

SCHEDULE 6

This is Schedule 6 comprising the Form of Guarantee referred to in the Second Supplemental Agreement for the Expanded PRIME Contract

BETWEEN

The Secretary of State for Work and Pensions

and

The First Secretary of State

and

Trillium (PRIME) Limited

and

Trillium (PRIME) Property GP Limited

dated

10 DECEMBER 2003

PART 1

PARENT GUARANTEE

DATED _____ 2003

LAND SECURITIES GROUP PLC
(as Parent)

- and -

THE SECRETARY OF STATE FOR WORK AND PENSIONS

GUARANTEE AND INDEMNITY

Lovells

CONTENTS

CLAUSE

PAGE

BETWEEN:

- (1) **LAND SECURITIES GROUP PLC** a company incorporated under the laws of England and Wales (with registered number 04369054) whose registered office is 5 Strand, London EC2N 5AF (the "**Parent**"); and
- (2) **THE SECRETARY OF STATE FOR WORK AND PENSIONS** (the "**DWP**").

WHEREAS:

- (A) The Secretary of State for Social Security (now DWP) (the "**DSS**") (1), The Secretary of State for the Environment, Transport and the Regions (now the First Secretary of State) (the "**SSE**") (2), Partnership Property Management (PRIME) Limited (now Trillium (PRIME) Limited) (3) and PPM (PRIME) Property Limited (now Trillium (PRIME) Property GP Limited) (acting as a general partner of PPM (PRIME) Property Limited Partnership (the "**Partnership**")) (4) entered into the Project Agreement on 27 March 1998.
- (B) PPM (PRIME) Property Limited (hereinafter referred to as "**PRIME Property**") acting as a general partner of the Partnership and the DSS entered into a Guarantee on 27 March 1998 by which the Partnership guaranteed to the DSS the full, prompt and complete observance and performance by Partnership Property Management (PRIME) Limited (hereinafter referred to as "**PRIME Contractor**") of all of the PRIME Contractor's obligations to the DSS under the Project Agreement (the "**Original Guarantee**").
- (C) With effect from 27 June 2002, pursuant to Statutory Instrument SI2002 No. 1397 the property, rights and liabilities of the Secretary of State for Social Security were transferred to DWP.
- (D) At the request of the PRIME Contractor, the Parent has agreed to enter into this Guarantee.
- (E) It is intended that this Guarantee shall take effect as a Deed.

WITNESSES as follows:

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 **Definitions:** In this Guarantee terms defined in the Project Agreement and not redefined in this Guarantee shall have the meaning set out in that document and, in addition, unless the context otherwise requires, the following words and expressions shall have the following meanings:

"**Act**" means the Companies Act 1985;

"**Change of Control Event**" means any sale or other disposal of any legal or beneficial interest in at least 51% of the equity share capital of Land Securities Trillium Ltd (including the control over the exercise of voting rights of the equity share capital), other than in relation to a corporate reorganisation of the Group;

"**Dissolution Date**" means the date of dissolution of the Partnership;

"**Group**" means the group comprising the Parent and its Subsidiaries;

"Guaranteed Obligations" means all liabilities and obligations of the PRIME Contractor and PRIME Property the performance, payment and observance of which are guaranteed by the Parent pursuant to Clause 2.1(a) of this Guarantee;

"Guaranteed Principal Amount" means:

- (a) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP on or before 31 March 2005, £95,000,000;
- (b) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2005 but on or before 31 March 2006, £86,000,000;
- (c) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2006 but on or before 31 March 2007, £77,000,000;
- (d) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2007 but on or before 31 March 2008, £68,000,000;
- (e) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2008 but on or before 31 March 2009, £59,000,000;
- (f) where a demand is made by DWP under this Guarantee after in respect of an amount due or owing to DWP 31 March 2009 but on or before 31 March 2010, £50,000,000;
- (g) where a demand is made by DWP under this Guarantee after in respect of an amount due or owing to DWP 31 March 2010 but on or before 31 March 2011, £40,000,000;
- (h) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2011 but on or before 31 March 2012, £30,000,000;
- (i) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2012 but on or before 31 March 2013, £20,000,000;
- (j) where a demand is made by DWP under this Guarantee in respect of an amount due or owing to DWP after 31 March 2013 but on or before 31 March 2014, £10,000,000,

and, for the avoidance of doubt, no amount due or owing in any of the time periods referred to in (a) – (j) above may be carried forward or back to any other time period.

"Liability" means any liability, damage, loss, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise;

"Party" means a party to this Guarantee;

"Project Agreement" means the project agreement entered into on 27 March 1998 and made between the DSS (now DWP), the SSE, PRIME Property and the PRIME Contractor as amended by a Supplemental Agreement dated 6 June 2000 and as further amended by a Second Supplemental Agreement dated on or about the date of this Guarantee and any amendments made in accordance with Clause 37 thereof;

"Termination Date" means 1 April 2014; and

"Zone A Bank" means a Zone A OECD Bank as defined in Article 2.1 of Council Directive 89/647/EEC dated 18 December 1989 on a solvency ratio for credit institutions and whose long term unsecured and unsubordinated debt has at that time a credit rating of no less than A/a2 as published by either Standard and Poors or Moodys.

1.2 **Interpretation:** Unless the context otherwise requires, in this Guarantee:

- (a) references to **"any Party"** shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees;
- (b) **"including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing";
- (c) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (d) **"variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and **"vary"** and **"varied"** shall be construed accordingly;
- (e) **"writing"** includes telex and facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Guarantee to be signed and **"written"** has a corresponding meaning;
- (f) references to this Guarantee or to any other document include references to this Guarantee or such other document as varied in any manner from time to time, even if changes are made to the composition of the parties to this Guarantee or such other document or to the nature or amount of any facilities made available under such other document;
- (g) the singular shall include the plural and vice versa; any gender shall include the other genders; clauses, paragraphs and Schedules shall be construed as references to clauses and paragraphs of, and Schedules to, this Guarantee;
- (h) the defined term "Guarantee" is used for convenience only and its use shall not be construed to derogate from the fact that the Parent has given payment undertakings and executed a contract of indemnity in this Agreement.

1.3 **Companies Act 1985:** Expressions defined in the Act (and not redefined in this Guarantee) shall have the same meanings in this Guarantee, except that the expression **"company"** shall include a body corporate established outside Great Britain.

1.4 **Statutes:** Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.

1.5 **Headings:** Headings in this Guarantee are inserted for convenience and shall not affect its interpretation.

2. **GUARANTEE AND INDEMNITY**

2.1 **Guarantee:** The Parent irrevocably and unconditionally:

- (a) guarantees to DWP, on demand, the due and punctual observance, performance and satisfaction by each of the PRIME Contractor and PRIME Property of all their obligations and liabilities under the Project Agreement including the due and

punctual payment by the PRIME Contractor and PRIME Property of all amounts due or owing to DWP under or in respect of the Project Agreement; and

- (b) undertakes to DWP that if the PRIME Contractor or PRIME Property defaults in the performance or observance of the Guaranteed Obligations, the Parent shall, within 20 Business Days of any demand by DWP, procure the performance or observance of such Guaranteed Obligations,

PROVIDED THAT the total amount which may be recovered from the Parent under this Guarantee at any time together with interest thereon and all costs and expenses payable by the Parent hereunder, shall not exceed the Guaranteed Principal Amount available to be drawn during the relevant time period in which such amount becomes due or owing to DWP, or in which such obligation or liability failed to be performed.

- 2.2 **Indemnity:** The Parent agrees, as a separate and independent primary obligation, to indemnify DWP from time to time on demand from and against any loss, cost, expense or liability of any kind incurred by DWP as a result of either the PRIME Contractor or PRIME Property failing to perform or observe the Guaranteed Obligations or as a result of any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective against either PRIME Contractor or PRIME Property for any reason whatsoever, whether known to DWP or not,

PROVIDED THAT the total amount which may be recovered from the Parent under this indemnity at any time together with interest thereon and all costs and expenses payable by the Parent hereunder, shall not exceed the Guaranteed Principal Amount available to be drawn during the relevant time period in which such amount becomes due or owing to DWP or in which such obligation or liability failed to be performed.

- 2.3 **Termination Date:** No demand may be made under this Guarantee by DWP after the Termination Date.

- 2.4 **Continuing obligations:** The Parent's obligations under this clause 2 are continuing obligations and will continue in full force irrespective of whatever dealings may occur on any account between DWP and either of the PRIME Contractor or PRIME Property until neither the PRIME Contractor nor PRIME Property has any liability to DWP.

- 2.5 **Payments:** All payments falling due by the Parent under this Guarantee will be made to DWP without any set-off or counterclaim and free from any deduction or withholding for or on account of any taxes or other charges in the nature of taxes imposed by any competent authority. If any such deduction or withholding is required by law, the Parent will pay to DWP any additional amount necessary to ensure that DWP receives and retains the full amount of the relevant payment as if such deduction or withholding had not been made.

- 2.6 **Additional security:** This Guarantee is to be in addition to and is not to prejudice or be prejudiced by:

- (a) any other guarantee or security (including any other guarantee signed by the Parent) which DWP may hold from or on account of the PRIME Contractor or PRIME Property either now or in the future; or
- (b) any right of set-off, combination, lien or other rights exercisable by DWP against the Parent, the PRIME Contractor or PRIME Property.

- 2.7 **No subrogation:** The Parent shall have no right to:

- (a) make any claim (whether by way of proof in liquidation or otherwise) against the PRIME Contractor or any property of the PRIME Contractor; or

- (b) make any claim (whether by way of proof in liquidation or otherwise) against PRIME Property or any property of PRIME Property; or
- (c) participate in any security held or money received by DWP on account of the Guaranteed Obligations; or
- (d) stand in the place of DWP in respect of any such security or money,

until, in each case, all Guaranteed Obligations have been performed, observed or paid (as the case may be).

2.8 **No security:** The Parent declares that it has not received any security from either the PRIME Contractor or PRIME Property or any other surety for the giving of this Guarantee and undertakes not to take or receive any security in respect of its liability under this Guarantee. If the Parent nevertheless does take or receive any such security, it will hold it on trust for DWP. The perpetuity period for any such trust shall be eighty years.

2.9 **No discharge:** DWP may at any time (without affecting its rights against the Parent under this Guarantee) take, hold, exchange, release, abstain from perfecting or enforcing any guarantee or security for the Guaranteed Obligations, or compromise with or extend time or grant waivers, releases or any indulgence to the PRIME Contractor, PRIME Property or a co-surety, or make any arrangement, concession or settlement with either of them or do or omit or neglect to do anything whatever which, but for this provision, might exonerate the Parent or discharge its obligations under this Guarantee (except for a specific written release given by DWP of such obligations).

2.10 **No reduction of liability:** After this Guarantee becomes enforceable, no payment received by DWP from any source in respect of the Guaranteed Obligations will be treated as reducing the Parent's liability under this Guarantee, so that, until DWP has received payment in full of all amounts due in respect of Guaranteed Obligations, they will be deemed, as between DWP and the Parent, to remain wholly unsatisfied.

2.11 **Adjustments:** If the state of account between either DWP and the PRIME Contractor or DWP and PRIME Property, by reference to which any amounts due in respect of Guaranteed Obligations is calculated for the purposes of this Guarantee, requires adjustment at any time because of any insolvency law or because of any claim made against DWP by an office-holder (within the meaning of section 234 of the Insolvency Act 1986) or a person performing a substantially similar function in any insolvency proceedings outside England and Wales in each case, in relation to the insolvency of either the PRIME Contractor or PRIME Property, then, notwithstanding any other provision of this Guarantee:

- (a) the liability of the Parent to DWP will be increased by any amount which DWP is required to pay or account for as a result of such adjustment; and
- (b) DWP may treat any release or settlement made by it with the Parent before any such adjustment is required as being of no effect and may still recover from the Parent the amount of any such adjustment and any release shall not prejudice the rights of DWP under this clause,

PROVIDED THAT the liability of the Parent to DWP shall not exceed the Guaranteed Principal Amount at any time.

If DWP is required because of any insolvency law to pay to any such office-holder a sum of money referable to an amount paid to a third party out of any account of either the PRIME Contractor or PRIME Property with DWP, the amount of such repayment shall be treated as and form part of the Guaranteed Obligations, for the purposes of this Guarantee.

2.12 **Insolvency claims:** If any claim is made against DWP under any insolvency law, DWP may agree the claim or settle it on any terms it chooses without the necessity of asking for the Parent's agreement. If DWP does agree or settle the claim, the Parent will be liable under this Guarantee as if a court order had been made containing the terms which DWP has agreed. The Parent will be responsible for all costs and expenses which DWP properly incurs in defending such a claim,

PROVIDED THAT the liability of the Parent to DWP shall not exceed the Guaranteed Principal Amount at any time.

2.13 **Winding up:** The winding up or dissolution of either the PRIME Contractor or PRIME Property or both will not affect the Parent's liability under this Guarantee and any sum payable to DWP at the date of the commencement of such winding up or immediately prior to such dissolution (as the case may be) will be treated as continuing payable until actually paid in full.

2.14 **Binding and conclusive:** Each of the following will be binding and conclusive on the Parent (except in the case of manifest error):

- (a) any admission or acknowledgement in writing by the PRIME Contractor or PRIME Property or on its behalf of the amount due in relation to this Guarantee;
- (b) any judgment or award obtained by DWP against the PRIME Contractor or PRIME Property;
- (c) any proof by DWP in winding up which is admitted; or
- (d) any statement of account furnished by DWP the correctness of which is certified by any one of its officers or managers.

2.15 **No financial assistance:** Notwithstanding any other provision of this Guarantee, this Guarantee shall not apply to the Parent if and insofar and for as long as it would not be lawful under Chapter VI, Part V, of the Companies Act 1985 (prohibition of financial assistance by a company for the acquisition of its own shares) for any Guaranteed Obligation to be guaranteed by the Parent under this Guarantee.

2.16 **Binding nature:** The Parent agrees to be bound by this Guarantee.

2.17 **Demands:** The making of one demand shall not preclude DWP from making any further demands.

3. **WAIVER OF DEFENCES**

None of the events set out below shall discharge the liabilities or the obligations of the Parent under this Guarantee or impair the rights, powers and remedies of DWP under this Guarantee:

- (a) any change to the Parent's name, constitution, status or membership;
- (b) the winding-up, dissolution, administration, receivership, or reorganisation of the Parent or the Parent entering into a composition or voluntary arrangements with its creditors generally;
- (c) the winding-up, dissolution, administration, receivership or reorganisation of the PRIME Contractor or any change in its constitution, status, function, control or ownership or the PRIME Contractor entering into a composition or voluntary arrangement with its creditors generally;
- (d) the winding-up, dissolution, administration, receivership or reorganisation of PRIME Property or any change in its constitution, status, function, control or

ownership or PRIME Property entering into a composition or voluntary arrangement with its creditors generally;

- (e) any amendment to, increase in, or variation, waiver or release of, any of the Guaranteed Obligations or any other security or guarantee for the Guaranteed Obligations;
- (f) the existence of any claim or set-off or other rights which:
 - (i) the Parent may have against the PRIME Contractor; or
 - (ii) the Parent may have against PRIME Property.
- (g) any failure by DWP to take or perfect, or fully to take or perfect, any other guarantee, indemnity or security intended to be taken for the Guaranteed Obligations;
- (h) any failure by DWP to realise, or fully to realise, the value of, or any release, discharge, exchange or substitution of, any security taken in respect of the Guaranteed Obligations;
- (i) the existence, whether known to DWP or not, of an Event of Default under the Project Agreement, any time or other indulgence being granted or being agreed to be granted to the PRIME Contractor or PRIME Property, in respect of its obligations under or pursuant to the Project Agreement or under any other security for such obligations or any arrangement or compromise entered into by DWP with the PRIME Contractor, PRIME Property or any other person, including any co-guarantor; or
- (j) any of the obligations of the Parent under this Guarantee being or becoming illegal, invalid, unenforceable, impaired or ineffective in any respect.

4. COSTS, EXPENSES AND LIABILITIES

4.1 **Enforcement costs:** The Parent will, within three Business Days of DWP's written demand, pay to DWP on a full indemnity basis, the amount of all costs and expenses (including legal, valuation, accountancy and consultancy fees and disbursements and out-of-pocket expenses) and any VAT thereon incurred by DWP in connection with the exercise and/or enforcement or any proceedings instituted by or against DWP, in any jurisdiction.

4.2 **Indemnity for Liabilities:** The Parent shall also, within three Business Days of DWP's written demand, reimburse or pay to DWP, its employees or agents, on demand (on the basis of a full indemnity) the amount of any Liability incurred by DWP, its employees or agents, in connection with:

- (a) any default or delay by the Parent in the performance of any of its obligations under this Guarantee;
- (b) the exercise, or the attempted or purported exercise, by or on behalf of DWP of any of its powers or any other action taken by or on behalf of DWP with a view to or in connection with the recovery or enforcement of the Guaranteed Obligations or for any other purpose contemplated in this Guarantee; and
- (c) any stamp duty, stamp duty reserve tax or similar tax which may be payable as a result of the execution, delivery, performance or enforcement of this Guarantee or any judgment given in connection with this Guarantee,

in each case in an amount not exceeding the Guaranteed Principal Amount available at that time.

5. **INTEREST ON OVERDUE AMOUNTS**

Any overdue amounts secured by this Guarantee shall carry interest at the rate and in accordance with the terms (if any) agreed between the Parent and DWP or (in the absence of any such agreed rates) at the rate of one per cent per annum over three month LIBOR and (in either case) such interest shall accrue on a day-to-day basis to the date of repayment in full and, if unpaid, shall be compounded on the terms so agreed (or in the absence of such agreed terms) with quarterly rests on DWP's usual quarterly interest days. Interest shall continue to be charged and compounded on this basis after as well as before any demand or judgment. Interest payable on overdue amounts shall be subject to the Guaranteed Principal Amount at that time.

6. **TRANSFER**

6.1 **No Transfer by Parent:** Subject to clause 7, this Guarantee shall be binding upon the Parent and its successors. The Parent shall not assign or transfer any of its rights or obligations under this Guarantee.

6.2 **Transfer by DWP:** DWP may at the time of or in connection with any assignment of its rights under the Project Agreement to the same person, assign any of its rights hereunder to the Crown or other manifestation or agency of the Crown provided that the obligations of such transferee under the Project Documents are fully and unconditionally guaranteed by the Crown.

6.3 **Disclosure:** The Parent, irrevocably authorises DWP, at its discretion, at any time or from time to time, to disclose any relevant information (and excluding any price sensitive information in relation to paragraphs (b) and (c) below) concerning the Parent, this Guarantee and the Guaranteed Obligations:

- (a) to any department or branch of the UK Government which has as its function the oversight of the activities of DWP;
- (b) to any prospective assignee or transferee referred to in clause 8.2 (*Transfer by DWP*) and any other person considered by DWP to be concerned in the prospective transaction;
- (c) to any person who, as part of the arrangements made in connection with any transaction referred to in clause 8.2 (*Transfer by DWP*), requires such information after the transaction has been effected; and
- (d) in the course of the examination and certification of DWP's accounts or any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which DWP has used its resources.

The above authority is without prejudice to DWP's right of disclosure implied by law. In particular, the Comptroller and Auditor General may examine documents evidencing expenditure and income by DWP which are owned, held or otherwise within the control of the Parent and may require the Parent to produce such oral or written explanations as DWP considers necessary.

7. **RELEASE OF PARENT'S OBLIGATIONS**

DWP hereby agrees to release the Parent from its obligations under clause 2 upon:

- (a) the Guaranteed Obligations having been discharged in full; or
- (b)

- (i) the receipt of evidence satisfactory to DWP that the Parent has procured the execution of a guarantee in favour of DWP on the same terms as this Guarantee by:
 - (1) in the case of a reorganisation of the group of which the Parent is the ultimate Holding Company a company or body which is an Associate of the Parent or of any Holding Company of the Parent or of Land Securities Trillium Limited ; or
 - (2) a successor holding company of Land Securities Trillium Ltd in the event of a Change of Control Event;which company or body has a credit rating as published by Standard and Poors or Moodys which is no lower than the rating of the Parent at that time; or
- (ii) the issue and delivery to DWP by the London branch of a Zone A Bank of a standby letter of credit in favour of DWP in a maximum face amount of the maximum potential liability of the Parent under this Guarantee as at the date that the letter of credit is issued; or
- (iii) the execution and delivery of Security Documents in form and substance satisfactory to DWP in favour of DWP over such assets as are acceptable to DWP (acting reasonably) including, but not limited to, first ranking legal mortgages in favour of DWP over real property situated in the UK with an aggregate market value of no less than the Guaranteed Principal Amount applicable at the time the Security Documents are executed.

8. THIRD PARTY RIGHTS

- 8.1 **Exclusion of Contracts (Rights of Third Parties) Act 1999:** No person other than a Party shall have any right by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any term (express or implied) of this Guarantee, but without prejudice to any right or remedy of the third party which may exist or be available apart from that Act.
- 8.2 **Rights of the Parties to vary:** The Parties may by agreement vary any term of this Guarantee (including this clause 11.2) without the necessity of obtaining any consent from any other person.

9. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS

- 9.1 **Delay etc:** All rights, powers and privileges under this Guarantee shall continue in full force and effect, regardless of DWP exercising, delaying in exercising or omitting to exercise any of them.
- 9.2 **Severability:** No provision of this Guarantee shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.
- 9.3 **Illegality, invalidity, unenforceability:** Any provision of this Guarantee which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Guarantee.
- 9.4 **Variations:** No variation of this Guarantee shall be valid and constitute part of this Guarantee, unless such variation shall have been made in writing and signed by all Parties.

9.5 **Consents:** Save as otherwise expressly specified in this Guarantee, any consent of DWP may be given absolutely or on any terms and subject to any conditions as DWP may determine in its entire discretion.

10. **COUNTERPARTS**

This Guarantee may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all of which when taken together shall constitute a single document.

11. **SERVICE OF DEMANDS AND NOTICES**

11.1 Any communication under this Guarantee shall be in writing and all notices or demands to be given under the terms of this Guarantee shall be served by sending the same by prepaid first class post, facsimile or leaving the same at:

If to the PRIME Contractor
140 London Wall
London EC2Y 5DN
Fax No: [withheld]
Attention: [●]

If to PRIME Property
140 London Wall
London EC2Y 5DN
Fax No: [withheld]
Attention: [●]

If to DWP
Department for Work and Pensions
PRIME Project Team
4th Floor, Tavis House
London WC1H 9NB
Fax No: [withheld]
Attention: [●]

If to the Parent
140 London Wall
London EC2Y 5DN
Fax No: [withheld]
Attention: [●]

11.2 A Party may change its nominated address or facsimile number by prior notice to the other Parties.

11.3 Notices sent by first class post shall be deemed to have been delivered on the fifth Business Day after posting.

11.4 Notices given by facsimile shall be deemed to have been delivered where there is confirmation of uninterrupted transmission by a transmission report and where there has been no telephonic communication by the recipient to the senders (to be confirmed in writing) that the facsimile has not been received in legible form:

- (a) within two hours after sending, if sent on a Business Day between the hours of 9.00 am and 4.00 pm; or
- (b) by 11.00 am on the next following Business Day, if sent after 4.00 pm, on a Business Day but before 9.00 am on that next following Business Day.

- 11.5 **DWP:** Any communication or document to be made or delivered to DWP will be effective only when actually received by DWP and then only if it is expressly marked for the attention of any department or officer identified as part of its address details at the end of this Guarantee (or any substitute department or officer that DWP shall specify for this purpose).
- 11.6 **Electronic mail:** Notices under this Guarantee may not be served by electronic mail or other electronic means of communication other than facsimile.
- 11.7 **Notification of change:** Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to clause 11.1 or changing its own address or fax number, DWP shall notify the other parties.
12. **GOVERNING LAW AND JURISDICTION**
- 12.1 This Guarantee shall be governed by and construed in accordance with the laws of England.
- 12.2 The Parties submit to the non-exclusive jurisdiction of the Courts of England as regards any claim or matter arising in relation to this Guarantee.

THIS GUARANTEE has been executed by the Parent as a deed and signed by DWP and it shall take effect on the date stated at the beginning of this document.

EXECUTION PAGE

THE PARENT

EXECUTED AND DELIVERED as a)
deed by)
Land Securities Group PLC)
acting by)

Director

Director/Secretary

DWP

The Corporate Seal of the)
Secretary of State for Work and Pensions)
hereunto affixed is authenticated by:)

Authorised by the
Secretary of State for Work and Pensions

Witnessed by:

PART 2

PRIME PROPERTY GUARANTEE

APPENDIX

GUARANTEE DATED 2003

TRILLIUM (PRIME) PROPERTY GP LIMITED

- and -

THE SECRETARY OF STATE FOR WORK AND PENSIONS

- and -

THE FIRST SECRETARY OF STATE

GUARANTEE DATED NOVEMBER 2003
RELATING TO THE OBLIGATIONS OF TRILLIUM (PRIME) LIMITED
TO THE SECRETARY OF STATE FOR WORK AND PENSIONS

Lovells

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THIS GUARANTEE made on [] November 2003

BETWEEN:

- (1) **The Secretary of State for Work and Pensions ("DWP");** and
- (2) **The First Secretary of State (the "SS1");** and
- (3) **Trillium (PRIME) Property GP Limited**, a company registered and incorporated in accordance with the laws of England and Wales registered under number 3424587 and having its registered office at Bastion House, 140 London Wall, London EC2Y 5DN ("**PRIME Property** ") both in its own capacity and acting as general partner (the "**General Partner**") of Trillium (PRIME) Property Limited Partnership, a limited partnership registered under the Limited Partnership Act 1907 (the "**Partnership**").

WHEREAS:

- (A) DWP, the SS1, the Guarantor and the PRIME Contractor have entered into the PRIME Contract.
- (B) On 27 March 1998 DWP and the Partnership (acting through PRIME Property as its general partner) as guarantor entered into a guarantee ("**the Original Guarantee**")
- (C) DWP, the SS1 and the Guarantor (as defined below) entered into the Second Supplemental Agreement on [].
- (D) At the request of the PRIME Contractor, the Guarantor has agreed to enter into this Guarantee with effect from the Contract Expansion Date.
- (F) From the Contract Expansion Date the Original Guarantee shall be superseded and replaced by this Guarantee, and the Guarantor shall, to the extent set out in clause 2.1, be released from its obligations pursuant to the Original Guarantee.
- (G) It is intended that this Guarantee shall take effect as a deed.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions:** In this Guarantee, terms defined in the PRIME Contract and not redefined in this Guarantee have the same meanings as in that document and, in addition, unless the context otherwise requires the following words and expressions have the meanings set out opposite them:

"First Supplemental Agreement" the supplemental agreement dated 6 June 2000 between the Secretary of State for Social Security, the Secretary of State for the Environment, Transport and the Regions, the PRIME Contractor and the Guarantor;

"Guaranteed Obligations" all obligations and liabilities (including payment obligations) of the PRIME Contractor to DWP or the SS1 under the PRIME Contract and the Second Supplemental Agreement;

"Guarantor" together PRIME Property in its own capacity and the Partnership acting through PRIME Property as General

Partner;

"Original Guarantee" the guarantee dated 27 March 1998 between PPM (PRIME) Property Limited and the Secretary of State for Social Security;

"PRIME Contract" means the agreement dated 27 March 1998 between The Secretary of State for Social Security, The Secretary of State for the Environment, Transport and the Regions, Partnership Property Management (PRIME) Limited and PPM (PRIME) Property Limited (acting as general partner of PPM (PRIME) Property Limited Partnership) as amended from time to time;

"Second Supplemental Agreement" the supplemental agreement dated [] between DWP, the SS1, the PRIME Contractor and the Guarantor.

1.2 **Interpretation:** Unless the context otherwise requires, in this Guarantee:

- (a) **"including"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing";
- (b) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (c) **"variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected;
- (d) **"writing"** includes telex and facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Guarantee to be signed and **"written"** has a corresponding meaning;
- (e) the singular shall include the plural and vice versa; any gender shall include the other genders; clauses and paragraphs shall be construed as references to clauses and paragraphs of this Guarantee;
- (f) the defined term "Guarantee" is used for convenience only and its use shall not be construed to derogate from the fact that the Parent has given payment undertakings and executed a contract of indemnity in this Agreement.

1.3 All of the PRIME Contractor's and PRIME Property's obligations, duties and responsibilities shall be construed as separate obligations, duties and responsibilities owed to DWP. Where such obligations duties and responsibilities are owed by PRIME Property, these shall be obligations duties and responsibilities of PRIME Property acting in its own capacity, save to the extent they relate to a Property in which the Partnership has an interest or which is subject to a Virtual Assignment which has not been assigned or novated to PRIME Property acting in its own capacity at the time the obligation, duty or responsibility arises and in which event the obligation, duty and responsibility shall be owed by PRIME Property acting as general partner of the Partnership.

1.4 **Companies Act 1985:** Expressions defined in the Act (and not redefined in this Guarantee) shall have the same meanings in this Guarantee, except that the expression "company" shall include a body corporate established outside Great Britain.

1.5 **Statutes:** Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.

1.6 **Headings:** Headings in this Guarantee are inserted for convenience and shall not affect its interpretation.

2. **GUARANTEE**

2.1 The Parties agree that with effect from the Contract Expansion Date the Original Guarantee shall be superseded and replaced by this Guarantee, and the Guarantor shall be released from any further obligations pursuant to the Original Guarantee. To avoid doubt the effect of this release is that all liabilities, duties, rights and interests shall be governed by and referable to this Guarantee irrespective of whether such duties, rights and interests accrue on, after or before the Contract Expansion Date.

2.2 Subject to clause 10, in consideration of DWP entering into the Second Supplemental Agreement, the Guarantor, with effect from the Contract Expansion Date, irrevocably and unconditionally, as primary obligor:

(a) undertakes and guarantees to DWP and to the SS1 the full, prompt and complete observance, performance and payment by the PRIME Contractor of the Guaranteed Obligations; and

(b) undertakes to DWP and to SS1 that if the PRIME Contractor defaults in the observance, performance or payment of any of the Guaranteed Obligations, the Guarantor shall forthwith on demand procure the observance, performance or payment of such Guaranteed Obligations.

3. **INDEMNITY**

Subject to clause 10, the Guarantor agrees, as a separate and independent primary obligation, to indemnify DWP and the SS1 from time to time on demand from and against any loss, cost, expense or liability incurred by DWP or by the SS1 as a result of the PRIME Contractor failing to perform or observe the Guaranteed Obligations or as a result of any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective against the PRIME Contractor for any reason whatsoever, whether known to DWP or the SS1 or not.

4. **NATURE OF THE GUARANTOR'S LIABILITY**

4.1 The Guarantor shall be liable to DWP and to the SS1 under this Guarantee in all respects as if it were jointly and severally liable with the PRIME Contractor under the PRIME Contract and the Second Supplemental Agreement.

5. **CONTINUING SECURITY AND CONDITIONS FOR RELEASE**

This Guarantee shall be a continuing guarantee and shall remain in force until all the Guaranteed Obligations have been performed and shall be enforceable by DWP and the SS1 without first being required to take any steps against the PRIME Contractor.

6. **WAIVER OF DEFENCES**

None of the events set out below shall discharge the liabilities or the obligations of the Guarantor under this Guarantee or impair the rights, powers and remedies of DWP and the SS1 under this Guarantee:

(a) any change to the name, constitution, status, membership or subsidiaries of PRIME Property, the Partnership or any partner of the Partnership;

- (b) the winding-up, dissolution, administration, receivership, or reorganisation of PRIME Property, the Partnership or any partner of the Partnership; or PRIME Property, the Partnership or any partner of the Partnership entering into a composition or voluntary arrangement with its creditors generally;
- (c) the winding-up, dissolution, administration, receivership or reorganisation of the PRIME Contractor or any change in its constitution, status, function, control or ownership or the PRIME Contractor entering into a composition or voluntary arrangement with its creditors generally;
- (d) any amendment to, increase in, or variation, waiver or release of, any of the Guaranteed Obligations or any other security or guarantee for the Guaranteed Obligations;
- (e) the existence of any claim or set-off or other rights which:
 - (i) any of PRIME Property, the Partnership or any partner of the Partnership may have against the PRIME Contractor;
 - (ii) any of PRIME Property, the Partnership or any partner of the Partnership may have against DWP or the SS1 or any other person; or
 - (iii) the PRIME Contractor may have at any time against DWP or the SS1;except, in the case of (ii) and (iii) above, where such claim or set-off or other rights arise under the PRIME Contract;
- (f) any failure by DWP or the SS1 to take or perfect, or fully to take or perfect, any other guarantee, indemnity or security intended to be taken for the Guaranteed Obligations;
- (g) any failure by DWP or the SS1 to realise, or fully to realise, the value of, or any release, discharge, exchange or substitution of, any security taken in respect of the Guaranteed Obligations;
- (h) the existence, whether or not known to DWP or the SS1, of an Event of Default under the PRIME Contract, any time or other indulgence being granted or being agreed to be granted to the PRIME Contractor or any other person, including any co-guarantor, in respect of its obligations under or pursuant to the PRIME Contract or under any other security for such obligations or any arrangement or compromise entered into by DWP or the SS1 with the PRIME Contractor or any other person, including any co-guarantor;
- (i) any of the obligations of the Guarantor under this Guarantee or under any other document or security taken in respect of any of its obligations being or becoming illegal, invalid, unenforceable, impaired or ineffective in any respect; or
- (j) any other act, event or omission which, but for this clause 6, might operate to discharge, impair or otherwise affect any of the obligations of PRIME Property, the Partnership or any partner of the Partnership under this Guarantee or any of the rights, powers or remedies conferred upon DWP or the SS1 by this Guarantee or by law.

7. PRIME PROPERTY'S REPRESENTATIONS AND WARRANTIES

7.1 PRIME Property hereby represents and warrants to DWP and to the SS1 that:

- (a) it is a limited liability company, duly incorporated and validly existing under the laws of the jurisdiction of its incorporation, that it is the general partner of the

Partnership and that the Partnership is a limited partnership duly formed and validly existing under the laws of the jurisdiction of its formation;

- (b) it has full power and authority to enter into this Guarantee both on its own behalf and on behalf of the Partnership and this Guarantee is executed by its duly authorised representative.

8. THE GUARANTOR'S REPRESENTATIONS AND WARRANTIES

- 8.1 The Guarantor hereby represents and warrants to DWP and to the SS1 that the entry into and performance by it of this Guarantee does not and will not conflict with its constitutional documents.

9. NOTICES

- 9.1 All notices under this Guarantee shall be in writing and all certificates, notices or written instructions to be given under the terms of this Guarantee shall be served by sending the same by prepaid first class post, facsimile or leaving the same at:

- (a) **The Guarantor:**

- Trillium (PRIME) Property GP Limited Fax: []
[to be inserted]

- Attention: []

- (b) **DWP and the SS1:**

- PRIME Management Team
[to be inserted]

- Fax: []

Attention: Marked for the attention of the person who is the Department Representative for the time being pursuant to clause 4.1 of the PRIME Contract (and not that person's delegate).

- 9.2 Any party to this Guarantee may change its nominated address or facsimile number by prior notice to the other party.
- 9.3 Notices sent by first class post shall be deemed to have been delivered on the fifth Business Day after posting.
- 9.4 Notices given by facsimile shall be deemed to have been delivered where there is confirmation of uninterrupted transmission by a transmission report and where there has been no telephonic communication by the recipient to the sender (to be confirmed in writing) that the facsimile has not been received in legible form:
 - (a) within two hours after sending, if sent on a Business Day between the hours of 9 am and 4 pm; or
 - (b) by 11 am on the next following Business Day, if sent after 4 pm on a Business Day but before 9 am on that next following Business Day, or on a day which is not a Business Day.

10. EXTENT OF THE GUARANTOR'S OBLIGATIONS

10.1 Subject to clause 10.2, nothing in this Guarantee shall result in the Guarantor being subject at any particular time to:

- (a) any obligation whether by way of guarantee or indemnity in respect of the Guaranteed Obligations which is more extensive than the obligations of the PRIME Contractor at such time under the PRIME Contract; or
- (b) any liability or obligation to DWP or to SS1 under this Guarantee in circumstances where the PRIME Contractor is not subject, at that time, to the equivalent obligation or liability to DWP or the SS1 under the PRIME Contract.

10.2 Clause 10.1 shall not relieve the Guarantor from its obligations under this Guarantee if:

- (a) the PRIME Contractor is at any time not subject to an obligation to indemnify DWP or the SS1 in respect of a particular matter solely by reason of any Guaranteed Obligation being or becoming void, voidable, unenforceable or ineffective against the PRIME Contractor for any reason whatsoever; and
- (b) the Guarantor would, at such time, have been under such obligation (notwithstanding the defect in the obligation of the PRIME Contractor) had the Guarantor been a party to the PRIME Contract with full joint and several liability with that of the PRIME Contractor.

11. GOVERNING LAW AND JURISDICTION

11.1 This Guarantee shall be governed by and construed in accordance with English law.

11.2 The parties to this Guarantee irrevocably agree to submit to the non-exclusive jurisdiction of the courts of England.

AS WITNESS the parties executed this Guarantee as a deed the day and year first above written.

EXECUTED AND DELIVERED

as a deed by **Trillium (PRIME) Property GP**)
Limited acting as general partner of,)
and on behalf of,)
Trillium (PRIME) Property Limited)
Partnership)

[]
Director
Authorised Signatory

[]
Witness (Signature)

[]
Signatory Full Name

[]
Witness (Full Name)

[]
Director
Authorised Signatory

[]
Witness (Full Name)

[]
Signatory Full Name

[]
Witness (Full Name)

[Address]
(Full Address)

[]
Signatory Full Name

EXECUTED AND DELIVERED)
as a deed by **Trillium (PRIME) Property GP**)
Limited)
acting by:)

Director

Director/Secretary

The Corporate Seal of the **Secretary**)
of State for Work and Pensions hereunto)
affixed is authenticated by:)

Authorised by the Secretary of State
for Social Security

Witnessed by
