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FORSYTH CO. NC FEE \$64.00
 PRESENTED & RECORDED
 08/31/2021 03:55:09 PM
LYNNE JOHNSON
 REGISTER OF DEEDS
 BY: CHELSEA B POLLOCK
 DPTY

BK: RE 3637
PG: 1785 - 1791

**NORTH CAROLINA
 DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS
 AND SECURITY AGREEMENT**

SATISFACTION: The debt secured by the within Deed of Trust,
 Assignment of Leases and Rents, and Security Agreement
 together with the note(s) secured thereby has been satisfied in full.
 This the _____ day of _____, 20____
 Signed: _____

Parcel Identifier No. 6885-62-5330 Verified by _____ County on the ____ day of _____, 2021
 By: _____

Mail/Box to: 111 Executive Center Drive, Suite 231, Columbia, SC 29210

This instrument was prepared by: Sherwood M. Cleveland, PC as Special Counsel to Callison Tighe

This instrument was approved by: Joseph D. Orenstein, Attorney at Law - Coltrane Grubbs Orenstein, PLLC

Brief description for the Index: 1410 Heartland Drive, Kernersville, North Carolina 27284

THIS DEED of TRUST, ASSIGNMENT of LEASES AND RENTS, AND SECURITY AGREEMENT is made this 30th day of August, 2021, by and between:

| GRANTOR | TRUSTEE | BENEFICIARY |
|--|---|--|
| PHD Storage, LLC 1410 Heartland Drive Kernersville, North Carolina 27284 | Steve Smits c/o Live Oak Banking Company 1741 Tiburon Drive Wilmington, North Carolina 28403 | Live Oak Banking Company 1741 Tiburon Drive Wilmington, North Carolina 28403 |

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

THIS INSTRUMENT IS ALSO A SECURITY AGREEMENT AND COVERS ALL FIXTURES ATTACHED TO OR USED ON, IN OR IN CONNECTION WITH THE REAL PROPERTY COVERED BY THIS DEED OF TRUST (WHETHER NOW OWNED OR HEREAFTER ACQUIRED) AND CONSTITUTES A FIXTURE FINANCING STATEMENT.

The designation Grantor, Trustee, and Beneficiary as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

Submitted electronically by "Coltrane Grubbs Orenstein, PLLC" in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Forsyth County Register of Deeds.

WITNESSETH, That whereas **PHD Storage, LLC** is indebted to the Beneficiary in the principal sum of One Million Two Hundred and Fifty Thousand and No/100 Dollars (\$1,250,000.00) as evidenced by and pursuant to the terms and conditions of its Loan Agreement (the "**Loan Agreement**") and Promissory Note (the "**Note**"), both dated August 30, 2021, providing for future advances for the construction of a self-storage facility, and related expenses, upon the real property hereinafter described (the "**Project**"), the terms of which are incorporated herein by reference. The final due date for payments of the Note, if not sooner paid, is twenty-six (26) years from said date. This Deed of Trust is being given to secure payment of the Note.

NOW, THEREFORE, as security for said indebtedness in the maximum sum of \$1,250,000 for advancements to be made as the Project progresses and other sums expended by Beneficiary pursuant to the Loan Agreement and this Deed of Trust for said Project plus interest, other charges and the costs of collection (including attorney's fees as provided in the Promissory Note) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor has bargained, sold, given and conveyed and, by these presents, bargains, sells, gives, grants and conveys to said Trustee, his heirs, or successors, and assigns, the real property and interests in real property (the "**Premises**") lying and being situate in Forsyth County, North Carolina, and being more particularly described as follows:

BEING all of Lot No. 3, as shown on the Plat entitled "Final Plat of Subdivision Kernersville Limited Partnership" which is recorded in Plat Book 37, Page 87, in the Office of the Register of Deeds of Forsyth County, North Carolina, reference to which is hereby made for a more particular description, and including:

- (A) **THE IMPROVEMENTS. TOGETHER WITH** all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures attached to the building(s) (the "Improvements").
- (B) **EASEMENTS OR OTHER INTERESTS. TOGETHER WITH** all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, now or hereafter in any way belonging, relating or appertaining to any of the premises hereinabove described.
- (C) **ASSIGNMENTS OF RENTS. TOGETHER WITH** all rents, royalties, issues, profits, revenue, income and other benefits from the premises to be applied against the indebtedness and other sums secured hereby, provided, however, that permission is hereby given to Grantor so long as no Event of Default has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income and other benefits as they become due and payable, up to one month in advance. The foregoing assignment shall be fully operative without any further action on the part of either party and specifically Beneficiary shall be entitled, at its option upon the occurrence of an Event of Default hereunder, to all rents, royalties, issues, profits, revenue, income and other benefits from the premises whether or not Beneficiary takes possession of the premises. Upon any such Event of Default hereunder, the permission hereby given to Grantor to collect such rents, royalties, issues, profits, revenue, income and other benefits from the premises shall terminate and such permission shall not be reinstated upon a cure of the default without Beneficiary's specific consent. Neither the exercise of any rights under this paragraph by Beneficiary nor the application of any such rents, royalties, issues, profits, revenue, income or other benefits to the indebtedness and other sums secured hereby, shall cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done pursuant hereto or to any such notice, but shall be cumulative of all other rights and remedies.

(D) ASSIGNMENT OF LEASES. TOGETHER WITH all right, title and interest of Grantor in and to any and all leases now or hereafter on or affecting the premises, together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Grantor to collect the rentals under any such lease. The foregoing assignment of any lease shall not be deemed to impose upon Beneficiary any of the obligations or duties of Grantor provided in any such lease, and Grantor agrees to fully perform all obligations of the lessor under all such leases. Upon Beneficiary's request, Grantor agrees to send to Beneficiary a list of all leases covered by the foregoing assignment and as any such lease shall expire or terminate or as any new lease shall be made, Grantor shall so notify Beneficiary, in order that at all times Beneficiary shall have a current list of all leases affecting the premises. Beneficiary shall have the right, at any time and from time to time, to notify any lessee of the rights of Beneficiary as provided by this paragraph. From time to time, upon request of Beneficiary, Grantor shall specifically assign to Beneficiary as additional security hereunder, by an instrument in writing in such form as may be approved by Beneficiary, all right, title and interest of Grantor in and to any and all leases now or hereafter on or affecting the Premises, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Grantor to collect the rentals under any such lease. Grantor shall also execute and deliver to Beneficiary any notification, financing statement or other document reasonably required by Beneficiary to perfect the foregoing assignment as to any such lease. This instrument constitutes an absolute and present assignment of the rents, royalties, issues, profits, revenue, income and other benefits from the Premises to Beneficiary, subject to the right of Grantor to collect, receive, take, use and enjoy the same as provided hereinabove.

(E) FIXTURES. TOGETHER WITH a security interest in (i) fixtures now or hereafter affixed to the premises which, to the fullest extent permitted by law shall be deemed fixtures and a part of the real premises, (ii) all materials delivered to the premises (including such premises for use in any construction being conducted thereon) and owned or leased by Grantor, including elevators, fittings, radiators, awnings, shades, screens, blinds, carpeting, all plumbing, heating, lighting, air conditioning and sprinkler equipment (iii) all existing and future choses in action and claims of every nature whatsoever related to the premises, including without limitation claims related to design or construction defects or otherwise concerning the condition of the Land or the Improvements, claims arising from damage to the Land or the Improvements caused by the acts of third parties, and claims for injury to the operation of the Land or the building(s) or diminution of the revenues derived therefrom arising from the acts of third parties, all building and engineering plans and specifications, construction contracts, architect's contracts and other plans, drawings and contracts and all licenses and permits related to the past or future improvement of the Land, (v) all rights to insurance proceeds insuring the building(s), and (vi) all proceeds, products, replacements, additions, substitutions renewals and accessions of any of the foregoing. This Deed of Trust is a self-operative security agreement with respect to such fixtures which are attached to the building(s), but Grantor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Beneficiary may reasonably request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such premises. On demand, Grantor will promptly pay all costs and expenses of filing financing statements, continuation statements, partial releases, and termination statements deemed necessary or appropriate by Beneficiary to establish and maintain the validity and priority of the security interest of Beneficiary, or any modification thereof, and all costs and expenses of any searches reasonably required by Beneficiary. Beneficiary may exercise any or all of the remedies of a secured party available to it under the Uniform Commercial Code (North Carolina) with respect to such fixtures, and it is expressly agreed in accordance with the provisions of the Uniform Commercial Code (North Carolina), that ten (10) days' notice by Beneficiary to Grantor shall be deemed to be reasonable notice under any provision of the Uniform Commercial Code (North Carolina) requiring such notice; provided, however, that Beneficiary may at its option dispose of the collateral in accordance with Beneficiary's rights and remedies in respect to the real premises pursuant to the provisions of this Deed of Trust, in lieu of proceeding under the Uniform Commercial Code (North Carolina).

TO HAVE AND TO HOLD said Premises with all privileges and appurtenances thereunto belonging, to said Trustee, its heirs, successors, and assigns forever, upon the trusts, terms and conditions, and for the uses hereinafter set forth.

At such time as the Grantor has paid in full the entire principal balance of the Note, together with all outstanding interest and any other charges thereon, and any renewals or extensions thereof in whole or in part, all other sums secured hereby and shall comply with all of the covenants, terms and conditions of the Loan Agreement and this Deed of Trust, then this conveyance shall be null and void and may be canceled of record at the request and the expense of the Grantor.

If, however, there shall be any default (a) in the payment of any sums due under the Note, the Loan Agreement, this Deed of Trust or any other instrument securing the Note which is not cured within the time provided for therein, or (b) if there shall be default in any of the other covenants, terms or conditions of the Note secured hereby, the Loan Agreement or this Deed of Trust not cured within the time provided therein, or (c) any failure or neglect to comply with the covenants, terms or conditions contained in any other instrument securing the Note which is not cured within the time provided therein after delivery of written notice to Grantor of the same, then and in any of such events (any of the foregoing constituting an **"Event of Default"**), without further notice, it shall be lawful for and the duty of the Trustee, upon request of the Beneficiary, to sell the land herein conveyed at public auction for cash, after having first given such notice of hearing as to commencement of foreclosure proceedings and obtained such findings or leave of court as may then be required by law and giving such notice and advertising the time and place of such sale in such manner as may then be provided by law, and upon such and any resales and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey title to the purchaser in as full and ample manner as the Trustee is empowered. The Trustee shall be authorized to retain an attorney to represent it in such proceedings.

The proceeds of the Sale shall after the Trustee retains its commission, together with reasonable attorney's fees incurred by the Trustee in such proceedings, be applied to the costs of sale, including, but not limited to, costs of collection, taxes, assessments, costs of recording, service fees and incidental expenditures, the amount due on the Note hereby secured and advancements and other sums expended by the Beneficiary according to the provisions hereof and otherwise as required by the then existing law relating to foreclosures. The Trustee's commission shall be five percent (5%) of the gross proceeds of the sale for a completed foreclosure. In the event foreclosure is commenced, but not completed, the Grantor shall pay all expenses incurred by Trustee, including reasonable attorney's fees, and a partial commission computed on five per cent (5%) of the outstanding indebtedness or the above stated minimum sum, whichever is greater, in accordance with the following schedule, to-wit: one-fourth ($\frac{1}{4}$) thereof before the Trustee issues a notice of hearing on the right to foreclosure; one-half ($\frac{1}{2}$) thereof after issuance of said notice, three-fourths ($\frac{3}{4}$) thereof after such hearing; and the greater of the full commission or minimum sum after the initial sale.

And the said Grantor does hereby covenant and agree with the Trustee as follows:

1. **INSURANCE.** Grantor shall keep all improvements on said land, now or hereafter erected, constantly insured for the benefit of the Beneficiary against loss by fire, windstorm and such other casualties and contingencies, in such manner and in such companies and for such amounts, not less than that amount necessary to pay the sum secured by this Deed of Trust, and as may be satisfactory to the Beneficiary. Grantor shall purchase such insurance, pay all premiums therefor, and shall deliver to Beneficiary such policies along with evidence of premium payments as long as the Note secured hereby remains unpaid. If Grantor fails to purchase such insurance, pay premiums therefor or deliver said policies along with evidence of payment of premiums thereon, then Beneficiary, at his option, may purchase such insurance. Such amounts paid by Beneficiary shall be added to the principal of the Note secured by this Deed of Trust and shall be due and payable upon demand of Beneficiary. All proceeds from any insurance so maintained shall at the option of Beneficiary be applied to the debt secured hereby and if payable in installments, applied in the inverse order of maturity of such installments or to the repair or reconstruction of any improvements located upon the Property.

2. **TAXES, ASSESSMENTS, CHARGES.** Grantor shall pay all taxes, assessments and charges as may be lawfully levied against said Premises within thirty (30) days after the same shall become due. In the event that Grantor fails to so pay all taxes, assessments and charges as herein required, then Beneficiary, at his option, may pay the same and the amounts so paid shall be added to the principal of the Note and Guaranty secured by this Deed of Trust, and shall be due and payable upon demand of Beneficiary.

3. **PARTIAL RELEASE.** Grantor shall not be entitled to the partial release of any of the above-described property unless a specific provision providing therefor is included in this Deed of Trust. In the event a partial release provision is included in this Deed of Trust, Grantor must strictly comply with the terms thereof. Notwithstanding anything herein contained, Grantor shall not be entitled to any release of property unless Grantor is not in default and is in full compliance with all of the terms and provisions of the Note, this Deed of Trust, and any other instrument that may be securing said Note.

4. **WASTE.** The Grantor covenants that it will keep the Premises herein conveyed in as good order, repair and condition as they are now, reasonable wear and tear excepted, and will comply with all governmental requirements respecting the Premises or their use, and that he will not commit or permit any waste.

5. **CONDEMNATION.** In the event that any or all of the Premises shall be condemned and taken under the power of eminent domain, Grantor shall give immediate written notice to Beneficiary and Beneficiary shall have the right to receive and collect all damages awarded by reason of such taking, and the right to such damages hereby is assigned to Beneficiary who shall have the discretion to apply the amount so received, or any part thereof, to the indebtedness due hereunder and if payable in installments, applied in the inverse order of maturity of such installments, or to any alteration, repair or restoration of the Premises by Grantor.

6. **WARRANTIES.** Grantor covenants with Trustee and Beneficiary that it is seized of the Premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that it will warrant and defend the title against the lawful claims of all persons whomsoever, except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions: 1) All liens and encumbrances of record as of the date of this Deed of Trust; and 2) all conditions, zoning, matters of survey and other matters which exist as of the date of this Deed of Trust.

7. **SUBSTITUTION OF TRUSTEE.** Grantor and Trustee covenant and agree to and with Beneficiary that in case the said Trustee, or any successor trustee, shall die, become incapable of acting, renounce its trust, or for any reason the holder of the Note desires to replace said Trustee, then the holder may appoint, in writing, a trustee to take the place of the Trustee; and upon the probate and registration of the same, the trustee thus appointed shall succeed to all rights, powers and duties of the Trustee.

X

THE FOLLOWING PARAGRAPH, 8. SALE OF PREMISES, SHALL NOT APPLY UNLESS THE BLOCK TO THE LEFT MARGIN OF THIS SENTENCE IS MARKED AND/OR INITIALED.

8. **SALE OF PREMISES.** Grantor agrees that if the Premises or any part thereof or interest therein is sold, assigned, transferred, conveyed or otherwise alienated by Grantor, whether voluntarily or involuntarily or by operation of law without the prior written consent of Beneficiary, Beneficiary, at its own option, may declare the Note secured hereby and all other obligations hereunder to be forthwith due and payable. Any change in the legal or equitable title of the Premises or in the beneficial ownership of the Premises, including the sale, conveyance or disposition of a majority interest in the Grantor if a corporation or partnership, whether or not of record and whether or not for consideration, shall be deemed to be the transfer of an interest in the Premises.

9. **ADVANCEMENTS.** If Grantor shall fail to perform any of the covenants or obligations contained herein or in any other instrument given as additional security for the Note secured hereby, the Beneficiary may, but without obligation, make advances to perform such covenants or obligations, and all such sums so advanced shall be added to the principal sum, shall bear interest at the rate provided in the Note secured hereby for sums due after default and shall be due from Grantor on demand of the Beneficiary. No advancement or anything contained in this paragraph shall constitute a waiver by Beneficiary or prevent such failure to perform from constituting an event of default.

10. **INDEMNITY.** If any suit or proceeding be brought against the Trustee or Beneficiary or if any suit or proceeding be brought which may affect the value or title of the Premises, Grantor shall defend, indemnify and hold harmless and on demand reimburse Trustee or Beneficiary from any loss, cost, damage or expense and any sums expended by Trustee or Beneficiary shall bear interest as provided in the Note secured hereby for sums due after default and shall be due and payable on demand.

11. **WAIVERS.** Grantor waives all rights to require marshaling of assets by the Trustee or Beneficiary. No delay or omission of the Trustee or Beneficiary in the exercise of any right, power or remedy arising under the Note, or this Deed of Trust shall be deemed a waiver of any default or acquiescence therein or shall impair or waive the exercise of such right, power or remedy by Trustee or Beneficiary at any other time.

12. **CIVIL ACTION.** In the event that the Trustee is named as a party to any civil action as Trustee in this Deed of Trust, the Trustee shall be entitled to employ an attorney at law, including himself or herself if he or she is a licensed attorney, to represent him or her in said action and the reasonable attorney's fee of the Trustee in such action shall be paid by the Beneficiary and added to the principal of the Note and Guaranty secured by this Deed of Trust and bear interest at the rate provided in the Note for sums due after default.

13. **PRIOR LIENS.** Default under the terms of any instrument secured by a lien to which this Deed of Trust is subordinate shall constitute default hereunder.

14. **ENVIRONMENTAL.** Grantor for itself, its successors, and assigns represents, warrants and agrees that to the best of its knowledge (a) neither Grantor nor any other person has used or installed any Hazardous Material (as hereinafter defined) on the Property or received any notice from any governmental agency, entity or other person with regard to Hazardous Materials on, from or affecting the Property; (b) neither Grantor or any other person has violated any applicable Environmental Laws (as hereinafter defined) relating to or affecting the Property; (c) the Property is presently in compliance with all Environmental Laws; there are no circumstances presently existing upon or under the Property, or relating to the Property which may violate any applicable Environmental Laws, and there is not now pending, or threatened, any action, suit, investigation or proceeding against Grantor relating to the Property (or against any other party relating to the Property) seeking to enforce any right or remedy under any of the Environmental Laws; (d) the Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, transport, treat, store, handle, dispose, or process Hazardous Materials; (e) Grantor shall not cause nor permit the installation of Hazardous Materials in the Property nor a release of Hazardous Material onto or from the Property or suffer the presence of Hazardous Materials on the Property; (f) Grantor shall at all times comply with and ensure compliance by all other parties with all applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws relating to or affecting the Property and shall keep the Property free and clear of any liens imposed pursuant to any applicable Environmental Laws; (g) the Grantor have obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with Environmental Laws (the "Permits") and the Grantor are in full compliance with the terms and provisions of the Permits and will continue to comply with the terms and provisions of the Permits; (h) Grantor shall immediately give the Beneficiary oral and written notice in the event that Grantor receive any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Property and shall conduct and complete all investigations, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Property in accordance with all applicable Environmental Laws. The Grantor hereby agree to indemnify the Beneficiary and hold the Beneficiary harmless from and against any and all losses, liabilities, damages, inquiries (including, without limitation, attorneys' fees) and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Beneficiary for, with respect to, or as a direct or indirect result of (a) the presence, on, or under, or the escape, spillage, emission or release from the Property of any Hazardous Material regardless of whether or not caused by or within the control of Grantor, (b) the violation of any Environmental Laws relating to or affecting the Property, whether or not caused by or within the control of Grantor, (c) the failure by Grantor to comply fully with the terms and provisions of this paragraph, or (d) any warranty or representation made by Grantor in this paragraph being false or untrue in any material respect. For purposes of this Deed of Trust, "Hazardous Material" means and includes petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material defined as such in (or for the purposes of) the Environmental Laws. For the purpose of this Deed of Trust, "Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, any "Super Fund" or "Super Lien" law, or any other federal, state, or local law, regulation, or decree regulating, relating to, or imposing liability or standards of conduct concerning any petroleum products, any flammable explosives, radioactive materials, asbestos or any material containing asbestos, and/or any hazardous, toxic or dangerous waste, substance or material, as may now or at any time hereafter be in effect. The obligations and liabilities of Grantor under this paragraph shall survive the foreclosure of the Deed of Trust, the delivery of a deed in lieu of foreclosure, the cancellation or release of record of this Deed of Trust or the payment and cancellation of the Note; or if otherwise expressly permitted in writing by the Beneficiary, the sale of alienation of any part of the Property.

[Signature page to follow]

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

PHD STORAGE, LLC (SEAL)
(Entity Name)

By: [Signature] (SEAL)
Anthony Eugene Pike, Member/Manager

By: [Signature] (SEAL)
John Wallace Hodges, Jr., Member/Manager

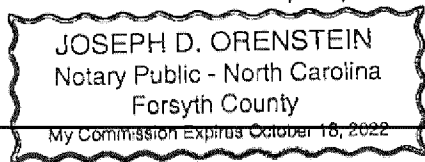
By: [Signature] (SEAL)
Scott Lane Day, Member/Manager

State of North Carolina - County of Forsyth

I, the undersigned Notary Public of the County and State aforesaid, certify that **Anthony Eugene Pike, John Wallace Hodges, Jr. and Scott Lane Day, Members/Managers of the Grantor**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 30 day of August, 2021.

My Commission Expires: 10/18/2022



[Signature]
Notary Public for North Carolina

The foregoing Certificate(s) of _____ is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

_____ Register of Deeds for Forsyth County

By: _____ Deputy/Assistant - Register of Deeds