

JOINDER AGREEMENT

THIS JOINDER AGREEMENT (hereinafter referred to as this “Joinder Agreement”) is made and entered into as of the [REDACTED], 2024 (hereinafter referred to as the “Effective Date”), by and among the **COUNTY OF KENTON, KENTUCKY**, a County and political subdivision organized and existing under the laws of the Commonwealth of Kentucky (hereinafter referred to as the “Ground Lessor”) with an address of 1840 Simon Kenton Way, Covington, Kentucky 41012; **KEYBANK NATIONAL ASSOCIATION**, a national banking association, as mortgagee (hereinafter referred to as the “Lender”) having an address at 11501 Outlook Street, Suite #300, Overland Park, Kansas 66211; and **PASSCO COVINGTON RIDGE DST**, a Delaware statutory trust (hereinafter referred to as the “Borrower” or “Mortgagor”) having an address at 2050 Main Street, Suite 650, Irvine, California 92614 (hereinafter Ground Lessor, the Lender, and the Mortgagor shall sometimes be collectively referred to as the “Parties” and individually as a “Party”). Capitalized terms not defined herein shall have the meaning given to them in that certain Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the Effective Date to which this Joinder Agreement is attached (hereinafter, as it may be from time to time amended, modified, extended, renewed, substituted and/or supplemented, referred to as the “Mortgage”).

RECITALS

- A. Pursuant to Section 103.200, *et. seq.* of the Kentucky Revised Statutes (the “IRB Act”), Ground Lessor, in such capacity as issuer (the “Issuer”), has issued its maximum aggregate amount \$37,345,000.00 Taxable Industrial Building Revenue Bonds, Series 2020 (Tapestry Ridge Project) (the “Bonds”) to finance the costs of a mixed-use redevelopment project on the Mortgaged Property (defined herein), which Bonds are payable solely from Lease Payments (but not from amounts characterized as Unassigned Issuer’s Rights) made by Mortgagor to Ground Lessor pursuant to the Ground Lease (as defined below), and assigned to The Huntington National Bank, in such capacity as trustee (“Trustee”), under that certain Trust Indenture by and between the Issuer and the Trustee (the “Indenture”).
- B. In furtherance of the above-described industrial revenue bond transaction and in accordance with the IRB Act, Ground Lessor has accepted title to the real property legally described on Exhibit “A” attached hereto and improvements constructed thereon (hereinafter referred to as the “Mortgaged Property”) and entered into that certain Agreement of Lease dated as of October 1, 2020 with Mortgagor (hereinafter, as it may be from time to time amended, modified, extended, renewed, substituted and/or supplemented, referred to as the “Ground Lease”).
- C. Borrower, Lender and others are parties to that certain Multifamily Loan and Security Agreement dated as of [REDACTED], 2024 (as has been and as may be further amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”). Lender shall, from time to time, make advances to Borrower in accordance with the terms of the Loan Agreement. All advances made in accordance with the Loan Agreement are referred to, collectively, as the “**Mortgage Loan.**”

- D.** Borrower, in consideration of (i) the Mortgage Loan which is evidenced by (a) that certain Multifamily Note in the original principal amount of \$[REDACTED] dated as of [REDACTED], 2024, executed by Borrower and others and made payable to the order of Lender, maturing on [REDACTED], 2034, and all schedules, riders, allonges, addenda, renewals, extensions, amendments and modifications thereto, and any additional Multifamily Notes issued from time to time pursuant to the Loan Agreement and all schedules, riders, allonges, addenda, renewals, extensions, amendments and modifications thereto (individually and collectively, as amended, restated, replaced, supplemented or otherwise modified from time to time, the “Note”), and (ii) the Loan Agreement, and to secure to Lender the repayment of the Indebtedness (as defined in the Mortgage), and all renewals, extensions and modifications thereof, and the performance of the covenants and agreements of Borrower contained in the Loan Documents (as defined in the Loan Agreement), excluding the Environmental Indemnity Agreement (as defined in the Mortgage), irrevocably and unconditionally mortgages, grants, assigns, remises, releases, warrants, and conveys to and for the benefit of Lender the Mortgaged Property (as defined in the Mortgage), including the real property located at the Mortgaged Property, to have and to hold such Mortgaged Property unto Lender and Lender’s successors and assigns, forever; Borrower hereby releasing, relinquishing, and waiving, to the fullest extent allowed by law, all rights and benefits, if any, under and by virtue of the homestead exemption laws of the Ground Lessor (as defined in the Mortgage), if applicable.
- E.** Mortgagor, in such capacity as purchaser of the Bonds, has agreed to purchase and accept an assignment of a portion of the Bonds with a portion of the proceeds of the Mortgage Loan in the amount of \$[REDACTED] and has further agreed pursuant to that certain Collateral Assignment given by Mortgagor in favor of Lender (the “Collateral Assignment”) and the Bond Pledge Agreement given by Mortgagor in favor of Lender (the “Bond Pledge Agreement” and, together with the Ground Lease, the Indenture and all agreements, instruments, and documents executed in connection with the Bonds, the “Bond Documents”) to assign its rights in and to the Bonds and the Bond Documents to Lender as additional security for repayment of the Indebtedness (as defined in the Mortgage).
- F.** Subject to the limitations of the IRB Act, including the provisions of Section 103.230 of the IRB Act which limit the obligations of the Issuer to the revenues derived from the Mortgaged Property and as a condition of making the Mortgage Loan to the Mortgagor, Lender requires the Ground Lessor to subject its fee simple interest in and to the Mortgaged Property, to the fullest extent permitted by Kentucky law, to the lien of the Mortgage, which Mortgage, *inter alia*, secures the Lender’s Mortgage Loan to the Mortgagor and the payment of principal and interest on the Bonds.
- G.** Ground Lessor has agreed to this Joinder Agreement solely for (1) the purposes of consenting to the Mortgagor’s mortgaging of its rights, title, and interests in and to the Mortgaged Property, and (2) subject to the limitations of the IRB Act and Kentucky law, joining in the Mortgage and subjecting its fee simple interest in and to the Mortgaged Property to the lien and security interest of the Mortgage.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Incorporation of Recitals; Defined Terms. The foregoing recitals are true and correct and incorporated by reference, as if fully set forth below. Unless otherwise defined herein, all capitalized terms used but not defined herein shall have the meanings when used herein as are assigned to such terms in the Mortgage.

2. Grant of Fee Mortgage on Property.

(a) Ground Lessor hereby irrevocably and unconditionally grants, bargains, sells, conveys, mortgages, assigns, transfers, pledges and warrants to the Lender, with all powers of sale (if any) and all statutory rights under the laws of the Commonwealth of Kentucky, and, except for any Unassigned Issuer's Rights (as such terms is defined under the Ground Lease) and subject to the limitations of the IRB Act, grants to the Lender a security interest in and to, all of Ground Lessor's present and hereafter acquired estate, rights, title, and interests, if any, in, to, and under the Mortgaged Property which Ground Lessor now has or may later acquire, and hereby subjects its fee simple interest in and to the Mortgaged Property, to the fullest extent permitted by Kentucky law, to the lien and security interest of the Mortgage.

(b) All leasehold mortgagee protection provisions set forth in the Ground Lease, and all other provisions inuring to the benefit of leasehold mortgagees or their successors or assigns contained in the Ground Lease, and any representations, warranties and certifications set forth in the Ground Lessor Estoppel Certificate delivered by the Ground Lessor in connection with the Mortgage Loan, are incorporated into this Joinder Agreement by reference and are restated and confirmed by the Ground Lessor for the benefit of Lender.

(c) Ground Lessor hereby waives any right, arising at law or in equity, whether presently existing or subsequently accruing, whether to the Ground Lessor or anyone holding or claiming under or through the Ground Lessor, to have its fee estate in the Mortgaged Property sold separately from Borrower's leasehold estate upon foreclosure, whether under principles of marshalling or otherwise.

3. Representations and Covenants of Ground Lessor and Lender.

(a) Ground Lessor shall deliver to Lender: (1) within ten (10) days after Ground Lessor's receipt, a true and correct copy of each notice, demand, complaint or request from Borrower under, or with respect to, the Ground Lease; (2) written notice of any default by Borrower under the Ground Lease simultaneously with sending such notice to Borrower and no notice of default given to Borrower, and no exercise of any remedy by the Ground Lessor as a result of any such default, shall be effective unless such notice shall have been delivered to Lender; (3) prompt written notice in the event that Ground Lessor's interest in

the Mortgaged Property, or any portion thereof, shall become an asset in any voluntary or involuntary bankruptcy proceeding; and (4) within ten (10) days after Ground Lessor's receipt of written request from Lender, such other information and evidence as Lender may reasonably request concerning Ground Lessor's due observance, performance and compliance with the terms, covenants and provisions of the Ground Lease.

(b) The Lender agrees to send written notice to Ground Lessor of any notices of default sent to the Mortgagor, pursuant to the Mortgage or the Loan Documents.

(c) All notices, approvals and demands permitted or required to be given hereunder shall be in writing and deemed duly served or given if personally delivered or sent by certified or registered U.S. mail, postage prepaid, and addressed if to Ground Lessor at, 1840 Simon Kenton Way, Covington, Kentucky 41012, Attention: County Judge, Executive, and if to Mortgagor at c/o Passco Companies, 2050 Main Street, Suite 650, Irvine, California 92614, or Lender at c/o KeyBank Real Estate Capital – Servicing Dept., 11501 Outlook Street, Suite #300, Overland Park, Kansas 66211, Mailcode: KS-01-11-0501, Attn: Servicing Manager. The parties may from time to time by notice to the other designate another place for receipt of future notices.

(d) Ground Lessor hereby agrees that, without prior notice to Lender, Ground Lessor shall not extend, renew, increase or compromise the Bonds, in whole or in part, without releasing, extinguishing or affecting in any manner whatsoever the effectiveness of this Joinder Agreement, provided however, any such extension, renewal, increase or compromise of the Bonds shall not (i) extend the maturity date of Ground Lessor's Bonds beyond October 1, 2050 or (ii) increase the maximum aggregate principal amount of the Bonds in excess of \$37,345,000.00.

(e) Consistent with the limitations of the IRB Act and Kentucky law, nothing contained herein shall create or imply any personal liability of the Ground Lessor for the payment of the Indebtedness (as defined in the Mortgage) and, in the event of any foreclosure proceedings or other legal proceedings brought by Lender under the Mortgage with respect to Ground Lessor's interest in the Mortgaged Property, Lender shall solely seek an *in rem* judgment against Ground Lessor.

(f) The Ground Lessor covenants and agrees that Lender shall have the right, but not the obligation, to cure any default by Borrower under the Ground Lease and Lender shall be afforded (a) 60 days to cure any such default or (b) in the event that any such default cannot, with reasonable diligence, be cured within 60 days, such longer period as may be required to complete such cure including, without limitation, such time as may be required for Lender to gain possession of Borrower's leasehold interest under the Ground Lease, provided that Lender notifies the Ground Lessor of its intention to cure such default in writing and Lender promptly commences and diligently pursues such cure to completion.

(g) Ground Lessor has not received written notice that it is in violation of any governmental law or regulation applicable to its interest in the Mortgaged Property and its operation thereon, including, without limitation, any environmental laws or the Americans

with Disabilities Act, and has no reason to believe that there are grounds for any claim or such violation.

(h) Ground Lessor has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against the Ground Lessor's interest in the Mortgaged Property.

(i) Ground Lessor represents and warrants that, other than pursuant to the Ground Lease to Borrower, Ground Lessor has not assigned, transferred, sold or conveyed any interest in the Mortgaged Property.

(j) Ground Lessor hereby represents and warrants to Lender as follows:

(1) This Joinder Agreement constitutes a legal, valid and binding obligation of the Ground Lessor secured solely by the Mortgaged Property and the revenues derived from the Mortgaged Property as contemplated under Section 103.230 of the IRB Act and is otherwise subject to the limitations of the IRB Act and Kentucky law.

(2) Ground Lessor has the power, authority and right to execute this Joinder Agreement, and to deed, grant, convey and assign to Lender, as assignee under the Collateral Assignment and the Bond Pledge Agreement, a security interest in Ground Lessor's right, title and interest in the Mortgaged Property pursuant to the terms of this Joinder Agreement (except for the Unassigned Issuer's Rights of the Ground Lessor under the Ground Lease) and during the term of the Bonds and to keep and observe all of the terms of this Joinder Agreement to be performed by the Ground Lessor under this Joinder Agreement.

(3) Subject to the limitations of the IRB Act and Kentucky law, Ground Lessor will, at the sole cost and expense of Borrower, warrant, defend and preserve the title and validity of the lien of this Joinder Agreement and defend the same to Lender against the claims of all persons claiming by, through and under the Ground Lease.

(4) Ground Lessor agrees that Ground Lessor will not, without the prior written consent of Lender, cause or agree to a transfer of or all or any part of the Mortgaged Property or any interest in the Mortgaged Property, or permit a transfer of all or any portion of the Mortgaged Property.

(k) Ground Lessor acknowledges all of the following:

(1) Lender has not made any representations or warranties to Ground Lessor with respect to the creditworthiness of Borrower or the prospects of repayment of the Indebtedness (as defined in the Mortgage).

(2) Ground Lessor assumes full responsibility for keeping informed with respect to Borrower's business operations, if any, and financial condition to the extent Ground Lessor wishes to do so.

(3) Except with respect to notices of defaults sent pursuant to Section 3(b) of this Joinder Agreement, Lender will have no duty to disclose or report to Ground Lessor any information now or later known to Lender with respect to Borrower, including any information relating to any of Borrower's business operations or financial condition.

(4) Pursuant to the Loan Agreement, Lender may, from time to time, amend the Mortgage, including to increase the Indebtedness thereunder, and any amendment to the Mortgage or the Bond Documents will not release, impair or modify the obligations, or rights of Ground Lessor under this Joinder.

4. Indemnification of Ground Lessor. Mortgagor agrees to indemnify and hold Ground Lessor (for purposes of this Section, the term "Ground Lessor" shall include the employees, representatives, agents, officers, and commissioners of Ground Lessor) harmless from all liability, damage or expense imposed on or incurred by Ground Lessor from any and all claims or causes of action brought against Ground Lessor arising from or relating to the Mortgage. All amounts indemnified against hereunder, including, without limitation, attorneys' fees, if paid by Ground Lessor shall bear interest at the maximum lawful rate and shall be payable by Mortgagor to Ground Lessor upon demand. The foregoing indemnities shall not terminate upon the foreclosure, release or other termination of this Joinder Agreement but will survive foreclosure of this Joinder or conveyance in lieu of foreclosure and the repayment of the Indebtedness (as defined in the Mortgage) and the discharge and release of this Joinder Agreement and the other Loan Documents.

5. No Ground Lessor Liability. Notwithstanding anything to the contrary contained herein, Ground Lessor joins in the execution of this Joinder Agreement for the sole purpose of granting a security interest in, subordinating and subjecting its fee simple interest in the in the Mortgaged Property to the lien of the Mortgage, it being the intention of Lender and Mortgagor, that, in the event of a default under the Loan Documents and foreclosure of the Mortgage, Lender shall look solely to Mortgagor for the performance of the covenants therein contained and the enforcement of remedies, except that in addition, Lender shall be entitled, at Lender's option (in its sole discretion) and at no cost to Ground Lessor, to extinguish, assume or otherwise enforce its rights against both the fee simple and leasehold interests encumbered by the Mortgage in foreclosure, but otherwise without recourse to Ground Lessor. For avoidance of doubt, nothing herein or in any Loan Document shall be construed to represent or constitute an indebtedness on behalf of the Ground Lessor within the meaning of the constitution of the Commonwealth of Kentucky or a pledge of the faith and credit or the taxing power of the Ground Lessor, the

Commonwealth of Kentucky, or any political subdivision, municipality or other local agency thereof.

6. Ground Lease.

(a) The Ground Lease shall not be modified, amended or altered in any material respect, terminated or cancelled, nor shall a surrender of the Premises (as such term is defined under the Ground Lease) by Borrower be accepted by the Ground Lessor, without the prior written consent of Lender, and that any such action taken without Lender's consent shall not be binding on Lender.

(b) If the Ground Lease is terminated for any reason prior to the expiration of its term, including, without limitation, as a result of a rejection of the Ground Lease in a bankruptcy proceeding, upon Lender's request, the Ground Lessor shall enter into a new lease with Lender and such new lease shall be upon the same terms and conditions of the unexpired term of the Ground Lease immediately prior to such termination.

(c) With respect to the new lease referred to in Section 6(b) of this Joinder Agreement, should Lender become the tenant under a new lease:

(1) A leasehold interest in any Project Facilities (as such term is defined under the Ground Lease) shall automatically vest in Lender; and

(2) The Ground Lessor shall promptly assign to Lender the Borrower's right, title and interest in any space leases and subleases which have accrued, with the consent of Lender, to the Ground Lessor.

(d) Any indebtedness of Borrower to Ground Lessor now or later existing (including claims under the Ground Lease, but excluding the Unassigned Issuer's Rights (as such terms is defined under the Ground Lease), or any rights to subrogation the Ground Lessor may have as a result of the Mortgage or any action taken by Lender under the Mortgage), together with any interest thereon, will be, and such indebtedness is, hereby deferred, postponed and subordinated to the prior payment in full of the Loan.

(e) The Ground Lease provides that, without the consent of either the Ground Lessor or the holder of the Bonds, Borrower may (without prior written notice to the Ground Lessor) pledge, assign, hypothecate, or grant a leasehold mortgage or other security interest in and to its leasehold interest under the Ground Lease to a lender.

7. Enforcement.

(a) Ground Lessor is not permitted, in the absence of an uncured default of Borrower under the Ground Lease beyond all applicable notice and cure periods, to disturb the possession, interest or quiet enjoyment of Borrower or any sublessee, or in any manner, which would adversely affect the security provided in the Mortgage.

(b) Ground Lessor acknowledges and agrees that, upon the occurrence of an Event of Default, Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower, the Ground Lessor, and in and to the Mortgaged Property, to the fullest extent under the terms of the Mortgage, the Loan Agreement, and the other Loan Documents.

(c) Each right and remedy provided in the Mortgage is distinct from all other rights or remedies under the Mortgage or otherwise afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order, against the Ground Lessor or the Borrower, as Lender may elect in its sole discretion, subject to the limitations provided in Section 5 hereof.

(d) In the event of a foreclosure, assignment of the Ground Lease in lieu of foreclosure, exercise of any power of sale or other collateral realization with respect to any of the Mortgaged Property, the purchaser at such foreclosure or assignee with respect thereto shall automatically become the tenant thereunder, without the consent of either the Ground Lessor or the holder of the Bonds (but with prior written notice to the Ground Lessor). Copies of all notices of Events of Default sent to Borrower under the Mortgage shall be sent to the Ground Lessor.

(e) Subject to the terms of the Loan Documents, Lender shall be entitled to participate in any settlement regarding insurance or condemnation proceeds or awards, to collect and hold any such proceeds or awards and to determine and direct whether any such proceeds or awards are made available for the restoration of the Mortgaged Property or are applied to the repayment of the loan being made to Borrower by Lender in connection herewith.

(f) There shall be no merger of estates if the Ground Lessor, or any successor-in-interest to the Ground Lessor, acquires Borrower's leasehold interest in the Mortgaged Property. In the event both the Ground Lessor's and Borrower's estate under the Ground Lease or any portion thereof which constitutes a part of the Premises shall at any time become vested in the Ground Lessor, the Mortgage shall not be destroyed or terminated by application of the doctrine of merger unless Lender so elects as evidenced by recording a written declaration so stating and, unless and until Lender so elects, Lender shall continue to have and enjoy all of the rights and privileges of Lender as to the separate estates.

8. Third Parties. Ground Lessor acknowledges that Lender may provide to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, ownership, purchase, participation or securitization of the Loan, including any of the rating agencies, any entity maintaining databases on the underwriting and performance of commercial mortgage loans, as well as governmental regulatory agencies having regulatory authority over Lender, any and all information which Lender now has or may hereafter acquire relating to the Loan and the Mortgaged Property, including the Ground Lessor, as Lender determines necessary or desirable, and that such information may be included in any filing with the Securities and Exchange Commission pursuant to the Securities Act or the Securities Exchange

Act. To the fullest extent permitted under applicable law, the Ground Lessor irrevocably waives all rights, if any, to prohibit such disclosure, including any right of privacy.

9. Successors and Assigns. This Joinder Agreement shall be binding upon the Ground Lessor (subject to the limitations provided in Section 5 herein) and its representatives, successors and assigns and shall inure to the benefit of Lender and its successors and assigns.

10. Choice of Law. Each of the terms and provisions, and rights and obligations of Ground Lessor under this Joinder Agreement, shall be governed by, interpreted, construed, and enforced pursuant to and in accordance with the laws of the Commonwealth of Kentucky. Ground Lessor agrees that any controversy arising under or in relation to this Joinder Agreement, shall be, except as otherwise provided herein, litigated in the Commonwealth of Kentucky.

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MORTGAGOR/BORROWER:

PASSCO COVINGTON RIDGE DST

a Delaware statutory trust

By: PASSCO COVINGTON RIDGE MANAGER,
LLC

a Delaware limited liability company
its Manager

By: _____
Alan Clifton
Vice President

[ACKNOWLEDGEMENT APPEARS ON FOLLOWING PAGE]

[SIGNATURE PAGE TO JOINDER AGREEMENT]

EXHIBIT "A"

LEGAL DESCRIPTION

[INSERT]