

FRIDAY



**BARROWWAY NO. 1 LIMITED**

(Company number 09876824)

(the "Company")

**SOLE MEMBER'S WRITTEN RESOLUTIONS**

Date 15 January 2016

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006, the directors of the Company propose that resolutions 1, 2, 3, 4 and 5 below are passed as ordinary written resolutions of the Company and that resolution 6 below is passed as a special written resolution of the Company (the "Resolutions")

Capitalised terms used in these Resolutions shall, unless defined in these Resolutions, have the same meaning as defined in the minutes of the meeting of the board of directors of the Company, dated 15 January 2016, as appended hereto and which have been presented to the sole member of the Company (the "Board Minutes")

**ORDINARY RESOLUTION**

- 1 **THAT** the terms of, and the transactions contemplated by, the Relevant Documents to which the Company is a party are hereby approved
- 2 **THAT** any provisions in the articles of association of the Company which would otherwise prevent a director from being counted as part of the quorum are hereby disapplied
- 3 **THAT** the execution, delivery and performance by the Company of the Relevant Documents to which the Company is a party is for the benefit of and in the interests of the Company and is hereby approved
- 4 **THAT** notwithstanding any personal interest
  - a the Directors have the authority to approve the terms of the Transaction and the Relevant Documents, with such amendments as a Director may in his/her sole discretion approve,
  - b any Director, either singly or with any other Director, the Company Secretary or a witness in the case of a deed, be authorised to do all such acts and execute deeds, documents, certificates and notices as he may consider expedient in connection with the execution or performance by the Company of the Relevant Documents to which the Company is a party, the Transaction or any other agreement or document in connection therewith
- 5 **THAT** the giving of the guarantee (and the granting of indemnities, where applicable) by the Company of the performance and discharge of the obligations of each Transaction Obligor to the Finance Parties (in each case as defined in the Senior Facility Agreement) and the Mezzanine Facility Agreement is in the best interests of the Company's business and the entry by the Company into the Transaction and the Relevant Documents to which the Company is a party is to the commercial benefit and advantage of the Company

## SPECIAL RESOLUTION

- 6 **THAT** the Company's articles of association be amended by insertion of new articles 31, 32 and 33 as follows and the existing articles shall be renumbered accordingly

"31 In these articles "**Secured Party**" means, in respect of any shares, any bank, institution or other entity or person to which such shares have been mortgaged, charged or pledged (or in favour of which any other security interest in such shares has been created) and any nominee, agent or trustee for any such entity or person

Notwithstanding anything contained in these articles of association, where a transfer of shares in the Company is or is proposed to be

31 1 executed by a Secured Party by way of the exercise of any power of sale or other enforcement power under any relevant security interest,

31 2 executed by a receiver or manager or similar officer appointed by or on behalf of any Secured Party under any relevant security interest, or

31 3 made to any Secured Party pursuant to any relevant security interest,

each being a "**Secured Party Transfer**",

31 4 the directors (or director if there is only one) of the Company may not decline to register (or suspend the registration of) such a Secured Party Transfer,

31 5 a holder of shares in the Company shall not be required to comply with any provision of the articles of association which restricts the transfer of shares or which requires any such shares to be first offered to all or any shareholders for the time being of the Company before any such Secured Party Transfer may take place, and

31 6 a holder of shares in the Company shall not have any right under the articles of association or otherwise to require any shares that are the subject of a Secured Party Transfer to be transferred to them,

and, for the avoidance of doubt, regulation 70 of Table A Companies Act 1985 shall not apply insofar as it would otherwise prevent or restrict any Secured Party Transfer (or the recognition of any Secured Party Transfer)

A certificate by any officer of a Secured Party that the shares were so charged, mortgaged or pledged and the transfer was or will be so executed shall be conclusive evidence of such facts

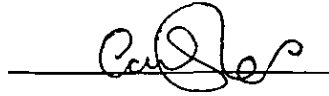
32 Notwithstanding anything contained in these articles of association, the Company shall have no present or future lien on any share, dividend or moneys payable in respect of shares which have been mortgaged, charged or pledged by way of security to a Secured Party and any lien conferred pursuant to these articles of association shall not apply in respect of any such share, dividend or moneys payable

33 If there is any inconsistency between any provision of these articles 5 and 6 and any provision of any other article, the provision of these articles 5 and 6 shall apply "

Please read the notes at the end of this document before signifying your agreement to the Resolutions

**BY ORDER OF THE BOARD**

C. SHARP >

A handwritten signature in black ink, appearing to read 'C. Sharp', is written over a horizontal line.

Director/Secretary

## AGREEMENT

I/WE, THE UNDERSIGNED, being the sole member of the Company entitled to vote on the Resolutions at the time they were circulated, **HEREBY IRREVOCABLY AGREE** to the Resolutions

These Resolutions may be signed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of these Resolutions

  
Name

Duly authorised signatory

For and on behalf of

**Acepark Limited**

Dated 15 January 2016

## NOTES

### *Procedures for signifying agreement*

- 1 To signify your agreement to the Resolutions, you should sign and date this document where indicated above and return it by post to CARRIE SHARP at Barrowway No 1 Limited, Canal Mill, Botany Brow Chorley, Lancashire PR6 9AF marked "For the attention of CARRIE SHARP and attaching a scanned copy of the signed document to an email and sending it to cssarp@fi-rem.com
- 2 Once you have signified your agreement to the Resolutions, you may not revoke your agreement
- 3 Unless, by the 28<sup>th</sup> Day following the circulation date, sufficient agreement has been received for the Resolutions to pass, it will lapse
- 4 If you do not agree to the Resolutions, you do not need to do anything You will not be deemed to agree if you do not reply

**Barrowway No. 1 Limited**  
(Company Number 09876824)  
(the "Company")

Minutes of a meeting of the Board of directors of the Company held at Canal Mill, Botany Brow Chorley, Lancashire PR6 9AF on 15 January 2016 at 12:00 am/ pm

Capitalised terms shall, unless otherwise defined herein, have the same meaning as defined in the Senior Facility Agreement (as defined below)

Present Carrie Sharp (as Chairman)  
Tim Knowles

**1. INTRODUCTION**

The Chairman declared that the Meeting had been duly convened, that a quorum was present and that the Meeting was opened. Notice of the meeting had been given to all the directors of the Company in accordance with the Company's articles of association (the "Articles of the Company")

**2. BACKGROUND & PURPOSE OF THE MEETING**

**2.1 THE CHAIRMAN REPORTED THAT** it was proposed that the Company consider and enter into

2.1.1 a mezzanine facility agreement between, amongst others, Pramerica Real Estate Capital IV S à r l (as lender) (the "**Mezzanine Lender**"), the Company (as borrower) (the "**Mezzanine Facility Agreement**" and, together with the Senior Facility Agreement, the "**Facility Agreements**"),

in order to finance the acquisition of the legal interest of certain properties defined in a senior facility agreement between, amongst others, Aviva Commercial Finance Limited (as lender) (the "**Senior Lender**") and Pro Investments Limited (as borrower) (the "**Senior Borrower**") (the "**Senior Facility Agreement**") as the "**Original Properties**" (the "**Transaction**")),

The principal purpose of the Meeting was to consider and, if thought fit, approve the entry into each of the Relevant Documents (as set out and defined below) to which the Company is a party, and to approve and ratify (as the case may be) all other documents necessary, relevant, desirable, ancillary or incidental thereto, entered into in connection with each of the Relevant Documents to which the Company is a party and the obligations to be undertaken by the Company thereby

**3. CONSIDERATION OF THE RELEVANT DOCUMENTS**

- 3 1 Draft copies of each of the following documents were then produced at the Meeting for consideration
- 3 1 1 the Senior Facility Agreement,
- 3 1 2 the Mezzanine Facility Agreement,
- 3 1 3 an intercreditor agreement to be entered into, between each Subordinated Creditor, each Finance Party, each Mezzanine Finance Party and each Original Obligor (as defined therein) (the “**Intercreditor Agreement**”),
- 3 1 4 security documents to be entered into, between, *inter alia*, the Senior Borrower and the Security Agent (as defined therein) in connection with the Senior Facility Agreement (the “**Senior Security Documents**”),
- 3 1 5 a subordination agreement to be entered into between the Company, Barrowway No 2 Limited (the “**Subsidiary**”) and Aviva Commercial Finance Limited as the Security Agent (the “**Senior Subordination Agreement**”),
- 3 1 6 a subordination agreement to be entered into between the Company, Acepark Limited (the “**Parent**”) and the Mezzanine Lender (the “**Mezzanine Subordination Agreement**”),
- 3 1 7 security documents to be entered into, between, *inter alia*, the Company and the Security Agent (as defined therein) in connection with the Mezzanine Facility Agreement (the “**Mezzanine Security Documents**”),
- 3 1 8 a certificate of the Company to be signed by a Director, certifying and confirming certain matters set out therein (the “**Director’s Certificate**”),
- 3 1 9 the intercompany loan agreement to be entered into between the Parent and the Company (the “**First Intercompany Loan Agreement**”),
- 3 1 10 a parent security agreement to be entered into, between the Company, the Parent and the Security Agent (as defined therein) in connection with the Mezzanine Facility Agreement (the “**Parent Security Agreement**”),
- 3 1 11 the intercompany loan agreement to be entered into between the Company and the Subsidiary (the “**Second Intercompany Loan Agreement**”), and
- 3 1 12 all other relevant documents, notices, agreements, certificates, confirmations and reports to be entered into by the Company or to be prepared and/or reviewed by the Company in connection with the Transaction,

collectively, the “**Relevant Documents**”

The Directors have considered whether the Company entering into the transactions contemplated by each of the Relevant Documents to which the Company is a party would cause any borrowing, guarantee, security or similar limit binding on the Company to be exceeded. The Directors concluded that it would not.

#### **4. DIRECTORS’ DUTIES AND DECLARATION OF INTERESTS**

**IT IS NOTED THAT** the Directors must comply with their directors’ duties, including those set out in section 171 to 177 of the Companies Act 2006 (the “**Act**”), and that in addition to their general duty to act, in good faith, in a manner which would be most likely to promote the success of the Company for the benefit of its members as a whole, they must have regard (amongst other matters) to each of the factors listed in section 172 of the Act, to the extent relevant to the business of the Meeting.

The Directors have noted their obligations under the Act and the Articles of the Company to

- (a) declare the nature and extent of their interests (direct or indirect) in any proposed or existing transaction or arrangement with the Company, and
- (b) update any declaration of interests which has become inaccurate or incomplete

**IT IS NOTED THAT** pursuant to section 177 of the Act, each of the Directors present at the Meeting declared his interest (if any) in the business to be transacted. Having done so, it is noted that (i) the Company’s sole shareholder will be asked to disapply by ordinary resolution any provisions in the Articles of the Company which would otherwise prevent a director from voting and being counted as part of the quorum, and (ii) the Directors may vote and form part of the quorum in relation to any proposed transaction or arrangement in which they are interested, in each case in accordance with article number 14 of the Articles of the Company in accordance with article number 17 of the Articles of the Company.

#### **5. SHAREHOLDER’S RESOLUTION**

The Directors have considered a form of draft written shareholder resolution (the “**Shareholder Resolutions**”) in which the Company’s sole shareholder will be asked to (i) approve the entry into by the Company of the Relevant Documents to which the Company is a party and the performance of the Transaction including the giving of guarantees and security required by the Relevant Documents, (ii) disapply any provisions in the Articles of the Company which would otherwise prevent a director from voting and being counted as part of the quorum, and (iii) approve the making of certain amendments to the Articles of the Company.

It was resolved that the Shareholder Resolutions be approved and distributed promptly to the sole member of the Company, being the only person entitled to receive the same pursuant to chapter 2 of part 13 of the Act for approval

The meeting then adjourned to allow the Shareholder Resolutions to be distributed. On resumption, the Chairman noted that the quorum was still present and reported that the Shareholder Resolutions had been duly passed without amendment

## 6. PARENT RESOLUTIONS

It was noted that the Company is the sole shareholder in the Subsidiary. It was also noted that the Subsidiary was considering entering into the Relevant Documents and the Transaction, and thereby has requested that the Company pass shareholder resolutions, approving entry by the Subsidiary into the Relevant Documents and the Transaction (the “**Parent Resolutions**”)

In carefully considering the terms of the Parent Resolutions in which the Company proposes to approve, amongst other matters, entry by the Subsidiary into the Relevant Documents and the transactions contemplated thereunder and the amendment of the Subsidiary’s articles of association, the Directors unanimously agree that the terms of, and transactions contemplated by, the Relevant Documents would be for the commercial benefit of the Subsidiary, and the Company as the sole shareholder of Subsidiary

The Directors **HEREBY RESOLVE THAT** the Parent Resolutions be passed and the entry into the Relevant Documents and the Transaction by the Subsidiary be approved

## 7. APPROVAL OF THE RELEVANT DOCUMENTS AND COMMERCIAL BENEFIT

7.1 In carefully considering the terms of, and the transactions contemplated by, the Relevant Documents to which the Company is a party and the nature, extent and effect of the obligations to be assumed by the Company thereunder, the Directors noted that

7.1.1 The Senior Facility Agreement contains the terms and conditions upon which the Senior Lender is prepared, for the periods referred to therein, to make available to the Senior Borrower a term loan facility of £43,860,000 (the “**Senior Facility**”) for the purposes recorded therein and, in particular, the following was also noted

- (a) each Obligor (as defined therein) would be required to make the representations and warranties set out in clause 18 (*Representations*) of the Senior Facility Agreement,
- (b) each Obligor (as defined therein) would be bound by the undertakings set out in clauses 19 (*Information undertakings*) and 21 (*General undertakings*) of the Senior Facility Agreement,
- (c) under clause 17 (*Guarantee and Indemnity*) of the Senior Facility



Agreement, each Obligor (as defined therein) would agree to guarantee to each Finance Party the punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents and also agree with each Finance Party that if, for any reason, any amount claimed by a Finance Party thereunder is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify that Finance Party against any cost, loss or liability it incurs,

- (d) that the obligations of each Obligor (as defined therein) under the guarantee and indemnity would continue notwithstanding any amendment or supplement to, restatement, replacement or novation of any of the Finance Documents,
- (e) subject to the terms of the Senior Facility Agreement, the Senior Lender would have a right to demand repayment of the Senior Facility if the Senior Borrower failed to meet the financial covenants set out in clause 20 of the Senior Facility Agreement
- (f) the Senior Lender would also be entitled to demand repayment of the Senior Facility if any of the events set out in clause 23 (*Events of Default*) of the Senior Facility Agreement occurred, and
- (g) the repayment provisions, term, interest rate, fees and other elements of pricing for the Senior Facility

7.2 It was noted that the Mezzanine Facility Agreement contains the terms and conditions upon which the Mezzanine Lender is prepared, for the periods referred to therein, to make available to the Company a term loan facility of £29,000,000 (the "**Mezzanine Facility**") for the purposes recorded therein and, in particular, the following was also noted

- (a) each Obligor (as defined therein) would be required to make the representations and warranties set out in clause 18 (*Representations*) of the Mezzanine Facility Agreement,
- (b) each Obligor (as defined therein) would be bound by the undertakings set out in clauses 19 (*Information undertakings*) and 21 (*General undertakings*) of the Mezzanine Facility Agreement,
- (c) under clause 17 (*Guarantee and Indemnity*) of the Mezzanine Facility Agreement, each Obligor (as defined therein) would agree to guarantee to each Finance Party the punctual performance by each other Obligor of all that Obligor's obligations under the Finance Documents and also agree with each Finance Party that if, for any reason, any amount claimed by a Finance Party thereunder is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify that Finance Party against any cost, loss or liability it incurs,
- (d) that the obligations of each Obligor (as defined therein) under the guarantee and indemnity would continue notwithstanding any amendment or supplement to, restatement, replacement or novation of

- any of the Finance Documents,
- (e) subject to the terms of the Mezzanine Facility Agreement, the Mezzanine Lender would have a right to demand repayment of the Mezzanine Facility if the Company failed to meet the financial covenants set out in clause 20 of the Mezzanine Facility Agreement
- (f) the Mezzanine Lender would also be entitled to demand repayment of the Mezzanine Facility if any of the events set out in clause 23 (*Events of Default*) of the Mezzanine Facility Agreement occurred, and
- (g) the repayment provisions, term, interest rate, fees and other elements of pricing for the Mezzanine Facility

7 3 It was noted that the Senior Security Agreement to be entered into as part of the Senior Security Documents contained the terms and conditions pursuant to which, amongst other things, each Chargor (as defined therein) would agree to grant fixed and floating charges to the Senior Lender over all its assets and undertaking (as more particularly described therein)

7 4 It was noted that the Mezzanine Security Agreement to be entered into as part of the Mezzanine Security Documents contained the terms and conditions pursuant to which, amongst other things, each Chargor (as defined therein) would agree to grant fixed and floating charges to the Mezzanine Lender over all its assets and undertaking (as more particularly described therein)

7 5 It was noted that the Intercreditor Agreement contains the terms and conditions pursuant to which the Company (amongst others) would acknowledge the priorities of security and ranking of payments and other contractual arrangements made between the parties thereto and it would subordinate any claims it has against other Group companies in respect of any intra-group debts owed to it

7 6 It was noted that it was a condition precedent to the availability of the Mezzanine Facility that, inter alia, the Company enter into various security arrangements with the Finance Parties. The Chairman reminded the Directors that there were various legal issues that they needed to consider in deciding whether the Company should enter into the Relevant Documents to which the Company is party. In particular, the directors should consider

- 7 6 1 the on-going solvency of the Company,
- 7 6 2 whether it was permissible under the Articles of the Company, and
- 7 6 3 their directors' duties, including those in the Act, and in particular, whether it would promote the success of the Company for the benefit of its members as a whole and constitute a proper exercise of the directors' powers

7 7 The directors considered the impact of entering into the Relevant Documents to which the Company is party on the net assets of the Company. It was noted that any obligations of the Company under the guarantees and security documents within the Relevant Documents

represented contingent liabilities of the Company and contingent liabilities should be considered to reduce net assets if they are likely to be incurred or certain to be incurred, such that the directors acting in all respects reasonably and bona fide ought to make a provision in the accounts of the Company for all or any part of the anticipated liabilities

7 8 Having regard to the Relevant Documents to which the Company is party and the position of the Company following completion of the Transaction, the directors were of the opinion that

7 8 1 taking into account all of the Company's liabilities (including its prospective and contingent liabilities), the aggregate of the Company's assets exceeded the aggregate of its liabilities and there is no ground on which the Company could currently be found to be unable to pay its debts as they fall due or as a consequence of entering into the Relevant Documents to which the Company is a party,

7 8 2 the obligations assumed by the Company under the Relevant Documents should not be called and so no provision for all or any part of the liability under the Relevant Documents ought to be made, and

7 8 3 it would not be necessary to make any provision in the Company's accounts against the obligations which it would assume under the Relevant Documents and it is not anticipated that such a provision will be required in the next 12 months

7 9 Following due and careful consideration, the Directors are of the opinion that (1) the Company will be entering into the Relevant Documents to which it is a party in good faith, (2) the Company will be acting for the purpose of carrying on its business, and (3) the entry into the Relevant Documents by the Company will benefit the Company and is most likely to promote the success of the Company for the benefit of its members as a whole because the Company will benefit from the availability of the Senior Facility and the Mezzanine Facility

## 8. RESOLUTIONS

Further, after full and careful consideration by the Directors of the Relevant Documents, and taking into account of their duties and obligations under sections 171-176 of Companies Act 2006, it was **UNANIMOUSLY RESOLVED THAT** that the entry into the Relevant Documents to which the Company is a party and the Transaction by the Company would promote the success of the Company for the benefit of its members as a whole

Accordingly, **IT IS FURTHER RESOLVED THAT:**

8 1 1 the entry by the Company into the Transaction or execution and delivery (as appropriate) by the Company of each of the Relevant Documents to which the Company is a party and the performance by the Company of its obligations under each of the Relevant Documents and the transactions contemplated thereby are hereby approved and the terms and conditions of each of the

Relevant Documents are hereby approved,

812 any one or more directors of the Company or the secretary of the Company (each an “**Authorised Signatory**”) or, in the case of any document to be executed as a deed, a director of the Company (to the extent their signature is witnessed by an independent witness) or any two Authorised Signatories, be hereby authorised to

- (a) approve and execute and deliver the Relevant Documents to which the Company is a party (together with any amendments being made thereto as any such persons(s) may in his absolute discretion think fit, which amendments are hereby approved),
- (b) approve, amend, execute, sign, deliver and/or dispatch on behalf of the Company from time to time any other document which may be required in connection with the Transaction and the Relevant Documents to which the Company is a party, including without limitation any other document and any other communication, notice, request, certificate or documents required under the terms of or requested in connection with the Relevant Documents, and
- (c) to do all such other acts considered expedient in connection with the execution of, or performance by the Company of its obligations under the Transaction and the Relevant Documents from time to time, and

813 the execution of each of the Relevant Documents to which the Company is party and/or any notice, communication, request or other document referred to above by any person authorised to execute the same shall be conclusive evidence of the due authorisation by the Company of the execution of such Relevant Document, notice, communication or other document

## **9. STATUTORY BOOKS AND FILINGS**

The secretary was instructed to make all necessary entries in the Company's statutory books and file all returns at Companies House arising from the business transacted at the meeting and the passing of the Shareholder Resolutions

## **10. OTHER BUSINESS**

There being no other business, the Chairman declared the Meeting closed

C SHARP .



Chairman

Dated

15 January 2016