

SCHEDULE 12

This is Schedule 12 comprising the Form of Inter-Creditor Agreement and Subordination Agreement 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

[withheld]

Part 2

Subordination Agreement

THE SECRETARY OF STATE FOR WORK AND PENSIONS
as Senior Creditor

- and -

TRILLIUM (PRIME) LIMITED
and
TRILLIUM (PRIME) PROPERTY GP LIMITED
as Obligors

- and -

THE COMPANIES LISTED IN SCHEDULE 1
as Subordinated Creditors

DEED OF SUBORDINATION

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BETWEEN:

- (1) **The Secretary of State for Work and Pensions** (the "**Senior Creditor**");
- (2) **Trillium (PRIME) Limited** incorporated in England and Wales with registered number 3258384 whose registered office is at 140 London Wall, London EC2Y 5DN (the "**PRIME Contractor**");
- (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 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**"); and
- (4) The companies listed in Schedule 1 (together the "**Subordinated Creditors**").

NOW THIS DEED WITNESSES AND IT IS HEREBY AGREED AND DECLARED as follows:

1. INTERPRETATION

- 1.1 In this Deed words and expressions in the Project Agreement (as defined below) shall have the same meaning in this Deed (unless otherwise stated) and the following words and expressions have the meanings set out opposite them:

"Discharge Date" the first date, as determined by the Senior Creditor (acting in good faith), on which the Senior Debt shall have been irrevocably discharged in full;

"Obligors" means together the PRIME Contractor and PRIME Property;

"Permitted Payments" means:

- (a) at all times prior to the termination of the right and obligation of the PRIME Contractor to implement the Operations in accordance with clause 8.1 of the Project Agreement, all payments due from an Obligor to any Subordinated Creditor to the extent necessary to permit the Subordinated Creditor to discharge its obligations under or in accordance with a Service Contract or to any Third Party Landlord;
- (b) at all times prior to the earlier of:
 - (i) the occurrence of an Event of Default;
 - (ii) a notice to the relevant Obligor from the Senior Creditor that a Set-Off Amount is due from an Obligor to the Senior Creditor, and such payment has not been made (provided that no such notice may be given unless such payment has not been fully set-off by DWP from amounts payable to the PRIME Contractor on the Basic Payment Date next following the date on which such Senior Creditor payment is due),

all payments due from any Obligor to any Subordinated Creditor any save to the extent that any such payment is due under any document or arrangement which has been made contrary to the terms of the Project Agreement, provided that

- (1) in the case of (i), if the event of default shall be remedied in accordance with the terms of the Project Agreement; or
- (2) in the case of (ii), once the obligation of the Obligor referred to in the relevant notice has been discharged,

payments referred to in this paragraph (b) of this definition will once again be Permitted Payments unless and until there shall be a further event within paragraph (i) or (ii);

"PRIME Property" means together Trillium (PRIME) Property GP Limited, both in its own capacity and as General Partner, and the Partnership;

"Project Agreement" 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;

"Receiver" means any receiver or receiver and manager (and such expression shall include where the context so permits the plural and any substituted receiver or receiver and manager or receivers and managers) of all or any part of the undertaking, property, assets, rights and revenues of the Obligors whatsoever and wheresoever, present and future;

"Security" means each Security Interest which may be granted from time to time by any Obligor, any Subordinated Creditor or any other person in favour of the Senior Creditor to secure the Senior Debt or any part of it and including any alterations or supplements to the Security, novations of the Security or replacements for the Security;

"Senior Debt" means all present and future sums, liabilities and obligations from time to time due, owing or incurred (actually or contingently) whether individually, jointly or jointly and severally by any Obligor to the Senior Creditor arising out of or in connection with the Project Agreement (including, to avoid doubt, the Second Supplemental Agreement); and

"Subordinated Debt" means all present and future sums, liabilities and obligations from time to time due, owing or incurred (actually or contingently) by any Obligor to any of the Subordinated Creditors.

- 1.2 Clause headings are for convenience only and shall not affect the construction of this Deed.
- 1.3 References to the "assets" of any person shall be construed as a reference to the whole or any part of its business, undertaking, property, assets and reserves (including any right to receive revenues and uncalled capital).
- 1.4 References to any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended.
- 1.5 References to the Senior Creditor, the Obligors and the Subordinated Creditors shall, where relevant, be deemed to be references to or to include, as appropriate, their respective successors, transferees or assignees.
- 1.6 Any obligation of any of the parties to this Deed not to do something shall include an obligation not knowingly to permit, suffer or allow the same.
- 1.7 References to "including" shall not be construed restrictively but shall be construed as meaning "including, without prejudice to the generality of the foregoing".

2. PURPOSE AND DURATION

- 2.1 Each of the Obligors and the Subordinated Creditors hereby agree with the Senior Creditor that the rights of each Subordinated Creditor to receive any payment or distribution, whether of principal or otherwise, in respect of the Subordinated Debt, and the ability of any Obligor to make such payment or distribution, will be subordinated to the Senior Debt on and subject to the terms of this Deed, and the rights of each Subordinated Creditor to take other steps in respect of any Obligor will be restricted as set out in this Deed, in each case until the Discharge Date.
- 2.2 The Subordinated Debt shall, until the Discharge Date, continue to be subordinated to the Senior Debt on and subject to the terms of this Deed, and the restrictions set out in this Deed shall continue to apply notwithstanding any act, omission, transaction, limitation, matter or circumstance whatsoever which, but for this provision, might operate to affect the priorities of the Senior Debt and the Subordinated Debt provided for in this Deed, including without limitation:
- (a) any right or remedy of the Senior Creditor against any other person;
 - (b) any time or indulgence granted by the Senior Creditor to or any arrangement or compromise made with any other person or any fluctuation from time to time in the amount of the Senior Debt or the Subordinated Debt;
 - (c) any variation, amendment, novation, supplement or extension of the terms of the Project Documents;
 - (d) any omission on the part of the Senior Creditor to enforce any of its rights against any Obligor or any other person whether under the Project Agreement, the Security or otherwise;
 - (e) the winding-up, dissolution or administration of any Obligor or any other person or any other insolvency proceedings in respect of the same or any change in its management, status, constitution, function or control; or
 - (f) any of the obligations of any Obligor or any other person under the Security being or becoming illegal, invalid or unenforceable.

3. UNDERTAKINGS BY THE OBLIGORS

- 3.1 Each Obligor undertakes to the Senior Creditor that it will not at any time prior to the Discharge Date, except with the prior written consent of the Senior Creditor, and save in respect of the Permitted Payments:
- (a) pay, prepay, redeem or repay, or make any distribution or pay any dividend in respect or on account of, or purchase or acquire, any of the Subordinated Debt in cash or in kind or apply any money or property in discharge of the Subordinated Debt;
 - (b) exercise any set-off or right of combination against any of the Subordinated Debt; or
 - (c) permit any person to purchase or acquire any of the Subordinated Debt.
- 3.2 Each Obligor undertakes to the Senior Creditor that it will not at any time prior to the Discharge Date, except with the prior written consent of the Senior Creditor, take or knowingly fail to take any action whereby the subordination of all or any part of the Subordinated Debt to the Senior Debt as set out in this Deed is likely to be terminated, impaired or materially adversely affected.

4. UNDERTAKINGS BY THE SUBORDINATED CREDITORS

4.1 Each Subordinated Creditor undertakes to the Senior Creditor that it will not any time prior to the Discharge Date, except with the prior consent of the Senior Creditor:

- (a) demand or receive from any Obligor any payment, redemption or repayment, or any dividend or distribution in respect or on account of the Subordinated Debt in cash or in kind or apply any money or property in discharge of any of the Subordinated Debt other than Permitted Payments;
- (b) accelerate any of the Subordinated Debt or otherwise declare any of the Subordinated Debt prematurely due or payable;
- (c) enforce any rights under the Subordinated Debt by attachment, set-off (other than in respect of Permitted Payments), combination, execution or otherwise;
- (d) petition for, initiate, support (or vote in favour of any resolution for) or take any other action or steps whatsoever for or which may lead to any insolvency, liquidation, reorganisation, administration, dissolution, winding-up proceedings or any voluntary arrangement or assignment for the benefit of any Obligor's creditors or similar proceedings involving any Obligor;
- (e) take, accept or receive the benefit of, or permit to subsist in favour of it, any Security Interest upon any of the assets of any Obligor or any guarantee or other assurance against financial loss for or in respect of the Subordinated Debt; or
- (f) take or knowingly fail to take any action whereby the subordination of all or any part of the Subordinated Debt to the Senior Debt as set out in this Deed is likely to be terminated, impaired or materially adversely affected.

4.2 Each Subordinated Creditor warrants that as of the date hereof it has not taken, accepted or received the benefit of, or permitted to subsist in favour of it, any Security Interest upon any of the assets of any Obligor or any guarantee or other assurance against financial loss to or in respect of the Subordinated Debt.

4.3 In the event of any payment or distribution of any kind (whether in monies, securities or other property) being made to or paid to any Subordinated Creditor in breach of any of the provisions of this Clause 4, that Subordinated Creditor will forthwith pay or deliver to the Senior Creditor all such money, securities or other property (or such lesser portion as will cause the Senior Debt to be irrevocably paid in full) and until such payment or delivery to the Senior Creditor has been effected, all such money, securities or other properties shall be held on trust for the Senior Creditor.

4.4 Each Subordinated Creditor warrants to the Senior Creditor that this Deed is within its powers, has been duly authorised by it and constitutes its legal, valid and binding obligations.

5. RECOVERIES

5.1 If any corporate action or other steps are taken or legal proceedings are started for the winding-up, administration, liquidation, dissolution, reorganisation or similar proceeding of a Obligor or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of any Obligor or any or all of its revenues and assets, or if any Obligor or any Subordinated Creditor assigns its assets for the benefit of its creditors or enters into any arrangement with its creditors generally:

- (a) the Subordinated Debt shall continue to be postponed and subordinated to the Senior Debt in accordance with the terms of this Deed; and

(b) any payment or distribution of any kind, whether in cash, securities or other property, which is made to or paid to or payable or deliverable upon or with respect to the Subordinated Debt (or any part of it) by the liquidator, administrator, administrative receiver or receiver (or any equivalent or similar officer) of any Obligor shall be paid or delivered to the Senior Creditor for application in accordance with clause 6 and, until such payment, each Subordinated Creditor will hold such sums or distributions on trust for the Senior Creditor.

5.2 Each Subordinated Creditor agrees (if so required by the Senior Creditor) to demand, sue and prove for, collect and receive the whole of the Subordinated Debt and give acquittance for it and to file claims and take such other proceedings as the Senior Creditor may deem necessary or advisable for the enforcement of this Deed and the priorities referred to in this Deed. No Subordinated Creditor shall, however, be required to take any action which would be unlawful.

5.3 Any liquidator or other insolvency representative or trustee of any Subordinated Creditor is authorised to apply any assets or money received by him in accordance with the terms of this Deed.

6. APPLICATION OF AMOUNTS RECEIVED BY THE SENIOR CREDITOR OR RECEIVER

6.1 The respective priorities of the claims of the Senior Creditor and each Subordinated Creditor shall stand so that all amounts from time to time paid to the Senior Creditor pursuant to this Deed shall (subject to the payment of any claim ranking in priority as a matter of law) be applied in the following order of priority:

(a) FIRST, in satisfaction of all costs, charges and expenses properly incurred and payments made by the Senior Creditor or any Receiver appointed under the Security or any part thereof (including legal expenses) and of the remuneration of the Receiver (and all interest on such sums);

(b) SECOND in or towards the discharge of the Senior Debt; and

(c) THIRD to such persons who may be entitled to them.

6.2 Notwithstanding the provisions of Clause 6.1, only amounts actually received (including amounts so received by the exercise of any rights of set-off) by the Senior Creditor shall be capable of being applied by the Senior Creditor in or towards satisfaction of the Senior Debt.

7. WAIVERS AND CONSENTS

The rights of the Senior Creditor under this Deed are cumulative and not exclusive of the Senior Creditor's rights under the general law, and may be waived only in writing and specifically. The parties agree that delay in exercising or non-exercise or partial exercise of any such right shall not be a waiver of those rights.

8. COUNTERPARTS

This Deed may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered to any party shall be an original, but all the counterparts shall together constitute one and the same instrument.

9. SERVICE OF NOTICES

Save as otherwise expressly provided in this Deed, the provisions of clause 43 (*Notices*) of the Project Agreement shall apply to all communications or documents to be made or delivered hereunder as if the same were to be made or delivered under the Project

Agreement, mutatis mutandis, but as if references therein to the Obligors included additional references to each of the Subordinated Creditors at its address set out above or at such other address as each Subordinated Creditors may advise the Senior Creditor in writing.

10. **PERPETUITY PERIOD**

The perpetuity period applicable to the trusts created by this Deed shall be 80 years.

11. **SUCCESSORS**

11.1 Neither the Subordinated Creditors nor the Obligors (or any of them) shall assign or transfer all or any of its rights, benefits or obligations under this Deed without obtaining the prior written consent of the Senior Creditor. Any such assignment or transfer shall be conditional upon the delivery to the Senior Creditor of a deed of accession to this Deed in terms satisfactory to the Senior Creditor.

11.2 The Senior Creditor shall be entitled to assign or transfer all or any of its rights, benefits or obligations under the Security or this Deed to any person to whom it may transfer its rights under the Project Agreement.

12. **DELIVERY**

This Deed shall be treated as having been executed and delivered as a deed only upon being dated.

13. **GOVERNING LAW AND JURISDICTION**

This Deed shall be governed by and construed in accordance with the laws of England.

IN WITNESS whereof the parties have executed this Deed on the day and year first above written.

SCHEDULE

Subordinated Creditors

Name	Company Number	Address
Land Securities Trillium Limited		
LST (PRIME) Limited		
Trillium Property Services (PRIME) Limited		
Trillium (PRIME) Furniture Limited		
Trillium (PRIME) Trading Limited		
Trillium Estates Limited		
Trillium Property Limited		

EXECUTED AND DELIVERED as a Deed)
 by)
**The Secretary of State for Work)
 and Pensions)**
 In the presence of:)

Name

Address

THE OBLIGORS

EXECUTED AND DELIVERED as a Deed)
 for and on behalf of)
Trillium (PRIME) Limited)
 in the presence of:)

Director

Director/Secretary

EXECUTED AND DELIVERED as a Deed)
 for and on behalf of)
Trillium (PRIME) Property GP Limited)
 in the presence of:)

Director

Director/Secretary

THE SUBORDINATED CREDITORS

EXECUTED AND DELIVERED as a Deed)
for and on behalf of)
[●])
in the presence of:)

Director

Director/Secretary

/s/ [withheld]

/s/ [withheld]

.....
For the Secretary of State for Work and Pensions

.....
For the First Secretary of State

/s/ [withheld]

/s/ [withheld]

.....
For Trillium (PRIME) Limited

.....
Trillium (PRIME) Property GP Limited