for GENM’s wholly-owned subsidiary, Genting (USA) Limited (“**GenUSA**”) to:

- 1.1 acquire 13,200,000 shares of common stock of Empire (“**Common Stock**”) held by KH (which currently represents approximately 46% of the Common Stock held by KH and which also represents approximately 35% of the outstanding voting power of Empire on a fully diluted basis after conversion of all preferred stock currently outstanding into common stock (“**Proposed Acquisition**”)) at a cash consideration of USD9.74 per share of Common Stock, totaling approximately USD128.6 million (or RM538.8 million). The Proposed Acquisition is subject to amongst others, receipt of regulatory approvals (including approval by the New York State Gaming Commission (“**NYSGC**”) and satisfaction of applicable regulatory requirements;
- 1.2 jointly submit a preliminary non-binding proposal to Empire to acquire by merger, the outstanding shares of capital stock held by shareholders of Empire unaffiliated with KH at a cash consideration of USD9.74 per share of Common Stock (“**Proposed Merger**”), subject to the following conditions, among other conditions:
 - (a) approval of the Special Committee or another committee of Empire’s board composed solely of disinterested members who are also independent of KH and its affiliates, and
 - (b) approval of the holders of a majority of the votes represented by the outstanding shares of Common Stock and Series B Preferred Stock other than such stock owned by KH or its affiliates and executive management; and
- 1.3 concurrently with or immediately following entry into the merger agreement with Empire, form a joint venture between GenUSA and KH on the terms and subject to the conditions set forth in the Term Sheet, into which it is expected that KH and GenUSA will contribute their shares of Common Stock (“**Proposed JV**”).

GENM and KH are collectively referred to as “**Parties**”.

2. DETAILS OF THE PARTIES

2.1 Information on Empire

Empire, a Delaware corporation incorporated on 19 March 1993, is a gaming and entertainment company publicly traded on the Nasdaq Stock Market. Empire owns and operates Resorts World Catskills (“**RWC**”), a casino resort situated on a 1,700-acre site in Sullivan County, New York in the United States of America (“**US**”). RWC commenced operations on 8 February 2018 and features a 332 all-suite hotel, 1,600 slot machines and over 150 live table games.

Empire also owns and operates Monticello Casino and Raceway (“**MCR**”), which began operations in 1958 in Monticello, New York in the US. MCR is proximate to RWC and features an electronic gaming

machine (“**EGM**”) and harness horseracing facility. The EGM operations and food and beverage service at MCR ceased on 23 April 2019 and was consolidated with RWC.

Following the cessation of the EGM operations, the New York State Legislature passed legislation authorizing the development of a EGM facility in Orange County, located in the state of New York, US. This legislation approved the moving of the EGMs that were previously located at MCR to Orange County (“**Orange County Opportunity**”).

Empire has also entered into a sportsbook and digital gaming collaboration agreement with an affiliate of Bet365 Group Limited (“**Bet365**”), a British online gaming company based in the United Kingdom. Pursuant to a collaboration agreement, Bet365 will participate with Empire in the offering of retail sports betting and online sportsbook, online casino and online poker in New York State, if and when permitted by applicable law.

2.2 Information on KH

KH, a corporation organized in the Isle of Man, is currently the largest shareholder of Empire, owning approximately 28,914,606 shares or 84% of Common Stock outstanding and 740 shares of Series F Preferred Stock. Upon conversion of the Series F Preferred Stock, KH will effectively owns 86% of the Common Stock outstanding.

The directors of KH are Mr Declan Thomas Kenny, Mrs Niamh Norah Goddard (alternate to Mr Declan Thomas Kenny), Mr John Craig Brown, Mr Mark Jonathan Lewin (alternate to John Craig Brown) and Mr Gerard Lim Ewe Keng.

3. DETAILS OF THE PROPOSALS

3.1 Implementation

Under the Term Sheet, the Proposed Acquisition, Proposed JV and Proposed Merger are expected to be implemented as follows: -

Proposed Acquisition

Upon satisfaction/waiver of the conditions precedent to the Proposed Acquisition (including receipt of gaming commission approval and the expiration of the applicable waiting period in respect of the Hart-Scott Rodino Antitrust Improvements Act of 1976 (“**HSR Act**”)), GenUSA shall acquire 13,200,000 shares of Common Stock held by KH (which currently represents approximately 46% of the shares of Common Stock held by KH and which also represents approximately 35% of the outstanding voting power of Empire on a fully diluted basis after conversion of all preferred stock currently outstanding into common stock).

Proposed JV and Merger

The Parties jointly submitted on 5 August 2019 a preliminary joint non-binding proposal to Empire to acquire by merger the outstanding shares of capital stock held by shareholders of Empire unaffiliated with KH at a cash consideration of USD9.74 per share of Common Stock. The merger agreement would be negotiated between the Parties, GenUSA and Empire and the Proposed Merger thereunder would be subject to the satisfaction of a number of conditions precedent, including those highlighted in **Section 1.2** above.

Concurrent with or immediately following entry into the merger agreement with Empire, GenUSA and KH would form the Proposed JV. On the date of the Proposed Merger, GenUSA and KH would contribute all of the Common Stock that they hold in Empire into the Proposed JV. In addition, on the date of the Proposed Merger, GenUSA and KH would each make a cash contribution to the Proposed JV in an amount sufficient, in the aggregate, to permit the Proposed JV to pay all amounts due and

payable by the Proposed JV under the merger agreement. In consideration for the contributions, described herein, GenUSA and KH shall receive 49% and 51% membership interest in the Proposed JV respectively.

3.2 Salient terms of the JV

3.2.1 In the event the merger agreement has not been consummated by 31 October 2019, as such date may be extended under the Term Sheet, the Parties and GenUSA will negotiate in good faith to restructure the transactions contemplated by the term sheet, form the Proposed JV and contribute KH's and GenUSA's Common Stock of Empire into the Proposed JV, with GenUSA and KH owning 49% and 51% membership interest in the Proposed JV respectively;

3.2.2 All distributions will be allocated to the members pro rata in accordance with GenUSA and KH's relative ownership of membership interests;

3.2.3 All decisions regarding the operations of the Proposed JV and the Proposed Merger, will be made by unanimous agreement by GenUSA and KH; and

3.2.4 Upon completion of the Proposed Merger, the Parties and GenUSA will use reasonable best efforts to cause the Proposed JV or one of its subsidiaries to enter into an agreement with GENM or one of its affiliates for GENM or such affiliate to provide operational and management services to the Proposed JV and its affiliates on arm's length terms.

3.3 Purchase Consideration

The purchase consideration for the Proposed Acquisition of USD9.74 per share of Common Stock was arrived at a willing buyer-willing seller basis and after considering amongst others:

- (i) the closing price, 5-day, 1 month and 3 months volume weighted average price of Empire's common stock for a period up to and including 2 August 2019 (being the last practicable date preceding this announcement) are USD9.56, USD9.72, USD10.10 and USD11.02 respectively; and
- (ii) the future earnings potential of as well as the potential synergistic benefits to GENM.

3.4 Source of Funding

The purchase consideration will be funded with GENM group's internally generated funds.

3.5 Liabilities to be assumed

GENM will not assume any liabilities (including contingent liabilities and guarantees) pursuant to the Proposed Acquisition, Proposed JV and Proposed Merger ("**Proposed Transaction**").

4. RATIONALE AND PROSPECTS

The strategic and financial rationale of GENM's Proposed Acquisition and participation through the Proposed JV in the Proposed Merger are as follows: -

- (a) Better position the Resorts World brand in the northeastern US gaming market through more effective cross marketing with Resorts World Casino New York City ("**RWNYC**");
- (b) Attract additional customers from other states, such as New Jersey and Pennsylvania by introducing new marketing efforts in these geographies and increasing market penetration of high-end players;

- (c) Achieve significant upside and value through revenue and cost synergies associated with providing arm's length operating services to Empire which will result in the elimination of duplicative costs at Empire and RWNYC including the elimination of public company costs at Empire, in addition to various other bi-directional synergies across the entire portfolio;
- (d) Leverage GENM's institutional support and experience in the leisure and hospitality industry to enhance Empire's base line performance and continue its ramp-up; and
- (e) Participate in Empire's future growth opportunities in the Orange County Opportunity, which is located close to Woodbury Commons Premium Outlet Mall, a renowned shopping outlet in the state of New York which is popular with international tourists and the potential expansion of sports betting opportunities in the state of New York.

5. RISK FACTORS

The risks factors associated with the Proposed Acquisition, Proposed JV and Proposed Merger, which are by no means exhaustive, are as follows: -

5.1 Non-Completion risk

The Proposed Acquisition is subject to fulfilment of conditions precedents which includes amongst others, receipt of regulatory approvals (including approval by the NYSGC) and satisfaction of applicable regulatory requirements. In the event of any breach of terms and conditions of the Proposed Acquisition due to non-fulfilment of the conditions precedents, the Proposed Acquisition may not be completed. There can be no assurance that the conditions precedent will be satisfied.

GENM and KH have made a non-binding proposal to Empire and it may not be accepted by Empire. It may in fact be rejected and not lead to further discussions or negotiations between the Parties.

If the Parties agree to proceed with negotiations, there can be no assurance that the Parties will be able to reach agreement on terms of a proposed merger agreement relating to the Proposed Merger with Empire and accordingly a merger agreement may not be entered into.

Even if the Parties are able to reach agreement on terms of a proposed merger agreement with Empire, the conditions to consummation of the Proposed Merger that will be set out in such merger agreement may not be satisfied and accordingly, the Proposed Merger might not be consummated.

GENM will take reasonable steps to ensure all the conditions precedent are met and that every effort is made to obtain all necessary consents and approvals for the Proposed Acquisition. In the event the Proposed Merger is not consummated, pursuant to the Term Sheet, GenUSA and KH will continue to be obligated to contribute their Common Shares of Empire into the Proposed JV wherein all decisions will be made by unanimous consent of GenUSA and KH.

5.2 Business risk

The performance of Empire is subject to risks inherent in the gaming industry which may include, but are not limited to regulatory policy changes, volatility of gaming revenues, and competition. Any economic slowdown may also have an impact on the business. In addition, the transaction may trigger certain rights of Empire's stakeholders and counterparties under contractual arrangements with Empire.

GENM will continuously take appropriate measures to mitigate the above risks such as conducting continuous review of the operations of the business, close monitoring of the progress of the Orange County venture and leveraging the experienced and capable management team of GENM's existing business in the state of New York.

5.3 Credit risk

Failure to repay any of Empire's indebtedness as it becomes due or to otherwise comply with the covenants contained in any of Empire's principal debt agreements could result in an event of default. If the event of default is not cured or waived, an event of default could enable the lenders to declare all borrowings outstanding together with accrued and unpaid interest and fees, to be due and payable and terminate all commitments to extend further credit. The lenders could also elect to foreclose on the assets securing such debt which will result in cross defaults pursuant to the terms of the principal debt agreements.

6. EFFECTS OF THE PROPOSED TRANSACTION

The effects of the Proposed Transaction on GENM are as follows:

6.1 Share capital and substantial shareholders' shareholding

The Proposed Transaction will not have any effect on the share capital and substantial shareholders' shareholding of GENM as it does not involve any allotment or issuance of new shares by GENM.

6.2 Earnings and earnings per share

The Proposed Transaction is not expected to have any material effect on the consolidated earnings and earnings per share of GENM for the financial year ending 31 December 2019 as the said proposals are expected to complete by the 4th quarter of 2019.

6.3 Net assets and gearing

The Proposed Transaction will not have any material effect on the consolidated net assets, net assets per share and gearing of GENM for the financial year ending 31 December 2019.

7. INTERESTS OF THE DIRECTORS, MAJOR SHAREHOLDERS AND/OR PERSONS CONNECTED TO THEM

Save as disclosed below, none of the Directors, major shareholders of GENM and/or persons connected to them has any interest, direct or indirect, in the Proposed Transaction:

Tan Sri Lim Kok Thay ("**TSLKT**") and his son, Mr Lim Keong Hui ("**LKH**") are Directors and holders of the rights to participate in the performance shares of GENM. TSLKT and LKH are major shareholders of GENM. TSLKT and LKH each holds directly 0.35% and 0.01% equity interests in GENM respectively and both of them have deemed interests of 49.47% equity interest in GENM by virtue of them being:

- (i) beneficiaries of a discretionary trust of which Parkview Management Sdn Bhd ("**PMSB**") is the trustee. PMSB as trustee of the discretionary trust owns 100% of the voting shares of Kien Huat International Limited ("**KHIL**") which in turn owns 100% of the voting shares of Kien Huat Realty Sdn Berhad ("**KHR**"). KHR owns more than 20% of the voting shares of Genting Berhad ("**GENT**") which owns 49.45% equity interest in GENM. As such, PMSB as trustee of the discretionary trust is deemed interested in the ordinary shares of GENM held by GENT as it is entitled to exercise or control the exercise of not less than 20% of the votes attached to the voting shares in GENT. PMSB as trustee of the discretionary trust is also deemed interested in the ordinary shares of GENM held by KHR by virtue of its controlling interest in KHR.
- (ii) beneficiaries of a discretionary trust of which Summerhill Trust Company (Isle of Man) Limited [formerly known as First Names Trust Company (Isle of Man) Limited] ("**STC**") is the trustee. STC as trustee of the discretionary trust owns 100% of the voting units of Golden Hope Unit Trust ("**GHUT**"), a private unit trust. Golden Hope Limited ("**GHL**") as trustee of the GHUT owns ordinary shares in GENM.

GHL as trustee of the GHUT, wholly owns KH which in turn owns approximately 86% of the voting interest in Empire Resorts, Inc., (a publicly traded company). As such, TSLKT and LKH who are major shareholders of GENM, have indirect interests in KH by virtue of them being beneficiaries of the discretionary trust which owns 100% of the voting units in GHUT.

TSLKT and LKH are major shareholders of GENT. TSLKT has direct interest of 1.77% in GENT and both TSLKT and LKH have deemed interests of 42.35% in GENT by virtue of them being beneficiaries of a discretionary trust of which PMSB is the trustee. PMSB as trustee of the discretionary trust owns 100% of the voting shares of KHIL which in turn owns 100% of the voting shares of KHR. As such, PMSB as trustee of the discretionary trust is deemed interested in the ordinary shares of GENT held by KHR and Inverway Sdn Bhd (“**Inverway**”), a wholly-owned subsidiary of KHR, by virtue of its controlling interest in KHR and Inverway.

TSLKT and LKH are directors of GENT, KHR, KHIL and PMSB. TSLKT is also a director of GHL. Both TSLKT and LKH are shareholders of PMSB. TSLKT, LKH, GENT, KHR, KHIL and PMSB as trustee of the discretionary trust are major shareholders of GENM.

Accordingly, TSLKT and LKH are therefore deemed interested in the Proposed Transaction (“**Interested Directors**”) and had abstained and will continue to abstain from deliberating and voting on the relevant resolutions pertaining to the Proposed Transaction at the relevant Board meetings of GENM.

8. HIGHEST PERCENTAGE RATIO

The Proposed Transaction is a non-recurrent related party transaction (“**RPT**”) under the Main Market Listing Requirements of Bursa Malaysia Securities Berhad (“**MMLR**”). Pursuant to paragraph 10.02 (g) of the MMLR, the highest percentage ratio applicable to the Proposed Transaction (assuming the merger consummated at a consideration per common stock of USD9.74) is 3.78%, based on GENM’s audited consolidated financial statements for the financial year ended 31 December 2018.

The highest aggregated percentage ratio for all the transactions between the Company and the related parties and/or persons connected with them pursuant to Paragraph 10.12(1) of the MMLR is 4.01%.

9. DIRECTORS’ STATEMENT

The Board (save for the Interested Directors) having considered all aspects of the Proposed Transaction including the rationale, prospects and risk factors, is of the opinion that it is in the best interest of GENM.

10. AUDIT AND RISK MANAGEMENT COMMITTEE’S STATEMENT

The Audit and Risk Management Committee of GENM, after having considered all aspects of the Proposed Transaction including the rationale, prospects and risk factors, is of the view that the Proposed Transaction is:

- (i) in the best interest of GENM;
- (ii) fair, reasonable and on normal commercial terms; and
- (iii) not detrimental to the interest of GENM’s minority shareholders.

11. APPROVALS REQUIRED

Other than the approvals/consents set out in Section 1 of this announcement, the Proposed Transaction does not require the approval of GENM’s shareholders.

12. ESTIMATED TIME FRAME FOR COMPLETION

As noted above, the transactions described herein are subject to the satisfaction of a number of conditions precedent and there can be no assurance that such conditions precedent will be satisfied in a timely manner or at all. We anticipate that the Proposed Acquisition could be completed in the 3rd or 4th quarter of 2019. If a merger agreement with Empire is entered into and such conditions precedent are satisfied or waived, we anticipate that the Proposed Merger could be completed by the 4th quarter of 2019.

13. DOCUMENTS FOR INSPECTION

A copy of the binding term sheet is available for inspection during normal business hours at GENM's registered office at 24th Floor, Wisma Genting, Jalan Sultan Ismail, 50250 Kuala Lumpur, Malaysia from Mondays to Fridays (except public holidays) for a period of 3 months from the date of this announcement.

This announcement is dated 6 August 2019.