UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

Form 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Fiscal Year Ended September 30, 2022

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission file number: 1-35040

PHENIXFIN CORPORATION
(Exact Name of Registrant as Specified in its Charter)

Delaware	**27-4576073**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
445 Park Avenue, 10th Floor, New York, NY	**10022**
(Address of Principal Executive Offices)	(Zip Code)

(212) 859-0390
(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, par value $0.001 per share	PFX	The NASDAQ Global Market
6.125% Notes due 2023	PFXNL	The NASDAQ Global Market
5.25% Notes due 2028	PFXNZ	The NASDAQ Global Market

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☐ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☒ Smaller reporting company ☐ Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934). Yes ☐ No ☒

The aggregate market value of the registrant's common stock held by non-affiliates of the Registrant as of March 31, 2022 was $56,942,379. The Registrant had 2,100,124 shares of common stock, $0.001 par value, outstanding as of December 16, 2022.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's proxy statement to be filed with the Securities and Exchange Commission pursuant to Regulation 14A in connection with the registrant's 2023 Annual Meeting of Stockholders, which will be filed subsequent to the date hereof, are incorporated by reference in to Part III of this Form 10-K. Such proxy statement will be filed with the Securities and Exchange Commission not later than 120 days following the end of the registrant's fiscal year ended September 30, 2022.

PHENIXFIN CORPORATION

TABLE OF CONTENTS

PART I

Item 1. Business

GENERAL

PhenixFIN Corporation ("PhenixFIN", the "Company," "we" and "us") is an internally-managed non-diversified closed-end management investment company incorporated in Delaware that has elected to be regulated as a business development company ("BDC") under the Investment Company Act of 1940, as amended (the "1940 Act"). We completed our initial public offering ("IPO") and commenced operations on January 20, 2011. The Company has elected, and intends to qualify annually, to be treated, for U.S. federal income tax purposes, as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended (the "Code"). On November 18, 2020, the board of directors of the Company (the "Board") approved the adoption of an internalized management structure, effective January 1, 2021. Until close of business on December 31, 2020 we were externally managed and advised by MCC Advisors LLC ("MCC Advisors"), pursuant to an investment management agreement. MCC Advisors is a wholly owned subsidiary of Medley LLC, which is controlled by Medley Management Inc. (NYSE: MDLY), a publicly traded asset management firm ("MDLY"), which in turn is controlled by Medley Group LLC, an entity wholly owned by the senior professionals of Medley LLC. We use the term "Medley" to refer collectively to the activities and operations of Medley Capital LLC, Medley LLC, MDLY, Medley Group LLC, MCC Advisors, associated investment funds and their respective affiliates herein. Since January 1, 2021 the Company has been managed pursuant to an internalized management structure.

The Company has formed and expects to continue to form certain taxable subsidiaries (the "Taxable Subsidiaries"), which are taxed as corporations for federal income tax purposes. These Taxable Subsidiaries allow us to, among other things, hold equity securities of portfolio companies organized as pass-through entities while continuing to satisfy the requirements to qualify as a RIC under the Code.

The Company's investment objective is to generate current income and capital appreciation. The management team seeks to achieve this objective primarily through making loans, private equity or other investments in privately-held companies. The Company may also make debt, equity or other investments in publicly-traded companies. (These investments may also include investments in other BDCs, closed-end funds or real estate investment trusts ("REITs").) We may also pursue other strategic opportunities and invest in other assets or operate other businesses to achieve our investment objective, such as operating and managing an asset-based lending business. The portfolio generally consists of senior secured first lien term loans, senior secured second lien term loans, senior secured bonds, preferred equity and common equity. Occasionally, we will receive warrants or other equity participation features which we believe will have the potential to increase total investment returns. Our loan and other debt investments are primarily rated below investment grade or are unrated. Investments in below investment grade securities are considered predominantly speculative with respect to the issuer's capacity to pay interest and repay principal when due.

We believe the private debt market is undergoing structural shifts that are creating significant opportunities for non-bank lenders and investors. The underlying drivers of these structural changes include reduced participation by banks in the private debt markets and demand for private debt created by committed and uninvested private equity capital. We focus on taking advantage of this structural shift by lending directly to companies that are underserved by the traditional banking system and generally seek to avoid broadly marketed investment opportunities. We source investment opportunities primarily through direct relationships with financial sponsors, industry specialists, as well as financial intermediaries such as investment banks and commercial banks.

Our Investment Team is responsible for sourcing investment opportunities, conducting industry research, performing diligence on potential investments, structuring our investments and monitoring our portfolio companies on an ongoing basis. Our Investment Team draws on its expertise in lending to predominantly privately held borrowers in a range of sectors, including industrials, transportation, energy and natural resources, financials, gemstones/jewelry and real estate.

As a BDC, we are required to comply with regulatory requirements, including limitations on our use of debt. We are permitted to, and expect to continue to, finance our investments through borrowings. However, as a BDC, we are only generally allowed to borrow amounts such that our asset coverage, as defined in the 1940 Act, equals at least 200% (or 150% if certain requirements under the 1940 Act are met) after such borrowing. The amount of leverage that we employ will depend on our assessment of market conditions and other factors at the time of any proposed borrowing.

As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage and therefore the Company's asset coverage was greater than 200%, the minimum asset coverage requirement applicable presently to the Company under the 1940 Act.

Our principal executive office is located at 445 Park Avenue, 10th Floor, New York, NY and our telephone number is (212) 859-0390.

Investment Process Overview

Sourcing and Origination. We typically source investment opportunities through our management team's network of long-standing relationships. Our sourcing efforts are led by our senior investment professionals, who leverage their experience in the sourcing and origination of investments.

Initial Evaluation. We use a systematic, consistent approach to credit evaluation, which typically consists of (i) a preliminary due diligence review conducted by the Company, (ii) an initial diligence meeting with the Company's management team, investment bank or private equity sponsor, (iii) an initial indication of interest and terms, and (iv) preparation of memoranda including potential portfolio company overviews, investment considerations and risks, financial model and return information.

Due Diligence & Underwriting. We typically undertake continued diligence, which expands on the investment thesis, risks and mitigants, and competition factors of our potential investment opportunities. We may conduct third party reviews, on-site visits and/or background checks in connection with our potential investments in portfolio companies.

Portfolio Management. We undertake a proactive monitoring process of our portfolio companies, whereby we conduct monthly financial review and monitoring of covenants, maintain ongoing dialogue with portfolio company management and owners, and exercise board observer rights where appropriate.

Rating Criteria We generally use an investment rating system to characterize and monitor the credit profile and our expected level of returns on each investment in our portfolio. We use a five-level numeric rating scale. The following is a description of the conditions associated with each investment rating:

Credit Rating	Definition
1	Investments that are performing above expectations.
2	Investments that are performing within expectations, with risks that are neutral or favorable compared to risks at the time of origination. All new loans are rated '2'.
3	Investments that are performing below expectations and that require closer monitoring, but where no loss of interest, dividend or principal is expected. Companies rated '3' may be out of compliance with financial covenants, however, loan payments are generally not past due.
4	Investments that are performing below expectations and for which risk has increased materially since origination. Some loss of interest or dividend is expected but no loss of principal. In addition to the borrower being generally out of compliance with debt covenants, loan payments may be past due (but generally not more than 180 days past due).
5	Investments that are performing substantially below expectations and whose risks have increased substantially since origination. Most or all of the debt covenants are out of compliance and payments are substantially delinquent. Some loss of principal is expected.

Investment Structure

Once we have determined that a prospective portfolio company is suitable for investment, we work with the management of that company and its other capital providers to structure an investment. We negotiate among these parties to agree on how our investment is expected to perform relative to the other capital in the portfolio company's capital structure.

We typically structure our debt investments as follows:

Senior Secured First Lien Term Loans We structure these investments as senior secured loans. We obtain security interests in the assets of the portfolio companies that serve as collateral in support of the repayment of such loans. This collateral generally takes the form of first-priority liens on the assets of the portfolio company borrower. Our senior secured loans may provide for amortization of principal with the majority of the amortization due at maturity.

Senior Secured Second Lien Term Loans We structure these investments as junior, secured loans. We obtain security interests in the assets of these portfolio companies that serves as collateral in support of the repayment of such loans. This collateral generally takes the form of second-priority liens on the assets of a portfolio company. These loans typically provide for amortization of principal in the initial years of the loans, with the majority of the amortization due at maturity.

Senior Secured First Lien Notes We structure these investments as senior secured loans. We obtain security interests in the assets of these portfolio companies that serve as collateral in support of the repayment of such loans. This collateral generally takes the form of priority liens on the assets of a portfolio company. These loans typically have interest-only payments (often representing a combination of cash pay and payment-in-kind, or ("PIK") interest), with amortization of principal due at maturity. PIK interest represents contractually deferred interest added to the loan balance that is generally due at the end of the loan term and recorded as interest income on an accrual basis to the extent such amounts are expected to be collected.

Warrants and Minority Equity Securities In some cases, we may also receive nominally priced warrants or options to buy a minority equity interest in the portfolio company in connection with a debt investment. As a result, as a portfolio company appreciates in value, we may achieve additional investment return from this equity interest. We may structure such warrants to include provisions protecting our rights as a minority-interest holder, as well as a "put," or right to sell such securities back to the issuer, upon the occurrence of specified events. In many cases, we may also seek to obtain registration rights in connection with these equity interests, which may include demand and "piggyback" registration rights.

Unitranche Loans We structure our unitranche loans, which combine the characteristics of traditional senior secured first lien term loans and subordinated notes as senior secured loans. We obtain security interests in the assets of these portfolio companies that serve as collateral in support of the repayment of these loans. This collateral generally takes the form of first-priority liens on the assets of a portfolio company. Unitranche loans typically provide for amortization of principal in the initial years of the loans, with the majority of the amortization due at maturity.

Unsecured Debt We structure these investments as unsecured, subordinated loans that provide for relatively high, fixed interest rates that provide us with significant current interest income. These loans typically have interest-only payments (often representing a combination of cash pay and payment-in-kind, or PIK interest), with amortization of principal due at maturity. Subordinated notes generally allow the borrower to make a large lump sum payment of principal at the end of the loan term, and there is a risk of loss if the borrower is unable to pay the lump sum or refinance the amount owed at maturity. Subordinated notes are generally more volatile than secured loans and may involve a greater risk of loss of principal. Subordinated notes often include a PIK feature, which effectively operates as negative amortization of loan principal.

We expect to hold most of our investments to maturity or repayment, but we may realize or sell some of our investments earlier if a liquidity event occurs, such as a sale or recapitalization transaction, or the worsening of the credit quality of the portfolio company.

The Company has invested in its affiliate, FlexFIN, LLC ("FlexFIN"), which operates an asset-based lending business under which it enters into secured loans and secured financing structures with borrowers engaged in the gemstone/jewelry industry. FlexFIN will generally structure these loans as sale/repurchase transactions under which the collateral (that is, the gemstones/jewelry) remains under FlexFIN's ownership during the entire term of the loan.

Managerial Assistance

As a BDC, we offer, and must provide upon request, managerial assistance to certain of our portfolio companies. This assistance could involve, among other things, monitoring the operations of our portfolio companies, participating in board and management meetings, consulting with and advising officers of portfolio companies and providing other organizational and financial guidance. We may receive fees for these services.

Leverage

As a BDC, we are generally only allowed to employ leverage to the extent that our asset coverage, as defined in the 1940 Act, equals at least 200% after giving effect to such leverage. The amount of leverage that we employ at any time depends on our assessment of the market and other factors at the time of any proposed borrowing. We are also subject to certain regulatory requirements relating to our borrowings. For a discussion of such requirements, see "Regulation - Senior Securities."

We may, from time to time, seek to retire or repurchase our common stock through cash purchases, as well as retire, cancel or purchase our outstanding debt through cash purchases and/or exchanges, in open market purchases, privately negotiated transactions or otherwise. Such repurchases or exchanges, if any, will depend on prevailing market conditions, our liquidity requirements, contractual and regulatory restrictions and other factors. The amounts involved may be material.

Competition

Our primary competitors to provide financing to private companies are public and private funds, commercial and investment banks, commercial finance companies, other BDCs, SBICs and private equity and hedge funds. Some competitors may have access to funding sources that are not available to us. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than us. Furthermore, many of our competitors are not subject to the regulatory restrictions that the 1940 Act imposes on us as a BDC or to the distribution and other requirements we must satisfy to maintain our favorable RIC tax treatment.

Human Capital Resources

As of September 30, 2022, the internalized management team consists of 3 investment professionals and 6 employees/consultants overall. This team includes our executive officers, investment and finance professionals, and administrative staff. Our senior management team consists of David Lorber, our chief executive officer, and Ellida McMillan, our chief financial officer.

In response to the COVID-19 pandemic, we have instituted a temporary hybrid work-from-home policy, pursuant to which our professional team has and continues to primarily work remotely without disruption to our operations.

As an internally managed BDC, the success of our business and investment strategy, including achieving our investment objective, depends in material part on our professional team. We depend upon the members of our management team and our investment professionals for the identification, final selection, structuring, closing and monitoring of our investments. Our professional team has critical experience and relationships on which we rely to implement our business plan. We expect that the members of our management team and our investment professionals will maintain key informal relationships, which we will use to help identify and gain access to investment opportunities. If we do not attract, develop and retain highly talented professionals, we may not be able to operate our business as we expect and our operating results could be adversely affected. See "Item 1A, Risk Factors."

Administration

We previously entered into (on January 11, 2011) and, prior to January 1, 2021, operated pursuant to an investment management agreement with MCC Advisors (the "Investment Management Agreement") in accordance with the 1940 Act. The Investment Management Agreement became effective upon the pricing of our initial public offering. Under the Investment Management Agreement, MCC Advisors agreed to provide us with investment advisory and management services. For these services, we agreed to pay a base management fee equal to a percentage of our gross assets and an incentive fee based on our performance. The Investment Management Agreement expired December 31, 2020 and effective January 1, 2021, we operate pursuant to an internalized management structure.

We also entered into an administration agreement with MCC Advisors as our administrator on January 19, 2011. The administration agreement became effective upon the pricing of our initial public offering. Under the administration agreement, MCC Advisors agreed to furnish us with office facilities and equipment, provide us clerical, bookkeeping and record keeping services at such facilities and provide us with other administrative services necessary to conduct our day-to-day operations. MCC Advisors also provided on our behalf significant managerial assistance to those portfolio companies to which we are required to provide such assistance. The administration agreement expired at the close of business on December 31, 2020, in connection with the Company's adoption of an internalized management structure. In connection with the adoption by the board of directors of an internalized management structure, on November 19, 2020, the Company entered into a Fund Accounting Servicing Agreement and an Administration Servicing Agreement on customary terms with U.S. Bancorp Fund Services, LLC d/b/a U.S. Bank Global Fund Services ("U.S. Bancorp"). A U.S. Bancorp affiliate also served as the Company's custodian. The Company's administrative and custodial relationship with U.S. Bancorp terminated on August 9, 2022. SS&C Technologies, Inc. ("SS&C") has since served as administrator of the Company and has provided us with fund accounting and financial reporting services pursuant to its Services Agreement with the Company. Effective September 12, 2022, Computershare Trust Company, N.A. ("Computershare") serves as custodian for the Company pursuant to its Loan Administration and Custodial Agreement with the Company.

Termination of Management Agreement and Merger Agreement

We entered into an investment management agreement with MCC Advisors on January 11, 2011 (the "Investment Management Agreement"), which expired December 31, 2020.

Under the terms of the Investment Management Agreement, MCC Advisors:

- determined the composition of our portfolio, the nature and timing of the changes to our portfolio and the manner of implementing such changes;

- identified, evaluated and negotiated the structure of the investments we made (including performing due diligence on our prospective portfolio companies); and

- executed, closed, monitored and administered the investments we made, including the exercise of any voting or consent rights.

MCC Advisors' services under the Investment Management Agreement were not exclusive, and it was free to furnish similar services to other entities so long as its services to us were not impaired.

Pursuant to the Investment Management Agreement, we paid MCC Advisors a fee for investment advisory and management services consisting of a base management fee and a two-part incentive fee.

On December 3, 2015, MCC Advisors recommended and, in consultation with the Board, agreed to reduce fees under the Investment Management Agreement. Beginning January 1, 2016, the base management fee was reduced to 1.50% on gross assets above $1 billion. In addition, MCC Advisors reduced its incentive fee from 20% on pre-incentive fee net investment income over an 8% hurdle, to 17.5% on pre-incentive fee net investment income over a 6% hurdle. Moreover, the revised incentive fee includes a netting mechanism and is subject to a rolling three-year look back from January 1, 2016 forward. Under no circumstances would the new fee structure result in higher fees to MCC Advisors than fees under the prior investment management agreement.

The following discussion of our base management fee and two-part incentive fee reflect the terms of the fee waiver agreement executed by MCC Advisors on February 8, 2016 (the "Fee Waiver Agreement"). The terms of the Fee Waiver Agreement were effective as of January 1, 2016, and were a permanent reduction in the base management fee and incentive fee on net investment income payable to MCC Advisors for the investment advisory and management services it provided under the Investment Management Agreement. The Fee Waiver Agreement did not change the second component of the incentive fee, which was the incentive fee on capital gains.

On January 15, 2020, the Company's board of directors, including all of the independent directors, approved the renewal of the Investment Management Agreement through the later of April 1, 2020 or so long as the Amended and Restated Agreement and Plan of Merger, dated as of July 29, 2019 (the "Amended MCC Merger Agreement"), by and between the Company and Sierra (the "Amended MCC Merger Agreement") was in effect, but no longer than a year; provided that, if the Amended MCC Merger Agreement is terminated by Sierra, then the termination of the Investment Management Agreement would be effective on the 30th day following receipt of Sierra's notice of termination to the Company. On May 1, 2020, the Company received a notice of termination of the Amended MCC Merger Agreement from Sierra. Under the Amended MCC Merger Agreement, either party was permitted, subject to certain conditions, to terminate the Amended MCC Merger Agreement if the merger was not consummated by March 31, 2020. Sierra elected to do so on May 1, 2020. As result of the termination by Sierra of the Amended MCC Merger Agreement on May 1, 2020, the Investment Management Agreement would have been terminated effective as of May 31, 2020. On May 21, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through the end of the then-current quarter, June 30, 2020. On June 12, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through September 30, 2020. On September 29, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through December 31, 2020. Mr. Brook Taube, Chairman and Chief Executive Officer through December 31, 2020 and director through January 21, 2021 and Mr. Seth Taube, director through January 21, 2021 are affiliated with MCC Advisors and Medley.

On November 18, 2020, the Board approved the adoption of an internalized management structure effective January 1, 2021. The new management structure replaces the current Investment Management and Administration Agreements with MCC Advisors LLC, which expired on December 31, 2020. To lead the internalized management team, the Board approved the appointment of David Lorber, who has served as an independent director of the Company since April 2019, as Chief Executive Officer, and Ellida McMillan as Chief Financial Officer of the Company, each effective January 1, 2021. In connection with his appointment, Mr. Lorber stepped down from the Compensation Committee of the Board, the Nominating and Corporate Governance Committee of the Board, and the Special Committee of the Board.

Information Available

We maintain a website at *http://www.phenixfc.com*. We make available, free of charge, on our website, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports as soon as reasonably practicable after we electronically file such material with, or furnish it to, the U.S. Securities and Exchange Commission, or the SEC. Information contained on our website is not incorporated by reference into this annual report on Form 10-K and you should not consider information contained on our website to be part of this annual report on Form 10-K or any other report we file with the SEC.

Summary of Risk Factors

Investing in our securities involves a high degree of risk. You should carefully consider the information in "Item 1A. Risk Factors", including, but not limited to, the following risks:

Risks Related to our Business

- We have determined to internalize our operating structure, including our management and investment functions, with the expectation that we will be able to operate more efficiently with lower costs, but this may not be the case.
- As an internally managed BDC, we are dependent upon our management team and other professionals and if we are not able to hire and retain qualified personnel, we will not realize the anticipated benefits of the internalization.
- We may suffer credit and capital losses.
- Because we use borrowed funds to make investments or fund our business operations, we are exposed to risks typically associated with leverage which increase the risk of investing in us.
- The lack of liquidity in our investments may adversely affect our business.
- A substantial portion of our portfolio investments will be recorded at fair value as determined in good faith by our valuation designee under the oversight of our board of directors and, as a result, there may be uncertainty regarding the value of our portfolio investments.
- We are a non-diversified investment company within the meaning of the 1940 Act, and therefore we are not limited with respect to the proportion of our assets that may be invested in securities of a single issuer.
- Our ability to enter into transactions with our affiliates will be restricted, which may limit the scope of investments available to us.
- We will be exposed to risks associated with changes in interest rates.
- Changes relating to the London Interbank Offering Rate ("LIBOR") calculation process may adversely affect the value of the LIBOR-indexed, floating-rate debt securities in our portfolio.
- Because we use debt to finance our investments, changes in interest rates will affect our cost of capital and net investment income.
- If our investments are not managed effectively, we may be unable to achieve our investment objective.
- We may experience fluctuations in our periodic operating results.
- Any failure on our part to maintain our status as a BDC would reduce our operating flexibility.
- We may have difficulty paying our required distributions if we recognize income before or without receiving cash representing such income.
- We may not be able to pay you distributions and our distributions may not grow over time.
- The highly competitive market in which we operate may limit our investment opportunities.
- Because we expect to distribute substantially all of our net investment income and net realized capital gains to our stockholders, we will need additional capital to finance our growth and such capital may not be available on favorable terms or at all.
- Our board of directors may change our investment objective, operating policies and strategies without prior notice or stockholder approval.
- There are significant potential conflicts of interest that could affect our investment returns.
- Our management team may, from time to time, possess material non-public information, limiting our investment discretion.

- Because we borrow money, the potential for loss on amounts invested in us will be magnified and may increase the risk of investing in us.
- We are highly dependent on information systems and systems failures could significantly disrupt our business, which may, in turn, negatively affect the market price of our common stock and our ability to pay distributions.
- A failure of cybersecurity systems, as well as the occurrence of events unanticipated in our disaster recovery systems and management continuity planning could impair our ability to conduct business effectively.
- Our business and operations could be negatively affected if we become subject to any securities class actions and derivative lawsuits, which could cause us to incur significant expense, hinder execution of investment strategy and impact our stock price.

Risks Related to our Investments

- We may not realize gains from our equity investments.
- Our investments are very risky and highly speculative.
- Our investments in private portfolio companies may be risky, and you could lose all or part of your investment.
- Our portfolio companies may prepay loans, which prepayment may reduce stated yields if capital returned cannot be invested in transactions with equal or greater expected yields.
- We may acquire indirect interests in loans rather than direct interests, which would subject us to additional risk.
- Our failure to make follow-on investments in our portfolio companies could impair the value of our portfolio and our ability to make follow-on investments in certain portfolio companies may be restricted.
- Our ability to invest in public companies may be limited in certain circumstances.
- Our investments in foreign securities may involve significant risks in addition to the risks inherent in U.S. investments.
- 21.5% of the Company's total assets (as of September 30, 2022) are invested in our affiliate's asset-based lending business and its activities are influenced by volatility in prices of gemstones/jewelry.
- Hedging transactions may expose us to additional risks.
- We may invest in "unitranche" debt instruments that combine both senior and subordinated debt into one debt instrument. Unitranche debt instruments typically pay a higher rate of interest than traditional senior debt instruments, but may also pose greater risk associated with a lesser amount of asset coverage.
- We may invest in, or obtain exposure to, obligations that may be "covenant-lite," which means such obligations lack certain financial maintenance covenants.
- The disposition of our investments may result in contingent liabilities.
- If we invest in the securities and obligations of distressed and bankrupt issuers, we might not receive interest or other payments.
- We may be subject to risks associated with significant investments in one or more economic sectors and/or industries, including the business services sector, which includes our investment in our affiliate's asset-based lending business.

Risks Related to our Operations as a BDC and a RIC

- Regulations governing our operation as a BDC may limit our ability to, and the way in which we raise additional capital, which could have a material adverse impact on our liquidity, financial condition and results of operations.
- Changes in the laws or regulations governing our business, or changes in the interpretations thereof, and any failure by us to comply with these laws or regulations, could have a material adverse effect on our business, results of operations or financial condition.

- We cannot predict how tax reform legislation will affect the Company, our investments, or our stockholders, and any such legislation could adversely affect our business.

- If we do not invest a sufficient portion of our assets in qualifying assets, we could fail to qualify as a BDC, which would have a material adverse effect on our business, financial condition and results of operations.

- We will become subject to corporate-level U.S. federal income tax if we are unable to maintain our qualification as a RIC under Subchapter M of the Code or satisfy RIC distribution requirements.

Risks Relating to an Investment in our Securities

- Investing in our securities may involve an above average degree of risk.

- Shares of closed-end investment companies, including business development companies, may, as is currently the case with the Company, at times, trade at a discount to their net asset value ("NAV").

- The market price of our common stock may fluctuate significantly.

- Sales of substantial amounts of our common stock in the public market may have an adverse effect on the market price of our common stock.

- Certain provisions of the Delaware General Corporation Law and our certificate of incorporation and bylaws could deter takeover attempts and have an adverse impact on the price of our common stock.

- The NAV per share of our common stock may be diluted if we sell shares of our common stock in one or more offerings at prices below the then current NAV per share of our common stock or securities to subscribe for or convertible into shares of our common stock.

- Our 6.125% Notes due 2023 (the "Notes") are unsecured and therefore are effectively subordinated to any secured indebtedness we have currently incurred or may incur in the future.

- The Notes are structurally subordinated to the indebtedness and other liabilities of our subsidiaries.

- The indenture under which the Notes were issued contains limited protection for holders of the Notes.

- The indentures under which the 2023 Notes and 2028 Notes are issued place restrictions on our and/or our subsidiaries' activities.

- An active trading market for the Notes may not develop or be sustained, which could limit the market price of the Notes or your ability to sell them.

- If we default on our obligations to pay our other indebtedness, we may not be able to make payments on the Notes.

- If we issue preferred stock, the NAV and market value of our common stock may become more volatile.

- Holders of any preferred stock we might issue would have the right to elect members of the board of directors and class voting rights on certain matters.

General Risk Factors

- We are currently operating in a period of capital markets disruptions and economic uncertainty. Such market conditions may materially and adversely affect debt and equity capital markets, which may have a negative impact on our business, financial condition and operations.

- Events outside of our control, including public health crises, could negatively affect our portfolio companies and our results of our operations.

- Political, social and economic uncertainty, including uncertainty related to the COVID-19 pandemic, creates and exacerbates risks.

- Further downgrades of the U.S. credit rating, automatic spending cuts, or another government shutdown could negatively impact our liquidity, financial condition and earnings.

- Economic recessions or downturns could impair our portfolio companies and harm our operating results.

INVESTMENTS

We have built a diverse portfolio that includes senior secured first lien term loans, senior secured second lien term loans, equity, unitranche loans, senior secured first lien notes, subordinated notes, warrants and minority equity securities by investing approximately $10 million to $50 million of capital, on average, in the securities of companies.

The following table shows the portfolio composition by industry grouping at fair value as of September 30, 2022 (dollars in thousands):

	Fair Value	Percentage
Services: Business	$ 52,851	27.4%
Hotel, Gaming & Leisure	31,947	16.6
Banking, Finance, Insurance & Real Estate	31,910	16.5
Services: Consumer	21,243	11.0
Construction & Building	17,724	9.2
Automotive	8,075	4.2
Consumer Discretionary	6,208	3.2
High Tech Industries	5,465	2.8
Media: Broadcasting & Subscription	4,220	2.2
Energy: Oil & Gas	4,152	2.2
Packaging	3,361	1.7
Metals & Mining	3,073	1.6
Aerospace & Defense	2,607	1.3
Retail	121	0.1
Total	$ 192,957	100.0%

The following table shows the portfolio composition by industry grouping at fair value as of September 30, 2021 (dollars in thousands):

	Fair Value	Percentage
Construction & Building	$ 31,619	20.8%
Banking, Finance, Insurance & Real Estate	27,916	18.4
High Tech Industries	21,210	14.0
Services: Business	12,415	8.2
Automotive	11,967	7.9
Hotel, Gaming & Leisure	11,931	7.9
Manufacturing	9,270	6.1
Environmental Industries	8,100	5.3
Energy: Oil & Gas	3,579	2.4
Forest Products & Paper	3,455	2.3
Metals & Mining	3,077	2.0
Aerospace & Defense	2,490	1.6
Consumer goods: Durable	2,361	1.6
Healthcare & Pharmaceuticals	2,250	1.5
Total	$ 151,640	100.0%

The following table sets forth certain information as of September 30, 2022 for each portfolio company in which we had an investment. Other than these investments, our only formal relationship with our portfolio companies is the managerial assistance that we provide upon request and the board observer or participation rights we may receive in connection with our investment.

Name of Portfolio Company	Sector	Security Owned	Maturity	Interest Rate [1]	Principal Due at Maturity	Fair Value	% of Net Assets
1888 Industrial Services, LLC	Energy: Oil & Gas	Senior Secured First Lien Term Loan A	5/1/2023	6.00%	$ 9,946,741	$ -	0.0%
1888 Industrial Services, LLC	Energy: Oil & Gas	Senior Secured First Lien Term Loan C	5/1/2023	6.00%	1,231,932	-	0.0%
1888 Industrial Services, LLC	Energy: Oil & Gas	Revolving Credit Facility	5/1/2023	6.00%	4,416,555	4,151,562	3.4%
1888 Industrial Services, LLC	Energy: Oil & Gas	Equity			21,562	-	0.0%
Altisource S.A.R.L.	Services: Business	Senior Secured First Lien Term Loan B	4/3/2024	5.00%	6,486,419	5,448,591	4.5%
Be Green Packaging, LLC	Containers, Packaging & Glass	Equity			1	-	0.0%
Black Angus Steakhouses, LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Term Loan	1/31/2024	10.00%	8,412,596	1,547,918	1.3%
Black Angus Steakhouses, LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Super Priority DDTL	1/31/2024	10.00%	1,500,000	1,500,000	1.2%
Black Angus Steakhouses, LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Delayed Draw Term Loan	1/31/2024	10.00%	758,929	758,929	0.6%
Boostability Seotowncenter, Inc.	Services: Business	Equity			833,152	-	0.0%
Chimera Investment Corp.	Banking, Finance, Insurance & Real Estate	Preferred Equity			117,310	1,915,672	1.6%
Copper Property CTL Pass Through Trust	Banking, Finance, Insurance & Real Estate	Equity			437,795	5,877,398	4.9%
CPI International, Inc.	Aerospace & Defense	Senior Secured Second Lien Term Loan	7/28/2025	8.25%	2,607,062	2,607,062	2.2%
DataOnline Corp.	High Tech Industries	Senior Secured First Lien Term Loan	11/13/2025	7.25%	4,862,500	4,765,250	3.9%
DataOnline Corp.	High Tech Industries	Revolving Credit Facility	11/13/2025	7.25%	714,286	700,000	0.6%
DirecTV Financing, LLC	Media: Broadcasting & Subscription	Senior Secured First Lien Term Loan	8/2/2027	5.75%	4,550,000	4,220,000	3.5%
Dream Finders Homes, LLC	Construction & Building	Preferred Equity		8.00%	5,309,341	4,950,961	4.1%
First Brands Group, LLC	Automotive	Senior Secured First Lien Term Loan	3/30/2027	6.00%	3,959,799	3,930,101	3.3%
FlexFin LLC	Services: Business	Equity Interest			47,136,146	47,136,146	39.0%
Footprint Acquisition, LLC	Services: Business	Equity			150	-	0.0%
Franklin BSP Realty Trust, Inc.	Banking, Finance, Insurance & Real Estate	Equity			529,914	5,707,174	4.7%
Global Accessories Group, LLC	Consumer goods: Non-durable	Equity			380	-	0.0%
Great AJAX Corp.	Banking, Finance, Insurance & Real Estate	Equity			254,922	1,914,464	1.6%
Innovate Corp.	Construction & Building	Senior Secured Notes	2/1/2026		2,250,000	1,659,375	1.4%
Invesco Mortgage Capital, Inc.	Banking, Finance, Insurance & Real Estate	Preferred Equity			205,000	3,138,550	2.6%
JFL-NGS-WCS Partners, LLC	Construction & Building	Equity			10,000,000	10,248,798	8.5%
JFL-NGS-WCS Partners, LLC	Construction & Building	Senior Secured First Lien Term Loan B	11/12/2026	6.50%	885,050	865,137	0.7%
Kemmerer Operations, LLC	Metals & Mining	Senior Secured First Lien Term Loan	6/21/2023	15.00%	2,378,510	2,378,510	2.0%
Kemmerer Operations, LLC	Metals & Mining	Equity			7	694,702	0.6%
Lighting Science Group Corporation	Containers, Packaging & Glass	Warrants			5,000,000	-	0.0%
Lucky Bucks, LLC	Consumer Discretionary	Senior Secured First Lien Term Loan	7/30/2027	6.25%	7,218,750	6,208,125	5.1%
Maritime Wireless Holdings LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Term Loan A	2/15/2024	10.00%	5,000,000	4,900,000	4.1%
Maritime Wireless Holdings LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Term Loan B	5/31/2027	10.00%	7,500,000	7,350,000	6.1%
Maritime Wireless Holdings LLC	Hotel, Gaming & Leisure	Convertible Promissory Note			5,000,000	5,000,000	4.1%
McKissock Investment Holdings, LLC (dba Colibri)	Services: Consumer	Senior Secured First Lien Term Loan	3/10/2029	5.75%	4,974,999	4,875,500	4.0%
MFA Financial, Inc.	Banking, Finance, Insurance & Real Estate	Preferred Equity			97,426	1,722,492	1.4%
New York Mortgage Trust, Inc.	Banking, Finance, Insurance & Real Estate	Preferred Equity			165,000	2,953,500	2.4%
NVTN LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Term Loan B	12/31/2024	10.25%	19,561,424	3,697,109	3.1%
NVTN LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Term Loan C	12/31/2024	13.00%	13,199,860	-	0.0%
NVTN LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Delayed Draw Term Loan	12/31/2024	5.00%	7,309,885	7,192,927	6.0%
NVTN LLC	Hotel, Gaming & Leisure	Equity			9,551,135	-	0.0%
PennyMac Financial Services, Inc.	Banking, Finance, Insurance & Real Estate	Equity			81,500	3,496,350	2.9%
Point.360	Services: Business	Senior Secured First Lien Term Loan	7/8/2020	6.00%	2,777,366	-	0.0%
Power Stop LLC	Automotive	Senior Secured First Lien Term Loan	1/26/2029	5.25%	4,975,000	4,029,750	3.3%
Rithm Capital Corp.	Banking, Finance, Insurance & Real Estate	Preferred Equity			206,684	3,902,194	3.2%
Secure Acquisition Inc. (dba Paragon Films)	Packaging	Senior Secured First Lien Term Loan	12/16/2028	5.50%	3,465,345	3,361,385	2.8%
Secure Acquisition Inc. (dba Paragon Films)	Packaging	Senior Secured First Lien Delayed Draw Term Loan	12/16/2028	5.50%	-	-	0.0%
Sendero Drilling Company, LLC	Energy: Oil & Gas	Unsecured Debt	8/1/2023	9.00%	191,250	-	0.0%
SMART Financial Operations, LLC	Retail	Preferred Equity			700,000	120,793	0.1%
SS Acquisition, LLC (dba Soccer Shots Franchising)	Services: Consumer	Senior Secured First Lien Term Loan	12/30/2026	7.50%	6,666,667	6,591,667	5.5%
Stancor (dba Industrial Flow Solutions Holdings, LLC)	Services: Business	Equity			338,736	265,269	0.2%
Staples, Inc.	Services: Consumer	First Lien Term Loan	9/12/2024	4.50%	3,730,720	3,488,223	2.9%
Thryv Holdings, Inc.	Services: Consumer	Senior Secured First Lien Term Loan B	3/1/2026	9.50%	6,515,633	6,287,583	5.2%
US Multifamily, LLC	Banking, Finance, Insurance & Real Estate	Preferred Equity			33,300	1,282,571	1.1%
Velocity Pooling Vehicle, LLC	Automotive	Equity			5,441	52,342	0.0%
Velocity Pooling Vehicle, LLC	Automotive	Warrants	3/30/2028		6,506	62,569	0.1%
Walker Edison Furniture Company LLC	Consumer goods: Durable	Equity			13,044	-	0.0%
Watermill-QMC Midco, Inc.	Automotive	Equity			518,283	-	0.0%
Wingman Holdings, Inc.	Aerospace & Defense	Equity			350	-	0.0%

(1) All interest is payable in cash and/or PIK, and all LIBOR represents 1 Month LIBOR and 3 Month LIBOR unless otherwise indicated. For each debt

investment, we have provided the current interest rate as of September 30, 2022.

As of September 30, 2022, our income-bearing investment portfolio, which represented 62.0% of our total portfolio, had a weighted average yield based upon cost of our portfolio investments of approximately 4.9%, and 81.9% of our income-bearing investment portfolio bore interest based on floating rates, such as LIBOR or the Secured Overnight Financing Rate ("SOFR"), while 18.1% of our income-bearing investment portfolio bore interest at fixed rates. As of September 30, 2021, our income-bearing investment portfolio, which represented 86.6% of our total portfolio, had a weighted average yield based upon cost of our portfolio investments of approximately 6.75%, and 74.6% of our income-bearing investment portfolio bore interest based on floating rates, such as LIBOR, while 25.4% of our income-bearing investment portfolio bore interest at fixed rates. The weighted average yield of our total portfolio does not represent the total return to our stockholders. The weighted average yield on income producing investments is computed based upon a combination of the cash flows to date and the contractual interest payments, principal amortization and fee notes due at maturity without giving effect to closing fees received, base management fees, incentive fees or general fund related expenses. For each floating rate loan, the projected fixed-rate equivalent coupon rate used to forecast the interest cash flows was calculated by adding the interest rate spread specified in the relevant loan document to the fixed-rate equivalent floating rate, duration-matched to the specific loan, adjusted by the floating rate floor and/or cap in place on that loan.

Overview of Portfolio Companies

Set forth below is a brief description of the business of our portfolio companies as of September 30, 2022:

Portfolio Company	Brief Description of Portfolio Company
1888 Industrial Services, LLC	1888 Industrial Services, LLC ("1888") provides field support services to oil and gas independent producers, drilling companies and midstream companies in the Denver-Julesburg Basin and Permian Basin. 1888 builds, repairs, modifies and maintains oil and gas production equipment, sites, wells and pipelines.
Altisource S.A.R.L.	Altisource operates as an integrated service provider and marketplace for the real estate and mortgage industries. It provides property preservation and inspection services, payment management technologies, and a vendor management oversight software-as-a-service ("SaaS") platform.
Be Green Packaging, LLC	Be Green Packaging, LLC, founded in 2007 and headquartered in Thousand Oaks, CA, designs and manufactures sustainable, tree-free, molded fiber products and packaging for the food service and consumer packaged goods end markets.
Black Angus Steakhouses, LLC	Black Angus Steakhouses, LLC, founded in 1964 and headquartered in Los Altos, CA, operates restaurants across six states including California, Arizona, Alaska, New Mexico, Washington, and Hawaii.
Boostability Seotowncenter, Inc.	Seotowncenter, Inc. is a tech-enabled business services company that delivers white label search engine optimization and local search and digital campaign fulfillment to the small and midsize business market.
Chimera Investment Corp.	Chimera Investment Corp. is an internally managed REIT that is primarily engaged in the business of investing in a diversified portfolio of mortgage assets, including residential mortgage loans, Agency residential mortgage-backed securities ("RMBS"), Non-Agency RMBS, Agency commercial mortgage-backed securities ("CMBS"), and other real estate-related assets.
Copper Property CTL Pass Through Trust	Copper Property CTL Pass Through Trust was established to acquire 160 retail properties and 6 warehouse distribution centers (the "Properties") from J.C. Penney as part of its Chapter 11 plan of reorganization. The Trust's operations consist solely of owning, leasing and selling the Properties.
CPI International, Inc.	CPI International, Inc., headquartered in Palo Alto, CA. develops and manufactures microwave, radio frequency, power, and control products for critical communications, defense and medical applications.
DataOnline Corp.	DataOnline Corp. ("DataOnline") is a global provider of M2M solutions specifically for the monitoring of both fixed and mobile remote industrial assets. DataOnline specializes in robust and reliable devices & sensors, remote data collection, global wireless communications & web-based applications.
DirecTV Financing, LLC	DirecTV offers digital entertainment services in the United States using satellite and IP-based technologies as well as streaming options that do not require either satellite or wired IP services. The Company's customer base primarily consists of residential customers.
Dream Finders Homes, LLC	Dream Finders Homes, LLC ("DFH"), founded in 2009 and headquartered in Jacksonville, FL, is a residential home builder currently operating in the greater Jacksonville, Orlando, Colorado, Savannah, Austin, and Washington DC markets. DFH builds both single-family homes and townhomes.
First Brands Group, LLC	First Brands Group, LLC is an automotive aftermarket platform offering comprehensive solutions for consumable maintenance and mission-critical repair parts under a portfolio of brands.
FlexFIN, LLC	FlexFIN operates an asset-based lending business under which it enters into secured loans and secured financing structures with borrowers engaged in the gemstone/jewelry industry.
Footprint Holding Company Inc.	Footprint Acquisition, LLC is a provider of in store merchandising and logistics solutions to major retailers and consumer packaged goods manufacturers.

Franklin BSP Realty Trust, Inc.	Franklin BSP Realty Trust, Inc. is a real estate finance company that primarily originates, acquires and manages a diversified portfolio of commercial real estate debt investments secured by properties located within and outside the United States.
Global Accessories Group, LLC	Global Accessories Group, LLC, headquartered in New York City, designs, manufactures, and sells custom-themed jewelry and accessory collections. These collections are tailored to leading retailers in the specialty, department store, off-price and juniors markets.
Great AJAX Corp.	Great Ajax Corp. is a REIT that acquires, invests in, and manages a portfolio of residential mortgage and small balance commercial mortgage loans.
Innovate Corp.	Innovate is a diversified holding company that has a portfolio of subsidiaries in a variety of operating segments, infrastructure, life sciences, and broadcasting.
Invesco Mortgage Capital, Inc.	Invesco Mortgage Capital Inc. is a Maryland corporation primarily focused on investing in, financing and managing mortgage-backed securities ("MBS") and other mortgage-related assets.
JFL-NGS-WCS Partners, LLC	JFL-NGS-WCS Partners, LLC was formed in November 2020 when NorthStar Group Services, a provider of environmental remediation and deconstruction services, merged with Waste Control Specialists, a leading provider of hazardous and radioactive waste disposal, storage, and treatment for commercial and government customers.
Kemmerer Operations, LLC	Kemmerer Operations, LLC, location in Wyoming, is a producer of high-value thermal coal and surface-mined coal.
Lighting Science Group Corporation	Lighting Science Group Corporation ("LSG") is a light emitting diode ("LED") lighting technology company. LSG designs, develops and markets general illumination products that exclusively use LEDs as their light source. LSG's product portfolio includes LED-based retrofit lamps (replacement bulbs) used in existing light fixtures as well as purpose-built LED-based luminaires (light fixtures).
Lucky Bucks, LLC	Lucky Bucks, LLC owns and operates digital gaming terminals, or Coin Operated Amusement Machines, in the state Georgia.
Maritime Wireless Holdings LLC	Wireless Maritime Services LLC is a leading provider of on-board cellular communications solutions for the ocean-going cruise industry and other maritime sectors.
McKissock Investment Holdings, LLC (dba Colibri)	Colibri is a provider of career lifecycle management for mandatory professional education solutions across various end markets including Financial & Accounting Services, Real Estate, Healthcare, Valuation & Property Services and Teaching..
MFA Financial, Inc.	MFA Financial, Inc. is an internally-managed REIT primarily engaged in investing in residential mortgage assets, with a focus on residential whole loans, residential mortgage securities, and mortgage servicing rights-related assets.
New York Mortgage Trust, Inc.	NY Mortgage Trust is a REIT that acquires, invests in, finances and manages mortgage-related single-family and multi-family residential assets in the US.
NVTN LLC	NVTN LLC (d/b/a "Dick's Last Resort"), established in 1985 and headquartered in Nashville, TN, is a "eatertainment" restaurant concept with locations throughout the US, mostly in budget friendly tourist destinations. NVTN LLC has developed an identifiable brand for its high-energy, unique themed restaurant concept that targets tourists and business travelers in high foot traffic locations.
PennyMac Financial Services, Inc.	PennyMac Financial Services, Inc. isa specialty financial services firm with a comprehensive mortgage platform and integrated business primarily focused on the production and servicing of U.S. residential mortgage loans and the management of investments related to the U.S. mortgage market.
Point.360	Point.360, headquartered in Los Angeles, CA is a full-service content management company with several facilities strategically located throughout Los Angeles supporting all aspects of postproduction.
Power Stop LLC	Power Stop LLC manufactures and distributes braking systems for cars, trucks, SUVs, performance vehicles, and severe duty trucks and tows. The Company offers brake kits, caliper kits, brake pads, brake rotors, calipers, brake shoes, and pad wear sensors. It provides products through a network of distributors in Europe, North America, South America, the Middle East, and Africa; and online retailers.
Rithm Capital Corp.	Rithm Capital Corp. ("RITM") is a vertically integrated investment management and mortgage platform externally managed by Fortress Investment Group. RITM's investments focus on servicing and origination, residential securities and loans, and consumer loans.
Secure Acquisition Inc. (dba Paragon Films)	Paragon Films, Inc. manufactures and supplies stretch film products to customers in various industries in the United States, Canada, Mexico, South America, and internationally.
Sendero Drilling Company, LLC	Sendero Drilling Company, LLC is a land drilling contractor headquartered in San Angelo, TX.

SS Acquisition, LLC (dba Soccer Shots Franchising)	Soccer Shots Franchising is a franchised-based system operating in the U.S. and Canada that provides children's enrichment programs with a unique emphasis on social, cognitive, and linguistic skill through soccer.
SMART Financial Operations, LLC	SMART Financial Operations, LLC, headquartered in Orlando, FL, is a specialty retail platform initially comprised of three distinct retail pawn store chains and a pawn industry consulting firm.
Stancor (dba Industrial Flow Solutions Holdings, LLC)	Stancor, founded in 1985 and based out of Monroe, CT, is a designer and manufacturer of electric submersible pumps, control, accessories, and parts.
Staples, Inc.	Staples is a B2B distributor of office supplies in North America and provider of e-commerce via Staples.com.
Thryv Holdings, Inc.	Thryv Holdings, Inc. is a provider of print and digital marketing solutions to small and medium sized businesses and SaaS end-to-end customer experience tools.
US Multifamily, LLC	US Multifamily, LLC ("US Multifamily") is a real estate platform focused on distressed multifamily assets primarily located in the Southeastern United States.
Velocity Pooling Vehicle, LLC	Velocity Pooling Vehicle, LLC, headquartered in Coppell, TX, is a manufacturer, distributor and retailer of branded aftermarket products for the powersports industry. The Company's brands include Vance & Hines, Kuryakyn, Mustang, Performance Machine, and others.
Walker Edison Furniture Company LLC	Walker Edison Furniture Company LLC ("Walker Edison") is an e-commerce furniture platform exclusively selling through the websites of top online retailers. Walker Edison operates a data-driven business model to sell a variety of home furnishings in the discount category including TV stands, bedroom furniture, chairs & tables, desks and other.
Watermill-QMC Midco, Inc.	Watermill-QMC Midco, Inc. (d/b/a Quality Metalcraft, Inc.), founded in 1964 and headquartered in Livonia, MI, is a provider of complex assemblies for specialty automotive production, prototype and factory assist applications.
Wingman Holdings, Inc.	Wingman Holdings, Inc. (f/k/a Crow Precision Components, LLC) is a Fort Worth, TX based forger of aluminum and steel used for mission critical aircraft components, among other end markets.

PREVIOUS RELATIONSHIP WITH MCC ADVISORS

Prior to the effectiveness of our internalized management structure on January 1, 2021, MCC Advisors, an SEC-registered investment adviser under the Advisers Act, served as our investment adviser pursuant to an investment management agreement. Effective January 1, 2021, subject to the overall supervision of our board of directors, our internal management team manages the day-to-day operations of PhenixFIN, and provides investment advisory and management services. See "- Internalized Management Structure" below for further information.

Investment Management Agreement

We had entered into an investment management agreement with MCC Advisors on January 11, 2011 (the "Investment Management Agreement"), which expired on December 31, 2020.

Under the terms of the Investment Management Agreement, MCC Advisors:

- determined the composition of our portfolio, the nature and timing of the changes to our portfolio and the manner of implementing such changes;
- identified, evaluated and negotiated the structure of the investments we made (including performing due diligence on our prospective portfolio companies); and
- executed, closed, monitored and administered the investments we made, including the exercise of any voting or consent rights.

MCC Advisors' services under the Investment Management Agreement were not exclusive, and it was free to furnish similar services to other entities so long as its services to us were not impaired.

Pursuant to the Investment Management Agreement, we paid MCC Advisors a fee for investment advisory and management services consisting of a base management fee and a two-part incentive fee.

The following discussion of our base management fee and two-part incentive fee reflect the terms of the fee waiver agreement executed by MCC Advisors on February 8, 2016 (the "Fee Waiver Agreement"). The terms of the Fee Waiver Agreement were effective as of January 1, 2016 and were a permanent reduction in the base management fee and incentive fee on net investment income payable to MCC Advisors for the investment advisory and management services it provided under the Investment Management Agreement. The Fee Waiver Agreement did not change the second component of the incentive fee, which was the incentive fee on capital gains.

On January 15, 2020, the Company's board of directors, including all of the independent directors, approved the renewal of the Investment Management Agreement through the later of April 1, 2020 or so long as the Amended and Restated Agreement and Plan of Merger, dated as of July 29, 2019 (the "Amended MCC Merger Agreement"), by and between the Company and Sierra (the "Amended MCC Merger Agreement") was in effect, but no longer than a year; provided that, if the Amended MCC Merger Agreement was terminated by Sierra, then the termination of the Investment Management Agreement would be effective on the 30th day following receipt of Sierra's notice of termination to the Company. On May 1, 2020, the Company received a notice of termination of the Amended MCC Merger Agreement from Sierra. Under the Amended MCC Merger Agreement, either party was permitted, subject to certain conditions, to terminate the Amended MCC Merger Agreement if the merger was not consummated by March 31, 2020. Sierra elected to do so on May 1, 2020. As result of the termination by Sierra of the Amended MCC Merger Agreement on May 1, 2020, the Investment Management Agreement would have been terminated effective as of May 31, 2020. On May 21, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through the end of the then-current quarter, June 30, 2020. On June 12, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through September 30, 2020. On September 29, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through December 31, 2020. Mr. Brook Taube, our Chairman and Chief Executive Officer through December 31, 2020 and one of our directors through January 21, 2021 and Mr. Seth Taube, one of our directors through January 21, 2021 are both affiliated with MCC Advisors and Medley.

On November 18, 2020, the Board approved the adoption of an internalized management structure effective January 1, 2021. The new management structure replaces the current Investment Management and Administration Agreements with MCC Advisors LLC, which expired on December 31, 2020. To lead the internalized management team, the Board approved the appointment of David Lorber, who had served as an independent director of the Company since April 2019, as Chief Executive Officer, and Ellida McMillan as Chief Financial Officer of the Company, each effective January 1, 2021. In connection with his appointment, Mr. Lorber stepped down from the Compensation Committee of the Board, the Nominating and Corporate Governance Committee of the Board, and the Special Committee of the Board.

Base Management Fee

Through December 31, 2020, for providing investment advisory and management services to us, MCC Advisors received a base management fee. The base management fee was calculated at an annual rate of 1.75% (0.4375% per quarter) of up to $1.0 billion of the Company's gross assets and 1.50% (0.375% per quarter) of any amounts over $1.0 billion of the Company's gross assets and was payable quarterly in arrears. The base management fee was calculated based on the average value of the Company's gross assets at the end of the two most recently completed calendar quarters.

Incentive Fee

Through December 31, 2020, the incentive fee had two components, as follows:

Incentive Fee Based on Income

The first component of the incentive fee was payable quarterly in arrears and was based on our pre-incentive fee net investment income earned during the calendar quarter for which the incentive fee was being calculated. MCC Advisors was entitled to receive the incentive fee on net investment income from us if our Ordinary Income (as defined below) exceeded a quarterly "hurdle rate" of 1.5%. The hurdle amount was calculated after making appropriate adjustments to the Company's net assets, as determined as of the beginning of each applicable calendar quarter, in order to account for any capital raising or other capital actions as a result of any issuances by the Company of its common stock (including issuances pursuant to our dividend reinvestment plan), any repurchase by the Company of its own common stock, and any dividends paid by the Company, each as may have occurred during the relevant quarter.

The second component of the incentive fee was determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Management Agreement as of the termination date) and equaled 20.0% of our cumulative aggregate realized capital gains less cumulative realized capital losses, unrealized capital depreciation (unrealized depreciation on a gross investment-by-investment basis at the end of each calendar year) and all capital gains upon which prior performance-based capital gains incentive fee payments were previously made to the investment adviser.

The Investment Management Agreement terminated as of December 31, 2020, and the Company no longer incurs base management fees or incentive fees under the Investment Management Agreement as a result.

Payment of Our Expenses

Since January 1, 2021, we are internally managed and do not pay any external investment advisory fees, but instead directly incur the operating costs associated with employing professionals and staff. We bear all costs and expenses of our operations and transactions, including, but not limited to those related to:

- our organization and continued corporate existence;
- calculating our net asset value ("NAV") (including the cost and expenses of any independent valuation firms);

- expenses, including travel expense, incurred by our professionals or payable to third parties performing due diligence on prospective portfolio companies, monitoring our investments and, if necessary, enforcing our rights;
- interest payable on debt incurred to finance our investments;
- the costs of all offerings of common shares and other securities;
- operating costs associated with employing investment professionals and other staff;
- distributions on our shares;
- administration fees payable under our administration agreement;
- custodial fees related to our assets
- amounts payable to third parties relating to, or associated with, making investments;
- transfer agent and custodial fees;
- all registration and listing fees;
- U.S. federal, state and local taxes;
- independent directors' fees and expenses;
- costs of preparing and filing reports or other documents with the SEC or other regulators;
- the costs of any reports, proxy statements or other notices to our stockholders, including printing costs;
- our fidelity bond;
- the operating lease of our office space;
- directors and officers/errors and omissions liability insurance, and any other insurance premiums;
- indemnification payments; and
- direct costs and expenses of administration, including audit and legal costs.

Investment Management Agreement Board Approval and Expiration

On January 15, 2020, the Company's board of directors, including all of the independent directors, approved the renewal of the investment management agreement through the later of April 1, 2020 or so long as the Amended MCC Merger Agreement, was in effect, but no longer than a year; provided that, if the Amended MCC Merger Agreement were to be terminated by Sierra, then the termination of the investment management agreement would be effective on the 30th day following receipt of Sierra's notice of such termination to the Company. In that regard, on May 1, 2020, the Company received a notice of termination of the Amended MCC Merger Agreement from Sierra. Under the Amended MCC Merger Agreement, either party was permitted, subject to certain conditions, to terminate the Amended MCC Merger Agreement if the merger was not consummated by March 31, 2020. As result of the termination by Sierra of the Amended MCC Merger Agreement on May 1, 2020, the investment management agreement would have been terminated effective as of May 31, 2020, without further action by our board of directors. On May 21, 2020, our board of directors, including all of the independent directors, extended the term of the investment management agreement through the end of the quarter ended June 30, 2020. On June 15, 2020, our board of directors, including all of the independent directors, extended the term of the investment management agreement through the end of the quarter ended September 30, 2020. On September 29, 2020, our board of directors, including all of the independent directors, extended the term of the investment management agreement through the end of the quarter ended December 31, 2020. The Investment Management Agreement expired by its terms at the close of business on December 31, 2020, in connection with the adoption of the internalized management structure by the board of directors.

Expense Support Agreement

On June 12, 2020, the Company entered into an expense support agreement (the "Expense Support Agreement") with MCC Advisors and Medley LLC, pursuant to which MCC Advisors and Medley LLC agreed (jointly and severally) to cap the management fee and all of the Company's other operating expenses (except interest expenses, certain extraordinary strategic transaction expenses and other expenses approved by the Special Committee (as defined in Note 10)) at $667,000 per month (the "Cap"). Under the Expense Support Agreement, the Cap became effective on June 1, 2020 and expires on September 30, 2020. On September 29, 2020, the board of directors, including all of the independent directors, extended the term of the Expense Support Agreement through the end of quarter ending December 31, 2020. The Expense Support Agreement expired by its terms at the close of business on December 31, 2020, in connection with the adoption of the internalized management structure by the board of directors.

Administration Agreement

On January 19, 2011, the Company entered into an administration agreement with MCC Advisors. Pursuant to the administration agreement, MCC Advisors furnished us with office facilities and equipment, clerical, bookkeeping, recordkeeping and other administrative services related to the operations of the Company. We reimbursed MCC Advisors for our allocable portion of overhead and other expenses incurred by it performing its obligations under the administration agreement, including rent and our allocable portion of the cost of our Chief Financial Officer and Chief Compliance Officer and their respective staffs. From time to time, our administrator was able to pay amounts owed by us to third-party service providers and we would subsequently reimburse our administrator for such amounts paid on our behalf. In connection with the adoption by the board of directors of an internalized management structure, on November 19, 2020, the Company entered into a Fund Accounting Servicing Agreement and an Administration Servicing Agreement on customary terms with U.S. Bancorp Fund Services, LLC d/b/a U.S. Bank Global Fund Services ("U.S. Bancorp"). A U.S. Bancorp affiliate also served as the Company's custodian. The Company's administrative and custodial relationship with U.S. Bancorp terminated on August 9, 2022. SS&C Technologies, Inc. ("SS&C") has since served as administrator of the Company and has provided us with fund accounting and financial reporting services pursuant to its Services Agreement with the Company. Effective September 12, 2022, Computershare Trust Company, N.A. ("Computershare") serves as custodian for the Company pursuant to its Loan Administration and Custodial Agreement with the Company. For the years ended September 30, 2022, 2021, and 2020, we incurred $0.3 million, $0.6 million, and $2.2 million in administrator expenses, respectively.

Internalized Management Structure

On November 18, 2020, the board of directors approved adoption of an internalized management structure effective January 1, 2021. The new management structure replaced the investment management and administration agreements with MCC Advisors, which expired on December 31, 2020. The board approved the establishment of a committee, consisting of Arthur Ainsberg, Karin Hirtler-Garvey, Lowell Robinson and Howard Amster, to oversee the transition to the internalized management structure.

To lead the internalized management team, the board appointed David Lorber, who has served as an independent director of the Company since April 2019, as Chief Executive Officer and Ellida McMillan, who previously served as Chief Financial Officer and Chief Operating Officer of Alcentra Capital Corporation, a NASDAQ-traded BDC, from April 2017 until it merged into Crescent Capital BDC, Inc. in February 2020, as Chief Financial Officer of the Company, each effective January 1, 2021. Mr. Lorber is paid an annual base salary of $425,000, and Ms. McMillan is paid an annual base salary of $300,000, and each is eligible for one or more discretionary cash bonuses.

The internalized management team is responsible for the day-to-day management and operations of the Company, under the oversight of the board. The internalized management team presently consists of 4 investment professionals and 7 employees/consultants overall. The Company retained Alaric Compliance Services, LLC, whose officer serves as the Company's Chief Compliance Officer. As discussed above, the Company has also entered into a services agreement on customary terms with SS&C, which serves as the Company's administrator, as well as a loan administration and custodial agreement on customary terms with Computershare, who serves as our primary custodian.

REGULATION

General

We have elected to be regulated as a BDC under the 1940 Act. The 1940 Act contains prohibitions and restrictions relating to transactions between BDCs and their affiliates, principal underwriters and affiliates of those affiliates or underwriters and requires that a majority of the directors be persons other than "interested persons", as that term is defined in the 1940 Act. In addition, the 1940 Act provides that we may not change the nature of our business so as to cease to be, or to withdraw our election as, a BDC unless approved by "a majority of our outstanding voting securities."

As a BDC, we are required to meet an asset coverage ratio, reflecting the value of our total assets to our total senior securities, which include all of our borrowings and any preferred stock we may issue in the future, of at least 200%. However, in March 2018, the Small Business Credit Availability Act (the "SBCA") modified the 1940 Act by allowing a BDC to increase the maximum amount of leverage it may incur from 200% to 150%, if certain requirements are met. Under the 1940 Act, we are allowed to increase our leverage capacity if stockholders representing at least a majority of the votes cast, when a quorum is present, approve a proposal to do so. If we receive stockholder approval, we would be allowed to increase our leverage capacity on the first day after such approval. Alternatively, the 1940 Act allows the majority of our independent directors to approve an increase in our leverage capacity, and such approval would become effective on the one-year anniversary of such approval. In either case, we would be required to make certain disclosures on our website and in SEC filings regarding, among other things, the receipt of approval to increase our leverage, our leverage capacity and usage, and risks related to leverage. The Company has not sought stockholder or independent director approval to reduce its coverage ratio to 150%.

On March 23, 2018, the SBCA was signed into law and, among other things, instructs the SEC to issue rules or amendments to rules allowing BDCs to use the same registration, offering and communication processes that are available to operating companies. The rules and amendments specified by the SBCA became self-implementing on March 24, 2019. On April 8, 2020, the SEC adopted rules and amendments to implement certain provisions of the SBCA (the "Final Rules") that, among other things, modify the registration, offering, and communication processes available to BDCs relating to: (i) the shelf offering process to permit the use of short-form registration statements on Form N-2 and incorporation by reference; (ii) the ability to qualify for well-known seasoned issuer status; (iii) the immediate or automatic effectiveness of certain filings made in connection with continuous public offerings; and (iv) communication processes and prospectus delivery. In addition, the SEC adopted rules that will require BDCs to comply with certain structured data and inline XBRL requirements. The Final Rules generally became effective on August 1, 2020, except that a BDC eligible to file short-form registration statements on Form N-2, like the Company, must comply with the Inline XBRL structured data requirements for its financial statements, registration statement cover page, and certain prospectus information by August 1, 2022.

We may also be prohibited under the 1940 Act from knowingly participating in certain transactions with our affiliates without the prior approval of our directors who are not interested persons and, in some cases, prior approval by the SEC.

Qualifying Assets

Under the 1940 Act, a BDC may not acquire any asset other than assets of the type listed in section 55(a) of the 1940 Act, which are referred to as qualifying assets, unless, at the time the acquisition is made, qualifying assets represent at least 70% of the company's total assets. The principal categories of qualifying assets relevant to our business are the following:

(1) Securities purchased in transactions not involving any public offering from the issuer of such securities, which issuer (subject to certain limited exceptions) is an eligible portfolio company, or from any person who is, or has been during the preceding 13 months, an affiliated person of an eligible portfolio company, or from any other person, subject to such rules as may be prescribed by the SEC. An eligible portfolio company is defined in the 1940 Act as any issuer which:

- is organized under the laws of, and has its principal place of business in, the United States;
- is not an investment company (other than a small business investment company wholly owned by the Company) or a company that would be an investment company but for certain exclusions under the 1940 Act; and
- satisfies either of the following:
  - has a market capitalization of less than $250 million or does not have any class of securities listed on a national securities exchange; or
  - is controlled by a BDC or a group of companies including a BDC, the BDC actually exercises a controlling influence over the management or policies of the eligible portfolio company, and, as a result thereof, the BDC has an affiliated person who is a director of the eligible portfolio company.

(2) Securities of an eligible portfolio company purchased from any person in a private transaction if there is no ready market for such securities and we already own 60% of the outstanding equity of the eligible portfolio company.

(3) Securities received in exchange for or distributed on or with respect to securities described above, or pursuant to the exercise of warrants or rights relating to such securities.

(4) Securities of any eligible portfolio company which we control.

(5) Securities purchased in a private transaction from a U.S. issuer that is not an investment company or from an affiliated person of the issuer, or in transactions incident thereto, if the issuer is in bankruptcy and subject to reorganization or if the issuer, immediately prior to the purchase of its securities was unable to meet its obligations as they came due without material assistance other than conventional lending or financing arrangements.

(6) Cash, cash equivalents, U.S. Government securities or high-quality debt securities maturing in one year or less from the time of investment.

The regulations defining and interpreting qualifying assets may change over time. We may adjust our investment focus needed to comply with and/or take advantage of any regulatory, legislative, administrative or judicial actions in this area.

Managerial Assistance to Portfolio Companies

A BDC must have been organized and have its principal place of business in the United States and must be operated for the purpose of making investments in the types of securities described in "Regulation — Qualifying Assets" above. However, in order to count portfolio securities as qualifying assets for the purpose of the 70% requirement, the BDC must either control the issuer of the securities or must offer to make available to the issuer of the securities (other than small and solvent companies described above) significant managerial assistance. Where the BDC purchases such securities in conjunction with one or more other persons acting together, the BDC will satisfy this test if one of the other persons in the group makes available such managerial assistance. Making available managerial assistance means, among other things, any arrangement whereby the BDC, through its directors, officers or employees, offers to provide, and, if accepted, does so provide, significant guidance and counsel concerning the management, operations or business objectives and policies of a portfolio company.

Temporary Investments

Pending investment in other types of "qualifying assets", as described above, our investments may consist of cash, cash equivalents, U.S. Government securities or high-quality debt securities maturing in one year or less from the time of investment, which we refer to, collectively, as temporary investments, so that 70% of our assets are qualifying assets. Typically, we will invest in highly rated commercial paper, U.S. Government agency notes, U.S. Treasury bills or in repurchase agreements relating to such securities that are fully collateralized by cash or securities issued by the U.S. Government or its agencies. A repurchase agreement involves the purchase by an investor, such as us, of a specified security and the simultaneous agreement by the seller to repurchase it at an agreed-upon future date and at a price which is greater than the purchase price by an amount that reflects an agreed-upon interest rate. There is no percentage restriction on the proportion of our assets that may be invested in such repurchase agreements. However, certain diversification tests that must be met in order to qualify as a RIC for U.S. federal income tax purposes will typically require us to limit the amount we invest with any one counterparty. We will monitor the creditworthiness of the counterparties with which we enter into repurchase agreement transactions.

Senior Securities

We are permitted, under specified conditions, to issue multiple classes of indebtedness and one class of stock senior to our common stock if our asset coverage, as defined in the 1940 Act, is at least equal to 200% (or 150% if certain requirements are met) immediately after each such issuance. In addition, while any preferred stock or publicly traded debt securities are outstanding, we may be prohibited from making distributions to our stockholders or the repurchasing of such securities or shares unless we meet the applicable asset coverage ratios at the time of the distribution or repurchase. We may also borrow amounts up to 5% of the value of our total assets for temporary or emergency purposes without regard to asset coverage. For a discussion of the risks associated with leverage, see "Item 1A. Risk Factors—Risks Related to our Business—If we use borrowed funds to make investments or fund our business operations, we will be exposed to risks typically associated with leverage which will increase the risk of investing in us."

Code of Ethics

We have adopted a code of ethics pursuant to Rule 17j-1 under the 1940 Act that establishes procedures for personal investments and restricts certain personal securities transactions. Personnel subject to each code may invest in securities for their personal investment accounts, including securities that may be purchased or held by us, so long as such investments are made in accordance with the code's requirements. The code of ethics is available at our website, *www.phenixfc.com*, and is available on the EDGAR Database on the SEC's Internet site at *http://www.sec.gov*.

Privacy Policy

We are committed to maintaining the privacy of stockholders and to safeguarding our non-public personal information. The following information is provided to help you understand what personal information we collect, how we protect that information and why, in certain cases, we may share information with select other parties.

Generally, we do not receive any nonpublic personal information relating to our stockholders, although certain nonpublic personal information of our stockholders may become available to us. We do not disclose any nonpublic personal information about our stockholders or former stockholders to anyone, except as permitted by law or as is necessary in order to service stockholder accounts (for example, to a transfer agent or third party administrator).

We restrict access to nonpublic personal information about our stockholders to our employees with a legitimate business need for the information. We maintain physical, electronic and procedural safeguards designed to protect the nonpublic personal information of our stockholders.

Proxy Voting Policies and Procedures

Our Proxy Voting Policies and Procedures are set forth below. The guidelines are reviewed periodically by management and our independent directors, and, accordingly, are subject to change.

These policies and procedures for voting proxies for our investment advisory clients are intended to comply with Section 206 of, and Rule 206(4)-6 under, the Advisers Act.

Proxy Policies

Our proxy voting decisions are made by our investment professionals, who review on a case-by-case basis each proposal submitted to a shareholder vote to determine its impact on the portfolio securities held by the Company. Although the Company generally votes against proposals that may have a negative impact on our portfolio securities, we may vote for such a proposal if there exists compelling long-term reasons to do so. We generally do not believe it is necessary to engage the services of an independent third party to assist in issue analysis and vote recommendation for proxy proposals. Under certain circumstances and when deemed in the best interests of shareholders, the Company may, in the discretion of its officers, refrain from exercising its proxy voting right for a particular decision.

To ensure that our vote is not the product of a conflict of interest, we require that: (i) anyone involved in the decision making process disclose to our Chief Compliance Officer any potential conflict that he or she is aware of and any contact that he or she has had with any interested party regarding a proxy vote; and (ii) employees involved in the decision making process or vote administration are prohibited from revealing how we intend to vote on a proposal in order to reduce any attempted influence from interested parties, unless such employee has received pre-approval from our Chief Compliance Officer.

Proxy Voting Records

You may obtain information about how we voted proxies by making a written request for proxy voting information to:

Chief Compliance Officer
PhenixFIN Corporation
445 Park Avenue, 10th Floor
New York, NY 10022

Other

Under the 1940 Act, we are not generally able to issue and sell our common stock at a price below NAV per share. We may, however, issue and sell our common stock, at a price below the current NAV of the common stock, or issue and sell warrants, options or rights to acquire such common stock, at a price below the current NAV of the common stock if our board of directors determines that such sale is in our best interest and in the best interests of our stockholders, and our stockholders have approved our policy and practice of making such sales within the preceding 12 months. In any such case, the price at which our securities are to be issued and sold may not be less than a price which, in the determination of our board of directors, closely approximates the market value of such securities. However, we currently do not have the requisite stockholder approval, nor do we have any current plans to seek stockholder approval, to sell or issue shares of our common stock at a price below NAV per share.

In addition, at our 2012 Annual Meeting of Stockholders we received approval from our stockholders to authorize us, with the approval of our board of directors, to issue securities to, subscribe to, convert to, or purchase shares of the Company's common stock in one or more offerings, subject to certain conditions as set forth in the proxy statement. Such authorization has no expiration.

We expect to be periodically examined by the SEC for compliance with the 1940 Act.

We are required to provide and maintain a bond issued by a reputable fidelity insurance company to protect us against larceny and embezzlement. Furthermore, as a BDC, we are prohibited from protecting any director or officer against any liability to us or our stockholders arising from willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of such person's office.

We adopted written policies and procedures reasonably designed to prevent violation of the federal securities laws, and will review these policies and procedures annually for their adequacy and the effectiveness of their implementation. We have designated a Chief Compliance Officer to be responsible for administering the policies and procedures.

Election to Be Taxed as a RIC

We have elected and intend to qualify annually to be treated as a RIC under Subchapter M of the Code. As a RIC, we generally will not have to pay corporate-level U.S. federal income taxes on any net ordinary income or capital gains that we timely distribute to our stockholders as dividends. To qualify as a RIC, we must, among other things, meet certain source-of-income and asset diversification requirements (as described below). In addition, we must distribute to our stockholders, for each taxable year, at least 90% of our "investment company taxable income," which is generally our net ordinary income plus the excess of realized net short-term capital gains over realized net long-term capital losses (the "Distribution Requirement").

Taxation as a RIC

As a RIC, if we satisfy the Distribution Requirement, we will not be subject to U.S. federal income tax on the portion of our investment company taxable income and net capital gain, defined as net long-term capital gains in excess of net short-term capital losses, we timely distribute to stockholders. We will be subject to U.S. federal income tax at regular corporate rates on any net income or net capital gain not distributed to our stockholders.

We will be subject to a nondeductible U.S. federal excise tax of 4% on undistributed income if we do not distribute at least the sum of 98% of our ordinary income in any calendar year, 98.2% of our capital gain net income for each one-year period ending on October 31 of such year, and any income and capital gain net income that we recognized in preceding years, but were not distributed during such years, and on which we did not pay U.S. federal income tax. Depending on the level of investment company taxable income ("ICTI") earned in a tax year and the amount of net capital gains recognized in such tax year, we may choose to carry forward ICTI in excess of current year dividend distributions into the next tax year. In order to eliminate our liability for income tax, and to the extent necessary to maintain our qualification as a RIC, any such carryover ICTI and net capital gains must be distributed before the end of that next tax year through a dividend declared prior to the 15th day of the 9th month after the close of the taxable year in which such ICTI was generated. To the extent that we determine that our estimated current year annual taxable income will be in excess of estimated current year dividend distributions for U.S. federal excise tax purposes, we accrue U.S. federal excise tax, if any, on estimated excess taxable income as taxable income is earned.

In order to qualify as a RIC for U.S. federal income tax purposes, we must, among other things:

- qualify to be treated as a BDC under the 1940 Act at all times during each taxable year;
- derive in each taxable year at least 90% of our gross income from dividends, interest, payments with respect to certain securities loans, gains from the sale of stock or other securities, or other income derived with respect to our business of investing in such stock or securities, and net income derived from interests in "qualified publicly traded partnerships" (generally, partnerships that are traded on an established securities market or tradable on a secondary market, other than partnerships that could qualify as RICs if such partnerships were domestic corporations) (the "90% Income Test"); and
- diversify our holdings so that at the end of each quarter of the taxable year:
    - at least 50% of the value of our assets consists of cash, cash equivalents, U.S. government securities, securities of other RICs, and other securities if such other securities of any one issuer do not represent more than 5% of the value of our assets or more than 10% of the outstanding voting securities of the issuer; and
    - no more than 25% of the value of our assets is invested in the securities, other than U.S. government securities or securities of other RICs, of one issuer or of two or more issuers that are controlled, as determined under applicable tax rules, by us and that are engaged in the same or similar or related trades or businesses or in the securities of one or more qualified publicly traded partnerships (the "Diversification Tests").

We may invest in partnerships, including qualified publicly traded partnerships, which may result in our being subject to state, local or foreign income and franchise or withholding liabilities.

Any underwriting fees paid by us are not deductible. We may be required to recognize taxable income in circumstances in which we do not receive cash. For example, if we hold debt obligations that are treated under applicable tax rules as having original issue discount (such as debt instruments with PIK interest or, in certain cases, with increasing interest rates or issued with warrants), we must include in income each year a portion of the original issue discount that accrues over the life of the obligation, regardless of whether cash representing such income is received by us in the same taxable year. Because any original issue discount accrued will be included in our investment company taxable income for the year of accrual, we may be required to make a distribution to our stockholders in order to satisfy the Distribution Requirement, even though we will not have received any corresponding cash amount.

Although we do not presently expect to do so, we are authorized to borrow funds and to sell assets in order to satisfy the Distribution Requirement. However, under the 1940 Act, we are not permitted to make distributions to our stockholders while our debt obligations and other senior securities are outstanding unless certain "asset coverage" tests are met. See "Business — Regulation — Senior Securities." Moreover, our ability to dispose of assets to satisfy the Distribution Requirement may be limited by (1) the illiquid nature of our portfolio and/or (2) other requirements relating to our qualification as a RIC, including the Diversification Tests. If we dispose of assets in order to meet the Distribution Requirement or avoid the imposition of excise tax, we may make such dispositions at times that, from an investment standpoint, are not advantageous.

Some of the income and fees that we may recognize will not count towards satisfaction of the 90% Income Test. In order to ensure that such income and fees do not disqualify us as a RIC for a failure to satisfy the 90% Income Test, we may be required to recognize such income and fees indirectly through one or more entities treated as corporations for U.S. federal income tax purposes. Such corporations will be required to pay corporate level U.S. federal income tax on their earnings, which ultimately will reduce our return on such income and fees.

Failure to Qualify as a RIC

If we were unable to continue to qualify for treatment as a RIC, we would be subject to U.S. federal income tax on all of our taxable income at regular corporate rates. We would not be able to deduct distributions to stockholders, nor would they be required to be made. Distributions, including distributions of net long-term capital gain, would generally be taxable to our stockholders as ordinary dividend income to the extent of our current and accumulated earnings and profits. Subject to certain limitations under the Code, corporate distributees would be eligible for the dividends received deduction. Distributions in excess of our current and accumulated earnings and profits would be treated first as a return of capital to the extent of the stockholder's tax basis in their shares of the RIC, and any distributions in excess of tax basis would be treated as a capital gain. If we fail to qualify as a RIC for a period greater than two taxable years, to qualify as a RIC in a subsequent year we may be subject to regular corporate level U.S. federal income tax on any net built-in gains with respect to certain of our assets (*i.e.*, the excess of the aggregate gains, including items of income, over aggregate losses that would have been realized with respect to such assets if we had been liquidated) that we elect to recognize on requalification or when recognized over the next five years.

Company Investments

Certain of our investment practices are subject to special and complex U.S. federal income tax provisions that may, among other things, (1) disallow, suspend or otherwise limit the allowance of certain losses or deductions, including the dividends received deduction, (2) convert lower taxed long-term capital gains and qualified dividend income into higher taxed short-term capital gains or ordinary income, (3) convert ordinary loss or a deduction into capital loss (the deductibility of which is more limited), (4) cause us to recognize income or gain without a corresponding receipt of cash, (5) adversely affect the time as to when a purchase or sale of stock or securities is deemed to occur, (6) adversely alter the characterization of certain complex financial transactions and (7) produce income that will not qualify as good income for purposes of the 90% Income Test described above. We will monitor our transactions and may make certain tax elections and may be required to borrow money or dispose of securities to mitigate the effect of these rules and prevent disqualification as a RIC.

Investments we make in securities issued at a discount or providing for deferred interest or payment of interest in kind are subject to special tax rules that will affect the amount, timing and character of distributions to stockholders. For example, if we hold debt obligations that are treated under applicable tax rules as having original issue discount (such as debt instruments with PIK interest or, in certain cases, with increasing interest rates or issued with warrants), we will generally be required to accrue daily as income a portion of the discount and to distribute such income each year to avoid U.S. federal income and excise taxes. Since in certain circumstances we may recognize income before or without receiving cash representing such income, we may have difficulty making distributions in the amounts necessary to satisfy the requirements for maintaining RIC tax treatment and for avoiding U.S. federal income and excise taxes. Accordingly, we may have to sell some of our investments at times we would not consider advantageous, raise additional debt or equity capital or reduce new investment originations to meet these distribution requirements. If we are not able to obtain cash from other sources, we may fail to qualify for tax treatment as a RIC and thereby be subject to corporate-level U.S. federal income tax.

Gain or loss realized by us from warrants acquired by us as well as any loss attributable to the lapse of such warrants generally will be treated as capital gain or loss. Such gain or loss generally will be long term or short term, depending on how long we held a particular warrant.

In the event we invest in foreign securities, we may be subject to withholding and other foreign taxes with respect to those securities. In that case, our yield on those securities would be decreased. We do not expect to satisfy the requirements necessary to pass through to our stockholders their share of the foreign taxes paid by us.

If we purchase shares in a "passive foreign investment company" (a "PFIC"), we may be subject to U.S. federal income tax on a portion of any "excess distribution" or gain from the disposition of such shares even if such income is distributed as a taxable dividend by us to our stockholders. Additional charges in the nature of interest may be imposed on us in respect of deferred taxes arising from such distributions or gains. If we invest in a PFIC and elect to treat the PFIC as a "qualified electing fund" under the Code (a "QEF"), in lieu of the foregoing requirements, we will be required to include in income each year a portion of the ordinary earnings and net capital gain of the QEF, even if such income is not distributed to us. Alternatively, we may be able to elect to mark-to-market at the end of each taxable year our shares in certain PFICs; in this case, we will recognize as ordinary income any increase in the value of such shares, and as ordinary loss any decrease in such value to the extent it does not exceed prior increases included in income. Under either election, we may be required to recognize in a year income in excess of our distributions from PFICs and our proceeds from dispositions of PFIC stock during that year, and such income will nevertheless be subject to the Distribution Requirement and will be taken into account for purposes of the 4% U.S. federal excise tax described above.

Income inclusions from a QEF will be "good income" for purposes of the 90% Income Test provided that they are derived in connection with our business of investing in stocks and securities or the QEF distributes such income to us in the same taxable year in which the income is included in our income.

Item 1A. Risk Factors

Before you invest in our securities, you should be aware of various risks, including those described below. You should carefully consider these risk factors, together with all of the other information included in this Form 10-K, before you decide whether to make an investment in our securities. The risks set out below are not the only risks we face. The risks described below, as well as additional risks and uncertainties presently unknown by us or currently not deemed significant could negatively affect our business, financial condition and results of operations. In such case, our NAV and the trading price of our common stock or other securities could decline, and you may lose all or part of your investment.

RISK RELATING TO OUR BUSINESS AND STRUCTURE

Certain Risks in the Current Environment

We are currently operating in a period of capital markets disruptions and economic uncertainty. Such market conditions may materially and adversely affect debt and equity capital markets, which may have a negative impact on our business, financial condition and operations.

From time to time, capital markets may experience periods of disruption and instability. The U.S. capital markets have experienced extreme volatility and disruption following the global outbreak of coronavirus ("COVID-19") that began in December 2019. Some economists and major investment banks have expressed concern that the continued spread of the COVID-19 globally could lead to a world-wide economic downturn. Even after the COVID-19 pandemic subsides, the U.S. economy, as well as most other major economies, may continue to experience a recession, and we anticipate our businesses would be materially and adversely affected by a prolonged recession in the United States and other major markets. Disruptions in the capital markets have increased the spread between the yields realized on risk-free and higher risk securities, resulting in illiquidity in parts of the capital markets. The COVID-19 outbreak continues to have, and any future outbreaks could have, an adverse impact on the ability of lenders to originate loans, the volume and type of loans originated, the ability of borrowers to make payments and the volume and type of amendments and waivers granted to borrowers and remedial actions taken in the event of a borrower default, each of which could negatively impact the amount and quality of loans available for investment by the Company and returns to the Company, among other things. With respect to the U.S. credit markets, the COVID-19 outbreak has resulted in, and until fully resolved is likely to continue to result in, the following among other things: (i) increased draws by borrowers on revolving lines of credit and other financing instruments; (ii) increased requests by borrowers for amendments and waivers of their credit agreements to avoid default, increased defaults by such borrowers and/or increased difficulty in obtaining refinancing at the maturity dates of their loans; (iii) greater volatility in pricing and spreads and difficulty in valuing loans during periods of increased volatility; and rapidly evolving proposals and/or actions by state and federal governments to address problems being experienced by the markets and by businesses and the economy in general which will not necessarily adequately address the problems facing the loan market and businesses. These and future market disruptions and/or illiquidity could have an adverse effect on our business, financial condition, results of operations and cash flows. Unfavorable economic conditions also could increase our funding costs, limit our access to the capital markets or result in a decision by lenders not to extend credit to us. These events could limit our investment originations, limit our ability to grow and have a material negative impact on our operating results and the fair values of our debt and equity investments. We may have to access, if available, alternative markets for debt and equity capital, and a severe disruption in the global financial markets, deterioration in credit and financing conditions or uncertainty regarding U.S. government spending and deficit levels or other global economic conditions could have a material adverse effect on our business, financial condition and results of operations.

For example, between 2008 and 2009, the U.S. and global capital markets were unstable as evidenced by periodic disruptions in liquidity in the debt capital markets, significant write-offs in the financial services sector, the re-pricing of credit risk in the broadly syndicated credit market and the failure of major financial institutions. Despite actions of the U.S. federal government and foreign governments, these events contributed to worsening general economic conditions that materially and adversely impacted the broader financial and credit markets and reduced the availability of debt and equity capital for the market as a whole and financial services firms in particular.

Equity capital may be difficult to raise during periods of adverse or volatile market conditions because, subject to some limited exceptions, as a BDC, we are generally not able to issue additional shares of our common stock at a price less than NAV without first obtaining approval for such issuance from our stockholders and our independent directors. Volatility and dislocation in the capital markets can also create a challenging environment in which to raise or access debt capital. The current market and future market conditions similar to those experienced from 2008 through 2009 for any substantial length of time could make it difficult to extend the maturity of or refinance our existing indebtedness or obtain new indebtedness with similar terms and any failure to do so could have a material adverse effect on our business. The debt capital that will be available to us in the future, if at all, may be at a higher cost and on less favorable terms and conditions than what we currently experience, including being at a higher cost in a rising interest rate environment. If any of these conditions appear, they may have an adverse effect on our business, financial condition, and results of operations. These events could limit our investment originations, limit our ability to increase returns to equity holders through the effective use of leverage, and negatively impact our operating results.

In addition, significant changes or volatility in the capital markets may also have a negative effect on the valuations of our investments. While most of our investments are not publicly traded, applicable accounting standards require us to assume as part of our valuation process that our investments are sold in a principal market to market participants (even if we plan on holding an investment through its maturity). Significant changes in the capital markets may also affect the pace of our investment activity and the potential for liquidity events involving our investments. Thus, the illiquidity of our investments may make it difficult for us to sell our investments to access capital if required, and as a result, we could realize significantly less than the value at which we have recorded our investments if we were required to sell them for liquidity purposes. An inability to raise or access capital could have a material adverse effect on our business, financial condition or results of operations.

Governmental authorities worldwide have taken increased measures to stabilize the markets and support economic growth. The success of these measures is unknown and they may not be sufficient to address the market dislocations or avert severe and prolonged reductions in economic activity.

We also face an increased risk of investor, creditor or portfolio company disputes, litigation and governmental and regulatory scrutiny as a result of the effects of COVID-19 on economic and market conditions.

Events outside of our control, including terrorist attacks, acts of war, natural disasters or public health crises, could negatively affect our portfolio companies and our results of our operations.

Periods of market volatility have occurred and could continue to occur in response to pandemics or other events outside of our control, including terrorist attacks, acts of war, natural disasters, public health crises or similar events. These types of events have adversely affected and could continue to adversely affect operating results for us and for our portfolio companies.

COVID-19 and variants thereof continue to adversely impact global commercial activity and has contributed to significant volatility in financial markets. Local, state and federal and numerous non-U.S. governmental authorities have imposed travel and hospitality restrictions and bans, business closures or limited business operations and other quarantine measures on businesses and individuals. We cannot predict the full impact of COVID-19, including the duration and the impact of the closures and restrictions described above. As a result, we are unable to predict the duration of these business and supply-chain disruptions, the extent to which COVID-19 will negatively affect our portfolio companies' operating results or the impact that such disruptions may have on our results of operations and financial condition. With respect to loans to portfolio companies, the Company will be impacted if, among other things, (i) amendments and waivers are granted (or are required to be granted) to borrowers permitting deferral of loan payments or allowing for PIK interest payments, (ii) borrowers default on their loans, are unable to refinance their loans at maturity, or go out of business, or (iii) the value of loans held by the Company decreases as a result of such events and the uncertainty they cause. Portfolio companies may also be more likely to seek to draw on unfunded commitments we have made, and the risk of being unable to fund such commitments is heightened during such periods. Depending on the duration and extent of the disruption to the business operations of our portfolio companies, we expect some portfolio companies, particularly those in vulnerable industries, to experience financial distress and possibly to default on their financial obligations to us and/or their other capital providers. In addition, if such portfolio companies are subjected to prolonged and severe financial distress, we expect some of them to substantially curtail their operations, defer capital expenditures and lay off workers. These developments would be likely to permanently impair their businesses and result in a reduction in the value of our investments in them.

The Company will also be negatively affected if the operations and effectiveness of our portfolio companies (or any of the key personnel or service providers of the foregoing) are compromised or if necessary or beneficial systems and processes are disrupted as a result of stay-at-home orders or other related interruptions to business operations.

In February 2022, Russia launched a large-scale invasion of Ukraine. The extent and duration of Russian military action in the Ukraine, resulting sanctions and resulting future market disruptions, including declines in stock markets in Russia and elsewhere and the value of the ruble against the U.S. dollar, are impossible to predict, but have been and could continue to be significant. Any such disruptions caused by Russian military or other actions (including cyberattacks and espionage) or resulting from actual or threatened responses to such actions have caused and could continue to cause disruptions to portfolio companies located in Europe or that have substantial business relationships with European or Russian companies. The extent and duration of the military action, sanctions and resulting market disruptions are impossible to predict, but have been and could continue to be substantial. Any such market disruptions could affect our portfolio companies' operations and, as a result, could have a material adverse effect on our business, financial condition and results of operations.

Political, social and economic uncertainty, including uncertainty related to the COVID-19 pandemic, creates and exacerbates risks.

Social, political, economic and other conditions and events (such as natural disasters, epidemics and pandemics, terrorism, conflicts and social unrest) will occur that create uncertainty and have significant impacts on issuers, industries, governments and other systems, including the financial markets, to which companies and their investments are exposed. As global systems, economies and financial markets are increasingly interconnected, events that once had only local impact are now more likely to have regional or even global effects. Events that occur in one country, region or financial market will, more frequently, adversely impact issuers in other countries, regions or markets, including in established markets such as the U.S. These impacts can be exacerbated by failures of governments and societies to adequately respond to an emerging event or threat.

Uncertainty can result in or coincide with, among other things: increased volatility in the financial markets for securities, derivatives, loans, credit and currency; a decrease in the reliability of market prices and difficulty in valuing assets (including portfolio company assets); greater fluctuations in spreads on debt investments and currency exchange rates; increased risk of default (by both government and private obligors and issuers); further social, economic, and political instability; nationalization of private enterprise; greater governmental involvement in the economy or in social factors that impact the economy; changes to governmental regulation and supervision of the loan, securities, derivatives and currency markets and market participants and decreased or revised monitoring of such markets by governments or self-regulatory organizations and reduced enforcement of regulations; limitations on the activities of investors in such markets; controls or restrictions on foreign investment, capital controls and limitations on repatriation of invested capital; the significant loss of liquidity and the inability to purchase, sell and otherwise fund investments or settle transactions (including, but not limited to, a market freeze); unavailability of currency hedging techniques; substantial, and in some periods extremely high, rates of inflation, which can last many years and have substantial negative effects on credit and securities markets as well as the economy as a whole; recessions; and difficulties in obtaining and/or enforcing legal judgments.

For example, the COVID-19 pandemic outbreak and the Russian invasion of Ukraine have led and for an unknown period of time will continue to lead to disruptions in local, regional, national and global markets and economies affected thereby. These events have impacted the U.S. credit markets. See "We are currently operating in a period of capital markets disruptions and economic uncertainty. Such market conditions may materially and adversely affect debt and equity capital markets, which may have a negative impact on our business, financial condition and operations" and "Events outside of our control, including public health crises, could negatively affect our portfolio companies and our results of our operations."

Although it is impossible to predict the precise nature and consequences of these events, or of any political or policy decisions and regulatory changes occasioned by emerging events or uncertainty on applicable laws or regulations that impact us, our portfolio companies and our investments, it is clear that these types of events are impacting and will, for at least some time, continue to impact us and our portfolio companies and, in many instances, the impact will be adverse and profound. The effects of the COVID-19 pandemic may materially and adversely impact (i) the value and performance of us and our portfolio companies, (ii) the ability of our borrowers to continue to meet loan covenants or repay loans provided by us on a timely basis or at all, which may require us to restructure our investments or write down the value of our investments, (iii) our ability to repay debt obligations, on a timely basis or at all, or (iv) our ability to source, manage and divest investments and achieve our investment objectives, all of which could result in significant losses to us.

Further downgrades of the U.S. credit rating, automatic spending cuts, or another government shutdown could negatively impact our liquidity, financial condition and earnings.

U.S. debt ceiling and budget deficit concerns have increased the possibility of additional credit-rating downgrades and economic slowdowns, or a recession in the United States. Although U.S. lawmakers passed legislation to raise the federal debt ceiling on multiple occasions, ratings agencies have lowered or threatened to lower the long-term sovereign credit rating on the United States. The impact of this or any further downgrades to the U.S. government's sovereign credit rating or its perceived creditworthiness could adversely affect the U.S. and global financial markets and economic conditions. Absent further quantitative easing by the Federal Reserve, these developments could cause interest rates and borrowing costs to rise, which may negatively impact our ability to access the debt markets on favorable terms. In addition, disagreement over the federal budget has caused the U.S. federal government to shut down for periods of time. Continued adverse political and economic conditions could have a material adverse effect on our business, financial condition and results of operations.

Economic recessions or downturns could impair our portfolio companies and harm our operating results.

Many of our portfolio companies may be susceptible to economic slowdowns or recessions and may be unable to repay our debt investments during these periods. The global outbreak of COVID-19 and the Russian invasion of Ukraine have disrupted economic markets, and the prolonged economic impact remains uncertain. Many manufacturers of goods have seen a downturn in production due to the suspension of business and temporary closure of factories in an attempt to curb the spread of the illness. In the past, instability in the global capital markets resulted in disruptions in liquidity in the debt capital markets, significant write-offs in the financial services sector, the re-pricing of credit risk in the broadly syndicated credit market and the failure of major domestic and international financial institutions. In particular, in past periods of instability, the financial services sector was negatively impacted by significant write-offs as the value of the assets held by financial firms declined, impairing their capital positions and abilities to lend and invest. In addition, continued uncertainty between the United States and other countries, including China and Russia, with respect to trade policies, treaties, and tariffs, among other factors, have caused disruption in the global markets. There can be no assurance that market conditions will not worsen in the future.

In an economic downturn, we may have non-performing assets or non-performing assets may increase, and the value of our portfolio is likely to decrease during these periods. Adverse economic conditions may also decrease the value of any collateral securing our loans. A severe recession may further decrease the value of such collateral and result in losses of value in our portfolio and a decrease in our revenues, net income, assets and net worth. Unfavorable economic conditions also could increase our funding costs, limit our access to the capital markets or result in a decision by lenders not to extend credit to us on terms we deem acceptable. These events could prevent us from increasing investments and harm our operating results.

The occurrence of recessionary conditions and/or negative developments in the domestic and international credit markets may significantly affect the markets in which we do business, the value of our investments, and our ongoing operations, costs and profitability. Any such unfavorable economic conditions, including rising interest rates, may also increase our funding costs, limit our access to capital markets or negatively impact our ability to obtain financing, particularly from the debt markets. In addition, any future financial market uncertainty could lead to financial market disruptions and could further impact our ability to obtain financing. These events could limit our investment originations, limit our ability to grow and negatively impact our operating results and financial condition.

Risks Related to Our Business

We have internalized our operating structure, including our management and investment functions, with the expectation that we will be able to operate more efficiently with lower costs, but this may not be the case.

On November 18, 2020, the board of directors approved adoption of an internalized management structure, which we have operated under effective January 1, 2021. There can be no assurances that internalizing our management structure will be and remain beneficial to us and our stockholders, as we may incur the costs and experience the risks discussed below, and we may not be able to effectively replicate the services previously provided to us by our former investment adviser and administrator.

While we no longer bear the costs of the various fees and expenses we previously paid under the investment management and administration agreements with our previous adviser and administrator, we have other significant direct expenses. These include general and administrative costs, legal, accounting and other governance expenses and costs and expenses related to managing our portfolio. Certain of these costs may be greater during the early stages of the transition process. We also incur the compensation and benefits costs of our officers and other employees and consultants. In addition, we may be subject to potential liabilities commonly faced by employers, such as workers disability and compensation claims, potential labor disputes and other employee-related liabilities and grievances.

We may also experience operational disruptions resulting from the transition from external to internal management, and we could fail to effectively manage our internalization over the longer term, all of which could adversely affect our performance.

If the expenses we incur as an internally-managed company are higher than the expenses we would have paid and/or reimbursed under the externally-managed structure, our earnings per share may be lower, potentially decreasing the funds available for distribution, and our share value could suffer.

As an internally managed BDC, we are dependent upon our management team and other professionals, and if we are not able to hire and retain qualified personnel, we will not realize the anticipated benefits of the internalization.

Our ability to achieve our investment objectives and to make distributions to our stockholders depends upon the performance of our management team and professionals. We may experience difficulty identifying, engaging and retaining management, investment and general and administrative personnel with the necessary expertise and credit-related investment experience. As an internally managed BDC, our ability to offer more competitive and flexible compensation structures, such as offering both a profit-sharing plan and an equity incentive plan, is subject to the limitations imposed by the 1940 Act, which could limit our ability to attract and retain talented investment management professionals.

If we are unable to attract and retain highly talented professionals for the internal management our Company, we will not realize the anticipated benefits of the internalization, and the results of our operation could deteriorate.

We may suffer credit and capital losses.

Private debt in the form of secured loans to corporate and asset-based borrowers is highly speculative and involves a high degree of risk of credit loss, and therefore an investment in our securities may not be suitable for someone with a low tolerance for risk. These risks are likely to increase during an economic recession, such as the economic recession or downturn that the United States and many other countries have recently experienced or are experiencing.

Because we use borrowed funds to make investments or fund our business operations, we are exposed to risks typically associated with leverage which increase the risk of investing in us.

We have borrowed funds, including through the issuance of $77.8 million in aggregate principal amount of 6.125% unsecured notes due March 30, 2023 (the "Notes") to leverage our capital structure, which is generally considered a speculative investment technique. In addition, although we voluntarily satisfied and terminated our Revolving Credit Facility in September 2018, we may replace the facility with another revolving or other credit facility. As a result:

- our common stock may be exposed to an increased risk of loss because a decrease in the value of our investments may have a greater negative impact on the value of our common stock than if we did not use leverage;
- if we do not appropriately match the assets and liabilities of our business, adverse changes in interest rates could reduce or eliminate the incremental income we make with the proceeds of any leverage;
- our ability to pay distributions on our common stock may be restricted if our asset coverage ratio with respect to each of our outstanding senior securities representing indebtedness and our outstanding preferred shares, as defined by the 1940 Act, is not at least 200% and any amounts used to service indebtedness or preferred stock would not be available for such distributions;
- any credit facility to which we became a party may be subject to periodic renewal by our lenders, whose continued participation cannot be guaranteed;
- any credit facility to which we became a party may contain covenants restricting our operating flexibility;
- we, and indirectly our stockholders, bear the cost of issuing and paying interest or dividends on such securities; and
- any convertible or exchangeable securities that we issue may have rights, preferences and privileges more favorable than those of our common shares.

Under the provisions of the 1940 Act, we are permitted, as a BDC, to issue debt securities or preferred stock and/or borrow money from banks and other financial institutions, which we collectively refer to as "senior securities", only in amounts such that our asset coverage ratio equals at least 200% (or 150% if, pursuant to the 1940 Act, certain requirements are met) after each issuance of senior securities.

For a discussion of the terms of the Notes, see "Management's Discussion and Analysis of Financial Condition and Results of Operations - Financial Condition, Liquidity and Capital Resources."

As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage and therefore the Company's asset coverage is above 200%, the minimum asset coverage requirement under the 1940 Act.

The lack of liquidity in our investments may adversely affect our business.

We anticipate that our investments generally will be made in private companies. Substantially all of these securities will be subject to legal and other restrictions on resale or will be otherwise less liquid than publicly traded securities. The illiquidity of our investments may make it difficult for us to sell such investments if the need arises. In addition, if we are required to liquidate all or a portion of our portfolio quickly, we may realize significantly less than the value at which we had previously recorded our investments. In addition, we may face other restrictions on our ability to liquidate an investment in a portfolio company to the extent that we or have material non-public information regarding such portfolio company.

A substantial portion of our portfolio investments will be recorded at fair value as determined in good faith by our valuation designee under the oversight of our board of directors and, as a result, there may be uncertainty regarding the value of our portfolio investments.

The debt and equity securities in which we invest for which market quotations are not readily available will be valued at fair value as determined in good faith by our Chief Financial Officer, the Company's valuation designee, under the oversight of our board of directors. Most, if not all, of our investments (other than cash and cash equivalents) will be classified as Level 3 under Accounting Standards Codification Topic 820 - Fair Value Measurements and Disclosures. This means that our portfolio valuations will be based on unobservable inputs and our own assumptions about how market participants would price the asset or liability in question. We expect that inputs into the determination of fair value of our portfolio investments will require significant management judgment or estimation. Even if observable market data are available, such information may be the result of consensus pricing information or broker quotes, which include a disclaimer that the broker would not be held to such a price in an actual transaction. The non-binding nature of consensus pricing and/or quotes accompanied by disclaimers materially reduces the reliability of such information. We have retained the services of independent valuation firms to review the valuation of various loans and securities. The types of factors that our board of directors may take into account in determining the fair value of our investments generally include, as appropriate, comparison to publicly traded securities including such factors as yield, maturity and measures of credit quality, the enterprise value of a portfolio company, the nature and realizable value of any collateral, the portfolio company's ability to make payments and its earnings and discounted cash flow, the markets in which the portfolio company does business and other relevant factors. Because such valuations, and particularly valuations of private securities and private companies, are inherently uncertain, may fluctuate over short periods of time and may be based on estimates, our determinations of fair value may differ materially from the values that would have been used if a ready market for these loans and securities existed. Our NAV could be adversely affected if our determinations regarding the fair value of our investments were materially higher or lower than the values that we ultimately realize upon the disposal of such loans and securities.

We are a non-diversified investment company within the meaning of the 1940 Act, and therefore we are not limited with respect to the proportion of our assets that may be invested in securities of a single issuer.

We are classified as a non-diversified investment company within the meaning of the 1940 Act, which means that we are not limited by the 1940 Act with respect to the proportion of our assets that we may invest in securities of a single issuer. We also have not adopted any policy restricting the percentage of our assets that may be invested in a single portfolio company. To the extent that we assume large positions in the securities of a small number of issuers, our NAV may fluctuate to a greater extent than that of a diversified investment company as a result of changes in the financial condition or the market's assessment of the issuer. We may also be more susceptible to any single economic or regulatory occurrence than a diversified investment company. Beyond our income tax diversification requirements under Subchapter M of the Code, we do not have fixed guidelines for diversification, and our investments could be concentrated in relatively few portfolio companies.

Our ability to enter into transactions with our affiliates will be restricted, which may limit the scope of investments available to us.

We are prohibited under the 1940 Act from participating in certain transactions with our affiliates without the prior approval of our independent directors and, in some cases, of the SEC. Any person that owns, directly or indirectly, five percent or more of our outstanding voting securities will be our affiliate for purposes of the 1940 Act, and we are generally prohibited from buying or selling any security from or to such affiliate, absent the prior approval of our independent directors. The 1940 Act also prohibits certain "joint" transactions with certain of our affiliates, which could include investments in the same portfolio company, without prior approval of our independent directors and, in some cases, of the SEC. We are prohibited from buying or selling any security from or to any person who owns more than 25% of our voting securities or certain of that person's affiliates, or entering into prohibited joint transactions with such persons, absent the prior approval of the SEC.

We will be exposed to risks associated with changes in interest rates.

Interest rate fluctuations may have a substantial negative impact on our investments, the value of our common stock and our rate of return on invested capital. A reduction in the interest rates on new investments relative to interest rates on current investments could also have an adverse impact on our net interest income. An increase in interest rates could decrease the value of any investments we hold which earn fixed interest rates and also could increase our interest expense, thereby decreasing our net income. Also, an increase in interest rates available to investors could make investment in our common stock less attractive if we are not able to increase our dividend rate, which could reduce the value of our common stock.

Changes relating to the LIBOR calculation process may adversely affect the value of the LIBOR-indexed, floating-rate debt securities in our portfolio

In July 2017, the head of the United Kingdom Financial Conduct Authority announced the desire to phase out the use of LIBOR by the end of 2021. The announcement indicates that the continuation of LIBOR on the current basis cannot and will not be guaranteed after 2021. It is impossible to predict whether and to what extent banks will continue to provide LIBOR submissions to the administrator of LIBOR or whether any additional reforms to LIBOR may be enacted in the United Kingdom or elsewhere. Actions by the British Bankers Association, the United Kingdom Financial Conduct Authority or other regulators or law enforcement agencies as a result of these or future events, may result in changes to the manner in which LIBOR is determined. In addition, any further changes or reforms to the determination or supervision of LIBOR may result in a sudden or prolonged increase or decrease in reported LIBOR, which could have an adverse impact on the market for LIBOR-based securities or the value of our portfolio of LIBOR-indexed, floating-rate debt securities.

At this time, no consensus exists as to what rate or rates will become accepted alternatives to LIBOR, although on July 29, 2021, the Alternative Reference Rates Committee ("ARRC"), a U.S.-based group convened by the U.S. Federal Reserve Board and the Federal Reserve Bank of New York, formally recommended the SOFR as its preferred replacement rate for LIBOR. Given the inherent differences between LIBOR and SOFR, or any other alternative benchmark rate that may be established, there are many uncertainties regarding a transition from LIBOR, including but not limited to the need to amend all contracts with LIBOR as the referenced rate and how this will impact the cost of variable rate debt and certain derivative financial instruments, or whether the COVID-19 pandemic will have further effect on LIBOR transition plans. In addition, SOFR or other replacement rates may fail to gain market acceptance. The elimination of LIBOR or any other changes or reforms to the determination or supervision of LIBOR could have an adverse impact on the market value of and/or transferability of any LIBOR-linked securities, loans, and other financial obligations or extensions of credit held by or due to us or on our overall financial condition or results of operations.

Because we use debt to finance our investments, changes in interest rates will affect our cost of capital and net investment income.

Because we borrow money to make investments, our net investment income will depend, in part, upon the difference between the rate at which we borrow funds and the rate at which we invest those funds. As a result, we can offer no assurance that a significant change in market interest rates will not have a material adverse effect on our net investment income in the event we use our existing debt to finance our investments. In periods of rising interest rates, such as the current period we are in, our cost of funds will increase to the extent we access any credit facility with a floating interest rate, which could reduce our net investment income to the extent any debt investments have fixed interest rates. We expect that our long-term fixed-rate investments will be financed primarily with issuances of equity and long-term debt securities. We may use interest rate risk management techniques in an effort to limit our exposure to interest rate fluctuations. Such techniques may include various interest rate hedging activities to the extent permitted by the 1940 Act.

You should also be aware that a rise in the general level of interest rates typically leads to higher interest rates applicable to our debt investments.

If our investments are not managed effectively, we may be unable to achieve our investment objective.

Our ability to achieve our investment objective will depend on our ability to manage our business, which will depend on the internalized management team. Accomplishing this result is largely a function of the internalized management team's ability to provide quality and efficient services to us. They may also be required to provide managerial assistance to our portfolio companies. These demands on their time may distract them or slow our rate of investment. Any failure to manage our business effectively could have a material adverse effect on our business, financial condition and results of operations.

We may experience fluctuations in our periodic operating results.

We could experience fluctuations in our periodic operating results due to a number of factors, including the interest rates payable on the debt securities we acquire, the default rate on such securities, the level of our expenses (including the interest rates payable on our borrowings), the dividend rates payable on preferred stock we issue, variations in and the timing of the recognition of realized and unrealized gains or losses, the degree to which we encounter competition in our markets and general economic conditions. As a result of these factors, results for any period should not be relied upon as being indicative of performance in future periods.

Any failure on our part to maintain our status as a BDC would reduce our operating flexibility.

If we fail to maintain our status as a BDC, we might be regulated as a closed-end investment company under the 1940 Act, which would subject us to substantially more onerous regulatory restrictions under the 1940 Act and correspondingly decrease our operating flexibility.

We may have difficulty paying our required distributions if we recognize income before or without receiving cash representing such income.

For U.S. federal income tax purposes, we may include in income certain amounts that we have not yet received in cash, such as original issue discount, which may arise if we receive warrants in connection with the making of a loan or possibly in other circumstances, such as PIK interest, which represents contractual interest added to the loan balance and due at the end of the loan term. Such original issue discount, which could be significant relative to our overall investment activities, or increases in loan balances as a result of PIK arrangements are included in income before we receive any corresponding cash payments. We also may be required to include in income certain other amounts that we do not receive in cash.

Since in certain cases we may recognize income before or without receiving cash representing such income, we may have difficulty meeting the tax requirement to distribute at least 90% of our net ordinary income and realized net short-term capital gains in excess of realized net long-term capital losses, if any, to maintain our tax treatment as a RIC. Accordingly, we may have to sell some of our investments at times we would not consider advantageous, raise additional debt or equity capital or reduce new investment originations to meet these distribution requirements. If we are not able to raise cash from other sources, we may fail to qualify and maintain our tax treatment as a RIC and thus become subject to corporate-level U.S. federal income tax. See "Tax Matters - Taxation of the Company".

We may not be able to pay you distributions and our distributions may not grow over time.

When possible, we may pay quarterly distributions to our stockholders out of assets legally available for distribution. We cannot assure you that we will achieve investment results that will allow us to pay a specified level of cash distributions or year-to-year increases in cash distributions. Our ability to pay distributions might be adversely affected by, among other things, the impact of one or more of the risk factors described herein. In addition, the inability to satisfy the asset coverage test applicable to us as a BDC could limit our ability to pay distributions. As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage and therefore the Company's asset coverage is above 200%, the minimum asset coverage requirement under the 1940 Act. All distributions will be paid at the discretion of our board of directors and will depend on our earnings, our financial condition, maintenance of our RIC tax treatment, compliance with applicable BDC regulations, and such other factors as our board of directors may deem relevant from time to time. We cannot assure you that we will pay distributions to our stockholders in the future.

The highly competitive market in which we operate may limit our investment opportunities.

A number of entities compete with us to make the types of investments that we make. We compete with other BDCs and investment funds (including public and private funds, commercial and investment banks, commercial financing companies, SBICs and, to the extent they provide an alternative form of financing, private equity funds). Additionally, because competition for investment opportunities generally has increased among alternative investment vehicles, such as hedge funds, those entities have begun to invest in areas in which they have not traditionally invested. As a result of these new entrants, competition for investment opportunities has intensified in recent years and may intensify further in the future. Some of our existing and potential competitors are substantially larger and have considerably greater financial, technical and marketing resources than we do. For example, some competitors may have a lower cost of funds and access to funding sources that are not available to us. In addition, some of our competitors may have higher risk tolerances or different risk assessments, which could allow them to consider a wider variety of investments and establish more relationships than us. Furthermore, many of our competitors are not subject to the regulatory restrictions and valuation requirements that the 1940 Act imposes on us as a BDC and the tax consequences of qualifying as a RIC. We cannot assure you that the competitive pressures we face will not have a material adverse effect on our business, financial condition and results of operations. Also, as a result of this existing and potentially increasing competition, we may not be able to take advantage of attractive investment opportunities from time to time, and we can offer no assurance that we will be able to identify and make investments that are consistent with our investment objective.

We do not seek to compete primarily based on the interest rates we offer, and we believe that some of our competitors make loans with interest rates that are comparable to or lower than the rates we offer. We may lose investment opportunities if we do not match our competitors' pricing, terms and structure. If we match our competitors' pricing, terms and structure, we may experience decreased net interest income and increased risk of credit loss. A significant part of our competitive advantage stems from the fact that the market for investments in mid-sized companies is underserved by traditional commercial banks and other financial institutions. A significant increase in the number and/or size of our competitors in this target market could force us to accept less attractive investment terms. Furthermore, many of our competitors have greater experience operating under the regulatory restrictions of the 1940 Act and under an internalized management structure.

Because we expect to distribute substantially all of our net investment income and net realized capital gains to our stockholders, we will need additional capital to finance our growth and such capital may not be available on favorable terms or at all.

We have elected and intend to qualify annually to be taxed for U.S. federal income tax purposes as a RIC under Subchapter M of the Code. As a RIC, we must meet certain requirements, including source-of-income, asset diversification and distribution requirements in order to not have to pay corporate-level U.S. on income we distribute to our stockholders as distributions, which allows us to substantially reduce or eliminate our corporate-level U.S. federal income tax liability. As a BDC, we are generally required to meet a coverage ratio of total assets to total senior securities, which includes all of our borrowings and any preferred stock we may issue in the future, of at least 200% (or 150% if, pursuant to the 1940 Act, certain requirements are met) at the time we issue any debt or preferred stock. This requirement limits the amount of our leverage. Because we will continue to need capital to grow our investment portfolio, this limitation may prevent us from incurring debt or issuing preferred stock and require us to raise additional equity at a time when it may be disadvantageous to do so. We cannot assure you that debt and equity financing will be available to us on favorable terms, or at all, and debt financings may be restricted by the terms of any of our outstanding borrowings. In addition, as a BDC, we are generally not permitted to issue common stock priced below NAV without stockholder approval. If additional funds are not available to us, we could be forced to curtail or cease new lending and investment activities, and our NAV could decline.

Our board of directors may change our investment objective, operating policies and strategies without prior notice or stockholder approval.

Our board of directors has the authority to modify or waive certain of our operating policies and strategies without prior notice and without stockholder approval. However, absent stockholder approval, we may not change the nature of our business so as to cease to be, or withdraw our election as, a BDC. We cannot predict the effect any changes to our current operating policies and strategies would have on our business, operating results or value of our stock. Nevertheless, the effects could adversely affect our business and impact our ability to make distributions and cause you to lose all or part of your investment.

Our management team may, from time to time, possess material non-public information, limiting our investment discretion.

Members of our management may serve as directors of, or in a similar capacity with, companies in which we invest, the securities of which are purchased or sold on our behalf. In the event that material nonpublic information is obtained with respect to such companies, we could be prohibited for a period of time from purchasing or selling the securities of such companies by law or otherwise, and this prohibition may have an adverse effect on us.

Because we borrow money, the potential for loss on amounts invested in us will be magnified and may increase the risk of investing in us.

Borrowings, also known as leverage, magnify the potential for loss on invested equity capital. If we use leverage to partially finance our investments, which we have done historically, you will experience increased risks of investing in our securities. We issued the Notes and may issue other debt securities or enter into other types of borrowing arrangements in the future. If the value of our assets decreases, leveraging would cause our NAV to decline more sharply than it otherwise would have had we not leveraged. Similarly, any decrease in our income would cause net income to decline more sharply than it would have had we not borrowed. Such a decline could negatively affect our ability to make common stock distributions or scheduled debt payments. Leverage is generally considered a speculative investment technique and we only intend to use leverage if expected returns will exceed the cost of borrowing.

As of September 30, 2022, there was $80.0 million of outstanding Notes. The weighted average interest rate charged on our borrowings as of September 30, 2022 was 5.99% (exclusive of debt issuance costs). We will need to generate sufficient cash flow to make these required interest payments. If we are unable to meet the financial obligations under the Notes, the holders thereof will have the right to declare the principal amount and accrued and unpaid interest on the outstanding Notes to be due and payable immediately. If we are unable to meet the financial obligations under any credit facility we enter into, the lenders thereunder would likely have a superior claim to our assets over our stockholders.

We are highly dependent on information systems and systems failures could significantly disrupt our business, which may, in turn, negatively affect the market price of our common stock and our ability to pay distributions.

Our business is highly dependent on our and third parties' communications and information systems. Any failure or interruption of those systems, including as a result of the termination of an agreement with any third-party service providers, could cause delays or other problems in our activities. Our financial, accounting, data processing, backup or other operating systems and facilities may fail to operate properly or become disabled or damaged as a result of a number of factors including events that are wholly or partially beyond our control and adversely affect our business. There could be:

- sudden electrical or telecommunications outages;
- natural disasters such as earthquakes, tornadoes and hurricanes;
- disease pandemics (including the COVID-19 outbreak);
- events arising from local or larger scale political or social matters, including terrorist acts; and
- cyber-attacks.

These events, in turn, could have a material adverse effect on our operating results and negatively affect the market price of our common stock and our ability to pay distributions to our stockholders.

A failure of cybersecurity systems, as well as the occurrence of events unanticipated in our disaster recovery systems and management continuity planning could impair our ability to conduct business effectively.

The occurrence of a disaster, such as a cyber-attack against us or against a third-party that has access to our data or networks, a natural catastrophe, an industrial accident, failure of our disaster recovery systems, or consequential employee error, could have an adverse effect on our ability to communicate or conduct business, negatively impacting our operations and financial condition. This adverse effect can become particularly acute if those events affect our electronic data processing, transmission, storage, and retrieval systems, or impact the availability, integrity, or confidentiality of our data.

We depend heavily upon computer systems to perform necessary business functions. Despite our implementation of a variety of security measures, our computer systems, networks, and data, like those of other companies, could be subject to cyber-attacks and unauthorized access, use, alteration, or destruction, such as from physical and electronic break-ins or unauthorized tampering, malware and computer virus attacks, or system failures and disruptions. If one or more of these events occurs, it could potentially jeopardize the confidential, proprietary, and other information processed, stored in, and transmitted through our computer systems and networks. Such an attack could cause interruptions or malfunctions in our operations, which could result in financial losses, litigation, regulatory penalties, client dissatisfaction or loss, reputational damage, and increased costs associated with mitigation of damages and remediation.

Third parties with which we do business may also be sources of cybersecurity or other technological risks. We outsource certain functions and these relationships allow for the storage and processing of our information, as well as customer, counterparty, employee and borrower information. Cybersecurity failures or breaches our service providers (including, but not limited to, accountants, custodians, transfer agents and administrators), and the issuers of securities in which we invest, also have the ability to cause disruptions and impact business operations, potentially resulting in financial losses, interference with our ability to calculate its net asset value, impediments to trading, the inability of our stockholders to transact business, violations of applicable privacy and other laws, regulatory fines, penalties, reputation damages, reimbursement of other compensation costs, or additional compliance costs. While we engage in actions to reduce our exposure resulting from outsourcing, ongoing threats may result in unauthorized access, loss, exposure or destruction of data, or other cybersecurity incidents, with increased costs and other consequences, including those described above. In addition, substantial costs may be incurred in order to prevent any cyber incidents in the future.

Privacy and information security laws and regulation changes, and compliance with those changes, may result in cost increases due to system changes and the development of new administrative processes. In addition, we may be required to expend significant additional resources to modify our protective measures and to investigate and remediate vulnerabilities or other exposures arising from operational and security risks. We currently do not maintain insurance coverage relating to cybersecurity risks, and we may be required to expend significant additional resources to modify our protective measures or to investigate and remediate vulnerabilities or other exposures, and we may be subject to litigation and financial losses that are not fully insured.

We and our service providers are currently impacted by quarantines and similar measures being enacted by governments in response to COVID-19, which are obstructing the regular functioning of business work forces (including requiring employees to work from external locations and their homes). Accordingly, the risks described above are heightened under current conditions.

Our business and operations could be negatively affected if we become subject to any securities class actions and derivative lawsuits, which could cause us to incur significant expense, hinder execution of investment strategy and impact our stock price.

In the past, following periods of volatility in the market price of a company's securities, securities class-action litigation has often been brought against that company. Stockholder activism, which could take many forms or arise in a variety of situations, has been increasing in the BDC space recently. Securities litigation and stockholder activism, including potential proxy contests, could result in substantial costs and divert management's and our board of directors' attention and resources from our business. Additionally, such securities litigation and stockholder activism could give rise to perceived uncertainties as to our future, adversely affect our relationships with service providers and make it more difficult to attract and retain qualified personnel. Also, we may be required to incur significant legal fees and other expenses related to any securities litigation and activist stockholder matters. Further, our stock price could be subject to significant fluctuation or otherwise be adversely affected by the events, risks and uncertainties of any securities litigation and stockholder activism.

Risks Related to Our Investments

We may not realize gains from our equity investments.

When we make a debt investment, we may acquire warrants or other equity securities as well. In addition, we may invest directly in the equity securities of portfolio companies. Our goal is ultimately to dispose of such equity interests and realize gains upon our disposition of such interests. However, the equity interests we receive may not appreciate in value and, in fact, may decline in value. Accordingly, we may not be able to realize gains from our equity interests, and any gains that we do realize on the disposition of any equity interests may not be sufficient to offset any other losses we experience.

Our investments are very risky and highly speculative.

We have invested primarily in senior secured first lien term loans and senior secured second lien term loans issued by private companies.

Senior Secured Loans There is a risk that the collateral securing our loans may decrease in value over time, may be difficult to sell in a timely manner, may be difficult to appraise and may fluctuate in value based upon the success of the business and market conditions, including as a result of the inability of the portfolio company to raise additional capital, and, in some circumstances, our lien could be subordinated to claims of other creditors. In addition, deterioration in a portfolio company's financial condition and prospects, including its inability to raise additional capital, may be accompanied by deterioration in the value of the collateral for the loan. Consequently, the fact that a loan is secured does not guarantee that we will receive principal and interest payments according to the loan's terms, or at all, or that we will be able to collect on the loan should we be forced to enforce our remedies.

Equity Investments When we invest in senior secured first lien term loans or senior secured second lien term loans, we may receive warrants or other equity securities as well. In addition, we may invest directly in the equity securities of portfolio companies. The warrants or equity interests we receive may not appreciate in value and, in fact, may decline in value. Accordingly, we may not be able to realize gains from our warrants or equity interests, and any gains that we do realize on the disposition of any warrants or equity interests may not be sufficient to offset any other losses we experience.

In addition, investing in private companies involves a number of significant risks. See "Our investments in private portfolio companies may be risky, and you could lose all or part of your investment" below.

Our investments in private portfolio companies may be risky, and you could lose all or part of your investment.

Investments in private companies involve a number of significant risks. Generally, little public information exists about these companies, and we are required to rely on the ability of our investment professionals to obtain adequate information to evaluate the potential returns from investing in these companies. If we are unable to uncover all material information about these companies, we may not make a fully informed investment decision, and we may lose money on our investments. Private companies may have limited financial resources and may be unable to meet their obligations under their debt securities that we hold, which may be accompanied by a deterioration in the value of any collateral and a reduction in the likelihood of our realizing any guarantees we may have obtained in connection with our investment. In addition, they typically have shorter operating histories, narrower product lines and smaller market shares than larger businesses, which tend to render them more vulnerable to competitors' actions and market conditions, as well as general economic downturns. Additionally, private companies are more likely to depend on the management talents and efforts of a small group of persons; therefore, the death, disability, resignation or termination of one or more of these persons could have a material adverse impact on our portfolio company and, in turn, on us. Private companies also generally have less predictable operating results, may from time to time be parties to litigation, may be engaged in rapidly changing businesses with products subject to a substantial risk of obsolescence and may require substantial additional capital to support their operations, finance expansion or maintain their competitive position. In addition, our executive officers and directors may, in the ordinary course of business, be named as defendants in litigation arising from our investments in these types of companies.

We have invested primarily in secured debt issued by our portfolio companies. In the case of our senior secured first lien term loans, the portfolio companies usually have, or may be permitted to incur, other debt that ranks equally with the debt securities in which we invest. With respect to our senior secured second lien term loans, the portfolio companies usually have, or may be permitted to incur, other debt that ranks above or equally with the debt securities in which we invest. In the case of debt ranking above the senior secured second lien term loans in which we invest, we would be subordinate to such debt in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant portfolio company and therefore the holders of debt instruments ranking senior to our investment in that portfolio company would typically be entitled to receive payment in full before we receive any distribution. In the case of debt ranking equally with debt securities in which we invest, we would have to share any distributions on an equal and ratable basis with other creditors holding such debt in the event of an insolvency, liquidation, dissolution, reorganization or bankruptcy of the relevant portfolio company.

Additionally, certain loans that we make to portfolio companies may be secured on a second priority basis by the same collateral securing senior secured debt of such companies. The first priority liens on the collateral will secure the portfolio company's obligations under any outstanding senior debt and may secure certain other future debt that may be permitted to be incurred by the portfolio company under the agreements governing the loans. The holders of obligations secured by the first priority liens on the collateral will generally control the liquidation of, and be entitled to receive proceeds from, any realization of the collateral to repay their obligations in full before us. In addition, the value of the collateral in the event of liquidation will depend on market and economic conditions, the availability of buyers and other factors. There can be no assurance that the proceeds, if any, from the sale or sales of all of the collateral would be sufficient to satisfy the loan obligations secured by the second priority liens after payment in full of all obligations secured by the first priority liens on the collateral. If such proceeds are not sufficient to repay amounts outstanding under the loan obligations secured by the second priority liens, then we, to the extent not repaid from the proceeds of the sale of the collateral, will only have an unsecured claim against the portfolio company's remaining assets, if any.

The rights we may have with respect to the collateral securing the loans we make to our portfolio companies with senior debt outstanding may also be limited pursuant to the terms of one or more intercreditor agreements that we enter into with the holders of senior debt. Under such an intercreditor agreement, at any time that obligations that have the benefit of the first priority liens are outstanding, any of the following actions that may be taken in respect of the collateral will be at the direction of the holders of the obligations secured by the first priority liens: (1) the ability to cause the commencement of enforcement proceedings against the collateral; (2) the ability to control the conduct of such proceedings; (3) the approval of amendments to collateral documents; (4) releases of liens on the collateral; and (5) waivers of past defaults under collateral documents. We may not have the ability to control or direct such actions, even if our rights are adversely affected.

Our portfolio companies may prepay loans, which prepayment may reduce stated yields if capital returned cannot be invested in transactions with equal or greater expected yields.

Our loans to portfolio companies are prepayable at any time, and most of them at no premium to par. It is uncertain as to when each loan may be prepaid. Whether a loan is prepaid will depend both on the continued positive performance of the portfolio company and the existence of favorable financing market conditions that allow such company the ability to replace existing financing with less expensive capital. As market conditions change frequently, it is unknown when, and if, this may be possible for each portfolio company. In the case of some of these loans, having the loan prepaid early may reduce the achievable yield for us below the stated yield to maturity contained herein if the capital returned cannot be invested in transactions with equal or greater expected yields.

We may acquire indirect interests in loans rather than direct interests, which would subject us to additional risk.

We may make or acquire loans or investments through participation agreements. A participation agreement typically results in a contractual relationship only with the counterparty to the participation agreement and not with the borrower. In investing through participations, we will generally not have a right to enforce compliance by the borrower with the terms of the loan agreement against the borrower, and we may not directly benefit from the collateral supporting the debt obligation in which it has purchased the participation. As a result, we will be exposed to the credit risk of both the borrower and the counterparty selling the participation. In the event of insolvency of the counterparty, we, by virtue of holding participation interests in the loan, may be treated as its general unsecured creditor. In addition, although we may have certain contractual rights under the loan participation that require the counterparty to obtain our consent prior to taking various actions relating to the loan, we cannot guarantee that the counterparty will seek such consent prior to taking various actions. Further, in investing through participation agreements, we may not be able to conduct the due diligence on the borrower or the quality of the loan with respect to which it is buying a participation that we would otherwise conduct if we were investing directly in the loan, which may result in us being exposed to greater credit or fraud risk with respect to the borrower or the loan than we expected when initially purchasing the participation.

Our failure to make follow-on investments in our portfolio companies could impair the value of our portfolio and our ability to make follow-on investments in certain portfolio companies may be restricted.

Following an initial investment in a portfolio company, provided that there are no restrictions imposed by the 1940 Act, we may make additional investments in that portfolio company as "follow-on" investments in order to: (1) increase or maintain in whole or in part our equity ownership percentage; (2) exercise warrants, options or convertible securities that were acquired in the original or subsequent financing; or (3) attempt to preserve or enhance the value of our initial investment.

We have the discretion to make any follow-on investments, subject to the availability of capital resources. We may elect not to make follow-on investments or otherwise lack sufficient funds to make those investments. Our failure to make follow-on investments may, in some circumstances, jeopardize the continued viability of a portfolio company and our initial investment, or may result in a missed opportunity for us to increase our participation in a successful operation. Even if we have sufficient capital to make a desired follow-on investment, we may elect not to make such follow-on investment because we may not want to increase our concentration of risk, because we prefer other opportunities, because we are inhibited by compliance with BDC requirements or because we desire to maintain our RIC tax treatment. We also may be restricted from making follow-on investments in certain portfolio companies to the extent that affiliates of ours hold interests in such companies.

As of September 30, 2022, 21.5% of our total assets were invested in FlexFin, our affiliate's asset-based lending business.

This significant exposure subjects our Company to various risks associated with such business (which are identified below) to a much greater extent than companies not similarly concentrated.

Client borrowers, particularly with respect to asset-based lending activities, may lack the operating history, cash flows or balance sheet necessary to support other financing options and may expose us to additional risk.

A portion of our loan portfolio consists, through FlexFIN, of asset-based lending involving gemstones. Some of these products arise out of relationships with clients who lack the operating history, cash flows or balance sheet necessary to qualify for other financing options. This could increase our risk of loss.

21.5% of the Company's total assets (as of September 30, 2022) are invested in our affiliate's asset-based lending business and its activities are influenced by volatility in prices of gemstones and jewelry.

Our affiliate's asset-based lending business is impacted by volatility in gemstone and jewelry prices. Among the factors that can impact the price of gemstones and jewelry are supply and demand of gemstones; political, economic, and global financial events; movement of the U.S. dollar versus other currencies; and the activity of large speculators and other participants. A significant decline in market prices of gemstones could result in reduced collateral value and losses, i.e., a lower balance of asset-based loans outstanding for the Company's affiliate.

The gemstones and jewelry business is subject to the risk of fraud and counterfeiting.

The gemstones business is exposed to the risk of loss as a result of fraud in its various forms. We seek to minimize our exposure to fraud through a number of means, including third-party authentication and verification and the establishment of procedures designed to detect fraud. However, there can be no assurance that we will be successful in preventing or identifying fraud, or in obtaining redress in the event such fraud is detected.

We may be subject to risks associated with our investments in unitranche loans

Unitranche loans provide leverage levels comparable to a combination of first lien and second lien or subordinated loans, and may rank junior to other debt instruments issued by the portfolio company. Unitranche loans generally allow the borrower to make a large lump sum payment of principal at the end of the loan term, and there is a heightened risk of loss if the borrower is unable to pay the lump sum or refinance the amount owed at maturity. From the perspective of a lender, in addition to making a single loan, a unitranche loan may allow the lender to choose to participate in the "first out" tranche, which will generally receive priority with respect to payments of principal, interest and any other amounts due, or to choose to participate only in the "last out" tranche, which is generally paid only after the first out tranche is paid. We may participate in "first out" and "last out" tranches of unitranche loans and make single unitranche loans, and we may suffer losses on such loans if the borrower is unable to make required payments when due.

Covenant-Lite Loans may expose us to different risks, including with respect to liquidity, price volatility, ability to restructure loans, credit risks and less protective loan documentation, than is the case with loans that contain financial maintenance covenants.

A significant number of high yield loans in the market, may consist of covenant-lite loans, or "Covenant-Lite Loans." A significant portion of the loans in which we may invest or get exposure to through our investments may be deemed to be Covenant-Lite Loans. Such loans do not require the borrower to maintain debt service or other financial ratios and do not include terms which allow the lender to monitor the performance of the borrower and declare a default if certain criteria are breached. Ownership of Covenant-Lite Loans may expose us to different risks, including with respect to liquidity, price volatility, ability to restructure loans, credit risks and less protective loan documentation, than is the case with loans that contain financial maintenance covenants.

Our ability to invest in public companies may be limited in certain circumstances.

To maintain our tax treatment as a BDC, we are not permitted to acquire any assets other than "qualifying assets" specified in the 1940 Act unless, at the time the acquisition is made, at least 70% of our total assets are qualifying assets (with certain limited exceptions). Subject to certain exceptions for follow-on investments and distressed companies, an investment in an issuer that has outstanding securities listed on a national securities exchange may be treated as qualifying assets only if such issuer has a market capitalization that is less than $250 million at the time of such investment. In addition, we may invest up to 30% of our portfolio in opportunistic investments which will be intended to diversify or complement the remainder of our portfolio and to enhance our returns to stockholders. These investments may include private equity investments, securities of public companies that are broadly traded and securities of non-U.S. companies. We expect that these public companies generally will have debt securities that are non-investment grade.

Our investments in foreign securities may involve significant risks in addition to the risks inherent in U.S. investments.

Our investment strategy contemplates that a portion of our investments may be in securities of foreign companies. Investing in foreign companies may expose us to additional risks not typically associated with investing in U.S. companies. These risks include changes in exchange control regulations, political and social instability, expropriation, imposition of foreign taxes, less liquid markets and less available information than is generally the case in the United States, higher transaction costs, less government supervision of exchanges, brokers and issuers, less developed bankruptcy laws, difficulty in enforcing contractual obligations, lack of uniform accounting and auditing standards and greater price volatility.

Although it is anticipated that most of our investments will be denominated in U.S. dollars, our investments that are denominated in a foreign currency will be subject to the risk that the value of a particular currency may change in relation to the U.S. dollar. Among the factors that may affect currency values are trade balances, the level of short-term interest rates, differences in relative values of similar assets in different currencies, long-term opportunities for investment and capital appreciation and political developments. We may employ hedging techniques to minimize these risks, but we can offer no assurance that we will, in fact, hedge currency risk or, that if we do, such strategies will be effective. As a result, a change in currency exchange rates may adversely affect our profitability.

Hedging transactions may expose us to additional risks.

We may engage in currency or interest rate hedging transactions. If we engage in hedging transactions, we may expose ourselves to risks associated with such transactions. We may utilize instruments such as forward contracts, currency options and interest rate swaps, caps, collars and floors to seek to hedge against fluctuations in the relative values of our portfolio positions from changes in currency exchange rates and market interest rates. Hedging against a decline in the values of our portfolio positions does not eliminate the possibility of fluctuations in the values of such positions or prevent losses if the values of such positions decline. However, such hedging can establish other positions designed to gain from those same developments, thereby offsetting the decline in the value of such portfolio positions. Such hedging transaction may also limit the opportunity for gain if the values of the underlying portfolio positions should increase. Moreover, it may not be possible to hedge against an exchange rate or interest rate fluctuation that is so generally anticipated that we are not able to enter into a hedging transaction at an acceptable price.

While we may enter into transactions to seek to reduce currency exchange rate and interest rate risks, unanticipated changes in currency exchange rates or interest rates may result in poorer overall investment performance than if we had not engaged in any such hedging transactions. In addition, the degree of correlation between price movements of the instruments used in a hedging strategy and price movements in the portfolio positions being hedged may vary. Moreover, for a variety of reasons, we may not seek or be able to establish a perfect correlation between such hedging instruments and the portfolio holdings being hedged. Any such imperfect correlation may prevent us from achieving the intended hedge and expose us to risk of loss. In addition, it may not be possible to hedge fully or perfectly against currency fluctuations affecting the value of securities denominated in non-U.S. currencies because the value of those securities is likely to fluctuate as a result of factors not related to currency fluctuations.

The disposition of our investments may result in contingent liabilities.

We currently expect that a significant portion of our investments will involve lending directly to private companies. In connection with the disposition of an investment in private securities, we may be required to make representations about the business and financial affairs of the portfolio company typical of those made in connection with the sale of a business. We may also be required to indemnify the purchasers of such investment to the extent that any such representations turn out to be inaccurate or with respect to certain potential liabilities. These arrangements may result in contingent liabilities that ultimately yield funding obligations that must be satisfied through our return of certain distributions previously made to us.

If we invest in the securities and obligations of distressed and bankrupt issuers, we might not receive interest or other payments.

We may invest in the securities and obligations of distressed and bankrupt issuers, including debt obligations that are in covenant or payment default. Such investments generally are considered speculative. The repayment of defaulted obligations is subject to significant uncertainties. Defaulted obligations might be repaid only after lengthy workout or bankruptcy proceedings, during which the issuer of those obligations might not make any interest or other payments. We may not realize gains from our equity investments.

We may be subject to risks associated with significant investments in one or more economic sectors and/or industries, including the business services sector, which includes our investment in our affiliate's asset-based lending business.

At times, the Company may have a significant portion of its assets invested in securities of companies conducting business within one or more economic sectors and/or industries, including the Services: Business sector, which includes our investment in an asset-based lending business. Companies in the same sector or industry may be similarly affected by economic, regulatory, political or market events or conditions, which may make the Company more vulnerable to unfavorable developments in that sector or industry than companies that invest more broadly. Generally, the more broadly the Company invests, the more it spreads risk and potentially reduces the risks of loss and volatility.

As of September 30, 2022, investments in our affiliate's asset-based lending business constituted 21.5% of our total assets. See above, under Item 1A for risk factors related to our investment in that business.

Risks Related to Our Operations as a BDC and a RIC

Regulations governing our operation as a BDC may limit our ability to, and the way in which we raise additional capital, which could have a material adverse impact on our liquidity, financial condition and results of operations.

Our business requires a substantial amount of capital to operate and grow. We may acquire additional capital from the issuance of senior securities (including debt and preferred stock), the issuance of additional shares of our common stock or from securitization transactions. However, we may not be able to raise additional capital in the future on favorable terms or at all. Additionally, we may only issue senior securities up to the maximum amount permitted by the 1940 Act. The 1940 Act permits us to issue senior securities only in amounts such that our asset coverage, as defined in the 1940 Act, equals at least 200% (or 150% if, pursuant to the 1940 Act, certain requirements are met) after such issuance or incurrence. If our assets decline in value and we fail to satisfy this test, we may be required to liquidate a portion of our investments and repay a portion of our indebtedness at a time when such sales or repayment may be disadvantageous, which could have a material adverse impact on our liquidity, financial condition and results of operations. As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage and therefore the Company's asset coverage is above 200%, the minimum asset coverage requirement under the 1940 Act.

Changes in the laws or regulations governing our business, or changes in the interpretations thereof, and any failure by us to comply with these laws or regulations, could have a material adverse effect on our business, results of operations or financial condition.

Changes in the laws or regulations or the interpretations of the laws and regulations that govern BDCs, RICs or non-depository commercial lenders could significantly affect our operations and our cost of doing business. We are subject to federal, state and local laws and regulations and are subject to judicial and administrative decisions that affect our operations, including our loan originations, maximum interest rates, fees and other charges, disclosures to portfolio companies, the terms of secured transactions, collection and foreclosure procedures and other trade practices. If these laws, regulations or decisions change, or if we expand our business into jurisdictions that have adopted more stringent requirements than those in which we currently conduct business, we may have to incur significant expenses in order to comply, or we might have to restrict our operations. In addition, if we do not comply with applicable laws, regulations and decisions, we may lose licenses needed for the conduct of our business and may be subject to civil fines and criminal penalties.

As an internally managed BDC, we are subject to certain restrictions that may adversely affect our ability to offer certain compensation structures.

As an internally managed BDC, our ability to offer more competitive and flexible compensation structures, such as offering both a profit-sharing plan and an equity incentive plan, is subject to the limitations imposed by the 1940 Act, which limits our ability to attract and retain talented investment management professionals. As such, these limitations could inhibit our ability to grow, pursue our business plan and attract and retain professional talent, any or all of which may have a negative impact on our business, financial condition and results of operations.

As an internally managed BDC, we are dependent upon our management team and investment professionals for their time availability and for our future success, and if we are not able to hire and retain qualified personnel, or if we lose key members of our senior management team, our ability to implement our business strategy could be significantly harmed.

As an internally managed BDC, our ability to achieve our investment objectives and to make distributions to our stockholders depends upon the performance of our management team and investment professionals. We depend upon the members of our management and our investment professionals for the identification, final selection, structuring, closing and monitoring of our investments. These employees have critical industry experience and relationships on which we rely to implement our business plan. If we lose the services of key members of our senior management team, we may not be able to operate the business as we expect, and our ability to compete could be harmed, which could cause our operating results to suffer. We believe our future success will depend, in part, on our ability to identify, attract and retain sufficient numbers of highly skilled employees. If we do not succeed in identifying, attracting and retaining such personnel, we may not be able to operate our business as we expect. As an internally managed BDC, our compensation structure is determined and set by our Board of Directors and its Compensation Committee. This structure currently includes salary, bonus and incentive compensation. We are not generally permitted by the 1940 Act to employ an incentive compensation structure that directly ties performance of our investment portfolio and results of operations to incentive compensation. Members of our senior management team may receive offers of more flexible and attractive compensation arrangements from other companies, particularly from investment advisers to externally managed BDCs that are not subject to the same limitations on incentive-based compensation that we are subject to as an internally managed BDC. A departure by one or more members of our senior management team could have a negative impact on our business, financial condition and results of operations.

We have internalized our operating structure, including our management and investment functions; as a result, we may incur significant costs and face significant risks associated with being self-managed, including adverse effects on our business and financial condition.

Effective January 1, 2021, we operate under an internalized operating structure, including our management and investment functions. There can be no assurances that internalizing our operating structure will be beneficial to us and our stockholders, as we may incur the costs and risks discussed below and may not be able to effectively replicate or improve upon the services previously provided to us by our former investment adviser and administrator, MCC Advisors.

While we will no longer bear the costs of the various fees and expenses we previously paid to MCC Advisors under the Investment Advisory Agreement, our direct expenses will generally include general and administrative costs, including legal, accounting, and other expenses related to corporate governance, SEC reporting and compliance, as well as costs and expenses related to making and managing our investments. We will also now incur the compensation and benefits costs of our officers and other employees and consultants, and, subject to adherence to applicable law, we may issue equity or other incentive-based awards to our officers, employees and consultants, which awards may decrease net income and funds from our operations and may dilute our stockholders. We may also be subject to potential liabilities commonly faced by employers, such as workers disability and compensation claims, potential labor disputes and other employee-related liabilities and grievances.

In addition, if the expenses we assume as a result of our internalization are higher than the expenses we would have paid and/or reimbursed to MCC Advisors, our earnings per share may be lower as a result of our internalization than they otherwise would have been, potentially decreasing the amount of funds available to distribute to our stockholders and the value of our shares.

Further, in connection with internalizing our operating structure, we may experience difficulty integrating these functions as a stand-alone entity, and we could have difficulty retaining our personnel, including those performing management, investment and general and administrative functions. These personnel have a great deal of know-how and experience. We may also fail to properly identify the appropriate mix of personnel and capital needs to operate successfully as a stand-alone entity. An inability to effectively manage our internalization could result in our incurring excess costs and operating inefficiencies, and may divert our management's attention from managing our investments.

Internalization transactions have also, in some cases, been the subject of litigation. Even if these claims are without merit, we could be forced to spend significant amounts of time and money defending claims, which would reduce the amount of funds available for us to make investments and to pay distributions, and may divert our management's attention from managing our investments.

All of these factors could have a material adverse effect on our results of operations, financial condition, and ability to pay distributions.

The impact of financial reform legislation on us is uncertain.

The Dodd-Frank Reform Act became effective on July 21, 2010. Many provisions of the Dodd-Frank Reform Act have delayed effective dates or have required extensive rulemaking by regulatory authorities. The recent presidential and congressional elections may cause uncertainty regarding the implementation of the Dodd-Frank Reform Act and other financial reform rulemaking. Given the uncertainty associated with the manner in which and whether the provisions of the Dodd-Frank Act will be implemented, repealed, amended, or replaced, the full impact such requirements will have on our business, results of operations or financial condition is unclear. The changes resulting from the Dodd-Frank Act or any changes to the regulations already implemented thereunder may require us to invest significant management attention and resources to evaluate and make necessary changes in order to comply with new statutory and regulatory requirements. Failure to comply with any such laws, regulations or principles, or changes thereto, may negatively impact our business, results of operations or financial condition. While we cannot predict what effect any changes in the laws or regulations or their interpretations would have on us as a result of recent financial reform legislation, these changes could be materially adverse to us and our stockholders.

We cannot predict how tax reform legislation will affect us, our investments, or our stockholders, and any such legislation could adversely affect our business.

Legislative or other actions relating to taxes could have a negative effect on us, our investments or our stockholders. The rules dealing with U.S. federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Department of the Treasury. We cannot predict with certainty how any changes in the tax laws might affect us, our stockholders, or our portfolio investments. New legislation and any U.S. Treasury regulations, administrative interpretations or court decisions interpreting such legislation could significantly and negatively affect our ability to qualify for tax treatment as a RIC or the U.S. federal income tax consequences to us and our stockholders of such qualification, or could have other adverse consequences. Stockholders are urged to consult with their tax advisors regarding tax legislative, regulatory, or administrative developments and proposals and their potential effect on an investment in our securities.

Legislation that became effective in 2018 may allow the Company to incur additional leverage, which could increase the risk of investing in the Company.

The 1940 Act generally prohibits the Company from incurring indebtedness unless immediately after such borrowing we have an asset coverage for total borrowings of at least 200% (i.e., the amount of debt may not exceed 50% of the value of our assets). However, in March 2018, the SBCA was signed into law, which included various changes to regulations under the federal securities laws that impact BDCs. The SBCA included changes to the 1940 Act to allow BDCs to decrease their asset coverage requirement from 200% to 150%, if certain requirements are met. Under the 1940 Act, the Company is allowed to increase its leverage capacity if our stockholders representing at least a majority of the votes cast, when a quorum is present, approve a proposal to do so. If we receive stockholder approval, we would be allowed to increase our leverage capacity on the first day after such approval. Alternatively, the 1940 Acts allows the majority of our independent directors to approve an increase in our leverage capacity, and such approval would become effective after the one-year anniversary of such proposal. In either case, we would be required to make certain disclosures on our website and in SEC filings regarding, among other things, the receipt of approval to increase our leverage, our leverage capacity and usage, and risks related to leverage.

Leverage is generally considered a speculative investment technique and increases the risk of investing in our securities. Leverage magnifies the potential for loss on investments in our indebtedness and on invested equity capital. As we use leverage to partially finance our investments, our stockholders will experience increased risks of investing in our securities. If the value of our assets increases, then leveraging would cause the NAV attributable to our common stock to increase more sharply than it would have had we not leveraged. Conversely, if the value of our assets decreases, leveraging would cause NAV to decline more sharply than it otherwise would have had we not leveraged our business. Similarly, any increase in our income in excess of interest payable on the borrowed funds would cause our net investment income to increase more than it would without the leverage, while any decrease in our income would cause net investment income to decline more sharply than it would have had we not borrowed. Such a decline could negatively affect the Company's ability to pay common stock dividends, scheduled debt payments or other payments related to our securities.

If we do not invest a sufficient portion of our assets in qualifying assets, we could fail to qualify as a BDC, which would have a material adverse effect on our business, financial condition and results of operations.

As a BDC, we may not acquire any assets other than "qualifying assets" unless, at the time of and after giving effect to such acquisition, at least 70% of our total assets are qualifying assets. See "Regulation". Our intent is that a substantial portion of the investments that we acquire will constitute qualifying assets. However, we may be precluded from investing in what we believe are attractive investments if such investments are not qualifying assets for purposes of the 1940 Act. If we do not invest a sufficient portion of our assets in qualifying assets, we could be found to be in violation of the 1940 Act provisions applicable to BDCs and possibly lose our tax treatment as a BDC, which would have a material adverse effect on our business, financial condition and results of operations.

We will become subject to corporate-level U.S. federal income tax if we are unable to maintain our qualification as a RIC under Subchapter M of the Code or satisfy RIC distribution requirements.

We have elected, and intend to qualify annually, to be treated as a RIC under Subchapter M of the Code. No assurance can be given that we will be able to maintain our qualification as a RIC. To maintain RIC tax treatment under the Code, we must meet the following annual distribution, income source and asset diversification requirements.

- The annual distribution requirement for a RIC is satisfied if we timely distribute to our stockholders on an annual basis at least 90% of our net ordinary income and realized short-term capital gains in excess of realized net long-term capital losses. Depending on the level of taxable income earned in a tax year, we may choose to carry forward taxable income in excess of current year distributions into the next year and pay a 4% U.S. federal excise tax on such income. Any such carryover taxable income must be distributed through a dividend declared prior to filing the final tax return related to the year that generated such taxable income.

- The source of income requirement is satisfied if we obtain at least 90% of our gross income for each taxable year from dividends, interest, payments with respect to certain securities loans, gains from the sale or other disposition of stock or other securities or foreign currencies or other income derived with respect to our business of investing in such stock, securities or currencies and net income derived from an interest in a "qualified publicly traded partnership" (as defined in the Code).

- The asset diversification requirement is satisfied if we meet certain asset diversification requirements at the end of each quarter of our taxable year. To satisfy this requirement, at least 50% of the value of our assets must consist of cash, cash equivalents, U.S Government securities, securities of other RICs, and other securities if such other securities of any one issuer do not represent more than 5% of the value of our assets or more than 10% of the outstanding voting securities of the issuer (which for these purposes includes the equity securities of a "qualified publicly traded partnership"). In addition, no more than 25% of the value of our assets can be invested in the securities, other than U.S Government securities or securities of other RICs, (1) of one issuer (2) of two or more issuers that are controlled, as determined under applicable tax rules, by us and that are engaged in the same or similar or related trades or businesses or (3) of one or more "qualified publicly traded partnerships".

If we fail to qualify for RIC tax treatment for any reason or are subject to corporate-level U.S. federal income tax, the resulting corporate-level taxes could substantially reduce our net assets, the amount of income available for distribution and the amount of our distributions. In addition, to the extent we had unrealized gains, we would have to establish deferred tax liabilities for taxes, which would reduce our NAV accordingly. In addition, our stockholders would lose the tax credit realized if we, as a RIC, decide to retain the net realized capital gain and make deemed distributions of net realized capital gains, and pay taxes on behalf of our stockholders at the end of the tax year. The loss of this pass-through tax treatment could have a material adverse effect on the total return of an investment in our common stock.

Risks Relating to an Investment in Our Securities

Investing in our securities may involve an above average degree of risk.

The investments we make in accordance with our investment objective may result in a higher amount of risk than alternative investment options and a higher risk of volatility or loss of principal. Our investments in portfolio companies involve higher levels of risk and, therefore, an investment in our securities may not be suitable for someone with lower risk tolerance.

Shares of closed-end investment companies, including business development companies, may, at times, trade at a discount to their NAV.

Shares of closed-end investment companies, including business development companies, may, at times, trade at a discount from NAV. This characteristic of closed-end investment companies and business development companies is separate and distinct from the risk that our NAV per share may decline. Our common stock has recently traded and currently trades at a discount to NAV, and we cannot predict whether our common stock will trade at, above or below NAV in the future.

The market price of our common stock may fluctuate significantly.

The market price and liquidity of the market for shares of our common stock may be significantly affected by numerous factors, some of which are beyond our control and may not be directly related to our operating performance.

These factors include:

- significant volatility in the market price and trading volume of securities of business development companies or other companies in our sector, which are not necessarily related to the operating performance of the companies;

- changes in regulatory policies, accounting pronouncements or tax guidelines, particularly with respect to BDCs or RICs;

- loss of our qualification as a RIC or BDC;

- changes in earnings or variations in operating results;

- changes in the value of our portfolio of investments;
- changes in accounting guidelines governing valuation of our investments;
- any shortfall in revenue or net income or any increase in losses from levels expected by investors or securities analysts;
- departure of our key personnel;
- operating performance of companies comparable to us;
- general economic trends and other external factors;
- loss of a major funding source; and
- the length and duration of the COVID-19 outbreak in the U.S. as well as worldwide and the magnitude of the economic impact of that outbreak.

Sales of substantial amounts of our common stock in the public market may have an adverse effect on the market price of our common stock.

Sales of substantial amounts of our common stock, or the availability of such common stock for sale, could adversely affect the prevailing market prices for our common stock. If this occurs and continues, it could impair our ability to raise additional capital through the sale of securities should we desire to do so.

Certain provisions of the Delaware General Corporation Law and our certificate of incorporation and bylaws could deter takeover attempts and have an adverse impact on the price of our common stock.

The Delaware General Corporation Law, our certificate of incorporation and our bylaws contain provisions that may have the effect of discouraging a third party from making an acquisition proposal for us. These anti-takeover provisions may inhibit a change in control in circumstances that could give the holders of our common stock the opportunity to realize a premium over the market price of our common stock.

The NAV per share of our common stock may be diluted if we sell shares of our common stock in one or more offerings at prices below the then current NAV per share of our common stock or securities to subscribe for or convertible into shares of our common stock.

While we currently do not have the requisite stockholder approval to sell shares of our common stock at a price or prices below our then current NAV per share, we may seek such approval in the future. In addition, at our 2012 Annual Meeting of Stockholders, we received approval from our stockholders to authorize the Company, with the approval of our board of directors, to issue securities to, subscribe to, convert to, or purchase shares of the Company's common stock in one or more offerings, subject to certain conditions as set forth in the proxy statement. Such authorization has no expiration.

Any decision to sell shares of our common stock below its then current NAV per share or issue securities to subscribe for or convertible into shares of our common stock would be subject to the determination by our board of directors that such issuance is in our and our stockholders' best interests.

If we were to sell shares of our common stock below its then current NAV per share, such sales would result in an immediate dilution to the NAV per share of our common stock. This dilution would occur as a result of the sale of shares at a price below the then current NAV per share of our common stock and a proportionately greater decrease in the stockholders' interest in our earnings and assets and their voting interest in us than the increase in our assets resulting from such issuance. Because the number of shares of common stock that could be so issued and the timing of any issuance is not currently known, the actual dilutive effect cannot be predicted.

If we issue warrants or securities to subscribe for or convertible into shares of our common stock, subject to certain limitations, the exercise or conversion price per share could be less than NAV per share at the time of exercise or conversion (including through the operation of anti-dilution protections). Because we would incur expenses in connection with any issuance of such securities, such issuance could result in a dilution of the NAV per share at the time of exercise or conversion. This dilution would include reduction in NAV per share as a result of the proportionately greater decrease in the stockholders' interest in our earnings and assets and their voting interest than the increase in our assets resulting from such issuance.

Further, if our current stockholders do not purchase any shares to maintain their percentage interest, regardless of whether such offering is above or below the then current NAV per share, their voting power will be diluted. For example, if we sell an additional 10% of our shares of common stock at a 5% discount from NAV, a stockholder who does not participate in that offering for its proportionate interest will suffer NAV dilution of up to 0.5% or $5 per $1,000 of NAV.

The Notes are unsecured and therefore are effectively subordinated to any secured indebtedness we have currently incurred or may incur in the future.

The Notes are not secured by any of our assets or any of the assets of our subsidiaries. As a result, the Notes are effectively subordinated to any secured indebtedness we or our subsidiaries have currently incurred and may incur in the future (or any indebtedness that is initially unsecured to which we subsequently grant security) to the extent of the value of the assets securing such indebtedness. In any liquidation, dissolution, bankruptcy or other similar proceeding, the holders of any of our existing or future secured indebtedness and the secured indebtedness of our subsidiaries may assert rights against the assets pledged to secure that indebtedness in order to receive full payment of their indebtedness before the assets may be used to pay other creditors, including the holders of the Notes.

The Notes are structurally subordinated to the indebtedness and other liabilities of our subsidiaries.

The Notes are obligations exclusively of the Company and not of any of our subsidiaries. None of our subsidiaries is a guarantor of the Notes and the Notes are not required to be guaranteed by any subsidiary we may acquire or create in the future. Any assets of our subsidiaries will not be directly available to satisfy the claims of our creditors, including holders of the Notes. Except to the extent we are a creditor with recognized claims against our subsidiaries, all claims of creditors of our subsidiaries will have priority over our equity interests in such subsidiaries (and therefore the claims of our creditors, including holders of the Notes) with respect to the assets of such subsidiaries. Even if we are recognized as a creditor of one or more of our subsidiaries, our claims would still be effectively subordinated to any security interests in the assets of any such subsidiary and to any indebtedness or other liabilities of any such subsidiary senior to our claims. Consequently, the Notes will be structurally subordinated to all indebtedness and other liabilities of any of our subsidiaries and any subsidiaries that we may in the future acquire or establish. Although our subsidiaries currently do not have any indebtedness outstanding, they may incur substantial indebtedness in the future, all of which would be structurally senior to the Notes.

The indenture under which the Notes were issued contains limited protection for holders of the Notes.

The indenture under which the Notes were issued offers limited protection to holders of the Notes. The terms of the indenture and the Notes do not restrict our or any of our subsidiaries' ability to engage in, or otherwise be a party to, a variety of corporate transactions, circumstances or events that could have an adverse impact on your investment in the Notes. In particular, the terms of the indenture and the Notes place no restrictions on our or our subsidiaries' ability to:

- issue securities or otherwise incur additional indebtedness or other obligations, including (1) any indebtedness or other obligations that would be equal in right of payment to the Notes, (2) any indebtedness or other obligations that would be secured and therefore rank effectively senior in right of payment to the Notes to the extent of the values of the assets securing such debt, (3) indebtedness of ours that is guaranteed by one or more of our subsidiaries and which therefore is structurally senior to the Notes and (4) securities, indebtedness or obligations issued or incurred by our subsidiaries that would be senior to our equity interests in our subsidiaries and therefore rank structurally senior to the Notes with respect to the assets of our subsidiaries, in each case other than an incurrence of indebtedness or other obligation that would cause a violation of Section 18(a)(1)(A) of the 1940 Act, as modified by Section 61(a)(1) of the 1940 Act, or any successor provisions. These provisions generally prohibit us from making additional borrowings, including through the issuance of additional debt or the sale of additional debt securities, unless our asset coverage, as defined in the 1940 Act, equals at least 200% after such borrowings. As of September 30, 2022 the Company's asset coverage was 255.0% after giving effect to leverage;

- pay dividends on, or purchase or redeem or make any payments in respect of, capital stock or other securities ranking junior in right of payment to the Notes, in each case other than dividends, purchases, redemptions or payments that would cause a violation of Section 18(a)(1)(B) of the 1940 Act, as modified by Section 61(a)(1) of the 1940 Act, or any successor provisions. These provisions generally prohibit us from declaring any cash dividend or distribution upon any class of our capital stock, or purchasing any such capital stock if our asset coverage, as defined in the 1940 Act, is below 200% at the time of the declaration of the dividend or distribution or the purchase and after deducting the amount of such dividend, distribution or purchase. As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage;

- sell assets (other than certain limited restrictions on our ability to consolidate, merge or sell all or substantially all of our assets);

- enter into transactions with affiliates;

- create liens (including liens on the shares of our subsidiaries) or enter into sale and leaseback transactions;

- make investments; or

- create restrictions on the payment of dividends or other amounts to us from our subsidiaries.

In addition, the indenture does not require us to offer to purchase the Notes in connection with a change of control or any other event.

Furthermore, the terms of the indenture and the Notes generally do not protect holders of the Notes in the event that we experience changes (including significant adverse changes) in our financial condition, results of operations or credit ratings, as they do not require that we or our subsidiaries adhere to any financial tests or ratios or specified levels of net worth, revenues, income, cash flow, or liquidity other than as described under the indenture. Any changes, while unlikely, to the financial tests in the 1940 Act could affect the terms of the Notes.

Our ability to recapitalize, incur additional debt and take a number of other actions that are not limited by the terms of the Notes may have important consequences for you as a holder of the Notes, including making it more difficult for us to satisfy our obligations with respect to the Notes or negatively affecting the trading value of the Notes. Other debt we issue or incur in the future could contain more protections for its holders than the indenture and the Notes, including additional covenants and events of default. The issuance or incurrence of any such debt with incremental protections could affect the market for and trading levels and prices of the Notes.

The indentures under which the 2023 Notes and 2028 Notes are issued place restrictions on our and/or our subsidiaries' activities.

The terms of the indentures under which the 2023 Notes and 2028 Notes were issued place restrictions on our and/or our subsidiaries' ability to, among other things issue securities or otherwise incur additional indebtedness or other obligations, including (1) any indebtedness or other obligations that would be equal in right of payment to the 2023 Notes and 2028 Notes, (2) any indebtedness or other obligations that would be secured and therefore rank effectively senior in right of payment to the 2023 Notes and 2028 Notes to the extent of the values of the assets securing such debt, (3) indebtedness of ours that is guaranteed by one or more of our subsidiaries and which therefore is structurally senior to the 2023 Notes or 2028 Notes and (4) securities, indebtedness or obligations issued or incurred by our subsidiaries that would be senior to our equity interests in our subsidiaries and therefore rank structurally senior to the 2023 Notes with respect to the assets of our subsidiaries, in each case other than an incurrence of indebtedness or other obligation that would cause a violation of Section 18(a)(1)(A) of the 1940 Act, as modified by Section 61(a)(1) of the 1940 Act, or any successor provisions and, with respect to the 2028 Notes, except as would cause our asset coverage to be below 200% as a result of such borrowings and/or issuances, whether or not we continue to be subject to the regulations of the 1940 Act. These provisions generally prohibit us from making additional borrowings, including through the issuance of additional debt or the sale of additional debt securities, unless our asset coverage, as defined in the 1940 Act, equals at least 200% after such borrowings. As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage. These provisions generally prohibit us from declaring any cash dividend or distribution upon any class of our capital stock or purchasing any such capital stock if our asset coverage, as defined in the 1940 Act, is below 200% at the time of the declaration of the dividend or distribution or the purchase and after deducting the amount of such dividend, distribution or purchase.

An active trading market for the Notes may not develop or be sustained, which could limit the market price of the Notes or your ability to sell them.

Although the Notes are listed on the NASDAQ Global Market ("NASDAQ") under the symbols "PFXNL", we cannot provide any assurances that an active trading market will develop or be sustained for the Notes or that you will be able to sell your Notes. At various times, the Notes may trade at a discount from their initial offering price depending on prevailing interest rates, the market for similar securities, our credit ratings, general economic conditions, our financial condition, performance and prospects and other factors. To the extent an active trading market is not sustained, the liquidity and trading price for the Notes may be harmed.

If we default on obligations to pay other indebtedness, we may not be able to make payments on the Notes.

Any default under the agreements governing our indebtedness that we may incur in the future that is not waived by the required lenders, and the remedies sought by the holders of such indebtedness could make us unable to pay principal, premium, if any, and interest on the Notes and substantially decrease the market value of the Notes. If we are unable to generate sufficient cash flow and are otherwise unable to obtain funds necessary to meet required payments of principal, premium, if any, and interest on our indebtedness, or if we otherwise fail to comply with the various covenants, including financial and operating covenants, in the instruments governing our indebtedness, we could be in default under the terms of the agreements governing such indebtedness. In the event of such default, the holders of such indebtedness could elect to declare all the funds borrowed thereunder to be due and payable, together with accrued and unpaid interest, the lenders under the other debt we may incur in the future could elect to terminate their commitments, cease making further loans and institute foreclosure proceedings against our assets, and we could be forced into bankruptcy or liquidation. If our operating performance declines, we may in the future need to seek to obtain waivers from the required lenders under the debt that we may incur in the future to avoid being in default. If we breach our covenants under our debt and seek a waiver, we may not be able to obtain a waiver from the required lenders. If this occurs, we would be in default under such debt, the lenders could exercise their rights as described above, and we could be forced into bankruptcy or liquidation. If we are unable to repay debt, lenders having secured obligations could proceed against the collateral securing the debt. Because any future credit facility will likely have customary cross-default provisions, if the indebtedness under the Notes or under any future credit facility is accelerated, we may be unable to repay or finance the amounts due.

We may choose to redeem the Notes when prevailing interest rates are relatively low.

We may choose to redeem the Notes from time to time, especially if prevailing interest rates are lower than the rate borne by the Notes. If prevailing rates are lower at the time of redemption, and we redeem the Notes, you likely would not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as the interest rate on the Notes being redeemed. Our redemption right also may adversely impact your ability to sell the Notes as the optional redemption date or period approaches.

If we issue preferred stock, the NAV and market value of our common stock may become more volatile.

If we issue preferred stock, we cannot assure you that such issuance would result in a higher yield or return to the holders of our common stock. The issuance of preferred stock would likely cause the NAV and market value of our common stock to become more volatile. If the dividend rate on the preferred stock were to approach the net rate of return on our investment portfolio, the benefit of leverage to the holders of our common stock would be reduced. If the dividend rate on the preferred stock were to exceed the net rate of return on our portfolio, the leverage would result in a lower rate of return to the holders of our common stock than if we had not issued preferred stock. Any decline in the NAV of our investments would be borne entirely by the holders of our common stock. Therefore, if the market value of our portfolio were to decline, the leverage would result in a greater decrease in NAV to the holders of our common stock than if we were not leveraged through the issuance of preferred stock. This greater NAV decrease would also tend to cause a greater decline in the market price for our common stock. We might be in danger of failing to maintain the required asset coverage of the preferred stock or of losing our ratings on the preferred stock or, in an extreme case, our current investment income might not be sufficient to meet the dividend requirements on the preferred stock. In order to counteract such an event, we might need to liquidate investments in order to fund a redemption of some or all of the preferred stock. In addition, we would pay (and the holders of our common stock would bear) all costs and expenses relating to the issuance and ongoing maintenance of the preferred stock, including higher advisory fees if our total return exceeds the dividend rate on the preferred stock. Holders of preferred stock may have different interests than holders of our common stock and may at times have disproportionate influence over our affairs.

Holders of any preferred stock we might issue would have the right to elect members of the board of directors and class voting rights on certain matters.

Holders of any preferred stock we might issue, voting separately as a single class, would have the right to elect two members of the board of directors at all times and in the event dividends become two full years in arrears, would have the right to elect a majority of our directors until such arrearage is completely eliminated. In addition, preferred stockholders would have class voting rights on certain matters, including changes in fundamental investment restrictions and conversion to open-end status, and accordingly would be able to veto any such changes. Restrictions imposed on the declarations and payment of dividends or other distributions to the holders of our common stock and preferred stock, both by the 1940 Act and by requirements imposed by rating agencies or the terms of any credit facility to which MCC is a party, might impair our ability to maintain our qualification as a RIC for U.S. federal income tax purposes. While we would intend to redeem our preferred stock to the extent necessary to enable us to distribute our income as required to maintain our qualification as a RIC, there can be no assurance that such actions could be effected in time to meet the tax requirements.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Properties

We do not own any real estate or other physical properties materially important to our operation. We have entered into a 5-year operating lease for our headquarters at 445 Park Avenue, 10th Floor, New York, NY 10022.

Item 3. Legal Proceedings

From time to time, we are involved in various legal proceedings, lawsuits and claims incidental to the conduct of our business. Our businesses are also subject to extensive regulation, which may result in regulatory proceedings against us. We are not currently party to any material legal proceedings.

Item 4. Mine Safety Disclosures

None.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

On December 21, 2020, the Company announced that it completed the application process for and was authorized to transfer the listing of its shares of common stock to the NASDAQ Global Market. The listing and trading of the common stock on the NYSE ceased at the close of trading on December 31, 2020. Since January 4, 2021, the common stock trades on the NASDAQ Global Market under the trading symbol "PFX."

As of September 30, 2022, we had 11 stockholders of record of our common stock, which did not include stockholders for whom shares are held in "nominee" or "street name."

The following table sets forth, for the periods indicated, the range of high and low closing prices of our common stock and the sales price as a percentage of the net asset value per share of our common stock.

	NAV[1]	Closing Market Price		Premium/ (Discount) of High Market Price to NAV [2]	Premium/ (Discount) of Low Market Price to NAV [2]
		High	Low		
Fiscal year ending September 30, 2022					
Fourth Quarter	$ 57.49	$ 39.37	$ 32.61	(31.52)%	(43.28)%
Third Quarter	58.74	43.00	35.75	(26.80)%	(39.14)%
Second Quarter	62.94	42.00	36.10	(33.27)%	(42.64)%
First Quarter	58.99	43.50	40.50	(26.26)%	(31.34)%
Fiscal year ending September 30, 2021					
Fourth Quarter	$ 57.08	$ 43.35	$ 40.10	(24.05)%	(29.75)%
Third Quarter	58.49	42.76	32.80	(26.89)%	(43.92)%
Second Quarter	55.91	33.99	27.70	(39.21)%	(50.46)%
First Quarter	52.94	29.88	18.14	(43.56)%	(65.73)%
Fiscal year ending September 30, 2020					
Fourth Quarter	$ 55.30	$ 18.19	$ 12.40	(67.11)%	(77.58)%
Third Quarter	54.83	18.70	9.00	(65.89)%	(83.59)%
Second Quarter	52.04	45.00	7.00	(13.53)%	(86.55)%
First Quarter	80.99	52.60	38.60	(35.05)%	(52.34)%

(1) Net asset value per share is determined as of the last day in the relevant quarter and therefore may not reflect the net asset value per share on the date of the high and low market prices. The net asset value per share shown is based on outstanding shares at the end of the period.

(2) Calculated as of the respective high or low closing market price divided by the quarter end net asset value.

For all periods presented in the table above, there was no return of capital included in any distribution.

Shares of business development companies may trade at a market price that is less than the value of the net assets attributable to those shares. The possibility that our shares of common stock will trade at a discount or premium to net asset value is separate and distinct from the risk that our net asset value will decrease.

The last reported closing price of our common stock on December 15, 2022 was $33.56 per share, approximately 58.38% of the Company's then-current NAV. As of December 15, 2022 we had 11 stockholders of record of our common stock, which did not include stockholders for whom shares are held in "nominee" or "street name."

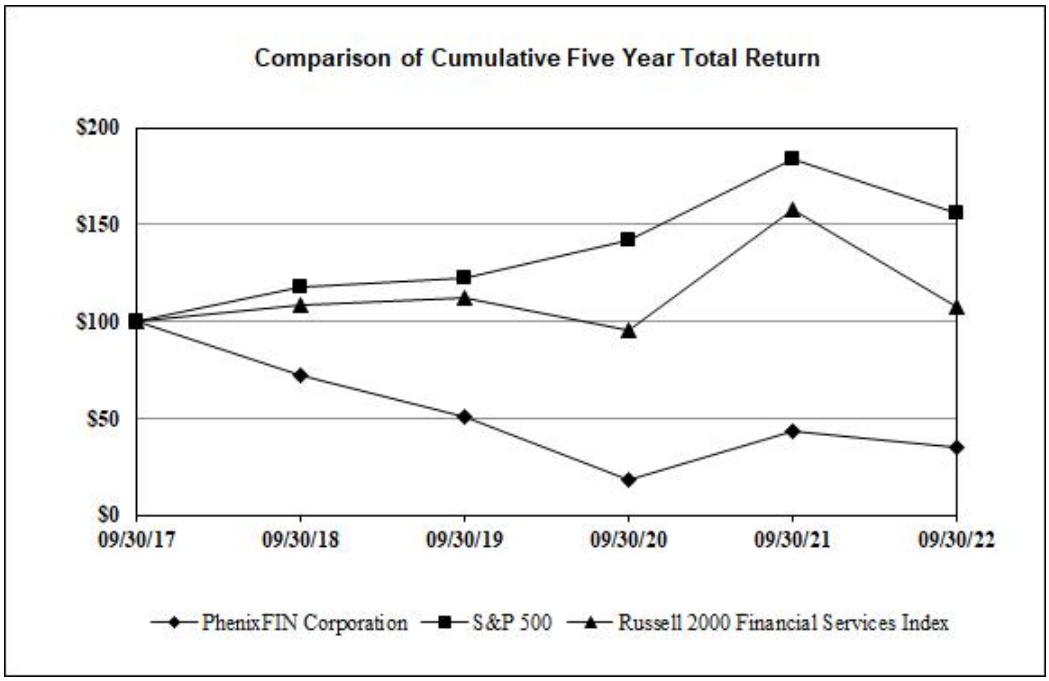
Sales of Unregistered Securities

We did not sell any securities within the past three years that were not registered under the Securities Act of 1933.

Stock Performance Graph

This graph compares the stockholder return on our common stock from September 30, 2018 to September 30, 2022 with that of the Standard & Poor's 500 Stock Index and the Russell 2000 Financial Services Index. This graph assumes that on September 30, 2017, $100 was invested in our common stock, the S&P 500 Index, and the Russell 2000 Financial Services Index. The graph also assumes the reinvestment of all cash dividends prior to any tax effect. Investment performance shown for periods prior to January 1, 2021 was achieved pursuant to our former externally-managed structure.

The graph and other information furnished under this Part II Item 5 of this annual report on Form 10-K shall not be deemed to be "soliciting material" or to be "filed" with the SEC or subject to Regulation 14A or 14C, or to the liabilities of Section 18 of the Exchange Act. The stock price performance included in the below graph is not necessarily indicative of future stock performance.



Issuer Purchases of Securities

Information relating to the Company's purchases of its common stock during the year ended September 30, 2022 is as follows:

Month Ended	Shares Repurchased	Repurchase Price Per Share	Aggregate Consideration for Repurchased Shares
January 2022	7,312	$39.07 - $40.88	$ 293,756
February 2022	170,589	$39.53 - $41.00	6,908,864
March 2022	132,054	$39.24 - $40.57	5,306,885
April 2022	2,942	$39.07 - $41.00	117,758
May 2022	3,391	$37.70 - $39.78	131,338
June 2022	3,515	$37.28 - $39.19	135,063
July 2022	700	$36.40 - $37.23	25,864
August 2022	3,081	$28.24 - $37.79	112,456
September 2022	91,508	$36.80 - $37.50	3,443,845
Total	415,092		$ 16,475,829

Item 6. [Reserved]

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis should be read in conjunction with our financial statements and related notes and other financial information appearing elsewhere in this annual report on Form 10-K.

Except as otherwise specified, references to "we," "us," "our," or the "Company," refer to PhenixFIN Corporation.

Forward-Looking Statements

Some of the statements in this annual report on Form 10-K constitute forward-looking statements, which relate to future events or our performance or financial condition. The forward-looking statements contained in this annual report on Form 10-K involve risks and uncertainties, including statements as to:

- the introduction, withdrawal, success and timing of business initiatives and strategies;
- changes in political, economic or industry conditions, the interest rate environment or conditions affecting the financial and capital markets, which could result in changes in the value of our assets;
- the impact of increased competition;
- the impact of future acquisitions and divestitures;
- our business prospects and the prospects of our portfolio companies;
- the impact of legislative and regulatory actions and reforms and regulatory, supervisory or enforcement actions of government agencies relating to us;
- our contractual arrangements and relationships with third parties;
- any future financings by us;
- fluctuations in foreign currency exchange rates;
- the impact of changes to tax legislation and, generally, our tax position;

- our ability to locate suitable investments for us and to monitor and administer our investments;
- our ability to attract and retain highly talented professionals;
- market conditions and our ability to access alternative debt markets and additional debt and equity capital;
- the unfavorable resolution of legal proceedings;
- uncertainties associated with the impact from the COVID-19 pandemic: including its impact on the global and U.S. capital markets and the global and U.S. economy; the length and duration of the COVID-19 outbreak in the United States as well as worldwide and the magnitude of the economic impact of that outbreak; the effect of the COVID-19 pandemic on our business prospects and the operational and financial performance of our portfolio companies, including our and their ability to achieve their respective objectives; and the effect of the disruptions caused by the COVID-19 pandemic on our ability to continue to effectively manage our business; and
- risks and uncertainties relating to the possibility that the Company may explore strategic alternatives, including, but are not limited to: the timing, benefits and outcome of any exploration of strategic alternatives by the Company; potential disruptions in the Company's business and stock price as a result of our exploration of any strategic alternatives; the ability to realize anticipated efficiencies, or strategic or financial benefits; potential transaction costs and risks; and the risk that any exploration of strategic alternatives may have an adverse effect on our existing business arrangements or relationships, including our ability to retain or hire key personnel. There is no assurance that any exploration of strategic alternatives will result in a transaction or other strategic change or outcome.

Such forward-looking statements may include statements preceded by, followed by or that otherwise include the words "trend," "opportunity," "pipeline," "believe," "comfortable," "expect," "anticipate," "current," "intention," "estimate," "position," "assume," "potential," "outlook," "continue," "remain," "maintain," "sustain," "seek," "achieve," and similar expressions, or future or conditional verbs such as "will," "would," "should," "could," "may," or similar expressions. The forward looking statements contained in this annual report involve risks and uncertainties. Our actual results could differ materially from those implied or expressed in the forward-looking statements for any reason, including the factors set forth as "Risk Factors" and elsewhere in this annual report on Form 10-K.

We have based the forward-looking statements included in this report on information available to us on the date of this report, and we assume no obligation to update any such forward-looking statements. Actual results could differ materially from those anticipated in our forward-looking statements, and future results could differ materially from historical performance. Although we undertake no obligation to revise or update any forward-looking statements, whether as a result of new information, future events or otherwise, you are advised to consult any additional disclosures that we may make directly to you or through reports that we have filed or in the future may file with the Securities and Exchange Commission ("SEC"), including annual reports on Form 10-K, registration statements on Form N-2, quarterly reports on Form 10-Q and current reports on Form 8-K.

COVID-19 Developments and War in Ukraine

COVID-19 and variants thereof have severely impacted global economic activity and caused significant volatility and negative pressure in financial markets. The global impact of COVID-19 continues to evolve and many countries, including the United States, have reacted at various stages of the pandemic by instituting quarantines, restricting travel, and temporarily closing or limiting capacity at many corporate offices, retail stores, restaurants, fitness clubs and manufacturing facilities and factories in affected jurisdictions. Such actions have created disruption in global supply chains and adversely impacted a number of industries. The outbreak has had and could continue to have an adverse impact on economic and market conditions and trigger a period of global economic slowdown.

We continue to closely monitor the impact of the outbreak of COVID-19 on all aspects of our business, including how it will impact our portfolio companies, employees, due diligence and underwriting processes, and financial markets. Given the continuing development and fluidity of this situation, we cannot estimate the long-term impact of COVID-19 on our business, future results of operations, financial position or cash flows at this time. Further, the operational and financial performance of the portfolio companies in which we make investments may be significantly impacted by COVID-19, which may in turn impact the valuation of our investments. We believe our portfolio companies have taken actions to effectively and efficiently respond to the challenges posed by COVID-19 and related orders imposed by state and local governments, including developing liquidity plans supported by internal cash reserves, shareholder support, and, as appropriate, accessing their ability to participate in the government Paycheck Protection Program. The Company's performance has been negatively impacted during the pandemic. The longer-term impact of COVID-19 on the operations and the performance of the Company (including certain portfolio companies) is difficult to predict, but may also be adverse. The longer-term potential impact on such operations and performance could depend to a large extent on future developments and actions taken by authorities and other entities to mitigate COVID-19 and its economic impact. The impacts, as well as the uncertainty over impacts to come, of COVID-19 have adversely affected the performance of the Company (including certain portfolio companies) and may continue to do so in the future. Furthermore, the impacts of a potential worsening of global economic conditions and the continued disruptions to and volatility in the financial markets remain unknown. COVID-19 presents material uncertainty and risks with respect to the underlying value of the Company's portfolio companies, the Company's business, financial condition, results of operations and cash flows, such as the potential negative impact to financing arrangements, increased costs of operations, changes in law and/or regulation, and uncertainty regarding government and regulatory policy.

In February 2022, Russia launched a large-scale invasion of Ukraine. The extent and duration of Russian military action in the Ukraine, resulting sanctions and resulting future market disruptions, including declines in stock markets in Russia and elsewhere and the value of the ruble against the U.S. dollar, are impossible to predict, but have been and could continue to be significant. Any such disruptions caused by Russian military or other actions (including cyberattacks and espionage) or resulting from actual or threatened responses to such actions have caused and could continue to cause disruptions to portfolio companies located in Europe or that have substantial business relationships with European or Russian companies. The extent and duration of the military action, sanctions and resulting market disruptions are impossible to predict, but have been and could continue to be substantial. Any such market disruptions could affect our portfolio companies' operations and, as a result, could have a material adverse effect on our business, financial condition and results of operations.

We have evaluated subsequent events from September 30, 2022 through the filing date of this annual report on Form 10-K. However, as the discussion in this Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations relates to the Company's financial statements for the quarterly period ended September 30, 2022, the analysis contained herein may not fully account for market event impacts. As of September 30, 2022, the Company valued its portfolio investments in conformity with U.S. generally accepted accounting principles ("GAAP") based on the facts and circumstances known by the Company at that time, or reasonably expected to be known at that time. Due to the overall volatility that market events may have caused during the months following our most recent valuation (as of September 30, 2022), any valuations conducted now or in the future in conformity with U.S. GAAP could result in a lower fair value of our portfolio. The longer-term impact of COVID-19 and other market events on the operations and the performance of the Company (including certain portfolio companies) is difficult to predict, but may also be adverse. Further, the potential exists for additional variants of COVID-19 to adversely effect the global economy.

Overview

We are an internally-managed non-diversified closed-end management investment company that has elected to be regulated as a BDC under the 1940 Act. In addition, we have elected, and intend to qualify annually, to be treated for U.S. federal income tax purposes as a RIC under Subchapter M of the Code. Through December 31, 2020, we were an externally managed company. On November 18, 2020, the board of directors of the Company approved the adoption of an internalized management structure, effective January 1, 2021. Since January 1, 2021, we have operated under such internalized management structure.

We commenced operations and completed our initial public offering on January 20, 2011. Under our internalized management structure, our activities are managed by our senior professionals and are supervised by our board of directors, of which a majority of the members are independent of us.

The Company's investment objective is to generate current income and capital appreciation. The management team seeks to achieve this objective primarily through making loans, private equity or other investments in privately-held companies. The Company may also make debt, equity or other investments in publicly-traded companies. (These investments may also include investments in other BDCs, closed-end funds or REITS.) We may also pursue other strategic opportunities and invest in other assets or operate other businesses to achieve our investment objective (such as our asset-based lending business). The portfolio generally consists of senior secured first lien term loans, senior secured second lien term loans, senior secured bonds, preferred equity and common equity. Occasionally, we will receive warrants or other equity participation features which we believe will have the potential to increase total investment returns. Our loan and other debt investments are primarily rated below investment grade or are unrated. Investments in below investment grade securities are considered predominantly speculative with respect to the issuer's capacity to pay interest and repay principal when due.

As a BDC, we are required to comply with certain regulatory requirements. For instance, we generally have to invest at least 70% of our total assets in "qualifying assets," including securities of private or thinly traded public U.S. companies, cash, cash equivalents, U.S. government securities and high-quality debt investments that mature in one year or less. In addition, we are only allowed to borrow money such that our asset coverage, as defined in the 1940 Act, equals at least 200% (or 150% if, pursuant to the 1940 Act, certain requirements are met) after such borrowing, with certain limited exceptions. To maintain our RIC tax treatment, we must meet specified source-of-income and asset diversification requirements. In addition, to maintain our RIC tax treatment, we must timely distribute at least 90% of our net ordinary income and realized net short-term capital gains in excess of realized net long-term capital losses, if any, for the taxable year.

Reverse Stock Split; Authorized Share Reduction

At the Company's 2020 Annual Meeting of Stockholders held on June 30, 2020 (the "Annual Meeting"), stockholders approved a proposal to grant discretionary authority to the Company's board of directors to amend the Company's Certificate of Incorporation (the "Certificate of Incorporation") to effect a reverse stock split of its common stock, of 1-20 (the "Reverse Stock Split") and with the Reverse Stock Split to be effective at such time and date, if at all, as determined by the board of directors, but not later than 60 days after stockholder approval thereof and, if and when the reverse stock split is effected, reduce the number of authorized shares of common stock by the approved reverse stock split ratio (the "Authorized Share Reduction").

Following the Annual Meeting, on July 7, 2020, the board of directors determined that it was in the best interests of the Company and its stockholders to implement the Reverse Stock Split and the Authorized Share Reduction. Accordingly, on July 13, 2020, the Company filed a Certificate of Amendment (the "Certificate of Amendment") to the Certificate of Incorporation with the Secretary of State of the State of Delaware to effect the Reverse Stock Split and the Authorized Share Reduction.

Pursuant to the Certificate of Amendment, effective as of 5:00 p.m., Eastern Time, on July 24, 2020 (the "Effective Time"), each twenty (20) shares of common stock issued and outstanding, immediately prior to the Effective Time, automatically and without any action on the part of the respective holders thereof, were combined and converted into one (1) share of common stock. In connection with the Reverse Stock Split, the Certificate of Amendment provided for a reduction in the number of authorized shares of common stock from 100,000,000 to 5,000,000 shares of common stock. No fractional shares were issued as a result of the Reverse Stock Split. Instead, any stockholder who would have been entitled to receive a fractional share as a result of the Reverse Stock Split received cash payments in lieu of such fractional shares (without interest and subject to backup withholding and applicable withholding taxes).

On December 21, 2020, the Company announced that it completed the application process for and was authorized to transfer the listing of its shares of common stock to the NASDAQ Global Market. The listing and trading of the common stock on the NYSE ceased at the close of trading on December 31, 2020. Since January 4, 2021, the common stock trades on the NASDAQ Global Market under the trading symbol "PFX."

Revenues

We generate revenue in the form of interest income on the debt that we hold and capital gains, if any, on warrants or other equity interests that we may acquire in portfolio companies. We invest our assets primarily in privately held companies with enterprise or asset values between $25 million and $250 million and generally focus on investment sizes of $10 million to $50 million. We believe that pursuing opportunities of this size offers several benefits including reduced competition, a larger investment opportunity set and the ability to minimize the impact of financial intermediaries. We expect our debt investments to bear interest at either a fixed or floating rate. Interest on debt will be payable generally either monthly or quarterly. In some cases our debt investments may provide for a portion of the interest to be PIK. To the extent interest is PIK, it will be payable through the increase of the principal amount of the obligation by the amount of interest due on the then-outstanding aggregate principal amount of such obligation. The principal amount of the debt and any accrued but unpaid interest will generally become due at the maturity date. In addition, we may generate revenue in the form of commitment, origination, structuring or diligence fees, fees for providing managerial assistance or investment management services and possibly consulting fees. Any such fees will be recognized as earned.

Expenses

In periods prior to December 31, 2020, our primary operating expenses included management and incentive fees pursuant to the investment management agreement we had with MCC Advisors and overhead expenses, including our allocable portion of our administrator's overhead under the administration agreement, which were paid during the quarter ended March 31, 2021. Our management and incentive fees compensated MCC Advisors for its work in identifying, evaluating, negotiating, closing and monitoring our investments. On November 18, 2020, the board of directors adopted an internally managed structure, effective January 1, 2021, under which we bear all costs and expenses of our operations and transactions, including those relating to:

- our organization and continued corporate existence;
- calculating our NAV (including the cost and expenses of any independent valuation firms);
- expenses incurred in monitoring our financial and legal affairs and in monitoring our investments and performing due diligence on our prospective portfolio companies;

- interest payable on debt, if any, incurred to finance our investments;
- the costs of all offerings of common stock and other securities, if any;
- operating costs associated with employing investment professionals and other staff;
- distributions on our shares;
- administration fees payable under our administration agreement;
- Custodial fees related to our assets
- amounts payable to third parties relating to, or associated with, making investments;
- transfer agent and custodial fees;
- registration fees and listing fees;
- U.S. federal, state and local taxes;
- independent director fees and expenses;
- costs of preparing and filing reports or other documents with the SEC or other regulators;
- the costs of any reports, proxy statements or other notices to our stockholders, including printing costs;
- our fidelity bond;
- directors and officers/errors and omissions liability insurance, and any other insurance premiums;
- the operating lease of our office space;
- indemnification payments; and
- direct costs and expenses of administration, including audit and legal costs.

Expense Support Agreement

On June 12, 2020, the Company entered into an expense support agreement (the "Expense Support Agreement") with MCC Advisors and Medley LLC, pursuant to which MCC Advisors and Medley LLC agreed (jointly and severally) to cap the management fee and all of the Company's other operating expenses (except interest expenses, certain extraordinary strategic transaction expenses, and other expenses approved by the Special Committee of the Board (as described in Note 10)), at $667,000 per month (the "Cap"). Under the Expense Support Agreement, the Cap became effective on June 1, 2020 and was to expire on September 30, 2020. On September 29, 2020, the board of directors, including all of the independent directors, extended the term of the Expense Support Agreement through the end of quarter ending December 31, 2020. The Expense Support Agreement expired by its terms at the close of business on December 31, 2020, in connection with the adoption of the internalized management structure by the board of directors.

For the three months ended December 31, 2020, the total management fee and the other operating expenses subject to the Cap (as described above) were $2.5 million, which resulted in $0.3 million of expense support incurred during the quarter ended December 31, 2020 and due from MCC Advisors. The $0.3 million of expense support due was netted against Administrator expenses payable in the accompanying Consolidated Statements of Assets and Liabilities and paid during the quarter ended March 31, 2021. See "Note 6" for more information.

2022 Long-Term Cash Incentive Plan

On May 9, 2022, the board of directors of the Company adopted the PhenixFIN 2022 Long-Term Cash Incentive Plan (the "CIP") pursuant to the recommendation by the Compensation Committee of the board of directors. The CIP provides for performance-based cash awards to key employees of the Company, as approved by the Compensation Committee, based on the achievement of pre-established financial goals for the approved performance period. The performance goals may be expressed as one or a combination of net asset value of the Company, net asset value per share of the Company's common stock, changes in the market price of shares of the Company's common stock, individual performance metrics and/or such other goals and objectives the Committee considers relevant in connection with accomplishing the purposes of the CIP. A form of Award Agreement to be used under the CIP was also approved.

In connection with the approval of the CIP, the Compensation Committee approved awards for the executive officers named in the table below for the three year performance period commencing on January 1, 2022 and ending on December 31, 2024. Each participant is eligible to receive an amount of cash equal to 0%-200% of the target award set forth in the table below ("Target Performance Award"), based on the achievement of net asset value ("NAV") and NAV per share goals (weighted at 30% and 70%, respectively) as of the end of the performance period (the "Performance Goals"). Performance is evaluated separately for each Performance Goal. No payment is made with respect to a Performance Goal if a threshold level of performance is not achieved. Each Performance Goal is subject to (i) a threshold level of performance at which 50% of the Target Performance Award attributable to that Performance Goal may be paid and below which no payment is made pursuant to an Award, (ii) a target level of performance at which 100% of the Target Performance Award attributable to that Performance Goal may be paid and (iii) a maximum level of performance, at which 200% of the Target Performance Award attributable to that Performance Goal may be paid, in each case subject to such other terms and conditions of an Award. Between threshold, target and maximum performance levels for each Performance Goal, the portion of that Award attributed to the Performance Goal shall be interpolated in a linear progression.

The Target Performance Award for each executive officer is set forth in the table below:

Name and Title	Dollar Value of Target Award
David Lorber, Chairman of the Board and Chief Executive Officer	$ 890,000
Ellida McMillan, Chief Financial Officer	380,000

Portfolio and Investment Activity

As of September 30, 2022 and 2021, our portfolio had a fair market value of approximately $193.0 million and $151.6 million, respectively.

During the year ended September 30, 2022, we received proceeds from sale and settlements of investments of $123.8 million, including principal and dividend proceeds, realized net gains on investments of $5.2 million, and invested $173.3 million.

During the year ended September 30, 2021, we received proceeds from sale and settlements of investments of $124.3 million, including principal and dividend proceeds, realized net losses on investments of $42.5 million, and invested $45.3 million, of which $6.5 million was invested in two new portfolio companies and two new securities in an existing portfolio company during the year.

The following table summarizes the amortized cost and the fair value of our average portfolio company:

	September 30, 2022		September 30, 2021	
	Amortized Cost	Fair Value	Amortized Cost	Fair Value
Average portfolio company	$ 3,560	$ 2,608	$ 3,100	$ 2,263
Largest portfolio company	47,136	47,136	19,469	26,863

The following table summarizes the amortized cost and the fair value of investments as of September 30, 2022 (dollars in thousands):

	Amortized Cost	Percentage	Fair Value	Percentage
Senior Secured First Lien Term Loans	$ 128,482	48.7%	$ 88,248	45.6%
Senior Secured Second Lien Term Loans	2,603	1.0	2,607	1.4
Senior Secured Notes	2,252	0.9	1,659	0.9
Unsecured Debt	182	0.1	-	-
Equity/Warrants	129,929	49.3	100,443	52.1
Total Investments	**$ 263,448**	**100.0%**	**$ 192,957**	**100.0%**

The following table summarizes the amortized cost and the fair value of investments as of September 30, 2021 (dollars in thousands):

	Amortized Cost	Percentage	Fair Value	Percentage
Senior Secured First Lien Term Loans	$ 136,740	65.7%	$ 61,934	40.9%
Senior Secured Second Lien Term Loans	2,600	1.3	2,490	1.6
Senior Secured Notes	9,306	4.5	9,270	6.1
Secured Debt	2,500	1.2	2,500	1.6
Unsecured Debt	1,561	0.8	-	-
Equity/Warrants	54,961	26.5	75,446	49.8
Total Investments	$ 207,668	100.0%	$ 151,640	100.0%

As of September 30, 2022, our income-bearing investment portfolio based upon cost represented 62.0% of our total portfolio of which 81.9% bore interest based on floating rates, such as LIBOR or SOFR, while 18.1% bore interest at fixed rates. As of September 30, 2022, the weighted average yield based upon cost of our total portfolio was approximately 10.85%. As of September 30, 2021, the weighted average yield based upon cost of our total portfolio was approximately 6.75%. The weighted average yield of our total portfolio does not represent the total return to our stockholders.

We rate the risk profile of each of our investments based on the following categories:

Credit Rating	Definition
1	Investments that are performing above expectations.
2	Investments that are performing within expectations, with risks that are neutral or favorable compared to risks at the time of origination. All new loans are rated ’2’.
3	Investments that are performing below expectations and that require closer monitoring, but where no loss of interest, dividend or principal is expected. Companies rated ’3’ may be out of compliance with financial covenants, however, loan payments are generally not past due.
4	Investments that are performing below expectations and for which risk has increased materially since origination. Some loss of interest or dividend is expected but no loss of principal. In addition to the borrower being generally out of compliance with debt covenants, loan payments may be past due (but generally not more than 180 days past due).
5	Investments that are performing substantially below expectations and whose risks have increased substantially since origination. Most or all of the debt covenants are out of compliance and payments are substantially delinquent. Some loss of principal is expected.

The following table shows the distribution of our investments on the 1 to 5 investment performance rating scale at fair value as of September 30, 2022 and 2021 (dollars in thousands):

	September 30, 2022		September 30, 2021	
	Fair Value	Percentage	Fair Value	Percentage
1	$ -	0.0%	$ -	0.0%
2	159,279	82.6%	121,508	80.1%
3	22,183	11.5%	13,416	8.8%
4	6,250	3.2%	9,925	6.6%
5	5,245	2.7%	6,791	4.5%
Total	$ 192,957	100.0%	$ 151,640	100.0%

Results of Operations

Operating results for the years ended September 30, 2022, 2021, and 2020 are as follows (dollars in thousands):

	For the years ended September 30		
	2022	**2021**	**2020**
Total investment income	$ 15,544	$ 32,307	$ 21,522
Less: Net expenses	12,113	13,784	24,242
Net investment income/(loss)	3,431	18,523	(2,720)
Net realized gains (losses) on investments	5,221	(42,486)	(49,979)
Net change in unrealized gains (losses) on investments	(14,463)	25,363	(10,633)
Loss on extinguishment of debt	(296)	(122)	(2,481)
Net increase (decrease) in net assets resulting from operations	$ (6,107)	$ 1,278	$ (65,813)

Investment Income

For the year ended September 30, 2022, investment income totaled $15.5 million, of which $9.3 million was attributable to portfolio interest, approximately $5.5 million was attributable to dividend income, and $0.7 million was attributable to fee and other income. Dividend income was received from 12 investments during the year ended September 30, 2022.

For the year ended September 30, 2021, investment income totaled $32.3 million, of which $29.6 million was attributable to portfolio interest and dividend income, $2.6 million was attributable to fee income, and $0.1 million was attributable to other income.

For the year ended September 30, 2020, investment income totaled $21.5 million, of which $20.8 million was attributable to portfolio interest and dividend income, and $0.7 million to fee income.

Operating Expenses

Operating expenses for the years ended September 30, 2022, 2021, and 2020 are as follows (dollars in thousands):

	For the years ended September 30		
	2022	**2021**	**2020**
Base management fees	$ -	$ 1,146	$ 6,359
Interest and financing expenses	5,114	5,800	14,935
General and administrative	1,103	1,012	3,285
Salaries and benefits	2,952	1,993	-
Administrator expenses	301	613	2,227
Insurance	590	1,620	1,463
Directors fees	712	1,040	1,451
Professional fees, net	1,341	560	(4,768)
Expenses before waivers and reimbursements	12,113	13,784	24,952
Expense support reimbursement	-	-	(710)
Expenses, net of waivers and reimbursements	$ 12,113	$ 13,784	$ 24,242

For the year ended September 30, 2022, total operating expenses before management and incentive fee waivers decreased by $1.7 million, or 12.1%, compared to the year ended September 30, 2021.

For the year ended September 30, 2021, total operating expenses before management and incentive fee waivers decreased by $11.2 million, or 44.8%, compared to the year ended September 30, 2020.

For the year ended September 30, 2020, total operating expenses before management and incentive fee waivers decreased by $42.2 million, or 62.9%, compared to the year ended September 30, 2019.

Effective beginning January 1, 2021, the Company did not incur any management or incentive fees, nor was it subject to expense support arrangements due to its transition to an internal management structure. As a result, there were no management or incentive fee waivers or expense support reimbursements for such period.

Interest and Financing Expenses

Interest and financing expenses for the year ended September 30, 2022 decreased by $0.7 million, or 11.8%, compared to the year ended September 30, 2021. The decrease in interest and financing expenses was primarily due to the full repayment of the 2021 Notes on November 20, 2020 and the partial repayment of the 2023 Notes on December 16, 2021, partially offset by an increase due to the issuance of the 2028 Notes which became effective on November 16, 2021.

Interest and financing expenses for the year ended September 30, 2021 decreased by $9.1 million, or 61.2%, compared to the year ended September 30, 2020. The decrease in interest and financing expenses was primarily due to the full repayment of the 2021 Notes on November 20, 2020 and the completion of the repayment of the Israeli Notes (as defined below) on April 14, 2020.

Interest and financing expenses for the year ended September 30, 2020 decreased by $9.1 million, or 37.9%, compared to the year ended September 30, 2019. The decrease in interest and financing expenses was primarily due to the voluntary repayment of $135.0 million SBA-guaranteed debentures (the "SBA Debentures"), which the Company repaid between March 28, 2019 and May 10, 2019, as well as the full repayment of $120.2 million Series A Notes (the "Israeli Notes") between August 12, 2019 and April 14, 2020.

Base Management Fees and Incentive Fees

No base management fees were paid for the year ended September 30, 2022 as, since January 1, 2021, the Company ceased incurring management fees under its current internalized structure.

Base management fees for the year ended September 30, 2021 decreased by $5.2 million, or 82.0%, compared to the year ended September 30, 2020 as, since January 1, 2021, the Company no longer incurs management fees under its current internalized structure.

Base management fees for the year ended September 30, 2020 decreased by $4.8 million, or 43.2%, compared to the year ended September 30, 2019 principally due to the decline in our gross assets during the period.

No incentive fees were paid for the year ended September 30, 2022, 2021 or 2020. Since January 1, 2021, the Company no longer incurs incentive fees under its current internalized structure.

Professional Fees and Other General and Administrative Expenses

Professional fees and general and administrative expenses for the year ended September 30, 2022 increased by $0.9 million, or 55.5%, compared to the year ended September 30, 2021. This resulted primarily from recording insurance proceeds received in 2021 as an offset to legal fees which are a component of professional fees. During the year ended September 30, 2022, the Company did not receive any insurance proceeds.

Professional fees and general and administrative expenses for the year ended September 30, 2021 increased by $3.1 million, or 206.0%, compared to the year ended September 30, 2020 primarily due to a decrease in the insurance proceeds received in the year ended September 30, 2021 which offset legal expenses during such period.

Professional fees and general and administrative expenses for the year ended September 30, 2020 decreased by $28.3 million, or 88.5%, compared to the year ended September 30, 2019 primarily due to insurance proceeds received related to legal expenses relating to the dismissed stockholder class action, captioned as FrontFour Capital Group LLC, et al. v Brook Taube et al, as well as a decrease in legal expenses, general and administrative expenses, administrator expenses, valuation expenses, and audit expenses, offset by an increase in independent directors expenses and insurance expenses.

Net Realized Gains/Losses from Investments

We measure realized gains or losses by the difference between the net proceeds from the disposition and the amortized cost basis of an investment, without regard to unrealized gains or losses previously recognized.

During the year ended September 30, 2022, we recognized $5.2 million of realized gains on our portfolio investments. The realized gains were primarily due to the partial and full repayments of two investments and the restructuring of three investments, offset by realized losses due to the sale of three investments and the repayment of four investments.

During the year ended September 30, 2021, we recognized $42.5 million of realized losses on our portfolio investments. The realized losses were primarily due to the sale of the MCC JV in the first fiscal quarter of 2021.

During the year ended September 30, 2020, we recognized $50.0 million of realized losses on our portfolio investments. The realized losses were primarily due to the sale of three investments and the write-off of two investments.

Realized loss on extinguishment of debt

In the event that we modify or extinguish our debt prior to maturity, we account for it in accordance with ASC 470-50, Modifications and Extinguishments, in which we measure the difference between the reacquisition price of the debt and the net carrying amount of the debt, which includes any unamortized debt issuance costs.

During the year ended September 30, 2022, the Company recognized a net loss on extinguishment of debt of $0.3 million, which was due to the Company's $55.3 million repayment of the 2023 Notes on December 16, 2021.

During the year ended September 30, 2021, the Company recognized a net loss on extinguishment of debt of $0.1 million, which was due to the Company's $74.0 million repayment of the 2021 Notes on November 20, 2020.

During the year ended September 30, 2020, the Company recognized a net loss on extinguishment of debt of $2.5 million, which was due to the Company's $34.1 million repayment of the Israeli Notes on December 31, 2019, $34.9 million repayment of the Israeli Notes on March 31, 2020 and $21.1 million repayment of the Israeli Notes on April 14, 2020.

Net Unrealized Appreciation/Depreciation on Investments

Net change in unrealized appreciation or depreciation on investments reflects the net change in the fair value of our investment portfolio.

For the year ended September 30, 2022, we had $14.5 million of net unrealized depreciation on investments. The net unrealized depreciation was comprised of $21.3 million of net unrealized depreciation on investments and $6.9 million of net unrealized appreciation that resulted from the reversal of previously recorded unrealized depreciation on investments that were realized, partially sold, or written-off during the year.

For the year ended September 30, 2021, we had $25.3 million of net unrealized appreciation on investments. The net unrealized appreciation was comprised of $54.8 million of net unrealized depreciation on investments and $80.1 million of net unrealized appreciation that resulted from the reversal of previously recorded unrealized depreciation on investments that were realized, partially sold, or written-off during the year.

For the year ended September 30, 2020, we had $10.6 million of net unrealized depreciation on investments. The net unrealized depreciation comprised of $37.1 million of net unrealized depreciation on investments, offset by $26.5 million of net unrealized appreciation that resulted from the reversal of previously recorded unrealized depreciation on investments that were realized, partially sold or written-off during the year.

Provision for Deferred Taxes on Unrealized Depreciation on Investments

Certain consolidated subsidiaries of ours are subject to U.S. federal and state income taxes. These taxable subsidiaries are not consolidated with the Company for income tax purposes, but are consolidated for GAAP purposes, and may generate income tax liabilities or assets from temporary differences in the recognition of items for financial reporting and income tax purposes at the subsidiaries. For the years ended September 30, 2022, 2021 and 2020, the Company did not record a change in provision for deferred taxes on the unrealized (appreciation)/depreciation on investments.

Changes in Net Assets from Operations

For the year ended September 30, 2022, we recorded a net decrease in net assets resulting from operations of $6.1 million compared to a net increase in net assets resulting from operations of $1.2 million for the year ended September 30, 2021, and a net decrease in net assets resulting from operations of $65.8 million for the year ended September 30, 2020 as a result of the factors discussed above. Based on 2,323,601, 2,677,891, and 2,723,709 weighted average common shares outstanding for the years ended September 30, 2022, 2021, and 2020, respectively, our per share net increase (decrease) in net assets resulting from operations was $(2.63), $0.48 and $(24.16) for the years ended September 30, 2022, 2021, and 2020, respectively.

Financial Condition, Liquidity and Capital Resources

As a RIC, we distribute substantially all of our net income to our stockholders and have an ongoing need to raise additional capital for investment purposes. To fund growth, we have a number of alternatives available to increase capital, including raising equity, increasing debt, and funding from operational cash flow.

Our liquidity and capital resources historically have been generated primarily from the net proceeds of public offerings of common stock, advances from the Revolving Credit Facility (which the Company voluntarily satisfied and terminated) and net proceeds from the issuance of notes as well as cash flows from operations. In the future, we may generate cash from future offerings of securities, future borrowings and cash flows from operations, including interest earned from the temporary investment of cash in U.S. government securities and other high-quality debt investments that mature in one year or less. Our primary use of funds is investments in our targeted asset classes, cash distributions to our stockholders, and other general corporate purposes.

As of September 30, 2022, we had $22.8 million in cash and cash equivalents.

In order to maintain our RIC tax treatment under the Code, we intend to distribute to our stockholders substantially all of our taxable income, but we may also elect to periodically spill over certain excess undistributed taxable income from one tax year into the next tax year. In addition, as a BDC, for each taxable year we generally are required to meet a coverage ratio of total assets to total senior securities, which include borrowings and any preferred stock we may issue in the future, of at least 200% (or 150% if, pursuant to the 1940 Act, certain requirements are met). This requirement limits the amount that we may borrow.

On January 11, 2021, the Company announced that its board of directors approved a share repurchase program. On February 9, 2022, the Board of Directors approved the expansion of the amount authorized for repurchase under the Company's share repurchase program from $15 million to $25 million. Under the share repurchase program, the Company repurchased an aggregate of 621,580 shares of common stock through September 30, 2022, or 29.6% of shares outstanding as of the program's inception, with a total cost of approximately $16.5 million. Taking into account such prior repurchases, the total remaining amount authorized under the expanded share repurchase program at September 30, 2022 was approximately $8.5 million.

Unsecured Notes

2021 Notes

On December 17, 2015, the Company issued $70.8 million in aggregate principal amount of 6.50% unsecured notes that mature on January 30, 2021 (the "2021 Notes"). On January 14, 2016, the Company closed an additional $3.25 million in aggregate principal amount of the 2021 Notes, pursuant to the partial exercise of the underwriters' option to purchase additional notes. The 2021 Notes bore interest at a rate of 6.50% per year, payable quarterly on January 30, April 30, July 30 and October 30 of each year, beginning January 30, 2016.

On October 21, 2020, the Company caused notices to be issued to the holders of the 2021 Notes regarding the Company's exercise of its option to redeem, in whole, the issued and outstanding 2021 Notes, pursuant to Section 1104 of the Indenture dated as of February 7, 2012, between the Company and U.S. Bank National Association, as trustee, and Section 101(h) of the Third Supplemental Indenture dated as of December 17, 2015. The Company redeemed $74,012,825 in aggregate principal amount of the issued and outstanding 2021 Notes on November 20, 2020 (the "Redemption Date"). The 2021 Notes were redeemed at 100% of their principal amount ($25 per 2021 Note), plus the accrued and unpaid interest thereon from October 31, 2020, through, but excluding, the Redemption Date. The Company funded the redemption of the 2021 Notes with cash on hand.

2023 Notes

On March 18, 2013, the Company issued $60.0 million in aggregate principal amount of 2023 Notes. As of March 30, 2016, the 2023 Notes may be redeemed in whole or in part at any time or from time to time at the Company's option. On March 26, 2013, the Company closed an additional $3.5 million in aggregate principal amount of 2023 Notes, pursuant to the partial exercise of the underwriters' option to purchase additional notes. The 2023 Notes bear interest at a rate of 6.125% per year, payable quarterly on March 30, June 30, September 30 and December 30 of each year, beginning June 30, 2013.

On December 12, 2016, the Company entered into an "At-The-Market" ("ATM") debt distribution agreement with FBR Capital Markets & Co., through which the Company could offer for sale, from time to time, up to $40.0 million in aggregate principal amount of the 2023 Notes. The Company sold 1,573,872 of the 2023 Notes at an average price of $25.03 per note, and raised $38.6 million in net proceeds, through the ATM debt distribution agreement.

On March 10, 2018, the Company redeemed $13.0 million in aggregate principal amount of the 2023 Notes. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.3 million and was recorded on the Consolidated Statements of Operations as a loss on extinguishment of debt.

On December 31, 2018, the Company redeemed $12.0 million in aggregate principal amount of the 2023 Notes. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.2 million and was recorded on the Consolidated Statements of Operations as a loss on extinguishment of debt.

On December 21, 2020, the Company announced that it completed the application process for and was authorized to transfer the listing of the 2023 Notes to the NASDAQ Global Market. The listing and trading of the 2023 Notes on the NYSE ceased at the close of trading on December 31, 2020. Effective January 4, 2021, the 2023 Notes trade on the NASDAQ Global Market under the trading symbol "PFXNL."

On November 15, 2021, the Company caused notices to be issued to the holders of the 2023 Notes regarding the Company's exercise of its option to redeem $55,325,000 in aggregate principal amount of the issued and outstanding 2023 Notes on December 16, 2021. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.3 million and was recorded on the Consolidated Statements of Operations as a loss on extinguishment of debt.

2028 Notes

On November 9, 2021, the Company entered into an underwriting agreement, by and between the Company and Oppenheimer & Co. Inc., as representative of the several underwriters named in Exhibit A thereto, in connection with the issuance and sale (the "Offering") of $57,500,000 (including the underwriters' option to purchase up to $7,500,000 aggregate principal amount) in aggregate principal amount of its 5.25% Notes due 2028 (the "2028 Notes"). The Offering occurred on November 15, 2021, pursuant to the Company's effective shelf registration statement on Form N-2 previously filed with the SEC, as supplemented by a preliminary prospectus supplement dated November 8, 2021, the pricing term sheet dated November 9, 2021 and a final prospectus supplement dated November 9, 2021. Effective November 16, 2021, the 2028 Notes began trading on the NASDAQ Global Market under the trading symbol "PFXNZ."

On November 15, 2021, the Company and U.S. Bank National Association, as trustee entered into a Fourth Supplemental Indenture to its base Indenture, dated February 7, 2012, between the Company and the Trustee. The Fourth Supplemental Indenture relates to the Offering of the 2028 Notes.

Secured Notes

Israeli Notes

On January 26, 2018, the Company priced a debt offering in Israel of $121.3 million of Israeli Notes. The Israeli Notes were listed on the TASE and denominated in New Israeli Shekels, but linked to the US Dollar at a fixed exchange rate which mitigates any currency exposure to the Company.

On June 5, 2018, the Company announced that on June 1, 2018, its board of directors authorized the Company to repurchase and retire up to $20 million of the Company's outstanding Israeli Notes on the TASE.

During the quarter ended December 31, 2018, the Company exchanged $1.0 million United States Dollars to New Israeli Shekels at a rate of 3.73 USD/NIS in order to repurchase the Israeli Notes on the TASE. As the Israeli Notes were trading below par at the time of the repurchase, and the USD/NIS (foreign currency) spot rate was higher than the fixed exchange rate agreed upon in the deed of trust, the Company was able to repurchase and retire 3,812,000 units, which resulted in $1,119,201 aggregate principal amount of the Israeli Notes being retired. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized gain of $0.1 million and was recorded on the Consolidated Statements of Operations as a gain on extinguishment of debt.

On December 31, 2019 in addition to the scheduled 12.5% quarterly amortization payment, the Company used proceeds from its principal collections in PhenixFIN SLF and PhenixFIN Small Business Fund to pre-pay an additional $19.1 million of the Israeli Notes. The pre-payment was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.9 million and was recorded on the Consolidated Statements of Operations as a net loss on extinguishment of debt.

On March 31, 2020, in addition to the scheduled 12.5% quarterly amortization payment, the Company used proceeds from its principal repayments in assets held by PhenixFIN SLF and PhenixFIN Small Business Fund to pre-pay an additional $19.8 million of the Israeli Notes. The pre-payment was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.9 million and was recorded on the Consolidated Statements of Operations as a net loss on extinguishment of debt.

On April 14, 2020, the Company repaid the remaining $21.1 million of Israeli Notes outstanding, and as such is no longer subject to any covenants relating thereto. The Israeli Notes were redeemed at 100% of their principal amount, plus the accrued interest thereon, through April 14, 2020.

On November 20, 2020, the Company repaid the remaining $74.0 million of the 2021 Notes outstanding, and as such is no longer subject to any covenants relating thereto. The 2021 Notes were redeemed at 100% of their principal amount, plus the accrued interest thereon from October 31, 2020 through, but excluding, November 20, 2020.

Contractual Obligations and Off-Balance Sheet Arrangements

As of September 30, 2022 and 2021, we had commitments under loan and financing agreements to fund up to $6.0 million to six portfolio companies and $4.9 million to six portfolio companies, respectively. These commitments are primarily composed of senior secured term loans and revolvers, and the determination of their fair value is included in the Consolidated Schedule of Investments. The commitments are generally subject to the borrowers meeting certain criteria such as compliance with covenants and certain operational metrics. The terms of the borrowings and financings subject to commitment are comparable to the terms of other loan and equity securities in our portfolio. A summary of the composition of the unfunded commitments as of September 30, 2022 and 2021 is shown in the table below (dollars in thousands):

	September 30, 2022	September 30, 2021
SS Acquisition, LLC (dba Soccer Shots Franchising) - Senior Secured First Lien Delayed Draw Term Loan	$ 4,000	$ -
Kemmerer Operations, LLC - Senior Secured First Lien Delayed Draw Term Loan	908	908
Secure Acquisition Inc. (dba Paragon Films) - Senior Secured First Lien Delayed Draw Term Loan	517	-
NVTN LLC - Senior Secured First Lien Delayed Draw Term Loan	220	220
1888 Industrial Services, LLC - Revolving Credit Facility	216	1,078
Black Angus Steakhouses, LLC Senior Secured First Lien Super Priority Delayed Draw Term Loan	167	167
Redwood Services Group, LLC - Revolving Credit Facility	-	1,575
Alpine SG, LLC - Revolving Credit Facility	-	1,000
Total unfunded commitments	$ 6,028	$ 4,948

We entered into an investment management agreement with MCC Advisors on January 11, 2011 (the "Investment Management Agreement") in accordance with the 1940 Act. The Investment Management Agreement became effective upon the pricing of our initial public offering. Under the Investment Management Agreement, MCC Advisors agreed to provide us with investment advisory and management services. For these services, we agreed to pay a base management fee equal to a percentage of our gross assets and an incentive fee based on our performance.

We also entered into an administration agreement with MCC Advisors as our administrator. The administration agreement became effective upon the pricing of our initial public offering. Under the administration agreement, MCC Advisors agreed to furnish us with office facilities and equipment, provide us clerical, bookkeeping and record keeping services at such facilities and provide us with other administrative services necessary to conduct our day-to-day operations. MCC Advisors also provided on our behalf significant managerial assistance to those portfolio companies to which we are required to provide such assistance while the Investment Management Agreement and administration agreement were in effect.

The Investment Management Agreement and administration agreement expired at the close of business on December 31, 2020, in connection with the Company's adoption of an internalized management structure.

The following table shows our payment obligations for repayment of debt and other contractual obligations at September 30, 2022 (dollars in thousands):

	Payments Due by Period						
	2023	2024	2025	2026	2027	Thereafter	Total
2023 Notes	$ (22,521,800)	$ -	$ -	$ -	$ -	$ -	$ (22,521,800)
2028 Notes	-	-	-	-	-	(57,500,000)	(57,500,000)
Operating Lease Obligation[1]	(147,960)	(152,399)	(156,971)	(161,680)	(27,417)	-	(646,427)
Total contractual obligations	$ (22,669,760)	$ (152,399)	$ (156,971)	$ (161,680)	$ (27,417)	$ (57,500,000)	$ (80,668,227)

(1) Operating Lease Obligation means a rent payment obligation under a lease classified as an operating lease and disclosed pursuant to ASC 842, as may be modified or supplemented.

On March 27, 2015, the Company and Great American Life Insurance Company ("GALIC") entered into a limited liability company operating agreement to co-manage MCC Senior Loan Strategy JV I LLC ("MCC JV"). The Company and GALIC had committed to provide $100 million of equity to MCC JV, with the Company providing $87.5 million and GALIC providing $12.5 million.

MCC JV commenced operations on July 15, 2015. On August 4, 2015, MCC JV entered into a senior secured revolving credit facility (the "JV Facility") led by Credit Suisse, AG with commitments of $100 million. On March 30, 2017, the Company amended the JV Facility previously administered by CS and facilitated the assignment of all rights and obligations of CS under the JV Facility to Deutsche Bank AG, New York Branch, ("DB") and increased the total loan commitments to $200 million. The JV Facility bears interest at a rate of LIBOR (with no minimum + 2.75% per annum. On March 29, 2019, the JV Facility reinvestment period was extended to June 28, 2019 from March 30, 2019. On June 28, 2019, the JV Facility reinvestment period was extended to October 28, 2019. On October 28, 2019, the JV Facility reinvestment period was further extended from October 28, 2019 to March 31, 2020, the maturity date was extended to March 31, 2023 and the interest rate was modified from bearing an interest rate of LIBOR (with no minimum) + 2.50% per annum to LIBOR (with no minimum) + 2.75% per annum.

The Company has determined that MCC JV is an investment company under ASC 946, however in accordance with such guidance, the Company will generally not consolidate its investment in a company other than a wholly owned investment company subsidiary or a controlled operating company whose business consists of providing services to the Company. Accordingly, the Company does not consolidate its interest in MCC JV.

On October 8, 2020, the Company, GALIC, MCC JV, and an affiliate of Golub entered into a Membership Interest Purchase Agreement pursuant to which a fund affiliated with and managed by Golub concurrently purchased all of the Company's interest in the MCC JV and all of GALIC's interest in the MCC JV for a pre-adjusted gross purchase price of $156.4 million and an adjusted gross purchase price (which constitutes the aggregate consideration for the membership interests) of $145.3 million (giving effect to adjustments primarily for principal and interest payments from portfolio companies of MCC JV from July 1, 2020 through October 7, 2020), resulting in net proceeds (before transaction expenses) of $41.0 million and $6.6 million for MCC and GALIC, respectively, on the terms and subject to the conditions set forth in the Membership Interest Purchase Agreement, including the representations, warranties, covenants and indemnities contained therein. In connection with the closing of the transaction on October 8, 2020, MCC JV repaid in full all outstanding borrowings under, and terminated, its senior secured revolving credit facility, dated as of August 4, 2015, as amended, administered by Deutsche Bank AG, New York Branch.

Distributions

We have elected, and intend to qualify annually, to be treated for U.S. federal income tax purposes as a RIC under Subchapter M of the Code. As a RIC, in any taxable year with respect to which we timely distribute at least 90 percent of the sum of our (i) investment company taxable income (which is generally our net ordinary income plus the excess of realized net short-term capital gains over realized net long-term capital losses) determined without regard to the deduction for dividends paid and (ii) net tax exempt interest income (which is the excess of our gross tax exempt interest income over certain disallowed deductions), we (but not our stockholders) generally will not be subject to U.S. federal income tax on investment company taxable income and net capital gains that we distribute to our stockholders. We intend to distribute annually all or substantially all of such income, but we may also elect to periodically spill over certain excess undistributed taxable income from one tax year to the next tax year. To the extent that we retain our net capital gains or any investment company taxable income, we will be subject to U.S. federal income tax. We may choose to retain our net capital gains or any investment company taxable income, and pay the associated federal corporate income tax or excise tax, described below.

Amounts not distributed on a timely basis in accordance with a calendar year distribution requirement are subject to a nondeductible 4% U.S. federal excise tax payable by us. To avoid this tax, we must distribute (or be deemed to have distributed) during each calendar year an amount equal to the sum of:

1) at least 98.0% of our ordinary income (not taking into account any capital gains or losses) for the calendar year;
2) at least 98.2% of the amount by which our capital gains exceed our capital losses (adjusted for certain ordinary losses) for a one-year period ending on October 31st of the calendar year; and
3) income realized, but not distributed, in preceding years and on which we did not pay federal income tax.

While we intend to distribute any income and capital gains in the manner necessary to minimize imposition of the 4% U.S. federal excise tax, sufficient amounts of our taxable income and capital gains may not be distributed to avoid entirely the imposition of the tax. In that event, we will be liable for the tax only on the amount by which we do not meet the foregoing distribution requirement.

We intend to pay quarterly dividends to our stockholders out of assets legally available for distribution. We cannot assure you that we will achieve investment results that will allow us to pay a specified level of dividends or year-to-year increases in dividends. In addition, the inability to satisfy the asset coverage test applicable to us as a BDC could limit our ability to pay dividends. All dividends will be paid at the discretion of our board of directors and will depend on our earnings, our financial condition, maintenance of our RIC tax treatment, compliance with applicable BDC regulations and such other factors as our board of directors may deem relevant from time to time. We cannot assure you that we will pay dividends to our stockholders in the future.

To the extent our taxable earnings fall below the total amount of our distributions for a taxable year, a portion of those distributions may be deemed a return of capital to our stockholders for U.S. federal income tax purposes.

Stockholders should read any written disclosure accompanying a distribution carefully and should not assume that the source of any distribution is our ordinary income or gains.

We have adopted an "opt out" dividend reinvestment plan for our common stockholders. As a result, if we declare a cash dividend or other distribution, each stockholder that has not "opted out" of our dividend reinvestment plan will have their dividends automatically reinvested in additional shares of our common stock rather than receiving cash dividends. Stockholders who receive distributions in the form of shares of common stock will be subject to the same federal, state and local tax consequences as if they received cash distributions.

There were no regular dividend distribution payments made during the year ended September 30, 2022. A special dividend was declared in the amount of $265,798 on June 24, 2022 payable on July 13, 2022 to Stockholders of record on July 5, 2022.

Related Party Transactions

Concurrent with the pricing of our IPO, we entered into a number of business relationships with affiliated or related parties, including the following:

- We entered into the Investment Management Agreement with MCC Advisors on January 11, 2011, which expired December 31, 2020. Mr. Brook Taube, Chairman and Chief Executive Officer through December 31, 2020 and director through January 21, 2021 and Mr. Seth Taube, director through January 21, 2021, are both affiliated with MCC Advisors and Medley.

- Through December 31, 2020, MCC Advisors provided us with the office facilities and administrative services necessary to conduct day-to-day operations pursuant to our administration agreement. We reimbursed MCC Advisors for the allocable portion (subject to the review and approval of our board of directors) of overhead and other expenses incurred by it in performing its obligations under the administration agreement, including rent, the fees and expenses associated with performing compliance functions, and our allocable portion of the cost of our Chief Financial Officer and Chief Compliance Officer and their respective staffs.

On June 12, 2020, the Company entered into the Expense Support Agreement with MCC Advisors and Medley LLC, pursuant to which MCC Advisors and Medley LLC agreed (jointly and severally) to cap the management fee and all of the Company's other operating expenses (except interest expenses, certain extraordinary strategic transaction and expenses, and other expenses approved by the Special Committee) at $667,000 per month (the "Cap"). Under the Expense Support Agreement, the Cap became effective on June 1, 2020 and was to expire on September 30, 2020. On September 29, 2020, the board of directors, including all of the independent directors, extended the term of the Expense Support Agreement through the end of quarter ending December 31, 2020. The Expense Support Agreement expired by its terms at the close of business on December 31, 2020, in connection with the adoption of the internalized management structure by the board of directors.

In addition, we have adopted a formal business code of conduct and ethics that governs the conduct of our CEO, CFO, chief accounting officer (which role is currently fulfilled by our CFO) and controller (Covered Officers). Our officers and directors also remain subject to the duties imposed by both the 1940 Act and the Delaware General Corporation Law. Our Code of Business Conduct and Ethics requires that all Covered Officers promote honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between an individual's personal and professional relationships. Pursuant to our Code of Business Conduct and Ethics, each Covered Officer must disclose to the Company's CCO any conflicts of interest, or actions or relationships that might give rise to a conflict. Any approvals or waivers under our Code of Business Conduct and Ethics must be considered by the disinterested directors.

Investment Management Agreement

We entered into an investment management agreement with MCC Advisors on January 11, 2011 (the "Investment Management Agreement"), which expired December 31, 2020.

Under the terms of the Investment Management Agreement, MCC Advisors:

- determined the composition of our portfolio, the nature and timing of the changes to our portfolio and the manner of implementing such changes;
- identified, evaluated and negotiated the structure of the investments we made (including performing due diligence on our prospective portfolio companies); and
- executed, closed, monitored and administered the investments we made, including the exercise of any voting or consent rights.

MCC Advisors' services under the Investment Management Agreement were not exclusive, and it was free to furnish similar services to other entities so long as its services to us were not impaired.

Pursuant to the Investment Management Agreement, we paid MCC Advisors a fee for investment advisory and management services consisting of a base management fee and a two-part incentive fee.

On December 3, 2015, MCC Advisors recommended and, in consultation with the Board, agreed to reduce fees under the Investment Management Agreement. Beginning January 1, 2016, the base management fee was reduced to 1.50% on gross assets above $1 billion. In addition, MCC Advisors reduced its incentive fee from 20% on pre-incentive fee net investment income over an 8% hurdle, to 17.5% on pre-incentive fee net investment income over a 6% hurdle. Moreover, the revised incentive fee includes a netting mechanism and is subject to a rolling three-year look back from January 1, 2016 forward. Under no circumstances would the new fee structure result in higher fees to MCC Advisors than fees under the prior investment management agreement.

The following discussion of our base management fee and two-part incentive fee reflect the terms of the fee waiver agreement executed by MCC Advisors on February 8, 2016 (the "Fee Waiver Agreement"). The terms of the Fee Waiver Agreement were effective as of January 1, 2016, and were a permanent reduction in the base management fee and incentive fee on net investment income payable to MCC Advisors for the investment advisory and management services it provided under the Investment Management Agreement. The Fee Waiver Agreement did not change the second component of the incentive fee, which was the incentive fee on capital gains.

On January 15, 2020, the Company's board of directors, including all of the independent directors, approved the renewal of the Investment Management Agreement through the later of April 1, 2020 or so long as the Amended and Restated Agreement and Plan of Merger, dated as of July 29, 2019 (the "Amended MCC Merger Agreement"), by and between the Company and Sierra (the "Amended MCC Merger Agreement") was in effect, but no longer than a year; provided that, if the Amended MCC Merger Agreement is terminated by Sierra, then the termination of the Investment Management Agreement would be effective on the 30th day following receipt of Sierra's notice of termination to the Company. On May 1, 2020, the Company received a notice of termination of the Amended MCC Merger Agreement from Sierra. Under the Amended MCC Merger Agreement, either party was permitted, subject to certain conditions, to terminate the Amended MCC Merger Agreement if the merger was not consummated by March 31, 2020. Sierra elected to do so on May 1, 2020. As result of the termination by Sierra of the Amended MCC Merger Agreement on May 1, 2020, the Investment Management Agreement would have been terminated effective as of May 31, 2020. On May 21, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through the end of the then-current quarter, June 30, 2020. On June 12, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through September 30, 2020. On September 29, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through December 31, 2020. Mr. Brook Taube, Chairman and Chief Executive Officer through December 31, 2020 and director through January 21, 2021 and Mr. Seth Taube, director through January 21, 2021 are affiliated with MCC Advisors and Medley.

On November 18, 2020, the Board approved the adoption of an internalized management structure effective January 1, 2021. The new management structure replaces the current Investment Management and Administration Agreements with MCC Advisors LLC, which expired on December 31, 2020. To lead the internalized management team, the Board approved the appointment of David Lorber, who had served as an independent director of the Company since April 2019, as Chief Executive Officer, and Ellida McMillan as Chief Financial Officer of the Company, each effective January 1, 2021. In connection with his appointment, Mr. Lorber stepped down from the Compensation Committee of the Board, the Nominating and Corporate Governance Committee of the Board, and the Special Committee of the Board.

Base Management Fee

Through December 31, 2020, for providing investment advisory and management services to us, MCC Advisors received a base management fee. The base management fee was calculated at an annual rate of 1.75% (0.4375% per quarter) of up to $1.0 billion of the Company's gross assets and 1.50% (0.375% per quarter) of any amounts over $1.0 billion of the Company's gross assets and was payable quarterly in arrears. The base management fee was to be calculated based on the average value of the Company's gross assets at the end of the two most recently completed calendar quarters and was to be appropriately pro-rated for any partial quarter.

Incentive Fee

Through December 31, 2020, the incentive fee had two components, as follows:

Incentive Fee Based on Income

The first component of the incentive fee was payable quarterly in arrears and was based on our pre-incentive fee net investment income earned during the calendar quarter for which the incentive fee was being calculated. MCC Advisors was entitled to receive the incentive fee on net investment income from us if our Ordinary Income (as defined below) exceeded a quarterly "hurdle rate" of 1.5%. The hurdle amount was calculated after making appropriate adjustments to the Company's net assets, as determined as of the beginning of each applicable calendar quarter, in order to account for any capital raising or other capital actions as a result of any issuances by the Company of its common stock (including issuances pursuant to our dividend reinvestment plan), any repurchase by the Company of its own common stock, and any dividends paid by the Company, each as may have occurred during the relevant quarter.

The second component of the incentive fee was determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Management Agreement as of the termination date) and equaled 20.0% of our cumulative aggregate realized capital gains less cumulative realized capital losses, unrealized capital depreciation (unrealized depreciation on a gross investment-by-investment basis at the end of each calendar year) and all capital gains upon which prior performance-based capital gains incentive fee payments were previously made to the investment adviser.

Critical Accounting Policies

The preparation of financial statements and related disclosures in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and revenues and expenses during the periods reported. Actual results could materially differ from those estimates. We have identified the following items as critical accounting policies.

Valuation of Portfolio Investments

The Company follows ASC 820 for measuring the fair value of portfolio investments. Fair value is the price that would be received in the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Where available, fair value is based on observable market prices or parameters, or derived from such prices or parameters. Where observable prices or inputs are not available, valuation models are applied. These valuation models involve some level of management estimation and judgment, the degree of which is dependent on the price transparency for the instruments or market and the instruments' complexity. The Company's fair value analysis includes an analysis of the value of any unfunded loan commitments. Financial investments recorded at fair value in the consolidated financial statements are categorized for disclosure purposes based upon the level of judgment associated with the inputs used to measure their value. The valuation hierarchical levels are based upon the transparency of the inputs to the valuation of the investment as of the measurement date. Investments which are valued using NAV as a practical expedient are excluded from this hierarchy, and certain prior period amounts have been reclassified to conform to the current period presentation. The three levels are defined below:

- Level 1 - Valuations based on quoted prices in active markets for identical assets or liabilities at the measurement date.

- Level 2 - Valuations based on inputs other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable at the measurement date. This category includes quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in non-active markets including actionable bids from third parties for privately held assets or liabilities, and observable inputs other than quoted prices such as yield curves and forward currency rates that are entered directly into valuation models to determine the value of derivatives or other assets or liabilities.

- Level 3 - Valuations based on inputs that are unobservable and where there is little, if any, market activity at the measurement date. The inputs for the determination of fair value may require significant management judgment or estimation and are based upon management's assessment of the assumptions that market participants would use in pricing the assets or liabilities. These investments include debt and equity investments in private companies or assets valued using the Market or Income Approach and may involve pricing models whose inputs require significant judgment or estimation because of the absence of any meaningful current market data for identical or similar investments. The inputs in these valuations may include, but are not limited to, capitalization and discount rates, beta and EBITDA multiples. The information may also include pricing information or broker quotes which include a disclaimer that the broker would not be held to such a price in an actual transaction. The non-binding nature of consensus pricing and/or quotes accompanied by disclaimer would result in classification as Level 3 information, assuming no additional corroborating evidence.

We value investments for which market quotations are readily available at their market quotations, which are generally obtained from an independent pricing service or multiple broker-dealers or market makers. We weight the use of third-party broker quotes, if any, in determining fair value based on our understanding of the level of actual transactions used by the broker to develop the quote and whether the quote was an indicative price or binding offer. However, a readily available market value is not expected to exist for many of the investments in our portfolio, and we value these portfolio investments at fair value as determined in good faith by our board of directors under our valuation policy and process. We may seek pricing information with respect to certain of our investments from pricing services or brokers or dealers in order to value such investments.

Valuation methods may include comparisons of financial ratios of the portfolio companies that issued such private equity securities to peer companies that are public, the nature and realizable value of any collateral, the portfolio company's ability to make payments and its earnings and discounted cash flows, the markets in which the portfolio company does business, and other relevant factors. When an external event such as a purchase transaction, public offering or subsequent equity sale occurs, we will consider the pricing indicated by the external event to corroborate the private equity valuation. Due to the inherent uncertainty of determining the fair value of investments that do not have a readily available market value, the fair value of the investments may differ significantly from the values that would have been used had a readily available market value existed for such investments, and the differences could be material.

In December 2020, the SEC adopted Rule 2a-5 under the 1940 Act, which permits a BDC's board of directors to designate its executive officer(s) as a valuation designee to determine the fair value of its investment portfolio, subject to the oversight of the board. The Board has approved policies and procedures pursuant to Rule 2a-5 and has designated Ellida McMillan, the Company's CFO, to serve as the Board's valuation designee ("Valuation Designee"), subject to the Board's oversight, effective September 8, 2022.

Our board of directors is ultimately responsible for overseeing the determinations of the fair values of the investments in our portfolio that are not publicly traded, whose market prices are not readily available on a quarterly basis or any other situation where portfolio investments require a fair value determination.

With respect to investments for which market quotations are not readily available, our board oversees and our Valuation Designee undertakes a multi-step valuation process each quarter, as described below:

- Our quarterly valuation process generally begins with each investment being initially valued by a Valuation Firm.
- Available third-party market data will be reviewed by company personnel designated by the Valuation Designee ("Fair Value Personnel") and the Valuation Firm.
- Available portfolio company data and general industry data is then reviewed by the Fair Value Personnel.
- Preliminary valuation conclusions are then documented and discussed with the Fair Value Personnel.
- The Valuation Designee then determines the fair value of each investment in the Company's portfolio in good faith based on such discussions, the Company's Valuation Policy and the Valuation Firms' final estimated valuations.

In following these approaches, the types of factors that are taken into account in fair value pricing investments include available current market data, including relevant and applicable market trading and transaction comparables; applicable market yields and multiples; security covenants; call protection provisions; information rights; the nature and realizable value of any collateral; the portfolio company's ability to make payments; the portfolio company's earnings and discounted cash flows; the markets in which the portfolio company does business; comparisons of financial ratios of peer companies that are public; comparable merger and acquisition transactions; and the principal market and enterprise values.

Determination of fair values involves subjective judgments and estimates. The notes to our financial statements refer to the uncertainty with respect to the possible effect of such valuations, and any change in such valuations, on our consolidated financial statements.

Revenue Recognition

Our revenue recognition policies are as follows:

Investments and Related Investment Income We account for investment transactions on a trade-date basis and interest income, adjusted for amortization of premiums and accretion of discounts, is recorded on an accrual basis. For investments with contractual PIK interest, which represents contractual interest accrued and added to the principal balance that generally becomes due at maturity, we will not accrue PIK interest if the portfolio company valuation indicates that the PIK interest is not collectible. Origination, closing and/or commitment fees associated with investments in portfolio companies are recognized as income when the investment transaction closes. Other fees are capitalized as deferred revenue and recorded into income over the respective period. Prepayment penalties received by the Company for debt instruments paid back to the Company prior to the maturity date are recorded as income upon receipt. Realized gains or losses on investments are measured by the difference between the net proceeds from the disposition and the amortized cost basis of investment, without regard to unrealized gains or losses previously recognized. We report changes in the fair value of investments that are measured at fair value as a component of the net change in unrealized appreciation/(depreciation) on investments in our Consolidated Statements of Operations.

Non-accrual We place loans on non-accrual status when principal and interest payments are past due by 90 days or more, or when there is reasonable doubt that we will collect principal or interest. Accrued interest is generally reversed when a loan is placed on non-accrual. Interest payments received on non-accrual loans may be recognized as income or applied to principal depending upon management's judgment. Non-accrual loans are restored to accrual status when past due principal and interest is paid and, in our management's judgment, are likely to remain current. At September 30, 2022, certain investments in five portfolio companies held by the Company were on non-accrual status with a combined fair value of approximately $5.2 million, or 2.7% of the fair value of our portfolio. At September 30, 2021, certain investments in 9 portfolio companies held by the Company were on non-accrual status with a combined fair value of approximately $13.9 million, or 9.2% of the fair value of our portfolio. At September 30, 2020, certain investments in eight portfolio companies held by the Company were on non-accrual status with a combined fair value of approximately $21.7 million, or 8.8% of the fair value of our portfolio.

Federal Income Taxes

The Company has elected, and intends to qualify annually, to be treated for U.S. federal income tax purposes as a RIC under Subchapter M of the Code and it intends to operate in a manner so as to maintain its RIC tax treatment. To do so, among other things, the Company is required to meet certain source of income and asset diversification requirements and must timely distribute to its stockholders at least 90% of the sum of investment company taxable income ("ICTI") including PIK, as defined by the Code, and net tax exempt interest income (which is the excess of our gross tax exempt interest income over certain disallowed deductions) for each taxable year. The Company will be subject to a nondeductible U.S. federal excise tax of 4% on undistributed income if it does not distribute at least 98% of its net ordinary income for any calendar year and 98.2% of its capital gain net income for each one-year period ending on October 31 of such calendar year and any income realized, but not distributed, in preceding years and on which it did not pay federal income tax. Depending on the level of ICTI earned in a tax year, the Company may choose to carry forward ICTI in excess of current year dividend distributions into the next tax year and pay a 4% excise tax on such income, as required. To the extent that the Company determines that its estimated current year annual taxable income will be in excess of estimated current year dividend distributions for excise tax purposes, the Company accrues excise tax, if any, on estimated excess taxable income as taxable income is earned. Any such carryover ICTI must be distributed before the end of that next tax year through a dividend declared prior to filing the final tax return related to the year which generated such ICTI.

Because federal income tax requirements differ from GAAP, distributions in accordance with tax requirements may differ from net investment income and realized gains recognized for financial reporting purposes. Differences may be permanent or temporary. Permanent differences are reclassified among capital accounts in the consolidated financial statements to reflect their tax character. Temporary differences arise when certain items of income, expense, gain or loss are recognized at some time in the future. Differences in classification may also result from the treatment of short-term gains as ordinary income for tax purposes.

Recent Developments

On December 15, 2022, the Company and its wholly-owned subsidiaries executed a three-year, $50 million revolving credit facility (the "Credit Facility") with WoodForest Bank, N.A. ("WoodForest"), Valley National Bank, and Axiom Bank, (collectively, the "Lenders"). WoodForest is the administrative agent, sole bookrunner and sole lead arranger. The Company is set to borrow $50 million under the Credit Facility thirty days following execution.

Outstanding loans under the Credit Facility will bear a monthly interest rate at Term SOFR + 2.90%. The Company is also subject to a commitment fee of 0.25%, which shall accrue on the actual daily amount of the undrawn portion of the revolving credit. The Credit Facility contains customary representations and warranties and affirmative and negative covenants. The Credit Facility contains customary events of default for credit facilities of this type, including (without limitation): nonpayment of principal, interest, fees or other amounts after a stated grace period; inaccuracy of material representations and warranties; change of control; violations of covenants, subject in certain cases to stated cure periods; and certain bankruptcies and liquidations. If an event of default occurs and is continuing, the Company may be required to repay all amounts outstanding under the Credit Facility.

In addition, the Company has entered into a Pledge and Security Agreement with the Lenders pursuant to which the Company and its wholly owned subsidiaries have pledged all their assets, including the cash and securities held in the Company's custodial account with Computershare Trust Company, N.A., as collateral for any borrowings made by the Company pursuant to the Credit Agreement. The Lenders have the typical rights and remedies of a secured lender under the Uniform Commercial Code, including the right to foreclose on the collateral pledged by the Company.

On December 15, 2022, the Company caused notices to be issued to the holders of its 2023 Notes (CUSIP No. 71742W 202; NASDAQ: PFXNL) regarding the Company's exercise of its option to redeem $22,521,800 in aggregate principal amount of issued and outstanding 2023 Notes, comprising all issued and outstanding 2023 Notes, at a price equal to 100% of the principal amount of the 2023 Notes, plus accrued and unpaid interest thereon from September 30, 2022, through, but excluding, January 17, 2023 in accordance with the terms of the indenture governing the 2023 Notes. The Company expects the redemption to be completed on January 17, 2023. The Company intends to fund the redemption of the 2023 Notes with loans obtained under the Credit Facility, as described earlier in this section. This Form 10-K does not constitute a notice of redemption of the 2023 Notes. A copy of the notice of redemption is attached to this Form 10-K as Exhibit 99.1 and is incorporated herein by reference.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We are subject to financial market risks, including changes in interest rates. Changes in interest rates may affect both our cost of funding and our interest income from portfolio investments and cash and cash equivalents. Our investment income will be affected by changes in various interest rates, including LIBOR and SOFR, to the extent our debt investments include floating interest rates. In the future, we expect other loans in our portfolio will have floating interest rates. In addition, U.S. and global capital markets and credit markets have experienced a higher level of stress due to the global COVID-19 pandemic, which has resulted in an increase in the level of volatility across such markets. We may hedge against interest rate fluctuations by using standard hedging instruments such as futures, options and forward contracts subject to the requirements of the 1940 Act. For the year ended September 30, 2022, we did not engage in hedging activities.

As of September 30, 2022, 60.2% of our income-bearing investment portfolio bore interest based on floating rates based upon fair value. A prolonged reduction in interest rates will reduce our gross investment income and could result in a decrease in our net investment income if such decreases in LIBOR, SOFR or similar reference rates are not offset by a corresponding increase in the spread over LIBOR, SOFR or similar reference rates that we earn on any portfolio investments, a decrease in our operating expenses, including with respect to any income incentive fee, or a decrease in the interest rate of our floating interest rate liabilities tied to LIBOR, SOFR or similar reference rates. In contrast, a rise in the general level of interest rates can be expected to lead to higher interest rates applicable to any variable rate investments we hold and to declines in the value of any fixed rate investments we hold. In addition, a rise in interest rates may increase the likelihood that a portfolio company defaults on a loan. However, many of our variable rate investments provide for an interest rate floor, which may prevent our interest income from increasing until benchmark interest rates increase beyond a threshold amount. The composition of our floating rate debt investments by cash interest rate LIBOR and SOFR floor as of September 30, 2022 was as follows (dollars in thousands):

	September 30, 2022	
LIBOR and SOFR Floor	**Fair Value**	**% of Floating Rate Portfolio**
Under 1%	$ 26,183	29.6%
1% to under 2%	62,294	70.4
2% to under 3%	-	-
No Floor	-	-
Total	$ 88,477	100.0%

Based on our Consolidated Statements of Assets and Liabilities as of September 30, 2022, the following table (dollars in thousands) shows the approximate increase/(decrease) in components of net assets resulting from operations of hypothetical LIBOR and SOFR base rate changes in interest rates, assuming no changes in our investment and capital structure.

Change in Interest Rates	**Interest Income[(1)]**	**Interest Expense**	**Net Increase/ (Decrease)**
Up 300 basis points	$ 7,200	$ -	$ 7,200
Up 200 basis points	4,800	-	4,800
Up 100 basis points	2,400	-	2,400
Down 100 basis points	(2,400)	-	(2,400)
Down 200 basis points	(4,800)	-	(4,800)
Down 300 basis points	(7,200)	-	(7,200)

(1) Assumes no defaults or prepayments by portfolio companies over the next twelve months.

Item 8. Consolidated Financial Statements and Supplementary Data

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of PhenixFIN Corporation

Opinion on the Financial Statements

We have audited the accompanying consolidated statements of assets and liabilities of PhenixFIN Corporation (the Company), including the consolidated schedules of investments, as of September 30, 2022 and 2021, the related consolidated statements of operations, changes in net assets, and cash flows for each of the three years in the period ended September 30, 2022, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at September 30, 2022 and 2021, and the results of its operations, changes in its net assets, and its cash flows for each of the three years in the period ended September 30, 2022 in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of the Company's internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our procedures included confirmation of investments owned as of September 30, 2022 and 2021, by correspondence with the custodians, directly with designees of the portfolio companies and debt agents, as applicable, when replies were not received from designees of the portfolio companies and debt agents, we performed other auditing procedures. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the account or disclosures to which it relates.

Valuation of investments using significant unobservable inputs and assumptions

Description of the Matter

At September 30, 2022, the fair value of the Company's investments categorized as Level 3 within the fair value hierarchy (Level 3 investments) totaled $141.2 million.

As further described in Notes 2 and 4 to the Company's consolidated financial statements, management determines the fair value of Level 3 investments by using valuation methodologies (e.g., market or income approach) and associated techniques including, among others, valuations of comparable public companies, recent sales of private and public comparable companies, discounted cash flows, and/or enterprise value analysis. These techniques require management to make judgments about the significant unobservable inputs and assumptions including, among others, market yields, EBITDA multiples, and revenue multiples.

Auditing the fair value of the Company's Level 3 investments is complex, as the unobservable inputs and assumptions used by the Company require significant management judgment or estimation and have a significant effect on the fair value measurements of such investments. Also, applying audit procedures to address the estimation uncertainty involves a high degree of auditor subjectivity.

How We Addressed the Matter in Our Audit

Our audit procedures performed to test the fair value of the Company's Level 3 investments included, among others and on a sample basis, evaluating the Company's valuation methodologies and significant unobservable inputs and assumptions used in the valuations, as well as testing the mathematical accuracy of the Company's valuation models utilized to calculate the fair value.

For a sample of Level 3 investments, we obtained and reviewed management's valuation models and compared the significant portfolio company-specific inputs used in the models to credit agreements, underlying source documents, and/or portfolio company financial information provided to the Company by the investees, as applicable. We assessed whether the significant unobservable inputs and assumptions used by the Company were developed in a manner consistent with its valuation policies. We also evaluated the appropriateness of the inputs and assumptions used in the fair value estimates by comparing them to portfolio company financial information and/or available market information and evaluated the appropriateness of any significant adjustments.

Additionally, for a sample of Level 3 investments and with the assistance of our valuation specialists, we developed independent fair value estimates to compare to the Company's fair value measurements by using market information from third-party sources, such as market multiples and market yields, and/or portfolio company financial information, as applicable.

We searched for and evaluated information that corroborated or contradicted the Company's significant unobservable inputs and assumptions. We also evaluated subsequent events and transactions and considered whether they corroborated or contradicted the Company's year-end valuations.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2010.

New York, New York
December 16, 2022

PHENIXFIN CORPORATION
Consolidated Statements of Assets and Liabilities

	September 30, 2022	September 30, 2021
Assets:		
Investments at fair value		
Non-controlled, non-affiliated investments (amortized cost of $147,378,917 and $92,214,167, respectively)	$ 122,616,275	$ 84,152,678
Affiliated investments (amortized cost of $30,585,884 and $75,963,427, respectively)	12,314,192	57,595,245
Controlled investments (amortized cost of $85,483,093 and $39,490,097, respectively)	58,026,182	9,891,860
Total Investments at fair value	192,956,649	151,639,783
Cash and cash equivalents	22,768,066	69,433,256
Receivables:		
Fees receivable	-	1,872,700
Interest receivable	727,576	371,576
Prepaid share repurchase	489,156	-
Due from affiliates	271,962	-
Dividends receivable	269,330	81,211
Paydown receivable	112,500	292,015
Other receivable	36,992	-
Other assets	1,242,677	1,401,746
Total Assets	$ 218,874,908	$ 225,092,287
Liabilities:		
Notes payable (net of debt issuance costs of $2,059,164 and $412,795, respectively)	$ 77,962,636	$ 77,434,005
Due to broker	16,550,000	1,586,000
Accounts payable and accrued expenses	2,040,277	1,416,524
Due to affiliate	-	280,323
Administrator expenses payable (see Note 6)	74,911	67,920
Interest and fees payable	503,125	-
Deferred revenue	325,602	-
Other liabilities	572,949	613,534
Total Liabilities	98,029,500	81,398,306
Commitments and Contingencies (see Note 8)		
Net Assets:		
Common Shares, $0.001 par value; 5,000,000 shares authorized; 2,723,709 shares issued; 2,102,129 and 2,517,221 common shares outstanding, respectively	2,102	2,517
Capital in excess of par value	675,401,802	688,866,642
Total distributable earnings (loss)	(554,558,496)	(545,175,178)
Total Net Assets	120,845,408	143,693,981
Total Liabilities and Net Assets	$ 218,874,908	$ 225,092,287
Net Asset Value Per Common Share	$ 57.49	$ 57.08

See accompanying notes to consolidated financial statements.

PHENIXFIN CORPORATION
Consolidated Statements of Operations

	For the Years Ended September 30		
	2022	**2021**	**2020**
Interest Income:			
Interest from investments			
Non-controlled, non-affiliated investments:			
Cash	$ 5,207,850	$ 5,974,807	$ 9,137,394
Payment in-kind	444,741	609,964	863,744
Affiliated investments:			
Cash	639,733	1,099,809	1,182,294
Payment in-kind	374,981	327,804	2,425,557
Controlled investments:			
Cash	2,489,381	75,000	84,505
Payment in-kind	-	-	500,767
Total interest income	9,156,686	8,087,384	14,194,261
Dividend income	5,503,425	21,564,348	6,256,250
Interest from cash and cash equivalents	139,942	10,402	378,077
Fee income (see Note 9)	420,279	2,566,519	692,988
Other income	323,828	78,204	-
Total Investment Income	15,544,160	32,306,857	21,521,576
Expenses:			
Base management fees (see Note 6)	-	1,146,403	6,358,750
Interest and financing expenses	5,113,105	5,800,100	14,935,017
Salaries and benefits	2,952,106	1,993,277	-
General and administrative expenses	1,103,125	1,012,147	3,285,259
Directors fees	712,000	1,039,717	1,451,077
Insurance expenses	590,178	1,619,536	1,463,391
Administrator expenses (see Note 6)	301,281	612,983	2,226,831
Professional fees, net (see Note 8)	1,340,828	559,975	(4,768,050)
Expenses before expense support reimbursement	12,112,623	13,784,138	24,952,275
Expense support reimbursement (see Note 6)	-	-	(710,294)
Total expenses net of expense support reimbursement	12,112,623	13,784,138	24,241,981
Net Investment Income (Loss)	3,431,537	18,522,719	(2,720,405)
Realized and unrealized gains (losses) on investments			
Net realized gains (losses):			
Non-controlled, non-affiliated investments	810,240	7,747,672	(9,973,416)
Affiliated investments	4,408,961	(10,088,405)	(928,990)
Controlled investments	1,850	(40,144,795)	(39,076,425)
Total net realized gains (losses)	5,221,051	(42,485,528)	(49,978,831)
Net change in unrealized gains (losses):			
Non-controlled, non-affiliated investments	(16,701,153)	(5,022,484)	9,898,237
Affiliated investments	96,490	(10,342,450)	2,648,353
Controlled investments	2,141,326	40,728,006	(23,178,993)
Total net change in unrealized gains (losses)	(14,463,337)	25,363,072	(10,632,403)
Loss on extinguishment of debt (see Note 5)	(296,197)	(122,355)	(2,481,374)
Total realized and unrealized gains (losses)	(9,538,483)	(17,244,811)	(63,092,608)
Net Increase (Decrease) in Net Assets Resulting from Operations	**$ (6,106,946)**	**$ 1,277,908**	**$ (65,813,013)**
Weighted average basic and diluted earnings per common share	$ (2.63)	$ 0.48	$ (24.16)
Weighted average basic and diluted net investment income (loss) per common share	$ 1.48	$ 6.92	$ (1.00)
Weighted average common shares outstanding - basic and diluted (see Note 11)	2,323,601	2,677,891	2,723,709
Dividends declared per common share	$ 0.12	$ -	$ -

See accompanying notes to consolidated financial statements.

PHENIXFIN CORPORATION
Consolidated Statements of Changes in Net Assets

	Common Stock				
	Shares	**Par Amount**	**Capital in Excess of Par Value**	**Total Distributable Earnings/(Loss)**	**Total Net Assets**
Balance at September 30, 2019	2,723,709	$ 2,724	$ 673,584,467	$ (457,154,661)	$ 216,432,530
OPERATIONS					
Net investment income (loss)	-	-	-	(2,720,405)	(2,720,405)
Net realized gains (losses) on investments	-	-	-	(49,978,831)	(49,978,831)
Net change in unrealized appreciation (depreciation) on investments	-	-	-	(10,632,403)	(10,632,403)
Net loss on extinguishment of debt	-	-	-	(2,481,374)	(2,481,374)
SHAREHOLDER DISTRIBUTIONS					
Tax reclassification of shareholders' equity in accordance with generally accepted accounting principles	-	-	(1,202,850)	1,202,850	-
Total Increase (Decrease) in Net Assets	-	-	(1,202,850)	(64,610,163)	(65,813,013)
Balance at September 30, 2020	2,723,709	2,724	672,381,617	(521,764,824)	150,619,517
OPERATIONS					
Net investment income (loss)	-	-	-	18,522,719	18,522,719
Net realized gains (losses) on investments	-	-	-	(42,485,528)	(42,485,528)
Net change in unrealized appreciation (depreciation) on investments	-	-	-	25,363,072	25,363,072
Net loss on extinguishment of debt	-	-	-	(122,355)	(122,355)
CAPITAL SHARE TRANSACTIONS					
Repurchase of common shares	(206,488)	(207)	(8,203,237)	-	(8,203,444)
SHAREHOLDER DISTRIBUTIONS					
Tax reclassification of shareholders' equity in accordance with generally accepted accounting principles	-	-	24,688,262	(24,688,262)	-
Total Increase (Decrease) in Net Assets	(206,488)	(207)	16,485,025	(23,410,354)	(6,925,536)
Balance at September 30, 2021	2,517,221	2,517	688,866,642	(545,175,178)	143,693,981
OPERATIONS					
Net investment income (loss)	-	-	-	3,431,537	3,431,537
Net realized gains (losses) on investments	-	-	-	5,221,051	5,221,051
Net change in unrealized appreciation (depreciation) on investments	-	-	-	(14,463,337)	(14,463,337)
Net loss on extinguishment of debt	-	-	-	(296,197)	(296,197)
CAPITAL SHARE TRANSACTIONS					
Distributions to shareholders	-	-	(265,798)	-	(265,798)
Repurchase of common shares	(415,092)	(415)	(16,475,414)	-	(16,475,829)
SHAREHOLDER DISTRIBUTIONS					
Tax reclassification of shareholders' equity in accordance with generally accepted accounting principles	-	-	3,276,372	(3,276,372)	-
Total Increase (Decrease) in Net Assets	(415,092)	(415)	(13,464,840)	(9,383,318)	(22,848,573)
Balance at September 30, 2022	2,102,129	$ 2,102	$ 675,401,802	$ (554,558,496)	$ 120,845,408

See accompanying notes to consolidated financial statements.

PHENIXFIN CORPORATION
Consolidated Statements of Cash Flows

	For the Years Ended September 30		
	2022	**2021**	**2020**
Cash Flows from Operating Activities:			
Net increase (decrease) in net assets resulting from operations	$ (6,106,946)	$ 1,277,908	$ (65,813,013)
Adjustments to reconcile net increase (decrease) in net assets resulting from operations to net cash provided by (used in) operating activities:			
Investment increases due to payment-in-kind interest	(819,722)	(937,768)	(4,211,154)
Net amortization of premium (discount) on investments	(219,513)	(44,455)	(118,290)
Amortization of debt issuance cost	368,471	363,812	2,870,483
Net realized (gains) losses from investments	(5,221,051)	42,485,528	49,978,831
Net unrealized (gains) losses on investments	14,463,337	(25,363,072)	10,632,403
Proceeds from sale and settlements of investments	123,801,226	124,303,888	110,627,326
Purchases, originations and participations	(173,321,143)	(45,340,354)	(16,763,667)
Loss on extinguishment of debt	296,197	122,355	2,481,374
(Increase) decrease in operating assets:			
Fees receivable	1,872,700	(1,753,672)	(10,723)
Interest receivable	(356,000)	252,948	967,883
Due from affiliates	(271,962)	-	-
Dividends receivable	(188,119)	(81,211)	-
Receivable for paydowns	179,515	(292,015)	-
Other receivable	(36,992)	-	-
Receivable for dispositions and investments sold	-	-	419,299
Other assets	159,069	691,813	880,172
Increase (decrease) in operating liabilities:			
Due to broker	14,964,000	1,586,000	-
Accounts payable and accrued expenses	623,753	(691,701)	(9,848,530)
Due to affiliates	(280,323)	227,240	8,746
Administrator expenses payable	6,991	(89,045)	(704,820)
Interest and fees payable	503,125	(801,805)	(2,102,943)
Deferred revenue	325,602	(10,529)	(93,054)
Management and incentive fees payable, net	-	(1,392,022)	(839,153)
Other liabilities	(40,586)	613,534	-
Net cash provided by (used in) operating activities	(29,298,371)	95,127,377	78,361,170
Cash Flows from Financing Activities:			
Debt issuance costs paid	57,500,000	-	-
Paydowns on debt	(55,325,000)	(74,012,825)	(106,122,925)
Distributions paid to shareholders	(265,798)	-	-
Debt issuance costs paid	(2,311,036)	-	-
Repurchase of common shares	(16,964,985)	(8,203,444)	-
Net cash provided by (used in) financing activities	(17,366,819)	(82,216,269)	(106,122,925)
Net increase (decrease) in cash and cash equivalents	(46,665,190)	12,911,108	(27,761,755)
Cash and cash equivalents, beginning of period	69,433,256	56,522,148	84,283,903
Cash and cash equivalents, end of period	$ 22,768,066	$ 69,433,256	$ 56,522,148
Supplemental information:			
Interest paid during the year	$ 4,241,510	$ 6,601,905	$ 14,167,477
Supplemental non-cash information:			
Non-cash purchase of investments	$ -	$ -	$ 12,950,924
Non-cash sale of investments	$ -	$ -	$ 12,950,924

See accompanying notes to consolidated financial statements.

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Non-Controlled/Non-Affiliated Investments:							
Altisource S.A.R.L.(11)	Services: Business	Senior Secured First Lien Term Loan B (LIBOR + 4.00%, 1.00% LIBOR Floor)(14)	4/3/2024	$ 6,486,419	$ 5,825,616	$ 5,448,591	4.51%
				6,486,419	5,825,616	5,448,591	4.51%
Be Green Packaging, LLC	Containers, Packaging & Glass	Equity - 417 Common Units		1	416,250	-	0.00%
				1	416,250	-	0.00%
Boostability Seotowncenter, Inc.	Services: Business	Equity - 3,434,169.6 Common Units		833,152	66,475	-	0.00%
				833,152	66,475	-	0.00%
Chimera Investment Corp.(11)	Banking, Finance, Insurance & Real Estate	Equity - 117,310 Class C Preferred Units(13)(15)		117,310	2,884,724	1,915,672	1.59%
				117,310	2,884,724	1,915,672	1.59%
Copper Property CTL Pass Through Trust	Banking, Finance, Insurance & Real Estate	Equity Certificates(14)		437,795	6,314,757	5,877,398	4.86%
CPI International, Inc.	Aerospace & Defense	Senior Secured Second Lien Term Loan (LIBOR + 7.25%, 1.00% LIBOR Floor)	7/28/2025	2,607,062	2,602,547	2,607,062	2.16%
				2,607,062	2,602,547	2,607,062	2.16%
DataOnline Corp.	High Tech Industries	Senior Secured First Lien Term Loan (LIBOR + 6.25%, 1.00% LIBOR Floor)	11/13/2025	4,862,500	4,862,500	4,765,250	3.94%
		Revolving Credit Facility (LIBOR + 6.25%, 1.00% LIBOR Floor)	11/13/2025	714,286	714,286	700,000	0.58%
				5,576,786	5,576,786	5,465,250	4.52%
DirecTV Financing, LLC	Media: Broadcasting & Subscription	Senior Secured First Lien Term Loan (LIBOR + 5.00%, 0.75% LIBOR Floor)(14)	8/2/2027	4,550,000	4,550,000	4,220,000	3.49%
				4,550,000	4,550,000	4,220,000	3.49%
Dream Finders Homes, LLC	Construction & Building	Preferred Equity (8.00% PIK)		5,309,341	5,309,341	4,950,961	4.10%
				5,309,341	5,309,341	4,950,961	4.10%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
First Brands Group, LLC	Automotive	Senior Secured First Lien Term Loan (SOFR + 5.00%, 1.00% SOFR Floor)	3/30/2027	3,959,799	3,959,799	3,930,101	3.25%
				3,959,799	3,959,799	3,930,101	3.25%
Footprint Holding Company Inc.	Services: Business	Equity - 150 Common Units		150	-	-	0.00%
				150	-	-	0.00%
Franklin BSP Realty Trust, Inc.(11)	Banking, Finance, Insurance & Real Estate	Equity - 529,914 Common Units(13)		529,914	8,754,386	5,707,174	4.72%
				529,914	8,754,386	5,707,174	4.72%
Global Accessories Group, LLC	Consumer goods: Non-durable	Equity - 3.8% Membership Interest		380	151,337	-	0.00%
				380	151,337	-	0.00%
Great AJAX Corp.(11)	Banking, Finance, Insurance & Real Estate	Equity - 254,922 Common Units(13)		254,922	3,333,786	1,914,464	1.58%
				254,922	3,333,786	1,914,464	1.58%
Innovate Corp.	Construction & Building	8.50% Senior Secured Notes(14)	2/1/2026	2,250,000	2,252,156	1,659,375	1.37%
				2,250,000	2,252,156	1,659,375	1.37%
Invesco Mortgage Capital, Inc.(11)	Banking, Finance, Insurance & Real Estate	Equity - 205,000 Class C Preferred Units(13)(16)		205,000	5,035,506	3,138,550	2.60%
				205,000	5,035,506	3,138,550	2.60%
JFL-NGS-WCS Partners, LLC	Construction & Building	Senior Secured First Lien Term Loan B (LIBOR + 5.50%, 1.00% LIBOR Floor)	11/12/2026	885,050	888,790	865,137	0.72%
		Equity - 10,000,000 Units		10,000,000	10,000,000	10,248,798	8.48%
				10,885,050	10,888,790	11,113,935	9.20%
Lighting Science Group Corporation	Containers, Packaging & Glass	Warrants - 0.62% of Outstanding Equity		5,000,000	955,680	-	0.00%
				5,000,000	955,680	-	0.00%
Lucky Bucks, LLC	Consumer Discretionary	Senior Secured First Lien Term Loan(LIBOR + 5.50%, 0.75% LIBOR Floor)	7/30/2027	7,218,750	7,095,116	6,208,125	5.14%
				7,218,750	7,095,116	6,208,125	5.14%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Maritime Wireless Holdings LLC	Hotel, Gaming & Leisure	Senior Secured First Lien Term Loan A (SOFR + CSA + 9.00%, 1.00% SOFR + CSA Floor)(20)	2/15/2024	5,000,000	4,900,000	4,900,000	4.05%
		Senior Secured First Lien Term Loan B (SOFR + CSA + 9.00%, 1.00% SOFR + CSA Floor)(20)	5/31/2027	7,500,000	7,350,000	7,350,000	6.08%
		Convertible Promissory Note		5,000,000	5,000,000	5,000,000	4.14%
				17,500,000	17,250,000	17,250,000	14.27%
McKissock Investment Holdings, LLC (dba Colibri)	Services: Consumer	Senior Secured First Lien Term Loan (SOFR + CSA + 5.00%, 0.75% SOFR + CSA Floor)(20)	3/10/2029	4,974,999	4,927,870	4,875,500	4.03%
				4,974,999	4,927,870	4,875,500	4.03%
MFA Financial, Inc.(11)	Banking, Finance, Insurance & Real Estate	Equity - 97,426 Class C Preferred Units(13)(19)		97,426	2,318,487	1,722,492	1.43%
				97,426	2,318,487	1,722,492	1.43%
New York Mortgage Trust, Inc.(11)	Banking, Finance, Insurance & Real Estate	Equity - 165,000 Class E Preferred Units(13)(18)		165,000	4,102,076	2,953,500	2.44%
				165,000	4,102,076	2,953,500	2.44%
PennyMac Financial Services, Inc.(11)	Banking, Finance, Insurance & Real Estate	Equity - 81,500 Common Units(13)		81,500	5,364,478	3,496,350	2.89%
				81,500	5,364,478	3,496,350	2.89%
Point.360	Services: Business	Senior Secured First Lien Term Loan (LIBOR + 6.00% PIK)(10)	7/8/2020	2,777,366	2,103,712	-	0.00%
				2,777,366	2,103,712	-	0.00%
Power Stop LLC	Automotive	Senior Secured First Lien Term Loan(LIBOR + 4.75, 0.50% LIBOR Floor)	1/26/2029	4,975,000	4,930,071	4,029,750	3.33%
				4,975,000	4,930,071	4,029,750	3.33%
Rithm Capital Corp.(11)	Banking, Finance, Insurance & Real Estate	Equity - 206,684 Class B Preferred Units(13)(17)		206,684	5,129,170	3,902,194	3.23%
				206,684	5,129,170	3,902,194	3.23%
Secure Acquisition Inc. (dba Paragon Films)(8)	Packaging	Senior Secured First Lien Term Loan(LIBOR + 5.00%, 0.50% LIBOR Floor)	12/16/2028	3,465,345	3,451,574	3,361,385	2.78%
		Senior Secured First Lien Delayed Draw Term Loan (LIBOR + 5.00%, 0.50% LIBOR Floor)(12)	12/16/2028	-	(970)	-	0.00%
				3,465,345	3,450,604	3,361,385	2.78%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Sendero Drilling Company, LLC	Energy: Oil & Gas	Unsecured Debt (9.00%) (10)	8/1/2023	191,250	182,081	-	0.00%
				191,250	182,081	-	0.00%
SS Acquisition, LLC (dba Soccer Shots Franchising)(8)	Services: Consumer	Senior Secured First Lien Term Loan (LIBOR + 6.50%, 1.00% LIBOR Floor)	12/30/2026	6,666,667	6,575,847	6,591,667	5.45%
				6,666,667	6,575,847	6,591,667	5.45%
SMART Financial Operations, LLC	Retail	Equity - 700,000 Class A Preferred Units		700,000	700,000	120,793	0.10%
				700,000	700,000	120,793	0.10%
Stancor (dba Industrial Flow Solutions Holdings, LLC)	Services: Business	Equity - 338,736.11 Class A Units		338,736	308,652	265,269	0.22%
				338,736	308,652	265,269	0.22%
Staples, Inc.	Services: Consumer	First Lien Term Loan (LIBOR + 4.50%, 0.0% LIBOR Floor)(14)	9/12/2024	3,730,720	3,659,706	3,488,223	2.89%
				3,730,720	3,659,706	3,488,223	2.89%
Thryv Holdings, Inc.(11)	Services: Consumer	Senior Secured First Lien Term Loan B (LIBOR + 8.50%, 1.00% LIBOR Floor)	3/1/2026	6,515,633	6,406,051	6,287,583	5.20%
				6,515,633	6,406,051	6,287,583	5.20%
Velocity Pooling Vehicle, LLC	Automotive	Equity - 5,441 Class A Units		5,441	302,464	52,342	0.04%
		Warrants - 0.65% of Outstanding Equity	3/30/2028	6,506	361,667	62,569	0.05%
				11,947	664,131	114,911	0.09%
Walker Edison Furniture Company LLC	Consumer goods: Durable	Equity - 13,044 Common Units		13,044	2,114,646	-	0.00%
				13,044	2,114,646	-	0.00%
Watermill-QMC Midco, Inc.	Automotive	Equity - 1.30% Partnership Interest(9)		518,283	518,283	-	0.00%
				518,283	518,283	-	0.00%
Wingman Holdings, Inc.	Aerospace & Defense	Equity - 350 Common Shares		350	700,000	-	0.00%
				350	700,000	-	0.00%
Subtotal Non-Controlled/Non-Affiliated Investments				**$ 109,151,781**	**$ 147,378,917**	**$ 122,616,275**	**96.58%**

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Affiliated Investments:[6]							
1888 Industrial Services, LLC(8)	Energy: Oil & Gas	Senior Secured First Lien Term Loan A (LIBOR + 5.00% PIK, 1.00% LIBOR Floor)(10)	5/1/2023	$ 9,946,741	$ 9,473,068	$ -	0.00%
		Senior Secured First Lien Term Loan C(LIBOR + 5.00%, 1.00% LIBOR Floor)	5/1/2023	1,231,932	1,191,257	-	0.00%
		Revolving Credit Facility (LIBOR + 5.00%, 1.00% LIBOR Floor)(12)	5/1/2023	4,416,555	4,416,555	4,151,562	3.44%
		Equity - 21,562 Class A Units		21,562	-	-	-
				15,616,790	15,080,880	4,151,562	3.44%
Black Angus Steakhouses, LLC(8)	Hotel, Gaming & Leisure	Senior Secured First Lien Delayed Draw Term Loan (SOFR + CSA + 9.00%, 1.00% SOFR Floor)	1/31/2024	758,929	758,929	758,929	0.63%
		Senior Secured First Lien Term Loan (SOFR + CSA + 9.00% PIK, 1.00% SOFR Floor)(10)	1/31/2024	8,412,596	7,767,533	1,547,918	1.28%
		Senior Secured First Lien Super Priority Delayed Draw Term Loan (SOFR + CSA + 9.00%, 1.00% SOFR Floor)	1/31/2024	1,500,000	1,500,000	1,500,000	1.24%
		Equity - 17.92% Membership Interest		-	-	-	0.00%
				10,671,525	10,026,462	3,806,847	3.15%
Kemmerer Operations, LLC(8)	Metals & Mining	Senior Secured First Lien Term Loan(15.00% PIK)	6/21/2023	2,378,510	2,378,510	2,378,510	1.97%
		Equity - 6.78 Common Units		7	962,717	694,702	0.57%
				2,378,517	3,341,227	3,073,212	2.54%
US Multifamily, LLC	Banking, Finance, Insurance & Real Estate	Equity - 33,300 Preferred Units		33,300	2,137,315	1,282,571	1.06%
				33,300	2,137,315	1,282,571	1.06%
Subtotal Affiliated Investments				**$ 28,700,132**	**$ 30,585,884**	**$ 12,314,192**	**10.19%**

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Controlled Investments:[7]							
FlexFIN, LLC	Services: Business	Equity Interest		$ 47,136,146	$ 47,136,146	$ 47,136,146	39.01%
				47,136,146	47,136,146	47,136,146	39.01%
NVTN LLC(8)	Hotel, Gaming & Leisure	Senior Secured First Lien Delayed Draw Term Loan (LIBOR + 4.00% Cash, 1.00% LIBOR Floor)	12/31/2024	7,309,885	7,309,885	7,192,927	5.95%
		Senior Secured First Lien Term Loan B (LIBOR + 9.25% PIK, 1.00% LIBOR Floor)(10)	12/31/2024	19,561,424	13,916,082	3,697,109	3.06%
		Senior Secured First Lien Term Loan C(LIBOR + 12.00% PIK, 1.00% LIBOR Floor)(10)	12/31/2024	13,199,860	7,570,056	-	0.00%
		Equity - 1,000 Class A Units		9,551,135	9,550,924	-	0.00%
				49,622,304	38,346,947	10,890,036	9.01%
Subtotal Control Investments				**$ 96,758,450**	**$ 85,483,093**	**$ 58,026,182**	**48.02%**
	Total Investments, September 30, 2022			**$ 234,610,363**	**$ 263,447,894**	**$ 192,956,649**	**154.79%**

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2022

(1) All of our investments are domiciled in the United States. Certain investments also have international operations.
(2) Par amount is presented for debt investments and the amount includes accumulated payment-in-kind ("PIK") interest, as applicable, and is net of repayments, while the number of shares or units owned is presented for equity investments. Par amount is denominated in U.S. Dollars ("$") unless otherwise noted.
(3) Net unrealized depreciation for U.S. federal income tax purposes totaled $(69,642,639).
The tax cost basis of investments is $262,599,288 as of September 30, 2022.
(4) Unless otherwise indicated, all securities are valued using significant unobservable inputs, which are categorized as Level 3 assets under the definition of ASC 820 fair value hierarchy (see Note 4).
(5) Percentage is based on net assets of $120,845,408 as of September 30, 2022.
(6) Affiliated Investments are defined by the 1940 Act as investments in companies in which the Company owns between 5% and 25% outstanding voting securities or is under common control with such portfolio company.
(7) Control Investments are defined by the Investment Company Act of 1940, as amended (the "1940 Act"), as investments in companies in which the Company owns more than 25% of the voting securities or maintains greater than 50% of the board representation.
(8) The investment has an unfunded commitment as of September 30, 2022 (see Note 8), and fair value includes the value of any unfunded commitments.
(9) Represents 1.3% partnership interest in Watermill-QMC Partners, LP and Watermill-EMI Partners, LP.
(10) The investment was on non-accrual status as of September 30, 2022.
(11) The investment is not a qualifying asset as defined under Section 55(a) of 1940 Act, in a whole, or in part. As of September 30, 2022, 17.24% of the Company's portfolio investments were non-qualifying assets.
(12) This investment earns 0.50% commitment fee on all unused commitment as of June 30, 2022, and is recorded as a component of interest income on the Consolidated Statements of Operations.
(13) This investment represents a Level 1 security in the ASC 820 table as of June 30, 2022 (see Note 4).
(14) This investment represents a Level 2 security in the ASC 820 table as of June 30, 2022 (see Note 4).
(15) The interest rate on this loan is fixed-to-floating and will shift to 3 month LIBOR plus a 4.743% spread on 9/30/2025.
(16) The interest rate on this loan is fixed-to-floating and will shift to 3 month LIBOR plus a 5.29% spread on 9/27/2027.
(17) The interest rate on this loan is fixed-to-floating and will shift to 3 month LIBOR plus a 5.64% spread on 8/15/2024.
(18) The interest rate on this loan is fixed-to-floating and will shift to 3 month LIBOR plus a 6.429% spread on 1/15/2025.
(19) The interest rate on this preferred equity is fixed-to-floating and will shift to 3 month LIBOR plus a 5.345% spread on 3/31/2025.
(20) Credit Spread Adjustment ("CSA")

See accompanying notes to consolidated financial statements.

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2021

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Non-Controlled/Non-Affiliated Investments:							
Alpine SG, LLC [8]	High Tech Industries	Senior Secured First Lien Term Loan (LIBOR + 5.75% Cash, 1.00% LIBOR Floor)[14]	11/16/2022	$ 4,715,808	$ 4,715,809	$ 4,715,809	3.29%
		Senior Secured Incremental First Lien Term Loan (LIBOR + 8.50% Cash, 1.00% LIBOR Floor)[14]	11/16/2022	472,087	472,087	472,087	0.33%
		Senior Secured First Lien Delayed Draw Term Loan (LIBOR + 5.75% Cash, 1.00% LIBOR Floor)[14]	11/16/2022	2,277,293	2,277,293	2,277,293	1.58%
		Senior Secured Incremental First Lien Term Loan (LIBOR + 6.50% Cash, 1.00% LIBOR Floor)[14]	11/16/2022	4,174,037	4,107,317	4,174,037	2.90%
		Senior Secured Incremental First Lien Term Loan (LIBOR + 6.50% Cash, 1.00% LIBOR Floor)[14]	11/16/2022	2,999,802	2,946,540	2,999,802	2.09%
		Senior Secured Incremental First Lien Term Loan (LIBOR + 6.50% Cash, 1.00% LIBOR Floor)[14]	11/16/2022	1,000,000	982,916	1,000,000	0.70%
				15,639,027	15,501,962	15,639,028	10.89%
Autosplice, Inc.	Automotive	Senior Secured First Lien Term Loan (LIBOR + 8.00% Cash & 2.00% PIK, 1.00% LIBOR Floor)[14]	4/30/2022	11,826,036	11,826,036	11,826,036	8.23%
				11,826,036	11,826,036	11,826,036	8.23%
Be Green Packaging, LLC	Containers, Packaging & Glass	Equity - 417 Common Units		1	416,250	-	0.00%
				1	416,250	-	0.00%
Boostability Seotowncenter, Inc.	Services: Business	Equity - 3,434,169.6 Common Units		3,434,170	566,475	-	0.00%
				3,434,170	566,475	-	0.00%
Chimera Investment Corp.[11]	Banking, Finance, Insurance & Real Estate	Equity - 117,310 Class C Preferred Units[17][20]		117,310	2,884,724	3,019,559	2.10%
				117,310	2,884,724	3,019,559	2.10%
Cleaver-Brooks, Inc.	Manufacturing	7.875% Senior Secured Notes[18]	3/1/2023	9,364,000	9,306,052	9,270,360	6.45%
				9,364,000	9,306,052	9,270,360	6.45%
CM Finance SPV, LLC	Energy: Oil & Gas	Unsecured Debt[10]		101,463	101,463	-	0.00%
				101,463	101,463	-	0.00%
CPI International, Inc.	Aerospace & Defense	Senior Secured Second Lien Term Loan (LIBOR + 7.25% Cash, 1.00% LIBOR Floor)[13]	7/28/2025	2,607,062	2,599,906	2,489,744	1.73%
				2,607,062	2,599,906	2,489,744	1.73%
DataOnline Corp.	High Tech Industries	Senior Secured First Lien Term Loan (LIBOR + 6.25% Cash, 1.00% LIBOR Floor)[14]	11/13/2025	4,912,500	4,912,500	4,863,375	3.39%
		Revolving Credit Facility (LIBOR + 6.25% Cash, 1.00% LIBOR Floor)[14][16]	11/13/2025	714,286	714,286	707,143	0.49%
				5,626,786	5,626,786	5,570,518	3.88%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2021

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Dividend and Income Fund[11]	Banking, Finance, Insurance & Real Estate	Equity - 87,483 Common Units[17]		87,483	1,281,845	1,275,502	0.89%
				87,483	1,281,845	1,275,502	0.89%
Dream Finders Homes, LLC[11]	Construction & Building	Preferred Equity (8.00% PIK)		4,905,011	4,905,011	4,757,860	3.31%
				4,905,011	4,905,011	4,757,860	3.31%
Footprint Acquisition, LLC	Services: Business	Preferred Equity (8.75% PIK)[10]		4,049,398	4,049,398	2,956,061	2.06%
		Equity - 150 Common Units		150	-	-	0.00%
				4,049,548	4,049,398	2,956,061	2.06%
Global Accessories Group, LLC	Consumer goods: Non-durable	Equity - 3.8% Membership Interest		380	151,337	-	0.00%
				380	151,337	-	0.00%
Great AJAX Corp.[11]	Banking, Finance, Insurance & Real Estate	Equity - 253,651 Common Units[17]		253,651	3,316,414	3,421,752	2.38%
				253,651	3,316,414	3,421,752	2.38%
Invesco Mortgage Capital, Inc.[11]	Banking, Finance, Insurance & Real Estate	Equity - 205,000 Class C Preferred Units[17][21]		205,000	5,035,506	5,217,250	3.63%
				205,000	5,035,506	5,217,250	3.63%
Lighting Science Group Corporation	Containers, Packaging & Glass	Warrants - 0.62% of Outstanding Equity[18]		5,000,000	955,680	-	0.00%
				5,000,000	955,680	-	0.00%
MFA Financial, Inc.	Banking, Finance, Insurance & Real Estate	Equity - 31,692 Class C Preferred Units[17][24]		31,692	762,171	778,989	0.54%
				31,692	762,171	778,989	0.54%
New York Mortgage Trust, Inc.[11]	Banking, Finance, Insurance & Real Estate	Equity - 165,000 Class E Preferred Units[17][23]		165,000	4,102,076	4,182,750	2.91%
				165,000	4,102,076	4,182,750	2.91%
Point.360	Services: Business	Senior Secured First Lien Term Loan (LIBOR + 6.00% PIK)[10][15]	7/8/2020	2,777,366	2,103,712	-	0.00%
				2,777,366	2,103,712	-	0.00%
RateGain Technologies, Inc.	Hotel, Gaming & Leisure	Unsecured Debt (4.50% Cash)[12]	10/2/2023	532,671	532,671	-	0.00%
		Unsecured Debt (4.50% Cash)[12]	4/1/2024	704,762	704,762	-	0.00%
				1,237,433	1,237,433	-	0.00%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2021

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Redwood Services Group, LLC[8]	Services: Business	Revolving Credit Facility (LIBOR + 6.00% Cash, 1.00% LIBOR Floor)[13][16]	6/6/2023	175,000	175,000	175,000	0.12%
				175,000	175,000	175,000	0.12%
Rithm Capital Corp.[11]	Banking, Finance, Insurance & Real Estate	Equity - 206,684 Class B Preferred Units[17][22]		206,684	5,129,170	5,206,370	3.62%
				206,684	5,129,170	5,206,370	3.62%
Sendero Drilling Company, LLC	Energy: Oil & Gas	Unsecured Debt (9.00% Cash)[10]	8/1/2022	233,750	222,544	-	0.00%
				233,750	222,544	-	0.00%
SMART Financial Operations, LLC	Retail	Equity - 700,000 Class A Preferred Units		700,000	700,000	-	0.00%
				700,000	700,000	-	0.00%
Stancor (dba Industrial Flow Solutions Holdings, LLC)	Services: Business	Equity - 263,814.43 Class A Units		263,814	263,814	-	0.00%
				263,814	263,814	-	0.00%
Thryv Holdings, Inc.[11]	Services: Business	Senior Secured First Lien Term Loan B (LIBOR + 8.50% Cash, 1.00% LIBOR Floor)[13]	3/1/2026	5,770,000	5,610,988	5,863,763	4.08%
				5,770,000	5,610,988	5,863,763	4.08%
Velocity Pooling Vehicle, LLC	Automotive	Equity - 5,441 Class A Units		5,441	302,464	64,167	0.05%
		Warrants - 0.65% of Outstanding Equity	3/30/2028	6,506	361,667	76,727	0.05%
				11,947	664,131	140,894	0.10%
Walker Edison Furniture Company LLC	Consumer goods: Durable	Equity - 10,244 Common Units		10,244	1,500,000	2,361,242	1.64%
				10,244	1,500,000	2,361,242	1.64%
Watermill-QMC Midco, Inc.	Automotive	Equity - 1.3% Partnership Interest[9]		518,283	518,283	-	0.00%
				518,283	518,283	-	0.00%
Wingman Holdings, Inc. (f/k/a Crow Precision Components, LLC)	Aerospace & Defense	Equity - 350 Common Units		350	700,000	-	0.00%
				350	700,000	-	0.00%
Subtotal Non-Controlled/Non-Affiliated Investments				**$ 75,318,491**	**$ 92,214,167**	**$ 84,152,678**	58.56%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2021

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
Affiliated Investments:[6]							
1888 Industrial Services, LLC[8]	Energy: Oil & Gas	Senior Secured First Lien Term Loan A (LIBOR + 5.00% PIK, 1.00% LIBOR Floor)[10][14]	9/30/2021[25]	$ 9,946,741	$ 9,473,066	$ -	0.00%
		Senior Secured First Lien Term Loan B (LIBOR + 8.00% PIK, 1.00% LIBOR Floor)[10][14]	9/30/2021[25]	25,937,520	19,468,870	-	0.00%
		Senior Secured First Lien Term Loan C (LIBOR + 5.00%, 1.00% LIBOR Floor)[14]	9/30/2021[25]	1,231,932	1,191,257	24,637	0.02%
		Revolving Credit Facility (LIBOR +5.00% PIK, 1.00% LIBOR Floor)[14][16]	9/30/2021[25]	3,554,069	3,554,069	3,554,069	2.47%
		Equity - 17,493.63 Class A Units		-	-	-	0.00%
				40,670,262	33,687,262	3,578,706	2.49%
Black Angus Steakhouses, LLC[8]	Hotel, Gaming & Leisure	Senior Secured First Lien Delayed Draw Term Loan (LIBOR + 9.00% Cash, 1.00% LIBOR Floor)[13]	6/30/2022	758,929	758,929	758,929	0.53%
		Senior Secured First Lien Term Loan (LIBOR + 9.00% PIK, 1.00% LIBOR Floor)[10][13]	6/30/2022	8,412,596	7,767,533	2,279,814	1.59%
		Senior Secured First Lien Super Priority DDTL (LIBOR + 9.00% Cash, 1.00% LIBOR Floor)[13][16]	6/30/2022	1,500,000	1,500,000	1,500,000	1.04%
				10,671,525	10,026,462	4,538,743	3.16%
Caddo Investors Holdings 1 LLC[11]	Forest Products & Paper	Equity - 6.15% Membership Interest[19]		2,528,826	2,528,826	3,454,786	2.40%
				2,528,826	2,528,826	3,454,786	2.40%
Dynamic Energy Services International LLC	Energy: Oil & Gas	Senior Secured First Lien Term Loan (LIBOR + 13.50% PIK)[10][15]	12/31/2021	12,109,957	7,328,568	-	0.00%
		Equity - 12,350,000 Class A Units		12,350,000	-	-	0.00%
				24,459,957	7,328,568	-	0.00%
JFL-NGS Partners, LLC	Construction & Building	Equity - 57,300 Class B Units		57,300	57,300	26,862,813	18.69%
				57,300	57,300	26,862,813	18.69%
JFL-WCS Partners, LLC	Environmental Industries	Equity - 129,588 Class B Units		129,588	129,588	8,099,949	5.64%
				129,588	129,588	8,099,949	5.64%
Kemmerer Operations, LLC[8]	Metals & Mining	Senior Secured First Lien Term Loan (15.00% PIK)	6/21/2023	2,381,985	2,381,985	2,360,547	1.64%
		Senior Secured First Lien Delayed Draw Term Loan (15.00% PIK)[16]	6/21/2023	163,915	163,915	162,441	0.11%
		Equity - 6.7797 Common Units		7	962,717	553,746	0.39%
				2,545,907	3,508,617	3,076,734	2.14%
Path Medical, LLC	Healthcare & Pharmaceuticals	Senior Secured First Lien Term Loan A (LIBOR + 9.50% Cash, 1.00% LIBOR Floor)[10][13]	10/11/2021	5,805,894	5,805,894	2,249,835	1.57%
		Senior Secured First Lien Term Loan B (LIBOR + 13.00% PIK, 1.00% LIBOR Floor)[10][13]	10/11/2021	7,646,823	6,483,741	-	0.00%
		Warrants - 7.68% of Outstanding Equity		123,867	499,751	-	0.00%
				13,576,584	12,789,386	2,249,835	1.57%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2021

Company[1]	Industry	Type of Investment	Maturity	Par Amount/ Shares/Units[2]	Cost[3]	Fair Value[4]	% of Net Assets[5]
URT Acquisition Holdings Corporation	Services: Business	Warrants		28,912	-	920,000	0.64%
				28,912	-	920,000	0.64%
US Multifamily, LLC [11]	Banking, Finance, Insurance & Real Estate	Senior Secured First Lien Term Loan (10.00% Cash)	12/31/2022	2,577,418	2,577,418	2,577,418	1.79%
		Equity - 33,300 Preferred Units		33,300	3,330,000	2,236,261	1.56%
				2,610,718	5,907,418	4,813,679	3.35%
Subtotal Affiliated Investments				**$ 97,279,579**	**$ 75,963,427**	**$ 57,595,245**	40.08%
Controlled Investments:[7]							
FlexFIN LLC	Services: Business	Equity Interest		$ 2,500,000	$ 2,500,000	$ 2,500,000	1.74%
				2,500,000	2,500,000	2,500,000	1.74%
NVTN LLC[8]	Hotel, Gaming & Leisure	Senior Secured First Lien Delayed Draw Term Loan (LIBOR + 4.00% Cash, 1.00% LIBOR Floor)[10][13][16]	12/31/2024	6,565,875	6,565,875	6,414,860	4.47%
		Senior Secured First Lien Super Priority DDTL (LIBOR + 4.00% Cash, 1.00% LIBOR Floor)[13][16]	12/31/2024	1,000,000	998,150	977,000	0.68%
		Senior Secured First Lien Term Loan B (LIBOR + 9.25% PIK, 1.00% LIBOR Floor)[10][13]	12/31/2024	14,963,195	12,305,096	-	0.00%
		Senior Secured First Lien Term Loan C (LIBOR + 12.00% PIK, 1.00% LIBOR Floor)[10][13]	12/31/2024	10,014,223	7,570,054	-	0.00%
		Equity - 787.4 Class A Units		9,550,922	9,550,922	-	0.00%
				42,094,215	36,990,097	7,391,860	5.15%
Subtotal Control Investments				**$ 44,594,215**	**$ 39,490,097**	**$ 9,891,860**	6.89%
Total Investments, September 30, 2021				**$ 217,192,285**	**$ 207,667,691**	**$ 151,639,783**	105.53%

PHENIXFIN CORPORATION
Consolidated Schedule of Investments
September 30, 2021

(1) All of our investments are domiciled in the United States. Certain investments also have international operations.
(2) Par amount is presented for debt investments and the amount includes accumulated payment-in-kind ("PIK") interest, as applicable, and is net of repayments, while the number of shares or units owned is presented for equity investments. Par amount is denominated in U.S. Dollars ("$") unless otherwise noted.
(3) Net unrealized depreciation for U.S. federal income tax purposes totaled $55,318,330.
The tax cost basis of investments is $206,958,113 as of September 30, 2021.
(4) Unless otherwise indicated, all securities are valued using significant unobservable inputs, which are categorized as Level 3 assets under the definition of ASC 820 fair value hierarchy (see Note 4).
(5) Percentage is based on net assets of $143,693,981 as of September 30, 2021.
(6) Affiliated Investments are defined by the 1940 Act as investments in companies in which the Company owns between 5% and 25% outstanding voting securities or is under common control with such portfolio company.
(7) Control Investments are defined by the Investment Company Act of 1940, as amended (the "1940 Act"), as investments in companies in which the Company owns more than 25% of the voting securities or maintains greater than 50% of the board representation.
(8) The investment has an unfunded commitment as of September 30, 2021 (see Note 8), and fair value includes the value of any unfunded commitments.
(9) Represents 1.3% partnership interest in Watermill-QMC Partners, LP and Watermill-EMI Partners, LP.
(10) The investment was on non-accrual status as of September 30, 2021.
(11) The investment is not a qualifying asset as defined under Section 55(a) of 1940 Act, in a whole, or in part. As of September 30, 2021, 20.18% of the Company's portfolio investments were non-qualifying assets.
(12) Security is non-income producing.
(13) The interest rate on these loans is subject to the greater of a London Interbank Offering Rate ("LIBOR") floor, or 1 month LIBOR plus a base rate. The 1 month LIBOR as of September 30, 2021 was 0.08%.
(14) The interest rate on these loans is subject to the greater of a LIBOR floor, or 3 month LIBOR plus a base rate. The 3 month LIBOR as of September 30, 2021 was 0.13 %.
(15) The interest rate on these loans is subject to 3 month LIBOR plus a base rate. The 3 month LIBOR as of September 30, 2021 was 0.13 %.
(16) This investment earns 0.50% commitment fee on all unused commitment as of September 30, 2021, and is recorded as a component of interest income on the Consolidated Statements of Operations.
(17) This investment represents a Level 1 security in the ASC 820 table as of September 30, 2021 (see Note 4).
(18) This investment represents a Level 2 security in the ASC 820 table as of September 30, 2021 (see Note 4).
(19) As a practical expedient, the Company uses net asset value ("NAV") to determine the fair value of this investment.
(20) The interest rate on this preferred equity is fixed-to-floating and will shift to 3 month LIBOR plus a 4.743% spread on 9/30/2025.
(21) The interest rate on this preferred equity is fixed-to-floating and will shift to 3 month LIBOR plus a 5.29% spread on 9/27/2027.
(22) The interest rate on this preferred equity is fixed-to-floating and will shift to 3 month LIBOR plus a 5.64% spread on 8/15/2024.
(23) The interest rate on this preferred equity is fixed-to-floating and will shift to 3 month LIBOR plus a 6.429% spread on 1/15/2025.
(24) The interest rate on this preferred equity is fixed-to-floating and will shift to 3 month LIBOR plus a 5.345% spread on 3/31/2025.
(25) The maturity date was extended to May 1, 2023 subsequent to September 30, 2021.

The accompanying notes are an integral part of these consolidated financial statements.

Note 1. Organization

PhenixFIN Corporation ("PhenixFIN." the "Company," "we" and "us") is an internally-managed non-diversified closed end management investment company incorporated in Delaware that has elected to be regulated as a business development company ("BDC") under the Investment Company Act of 1940, as amended (the "1940 Act"). We completed our initial public offering ("IPO") and commenced operations on January 20, 2011. The Company has elected, and intends to qualify annually, to be treated, for U.S. federal income tax purposes, as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended (the "Code"). On November 18, 2020, the board of directors of the Company approved the adoption of an internalized management structure, effective January 1, 2021. Until close of business on December 31, 2020 we were externally managed and advised by MCC Advisors LLC ("MCC Advisors"), pursuant to an investment management agreement. MCC Advisors is a wholly owned subsidiary of Medley LLC, which is controlled by Medley Management Inc. (NYSE: MDLY), a publicly traded asset management firm ("MDLY"), which in turn is controlled by Medley Group LLC, an entity wholly owned by the senior professionals of Medley LLC. We use the term "Medley" to refer collectively to the activities and operations of Medley Capital LLC, Medley LLC, MDLY, Medley Group LLC, MCC Advisors, associated investment funds and their respective affiliates. Since January 1, 2021 the Company has been managed pursuant to an internalized management structure.

The Company has formed and expects to continue to form certain taxable subsidiaries (the "Taxable Subsidiaries"), which are taxed as corporations for federal income tax purposes. These Taxable Subsidiaries allow us to, among other things, hold equity securities of portfolio companies organized as pass-through entities while continuing to satisfy the requirements of a RIC under the Code.

The Company's investment objective is to generate current income and capital appreciation. The management team seeks to achieve this objective primarily through making loans, private equity or other investments in privately-held companies. The Company may also make debt, equity or other investments in publicly-traded companies. (These investments may also include investments in other BDCs, closed-end funds or REITs.) We may also pursue other strategic opportunities and invest in other assets or operate other businesses to achieve our investment objective, such as operating and managing an asset-based lending business. The portfolio generally consists of senior secured first lien term loans, senior secured second lien term loans, senior secured bonds, preferred equity and common equity. Occasionally, we will receive warrants or other equity participation features which we believe will have the potential to increase total investment returns. Our loan and other debt investments are primarily rated below investment grade or are unrated. Investments in below investment grade securities are considered predominantly speculative with respect to the issuer's capacity to pay interest and repay principal when due.

Reverse Stock Split; Authorized Share Reduction

At the Company's 2020 Annual Meeting of Stockholders held on June 30, 2020 (the "Annual Meeting"), stockholders approved a proposal to grant discretionary authority to the Company's board of directors to amend the Company's Certificate of Incorporation (the "Certificate of Incorporation") to effect a reverse stock split of its common stock, of 1-20 (the "Reverse Stock Split") and with the Reverse Stock Split to be effective at such time and date, if at all, as determined by the board of directors, but not later than 60 days after stockholder approval thereof and, if and when the reverse stock split is effected, reduce the number of authorized shares of common stock by the approved reverse stock split ratio (the "Authorized Share Reduction").

Following the 2020 Annual Meeting, on July 7, 2020, the board of directors determined that it was in the best interests of the Company and its stockholders to implement the Reverse Stock Split and the Authorized Share Reduction. Accordingly, on July 13, 2020, the Company filed a Certificate of Amendment (the "Certificate of Amendment") to the Certificate of Incorporation with the Secretary of State of the State of Delaware to effect the Reverse Stock Split and the Authorized Share Reduction.

Pursuant to the Certificate of Amendment, effective as of 5:00 p.m., Eastern Time, on July 24, 2020 (the "Effective Time"), each twenty (20) shares of common stock issued and outstanding, immediately prior to the Effective Time, automatically and without any action on the part of the respective holders thereof, were combined and converted into one (1) share of common stock. In connection with the Reverse Stock Split, the Certificate of Amendment provided for a reduction in the number of authorized shares of common stock from 100,000,000 to 5,000,000 shares of common stock. No fractional shares were issued as a result of the Reverse Stock Split. Instead, any stockholder who would have been entitled to receive a fractional share as a result of the Reverse Stock Split received cash payments in lieu of such fractional shares (without interest and subject to backup withholding and applicable withholding taxes).

On December 21, 2020, the Company announced that it completed the application process for and was authorized to transfer the listing of its shares of common stock to the NASDAQ Global Market. The listing and trading of the common stock on the NYSE ceased at the close of trading on December 31, 2020. Since January 4, 2021, the common stock trades on the NASDAQ Global Market under the trading symbol "PFX."

Sale of MCC JV

On October 8, 2020, the Company, Great American Life Insurance Company ("GALIC"), MCC Senior Loan Strategy JV I LLC (the "MCC JV"), and an affiliate of Golub Capital LLC ("Golub") entered into a Membership Interest Purchase Agreement pursuant to which a fund affiliated with and managed by Golub concurrently purchased all of the Company's interest in the MCC JV and all of GALIC's interest in the MCC JV for a pre-adjusted gross purchase price of $156.4 million and an adjusted gross purchase price (which constitutes the aggregate consideration for the membership interests) of $145.3 million (giving effect to adjustments primarily for principal and interest payments from portfolio companies of MCC JV from July 1, 2020 through October 7, 2020), resulting in net proceeds (before transaction expenses) of $41.0 million and $6.6 million for the Company and GALIC, respectively.

Note 2. Significant Accounting Policies

Basis of Presentation

The Company is an investment company following the accounting and reporting guidance in Financial Accounting Standards Board ("FASB") Accounting Standards Codification 946 ("ASC 946"), Financial Services – Investment Companies. The accompanying consolidated financial statements have been prepared on the accrual basis of accounting in conformity with U.S. generally accepted accounting principles ("GAAP") and include the consolidated accounts of the Company and its wholly owned subsidiaries PhenixFIN Small Business Fund, LP ("PhenixFIN Small Business Fund") and PhenixFIN SLF Funding I LLC ("PhenixFIN SLF"), and its wholly owned Taxable Subsidiaries. All references made to the "Company," "we," and "us" herein include PhenixFIN Corporation and its consolidated subsidiaries, except as stated otherwise. Additionally, the accompanying consolidated financial statements of the Company and related financial information have been prepared pursuant to the requirements for reporting on Form 10-K and Article 10 of Regulation S-X of the Securities Act of 1933.

Use of Estimates in the Preparation of Financial Statements

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash, Restricted Cash and Cash Equivalents

The Company considers cash equivalents to be highly liquid investments with original maturities of three months or less. Cash and cash equivalents include deposits in a money market account. The Company deposits its cash in financial institutions and, at times, such balances may be in excess of the Federal Deposit Insurance Corporation insurance limits. As of September 30, 2022 and 2021, we had $22.8 million and $69.4 million in cash and cash equivalents, respectively, none of which is restricted.

Debt Issuance Costs

Debt issuance costs, incurred in connection with any credit facilities and unsecured notes (see Note 5) are deferred and amortized over the life of the respective credit facility or instrument.

Indemnification

In the normal course of business, the Company enters into contractual agreements that provide general indemnifications against losses, costs, claims and liabilities arising from the performance of individual obligations under such agreements. The Company has had no material claims or payments pursuant to such agreements. The Company's individual maximum exposure under these arrangements is unknown, as this would involve future claims that may be made against the Company that have not yet occurred. However, based on management's experience, the Company expects the risk of loss to be remote.

Revenue Recognition

Interest income, adjusted for amortization of premiums and accretion of discounts, is recorded on an accrual basis. Dividend income, which represents dividends from equity investments and distributions from Taxable Subsidiaries, is recorded on the ex-dividend date and when the distribution is received, respectively.

The Company holds debt investments in its portfolio that contain a payment-in-kind ("PIK") interest provision. PIK interest, which represents contractually deferred interest added to the investment balance that is generally due at maturity, is recorded on the accrual basis to the extent such amounts are expected to be collected. PIK interest is not accrued if the Company does not expect the issuer to be able to pay all principal and interest when due. For the years ended September 30, 2022, 2021 and 2020, the Company earned approximately $0.8 million, $0.9 million, $3.8 million in PIK interest, respectively.

Origination/closing, amendment and transaction break-up fees associated with investments in portfolio companies are recognized as income when we become entitled to such fees. Prepayment penalties received by the Company for debt instruments paid back to the Company prior to the maturity date are recorded as income upon repayment of debt. Administrative agent fees received by the Company are capitalized as deferred revenue and recorded as fee income when the services are rendered. For the years ended September 30, 2022, 2021 and 2020, fee income was approximately $0.4 million, $2.6 million and $0.7 million, respectively (see Note 9).

Investment transactions are accounted for on a trade date basis. Realized gains or losses on investments are measured by the difference between the net proceeds from the disposition and the amortized cost basis of investment, without regard to unrealized gains or losses previously recognized. During the year ended September 30, 2020, $0.9 million of the Company's realized losses were related to certain non-cash restructuring transactions, which are recorded on the Consolidated Statements of Operations as a component of net realized gain/(loss) from investments. No losses relating to non-cash restructuring transactions occurred during the years ended September 30, 2022 and 2021. The Company reports changes in fair value of investments as a component of the net unrealized appreciation/(depreciation) on investments in the Consolidated Statements of Operations.

Management reviews all loans that become 90 days or more past due on principal or interest or when there is reasonable doubt that principal or interest will be collected for possible placement on management's designation of non-accrual status. Interest receivable is analyzed regularly and may be reserved against when deemed not collectible. Interest payments received on non-accrual loans may be recognized as income or applied to principal depending upon management's judgment regarding collectability. Non-accrual loans are restored to accrual status when past due principal and interest is paid and, in management's judgment, are likely to remain current, although we may make exceptions to this general rule if the loan has sufficient collateral value and is in the process of collection. At September 30, 2022, certain investments in five portfolio companies held by the Company were on non-accrual status with a combined fair value of approximately $5.2 million, or 2.7% of the fair value of our portfolio. At September 30, 2021, certain investments in 9 portfolio companies held by the Company were on non-accrual status with a combined fair value of approximately $13.9 million, or 9.2% of the fair value of our portfolio.

Investment Classification

The Company classifies its investments in accordance with the requirements of the 1940 Act. Under the 1940 Act, we would be deemed to "control" a portfolio company if we owned more than 25% of its outstanding voting securities and/or had the power to exercise control over the management or policies of such portfolio company. We refer to such investments in portfolio companies that we "control" as "Control Investments." Under the 1940 Act, we would be deemed to be an "Affiliated Person" of a portfolio company if we own between 5% and 25% of the portfolio company's outstanding voting securities or we are under common control with such portfolio company. We refer to such investments in Affiliated Persons as "Affiliated Investments."

Valuation of Investments

The Company applies fair value accounting to all of its financial instruments in accordance with the 1940 Act and ASC Topic 820 - Fair Value Measurements and Disclosures ("ASC 820"). ASC 820 defines fair value, establishes a framework used to measure fair value and requires disclosures for fair value measurements. In accordance with ASC 820, the Company has categorized its financial instruments carried at fair value, based on the priority of the valuation technique, into a three-level fair value hierarchy as discussed in Note 4. Fair value is a market-based measure considered from the perspective of the market participant who holds the financial instrument rather than an entity specific measure. Therefore, when market assumptions are not readily available, the Company's own assumptions are set to reflect those that management believes market participants would use in pricing the financial instrument at the measurement date.

Investments for which market quotations are readily available are valued at such market quotations, which are generally obtained from an independent pricing service or multiple broker-dealers or market makers. We weight the use of third-party broker quotations, if any, in determining fair value based on our understanding of the level of actual transactions used by the broker to develop the quote and whether the quote was an indicative price or binding offer. However, debt investments with remaining maturities within 60 days that are not credit impaired are valued at cost plus accreted discount, or minus amortized premium, which approximates fair value. Investments for which market quotations are not readily available are valued at fair value as determined by the Company's board of directors based upon input from management and third-party valuation firms. Because these investments are illiquid and because there may not be any directly comparable companies whose financial instruments have observable market values, these loans are valued using a fundamental valuation methodology, consistent with traditional asset pricing standards, that is objective and consistently applied across all loans and through time.

Investments in investment funds are valued at fair value. Fair values are generally determined utilizing the NAV supplied by, or on behalf of, management of each investment fund, which is net of management and incentive fees or allocations charged by the investment fund and is in accordance with the "practical expedient", as defined by FASB Accounting Standards Update ("ASU") 2009-12, *Investments in Certain Entities that Calculate Net Asset Value per Share*. NAVs received by, or on behalf of, management of each investment fund are based on the fair value of the investment funds' underlying investments in accordance with policies established by management of each investment fund, as described in each of their financial statements and offering memorandum. If the Company is in the process of the sale of an investment fund, fair value will be determined by actual or estimated sale proceeds.

The methodologies utilized by the Company in estimating the fair value of its investments categorized as Level 3 generally fall into the following two categories:

- The "Market Approach" uses prices and other relevant information generated by market transactions involving identical or comparable (that is, similar) assets, liabilities, or a group of assets and liabilities, such as a business.

- The "Income Approach" converts future amounts (for example, cash flows or income and expenses) to a single current (that is, discounted) amount. When the Income Approach is used, the fair value measurement reflects current market expectations about those future amounts.

The Company has engaged third-party valuation firms (the "Valuation Firms") to assist it and its Valuation Designee (the Chief Financial Officer) in the valuation of its portfolio investments. The valuation reports generated by the Valuation Firms consider the evaluation of financing and sale transactions with third parties, expected cash flows and market-based information, including comparable transactions, performance multiples, and movement in yields of debt instruments, among other factors. The Company uses a market yield analysis under the Income Approach or an enterprise model of valuation under the Market Approach, or a combination thereof. In applying the market yield analysis, the value of the Company's loans is determined based upon inputs such as the coupon rate, current market yield, interest rate spreads of similar securities, the stated value of the loan, and the length to maturity. In applying the enterprise model, the Company uses a waterfall analysis, which takes into account the specific capital structure of the borrower and the related seniority of the instruments within the borrower's capital structure into consideration. To estimate the enterprise value of the portfolio company, we weigh some or all of the traditional market valuation methods and factors based on the individual circumstances of the portfolio company in order to estimate the enterprise value.

The methodologies and information that the Company utilizes when applying the Market Approach for performing investments include, among other things:

- valuations of comparable public companies ("Guideline Comparable Approach");

- recent sales of private and public comparable companies ("Guideline Comparable Approach");

- recent acquisition prices of the company, debt securities or equity securities ("Recent Arms-Length Transaction");

- external valuations of the portfolio company, offers from third parties to buy the company ("Estimated Sales Proceeds Approach");

- subsequent sales made by the company of its investments ("Expected Sales Proceeds Approach"); and

- estimating the value to potential buyers.

The methodologies and information that the Company utilizes when applying the Income Approach for performing investments include:

- discounting the forecasted cash flows of the portfolio company or securities (Discounted Cash Flow ("DCF") Approach); and

- Black-Scholes model or simulation models or a combination thereof (Income Approach - Option Model) with respect to the valuation of warrants.

For non-performing investments, we may estimate the liquidation or collateral value of the portfolio company's assets and liabilities using an expected recovery model (Market Approach - Expected Recovery Analysis or Estimated Liquidation Proceeds).

We undertake a multi-step valuation process each quarter when valuing investments for which market quotations are not readily available, as described below:

- our quarterly valuation process generally begins with each portfolio investment being internally valued by a Valuation Firm;
- Available third-party market data will be reviewed by company personnel designated by the Valuation Designee ("Fair Value Personnel") and the Valuation Firm.
- Available portfolio company data and general industry data are then reviewed by the Fair Value Personnel.
- Preliminary valuation conclusions are then documented and discussed with the Fair Value Personnel.
- The Valuation Designee then determines the fair value of each investment in the Company's portfolio in good faith based on such discussions, the Company's Valuation Policy and the Valuation Firms' final estimated valuations.

Due to the inherent uncertainty of determining the fair value of investments that do not have a readily available market value, the fair value of our investments may differ from the values that would have been used had a readily available market value existed for such investments, and the differences could be material. In addition, changes in the market environment (including the impact of COVID-19 on financial markets), portfolio company performance, and other events may occur over the lives of the investments that may cause the gains or losses ultimately realized on these investments to be materially different than the valuations currently assigned.

Fair Value of Financial Instruments

The carrying amounts of certain of our financial instruments, including cash and cash equivalents, accounts payable and accrued expenses, approximate fair value due to their short-term nature. The carrying amounts and fair values of our long-term obligations are discussed in Note 5.

Recent Accounting Pronouncements

In March 2020, the FASB issued ASU 2020-04, "Reference rate reform (Topic 848)—Facilitation of the effects of reference rate reform on financial reporting." The amendments in this update provide optional expedients and exceptions for applying U.S. GAAP to certain contracts and hedging relationships that reference LIBOR or another reference rate expected to be discontinued due to reference rate reform and became effective upon issuance for all entities. The Company has agreements that have LIBOR as a reference rate with certain portfolio companies and also with certain lenders. Many of these agreements include language for choosing an alternative successor rate if LIBOR reference is no longer considered to be appropriate. Contract modifications are required to be evaluated in determining whether the modifications result in the establishment of new contracts or the continuation of existing contracts. In January 2021, the FASB issued ASU 2021-01, "Reference rate reform (Topic 848)," which expanded the scope of Topic 848. ASU 2020-04 and ASU 2021-01 are effective through December 31, 2022 when the Company plans to apply the amendments in this update to account for contract modifications due to changes in reference rates. The Company does not believe the adoption of ASU 2020-04 and ASU 2021-01 will have a material impact on its consolidated financial statements and disclosures.

Federal Income Taxes

The Company has elected, and intends to qualify annually, to be treated as a RIC under Subchapter M of the Code. In order to continue to qualify as a RIC and be eligible for tax treatment under Subchapter M of the Code, among other things, the Company is required to meet certain source of income and asset diversification requirements and timely distribute to its stockholders at least 90% of the sum of investment company taxable income ("ICTI"), as defined by the Code, including PIK interest, and net tax exempt interest income (which is the excess of gross tax exempt interest income over certain disallowed deductions) for each taxable year. Depending on the level of ICTI earned in a tax year, the Company may choose to carry forward ICTI in excess of current year dividend distributions into the next tax year. Any such carryover ICTI must be distributed before the end of that next tax year through a dividend declared prior to filing the final tax return related to the year which generated such ICTI.

The Company is subject to a nondeductible U.S. federal excise tax of 4% on undistributed income if it does not distribute at least 98% of its ordinary income in any calendar year and 98.2% of its capital gain net income for each one-year period ending on October 31 of such calendar year and any income realized, but not distributed, in preceding years and on which it did not pay federal income tax. To the extent that the Company determines that its estimated current year annual taxable income will be in excess of estimated current year dividend distributions for excise tax purposes, the Company accrues excise tax, if any, on estimated excess taxable income as taxable income is earned. There was no provision for federal excise tax for the calendar year ended 2021 accrued at September 30, 2022, for the calendar year ended 2020 accrued at September 30, 2021 and the calendar year ended 2019 accrued at September 30, 2020.

The Company's Taxable Subsidiaries accrue income taxes payable based on the applicable corporate rates on the unrealized gains generated by the investments held by the Taxable Subsidiaries. As of September 30, 2022 and 2021, the Company did not record a deferred tax liability on the Consolidated Statements of Assets and Liabilities. The change in provision for deferred taxes is included as a component of net realized and unrealized gain/(loss) on investments in the Consolidated Statements of Operations. For the years ended September 30, 2022, 2021 and 2020, the Company did not record a change in provision for deferred taxes on the unrealized (appreciation)/depreciation on investments.

As of September 30, 2022 and 2021, the Company had a deferred tax asset of $26.2 million and $22.2 million, respectively, consisting primarily of net operating losses and net unrealized losses on the investments held within its Taxable Subsidiaries. As of September 30, 2022 and 2021, the Company has booked a valuation allowance of $26.2 million and $22.2 million, respectively, against its deferred tax asset.

ICTI generally differs from net investment income for financial reporting purposes due to temporary and permanent differences in the recognition of income and expenses. The Company may be required to recognize ICTI in certain circumstances in which it does not receive cash. For example, if the Company holds debt obligations that are treated under applicable tax rules as having original issue discount, the Company must include in ICTI each year a portion of the original issue discount that accrues over the life of the obligation, regardless of whether cash representing such income is received by the Company in the same taxable year. The Company may also have to include in ICTI other amounts that it has not yet received in cash, such as 1) PIK interest income and 2) interest income from investments that have been classified as non-accrual for financial reporting purposes. Interest income on non-accrual investments is not recognized for financial reporting purposes, but generally is recognized in ICTI. Because any original issue discount or other amounts accrued will be included in the Company's ICTI for the year of accrual, the Company may be required to make a distribution to its stockholders in order to satisfy the minimum distribution requirements, even though the Company will not have received and may not ever receive any corresponding cash amount. ICTI also excludes net unrealized appreciation or depreciation, as investment gains or losses are not included in taxable income until they are realized.

Permanent differences between ICTI and net investment income for financial reporting purposes are reclassified among capital accounts in the financial statements to reflect their tax character. Differences in classification may also result from the treatment of short-term gains as ordinary income for tax purposes. During the years ended September 30, 2022, 2021 and 2020, the Company reclassified for book purposes amounts arising from permanent book/tax differences related to the different tax treatment of net operating losses and investments in wholly-owned subsidiaries as follows:

	For the Years Ended September 30		
	2022	**2021**	**2020**
Capital in excess of par value	$ 3,276,372	$ 24,688,262	$ (1,202,850)
Accumulated undistributed net investment income/(loss)	(3,276,372)	(19,047,396)	1,202,850
Accumulated net realized gain/(loss) from investments	-	(5,640,866)	-

For income tax purposes, distributions paid to stockholders are reported as ordinary income, return of capital, long term capital gains or a combination thereof. The tax character of distributions paid for the years ended September 30, 2022, 2021 and 2020 were as follows:

	For the Years Ended September 30		
	2022	**2021**	**2020**
Ordinary income	$ 265,798	$ -	$ -
Distributions of long term capital gains	-	-	-
Return of capital	-	-	-
Distributions on a tax basis	$ 265,798	$ -	$ -

For federal income tax purposes, the cost of investments owned at September 30, 2022, 2021 and 2020 were approximately $262.6 million, $206.9 million, and $327.9 million, respectively.

At September 30, 2022, 2021 and 2020, the components of distributable earnings/(accumulated deficits) on a tax basis detailed below differ from the amounts reflected in the Company's Consolidated Statements of Assets and Liabilities by temporary and other book/tax differences, primarily relating to the tax treatment of certain fee income and organizational expenses, as follows:

	For the Years Ended September 30		
	2022	**2021**	**2020**
Undistributed ordinary income	$ -	$ 265,798	$ -
Accumulated capital and other losses[1]	(485,107,934)	(490,032,788)	(440,538,935)
Other temporary differences	(73,646)	(89,856)	(106,066)
Unrealized appreciation/(depreciation)	(69,376,916)	(55,318,332)	(81,119,823)
Components of distributable earnings/(accumulated deficits) at year end	$ (554,558,496)	(545,175,178)	$ (521,764,824)

(1) Under the Regulated Investment Company Modernization Act of 2010, net capital losses recognized for tax years beginning after December 22, 2010, may be carried forward indefinitely, and their character is retained as short-term or long-term losses. As of September 30, 2022, the Company had a long-term capital loss carryforward available to offset future realized capital gains of $482,747,544 and a short-term capital loss carryforward of $2,360,390.

The Company accounts for income taxes in conformity with ASC Topic 740 - Income Taxes ("ASC 740"). ASC 740 provides guidelines for how uncertain tax positions should be recognized, measured, presented and disclosed in financial statements. ASC 740 requires the evaluation of tax positions taken or expected to be taken in the course of preparing the Company's tax returns to determine whether the tax positions are "more-likely-than-not" of being sustained by the applicable tax authority. Tax positions deemed to meet a "more-likely-than-not" threshold would be recorded as a tax benefit or expense in the current period. The Company recognizes interest and penalties, if any, related to unrecognized tax benefits as income tax expense in the Consolidated Statements of Operations. There were no material uncertain income tax positions at September 30, 2022. Although we file federal and state tax returns, our major tax jurisdiction is federal. The Company's federal and state tax returns for the prior three fiscal years remain open, subject to examination by the Internal Revenue Service and applicable state tax authorities.

Segments

The Company invests in various industries. The Company separately evaluates the performance of each of its investment relationships. However, because each of these investment relationships has similar business and economic characteristics, they have been aggregated into a single investment segment. All applicable segment disclosures are included in or can be derived from the Company's financial statements. See Note 3 for further information.

Company Investment Risk, Concentration of Credit Risk, and Liquidity Risk

The Company has broad discretion in making investments. Investments generally consist of debt instruments that may be affected by business, financial market or legal uncertainties. Prices of investments may be volatile, and a variety of factors that are inherently difficult to predict, such as domestic or international economic and political developments, may significantly affect the results of the Company's activities and the value of its investments. In addition, the value of the Company's portfolio may fluctuate as the general level of interest rates fluctuate.

The value of the Company's investments in loans may be detrimentally affected to the extent, among other things, that a borrower defaults on its obligations, there is insufficient collateral and/or there are extensive legal and other costs incurred in collecting on a defaulted loan, observable secondary or primary market yields for similar instruments issued by comparable companies increase materially or risk premiums required in the market between smaller companies, such as our borrowers, and those for which market yields are observable increase materially.

The Company's assets may, at any time, include securities and other financial instruments or obligations that are illiquid or thinly traded, making purchase or sale of such securities and financial instruments at desired prices or in desired quantities difficult. Furthermore, the sale of any such investments may be possible only at substantial discounts, and it may be extremely difficult to value any such investments accurately.

Company performance (including that of certain of its portfolio companies) has been and may continue to be negatively impacted by the COVID-19 pandemic's effects. The COVID-19 pandemic has adversely impacted economies and capital markets around the world in ways that may continue and may change in unforeseen ways for an indeterminate period. The pandemic has also adversely affected various businesses, including some in which we are invested. The COVID-19 pandemic may exacerbate pre-existing business performance, political, social and economic risks affecting certain companies and countries generally. The impacts, as well as the uncertainty over impacts to come, of COVID-19 have adversely affected the performance of the Company (including certain portfolio companies) and may continue to do so in the future. Further, the potential exists for additional variants of COVID-19 to impede the global economic recovery and exacerbate geographic differences in the spread of, and response to, COVID-19.

Note 3. Investments

The composition of our investments as of September 30, 2022 as a percentage of our total portfolio, at amortized cost and fair value were as follows (dollars in thousands):

	Amortized Cost	Percentage	Fair Value	Percentage
Senior Secured First Lien Term Loans	$ 128,482	48.7%	$ 88,248	45.6%
Senior Secured Second Lien Term Loans	2,603	1.0	2,607	1.4
Senior Secured Notes	2,252	0.9	1,659	0.9
Unsecured Debt	182	0.1	-	-
Equity/Warrants	129,929	49.3	100,443	52.1
Total Investments	$ 263,448	100.0%	$ 192,957	100.0%

The composition of our investments as of September 30, 2021 as a percentage of our total portfolio, at amortized cost and fair value were as follows (dollars in thousands):

	Amortized Cost	Percentage	Fair Value	Percentage
Senior Secured First Lien Term Loans	$ 136,740	65.7%	$ 61,934	40.9%
Senior Secured Second Lien Term Loans	2,600	1.3	2,490	1.6
Senior Secured Notes	9,306	4.5	9,270	6.1
Secured Debt	2,500	1.2	2,500	1.6
Unsecured Debt	1,561	0.8	-	-
Equity/Warrants	54,961	26.5	75,446	49.8
Total Investments	$ 207,668	100.0%	$ 151,640	100.0%

In connection with certain of the Company's investments, the Company receives warrants that are obtained for the objective of increasing the total investment returns and are not held for hedging purposes. At September 30, 2022 and 2021, the total fair value of warrants was $62.6 thousand and $996.7 thousand, respectively, and were included in investments at fair value on the Consolidated Statements of Assets and Liabilities. During the year ended September 30, 2022, the Company did not acquire any additional warrants in an existing portfolio company. During the year ended September 30, 2021, the Company acquired additional warrants in one existing portfolio company. During the year ended September 30, 2020, the Company had no warrant activity.

Total unrealized depreciation related to warrants for the years ended September 30, 2022, 2021, and 2020 was $299.1 thousand, $981.4 thousand, and $9.6 thousand, respectively, and was recorded on the Consolidated Statements of Operations as net unrealized appreciation/(depreciation) on investments. The warrants are received in connection with individual investments and are not subject to master netting arrangements.

The following table shows the portfolio composition by industry grouping at fair value at September 30, 2022 (dollars in thousands):

	Fair Value	Percentage
Services: Business	$ 52,851	27.5%
Hotel, Gaming & Leisure	31,947	16.7
Banking, Finance, Insurance & Real Estate	31,910	16.5
Services: Consumer	21,243	11.0
Construction & Building	17,724	9.1
Automotive	8,075	4.2
Consumer Discretionary	6,208	3.2
High Tech Industries	5,465	2.8
Media: Broadcasting & Subscription	4,220	2.2
Energy: Oil & Gas	4,152	2.2
Packaging	3,361	1.7
Metals & Mining	3,073	1.6
Aerospace & Defense	2,607	1.4
Retail	121	0.1
Total	$ 192,957	100.0%

The following table shows the portfolio composition by industry grouping at fair value at September 30, 2021 (dollars in thousands):

	Fair Value	Percentage
Construction & Building	$ 31,619	20.8%
Banking, Finance, Insurance & Real Estate	27,916	18.4
High Tech Industries	21,210	14.0
Services: Business	12,415	8.2
Automotive	11,967	7.9
Hotel, Gaming & Leisure	11,931	7.9
Manufacturing	9,270	6.1
Environmental Industries	8,100	5.3
Energy: Oil & Gas	3,579	2.4
Forest Products & Paper	3,455	2.3
Metals & Mining	3,077	2.0
Aerospace & Defense	2,490	1.6
Consumer goods: Durable	2,361	1.6
Healthcare & Pharmaceuticals	2,250	1.5
Total	$ 151,640	100.0%

The Company invests in portfolio companies principally located in North America. The geographic composition is determined by the location of the corporate headquarters of the portfolio company, which may not be indicative of the primary source of the portfolio company's business.

The following table shows the portfolio composition by geographic location at fair value at September 30, 2022 (dollars in thousands):

	Fair Value	Percentage
Northeast	$ 92,939	48.2%
Southeast	51,797	26.8
West	20,196	10.5
Midwest	16,023	8.3
Southwest	6,288	3.3
Mid-Atlantic	265	0.1
Other[(1)]	5,449	2.8
Total	$ 192,957	100.0%

(1) As of September 30, 2022, the Company has an investment in U.S. dollars in a foreign based company.

The following table shows the portfolio composition by geographic location at fair value at September 30, 2021 (dollars in thousands):

	Fair Value	Percentage
Northeast	$ 54,211	35.8%
West	44,030	29.0
Southeast	28,887	19.0
Southwest	17,418	11.5
Midwest	7,094	4.7
Total	$ 151,640	100.0%

Transactions With Affiliated/Controlled Companies

The Company had investments in portfolio companies designated as Affiliated Investments and Controlled Investments under the 1940 Act. Transactions with Affiliated Investments and Controlled Investments during the years ended September 30, 2022 and 2021 were as follows:

Name of Investment[3][4]	Type of Investment	Fair Value at September 30, 2021	Purchases/ (Sales) of or Advances/ (Distributions)	Transfers In/(Out) of Affiliates	Unrealized Gain/(Loss)	Realized Gain/(Loss)	Fair Value at September 30, 2022	Earned Income
Affiliated Investments								
1888 Industrial Services, LLC	Senior Secured First Lien Term Loan B	$ -	$ -	$ -	$ 19,468,870	$ (19,468,870)	$ -	$ -
	Senior Secured First Lien Term Loan C	24,639	-	-	(24,639)	-	-	79,084
	Revolving Credit Facility	3,554,069	862,486	-	(264,993)	-	4,151,562	235,755
	Equity	-	-	-	-	-	-	-
Black Angus Steakhouses,LLC	Senior Secured First Lien Delayed Draw Term Loan	758,929	-	-	-	-	758,929	79,375
	Senior Secured First Lien Term Loan	2,279,814	-	-	(731,896)	-	1,547,918	-
	Senior Secured First Lien Super Priority DDTL	1,500,000	-	-	-	-	1,500,000	156,885
	Equity	-	-	-	-	-	-	-
Caddo Investors Holdings 1 LLC	Equity	3,454,786	(3,448,219)	-	(925,960)	919,393	-	-
Dynamic Energy Services International LLC	Senior Secured First Lien Term Loan	-	(4,910,671)	-	7,328,568	(2,417,897)	-	12
JFL-NGS Partners, LLC	Equity	26,862,813	(26,807,520)	-	(26,805,513)	26,750,220	-	-
JFL-WCS Partners, LLC	Equity	8,099,949	(8,084,639)	-	(7,970,361)	7,955,051	-	-
Kemmerer Operations, LLC	Senior Secured First Lien Term Loan	2,360,547	(3,475)	-	21,438	-	2,378,510	368,331
	Senior Secured First Lien Delayed Draw Term Loan	162,441	(163,915)	-	1,474	-	-	6,601
	Equity	553,746	-	-	140,956	-	694,702	-
Path Medical, LLC	Senior Secured First Lien Term Loan A	2,249,835	(2,460,448)	-	3,556,057	(3,345,444)	-	(1,693)
	Senior Secured First Lien Term Loan B	-	-	-	6,483,741	(6,483,741)	-	(2,974)
	Warrants	-	-	-	499,751	(499,751)	-	-
URT Acquisition Holdings Corporation	Warrants	920,000	(1,000,000)	-	(920,000)	1,000,000	-	-
US Multifamily, LLC	Senior Secured First Lien Term Loan	2,577,416	(2,577,418)	-	2	-	-	93,338
	Equity	2,236,261	(1,192,685)	-	238,995	-	1,282,571	-
Total Affiliated Investments		$ 57,595,245	$ (49,786,504)	$ -	$ 96,490	$ 4,408,961	$ 12,314,192	$ 1,014,714

Name of Investment[3][4]	Type of Investment	Fair Value at September 30, 2021	Purchases/ (Sales) of or Advances/ (Distributions)	Transfers In/(Out) of Affiliates	Unrealized Gain/(Loss)	Realized Gain/(Loss)	Fair Value at September 30, 2022	Earned Income
Controlled Investments								
FlexFIN, LLC	Equity Interest	$ 2,500,000	$ 44,636,146	$ -	$ -	$ -	$ 47,136,146	$ 3,505,220
NVTN LLC	Senior Secured First Lien Delayed Draw Term Loan	6,414,860	744,010	-	34,057	-	7,192,927	1,124,346
	Super Priority Senior Secured First Lien Term Loan	977,000	(1,000,000)	-	21,150	1,850	-	173,822
	Senior Secured First Lien Term Loan B	-	1,610,990	-	2,086,119	-	3,697,109	-
	Senior Secured First Lien Term Loan C	-	-	-	-	-	-	-
	Equity	-	-	-	-	-	-	-
Total Controlled Investments		$ 9,891,860	$ 45,991,146	$ -	$ 2,141,326	$ 1,850	$ 58,026,182	$ 4,803,388

Name of Investment(3)	Type of Investment	Fair Value at September 30, 2020	Purchases/ (Sales) of or Advances/ (Distributions)	Transfers In/(Out) of Affiliates	Unrealized Gain/(Loss)	Realized Gain/ (Loss)	Fair Value at September 30, 2021	Income Earned
Affiliated Investments								
1888 Industrial Services, LLC	Senior Secured First Lien Term Loan A	$ -	$ -	$ -	$ -	-	$ -	$ -
	Senior Secured First Lien Term Loan B	-	-	-	-	-	-	-
	Senior Secured First Lien Term Loan C	1,166,763	-	-	(1,142,124)	-	24,639	93,832
	Revolving Credit Facility	3,554,069	-	-	-	-	3,554,069	219,687
Access Media Holdings, LLC	Senior Secured First Lien Term Loan	1,110,563	(1,239,334)	-	7,335,819	(7,207,048)	-	-
	Preferred Equity Series A	-	-	-	1,600,000	(1,600,000)	-	-
	Preferred Equity Series AA	-	-	-	800,000	(800,000)	-	-
	Preferred Equity Series AAA	-	-	-	971,200	(971,200)	-	-
Black Angus Steakhouses,LLC	Senior Secured First Lien Delayed Draw Term Loan	758,929	-	-	-	-	758,929	76,947
	Senior Secured First Lien Term Loan	5,047,557	-	-	(2,767,743)	-	2,279,814	-
	Senior Secured First Lien Super Priority DDTL	-	1,500,000	-	-	-	1,500,000	125,262
Caddo Investors Holdings 1 LLC	Equity	2,990,776	-	-	464,010	-	3,454,786	-
Dynamic Energy Services International LLC	Senior Secured First Lien Term Loan	905,116	(820,278)	-	(408,709)	323,871	-	-
JFL-NGS Partners, LLC	Preferred Equity A-2	1,795,034	(2,110,987)	-	-	315,953	-	(16,377)
	Preferred Equity A-1	232,292	-	-	-	(232,292)	-	(2,119)
	Equity	38,780,067	-	-	(11,917,254)	-	26,862,813	-
JFL-WCS Partners, LLC	Preferred Equity Class A	1,310,649	(1,330,460)	-	-	19,811	-	(53,623)
	Equity	4,535,580	-	-	3,564,369	-	8,099,949	-
Kemmerer Operations, LLC	Senior Secured First Lien Term Loan	2,051,705	330,280	-	(21,438)	-	2,360,547	330,418
	Senior Secured First Lien Delayed Draw Term Loan	515,699	(351,784)	-	(1,474)	-	162,441	54,849
	Equity	962,717	-	-	(408,971)	-	553,746	-
Path Medical, LLC	Senior Secured First Lien Term Loan A	5,905,080	(99,186)	-	(3,556,059)	-	2,249,835	105,026
	Senior Secured First Lien Term Loan B	6,794,514	(137,017)	-	(6,678,337)	20,840	-	2,974
URT Acquisition Holdings Corporation	Unsecured Debt	-	(2,609,589)	2,567,929	-	41,660	-	168,642
	Warrants	-	-	-	920,000	-	920,000	-
US Multifamily, LLC	Senior Secured First Lien Term Loan	5,123,913	(2,546,497)	-	-	-	2,577,416	322,095
	Equity	1,332,000	-	-	904,261	-	2,236,261	-
Total Affiliated Investments		$ 84,873,023	$ (9,414,852)	$ 2,567,929	$ (10,342,450)	$ (10,088,405)	$ 57,595,245	$ 1,427,613

Name of Investment(3)	Type of Investment	Fair Value at September 30, 2021	Purchases/ (Sales) of or Advances/ (Distributions)	Transfers In/(Out) of Affiliates	Unrealized Gain/(Loss)	Realized Gain/(Loss)	Fair Value at September 30, 2022	Income Earned
Controlled Investments								
FlexFin LLC	Secured Debt	-	2,500,000	-	-	-	2,500,000	75,000
MCC Senior Loan Strategy JV I LLC(1)(2)	Equity	41,018,500	(39,739,929)	-	38,869,000	(40,147,571)	-	-
NVTN LLC	Senior Secured First Lien Term Loan	4,530,078	-	-	1,884,782	-	6,414,860	-
	Super Priority Senior Secured First Lien Term Loan	2,000,000	(1,000,000)	-	(25,776)	2,776	977,000	-
Total Controlled Investments		$ 47,548,578	$ (38,239,929)	$ -	$ 40,728,006	$ (40,144,795)	$ 9,891,860	$ 75,000

(1) The Company and GALIC were the members of MCC JV, a joint venture formed as a Delaware limited liability company that was not consolidated by either member for financial reporting purposes. The members of MCC JV made capital contributions as investments by MCC JV were completed, and all portfolio and other material decisions regarding MCC JV were submitted to MCC JV's board of managers, which was comprised of an equal number of members appointed by each of the Company and GALIC. Approval of MCC JV's board of managers required the unanimous approval of a quorum of the board of managers, with a quorum consisting of equal representation of members appointed by each of the Company and GALIC. Because management of MCC JV was shared equally between the Company and GALIC, the Company did not have operational control over MCC JV for purposes of the 1940 Act or otherwise. On October 8, 2020, the Company, GALIC, MCC JV, and an affiliate of Golub entered into a Membership Interest Purchase Agreement pursuant to which a fund affiliated with and managed by Golub concurrently purchased all of the Company's interest in MCC JV and all of GALIC's interest in MCC JV.

(2) Amount of income earned represented distributions from MCC JV to the Company and is a component of dividend income, net of provisional taxes in the Consolidated Statements of Operations.

(3) The par amount and additional detail are shown in the Consolidated Schedule of Investments.

(4) Securities with a zero value at the beginning and end of the period, and those that had no transaction activity were excluded from the roll forward.

Purchases/(sales) of or advances to/(distributions) from Affiliated Investments and Controlled Investments represent the proceeds from sales and settlements of investments, purchases, originations and participations, investment increases due to PIK interest as well as net amortization of premium/(discount) on investments and are included in the purchases and sales presented on the Consolidated Statements of Cash Flows for the years ended September 30, 2022, 2021 and 2020. Transfers in/(out) of Affiliated Investments and Controlled Investments represent the fair value for the month an investment became or was removed as an Affiliated Investment or a Controlled Investment. Income received from Affiliated Investments and Controlled Investments is included in total investment income on the Consolidated Statements of Operations for the years ended September 30, 2022, 2021 and 2020.

Unconsolidated Significant Subsidiaries

In accordance with the SEC's Regulation S-X and GAAP, the Company evaluated and determined that it had one subsidiary, FlexFIN, LLC, that is deemed to be a "significant subsidiary" as of September 30, 2022. In accordance with Rule 3-09, separate audited financial statements of FlexFIN, LLC for the year ended September 30, 2022 are being filed herewith as Exhibit 99.2.

MCC Senior Loan Strategy JV I LLC

On March 27, 2015, the Company and GALIC entered into a limited liability company operating agreement to co-manage MCC JV. All portfolio and other material decisions regarding MCC JV were submitted to MCC JV's board of managers, which was comprised of four members, two of whom were selected by the Company and the other two of whom were selected by GALIC. The Company concluded that it did not operationally control MCC JV. As the Company did not operationally control MCC JV, it did not consolidate the operations of MCC JV within the consolidated financial statements.

On August 4, 2015, MCC JV entered into a senior secured revolving credit facility (the "JV Facility") led by Credit Suisse AG, Cayman Islands Branch ("CS") with commitments of $100 million subject to leverage and borrowing base restrictions. On March 30, 2017, the Company amended the JV Facility previously administered by CS and facilitated the assignment of all rights and obligations of CS under the JV Facility to Deutsche Bank AG, New York Branch ("DB") and increased the total loan commitments to $200 million. On March 29, 2019, the JV Facility reinvestment period was extended from March 30, 2019 to June 28, 2019. On June 28, 2019, the JV Facility reinvestment period was further extended from June 28, 2019 to October 28, 2019. On October 28, 2019, the JV Facility reinvestment period was further extended from October 28, 2019 to March 31, 2020 and the interest rate was modified from bearing an interest rate of LIBOR (with a 0.00% floor) + 2.50% per annum to LIBOR (with a 0.00% floor) + 2.75% per annum. Effective as of March 31, 2020, the maturity date of the JV Facility was extended to March 31, 2023. As of September 30, 2020, there was approximately $111.3 million outstanding under the JV Facility.

On March 31, 2020, the JV Facility ended its reinvestment period and entered its amortization period, during which time the interest rate was increased to LIBOR (with a 0.00% floor) + 3.00% per annum.

On April 20, 2020, the JV Facility was amended to (i) during each 12-month period during the amortization period permit the sale of investments below a price of 97% as long as the sale was approved by DB and the balance of all such investments sold is not greater than 30% of the adjusted balance of all loans as of the first date of each 12-month period and (ii) establish a target effective advance rate at various measurement dates during the amortization period. All principal collections were to be swept to amortize the amount outstanding under the JV Facility and interest collections were to be swept, as applicable, in order to meet the target effective advance rate for the applicable period.

On October 8, 2020, the Company, GALIC, MCC JV, and an affiliate of Golub entered into a Membership Interest Purchase Agreement pursuant to which a fund affiliated with and managed by Golub concurrently purchased all of the Company's interest in MCC JV and all of GALIC's interest in MCC JV for a pre-adjusted gross purchase price of $156.4 million and an adjusted gross purchase price (which constitutes the aggregate consideration for the membership interests) of $145.3 million (giving effect to adjustments primarily for principal and interest payments from portfolio companies of MCC JV from July 1, 2020 through October 7, 2020), resulting in net proceeds (before transaction expenses) of $41.0 million and $6.6 million for the Company and GALIC, respectively.

Due to the sale transaction on October 8, 2020, the Company no longer held an investment in MCC JV at September 30, 2021.

Below is certain summarized financial Information for MCC JV for the year ended September 30, 2020:

	For the Years Ended September 30 2020
Selected Consolidated Statement of Operations Information:	
Total revenues	$ 15,727,674
Total expenses	(9,346,799)
Net unrealized appreciation/(depreciation)	(8,203,330)
Net realized gain/(loss)	(12,851,425)
Net income/(loss)	$ (14,673,880)

Note 4. Fair Value Measurements

The Company follows ASC 820 for measuring the fair value of portfolio investments. Fair value is the price that would be received in the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Where available, fair value is based on observable market prices or parameters, or derived from such prices or parameters. Where observable prices or inputs are not available, valuation models are applied. These valuation models involve some level of management estimation and judgment, the degree of which is dependent on the price transparency for the instruments or market and the instruments' complexity. The Company's fair value analysis includes an analysis of the value of any unfunded loan commitments. Financial investments recorded at fair value in the consolidated financial statements are categorized for disclosure purposes based upon the level of judgment associated with the inputs used to measure their value. The valuation hierarchical levels are based upon the transparency of the inputs to the valuation of the investment as of the measurement date. Investments which are valued using NAV as a practical expedient are excluded from this hierarchy, and certain prior period amounts have been reclassified to conform to the current period presentation. The three levels are defined below:

- Level 1 - Valuations based on quoted prices in active markets for identical assets or liabilities at the measurement date.

- Level 2 - Valuations based on inputs other than quoted prices in active markets included in Level 1, which are either directly or indirectly observable at the measurement date. This category includes quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in non-active markets including actionable bids from third parties for privately held assets or liabilities, and observable inputs other than quoted prices such as yield curves and forward currency rates that are entered directly into valuation models to determine the value of derivatives or other assets or liabilities.

- Level 3 - Valuations based on inputs that are unobservable and where there is little, if any, market activity at the measurement date. The inputs for the determination of fair value may require significant management judgment or estimation and are based upon management's assessment of the assumptions that market participants would use in pricing the assets or liabilities. These investments include debt and equity investments in private companies or assets valued using the Market or Income Approach and may involve pricing models whose inputs require significant judgment or estimation because of the absence of any meaningful current market data for identical or similar investments. The inputs in these valuations may include, but are not limited to, capitalization and discount rates, beta and EBITDA multiples. The information may also include pricing information or broker quotes which include a disclaimer that the broker would not be held to such a price in an actual transaction. The non-binding nature of consensus pricing and/or quotes accompanied by disclaimer would result in classification as Level 3 information, assuming no additional corroborating evidence.

In addition to using the above inputs in investment valuations, the Company continues to employ a valuation policy approved by the board of directors that is consistent with ASC 820 (see Note 2). Consistent with our valuation policy, we evaluate the source of inputs, including any markets in which our investments are trading, in determining fair value.

The following table presents the fair value measurements of our investments, by major class according to the fair value hierarchy, as of September 30, 2022 (dollars in thousands):

	Fair Value Hierarchy as of September 30, 2022			
Investments:	**Level 1**	**Level 2**	**Level 3**	**Total**
Senior Secured First Lien Term Loans	$ -	$ 13,996	$ 74,252	$ 88,248
Senior Secured Second Lien Term Loans	-	-	2,607	2,607
Senior Secured Notes	-	1,659	-	1,659
Unsecured Debt	-	-	-	-
Equity/Warrants	24,750	5,877	69,816	100,443
Total	$ 24,750	$ 21,532	$ 146,675	$ 192,957

The following table presents the fair value measurements of our investments, by major class according to the fair value hierarchy, as of September 30, 2021 (dollars in thousands):

	Fair Value Hierarchy as of September 30, 2021			
Investments:	**Level 1**	**Level 2**	**Level 3**	**Total**
Senior Secured First Lien Term Loans	$ -	$ -	$ 61,934	$ 61,934
Senior Secured Second Lien Term Loans	-	-	2,490	2,490
Senior Secured Notes	-	9,270	-	9,270
Secured Debt	-	-	2,500	2,500
Equity/Warrants	23,102	-	48,889	71,991
Total	$ 23,102	$ 9,270	$ 115,813	$ 148,185
Investments measured at net asset value[(1)]				3,455
Total Investments, at fair value				$ 151,640

(1) Certain investments that are measured at fair value using NAV have not been categorized in the fair value hierarchy. The fair value amounts presented in the table are intended to permit reconciliation of the fair value hierarchy to the amount presented in the Consolidated Statements of Assets and Liabilities.

The following table provides a reconciliation of the beginning and ending balances for investments that use Level 3 inputs for the year ended September 30, 2022 (dollars in thousands):

	Senior Secured First Lien Term Loans	**Senior Secured Second Lien Term Loans**	**Secured Debt**	**Unsecured Debt**	**Equities/ Warrants[(1)]**	**Total**
Balance as of September 30, 2021	$ 61,934	$ 2,490	$ 2,500	$ -	$ 48,889	$ 115,813
Purchases and other adjustments to cost	59,179	-	-	-	71,111	130,290
Sales	(58,333)	-	-	(1,280)	(52,938)	(112,551)
Net realized gains/(losses) from investments	(23,917)	-	-	(99)	36,101	12,085
Net unrealized gains/(losses)	35,189	117	(2,500)(1)	1,379	(33,347)(1)	838
Transfer in/(out)	200	-	-	-	-	200
Balance as of September 30, 2022	$ 74,252	$ 2,607	$ -	$ -	$ 69,816	$ 146,675

(1) FlexFIN, LLC was reclassed as an Equity from Secured Debt during the quarter ended December 31, 2021.

The following table provides a reconciliation of the beginning and ending balances for investments that use Level 3 inputs for the year ended September 30, 2021 (dollars in thousands):

	Senior Secured First Lien Term Loans	Senior Secured Second Lien Term Loans	Secured Debt	Unsecured Debt	MCC Senior Loan Strategy JV I LLC	Equities/ Warrants	Total
Balance as of September 30, 2020	$ 106,463	$ 13,927	$ -	$ 2,669	$ 41,019	$ 67,397	$ 231,475
Purchases and other adjustments to cost	11,026	-	2,500	-	-	-	13,526
Sales	(28,374)	(11,892)	-	(3,070)	(39,740)	(7,635)	(90,711)
Net realized gains/(losses) from investments	(24,818)	4	-	30	(40,148)	311	(64,621)
Net unrealized gains/(losses)	(2,363)	451	-	371	38,869	(11,184)	26,144
Balance as of September 30, 2021	$ 61,934	$ 2,490	$ 2,500	$ -	$ -	$ 48,889	$ 115,813

Net change in unrealized gain (loss) for the years ended September 30, 2022 and 2021 included in earnings related to investments still held as of September 30, 2022 and 2021 was approximately $(2.5) million and $(24.3) million, respectively.

Purchases and other adjustments to cost include purchases of new investments at cost, effects of refinancing/restructuring, accretion/amortization of income from discount/premium on debt securities, and PIK.

Sales represent net proceeds received from investments sold.

A review of the fair value hierarchy classifications is conducted on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification for certain financial assets or liabilities. Reclassifications impacting Level 3 of the fair value hierarchy are reported as transfers in/out of the Level 3 category as of the beginning of the quarter in which the reclassifications occur. During the year ended September 30, 2022, $5,248 (in thousands) of investments were transferred out of Level 3 and $1,923 (in thousands) of investments were transferred into Level 3. During the year ended September 30, 2021, none of our investments transferred into or out of Level 3.

The following table presents the quantitative information about Level 3 fair value measurements of our investments, as of September 30, 2022 (dollars in thousands):

	Fair Value	Valuation Methodology	Unobservable Input	Range (Weighted Average)
Senior Secured First Lien Term Loans	$ 65,428	Market Approach	Market Yield	8.50% - 24.0% (10.57%)
Senior Secured First Lien Term Loans	3,807	Market Approach	EBITDA Multiple	4.0x - 5.0x (4.5x)
Senior Secured First Lien Term Loans	4,152	Market Approach	Revenue Multiple	0.2x - 0.3x (2.5x)
Senior Secured First Lien Term Loans	865	Market Approach	Market Spread	5.75% - 6.25% (6.00%)
Senior Secured Second Lien Term Loans	2,607	Market Approach	EBITDA Multiple	9.0x - 10.0x (9.5x)
Equity/Warrants	47,138	Cost Approach	Replacement Cost	N/A
Equity/Warrants	11,444	Market Approach	EBITDA Multiple	2.0x - 21.0x (17.4x)
Equity/Warrants	9,951	Market Approach	Market Yield	8.50% - 13.25% (12.75%)
Equity/Warrants	1,283	Market Approach	Sum of the Parts/Estimated Proceeds	8.1x - 11.4x (9.8x)
Total	**$ 146,675**			

The following table presents the quantitative information about Level 3 fair value measurements of our investments, as of September 30, 2021 (dollars in thousands):

	Fair Value	Valuation Methodology	Unobservable Input	Range (Weighted Average)
Senior Secured First Lien Term Loans	$ 25,783	Market Approach	Market Yield	7.50% - 102.38% (32.78%)
Senior Secured First Lien Term Loans	15,639	Market Approach	Arms Length Transaction	N/A
Senior Secured First Lien Term Loans	7,567	Market Approach (Guideline Comparable)	Market Yield	5.00% - 8.00% (5.55%)
Senior Secured First Lien Term Loans	4,539	Market Approach	EBITDA Multiple(1)	4.50x - 5.50x (5.00x)
Senior Secured First Lien Term Loans	3,579	Enterprise Value Analysis	Revenue Multiple(1)	0.40x - 0.50x (0.45x)
Senior Secured First Lien Term Loans	2,577	Market Approach	Capitalization Rate	4.50% - 5.50% (5.00%
			Estimated Proceeds	$1.04 - $8.10 ($4.57)
Senior Secured First Lien Term Loans	2,250	Market Approach	Revenue Multiple(1)	0.25x - 0.40x (0.33x)
Senior Secured Second Lien Term Loans	2,490	Market Approach (Guideline Comparable)	EBITDA Multiple(1)	9.75x - 10.75x (10.25x)
Secured Debt	2,500	Cost Approach	Replacement Cost	N/A
Equity/Warrants	38,939	Market Approach	EBITDA Multiple(1)	1.25x - 12.75x (12.31x)
Equity/Warrants	4,758	Market Approach	Market Yield	10.50% - 12.00% (11.25%)
Equity/Warrants	2,956	Market Approach	Revenue Multiple(1)	0.11x - 0.40x (0.16x)
Equity/Warrants	2,236	Market Approach	Capitalization Rate	4.50% - 5.50% (5.00%)
			Estimated Proceeds	$1.04 - $8.10 ($4.57)
Total	**$ 115,813**			

(1) Represents inputs used when the Company has determined that market participants would use such multiples when measuring the fair value of these investments.

The significant unobservable inputs used in the fair value measurement of the Company's debt and derivative investments are market yields. Increases in market yields would result in lower fair value measurements.

The significant unobservable inputs used in the fair value measurement of the Company's equity/warrants investments are comparable company multiples of revenue or EBITDA for the latest twelve months ("LTM"), next twelve months ("NTM") or a reasonable period a market participant would consider. Increases in EBITDA multiples in isolation would result in higher fair value measurement.

In September 2017, the Company entered into an agreement with Global Accessories Group, LLC ("Global Accessories"), in which the Company exchanged its full position in Lydell Jewelry Design Studio, LLC for a 3.8% membership interest in Global Accessories, which is included in the Consolidated Schedule of Investments. As part of the agreement, the Company is entitled to contingent consideration in the form of cash payments ("Earnout"), as well as up to an additional 5% membership interest ("AMI"), provided Global Accessories achieves certain financial benchmarks through calendar year ended 2022. The Earnout and AMI were initially recorded with an aggregate fair value of $2.4 million on the transaction date using the Income Approach and were included on the Consolidated Statements of Assets and Liabilities in other assets. The contingent consideration is remeasured to fair value at each reporting date until the contingency is resolved. Any changes in fair value will be recognized in earnings. As of September 30, 2022 and September 30, 2021, the Company deemed the contingent consideration to be uncollectible.

Note 5. Borrowings

As a BDC, we are generally only allowed to employ leverage to the extent that our asset coverage, as defined in the 1940 Act, equals at least 200% after giving effect to such leverage. The amount of leverage that we employ at any time depends on our assessment of the market and other factors at the time of any proposed borrowing.

However, in March 2018, the Small Business Credit Availability Act modified the 1940 Act by allowing a BDC to increase the maximum amount of leverage it may incur from 200% to 150%, if certain requirements under the 1940 Act are met. Under the 1940 Act, we are allowed to increase our leverage capacity if stockholders representing at least a majority of the votes cast, when a quorum is present, approve a proposal to do so. If we receive stockholder approval, we would be allowed to increase our leverage capacity on the first day after such approval. Alternatively, the 1940 Act allows the majority of our independent directors to approve an increase in our leverage capacity, and such approval would become effective after the one-year anniversary of such approval. In either case, we would be required to make certain disclosures on our website and in SEC filings regarding, among other things, the receipt of approval to increase our leverage, our leverage capacity and usage, and risks related to leverage.

As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage and therefore the Company's asset coverage was greater than 200%, the minimum asset coverage requirement applicable presently to the Company under the 1940 Act.

As of September 30, 2021, the Company's asset coverage was 285.6% after giving effect to leverage and therefore the Company's asset coverage was greater than 200%, the minimum asset coverage requirement applicable presently to the Company under the 1940 Act.

The Company's outstanding debt excluding debt issuance costs as of September 30, 2022 and 2021 was as follows (dollars in thousands):

	September 30, 2022				September 30, 2021			
	Aggregate Principal Available	Principal Amount Outstanding	Carrying Value	Fair Value	Aggregate Principal Available	Principal Amount Outstanding	Carrying Value	Fair Value
2023 Notes	$ 22,522	$ 22,522	$ 22,483	$ 22,378	$ 77,847	$ 77,847	$ 77,434	$ 79,092
2028 Notes	57,500	57,500	55,480	50,255	-	-	-	-
Total debt	$ 80,022	$ 80,022	$ 77,963	$ 72,633	$ 77,847	$ 77,847	$ 77,434	$ 79,092

Unsecured Notes

2021 Notes

On December 17, 2015, the Company issued $70.8 million in aggregate principal amount of 6.50% unsecured notes that mature on January 30, 2021 (the "2021 Notes"). On January 14, 2016, the Company closed an additional $3.25 million in aggregate principal amount of the 2021 Notes, pursuant to the partial exercise of the underwriters' option to purchase additional notes. The 2021 Notes bore interest at a rate of 6.50% per year, payable quarterly on January 30, April 30, July 30 and October 30 of each year, beginning January 30, 2016.

On October 21, 2020, the Company caused notices to be issued to the holders of the 2021 Notes regarding the Company's exercise of its option to redeem, in whole, the issued and outstanding 2021 Notes, pursuant to Section 1104 of the Indenture dated as of February 7, 2012, between the Company and U.S. Bank National Association, as trustee, and Section 101(h) of the Third Supplemental Indenture dated as of December 17, 2015. The Company redeemed $74,012,825 in aggregate principal amount of the issued and outstanding 2021 Notes on November 20, 2020 (the "Redemption Date"). The 2021 Notes were redeemed at 100% of their principal amount ($25 per 2021 Note), plus the accrued and unpaid interest thereon from October 31, 2020, through, but excluding, the Redemption Date. The Company funded the redemption of the 2021 Notes with cash on hand.

2023 Notes

On March 18, 2013, the Company issued $60.0 million in aggregate principal amount of 6.125% unsecured notes that mature on March 30, 2023 (the "2023 Notes"). On March 26, 2013, the Company closed an additional $3.5 million in aggregate principal amount of the 2023 Notes, pursuant to the partial exercise of the underwriters' option to purchase additional notes. As of March 30, 2016, the 2023 Notes may be redeemed in whole or in part at any time or from time to time at the Company's option. The 2023 Notes bear interest at a rate of 6.125% per year, payable quarterly on March 30, June 30, September 30 and December 30 of each year, beginning June 30, 2013.

On December 12, 2016, the Company entered into an "At-The-Market" ("ATM") debt distribution agreement with FBR Capital Markets & Co., through which the Company could offer for sale, from time to time, up to $40.0 million in aggregate principal amount of the 2023 Notes. The Company sold 1,573,872 of the 2023 Notes at an average price of $25.03 per note, and raised $38.6 million in net proceeds, through the ATM debt distribution agreement.

On March 10, 2018, the Company redeemed $13.0 million in aggregate principal amount of the 2023 Notes. On December 31, 2018, the Company redeemed $12.0 million in aggregate principal amount of the 2023 Notes. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.3 million and was recorded on the Consolidated Statements of Operations as a loss on extinguishment of debt.

On December 21, 2020, the Company announced that it completed the application process for and was authorized to transfer the listing of the 2023 Notes to the NASDAQ Global Market. The listing and trading of the 2023 Notes on the NYSE ceased at the close of trading on December 31, 2020. Effective January 4, 2021, the 2023 Notes began trading on the NASDAQ Global Market under the trading symbol "PFXNL."

On November 15, 2021, the Company caused notices to be issued to the holders of the 2023 Notes regarding the Company's exercise of its option to redeem $55,325,000 in aggregate principal amount of the issued and outstanding 2023 Notes on December 16, 2021. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.3 million and was recorded on the Consolidated Statements of Operations as a loss on extinguishment of debt.

2028 Notes

On November 9, 2021, the Company entered into an underwriting agreement, by and between the Company and Oppenheimer & Co. Inc., as representative of the several underwriters, in connection with the issuance and sale (the "Offering") of $57,500,000 (including the underwriters' option to purchase up to $7,500,000 aggregate principal amount) in aggregate principal amount of its 5.25% Notes that mature on November 1, 2028 (the "2028 Notes" and collectively with the 2023 Notes, the "Notes"). The Offering occurred on November 15, 2021, pursuant to the Company's effective shelf registration statement on Form N-2 previously filed with the SEC. Effective November 16, 2021, the 2028 Notes began trading on the NASDAQ Global Market under the trading symbol "PFXNZ."

On November 15, 2021, the Company and U.S. Bank National Association, as trustee, entered into a Fourth Supplemental Indenture to its base Indenture, dated February 7, 2012, between the Company and the Trustee. The Fourth Supplemental Indenture relates to the Offering of the 2028 Notes.

Secured Notes

Israeli Notes

On January 26, 2018, the Company priced a debt offering in Israel of $121.3 million of Israeli Notes (as defined below). The Israeli Notes were listed on the TASE and denominated in New Israeli Shekels, but linked to the US Dollar at a fixed exchange rate which mitigates any currency exposure to the Company.

On June 5, 2018, the Company announced that on June 1, 2018, its board of directors authorized the Company to repurchase and retire up to $20 million of the Company's outstanding Israeli Notes on the TASE.

During the quarter ended December 31, 2018, the Company exchanged $1.0 million United States Dollars to New Israeli Shekels at a rate of 3.73 USD/NIS in order to repurchase the Israeli Notes on the TASE. As the Israeli Notes were trading below par at the time of the repurchase, and the USD/NIS (foreign currency) spot rate was higher than the fixed exchange rate agreed upon in the deed of trust, the Company was able to repurchase and retire 3,812,000 units, which resulted in $1,119,201 aggregate principal amount of the Israeli Notes being retired. The redemption was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized gain of $0.1 million and was recorded on the Consolidated Statements of Operations as a gain on extinguishment of debt.

On December 31, 2019, in addition to the scheduled 12.5% quarterly amortization payment, the Company used proceeds from its principal repayments in assets held by PhenixFIN SLF and PhenixFIN Small Business Fund to pre-pay an additional $19.1 million of the Israeli Notes. The pre-payment was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.9 million and was recorded on the Consolidated Statements of Operations as a net loss on extinguishment of debt.

On March 31, 2020, in addition to the scheduled 12.5% quarterly amortization payment, the Company used proceeds from its principal repayments in assets held by PhenixFIN SLF and PhenixFIN Small Business Fund to pre-pay an additional $19.8 million of the Israeli Notes. The pre-payment was accounted for as a debt extinguishment in accordance with ASC 470-50, Modifications and Extinguishments, which resulted in a realized loss of $0.9 million and was recorded on the Consolidated Statements of Operations as a loss on extinguishment of debt.

On April 14, 2020, the Company repaid the remaining $21.1 million of Israeli Notes outstanding, and as such is no longer subject to any covenants relating thereto. The Israeli Notes were redeemed at 100% of their principal amount, plus the accrued interest thereon, through April 14, 2020.

Fair Value of Debt Obligations

The fair values of our debt obligations are determined in accordance with ASC 820, which defines fair value in terms of the price that would be paid to transfer a liability in an orderly transaction between market participants at the measurement date under current market conditions. The fair value of the Notes, which are publicly traded, is based upon closing market quotes as of the measurement date. As of September 30, 2022 and September 30, 2021, the Notes would be deemed to be Level 1 in the fair value hierarchy, as defined in Note 4.

Debt issuance costs related to the Notes are reported on the Consolidated Statements of Assets and Liabilities as a direct deduction from the face amount of the Notes. As of September 30, 2022 and September 30, 2021, debt issuance costs related to the Notes were as follows (dollars in thousands):

	September 30, 2022			September 30, 2021	
	2023 Notes	2028 Notes	Total	2023 Notes	Total
Total debt issuance costs	$ 3,102	$ 2,311	$ 5,413	$ 3,102	$ 3,102
Amortized debt issuance costs	3,063	291	3,354	2,689	$ 2,689
Unamortized debt issuance costs	$ 39	$ 2,020	$ 2,059	$ 413	$ 413

For the years ended September 30, 2022, 2021 and 2020, the components of interest expense, amortized debt issuance costs, weighted average stated interest rate and weighted average outstanding debt balance for the Notes were as follows (dollars in thousands):

	For the Years Ended September 30		
	2022	2021	2020
2021 Notes Interest	$ -	$ 668	$ 4,811
2023 Notes Interest	1,749	4,768	4,768
2023 Notes Premium	-	(3)	(3)
2028 Notes Interest	2,996	-	-
Israeli Notes Interest	-	-	2,486
Amortization of debt issuance costs	368	367	2,873
Total	$ 5,113	$ 5,800	$ 14,935
Weighted average stated interest rate	6.0%	7.0%	6.4%
Weighted average outstanding balance	$ 85,398	$ 82,930	$ 189,039

Note 6. Agreements

Investment Management Agreement

We had entered into an investment management agreement with MCC Advisors on January 11, 2011 (the "Investment Management Agreement"), which expired on December 31, 2020.

Under the terms of the Investment Management Agreement, MCC Advisors:

- determined the composition of our portfolio, the nature and timing of the changes to our portfolio and the manner of implementing such changes;
- identified, evaluated and negotiated the structure of the investments we made (including performing due diligence on our prospective portfolio companies); and
- executed, closed, monitored and administered the investments we made, including the exercise of any voting or consent rights.

MCC Advisors' services under the Investment Management Agreement were not exclusive, and it was free to furnish similar services to other entities so long as its services to us were not impaired.

Pursuant to the Investment Management Agreement, we paid MCC Advisors a fee for investment advisory and management services consisting of a base management fee and a two-part incentive fee.

On December 3, 2015, MCC Advisors recommended and, in consultation with the Board, agreed to reduce fees under the Investment Management Agreement. Beginning January 1, 2016, the base management fee was reduced to 1.50% on gross assets above $1 billion. In addition, MCC Advisors reduced its incentive fee from 20% on pre-incentive fee net investment income over an 8% hurdle, to 17.5% on pre-incentive fee net investment income over a 6% hurdle. Moreover, the revised incentive fee includes a netting mechanism and is subject to a rolling three-year look back from January 1, 2016 forward. Under no circumstances would the new fee structure result in higher fees to MCC Advisors than fees under the prior investment management agreement.

The following discussion of our base management fee and two-part incentive fee reflect the terms of the fee waiver agreement executed by MCC Advisors on February 8, 2016 (the "Fee Waiver Agreement"). The terms of the Fee Waiver Agreement were effective as of January 1, 2016 and were a permanent reduction in the base management fee and incentive fee on net investment income payable to MCC Advisors for the investment advisory and management services it provided under the Investment Management Agreement. The Fee Waiver Agreement did not change the second component of the incentive fee, which was the incentive fee on capital gains.

On January 15, 2020, the Company's board of directors, including all of the independent directors, approved the renewal of the Investment Management Agreement through the later of April 1, 2020 or so long as the Amended and Restated Agreement and Plan of Merger, dated as of July 29, 2019 (the "Amended MCC Merger Agreement"), by and between the Company and Sierra (the "Amended MCC Merger Agreement") was in effect, but no longer than a year; provided that, if the Amended MCC Merger Agreement was terminated by Sierra, then the termination of the Investment Management Agreement would be effective on the 30th day following receipt of Sierra's notice of termination to the Company. On May 1, 2020, the Company received a notice of termination of the Amended MCC Merger Agreement from Sierra. Under the Amended MCC Merger Agreement, either party was permitted, subject to certain conditions, to terminate the Amended MCC Merger Agreement if the merger was not consummated by March 31, 2020. Sierra elected to do so on May 1, 2020. As result of the termination by Sierra of the Amended MCC Merger Agreement on May 1, 2020, the Investment Management Agreement would have been terminated effective as of May 31, 2020. On May 21, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through the end of the then-current quarter, June 30, 2020. On June 12, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through September 30, 2020. On September 29, 2020, the Board, including all of the independent directors, extended the term of the Investment Management Agreement through December 31, 2020. Mr. Brook Taube, our Chairman and Chief Executive Officer through December 31, 2020 and one of our directors through January 21, 2021 and Mr. Seth Taube, one of our directors through January 21, 2021 are both affiliated with MCC Advisors and Medley.

On November 18, 2020, the Board approved the adoption of an internalized management structure effective January 1, 2021. The new management structure replaces the current Investment Management and Administration Agreements with MCC Advisors LLC, which expired on December 31, 2020. To lead the internalized management team, the Board approved the appointment of David Lorber, who had served as an independent director of the Company since April 2019, as Chief Executive Officer, and Ellida McMillan as Chief Financial Officer of the Company, each effective January 1, 2021. In connection with his appointment, Mr. Lorber stepped down from the Compensation Committee of the Board, the Nominating and Corporate Governance Committee of the Board, and the Special Committee of the Board.

Base Management Fee

Through December 31, 2020, for providing investment advisory and management services to us, MCC Advisors received a base management fee. The base management fee was calculated at an annual rate of 1.75% (0.4375% per quarter) of up to $1.0 billion of the Company's gross assets and 1.50% (0.375% per quarter) of any amounts over $1.0 billion of the Company's gross assets and was payable quarterly in arrears. The base management fee was calculated based on the average value of the Company's gross assets at the end of the two most recently completed calendar quarters. For the years ended September 30, 2021 and 2020, the Company incurred base management fees to MCC Advisors of $1.1 million and $6.4 million, respectively. Since January 1, 2021, the Company no longer incurs management fees under its current internalized structure.

Incentive Fee

Through December 31, 2020, the incentive fee had two components, as follows:

Incentive Fee Based on Income

The first component of the incentive fee was payable quarterly in arrears and was based on our pre-incentive fee net investment income earned during the calendar quarter for which the incentive fee was being calculated. MCC Advisors was entitled to receive the incentive fee on net investment income from us if our Ordinary Income (as defined below) exceeded a quarterly "hurdle rate" of 1.5%. The hurdle amount was calculated after making appropriate adjustments to the Company's net assets, as determined as of the beginning of each applicable calendar quarter, in order to account for any capital raising or other capital actions as a result of any issuances by the Company of its common stock (including issuances pursuant to our dividend reinvestment plan), any repurchase by the Company of its own common stock, and any dividends paid by the Company, each as may have occurred during the relevant quarter.

The second component of the incentive fee was determined and payable in arrears as of the end of each calendar year (or upon termination of the Investment Management Agreement as of the termination date) and equaled 20.0% of our cumulative aggregate realized capital gains less cumulative realized capital losses, unrealized capital depreciation (unrealized depreciation on a gross investment-by-investment basis at the end of each calendar year) and all capital gains upon which prior performance-based capital gains incentive fee payments were previously made to the investment adviser.

For the years ended September 30, 2022, 2021, and 2020, the Company did not incur any incentive fees on net investment income because pre-incentive fee net investment income did not exceed the hurdle amount under the formula set forth in the Investment Management Agreement. The Investment Management Agreement terminated as of December 31, 2020, and the Company no longer incurs incentive fees under the Investment Management Agreement as a result.

Administration Agreement

On January 19, 2011, the Company entered into an administration agreement with MCC Advisors. Pursuant to the administration agreement, MCC Advisors furnished us with office facilities and equipment, clerical, bookkeeping, recordkeeping and other administrative services related to the operations of the Company. We reimbursed MCC Advisors for our allocable portion of overhead and other expenses incurred by it performing its obligations under the administration agreement, including rent and our allocable portion of the cost of our Chief Financial Officer and Chief Compliance Officer and their respective staffs. From time to time, our administrator was able to pay amounts owed by us to third-party service providers and we would subsequently reimburse our administrator for such amounts paid on our behalf. In connection with the adoption by the board of directors of an internalized management structure, on November 19, 2020, the Company entered into a Fund Accounting Servicing Agreement and an Administration Servicing Agreement on customary terms with U.S. Bancorp Fund Services, LLC d/b/a U.S. Bank Global Fund Services ("U.S. Bancorp"). A U.S. Bancorp affiliate also served as the Company's custodian. The Company's administrative and custodial relationship with U.S. Bancorp terminated on August 9, 2022. SS&C Technologies, Inc. ("SS&C") has since served as administrator of the Company and has provided the Company with fund accounting and financial reporting services pursuant to the services agreement with the Company. Effective September 12, 2022, Computershare Trust Company, N.A. ("Computershare") serves as custodian for the Company pursuant to its Loan Administration and Custodial Agreement with the Company. For the years ended September 30, 2022, 2021 and 2020, we incurred $0.3 million, $0.6 million, and $2.2 million in administrator expenses, respectively.

As of September 30, 2022 and 2021, $0.1 million and $0.1 million, respectively, were included in "administrator expenses payable" in the accompanying Consolidated Statements of Assets and Liabilities.

Expense Support Agreement

On June 12, 2020, the Company entered into an expense support agreement (the "Expense Support Agreement") with MCC Advisors and Medley LLC, pursuant to which MCC Advisors and Medley LLC agreed (jointly and severally) to cap the management fee and all of the Company's other operating expenses (except interest expenses, certain extraordinary strategic transaction expenses and other expenses approved by the Special Committee (as defined in Note 10)) at $667,000 per month (the "Cap"). Under the Expense Support Agreement, the Cap became effective on June 1, 2020. On September 29, 2020, the board of directors, including all of the independent directors, extended the term of the Expense Support Agreement through the end of quarter ending December 31, 2020. The Expense Support Agreement expired by its terms at the close of business on December 31, 2020, in connection with the adoption of the internalized management structure by the board of directors.

2022 Long-Term Cash Incentive Plan

On May 9, 2022, the board of directors of the Company adopted the PhenixFIN 2022 Long-Term Cash Incentive Plan (the "CIP") pursuant to the recommendation by the Compensation Committee of the board of directors. The CIP provides for performance-based cash awards to key employees of the Company, as approved by the Compensation Committee, based on the achievement of pre-established financial goals for the approved performance period. The performance goals may be expressed as one or a combination of net asset value of the Company, net asset value per share of the Company's common stock, changes in the market price of shares of the Company's common stock, individual performance metrics and/or such other goals and objectives the Committee considers relevant in connection with accomplishing the purposes of the CIP.

In connection with the approval of the CIP, the Compensation Committee approved awards for the three year performance period commencing on January 1, 2022 and ending on December 31, 2024. Each participant is eligible to receive an amount of cash equal to 0%-200% of the target award set forth in the table below ("Target Performance Award"), based on the achievement of net asset value ("NAV") and NAV per share goals (weighted at 30% and 70%, respectively) as of the end of the performance period (the "Performance Goals"). Performance is evaluated separately for each Performance Goal. No payment is made with respect to a Performance Goal if a threshold level of performance is not achieved. Each Performance Goal is subject to (i) a threshold level of performance at which 50% of the Target Performance Award attributable to that Performance Goal may be paid and below which no payment is made pursuant to an Award, (ii) a target level of performance at which 100% of the Target Performance Award attributable to that Performance Goal may be paid and (iii) a maximum level of performance, at which 200% of the Target Performance Award attributable to that Performance Goal may be paid, in each case subject to such other terms and conditions of an Award. Between threshold, target and maximum performance levels for each Performance Goal, the portion of that Award attributed to the Performance Goal shall be interpolated in a linear progression. During the year ended September 30, 2022, no accrual was recorded for this plan.

The Target Performance Award for each executive officer is set forth in the table below:

Name and Title	Dollar Value of Target Award
David Lorber, Chairman of the Board and Chief Executive Officer	$ 890,000
Ellida McMillan, Chief Financial Officer	380,000

Note 7. Related Party Transactions

Due to Affiliate

Due to affiliate at September 30, 2021 consisted of funds received by the Company on behalf of an affiliate.

Due from Affiliates

Due from affiliates at September 30, 2022 consists of certain legal and general and administrative expenses paid by the Company on behalf of two affiliates.

Note 8. Commitments

Insurance Reimbursements Related to Professional Fees

The Company has received insurance proceeds under its insurance policy primarily relating to the legal expenses associated with the dismissed stockholder class action, captioned as FrontFour Capital Group LLC, et al. v Brook Taube et al. During the years ended September 30, 2022, 2021 and 2020, the Company received insurance proceeds of $0, $2.1 million and $6.1 million, respectively. The reimbursements have been recorded as an offset or reduction in professional fees and expenses on the Consolidated Statements of Operations.

Unfunded commitments

As of September 30, 2022 and 2021, we had commitments under loan and financing agreements to fund up to $6.0 million to six portfolio companies and $4.9 million to six portfolio companies, respectively. These commitments are primarily composed of senior secured term loans and revolvers, and the determination of their fair value is included in the Consolidated Schedule of Investments. The commitments are generally subject to the borrowers meeting certain criteria such as compliance with covenants and certain operational metrics. The terms of the borrowings and financings subject to commitment are comparable to the terms of other loan and equity securities in our portfolio. A summary of the composition of the unfunded commitments as of September 30, 2022 and 2021 is shown in the table below (dollars in thousands):

	September 30, 2022	September 30, 2021
SS Acquisition, LLC (dba Soccer Shots Franchising) - Senior Secured First Lien Delayed Draw Term Loan	$ 4,000	$ -
Kemmerer Operations, LLC - Senior Secured First Lien Delayed Draw Term Loan	908	908
1888 Industrial Services, LLC - Revolving Credit Facility	216	1,078
Secure Acquisition Inc. (dba Paragon Films) - Senior Secured First Lien Delayed Draw Term Loan	517	-
NVTN LLC - Senior Secured First Lien Delayed Draw Term Loan	220	220
Black Angus Steakhouses, LLC Senior Secured First Lien Super Priority Delayed Draw Term Loan	167	167
Redwood Services Group, LLC - Revolving Credit Facility	-	1,575
Alpine SG, LLC - Revolving Credit Facility	-	1,000
Total unfunded commitments	$ 6,028	$ 4,948

Lease obligations

Effective January 1, 2019, ASC 842 required that a lessee evaluate its leases to determine whether they should be classified as operating or financing leases. PhenixFIN identified one operating lease for its office space. The lease commenced September 1, 2021 and expires November 30, 2026.

Upon entering into the lease on September 1, 2021, PhenixFIN recorded a right-of-use asset and a lease liability as of that date.

Total operating lease cost incurred by PhenixFIN for the year ended September 30, 2022 was $129,552. During the year ended September 30, 2021, the Company made a security deposit of $72,000 and prepaid rent of $12,000 and no operating lease costs were incurred. As of September 30, 2022 and 2021, the asset related to the operating lease was $513,142 and $613,500, respectively, and is included in the Other assets balance on the Consolidated Balance Sheet. The lease liability was $570,695 and $613,500, respectively, and is included in the Other liabilities balance on the Consolidated Balance Sheet. As of September 30, 2022 and 2021, the remaining lease term was approximately four and five years, respectively, and the implied borrowing rate was 5.25% for each of the respective periods.

The following table shows future minimum payments under PhenixFIN's operating lease as of September 30, 2022:

For the Years Ended September 30,	**Amount**
2023	$ 147,960
2024	152,399
2025	156,971
2026	161,680
2027	27,417
Thereafter	-
	646,427
Difference between undiscounted and discounted cash flows	(75,732)
	$ 570,695

Note 9. Fee Income

Fee income consists of origination/closing fees, amendment fees, prepayment penalty and other miscellaneous fees which are non-recurring in nature, as well as administrative agent fees, which are recurring in nature. The following table summarizes the Company's fee income for the years ended September 30, 2022, 2021 and 2020 (dollars in thousands):

	For the Years Ended September 30		
	2022	2021	2020
Administrative agent fee	$ 94	$ 414	$ 192
Prepayment fee	235	-	139
Amendment fee	4	94	171
Other fees	87	2,059	90
Origination fee	-	-	101
Fee income	$ 420	$ 2,567	$ 693

Note 10. Directors Fees

For each of calendar year 2021 and 2022, the Company's independent directors each receive an annual fee of $100,000. In addition, the lead independent director receives an annual retainer of $30,000; the chair of the Audit Committee receives an annual retainer of $25,000, and each of its other members receives an annual retainer of $12,500; and the chairs of the Nominating and Corporate Governance Committee and of the Compensation Committee each receive an annual retainer of $15,000 and each of the other members of these committees receive annual retainers of $8,000. The Company's independent directors also receive a fee of $3,000 for each board meeting and $2,500 for each committee meeting that they attend. For calendar year 2020, the Company's independent directors each received an annual fee of $90,000. They also received $3,000, plus reimbursement of reasonable out-of-pocket expenses incurred in connection with attending each board meeting, and $2,500, plus reimbursement of reasonable out-of-pocket expenses incurred in connection with attending each Audit Committee, Nominating and Corporate Governance Committee, Transition Committee and Compensation Committee meeting. The chair of the Audit Committee received an annual fee of $25,000 and the chair of the Nominating and Corporate Governance Committee and the Compensation Committee received an annual fee of $10,000 for their additional services in these capacities. In addition, other members of the Audit Committee received an annual fee of $12,500, and other members of the Nominating and Corporate Governance Committee and the Compensation Committee received an annual fee of $6,000.

No board service compensation is paid to directors who are "interested persons" of the Company (as such term is defined in the 1940 Act). For the years ended September 30, 2022, 2021 and 2020, the Company recognized $0.7 million, $1.0 million, and $1.5 million for directors' fees expense, respectively.

Note 11. Earnings Per Share

In accordance with the provisions of ASC Topic 260 - Earnings per Share, basic earnings per share is computed by dividing earnings available to common stockholders by the weighted average number of shares outstanding during the period. Other potentially dilutive common shares, and the related impact to earnings, are considered when calculating earnings per share on a diluted basis. The Company does not have any potentially dilutive common shares as of September 30, 2022, 2021 and 2020.

The following information sets forth the computation of the weighted average basic and diluted net increase/(decrease) in net assets per share from operations for the years ended September 30, 2022, 2021 and 2020 (dollars in thousands, except share and per share amounts):

	For the Years Ended September 30		
	2022	2021	2020
Basic and diluted:			
Net increase (decrease) in net assets resulting from operations	$ (6,107)	$ 1,278	$ (65,813)
Weighted average shares of common stock outstanding - basic and diluted	2,323,601	2,677,891	2,723,709
Earnings (loss) per share of common stock - basic and diluted	$ (2.63)	$ 0.48	$ (24.16)

Note 12. Financial Highlights

The following is a schedule of financial highlights for the years ended September 30, 2022, 2021, 2020, 2019 and 2018:

	For the Years Ended September 30				
	2022	**2021**	**2020**	**2019**	**2018**
Per share data					
Net Asset Value per share at Beginning of Period	$ 57.08	$ 55.30	$ 79.46	$ 117.92	$ 169.04
Results of Operations:					
Net Investment Income/(Loss)[1]	1.48	6.92	(1.00)	(7.66)	4.55
Net Realized Gain/(Loss) on Investments	2.24	(15.86)	(18.35)	(41.18)	(32.76)
Net Unrealized Gain/(Loss) on Investments	(6.22)	9.47	(3.90)	14.13	(11.82)
Change in provision for deferred taxes on unrealized appreciation/(depreciation) on investments	-	-	-	-	0.17
Net loss on extinguishment of debt	(0.13)	(0.05)	(0.91)	(0.75)	(0.87)
Net Increase (Decrease) in Net Assets Resulting from Operations	(2.63)	0.48	(24.16)	(35.46)	(40.73)
Capital Share Transactions					
Distributions from net investment income	(0.12)	-	-	(3.00)	(10.40)
Repurchase of common stock under stock repurchase program	3.16	1.30	-	-	-
Other[4]	-	-	-	-	0.01
Net Increase (Decrease) Resulting from Capital Share Transactions	3.04	1.30	-	(3.00)	(10.39)
Net Asset Value per share at End of Period	$ 57.49	$ 57.08	$ 55.30	$ 79.46	$ 117.92
Net Assets at End of Period	120,845,408	$ 143,693,981	$ 150,619,517	$ 216,432,530	$ 321,178,727
Shares Outstanding at End of Period	2,102,129	2,517,221	2,723,709	2,723,709	2,723,709
Per share market value at end of period	$ 34.88	$ 42.90	$ 17.83	$ 51.80	$ 76.40
Total return based on market value[2]	(18.69)%	140.61%	(65.58)%	(29.91)%	(27.82)%
Total return based on net asset value[3]	(15.90)%	(4.60)%	(30.41)%	(29.47)%	(21.29)%
Portfolio turnover rate	69.43%	24.97%	5.66%	11.93%	26.46%

The following is a schedule of ratios and supplemental data for the years ended September 30, 2022, 2021, 2020, 2019 and 2018:

Ratios:					
Ratio of net investment/(loss) income to average net assets after waivers, discounts and reimbursements[5]	2.55%	12.44%	(1.64)%	(7.96)%	3.37%
Ratio of total expenses to average net assets after waivers, discounts and reimbursements[5]	9.02%	9.26%	14.64%	25.62%	14.77%
Ratio of incentive fees to average net assets after waivers[5]	0.00%	0.00%	0.00%	0.00%	0.00%
Supplemental Data:					
Ratio of net operating expenses and credit facility related expenses to average net assets[5][11]	9.02%	9.26%	15.07%	25.62%	14.77%
Percentage of non-recurring fee income[6]	2.70%	7.94%	2.33%	4.29%	5.78%
Average debt outstanding[7]	85,397,690	82,930,098	189,038,998	347,991,878	451,590,779
Average debt outstanding per common share	36.75	30.97	69.40	127.76	165.80
Asset coverage ratio per unit[8]	2,550	2,856	1,992	1,842	2,126
Total Debt Outstanding[12]					
2021 Notes[10]	-	-	74,012,825	74,012,825	74,012,825
2023 Notes	22,521,800	77,846,800	77,846,800	77,846,800	89,846,800
2028 Notes	57,500,000	-	-	-	-
Israeli Notes[9]	-	-	-	105,136,927	121,275,690
SBA Debentures	-	-	-	-	135,000,000
Average market value per unit:					
2021 Notes[10]	N/A	N/A	23.61	24.82	25.48
2023 Notes	25.10	24.94	21.68	24.28	25.02
2028 Notes	24.17	N/A	N/A	N/A	N/A
Israeli Notes[9]	N/A	N/A	N/A	254.43	273.95

(1) Net investment income/(loss) excluding management and incentive fee waivers, discounts and reimbursements based on total weighted average common stock outstanding equals $1.48, $6.92, $(3.35), $(7.66), and $4.41 per share for the years ended September 30, 2022, 2021, 2020, 2019, and 2018, respectively.
(2) Total return is historical and assumes changes in share price, reinvestments of all dividends and distributions at prices obtained under the Company's dividend reinvestment plan, and no sales charge for the period.
(3) Total return is historical and assumes changes in NAV, reinvestments of all dividends and distributions at prices obtained under the Company's dividend reinvestment plan, and no sales charge for the period.
(4) Represents the impact of the different share amounts used in calculating per share data as a result of calculating certain per share data based upon the weighted average basic shares outstanding during the period and certain per share data based on the shares outstanding as of a period end or transaction date.
(5) For the year ended September 30, 2022, prior to the effect of Expense Support Agreement, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is 2.55%, 9.02%, 0.00%, and 9.02%, respectively.
For the year ended September 30, 2021, prior to the effect of Expense Support Agreement, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is 12.44%, 9.26%, 0.00%, and 9.26%, respectively.
For the year ended September 30, 2020, excluding management and incentive fee waivers, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is (5.94)%, 18.94%, 0.00%, and 18.94%, respectively.
For the year ended September 30, 2019, excluding management and incentive fee waivers, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is (7.96)%, 25.62%, 0.00%, and 25.62%, respectively.
For the year ended September 30, 2018, excluding management and incentive fee waivers, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is 3.26%, 14.88%, 0.00%, and 14.88%, respectively.
For the year ended September 30, 2017, excluding management and incentive fee waivers, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is 7.48%, 12.37%, 0.18%, and 12.18%, respectively.
For the year ended September 30, 2019, excluding management and incentive fee waivers, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is (7.96)%, 25.62%, 0.00%, and 25.62%, respectively.
For the year ended September 30, 2018, excluding management and incentive fee waivers, the ratio of net investment income/(loss), total expenses, incentive fees, and operating expenses and credit facility related expenses to average net assets is 3.26%, 14.88%, 0.00%, and 14.88%, respectively.
(6) Represents the impact of the non-recurring fees as a percentage of total investment income.
(7) Based on daily weighted average carrying value of debt outstanding during the period.
(8) Asset coverage per unit is the ratio of the carrying value of our total consolidated assets, less all liabilities and indebtedness not represented by senior securities, to the aggregate amount of senior securities representing indebtedness. Asset coverage per unit is expressed in terms of dollar amounts per $1,000 of indebtedness.
As of September 30, 2022, the Company's asset coverage was 255.0% after giving effect to leverage and therefore the Company's asset coverage was above 200%, the minimum asset coverage requirement under the 1940 Act.
(9) During the year ended September 30, 2020, the Israeli Notes were redeemed in full and ceased trading on the TASE on April 14, 2020.
(10) During the year ended September 30, 2021, the 2021 Notes were redeemed in full and ceased trading on November 20, 2020. The average price for the year ended September 30, 2021 reflects the period from October 1, 2020 through November 20, 2020.
(11) Excludes incentive fees.
(12) Total amount of each class of senior securities outstanding at the end of the period excluding debt issuance costs.

Note 13. Dividends

Dividends and distributions to common stockholders are recorded on the ex-dividend date. The amount to be paid out as a dividend is determined by our board of directors.

We have adopted an "opt out" dividend reinvestment plan for our common stockholders. As a result, if we declare a cash dividend or other distribution, each stockholder that has not "opted out" of our dividend reinvestment plan will have its dividends automatically reinvested in additional shares of our common stock rather than receiving cash dividends. Stockholders who receive distributions in the form of shares of common stock will be subject to the same federal, state and local tax consequences as if they received cash distributions.

The Company did not make any regular distribution payments during the years ended September 30, 2022, 2021 and 2020. A special dividend was declared in the amount of $265,798 on June 24, 2022 payable on July 13, 2022 to Stockholders of record on July 5, 2022.

Note 14. Share Transactions

On January 11, 2021, the Company announced that its board of directors approved a share repurchase program.

On February 9, 2022, the Board of Directors approved the expansion of the amount authorized for repurchase under the Company's share repurchase program from $15 million to $25 million.

The following table sets forth the number of shares of common stock repurchased by the Company at an average price of $38.24 per share under its share repurchase program from February 10, 2021 through September 29, 2022:

Month Ended	Shares Repurchased	Repurchase Price Per Share	Aggregate Consideration for Repurchased Shares
February 2021	13,082	$30.25 - $30.96	$ 397,384
March 2021	12,241	$30.25 - $34.42	393,938
April 2021	14,390	$33.11 - $34.89	491,469
May 2021	25,075	$34.56 - $39.93	976,440
August 2021	141,700	$41.03 - $42.28	5,944,213
January 2022	7,312	$39.07 - $40.88	293,756
February 2022	170,589	$39.53 - $41.00	6,908,864
March 2022	132,054	$39.24 - $40.57	5,306,885
April 2022	2,942	$39.07 - $41.00	117,758
May 2022	3,391	$37.70 - $39.78	131,338
June 2022	3,515	$37.28 - $39.19	135,063
July 2022	700	$36.40 - $37.23	25,864
August 2022	3,081	$28.24 - $37.79	112,456
September 2022	91,508	$36.80 - $37.50	3,443,845
Total	621,580		$ 24,679,273

As of September 30, 2022, 94,589 shares were settled and administratively in the process of transferring to treasury. The Company funded additional share repurchases of 300 shares with a total cost of approximately $10,800 on September 30, 2022, which had not settled as of September 30, 2022.

Note 15. Subsequent Events

Management has evaluated subsequent events through the date of issuance of the consolidated financial statements included herein. Other than the items disclosed herein, there have been no subsequent events that occurred during such period that would require disclosure in this Form 10-K or would be required to be recognized in the Consolidated Financial Statements as of and for the year ended September 30, 2022.

Under the share repurchase program, the Company repurchased an aggregate of 2,105 shares of common stock through December 15, 2022 with a total cost of approximately $74,000, of which 100 shares with a total cost of approximately $3,000 had not settled as of December 15, 2022.

On December 15, 2022, the Company and its wholly-owned subsidiaries executed a three-year, $50 million revolving credit facility (the "Credit Facility") with WoodForest Bank, N.A. ("WoodForest"), Valley National Bank, and Axiom Bank, (collectively, the "Lenders"). WoodForest is the administrative agent, sole bookrunner and sole lead arranger. The Company is set to borrow $50 million under the Credit Facility thirty days following execution.

Outstanding loans under the Credit Facility will bear a monthly interest rate at Term SOFR + 2.90%. The Company is also subject to a commitment fee of 0.25%, which shall accrue on the actual daily amount of the undrawn portion of the revolving credit. The Credit Facility contains customary representations and warranties and affirmative and negative covenants. The Credit Facility contains customary events of default for credit facilities of this type, including (without limitation): nonpayment of principal, interest, fees or other amounts after a stated grace period; inaccuracy of material representations and warranties; change of control; violations of covenants, subject in certain cases to stated cure periods; and certain bankruptcies and liquidations. If an event of default occurs and is continuing, the Company may be required to repay all amounts outstanding under the Credit Facility.

In addition, the Company has entered into a Pledge and Security Agreement with the Lenders pursuant to which the Company and its wholly owned subsidiaries have pledged all their assets, including the cash and securities held in the Company's custodial account with Computershare Trust Company, N.A., as collateral for any borrowings made by the Company pursuant to the Credit Agreement. The Lenders have the typical rights and remedies of a secured lender under the Uniform Commercial Code, including the right to foreclose on the collateral pledged by the Company.

On December 15, 2022, the Company caused notices to be issued to the holders of its 2023 Notes (CUSIP No. 71742W 202; NASDAQ: PFXNL) regarding the Company's exercise of its option to redeem $22,521,800 in aggregate principal amount of issued and outstanding 2023 Notes, comprising all issued and outstanding 2023 Notes, at a price equal to 100% of the principal amount of the 2023 Notes, plus accrued and unpaid interest thereon from September 30, 2022, through, but excluding, January 17, 2023 in accordance with the terms of the indenture governing the 2023 Notes. The Company expects the redemption to be completed on January 17, 2023. The Company intends to fund the redemption of the 2023 Notes with loans obtained under the Credit Facility, as described earlier in this section. This Form 10-K does not constitute a notice of redemption of the 2023 Notes. A copy of the notice of redemption is attached to this Form 10-K as Exhibit 99.1 and is incorporated herein by reference.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

(a) Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2022. The term "disclosure controls and procedures" is defined under Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934 (the "Exchange Act"), as amended. Based on the evaluation of our disclosure controls and procedures as of September 30, 2022, our Chief Executive Officer and Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were effective.

(b) Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal controls over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act). Under the supervision of our Chief Executive Officer and Chief Financial Officer, our management conducted an evaluation of the effectiveness of our internal controls over financial reporting based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based on our management's evaluation under the framework in *Internal Control—Integrated Framework*, management concluded that our internal controls over financial reporting were effective as of September 30, 2022.

Because of its inherent limitations, internal controls over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

(c) Changes in Internal Controls Over Financial Reporting

There were no changes in our internal controls over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by Item 10 is hereby incorporated by reference from our definitive Proxy Statement relating to our 2023 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission within 120 days following the end of our fiscal year ended September 30, 2022.

Item 11. Executive Compensation

The information required by Item 11 is hereby incorporated by reference from our definitive Proxy Statement relating to our 2023 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission within 120 days following the end of our fiscal year ended September 30, 2022.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by Item 12 is hereby incorporated by reference from our definitive Proxy Statement relating to our 2023 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission within 120 days following the end of our fiscal year ended September 30, 2022.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by Item 13 is hereby incorporated by reference from our definitive Proxy Statement relating to our 2023 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission within 120 days following the end of our fiscal year ended September 30, 2022.

Item 14. Principal Accountant Fees and Services

The information required by Item 14 is hereby incorporated by reference from our definitive Proxy Statement relating to our 2023 Annual Meeting of Stockholders, to be filed with the Securities and Exchange Commission within 120 days following the end of our fiscal year ended September 30, 2022.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) The following documents are filed as part of this Annual Report:

The following financial statements are set forth in Item 8:

(b) Exhibits:

3.1	Certificate of Incorporation (Incorporated by reference to Exhibit 99.A.3 to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-166491), filed on November 23, 2010).
3.2	Certificate of Amendment to the Certificate of Incorporation (Incorporated by reference to the Current Report on Form 8-K filed on July 13, 2020).
3.3	Certificate of Amendment to Certificate of Incorporation (Incorporated by reference to the Current Report on Form 8-K filed December 28, 2020).
3.4	Form of Bylaws (Incorporated by reference to Exhibit 99.B.3 to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-166491), filed on November 23, 2010).
3.5	Amendment No. 1 to Bylaws (Incorporated by reference to the Current Report on Form 8-K filed February 7, 2019).
3.6	Amendment No. 2 to Bylaws (Incorporated by reference to the Current Report on Form 8-K filed December 28, 2020).
3.7	Amendment No. 3 to the Bylaws (Incorporated by reference to the Current Report on Form 8-K filed February 16, 2021.)
4.1	Form of Stock Certificate (Incorporated by reference to Exhibit 99.D to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-166491), filed on November 23, 2010).
4.2	Indenture, dated February 7, 2012, between Medley Capital Corporation and U.S. Bank National Association, as Trustee (Incorporated by reference to Exhibit 99.D.2 to the Registrant's Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-179237), filed on February 13, 2012).
4.3	First Supplemental Indenture, dated March 21, 2012, between Medley Capital Corporation and U.S. Bank National Association, as Trustee (Incorporated by reference to Exhibit 99.D.4 to the Registrant's Post-Effective Amendment No. 2 to the Registration Statement on Form N-2 (File No. 333-179237), filed on March 21, 2012).
4.4	Second Supplemental Indenture, dated March 18, 2013, between Medley Capital Corporation and U.S. Bank National Association, as Trustee (Incorporated by reference to Exhibit 99.D.4 to the Registrant's Post-Effective Amendment No. 7 to the Registration Statement on Form N-2 (File No. 333-179237), filed on March 15, 2013).
4.5	Third Supplemental Indenture, dated December 17, 2015, between Medley Capital Corporation and U.S. Bank National Association, as Trustee (Incorporated by reference to Exhibit 99.D.6 to the Registrant's Post-Effective Amendment No. 11 to the Registration Statement on Form N-2 (File No. 333-187324), filed December 17, 2015).
4.6	Description of PhenixFIN Corporation's securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 (Incorporated by reference to the Registrant's Pre-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File No. 333-258913), filed on October 15, 2021.
10.1	Form of Custody Agreement (Incorporated by reference to Exhibit 99.J.1 to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-166491), filed on November 23, 2010).

10.2	Form of Dividend Reinvestment Plan (Incorporated by reference to Exhibit 99.E to the Registrant's Pre-effective Amendment No. 3 to the Registration Statement on Form N-2 (File No. 333-166491), filed on November 23, 2010).
10.3	Settlement Term Sheet, dated April 15, 2019 (Incorporated by reference to the Current Report on Form 8-K, filed on April 17, 2019).
10.4	Stipulation of Settlement, dated July 29, 2019, by and among Medley Capital Corporation, Brook Taube, Seth Taube, Jeff Tonkel, Mark Lerdal, Karin Hirtler-Garvey, John E. Mack, Arthur S. Ainsberg, Medley Management Inc., MCC Advisors LLC, Medley LLC and Medley Group LLC, on the one hand, and FrontFour Capital Group LLC and FrontFour Master Fund, Ltd., on behalf of themselves and a class of similarly situated stockholders of Medley Capital Corporation, on the other hand, in connection with the action styled In re Medley Capital Corporation Stockholder Litigation, Cons. C.A. No. 2019-0100-KSJM (Incorporated by reference to the Current Report on Form 8-K, filed on August 2, 2019).
10.5	Governance Agreement, dated July 29, 2019, by and among, Medley Capital Corporation, on the one hand, and FrontFour Capital Group LLC, FrontFour Master Fund, Ltd., FrontFour Capital Corp., FrontFour Opportunity Fund, David A. Lorber, Stephen E. Loukas and Zachary R. George, on the other hand (Incorporated by reference to the Current Report on Form 8-K, filed on August 2, 2019).
10.6	Standstill Agreement, dated as of August 19, 2020, by and between the Medley Capital Corporation and Howard Amster and the other persons and entities identified therein (Incorporated by reference to the Current Report on Form 8-K filed on August 21, 2020).
10.7	Fund Accounting Servicing Agreement, dated November 19, 2020, by and between Medley Capital Corporation and U.S. Bancorp Fund Services, LLC (Incorporated by reference to Exhibit 10.16 to the Annual Report on Form 10-K filed on December 11, 2020).
10.8	Administration Servicing Agreement, dated November 19, 2020, by and between Medley Capital Corporation and U.S. Bancorp Fund Services, LLC (Incorporated by reference to Exhibit 10.17 to the Annual Report on Form 10-K filed on December 11, 2020).
10.9*	Services Agreement, dated August 9, 2022, by and between PhenixFIN Corp. and SS&C Technologies, Inc.
10.10*	Loan Administration and Custodial Agreement, dated September 12, 2022 by and between PhenixFIN Corp. and Computershare Trust Company, N.A.
10.11*	Credit Agreement, dated December 15, 2022 by and between PhenixFIN Corporation and Woodforest National Bank
10.12*	Pledge and Security Agreement, dated December 15, 2022 by and between PhenixFIN Corporation and Woodforest National Bank
14.1	Code of Ethics & Insider Trading Policy of the Registrant (Incorporated by reference to Exhibit 99.R to the Registrant's Registration Statement on Form N-2 (File No. 333-258913), filed on August 19, 2021.
21.1	List of Subsidiaries (Incorporated by reference to Exhibit 21.1 of the Quarterly Report on Form 10-Q filed on February 10, 2022)
31.1*	Certification of Chief Executive Officer pursuant to Rule 13a-14 of the Securities Exchange Act of 1934, as amended.
31.2*	Certification of Chief Financial Officer pursuant to Rule 13a-14 of the Securities Exchange Act of 1934, as amended.
32.1*	Certification of Chief Executive Officer and Chief Financial Officer pursuant to section 906 of The Sarbanes-Oxley Act of 2002.
99.1*	Notice of Redemption to the Holders of the 6.125% Senior Notes due 2023, dated December 15, 2022
99.2*	FlexFIN, LLC Audited Financial Statements for the Year Ended September 30, 2022

* Filed herewith.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: December 16, 2022

PhenixFIN Corporation

By /s/ David Lorber
David Lorber
Chief Executive Officer
(Principal Executive Officer)

By /s/ Ellida McMillan
Ellida McMillan
Chief Financial Officer
(Principal Accounting and Financial Officer)

In accordance with the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the following capacities on December 16, 2022.

/s/ David Lorber David Lorber	Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)
/s/ Ellida McMillan Ellida McMillan	Chief Financial Officer (Principal Accounting and Financial Officer)
/s/ Arthur S. Ainsberg Arthur S. Ainsberg	Director
/s/ Karin Hirtler-Garvey Karin Hirtler-Garvey	Director
/s/ Lowell Robinson Lowell Robinson	Director
/s/ Howard Amster Howard Amster	Director

CONFIDENTIAL

Services Agreement

This Services Agreement (the "Agreement") is entered into and effective as of August 1, 2022 (the "Effective Date") by and among:

1. **SS&C Technologies, Inc.**, a corporation incorporated in the State of Delaware ("SS&C"); and

2. **PhenixFIN Corporation**, a corporation incorporated in the State of Delaware and a closed-end investment company that has elected to be regulated as a business development company under the Investment Company Act of 1940, as amended ("1940 Act") ("Client").

SS&C and Client each may be referred to individually as a "Party" or collectively as "Parties."

1. Definitions; Interpretation

1.1. As used in this Agreement, the following terms have the following meanings:

(a) "Action" means any civil, criminal, regulatory or administrative lawsuit, allegation, demand, claim, counterclaim, action, dispute, sanction, suit, request, inquiry, investigation, arbitration or proceeding, in each case, made, asserted, commenced or threatened by any Person (including any Government Authority).

(b) "Affiliate" means, with respect to any Person, any other Person that is controlled by, controls, or is under common control with such Person and "control" of a Person means: (i) ownership of, or possession of the right to vote, more than 25% of the outstanding voting equity of that Person or (ii) the right to control the appointment of the board of directors or analogous governing body, management or executive officers of that Person.

(c) "Business Day" means a day other than a Saturday or Sunday on which the New York Stock Exchange is open for business.

(d) "Claim" means any Action arising out of the subject matter of, or in any way related to, this Agreement, its formation or the Services.

(e) "Client Data" means all data of Client, including data related to securities trades and other transaction data, investment returns, issue descriptions, and Market Data provided by Client and all output and derivatives thereof, necessary to enable SS&C to perform the Services, but excluding SS&C Property.

(f) "Confidential Information" means any information about Client or SS&C, including this Agreement, except for information that (i) is or becomes part of the public domain without breach of this Agreement by the receiving Party, (ii) was rightfully acquired from a third party, or is developed independently, by the receiving Party, or (iii) is generally known by Persons in the technology, securities, or financial services industries.

(g) "Data Supplier" means a supplier of Market Data.

(h) "DPA" means the Cayman Islands Data Protection Act (2021 Revision), as it may be revised from time to time ("Act"), together with any applicable regulations made under the Act.

(i) "EU GDPR" means the General Data Protection Regulation, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, the effective date of which is 25 May 2018, including any applicable data protection legislation or regulations or standard contractual clauses supplementing it in those jurisdictions in which relevant services are provided to Client by SS&C from time to time. "processor", "controller", "personal data" and "personal data breach" have the meanings given in Article 4 (Definitions) of GDPR and Section 2 of DPA, as applicable. For the purpose of this Agreement, "personal data" includes EU Personal Data and UK Personal Data (as defined in this section 1.1) as applicable.

(j) "EU Personal Data" means any personal data to the extent that EU GDPR applies to the processing of such personal data or the extent that a data subject is a resident of the EU or the EEA.

(k) "GDPR" means the EU GDPR and the UK GDPR, as applicable.

(l) "Governing Documents" means the constitutional documents of an entity and any offering memorandum, subscription materials and other disclosure documents utilized by Client in connection with the offering of any of its securities or interests to investors, all as amended from time to time, and minutes of meeting of the board of directors or analogous governing body and of shareholder meetings that document approved changes to the foregoing documents that are relevant to the Services performed by SS&C.

(m) "Government Authority" means any relevant administrative, judicial, executive, legislative or other governmental or intergovernmental entity, department, agency, commission, board, bureau or court, and any other regulatory or self-regulatory organizations, in any country or jurisdiction.

(n) "Law" means statutes, rules, regulations, interpretations and orders of any Government Authority.

(o) "Losses" means any and all compensatory, direct, indirect, special, incidental, consequential, punitive, exemplary, enhanced or other damages, settlement payments, attorneys' fees, costs, damages, charges, expenses, interest, applicable taxes or other losses of any kind.

(p) "Market Data" means third party market and reference data, including pricing, valuation, security master, corporate action and related data.

(q) "Person" means any natural person or corporate or unincorporated entity or organization and that person's personal representatives, successors and permitted assigns.

(r) "Services" means the services listed in Schedule A.

(s) "SS&C Associates" means SS&C and each of its Affiliates, members, shareholders, directors, officers, partners, employees, agents, successors or assigns.

(t) "SS&C Property" means all hardware, software, source code, data, report designs, spreadsheet formulas, information gathering or reporting techniques, know-how, technology and all other property commonly referred to as intellectual property used by SS&C in connection with its performance of the Services.

(u) "Third Party Claim" means a Claim (i) brought by any Person other than the indemnifying Party or (ii) brought by a Party on behalf of or that could otherwise be asserted by a third party.

(v) "UK GDPR" means the Data Protection Act 2018 and the EU GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019, in each case, to the extent applicable to SS&C in the provision of Services under this Agreement.

(w) "UK Personal Data" means any personal data to the extent that UK GDPR applies to the processing of such personal data or the extent that a data subject is a resident of the United Kingdom.

1.2. Other capitalized terms used in this Agreement but not defined in this Section 1 shall have the meanings ascribed thereto.

1.3. Section and Schedule headings shall not affect the interpretation of this Agreement. This Agreement includes the schedules and appendices hereto. In the event of a conflict between this Agreement and such schedules or appendices, the former shall control.

1.4. Words in the singular include the plural and words in the plural include the singular. The words "including," "includes," "included" and "include", when used, are deemed to be followed by the words "without limitation." Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "hereof," "herein" and "hereunder" and words of analogous import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

1.5. The Parties' duties and obligations are governed by and limited to the express terms and conditions of this Agreement, and shall not be modified, supplemented, amended or interpreted in accordance with, any industry custom or practice, or any internal policies or procedures of any Party. The Parties have mutually negotiated the terms hereof and there shall be no presumption of law relating to the interpretation of contracts against the drafter.

2. Services and Fees

2.1. Subject to the terms of this Agreement, SS&C will perform the Services set forth in Schedule A for Client. SS&C shall be under no duty or obligation to perform any service except as specifically listed in Schedule A or take any action except as specifically listed in Schedule A or this Agreement, and no other duties or obligations, including, valuation related, fiduciary or analogous duties or obligations, shall be implied. Client requests to change the Services, including those necessitated by a change to the Governing Documents, or a changes in applicable Law, will only be binding on SS&C when they are reflected in an amendment to Schedule A agreed to in writing executed by the Parties.

2.2. Client agrees to pay the fees, charges and expenses in accordance with, and in the manner set forth in, the fee letter(s) (a "Fee Letter"), which may be amended from time to time. Each Fee Letter is incorporated by reference into this Agreement and subject to the terms of this Agreement. Payment by Client shall not limit SS&C's rights of recourse against Client.

2.3. In carrying out its duties and obligations pursuant to this Agreement, some or all Services may be delegated by SS&C to (i) one or more of its Affiliates or (ii) with the written consent of Client, other Persons (and any required Client consent to such delegation shall not be unreasonably revoked or withheld in respect of any such delegations), provided that such Persons are selected in good faith and with reasonable care and are monitored by SS&C. If SS&C delegates any Services, (i) such delegation shall not relieve SS&C of its duties and obligations hereunder, (ii) in respect of personal data, such delegation shall be subject to a written agreement obliging the delegate to comply with the relevant delegated duties and obligations of SS&C, and (iii) if required by applicable Law, SS&C will identify such agents and the Services delegated and will update Client when making any material changes in sufficient detail to provide transparency and to enable Client to object to a particular arrangement.

2.4. After the first anniversary of the Agreement and on each year thereafter, all fees reflected in Fee Letter will incur an annual cost of living increase as described in Fee Letter.

3. Client Responsibilities

3.1. The management and control of the Client is vested exclusively in the Client's executive officers, subject to the oversight of its governing body (e.g., the board of directors for a company or general partner of a limited partnership), if any, and subject to the terms and provisions of the Governing Documents. Client is responsible for and will make all decisions, perform all management functions relating to the operation of Client and authorize all transactions. Without limiting the foregoing, Client shall:

(a) designate properly qualified individuals to oversee the Services and establish and maintain internal controls, including monitoring the ongoing activities of Client and.

(b) evaluate the accuracy of the Services, review and approve all reports, analyses and records resulting from the Services and promptly inform SS&C of any errors it is in a position to identify.

(c) provide, or cause to be provided, and accept responsibility for, valuations of assets and liabilities in accordance with Client's written valuation policies, as applicable.

(d) provide SS&C with timely and accurate information including trading and investor records, valuations and any other items reasonably required by SS&C in order to perform the Services and its duties and obligations hereunder.

3.2. The Services, including any services that involve price comparison to vendors and other sources, model or analytical pricing or any other pricing functions, are provided by SS&C as a support function to Client and do not limit or modify Client's responsibility for determining the value of Client's assets and liabilities.

3.3. Client is solely and exclusively responsible for ensuring that Client complies with Law and its respective Governing Documents. It is the Client's responsibility to provide all final Governing Documents as of the Effective Date. The Client will notify SS&C in writing of any changes to the Governing Documents related to cannabis, cannabinoids, or cryptocurrency investments, and/or that may materially impact the Services and/or that affect the Client's investment strategy, liquidity or risk profile in any material respect prior to such changes taking effect. SS&C is not responsible for monitoring Client's compliance with (i) Law, (ii) its respective Governing Documents or (iii) any investment restrictions.

3.4. In the event that Market Data is supplied to or through SS&C Associates in connection with the Services, the Market Data is proprietary to Data Suppliers and is provided on a limited internal-use license basis. Market Data may: (i) only be used by Client in connection with the Services and (ii) not be disseminated by Client or used to populate internal systems in lieu of obtaining a data license. Access to and delivery of Market Data is dependent on the Data Suppliers and may be interrupted or discontinued with or without notice. Notwithstanding anything in this Agreement to the contrary, neither SS&C nor any Data Supplier shall be liable to Client or any other Person for any Losses with respect to Market Data, reliance by SS&C Associates or Client on Market Data or the provision of Market Data in connection with this Agreement.

3.5. Client shall deliver, and procure that its agents, prime brokers, counterparties, brokers, counsel, advisors, auditors, clearing agents, and any other Persons promptly deliver, to SS&C, all Client Data and the then most current version of all Client Governing Documents. Client shall arrange with each such Person to deliver such information and materials on a timely basis, and SS&C will not be required to enter any agreements with that Person in order for SS&C to provide the Services.

3.6. Subject to Section 6, SS&C Associates shall be entitled to rely on the authenticity, completeness and accuracy of any and all information and communications of whatever nature received by SS&C Associates in connection with the performance of the Services and SS&C's duties and obligations hereunder without enquiry or liability; provided that, notwithstanding Section 6, SS&C Associates shall be entitled to rely on information provided by Client and its Affiliates and agents so long as such reliance is in good faith.

3.7. Notwithstanding anything in this Agreement to the contrary, if SS&C is in doubt as to any action it should or should not take in its provision of Services, SS&C Associates may request directions, advice or instructions from Client, custodian or other service providers. If SS&C is in doubt as to any question of law pertaining to any action it should or should not take, Client will make available to and SS&C Associates may request advice from counsel for any of Client, Client's independent board members, or its officers, each at the Client's reasonable expense.

4. Term

4.1. The initial term of this Agreement will be from the Effective Date through December 31, 2023 ("Initial Term"). Thereafter, this Agreement will automatically renew for successive terms of 1 year each unless either SS&C or Client provides the other with a written notice of termination at least 90 calendar days prior to the commencement of any successive term (such periods, in the aggregate, the "Term").

5. Termination

5.1. SS&C or Client also may, by written notice to the other, terminate this Agreement if any of the following events occur:

(a) The other Party breaches any material term, condition or provision of this Agreement, which breach, if capable of being cured, is not cured within 30 calendar days after the non-breaching Party gives the other Party written notice of such breach.

(b) The other Party (i) terminates or suspends its business, (ii) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or analogous authority, (iii) becomes subject to any bankruptcy, insolvency or analogous proceeding, or (iv) where the other Party is the Client, and Client becomes subject to a material Action that could cause SS&C reputational harm (including any Action against an investment adviser, sub-adviser, or other service provider of Client), (v) where the other Party is SS&C, if it becomes subject to a material Action involving fraud or criminal activity specifically with respect to SS&C's actions or inactions in its capacity as a fund administrator that could cause Client reputational harm, or (vi) where the other Party is Client, material changes in Client's Governing Documents or the assumptions set forth in Section 1 of Fee Letter are determined by SS&C, in its reasonable discretion, to materially affect the Services or does not comply with SS&C's internal policies related to cannabis, cannabinoids, or cryptocurrency investments.

If any such event occurs, the termination will become effective immediately or on the date stated in the written notice of termination, which date shall not be greater than 90 calendar days after the event.

5.2. Upon delivery of a termination notice, subject to the receipt by SS&C of all then-due fees, charges and expenses, SS&C shall continue to provide the Services up to the effective date of the termination; thereafter, SS&C shall have no obligation to perform any services of any type unless and to the extent set forth in an amendment to Schedule A and/or Fee Letter executed by SS&C. In the event of the termination of this Agreement, SS&C shall provide exit assistance by promptly supplying requested Client Data to Client, or any other Person(s) designated by such entities, in formats already prepared in the course of providing the Services; provided that all fees, charges and expenses have been paid, including any minimum fees set forth in the Fee Letter for the balance of the unexpired portion of the Term. In the event that Client wishes to retain SS&C to perform additional transition or related post- termination services, including providing data and reports in new formats, Client and SS&C shall agree in writing to the additional services and related fees and expenses in an amendment to Schedule A and/or Fee Letter, as appropriate.

5.3. Termination of this Agreement shall not affect: (i) any liabilities or obligations of any Party arising before such termination (including payment of fees and expenses) or (ii) any damages or other remedies to which a Party may be entitled for breach of this Agreement or otherwise. Sections 2.2, 6, 8, 9, 10, 11, 12 and 13 of this Agreement shall survive the termination of this Agreement. To the extent any services that are Services are performed by SS&C for Client after the termination of this Agreement all of the provisions of this Agreement except Schedule A shall survive the termination of this Agreement for so long as those services are performed.

6. Limitation of Liability and Indemnification

6.1. Notwithstanding anything in this Agreement to the contrary SS&C Associates shall not be liable to Client for any action or inaction of any SS&C Associate except to the extent of direct Losses to have resulted solely from the gross negligence, willful misconduct or fraud of SS&C Associates in the performance of SS&C's duties or obligations under this Agreement. Under no circumstances shall SS&C Associates be liable to Client for Losses that are indirect, special, incidental, consequential, punitive, exemplary or enhanced or that represent lost profits, opportunity costs or diminution of value. Client shall indemnify, defend and hold harmless SS&C Associates from and against Losses (including legal fees and costs to enforce this provision) that SS&C Associates suffer, incur, or pay as a result of any Third Party Claim or Claim between the Parties, except to the extent any such Losses resulted solely from the gross negligence, willful misconduct or fraud of SS&C Associates in the performance of SS&C's duties or obligations under this Agreement. Any expenses (including legal fees and costs) incurred by SS&C Associates in defending or responding to any Claims (or in enforcing this provision) shall be paid by Client on a quarterly basis prior to the final disposition of such matter upon receipt by Client of an undertaking by SS&C to repay such amount if it shall be determined that an SS&C Associate is not entitled to be indemnified. The maximum amount of cumulative liability of SS&C Associates to a Client for Losses arising out of the subject matter of, or in any way related to, this Agreement, except to the extent of Losses resulting solely from the willful misconduct or fraud of SS&C in the performance of SS&C's duties or obligations under this Agreement, shall not exceed the fees paid by Client to SS&C under this Agreement for the most recent 36 months immediately preceding the date of the event giving rise to the Claim.

7. Representations and Warranties

7.1. Each Party represents and warrants to each other Party that:

(a) It is a legal entity duly created, validly existing and in good standing under the Law of the jurisdiction in which it is created, and is in good standing in each other jurisdiction where the failure to be in good standing would have a material adverse effect on its business or its ability to perform its obligations under this Agreement.

(b) Save for access to and delivery of Market Data that is dependent on Data Suppliers and may be interrupted or discontinued with or without notice, it has all necessary legal power and authority to own, lease and operate its assets and to carry on its business as presently conducted and as it will be conducted pursuant to this Agreement and will comply in all material respects with all Law to which it may be subject in performing its duties and obligations under this Agreement, and to the best of its knowledge and belief, it is not subject to any Action that would prevent it from performing its duties and obligations under this Agreement.

(c) It has all necessary legal power and authority to enter into this Agreement, the execution of which has been duly authorized and will not violate the terms of any other agreement.

(d) The Person signing on its behalf has the authority to contractually bind it to the terms and conditions in this Agreement and that this Agreement constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with its terms.

7.2. Client represents and warrants to SS&C that (i) it is a closed-end management investment company and has elected to be regulated as a business development company under the 1940 Act, as amended, (ii) its securities are registered in the U.S. under the Securities Act of 1933, as amended, and (iii) it will promptly notify SS&C of (1) any material Action against it.

8. Client Data

8.1. Client will (i) provide or ensure that other Persons provide all Client Data to SS&C in an electronic format that is acceptable to SS&C (or as otherwise agreed in writing) and (ii) confirm that each has the right to so share such Client Data. As between SS&C and Client, all Client Data shall remain the property of the applicable Client. Client Data shall not be used or disclosed by SS&C other than in connection with providing the Services and as permitted under Section 11.2.2. SS&C shall be permitted to act upon instructions from Client with respect to the disclosure or disposition of Client Data, but may refuse to act upon such instructions where it doubts, in good faith, the authenticity or authority of such instructions.

8.2. SS&C shall maintain and store material Client Data used in the books and records of Client for at least a rolling period of 7 years starting from the Effective Date, or such longer period as required by applicable Law or its internal policies.

9. Data Protection

9.1. From time to time and in connection with the Services SS&C may obtain access to certain personal data from Client or from Client investors and prospective investors and, if applicable, as processor of the Client. Personal data relating to Client and their respective Affiliates, members, shareholders, directors, officers, partners, employees and agents and of Client investors or prospective investors will be processed by and on behalf of SS&C. The Parties acknowledge and agree that, with regard to the processing of such personal data, Client, as applicable, is the controller and SS&C is the processor acting on behalf of Client, as applicable.

9.2. Client consents to the transmission and processing of such data outside the jurisdiction governing this Agreement in accordance with applicable Law. SS&C only transfers personal data to Affiliates that have executed a data transfer agreement containing the Standard Contractual Clauses in accordance with GDPR (deemed equivalent in the Cayman Islands for the purpose of DPA). For the purpose of this section 9.2, "Standard Contractual Clauses" means the standard contractual clauses for the transfer of personal data to third countries pursuant to the GDPR, as set out in the Annex to European Commission Implementing Decision (EU) 2021/914 of 4 June 2021 (or any subsequent clauses that may amend or supersede such standard contractual clauses).

9.3. SS&C will comply with its applicable obligations as a processor under DPA and GDPR, including those requirements set out in Articles 28 (Processor), 29 (Processing under the authority of the controller or processor), 31 (Cooperation with the supervisory authority) and 32 (Security of processing) of GDPR, in each case taking into account the nature of processing and the information available to SS&C. SS&C will notify Client without undue delay after becoming aware of a relevant personal data breach and provide reasonable assistance to Client (as applicable) in its notification of that personal data breach to the relevant supervisory authority and those data subjects affected as set out in Articles 33 (Notification of a personal data breach to the supervisory authority) and 34 (Communication of a personal data breach to the data subject) of GDPR and the equivalent provisions of DPA, in each case taking into account the nature of processing and the information available to SS&C. Client is responsible for making notifications related to a personal data breach that are required by applicable Law. SS&C will not disclose or use personal data obtained from or on behalf of Client except in accordance with the lawful instructions from Client (as applicable), to carry out SS&C's obligations under, or as otherwise permitted pursuant to the terms of this Agreement and to comply with applicable Law, including GDPR and DPA.

9.4. Client shall comply at all times with its applicable obligations as a controller under GDPR and DPA, as applicable. Client agrees to ensure that all relevant data subjects for whom SS&C will process personal data on their behalf as contemplated by this Agreement are fully informed concerning such processing, including, where relevant, the processing of such data outside the European Union (in the case of EU Personal Data), the United Kingdom (in the case of UK Personal Data) and the Cayman Islands and if applicable provide consent for GDPR and/or DPA compliance purposes.

9.5. For the purposes of this clause the following terms shall have the following respective meanings:

(i) "CCPA" the California Consumer Privacy Act of 2018, California Civil Code § 1798.100 to 1798.199

(ii) "Personal Information" means personal information within the meaning of CCPA which is received or collected by SS&C from, or on behalf of, Client in connection with performing its obligations pursuant to this Agreement.

(iii) "Service Provider" has the meaning given in Section 1798.140 of CCPA.

SS&C, as a Service Provider, shall not retain, use or disclose any Personal Information for any purpose other than (i) the specific purpose of providing the Services or performing its obligations under this Agreement, (ii) in accordance with the lawful instructions from Client (as applicable) or (iii) as otherwise permitted pursuant to CCPA, including the purposes described in Section 1798.145 of CCPA.

10. SS&C Property

10.1. SS&C Property is and shall remain the property of SS&C or, when applicable, its Affiliates or suppliers. Neither Client nor any other Person shall acquire any license or right to use, sell, disclose, or otherwise exploit or benefit in any manner from, any SS&C Property, except as specifically set forth herein. Client shall not (unless required by Law) either before or after the termination of this Agreement, disclose to any Person not authorized by SS&C to receive the same, any information concerning the SS&C Property and shall use reasonable efforts to prevent any such disclosure.

11. Confidentiality

11.1. Each Party shall not at any time disclose to any Person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other Party or its Affiliates, except as permitted by this Section 11.

11.2. Each Party may disclose the other Party's Confidential Information:

(a) In the case of Client, to each of its Affiliates, members, shareholders, directors, officers, partners, employees and agents ("Client Representative") who need to know such information for the purpose of carrying out Client's duties under, or receiving the benefits of or enforcing, this Agreement. Client shall ensure compliance by Client Representatives with Section 11.1.

(b) In the case of SS&C, to Client and each SS&C Associate, Client Representative, investor, Client bank or broker, Client counterparty or agent thereof, or payment infrastructure provider who needs to know such information for the purpose of carrying out SS&C's duties under or enforcing this Agreement. SS&C shall ensure compliance by SS&C Associates with Section 11.1 but shall not be responsible for such compliance by any other Person.

(c) As may be required by Law or pursuant to legal process; provided that the disclosing Party (i) where reasonably practicable and to the extent legally permissible, provides the other Party with prompt written notice of the required disclosure so that the other Party may seek a protective order or take other analogous action, (ii) discloses no more of the other Party's Confidential Information than reasonably necessary and (iii) reasonably cooperates with actions of the other Party in seeking to protect its Confidential Information at that Party's expense.

11.3. Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement. Each Party may retain a record of the other Party's Confidential Information for the longer of (i) 7 years or (ii) as required by Law or its internal policies.

11.4. SS&C's ultimate parent company is subject to U.S. federal and state securities Law and may make disclosures as it deems necessary to comply with such Law. SS&C shall have no obligation to use Confidential Information of, or data obtained with respect to, any other client of SS&C in connection with the Services.

11.5. Upon the prior written consent of the Client, SS&C shall have the right to identify such Client in connection with its marketing-related activities and in its marketing materials as a client of SS&C. Upon the prior written consent of SS&C, Client shall have the right to identify SS&C and to describe the Services and the material terms of this Agreement. This Agreement shall not prohibit SS&C from using any Client data (including Client Data) in tracking and reporting on SS&C's clients generally or making public statements about such subjects as its business or industry; provided that Client is not named in such public statements without its prior written consent. If the Services include the distribution by SS&C of notices or statements to investors, SS&C may, upon advance notice to Client, include reasonable notices describing those terms of this Agreement relating to SS&C and its liability and the limitations thereon; if investor notices are not sent by SS&C but rather by Client or some other Person, Client will reasonably cooperate with any request by SS&C to include such notices. Client shall not, in any communications with any Person, whether oral or written, make any representations stating or implying that SS&C is (i) providing valuations with respect to Client's securities, products or services, verifying any valuations, (ii) verifying the existence of any assets in connection with the investments, products or services of Client, or (iii) acting as a fiduciary, investment advisor, tax preparer or advisor, custodian or bailee with respect to Client or any of its respective assets, investors or customers.

11.6. In the event Client obtains information from SS&C, which is not intended for Client, Client agrees to (i) immediately, and in no case more than twenty-four (24) hours after discovery thereof, notify SS&C that unauthorized information has been made available to Client; (ii) not knowingly review, disclose, release, or in any way, use such unauthorized information; (iii) provide SS&C reasonable assistance in retrieving such unauthorized information and/or destroy such unauthorized information; and (iv) deliver to SS&C a certificate executed by an authorized officer of Client certifying that all such unauthorized information in Client's possession or control has been delivered to SS&C or destroyed as required by this provision.

12. Notices

12.1. Except as otherwise provided herein, all notices required or permitted under this Agreement or required by Law shall be effective only if in writing and delivered: (i) personally, (ii) by registered mail, postage prepaid, return receipt requested, (iii) by receipted prepaid courier, (iv) by any confirmed facsimile or (v) by any electronic mail, to the relevant address or number listed below (or to such other address or number as a Party shall hereafter provide by notice to the other Parties). Notices shall be deemed effective when received by the Party to whom notice is required to be given.

If to SS&C (to each of)**:**

SS&C Technologies, Inc.
4 Times Square, 6th Floor
New York, New York 10036 Attention: Chief Operating Officer
General Counsel E-mail: notices@sscinc.com

If to Client:

PhenixFIN Corporation
445 Park Avenue, 10th Floor New York, NY 10022
Attention: Ellida McMillan,Chief Financial Officer
Email: emcmillan@phenixfc.com

13. Miscellaneous

13.1. Amendment; Modification. This Agreement may not be amended or modified except in writing signed by an authorized representative of each Party. No SS&C Associate has authority to bind SS&C in any way to any oral covenant, promise, representation or warranty concerning this Agreement, the Services or otherwise.

13.2. Assignment. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Client, in whole or in part, whether directly or by operation of Law, without the prior written consent of SS&C, which consent shall not be unreasonably withheld, conditioned or delayed. SS&C may assign or otherwise transfer this Agreement: (i) to a successor in the event of a change in control of SS&C, (ii) to an Affiliate or (iii) in connection with an assignment or other transfer of a material part of SS&C's business. Any attempted delegation, transfer or assignment prohibited by this Agreement shall be null and void. If SS&C assigns or otherwise transfers this Agreement to a third-party other than an Affiliate without Client consent, Client may terminate this Agreement by written notice to SS&C within 90 days of receiving notice of such assignment or transfer, subject to SS&C's right within 30 calendar days of such notice to rescind such assignment or transfer.

13.3. Choice of Law; Choice of Forum. This Agreement shall be interpreted in accordance with and governed by the Law of the State of New York. The courts of the State of New York and the United States District Court for the Southern District of New York shall have exclusive jurisdiction to settle any Claim. Each Party submits to the exclusive jurisdiction of such courts and waives to the fullest extent permitted by Law all rights to a trial by jury.

13.4. Counterparts; Signatures. This Agreement may be executed in counterparts, each of which when so executed will be deemed to be an original. Such counterparts together will constitute one agreement. Signatures may be exchanged via facsimile or electronic mail and shall be binding to the same extent as if original signatures were exchanged.

13.5. Entire Agreement. This Agreement (including any schedules, attachments, amendments and addenda hereto) contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the Parties with respect thereto. This Agreement sets out the entire liability of SS&C Associates related to the Services and the subject matter of this Agreement, and no SS&C Associate shall have any liability to Client or any other Person for, and Client hereby waives to the fullest extent permitted by applicable law recourse under, tort, misrepresentation or any other legal theory.

13.6. Force Majeure. SS&C will not be responsible for any Losses of property in SS&C Associates' possession or for any failure to fulfill its duties or obligations hereunder if such Loss or failure is caused, directly or indirectly, by war, terrorist or analogous action, the act of any Government Authority or other authority, riot, civil commotion, rebellion, storm, accident, fire, lockout, strike, power failure, computer error or failure, delay or breakdown in communications or electronic transmission systems, or other analogous events. SS&C shall use commercially reasonable efforts to minimize the effects on the Services of any such event.

13.7. Non-Exclusivity. The duties and obligations of SS&C hereunder shall not preclude SS&C from providing services of a comparable or different nature to any other Person. Client understands that SS&C may have relationships with Data Suppliers and providers of technology, data or other services to Client and SS&C may receive economic or other benefits in connection with the Services provided hereunder.

13.8. No Partnership. Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the Parties.

13.9. No Solicitation. During the term of this Agreement and for a period of 12 months thereafter, Client will not directly or indirectly solicit the services of, or otherwise attempt to employ or engage any employee of SS&C or its Affiliates without the consent of SS&C; provided, however, that the foregoing shall not prevent Client from soliciting employees through general advertising not targeted specifically at any or all SS&C Associates. If Client employs or engages any SS&C Associate during the term of this Agreement or the period of 12 months thereafter, Client shall pay for any fees and expenses (including recruiters' fees) incurred by SS&C or its Affiliates in hiring replacement personnel as well as any other remedies available to SS&C.

13.10. No Warranties. Except as expressly listed herein, SS&C and each Data Supplier make no warranties, whether express, implied, contractual or statutory with respect to the Services or Market Data. SS&C disclaims all implied warranties of merchantability and fitness for a particular purpose with respect to the Services. All warranties, conditions and other terms implied by Law are, to the fullest extent permitted by Law, excluded from this Agreement.

13.11. Severance. If any provision (or part thereof) of this Agreement is or becomes invalid, illegal or unenforceable, the provision shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not practical, the relevant provision shall be deemed deleted. Any such modification or deletion of a provision shall not affect the validity, legality and enforceability of the rest of this Agreement. If a Party gives notice to another Party of the possibility that any provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate to amend such provision so that, as amended, it is valid, legal and enforceable and achieves the intended commercial result of the original provision.

13.12. Testimony. If SS&C is required by a third party subpoena or otherwise, to produce documents, testify or provide other evidence regarding the Services, this Agreement or the operations of Client in any Action to which Client is a party or otherwise related to Client, Client shall reimburse SS&C for all costs and expenses, including the time of its professional staff at SS&C's standard rates and the cost of legal representation, that SS&C reasonably incurs in connection therewith.

13.13. Third Party Beneficiaries. This Agreement is entered into for the sole and exclusive benefit of the Parties and will not be interpreted in such a manner as to give rise to or create any rights or benefits of or for any other Person except as set forth with respect to SS&C Associates and Data Suppliers.

13.14. Waiver. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by Law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No exercise (or partial exercise) of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

* * *

This Agreement has been entered into by the Parties as of the Effective Date.

SS&C Technologies, Inc.	PhenixFIN Corporation
By: /s/ Bhagesh Malde	By: /s/ Ellida McMillan
Name: Bhagesh Malde Authorized Signatory	Name: Ellida McMillan Title: CFO

Schedule A
Services

A. General

1. As used in this Schedule A, the following additional terms have the following meanings:

   (i) "AML" means anti-money laundering and countering the financing of terrorism.

   (ii) "investor" means an equity owner in Client, whether a shareholder in a company, a partner in a partnership, a unitholder in a trust or otherwise. A "prospective investor" means an applicant to become an investor.

   (iii) "OFAC" means the Office of Foreign Assets Control, an agency of the United States Department of the Treasury.

2. Any references to Law shall be construed to the Law as amended to the date of the effectiveness of the applicable provision referencing the Law.

3. Client acknowledges that SS&C's ability to perform the Services is subject to SS&C's timely receipt of all Client Data, the then most current version of Governing Documents and required implementation documentation and SS&C application user forms, and the receipt of such information in an accurate and complete form, and in electronic file format, acceptable to SS&C.

4. Client acknowledges that SS&C's ability to perform the Services is subject to the following dependencies:

   (i) Client and other Persons that are not employees or agents of SS&C whose cooperation is reasonably required for SS&C to provide the Services providing cooperation, information and, as applicable, instructions to SS&C promptly, in agreed formats, by agreed media and within agreed timeframes as required to provide the Services.

   (ii) The communications systems operated by Client and other Persons that are not employees or agents of SS&C remaining fully operational.

   (iii) The accuracy and completeness of any Client Data or other information provided to SS&C Associates in connection with the Services by any Person.

   (iv) Client informing SS&C on a timely basis of any modification to, or replacement of, any agreement to which it is a party that is relevant to the provision of the Services.

   (v) Any warranty, representation, covenant or undertaking expressly made by Client under or in connection with this Agreement being and remaining true, correct and discharged at all relevant times.

5. It is acknowledged and agreed that SS&C has not been contracted to perform AML and related know your customer services for Client:

   (i) Client is responsible for ensuring its compliance with applicable AML law; and

   (ii) Client shall verify that each investor (i) is not a specially designated national or blocked person as identified on the sanctions lists administered and published by OFAC, nor or a non-U.S. shell bank and (ii) that is a senior non-U.S. political figure or an immediate family member or close associate of such a figure has been subjected to enhanced due diligence.

6. The following Services will be performed by SS&C and, as applicable, are contingent on the performance by Client of the duties and obligations listed.

B. Accounting and Administration

1. Set-up and onboarding:

   (i) Review Client Governing Documents to obtain information regarding applicable matters required to perform the Services.

   (ii) Create and populate in SS&C's systems applicable entities, charts of accounts and investment information.

   (iii) Develop financial statement templates and management reporting as agreed in writing between SS&C and Client (additional fees apply for custom reporting).

2. Maintain the general ledger and source journals for Client.

3. Record the following transactions/items: (i) investment transactions (e.g., purchases, sales and loans), (ii) investment income, (iii) fair value adjustments, (iv) interest and dividend income, (v) operating expenses and (vi) management and other recurring fees.

4. Prepare quarterly (i) work paper packages and (ii) investor reporting packages.

5. Coordinate the annual audit between Client and Client auditor, including establishing timelines for SS&C deliverables, and answering questions as appropriate. Prepare Client's draft quarterly and annual financial statements and accompanying materials, as agreed in writing.

   (i) Client shall (I) provide information to SS&C to complete the financial statement schedules and notes to the financial statements if SS&C is preparing such notes, (for matters such as risk management disclosures, details of related party transactions, netting and collateral arrangements), (II) assist and guide SS&C with determining industry, geographic and other descriptions and classification of assets, (III) provide all required disclosure of regulatory status, (IV) provide such other information and assistance as SS&C may reasonably request related to the preparation and audit of the financial statements or related schedules, as appropriate, and (V) approve all information prepared on behalf of Client and provided to the auditor.

   (ii) Notwithstanding anything in this Agreement to the contrary, Client has ultimate authority over and responsibility for its financial statements.

6. Prepare and review Client bank account reconciliations and required schedules on a monthly basis, as agreed in writing.

C. Bank Loan Processing

1. Provide trade processing support for loan transactions including recording trade settlements, reconciliation of settlements and tracking associated loan documentation.

2. Provide asset servicing support related to loan positions including liaising with the loan agent on various aspects of loan maintenance and reconciliation.

3. Process loan restructurings, maturity amendments and extensions and bankruptcy reorganizations with respect to loan transactions.

4. Obtain and maintain static data on loan facilities subject to receipt from the applicable agent bank

5. Provide loan information reporting (e.g., trade blotter, market value position report and loan contract position report) to Client.

6. Store agent bank notices received with respect to loan positions and make available to Client in a format as agreed in writing with Client.

D. GoWire

1. Establish and maintain procedures for wire transfers from Client bank accounts using SS&C's Web Portal for Client wire authorization. Client must approve all wires in the system and through a call back to Client from SS&C, or as otherwise agreed in writing by the Parties from time to time.

2. Assist in processing payments from Client bank accounts for the purposes of paying Client expenses only (no investor distributions) in all cases based upon instructions from Client.

3. Provide Client online access to GoWire to approve payees, payment instructions and retrieve other applicable information.

4. Client is responsible for maintaining the confidentiality of and controlling the access to and use of all log in credentials supplied to Client ("Client Access Credentials"). Client shall notify SS&C immediately in writing in the event that (i) any Client Access Credentials is lost, stolen, or improperly disclosed to a third party or the security of any Client Access Credentials is otherwise compromised; or (ii) the authority of any person controlling any Client Access Credentials is withdrawn or amended, or any such person ceases to act on behalf of the Client.

E. Tax Reporting

1. Prepare U.S. Federal income tax Form 1099-MISC in respect of payments to Client directors or other Persons as agreed in writing with Client.

2. SS&C will not prepare any other tax returns, filings or schedules unless specifically agreed in writing with Client.

3. SS&C's only responsibility in connection with the preparation of defective tax returns, reports or forms for which SS&C is responsible shall be the preparation of corrected returns, filings or forms, as appropriate.

F. Miscellaneous

1. Notwithstanding anything to the contrary in this Agreement, SS&C:

   (i) Does not maintain custody of any cash or securities.

   (ii) Does not have the ability to authorize transactions.

   (iii) Does not have the authority to enter into contracts on behalf of Client.

   (iv) Is not responsible for determining the valuation of Client's assets and liabilities.

   (v) Does not perform any management functions or make any management decisions with regard to the operation of Client.

   (vi) Is not responsible for affecting any U.S. federal or state regulatory filings which may be required or advisable as a result of the offering of interests in Client.

   (vii) Is not Client's tax advisor and does not provide any tax advice.

   (viii) Is not obligated to perform any additional or materially different services due to changes in law or audit guidance.

2. It is the responsibility of Client to safeguard all passwords and any other login credentials; for all purposes of this Agreement SS&C shall be entitled to assume that any user of such credentials is an authorized representative of Client.

3. If SS&C allows Client, investors or their respective agents and representatives ("Users") to (i) receive information and reports from SS&C and/or (ii) issue instructions to SS&C via web portals or other similar electronic mechanisms hosted or maintained by SS&C or its agents ("Web Portals"):

   (i) Access to and use of Web Portals by Users shall be subject to the proper use by Users of usernames, passwords and other credentials issued by SS&C ("User Credentials") and to the additional terms of use that are noticed to Users on such Web Portals. Client shall be solely responsible for the results of any unauthorized use, misuse or loss of User Credentials by their authorized Users and for compliance by such Users with the terms of use noticed to Users with respect to Web Portals, and shall notify SS&C promptly upon discovering any such unauthorized use, misuse or loss of User Credentials or breach by Client or their authorized Users of such terms of use. Any change in the status or authority of an authorized User communicated by Client shall not be effective until SS&C has confirmed receipt and execution of such change.

(ii) SS&C grants to Client a limited, non-exclusive, non-transferable, non-sublicenseable right during the term of this Agreement to access Web Portals solely for the purpose of accessing Client Data and, if applicable, issue instructions. Client will ensure that any use of access to any Web Portal is in accordance with SS&C's terms of use, as noticed to the Users from time to time. This license does not include: (i) any right to access any data other than Client Data; or (ii) any license to any software.

(iii) Client will not (A) permit any third party to access or use the Web Portals through any time-sharing service, service bureau, network, consortium, or other means; (B) rent, lease, sell, sublicense, assign, or otherwise transfer its rights under the limited license granted above to any third party, whether by operation of law or otherwise; (C) decompile, disassemble, reverse engineer, or attempt to reconstruct or discover any source code or underlying ideas or algorithms associated with the Web Portals by any means; (D) attempt to modify or alter the Web Portal in any manner; or (E) create derivative works based on the Web Portal. Client will not remove (or allow to be removed) any proprietary rights notices or disclaimers from the Web Portal or any reports derived therefrom.

(iv) SS&C reserves all rights in SS&C systems and in the software that are not expressly granted to Client hereunder.

(v) SS&C may discontinue or suspend the availability of any Web Portals at any time without prior notice; SS&C will endeavor to notify Client as soon as reasonably practicable of such action.

4. Notwithstanding anything in this Agreement to the contrary, Client has ultimate authority over and responsibility for its tax matters and financial statement tax disclosures. All memoranda, schedules, tax forms and other work product produced by SS&C are the responsibility of Client and are subject to review and approval by Client's auditors, or tax preparers, as applicable and SS&C bears no responsibility for reliance on tax calculations and memoranda prepared by SS&C.

5. SS&C shall provide reasonable assistance to responding to due diligence and analogous requests for information from investors and prospective investors (or others representing them); provided, that SS&C may elect to provide these services only upon Client agreement in writing to separate fees in the event responding to such requests becomes, in SS&C's good faith discretion, excessive.

6. Reports and information shall be deemed provided to Client if they are made available to Client online through SS&C's Web Portal.

Exhibit 10.10

LOAN ADMINISTRATION AND CUSTODIAL AGREEMENT

THIS LOAN ADMINISTRATION AND CUSTODIAL AGREEMENT (the "Agreement"), dated as of September 12, 2022, between PHENIXFIN CORPORATION (the "Owner") and COMPUTERSHARE TRUST COMPANY, N.A., a national banking association, as Custodian and Loan Administrator (together with its permitted successors and assigns, in such capacities, the "Custodian").

WITNESSETH:

WHEREAS, the Owner now owns or hereafter may from time to time acquire or manages a portfolio of commercial, syndicated or participated bank loans (the "Loan Assets");

WHEREAS, the Owner desires to deposit the proceeds of the Loan Assets and other securities (the "Custodial Assets") with the Custodian to hold on the Owner's behalf and to direct the Custodian with respect to the transfer and release thereof; and

WHEREAS, the Custodian has the capacity to provide the services required hereby and is willing to perform such services on behalf of the Owner on the terms set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Loan Administration Duties.

(a) The Owner hereby appoints Computershare Trust Company, N.A. as its agent, and Computershare Trust Company, N.A. hereby accepts such agency appointment to act as Custodian pursuant to the terms of this Agreement, until its resignation or removal as Custodian pursuant to the terms hereof. The Custodian's services hereunder shall be conducted through its Corporate Trust Services division (including, as applicable, any agents or affiliates utilized thereby). In such capacity, the Custodian shall assist the Owner in connection with monitoring the Loan Assets on an ongoing basis as provided herein and provide to the Owner certain reports, schedules, calculations and other data, (in each case in such form and content, and in such greater detail, as may be mutually agreed upon by the Custodian and the Owner from time to time), based upon information and data received from the Owner. The Custodian's duties and authority to act as Custodian hereunder are limited to the duties and authority specifically set forth in this Agreement. By entering into or performing its duties under this Agreement, the Custodian shall not be deemed to assume any obligations or liabilities the Owner under any other agreement and nothing herein contained shall be deemed to release, terminate, discharge, limit, reduce, diminish, modify, amend or otherwise alter in any respect the duties, obligations or liabilities of the Owner under or pursuant to any other agreement. The Custodian's duties and obligations are solely to the Owner and the Custodian shall provide all calculations, reports and other data only to the Owner, or its designee. The Custodian shall have no duties or obligations to report to, or perform any services for, any other party.

(b) The Custodian shall perform the following functions from time to time:

(i) create a Loan Asset database (the "Asset Database") of certain characteristics (to the extent required for the performance of its obligations hereunder, and otherwise as reasonably agreed to by the Owner) of the Loan Assets based upon information provided to the Custodian by the Owner (or its designee);

(ii) update the Asset Database periodically to reflect any assignments or terminations, purchases or sales or other dispositions of Loan Assets, in each case based upon such information regarding purchases, sales or other dispositions furnished to the Custodian by the Owner.

(iii) upon receipt of documents related to the Loan Assets as may be delivered, or as may be caused to be delivered, to it from time to time by the Owner or by the seller of Loan Assets identified by the Owner, save such documents in electronic format onto disks and/or onto the Custodian's secure computer system, and maintain in a manner so as to permit retrieval and access;

(iv) notify the Owner upon receiving any documents, legal opinions or any other information including, without limitation, any notices, reports, requests for waiver, consent requests or any other requests relating to corporate actions affecting the Loan Assets.

(v) reconcile cash and Loan Asset balances on a daily basis. All information with respect to actual cash received or actual account balances shall be based on information provided to the Custodian by the Owner (or its designee). In the event of a discrepancy between the expected and the actual activity, the Custodian shall begin research within 2 business days of the discrepancy date of such transaction and will continue to follow up with agent bank and the Owner until (i) such discrepancy is resolved (ii) the Owner directs otherwise, or (iii) no further action may be taken by the Custodian;

(vi) provide a monthly report of transaction activity and monthly portfolio Loan Asset balance report, in each case with such contents and in such form as reasonably agreed to by the Owner and the Custodian;

(vii) provide the Owner with access to the information in the Asset Database in electronic format, the format and scope of such information to be reasonably agreed to by the Owner and the Custodian; and

(iv) assist the Owner in the performance of such other calculations and the preparation of such other reports that are reasonably requested in writing by the Owner and agreed to by the Custodian, which agreement shall not be unreasonably withheld and that the Custodian determines, in its sole discretion, may be provided without unreasonable burden or expense.

(c) The Owner shall reasonably cooperate with the Custodian in connection with the matters described herein, including calculations reasonably requested hereunder. Without limiting the generality of the foregoing, the Owner shall use reasonable efforts to supply, in a timely fashion, any information maintained by it that the Custodian may from time to time reasonably request with respect to the Loan Assets and reasonably required to permit the Custodian to perform its obligations hereunder.

(d) The Owner shall review and, to the best of its knowledge, verify the contents of any reports and/or statements required to be prepared by the Custodian. To the extent any of the information in such reports or statements conflicts with data or calculations in the records of the Owner, the Owner shall notify the Custodian of such discrepancy and use reasonable efforts to assist the Custodian in reconciling such discrepancy. The Owner further agrees to provide to the Custodian during the term of this Agreement, on a timely basis, any information in its possession relating to the Loan Assets and any changes, proposed purchases, sales or other dispositions thereof as to enable the Custodian to perform its duties hereunder. The Custodian will be entitled to rely on and assume the accuracy of such information provided by the Owner and shall have no duty to independently obtain such information.

(e) If, in performing its duties under this Agreement, the Custodian is required to decide between alternative courses of action, the Custodian may request written instructions (or verbal instructions, followed by written confirmation thereof) from the Owner, as to the course of action desired by it and shall act, and shall be fully protected in acting, in accordance with instructions received by the Owner. If the Custodian does not receive such instructions within five Business Days after it has requested them, the Custodian shall be under no duty to take any such courses of action and shall wait until such time as the Owner provides appropriate instructions.

Section 1A. Custodial Duties

(a) The Owner hereby appoints the Custodian as custodian of the Custodial Assets pursuant to the terms of this Agreement and the Custodian accepts such appointment. The Custodian hereby agrees to accept the Custodial Assets delivered to the Custodian by the Owner pursuant to the terms hereof, and agrees to hold, release and transfer the same in accordance with the provisions of this Agreement. There shall be a non-interest bearing securities account established by the Custodian on behalf of the Owner which will be designated the "PhenixFIN Corporation – Custodial Account (referred to herein as the "Custody Account") and into which the Custodial Assets shall be held and which shall be governed by and subject to this Agreement. In addition, on and after the date hereof, the Custodian may establish any number of subaccounts to the Custody Account deemed necessary or appropriate by the Custodian and the Owner in administering the Custody Account (each such subaccount, a "Subaccount" and collectively with the Custody Account, the "Account"). All Custodial Assets to be delivered in physical form to the Custodian shall be delivered to the address set forth in Section 8 hereof and all Custodial Assets to be delivered in book-entry form to the Custodian shall be delivered in accordance with delivery instructions separately provided by the Custodian. The Custodian shall not be responsible for any other assets of the Owner held or received by the Owner or others or any assets not delivered to Custodian as set forth herein and accepted by the Custodian as hereinafter provided. The Custodian shall have no obligation to accept or hold any security or other asset pursuant to the terms of this agreement to the extent it reasonably determines that such security or asset does not fall within the definition of "Custodial Asset" or holding such security or asset would violate any law, rule, regulation or internal policy applicable to the Custodian. For the avoidance of doubt, other than delivery of the physical certificate in the possession of the Custodian to the Owner, the Custodian shall have no obligations in connection with the transfer or re-registration of any physical certificates representing Custodial Assets in connection with any transfer thereof and the Owner shall be responsible for all aspects of transferring re-registering such Custodial Assets. Custodial Assets or proceeds thereof shall be withdrawn from and credited to the Account only upon Proper Instructions. Custodian shall be entitled to utilize agents and /or sub-custodians to the extent possible in connection with its performance hereunder, including the establishment of the Account, and Custodian shall identify on its books and records the Custodial Assets belonging to Owner, whether held directly or indirectly through agents or sub-custodians.

(b) For the avoidance of doubt, the Account (including income, if any, earned on the investments of funds in such account) will be owned by the Owner, for federal income tax purposes. The Owner is required to provide to the Custodian (i) an IRS Form W-9 or appropriate IRS Form W-8 no later than the Closing Date, and (ii) any additional IRS forms (or updated versions of any previously submitted IRS forms) or other documentation at such time or times required by applicable law or upon the reasonable request of the Custodian as may be necessary
(i) to reduce or eliminate the imposition of U.S. withholding taxes and (ii) to permit Custodian to fulfill its tax reporting obligations under applicable law with respect to the Account or any amounts paid to the Owner. If any IRS form or other documentation previously delivered becomes obsolete or inaccurate in any respect, the Owner shall timely provide to the Custodian accurately updated and complete versions of such IRS forms or other documentation. Computershare Trust Company, N.A., both in its individual capacity and in its capacity as Custodian, shall have no liability to the Owner or any other person in connection with any tax withholding amounts paid or withheld from the Account pursuant to applicable law arising from the Owner's failure to timely provide an accurate, correct and complete IRS Form W-9, an appropriate IRS Form W-8 or such other documentation contemplated under this paragraph. For the avoidance of doubt, no funds shall be invested with respect to such Account absent the Custodian having first received (i) the requisite Proper Instructions, and (ii) the IRS forms and other documentation required by this paragraph.

(c) The Custodian shall not invest immediately available funds held hereunder in the absence of Proper Instructions and shall not be liable for not investing or reinvesting funds in accordance with this Agreement in the absence Proper Instructions. In connection with investments of available cash pursuant to Proper Instructions, the Custodian may without liability use a broker-dealer of its own selection, including a broker-dealer owned by or affiliated with the Custodian or any of its affiliates. The Custodian is not responsible for the assets of the Owner which have been placed in accounts with brokers, prime brokers, counterparties, futures commission merchants and other intermediaries. The Custodian or any of its affiliates may receive reasonable compensation with respect to any such investment. It is expressly agreed and understood by the parties hereto that the Custodian shall not in any way whatsoever be liable for losses on any investments, including, but not limited to, losses from market risks due to premature liquidation or resulting from other actions taken pursuant to this Agreement. In the event the Custodian receives instructions from the Owner to effect a securities transaction as contemplated in 12 CFR 12.1, the Owner acknowledges that upon its written request and at no additional cost, it has the right to receive the notification from the Custodian after the completion of such transaction as contemplated in 12 CFR 12.4(a) or (b). The Owner agrees that, absent specific request, such notifications shall not be provided by the Custodian hereunder, and in lieu of such notifications, the Custodian shall make available periodic account statements in the manner required by this Agreement.

(d) The Custodian shall act only pursuant to Proper Instructions with regard to (a) the exercise of any rights or remedies with respect to the Custodial Assets, including, without limitation, waivers and voting rights, and (b) taking any other action in connection with the Custodial Assets, including, without limitation, any purchase, sale, conversion, redemption, exchange, retention or other transaction relating to the Custodial Assets. In the absence of Proper Instructions provided to the Custodian, the Custodian shall have no obligation to take any action with respect to the Custodial Assets. Notwithstanding anything herein to the contrary, under no circumstances shall the Custodian be obligated to bring legal action or institute proceedings against any person on behalf of the Owner.

(e) The Custodian shall hold the Custodial Assets in safekeeping and shall release and transfer same only in accordance with Proper Instructions. "Proper Instructions" shall mean written instructions or cabled, telexed, facsimile or electronically transmitted instructions in respect of any of the matters referred to in this Agreement purported to be signed (except in the case of electronically transmitted instructions) by one or more persons duly authorized to sign on behalf of the Owner as set forth in the Authorized Signers List of the Owner on Exhibit A hereto (each such person (an "Authorized Signer"), and, in the case of electronically transmitted instructions, in accordance with such authentication procedures as may be agreed by the Custodian and the Owner from time to time. Any electronically delivered instructions, including by email or facsimile, received from or on behalf of any Authorized Signer, or any email or facsimile received from another individual on behalf of the Owner in which any Authorized Signers are also identified as copied, shall constitute Proper Instructions.

In addition, Proper Instructions may include instructions and directions given by electronic transmission administered by the Society for Worldwide Interbank Financial Telecommunication ("SWIFT Messaging"), as well as certain other electronically transmitted instructions, such as FTP or other online portal. The Owner understands that the Custodian cannot determine the identity of the actual sender of Proper Instructions sent by SWIFT Messaging and such other methods of electronically transmitted instructions, and agrees that the Custodian may conclusively presume that such directions have been sent by an Authorized Signer. The Owner shall assure that only Authorized Signers shall transmit Proper Instructions from the Owner to the Custodian and shall safeguard the use and confidentiality of applicable user and authorization codes, passwords, and/or authentication keys upon receipt by the Owner. The Custodian shall not be liable for any losses, costs, or expenses arising directly or indirectly from the Custodian's reliance upon and compliance with such instructions or directions given by SWIFT Messaging or any other electronically transmitted instructions for which the identity of the actual sender cannot be identified, including but not limited to any overdrafts. The Owner shall assume all risks arising out of the use of SWIFT Messaging and any other electronic transmission methods to submit instructions and directions to the Custodian, including without limitation the risk of the Custodian acting on unauthorized instructions and the risk of interception and misuse by third parties, shall fully inform itself of the protections and risks associated with transmitting instructions and directions to the Custodian by SWIFT Messaging and other electronic transmission methods. The Owner acknowledges that there may be more secure methods of transmitting instructions and directions than SWIFT Messaging and other electronic messaging.

(f) For the avoidance of doubt and notwithstanding anything herein to the contrary, the Owner agree that the Custodian shall not have nor shall be implied to have any duties with respect to furnishing reports or other information as contemplated by the Investment Advisors Act of 1940 (the "Act") or Rule 206(4)-2 under the Act, and the Custodian shall only be obligated to furnish information to the Owner, or as the Owner and Custodian may otherwise agree. The Owner shall promptly notify the Custodian in the event it has knowledge or receives notice that the Assets of the Owner hereunder are or will be (or are or will be deemed to be) "plan assets" subject to the United States Employee Retirement Income Security Act of 1974, as amended (or any such substantially similar applicable federal, state, or local law).

(g) The Owner acknowledges that in accordance with laws, regulations and executive orders of the United States or any state or political subdivision thereof as are in effect from time to time applicable to financial institutions relating to the funding of terrorist activities and money laundering, including without limitation the USA Patriot Act (Pub. L. 107-56) and regulations promulgated by the Office of Foreign Asset Control (collectively, "AML Law"), the Custodian is required to obtain, verify, and record information relating to individuals and entities that establish a business relationship or open an account with the Custodian. The Owner hereby agrees that it shall provide the Custodian with such identifying information and documentation as the Custodian may request from time to time in order to enable the Custodian to comply with all applicable requirements of AML Law, including, but not limited to, the Owner's name, physical address, tax identification number and other information that will help the Custodian to identify and verify the Owner's identity such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information.

Section 2. Compensation.

(a) The Custodian shall be entitled to be paid by the Owner a fee as compensation for its services as set forth in the separate Fee Letter (the "Fee Letter") agreed to by the parties hereto. Except as otherwise noted, this fee covers account acceptance, set up and termination expenses, plus usual and customary related administrative services such as safekeeping, investment, collection and distribution of assets, including normal record-keeping/reporting requirements. Any additional services beyond those specified in this Agreement, or activities requiring excessive administrator time or out-of-pocket expenses, shall be performed only after reasonable prior notice is given to the Custodian by the Owner and shall be deemed extraordinary expenses for which related costs, transaction charges and additional fees will be billed at the Custodian's standard charges for such items. The Owner agrees to pay or reimburse the Custodian for all out-of-pocket costs and expenses (including without limitation reasonable fees and expenses of legal counsel) incurred, and any disbursements and advances made, in connection with the preparation, negotiation or execution of this Agreement, or in connection with or pursuant to consummation of the transactions contemplated hereby, or the administration of this Agreement or performance by the Custodian of its duties and services under this Agreement.

(b). The Owner hereby grants to the Custodian a lien on all Custodial Assets for all indebtedness that may become owing to the Custodian hereunder, which lien may be enforced by the Custodian by set-off or appropriate foreclosure proceedings. In this regard, if the Owner is unwilling or unable to pay the Custodian any amounts due hereunder or to indemnify any indemnified party hereunder, the Custodian may, in its sole discretion, withdraw any cash in the account, or, if insufficient, liquidate a portion of the Custodial Assets, and the Custodian shall use such cash or deduct from such proceeds any fees, expenses and indemnities that it (or any indemnified party) may be due hereunder. The Owner hereby consent to and authorize such action by the Custodian, and the Custodian shall have no liability for any action taken pursuant to this authorization. The Custodian agrees to provide the Owner with written notice prior to taking any action pursuant to this Section 2(b). The payment obligations to the Custodian pursuant to this Section 2 shall survive the termination of this Agreement and the resignation or removal of the Custodian.

Section 3. Limitation of Responsibility of the Custodian; Indemnifications.

(a) The Custodian shall be obligated only for the performance of such duties as are specifically set forth in this Agreement and the Custodian shall satisfy those duties expressly set forth herein so long as it acts in good faith and without gross negligence or willful misconduct. The Custodian may rely and shall be protected in acting or refraining from acting on any written notice, request, waiver, consent or instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. The Custodian shall have no duty to determine or inquire into the happening or occurrence of any event or contingency, and it is agreed that its duties are purely ministerial in nature. The Custodian may consult with and obtain advice from legal counsel as to any provision hereof or its duties hereunder and shall not be liable for action taken or omitted by it in good faith and the advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in reliance thereon. The Custodian shall not be liable for any action taken or omitted by it in good faith and reasonably believed by it to be authorized hereby, except for actions arising from the gross negligence or willful misconduct of the Custodian. The Custodian shall have no liability for loss arising from any cause beyond its control, including but not limited to, any act or provision of any present or future law or regulation or governmental authority, any act of God, war, terrorism, accidents, labor disputes, disease, epidemic, pandemic, quarantine, national emergency, loss or malfunction of utilities or computer software or hardware, the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, the act, failure or neglect of any agent or correspondent selected with due care by the Custodian, any delay, error, omission or default of any mail, telegraph, cable or wireless agency or operator; or the acts or edicts of any government or governmental agency or other group or entity exercising governmental powers. Notwithstanding anything in this Agreement to the contrary, in no event shall the Custodian be liable for special, punitive, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits).

(b) It is expressly acknowledged that the application and performance by the Custodian of its various duties hereunder (including calculations to be performed in respect of the matters contemplated hereby) shall be based upon, and in reliance upon, data and information provided to it by the Owner with respect to the Loan Assets. The Custodian shall have no liability for any failure, inability or unwillingness on the part of the Owner to provide accurate and complete information on a timely basis to the Custodian, or otherwise to comply with the terms of this Agreement, and shall have no liability for any inaccuracy or error in the performance or observance on the Custodian's part of any of its duties hereunder that is caused by or results from any such inaccurate, incomplete or untimely information received by it, or other failure on the part of the Owner to comply with the terms hereof.

(c) Without limiting the generality of the foregoing, the Custodian shall not be subject to any fiduciary or other implied duties and the Custodian shall not be required to exercise any discretion hereunder and shall have no investment or management responsibility and, accordingly, shall have no duty to, or liability for its failure to, provide investment recommendations or investment advice to the parties hereto. It is the intention of the parties hereto that the Custodian shall never be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder. The Custodian may exercise any of its rights or powers hereunder or perform any of its duties hereunder either directly or, by or through affiliates, agents or attorneys, and the Custodian shall not be responsible for any misconduct or negligence on the part of any non-affiliated agent or attorney appointed hereunder with due care by it.

(d) The Custodian is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of this Agreement or any part hereof (except with respect to the Custodian's obligations hereunder) or for the transaction or transactions requiring or underlying the execution of this Agreement, the form or execution hereof or for the identity or authority of any person executing this Agreement or any part hereof (except with respect to the Custodian) or depositing the Custodial Assets. The Custodian shall not be deemed to have notice or knowledge of any matter hereunder unless written notice thereof is received by the Custodian. It is expressly acknowledged by the Owner that application and performance by the Custodian of its various duties hereunder may be based upon, and in reliance upon, data, information and notice provided to it by the Owner and/or any related bank agent, obligor or similar party with respect to the Custodial Assets, and the Custodian shall have no responsibility for the accuracy of any such information or data provided to it by such persons and shall be entitled to update its records (as it may deem necessary or appropriate). The Custodian shall not be liable for the actions or omissions of, or any inaccuracies in the records of, the Owner or any clearing agency or depository or any other person and without limiting the foregoing, the Custodian shall not be under any obligation to monitor, evaluate or verify compliance by the Owner or any other person with any agreement or applicable law.

(e) The Owner shall, and hereby agrees to, indemnify, defend and hold harmless the Custodian and its affiliates, directors, officers, shareholders, agents and employees from any and all losses, damages, liabilities, demands, charges, costs, expenses (including the reasonable fees and expenses of counsel and other experts) and claims of any nature (including the costs and expenses of a successful defense, in whole or part, of any claim that Custodian breached its standard of care set forth herein) (collectively referred to herein as "Losses"), in respect of, or arising from any acts or omissions performed or omitted by the Custodian, its affiliates, directors, officers, shareholders, agents or employees pursuant to or in connection with the terms of this Agreement, or in the performance or observance of its duties or obligations under this Agreement, including, without limitation, Losses resulting from the enforcement of the Owner's indemnity obligations hereunder; provided such acts or omissions are in good faith and without willful misconduct or gross negligence on the part of the Custodian as determined by a final non- appealable judgment of a court of competent jurisdiction. The Owner also hereby agrees to hold the Custodian harmless from any Loss resulting from any taxes or other governmental charges, and any expense related thereto, which may be imposed, or assessed with respect to any Custodial Assets in the Account and also agrees to hold the Custodian and its respective nominees harmless from any Loss as record holder of Custodial Assets in the Account. The Owner may remit payment for expenses and indemnities owed to the Custodian hereunder or, in the absence thereof, the Custodian may from time to time deduct payment of such amounts from the Account.

(f) Nothing herein shall impose or imply any duty or obligation on the part of the Custodian to verify, investigate or audit any such information or data, or to determine or monitor on an independent basis whether any issuer of the securities or loans included in the Loan Assets is in default or in compliance with the underlying instruments governing or securing such securities or loans, the role of the Custodian hereunder being solely to perform only those functions as provided herein. This Section 3 shall survive the termination or assignment of this Agreement and the resignation or removal of the Custodian.

Section 4. No Joint Venture.

Nothing contained in this Agreement (i) shall constitute the Custodian or the Owner, respectively, as members of any partnership, joint venture, association, syndicate, unincorporated business or other separate entity, (ii) shall be construed to impose any liability as such on any of them or (iii) shall be deemed to confer on any of them any express, implied or apparent authority to incur any obligation or liability on behalf of any of the others.

Section 5. Other Activities of Custodian.

Nothing herein shall prevent the Custodian or its Affiliates from engaging in other businesses or, in its sole discretion, from acting in a similar capacity as a collateral administrator or monitor, for any other person or entity even though such person or entity may engage in business activities similar to those of the Owner.

Section 6. Resignation and Removal of Custodian.

(a) The Custodian may at any time resign hereunder by giving written notice of its resignation to the Owner at least sixty (60) days prior to the date specified for such resignation to take effect, and upon the effective date of such resignation, the Custodial Assets hereunder shall be delivered by it to such person as may be designated in writing by the Owner, whereupon all the Custodian's obligations hereunder shall cease and terminate. If no such person shall have been designated by such date, all obligations of the Custodian hereunder shall, nevertheless, cease and terminate. The Custodian's sole responsibility thereafter shall be to keep safely all Custodial Assets then held by it and to deliver the same to a person designated by the Owner or in accordance with the direction of a final order or judgment of a court of competent jurisdiction.

(b) The Owner may remove the Custodian at any time by giving the Custodian at least sixty (60) days' prior written notice. Upon receipt of the identity of the successor Custodian as designated by the Owner in writing, the Custodian shall either deliver the Custodial Assets then held hereunder to the successor Custodian, less the Custodian's fees, costs and expenses or other obligations owed to the Custodian, or hold such Assets (or any portion thereof), pending distribution, until all such fees, costs and expenses or other obligations are paid. Upon delivery of the Custodial Assets to successor Custodian, the Custodian shall have no further duties, responsibilities or obligations hereunder.

Section 7. Action upon Termination, Resignation or Removal of the Custodian.

Promptly upon the effective date of the resignation or removal of the Custodian pursuant to Section 6 hereof the Custodian shall be entitled to be paid all amounts accruing to it to the date of such termination, resignation or removal. Upon receipt of the identity of the successor Custodian as designated by the Owner in writing, the Custodian shall either deliver the Custodial Assets then held hereunder to the successor Custodian, less the Custodian's fees, costs and expenses or other obligations owed to the Custodian, or hold such Custodial Assets (or any portion thereof), pending distribution, until all such fees, costs and expenses or other obligations are paid. Upon delivery of the Custodial Assets to successor Custodian, the Custodian shall have no further duties, responsibilities or obligations hereunder.

Section 8. Notices. Any delivery of physical Custodial Assets or any notice, report or other communication given hereunder shall be in writing, given at the address below (or to such other address as shall have provided to the others in writing), by prepaid first class mail, overnight courier, facsimile or email:

If to the Custodian:

With respect to the delivery of physical Custodial Assets: Computershare Trust Company, N.A.

Attn: CTSO Mail Room
MAC: N9300-070
600 South Fourth Street Minneapolis, MN 55415 Ref: PhenixFIN Corporation
Email: SASCustodyTeam@wellsfargo.com For all other purposes:
Computershare Trust Company, N.A. 9062 Old Annapolis Road
Columbia, Maryland 21045
Attn: Securities Custody Services Ref: PhenixFIN Corporation Fax: (410) 715-3748
Email: SASCustodyTeam@wellsfargo.com If to the Owner:
PhenixFIN Corporation 445 Park Avenue
10th Floor
New York, NY 10022

Section 9. Amendments.

This Agreement may not be amended, changed, modified or terminated (except as otherwise expressly provided herein) except by the Owner and the Custodian in writing.

Section 10. Successor and Assigns.

This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the Owner and the Custodian. Notwithstanding the foregoing, any organization or entity into which the Custodian may be merged or converted or with which it may be consolidated, any organization or entity resulting from any merger, conversion or consolidation to which the Custodian shall be a party and any organization or entity succeeding to all or substantially all of the corporate trust business of the Custodian, shall be the successor Custodian hereunder without the execution or filing of any paper or any further act of any of the parties hereto.

Section 11. Governing Law.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK.

The parties hereto hereby irrevocably submit to the non-exclusive jurisdiction of any New York State or Federal Court sitting in the Borough of Manhattan in the City of New York in any proceeding arising out of or relating to this Agreement, and the parties hereby irrevocably agree that all claims in respect of any such proceeding may be heard and determined in any such New York State or Federal court. The parties hereby irrevocably waive, to the fullest extent that they may legally do so, the defense of an inconvenient forum to the maintenance of such proceeding. The parties agree that a final non-appealable judgment in any such proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 12. Headings.

The section headings hereof have been inserted for convenience of reference only and shall not be construed to affect the meaning, construction or effect of this Agreement.

Section 13. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be valid, binding, and enforceable against a party when executed and delivered by an authorized individual on behalf of the party by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including any relevant provisions of the UCC (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under the UCC or other Signature Law due to the character or intended character of the writings.

Section 14. Severability.

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 15. Waiver.

No failure on the part of any party hereto to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

Section 16. No Third Party Beneficiaries.

This Agreement does not confer any rights or remedies upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

Section 17. Waiver of Jury Trial.

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

IN WITNESS WHEREOF, the parties have caused this Loan Administration Agreement to be duly executed and delivered as of the date and year first above written.

PHENIXFIN CORPORATION, as the Owner

By: /*s*/ Ellida McMillan
Name: Ellida McMillan
Title: CFO

COMPUTERSHARE TRUST COMPANY, N.A., as Custodian

By: /s/ Jose M. Rodriguez
Name: Jose M. Rodriguez
Title: Vice president

Exhibit A

Authorized Signers List

Each of the following named officers is authorized to act for, and bind PhenixFIN Corporation (the "Owner") with respect to matters concerning that certain Loan Administration and Custodial Agreement dated as of [ ], 2022, between Computershare Trust Company, N.A., as Custodian and the Owner :

/*s*/ Ellida McMillan	Ellida McMillan	CFO
Signature	Name of Officer	Title
	445 park avenue 10th FL New York, NY 10022	
	Business Address	
Signature	Name of Officer	Title
	Business Address	
Signature	Name of Officer	Title
	Business Address	
Signature	Name of Officer	Title
	Business Address	

Exhibit 10.11

Execution Version

CREDIT AGREEMENT

dated as of

December 15, 2022

among

PHENIXFIN CORPORATION,
as Borrower

the other Loan Parties party hereto

the Lenders party hereto

and

WOODFOREST NATIONAL BANK,
as Administrative Agent

WOODFOREST NATIONAL BANK,
as Sole Bookrunner and Sole Lead Arranger

TABLE OF CONTENTS

SCHEDULES:

EXHIBITS:

This CREDIT AGREEMENT dated as of December 15, 2022 (as it may be amended or modified from time to time, this "*Agreement*"), among PhenixFIN Corporation, a Delaware corporation, as Borrower, the other Loan Parties party hereto, the Lenders party hereto, and Woodforest National Bank, as Administrative Agent.

The parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"*ABR*", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, is bearing interest at a rate determined by reference to the Alternate Base Rate.

"*Account*" has the meaning assigned to such term in the Security Agreement.

"*Account Debtor*" means any Person obligated on an Account.

"*Adjusted Net Investment Income*" means, for any period, Net Investment Income for such period plus (a) without duplication and to the extent deducted in determining Net Investment Income for such period, the sum of (i) Interest Expense for such period, (ii) any extraordinary non-cash charges for such period approved by the Administrative Agent in its sole discretion and (iii) expenses incurred in connection with the transactions completed herein in an aggregate amount not to exceed $1,500,000, minus (b) without duplication and to the extent included in Net Investment Income, any cash payments made during such period in respect of non-cash charges described in clause (a)(ii) taken in a prior period, all calculated for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

"*Administrative Agent*" means Woodforest National Bank (or any of its designated branch offices or affiliates), in its capacity as administrative agent for the Lenders hereunder.

"*Administrative Questionnaire*" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"*Advance Rate*" means, as to any Eligible Investment and subject to adjustment as provided in the definition of Borrowing Base, the following percentages with respect to such Eligible Investment:

	Advance Rate	
Portfolio Investment Type	**Unquoted Investment**	**Quoted Investment**
Cash and Cash Equivalents	100%	100%
Eligible First Lien Term Debt	65%	75%
Eligible Senior Secured Debt	55%	65%
Eligible Second Lien Debt	45%	55%
Eligible Term Loan B Debt	45%	55%

"*Affected Financial Institution*" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"*Affiliate*" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the specified Person.

"*Affiliate Investment*" means any Investment in a Person in which a Loan Party owns or Controls more than 25% of the Equity Interests.

"*Aggregate Credit Exposure*" means, at any time, the aggregate Credit Exposure of all the Lenders at such time.

"*Aggregate Revolving Exposure*" means, at any time, the aggregate Revolving Exposure of all the Lenders at such time.

"*Agreement*" has the meaning specified in introductory paragraph hereof.

"*Alternate Base Rate*" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day plus 0.50%, and (c) the Term SOFR Rate for a one-month Interest Period as published two (2) U.S. Government Securities Business Days prior to such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that, for the purpose of this definition, the Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 5:00 p.m. New York City time on such day (or any amended publication time for the Term SOFR Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology). Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Term SOFR Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 2.14(b)), then the Alternate Base Rate shall be the greater of clause (a) and (b) above and shall be determined without reference to clause (c) above.

"*Ancillary Document*" has the meaning assigned to it in Section 9.06(b).

"*Anti-Corruption Laws*" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

"*Applicable Percentage*" means, at any time with respect to any Lender, a percentage equal to a fraction the numerator of which is such Lender's Revolving Commitment at such time and the denominator of which is the aggregate Revolving Commitments at such time (provided that, if the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon such Lender's share of the Aggregate Revolving Exposure at such time); provided that, in accordance with Section 2.20, so long as any Lender shall be a Defaulting Lender, such Defaulting Lender's Commitment shall be disregarded in the calculations above.

"*Applicable Rate*" means, for any day, with respect to any Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption "Term Benchmark Margin" with respect to any Term Benchmark Loan, "ABR Margin" with respect to any ABR Loan, or "Commitment Fee Rate" with respect to the commitment fee under Section 2.12(a), as the case may be.

Term Benchmark Margin	ABR Margin	Commitment Fee Rate
2.90%	1.90%	0.25%

"*Approved Dealer*" means a bank or a broker-dealer registered under the Securities Exchange Act of 1934 of nationally recognized standing or an Affiliate thereof and acceptable to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges and agrees that the following are acceptable as an Approved Dealer: Bank of America, Merrill Lynch, Jefferies, Liquidnet, MKM Partners, Morgan Stanley Co, RBC, UBS, Credit Suisse, Goldman Sachs, Macquarie, Wells Fargo, Baird, RW Pressprich, Odeon, McDonald Partners, Interactive Brokers, Deutsche Bank, JP Morgan, CIBC, TD, Seaport Securities, BTIG, B. Riley, Oppenheimer, Ladenburg, Janney, Raymond James and Morgan Stanley.

"*Approved Electronic Platform*" has the meaning assigned to it in Section 8.03(a).

"*Approved Fund*" means, for the purposes of Section 9.04(b), any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"*Approved Pricing Service*" means a pricing or quotation service acceptable to the Administrative Agent in its sole discretion. The Administrative Agent acknowledges and agrees that the following are acceptable as an Approved Pricing Service: Murray Devine and Valuation Research Corporation.

"*Arranger*" means Woodforest National Bank, in its capacity as sole bookrunner and sole lead arranger hereunder.

"*Asset Coverage Ratio*" means, for any period, the ratio of (a) total assets of the Borrower and its Subsidiaries to (b) total Indebtedness of the Borrower and its Subsidiaries.

"*Assignment and Assumption*" means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form (including electronic records generated by the use of an electronic platform) approved by the Administrative Agent.

"*Availability*" means, at any time, an amount equal to (a) the lesser of (i) the aggregate Revolving Commitments and (ii) the Borrowing Base minus (b) the Aggregate Revolving Exposure (calculated, with respect to any Defaulting Lender, as if such Defaulting Lender had funded its Applicable Percentage of all outstanding Borrowings).

"*Availability Period*" means the period from and including the Effective Date to but excluding the earlier of the Revolving Credit Maturity Date and the date of termination of the Revolving Commitments.

"*Available Tenor*" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, for determining any frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to clause (e) of Section 2.14.

"*Bail-In Action*" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"*Bail-In Legislation*" means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"*Banking Services*" means each and any of the following bank services provided to any Loan Party or any Subsidiary by any Lender or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, "commercial credit cards" and purchasing cards), (b) stored value cards, (c) merchant processing services, and (d) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, any direct debit scheme or arrangement, overdrafts and interstate depository network services and cash pooling services).

"*Banking Services Obligations*" means any and all obligations of the Loan Parties or their Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

"*Bankruptcy Code*" means Title 11 of the United States Code entitled "Bankruptcy", as now or hereafter in effect, or any successor thereto, as hereafter amended.

"*Bankruptcy Event*" means, with respect to any Person, when such Person becomes the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business, appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, or has had any order for relief in such proceeding entered in respect thereof, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the U.S. or from the enforcement of judgments or writs of attachment on its assets or permits such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"*Benchmark*" means, initially, with respect to any Term Benchmark Loan, the Term SOFR Rate; provided that if a Benchmark Transition Event and the related Benchmark Replacement Date have occurred with respect to the Term SOFR Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 2.14.

"*Benchmark Replacement*" means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(a) the Daily Simple SOFR;

(b) the sum of: (i) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated syndicated credit facilities at such time in the United States and (ii) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to clause (a) or (b) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

"*Benchmark Replacement Adjustment*" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities at such time.

"*Benchmark Replacement Conforming Changes*" means, with respect to any Benchmark Replacement and/or any Term Benchmark Loan, any technical, administrative or operational changes (including changes to the definition of "*Alternate Base Rate*", the definition of "*Business Day*", the definition of "*U.S. Government Securities Business Day*", the definition of "*Interest Period*", timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"*Benchmark Replacement Date*" means, with respect to any Benchmark, the earliest to occur of the following events with respect to such then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "*Benchmark Transition Event*", the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "*Benchmark Transition Event*", the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the "*Benchmark Replacement Date*" will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"*Benchmark Transition Event*" means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to such then-current Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, the CME Term SOFR Administrator, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer, or as of a specified future date will no longer be, representative.

For the avoidance of doubt, a "*Benchmark Transition Event*" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"*Benchmark Unavailability Period*" means, with respect to any Benchmark, the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clauses (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14 and (b) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14.

"*Beneficial Ownership Certification*" means a certification regarding beneficial ownership or control as required by the Beneficial Ownership Regulation.

"*Beneficial Ownership Regulation*" means 31 C.F.R. § 1010.230.

"*Benefit Plan*" means any of (a) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"*BHC Act Affiliate*" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"*Blocking Regulation*" has the meaning assigned to it in Section 3.21.

"*Borrower*" means PhenixFIN Corporation, a Delaware corporation.

"*Borrowing*" means a Revolving Borrowing made, converted or continued on the same date and, in the case of Term Benchmark Loans, as to which a single Interest Period is in effect.

"*Borrowing Base*" means, at any time, based on the most recent Borrowing Base Certificate which as of the date of a determination of the Borrowing Base has been received by the Administrative Agent, the sum of the product of the Value of each Eligible Investment and the applicable Advance Rate; provided that the following Eligible Investments shall be excluded from the calculation of the Borrowing Base:

(a) Eligible Debt Securities owed by any one Obligor (individually or together with other Obligors) to the extent the Eligible Debt Securities owed by such Obligor exceed 5% of the Borrower's total net assets, unless otherwise approved by the Required Lenders in their Permitted Discretion following the Borrower's request (which shall be limited to three times per calendar year);

(b) Eligible Debt Securities owed by Obligors with a primary business in the same or substantially similar industry (as determined by the Required Lenders in their Permitted Discretion) to the extent the Eligible Debt Securities owed by such Obligors exceed 25% of the aggregate value of the Borrowing Base;

(c) Eligible Debt Securities consisting of revolving loans or delayed draw loans to the extent such Eligible Debt Securities exceed 15% of the aggregate value of the Borrowing Base;

(d) Eligible Debt Securities consisting of unitranche loans to the extent such Eligible Debt Securities exceed 15% of the aggregate value of the Borrowing Base;

(e) Eligible Second Lien Debt and Eligible Term Loan B Debt to the extent such Eligible Debt Securities exceeds 10% of the aggregate value of the Borrowing Base;

(f) Covenant-Light Loans to Obligors with an adjusted EBITDA (as defined in the applicable loan documents for such Debt Security) of less than $50,000,000 to the extent such Covenant-Light Loans exceeds 25% of the aggregate value of the Borrowing Base; and

(g) Cash and Cash Equivalents to the extent in excess of $7,500,000, unless otherwise approved by the Required Lenders in their sole discretion.

"*Borrowing Base Certificate*" means a certificate, signed and certified as accurate and complete by a Financial Officer, in substantially the form of Exhibit F or another form which is acceptable to the Administrative Agent in its sole discretion.

"*Borrowing Request*" means a request by the Borrower for a Borrowing in accordance with Section 2.03, which shall be substantially in the form of Exhibit B-1 hereto or any other form approved by the Administrative Agent.

"*Burdensome Restrictions*" means any consensual encumbrance or restriction of the type described in clause (a) or (b) of Section 6.10.

"*Business Day*" means any day (other than a Saturday or a Sunday) on which banks are open for business in New York City.

"*Capital Lease Obligations*" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases or financing leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"*Cash and Cash Equivalents*" means unrestricted and unencumbered (a) cash, (b) securities based or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof) having maturities of not more than 180 days from the date of acquisition, (c) Dollar denominated time and demand deposits and certificates of deposit of (i) any Lender, (ii) any domestic commercial bank having capital and surplus in excess of $500,000,000 or (iii) any bank whose short-term commercial paper rating from S&P is at least A-2 or the equivalent thereof or from Moody's is at least P-2 or the equivalent thereof (any such bank being an "Approved Bank"), in each case with maturities of not more than 180 days from the date of acquisition, (d) commercial paper and variable or fixed rate notes issued by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by, or guaranteed by, any domestic corporation rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody's and maturing within 180 days of the date of acquisition, (e) repurchase agreements with a bank or trust company (including any of the Lenders) or recognized securities dealer having capital and surplus in excess of $500,000,000 for direct obligations issued by or fully guaranteed by the United States of America in which the Borrower or any of its Subsidiaries shall have a perfected first priority security interest (subject to no other Liens) and having, on the date of purchase thereof, a fair market value of at least 100% of the repurchase obligations, (f) Investments, classified in accordance with GAAP as current assets, in money market investments programs registered under the Investment Company Act of 1940, as amended, which are administered by reputable financial institutions having capital of at least $500,000,000.

"*Change in Control*" means the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the Effective Date) of Equity Interests representing more than thirty percent (30%) of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower.

"*Change in Law*" means the occurrence after the Effective Date of any of the following: (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) compliance by any Lender (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline, requirement or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Effective Date; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in the implementation thereof, and (ii) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the U.S. or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "*Change in Law*", regardless of the date enacted, adopted, issued or implemented.

"*Charges*" has the meaning assigned to such term in Section 9.17.

"*CME Term SOFR Administrator*" means CME Group Benchmark Administration Limited as administrator of the forward-looking term SOFR (or a successor administrator).

"*Code*" means the Internal Revenue Code of 1986, as amended from time to time.

"*Collateral*" means any and all right, title and interest of the Loan Parties in, to and under all property owned, leased or operated by a Person covered by the Collateral Documents and any and all other property of any Loan Party (other than Excluded Property), now existing or hereafter acquired, that may at any time be, become or be intended to be, subject to a security interest or Lien in favor of the Administrative Agent, on behalf of itself and the Lenders and other Secured Parties, to secure the Secured Obligations.

"*Collateral Documents*" means, collectively, the Security Agreement and any other agreements, instruments and documents executed in connection with this Agreement that are intended to create, perfect or evidence Liens to secure the Secured Obligations, including, without limitation, all other security agreements, pledge agreements, mortgages, deeds of trust, loan agreements, notes, guarantees, subordination agreements, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, leases, financing statements and all other written matter whether theretofore, now or hereafter executed by any Loan Party and delivered to the Administrative Agent.

"*Commitment*" means, with respect to each Lender, the sum of such Lender's Revolving Commitment. The initial amount of each Lender's Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption or other documentation or record (as such term is defined in Section 9-102(a)(70) of the New York Uniform Commercial Code) as provided in Section 9.04(b)(ii)(C), pursuant to which such Lender shall have assumed its Commitment, as applicable.

"*Commitment Schedule*" means the Schedule attached hereto identified as such.

"*Commodity Exchange Act*" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"*Communications*" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent or any Lender by means of electronic communications pursuant to Section 8.03, including through an Approved Electronic Platform.

"*Compliance Certificate*" means a certificate of a Financial Officer in substantially the form of Exhibit D.

"*Connection Income Taxes*" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"*Control*" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "*Controlling*" and "*Controlled*" have meanings correlative thereto.

"*Corresponding Tenor*" with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

"*Covenant-Light Loans*" means Eligible Debt Securities for which the loan documents do not require the Obligor thereunder to comply with more than one financial covenant (including without limitation any covenant relating to a borrowing base, asset valuation or similar asset-based requirement).

"*Covered Entity*" means any of the following:

(a) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(b) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R.§ 47.3(b); or

(c) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R.§ 382.2(b).

"*Covered Party*" has the meaning assigned to it in Section 9.21.

"*Credit Exposure*" means, as to any Lender at any time, such Lender's Revolving Exposure at such time.

"*Credit Party*" means the Administrative Agent or any Lender.

"*Cure Debt Securities*" means unsecured debt securities issued by Borrower pursuant to that certain registration statement on Form N-2 (file no. 333-258913), or a successor registration statement, filed with the SEC, which are issued for the purpose of Borrower exercising its Cure Right pursuant to Section 7.03, and are subject to terms that are satisfactory to the Administrative Agent, including without limitation accruing interest at a rate approved by the Administrative Agent and having a maturity date that is no less than 90 days following the Revolving Credit Maturity Date.

"*Cure Right*" has the meaning assigned to such term in Section 7.03.

"Custodial Agreement" means that certain Loan Administration and Custodial Agreement dated as of September 12, 2022 between the Borrower and the Custodian, as the same may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"*Custodian*" means ComputerShare Trust Company, N.A., in its capacity as Custodian under the Custodial Agreement, together with its permitted successors and assigns.

"*Daily Simple SOFR*" means, for any day (a "*SOFR Rate Day*"), a rate per annum equal to SOFR for the day (such day "*SOFR Determination Date*") that is five (5) U.S. Government Securities Business Days prior to (a) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (b) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

"*Debt Security*" means a note, bond, debenture, trust receipt or other obligation, instrument or evidence of indebtedness, including debt instruments of public and private issuers and tax-exempt securities, but specifically excluding (i) Equity Interests and (ii) any security which by its terms permits the payment obligation of the Obligor thereunder to be converted into or exchanged for Equity Interests of such Obligor.

"*Default*" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"*Default Right*" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"*Defaulting Lender*" means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations as of the date of certification) to fund prospective Loans, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become the subject of (i) a Bankruptcy Event or (ii) a Bail-In Action.

"*Disposition*" or "*Dispose*" means the sale, transfer, license, lease or other disposition (in one transaction or in a series of transactions and whether effected pursuant to a Division or otherwise) of any property by any Person (including any sale and leaseback transaction and any issuance of Equity Interests by a Subsidiary of such Person), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"*Disqualified Lender*" means any Person designated in writing by the Borrower to the Administrative Agent that is a business development company and is a "direct competitor" of the Borrower, and is specified on a list on file with the Administrative Agent on the Effective Date, which list may be from time to time updated by written notice from the Borrower, and which list shall be made available by the Administrative Agent to the Lenders upon request.

"*Dividing Person*" has the meaning assigned to it in the definition of "*Division*".

"*Division*" means the division of the assets, liabilities and/or obligations of a Person (the *"Dividing Person*") among two or more Persons (whether pursuant to a "plan of division" or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

"*Division Successor*" means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

"*Document*" has the meaning assigned to such term in the Security Agreement.

"*Dollars*", "*dollars*" or "*$*" refers to lawful money of the U.S.

"*ECP*" means an "eligible contract participant" as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

"*EEA Financial Institution*" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"*EEA Member Country*" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"*EEA Resolution Authority*" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"*Effective Date*" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"*Electronic Signature*" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

"*Electronic System*" means any electronic system, including e-mail, e-fax, web portal access for the Borrower and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and any of its Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

"*Eligible Debt Security*" means, on any date of determination, any Debt Security (including, for the avoidance of doubt, any Equity Interests converted to a Debt Security) held by Borrower as a Portfolio Investment that is determined by the Administrative Agent in the exercise of its Permitted Discretion to meet the following conditions:

(i) the investment in the Debt Security was made in accordance with the terms of the Investment Policies;

(ii) the Debt Security has an Eligible Investment Rating;

(iii) no Triggering Event related to the Debt Security is continuing;

(iv) the Obligor of such Debt Security has executed all appropriate documentation, if any, required in accordance with applicable Investment Policies;

(v) the Debt Security is a "general intangible", an "instrument", an "account", or "chattel paper", within the meaning of the UCC of all jurisdictions that govern the perfection of the security interest granted therein;

(vi) material consents, licenses, approvals or authorizations of, or registrations or declarations with, any Governmental Authority required to be obtained, effected or given in connection with the acquisition of such Debt Security have been duly obtained, effected or given and are in full force and effect;

(vii) the Debt Security is denominated and payable only in Dollars in the United States and the primary Obligor for such Debt Security is organized under the laws of, and maintains its chief executive office in, the United States or any state thereof;

(viii) the loan documents governing or evidencing such Debt Security have not, since January 1, 2021, been amended, supplemented or otherwise modified more than once in any calendar year or more than twice of the term of such Debt Security, except for administrative or immaterial amendments, supplements or other modification;

(ix) the Debt Security bears current all cash interest due and payable;

(x) the Obligor with respect to the Debt Security is not (A) an Affiliate of the Borrower or any other Person whose investments are primarily managed by the Borrower or any Affiliate of the Borrower or (B) a Governmental Authority;

(xi) any action shall be taken to discontinue or to assert the invalidity or unenforceability of the Debt Security;

(xii) the Debt Security and Borrower's ownership thereof comply with each Requirement of Law, including without limitation the Investment Company Act; and

(xiii) all information delivered by Borrower to the Administrative Agent with respect to such Debt Security is true and correct.

"*Eligible First Lien Term Debt*" means any Eligible Debt Security for which the Borrower has a first-priority perfected lien on substantially all of the assets of the Obligor of such Eligible Debt Security, but excluding any Eligible Term Loan B Debt.

"*Eligible Investment*" means, collectively, the following investments of the Borrower so long as the Administrative Agent maintains at all times a first priority, perfect Lien on such investment (subject to no Liens other than Permitted Encumbrances): Cash and Cash Equivalents. Eligible First Lien Term Debt, Eligible Senior Secured Debt, Eligible Second Lien Debt, Eligible Term Loan B Debt.

"*Eligible Investment Rating*" means, as of any date of determination with respect to a Portfolio Investment, an investment rating of "Credit Rating 3" or better as determined in accordance with the Investment Policies.

"*Eligible Second Lien Debt*" means any Eligible Debt Security for which the Borrower has a second-priority perfected lien on substantially all of the assets of the Obligor of such Eligible Debt Security.

"*Eligible Senior Secured Debt*" means any Eligible Debt Security for which the Borrower has a first-priority perfected lien on certain (but fewer than all or substantially all) of the assets of the Obligor of such Eligible Debt Security.

"*Eligible Term Loan B Debt*" means any Eligible Debt Security for which the Borrower has a first-priority perfected lien on substantially all of the assets of the Obligor of such Eligible Debt Security and is designated as, or has the characteristics of, "term loan B debt", as determined by the Administrative Agent, in its Permitted Discretion.

"*Equity Interests*" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing, but excluding any debt securities convertible into any of the foregoing.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

"*ERISA Affiliate*" means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001(14) of ERISA or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"*ERISA Event*" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30 day notice period is waived); (b) the failure to satisfy the "minimum funding standard" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any ERISA Affiliate from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any ERISA Affiliate of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, in critical status or in reorganization, within the meaning of Title IV of ERISA.

"*EU Bail-In Legislation Schedule*" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

"*Event of Default*" has the meaning assigned to such term in Section 7.01.

"*Excluded Property*" has the meaning assigned to such term in the Security Agreement.

"*Excluded Subsidiary*" means (a) FlexFIN, LLC, a Delaware limited liability company, (b) NVTN LLC, a Delaware limited liability company, and (c) such other Subsidiaries the Administrative Agent agrees to designate as Excluded Subsidiaries in its sole discretion.

"*Excluded Swap Obligation*" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an ECP at the time the Guarantee of such Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"*Excluded Taxes*" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.17(f) and (d) any withholding Taxes imposed under FATCA.

"*FATCA*" means Sections 1471 through 1474 of the Code as of the Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"*Federal Funds Effective Rate*" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depositary institutions (as determined in such manner as shall set forth on the NYFRB's Website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate.

"*Federal Reserve Board*" means the Board of Governors of the Federal Reserve System of the United States of America.

"*Financial Covenant Default*" has the meaning assigned to such term in Section 7.03.

"*Financial Officer*" means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

"*Floor*" means an all-in rate of 3.50%.

"*Foreign Lender*" means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

"*Funding Account*" means a deposit account of the Borrower held and maintained with Woodforest/

"*GAAP*" means generally accepted accounting principles in the U.S.

"*Governmental Authority*" means the government of the U.S., any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"*Guarantee*" of or by any Person (the "*guarantor*") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "*primary obligor*") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

"*Guaranteed Obligations*" has the meaning assigned to such term in Section 10.01.

"*Guarantor*" means each Subsidiary of the Borrower party hereto and any other Subsidiary of the Borrower who becomes a party to this Agreement, in accordance with the terms hereof, pursuant to a Joinder Agreement.

"*Indebtedness*" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) obligations under any earn-out (which for all purposes of this Agreement shall be valued at the maximum potential amount payable with respect to each such earn-out) and (l) any other Off-Balance Sheet Liability, and (m) obligations, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (i) any and all Swap Agreements, and (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"*Indemnified Taxes*" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in the foregoing clause (a), Other Taxes.

"*Indemnitee*" has the meaning assigned to such term in Section 9.03(c).

"*Ineligible Institution*" means, for the purposes of Section 9.04(b), a (a) natural person, (b) a Defaulting Lender or its Lender Parent, (c) holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof; provided that, with respect to clause (c), such holding company, investment vehicle or trust shall not constitute an Ineligible Institution if it (i) has not been established for the primary purpose of acquiring any Loans or Commitments, (ii) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (iii) has assets greater than $25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business, or (d) a Loan Party or a Subsidiary or other Affiliate of a Loan Party.

"*Information*" has the meaning assigned to such term in Section 9.12.

"*Interest Coverage Ratio*" means, for any period, the ratio of (a) Adjusted Net Investment Income for such period to (b) cash Interest Expense for such period.

"*Interest Election Request*" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08, which shall be substantially in the form of Exhibit B-2 hereto or any other form approved by the Administrative Agent.

"*Interest Expense*" means, with reference to any period, total interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its Subsidiaries for such period with respect to all outstanding Indebtedness of the Borrower and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptances and net costs under Swap Agreements in respect of interest rates, to the extent such net costs are allocable to such period in accordance with GAAP), calculated for the Borrower and its Subsidiaries on a consolidated basis for such period in accordance with GAAP.

"*Interest Payment Date*" means the last Business Day of each calendar month and the Revolving Credit Maturity Date.

"*Interest Period*" means with respect to any Term Benchmark Borrowing, a period equal to one month. The first Interest Period with respect to any Term Benchmark Borrowing shall be the period commencing on the date of such Borrowing and ending on and include last day of the calendar month when the Borrowing occurred. Thereafter, each Interest Period shall commence on the first day of every calendar month immediately following the previous interest period. If any Interest Period is scheduled to commence on a day that is not a Business Day, then such Interest Period shall commence on the next succeeding Business Day, and the preceding Interest Period shall continue up to, but shall not include, the first day of such Interest Period.

"*Investment*" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance (excluding commission, travel, petty cash, relocation and similar advances to officers and employees made in the ordinary course of business) or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guaranteed Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit.

"*Investment Company Act*" means the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), as amended, and the rules and regulations promulgated thereunder.

"*Investment Policies*" means those investment objectives, policies and restrictions of the Borrower as in effect on the Effective Date as described in Borrower's annual report on Form 10-K for the year ended September 30, 2021, as filed with the SEC, and any modifications or supplements as may be adopted by the Borrower from time to time; provided that provided that the Borrower shall furnish to the Administrative Agent, prior to the effective date of any material amendment or modification, prompt notice of any such material amendment or modification to such practices and shall not agree or otherwise permit to occur any modification of such practices in any manner that would or would reasonably be expected to adversely affect the interests or remedies of the Administrative Agent or the Secured Parties under this Agreement or any Loan Document or impair the collectability of any Investment without the prior written consent of the Administrative Agent (in its sole discretion).

"*IRS*" means the United States Internal Revenue Service.

"*Joinder Agreement*" means a Joinder Agreement in substantially the form of Exhibit E.

"*Lender Parent*" means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

"*Lender-Related Person*" has the meaning assigned to such term in Section 9.03(b).

"*Lenders*" means the Persons listed on the Commitment Schedule and any other Person that shall have become a Lender hereunder pursuant to an Assignment and Assumption or otherwise, other than any such Person that ceases to be a Lender hereunder pursuant to an Assignment and Assumption or otherwise.

"*Liabilities*" means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

"*Lien*" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"*Loan Documents*" means, collectively, this Agreement, each promissory note issued pursuant to this Agreement, each Collateral Document, each Compliance Certificate, and each other agreement, instrument, document and certificate executed and delivered to, or in favor of, the Administrative Agent or any Lender and including each other pledge, power of attorney, consent, assignment, contract, notice, and each other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Administrative Agent or any Lender in connection with this Agreement or the transactions contemplated hereby. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"*Loan Guaranty*" means the Guarantee made by the Guarantors to the Secured Parties under Article X hereof.

"*Loan Parties*" means, collectively, the Borrower and the Guarantors, and the term "*Loan Party*" shall mean any one of them or all of them individually, as the context may require.

"*Loans*" means the loans and advances made by the Lenders pursuant to this Agreement.

"*Margin Stock*" means margin stock within the meaning of Regulations T, U and X, as applicable.

"*Material Adverse Effect*" means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of the Borrower, (b) the ability of any Loan Party to perform any of its Obligations, (c) the Collateral, or the Administrative Agent's Liens (on behalf of itself and the other Secured Parties) on the Collateral or the priority of such Liens, or (d) the rights of or benefits available to the Administrative Agent or the Lenders under any of the Loan Documents.

"*Material Indebtedness*" means Indebtedness (other than the Loans), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Subsidiaries in an aggregate principal amount exceeding $1,000,000.00. For purposes of determining Material Indebtedness, the "principal amount" of the obligations of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

"*Maximum Rate*" has the meaning assigned to such term in Section 9.17.

"*Moody's*" means Moody's Investors Service, Inc.

"*Multiemployer Plan*" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"*Net Investment Income*" means, for any period, the consolidated net investment income (or loss) determined for the Borrower and its Subsidiaries, on a consolidated basis in accordance with GAAP.

"*Net Proceeds*" means, with respect to any event, (a) the cash proceeds received in respect of such event including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), but only as and when received, (ii) in the case of a casualty, insurance proceeds and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, minus (b) the sum of (i) all reasonable fees and out-of-pocket expenses paid to third parties (other than Affiliates) in connection with such event, (ii) in the case of a Disposition of an asset, the amount of all payments required to be made as a result of such event to repay Indebtedness (other than Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event and (iii) the amount of all taxes paid (or reasonably estimated to be payable) and the amount of any reserves established to fund contingent liabilities reasonably estimated to be payable, in each case during the year that such event occurred or the next succeeding year and that are directly attributable to such event (as determined reasonably and in good faith by a Financial Officer).

"*NYFRB*" means the Federal Reserve Bank of New York.

"*NYFRB's Website*" means the website of the NYFRB at http://www.newyorkfed.org, or any successor source.

"*Obligated Party*" has the meaning assigned to such term in Section 10.02.

"*Obligations*" means all unpaid principal of and accrued and unpaid interest on the Loans, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Loan Parties to any of the Lenders, the Administrative Agent or any indemnified party, individually or collectively, existing on the Effective Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the other instruments at any time evidencing any thereof.

"*Obligor*" means, with respect to any Portfolio Investment, the Person or Persons obligated to make payments pursuant to such Portfolio Investment, including any guarantor thereof.

"*Off-Balance Sheet Liability*" of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any indebtedness, liability or obligation under any so-called "synthetic lease" transaction entered into by such Person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheet of such Person (other than operating leases).

"*Other Connection Taxes*" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Taxes (other than a connection arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to, or enforced, any Loan Document, or sold or assigned an interest in any Loan or any Loan Document).

"*Other Taxes*" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

"*Paid in Full*" or "*Payment in Full*" means, (a) the indefeasible payment in full in cash of all outstanding Loans, together with accrued and unpaid interest thereon, (b) the indefeasible payment in full in cash of the accrued and unpaid fees, (c) the indefeasible payment in full in cash of all reimbursable expenses and other Secured Obligations (other than Unliquidated Obligations for which no claim has been made and other obligations expressly stated to survive such payment and termination of this Agreement), together with accrued and unpaid interest thereon, (d) the termination of all Commitments, and (e) the termination of the Swap Agreement Obligations or entering into other arrangements satisfactory to the Secured Parties counterparties thereto.

"*Participant*" has the meaning assigned to such term in Section 9.04(c)(i).

"*Participant Register*" has the meaning assigned to such term in Section 9.04(c)(ii).

"*Payment*" has the meaning assigned to it in Section 8.06(c)(i).

"*Payment Notice*" has the meaning assigned to it in Section 8.06(c)(ii).

"*PBGC*" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"*Permitted Discretion*" means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured lender) business judgment.

"*Permitted Encumbrances*" means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04; and

(b) judgment Liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;

provided that the term "*Permitted Encumbrances*" shall not include any Lien securing Indebtedness, except with respect to clause (b) above.

"*Person*" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"*Plan*" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"*Plan Asset Regulations*" means 29 CFR § 2510.3-101 *et seq.*, as modified by Section 3(42) of ERISA, as amended from time to time.

"*Portfolio Investment*" means an investment made by the Loan Parties in the ordinary course of business and consistent with the Investment Policies in a Person that is accounted for under GAAP as a portfolio investment of the Loan Parties.

"*Prepayment Event*" means:

(a) any Disposition of any property or asset constituting an Eligible Investment and included in the calculation of the Borrowing Base prior to such Disposition; or

(b) any Disposition of any property or asset other than property constituting a Portfolio Investment, the Net Proceeds of which exceeds $2,000,000; or

(c) the issuance by the Borrower of any Equity Interests, or the receipt by the Borrower of any capital contribution (including in connection with Borrower exercising its Cure Right pursuant to Section 7.03); or

(d) the incurrence by any Loan Party or any Subsidiary of any Indebtedness that is (i) not permitted under Section 6.01 or (ii) constitutes Cure Debt Securities.

"*Prime Rate*" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"*Proceeding*" means any claim, litigation, investigation, action, suit, arbitration or administrative, judicial or regulatory action or proceeding in any jurisdiction.

"*Projections*" has the meaning assigned to such term in Section 5.01(a)(vi).

"*PTE*" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"*QFC*" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"*QFC Credit Support*" has the meaning assigned to it in Section 9.21.

"*Quoted Investment*" means a Portfolio Investment for which market quotations are readily available from an Approved Pricing Service.

"*Qualified ECP Guarantor*" means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding $10,000,000 at the time the relevant Loan Guaranty or grant of the relevant security interest becomes or would become effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"*Recipient*" means, as applicable, the Administrative Agent, any Lender, or any combination thereof (as the context requires).

"*Reference Time*" with respect to any setting of the then-current Benchmark means (a) if such Benchmark is the Term SOFR Rate, 5:00 p.m. (New York City time) on the day that is two (2) Business Days preceding the date of such setting, or (b) if such Benchmark is not the Term SOFR Rate, the time determined by the Administrative Agent in its reasonable discretion.

"*Register*" has the meaning assigned to such term in Section 9.04(b)(iv).

"*Regulation D*" means Regulation D of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"*Regulation T*" means Regulation T of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"*Regulation U*" means Regulation U of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"*Regulation X*" means Regulation X of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

"*Related Parties*" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, partners, members, trustees, employees, agents, administrators, managers, representatives and advisors of such Person and such Person's Affiliates.

"*Relevant Governmental Body*" means the Federal Reserve Board and/or the NYFRB, the CME Term SOFR Administrator, as applicable, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB, or, in each case, any successor thereto.

"*Relevant Rate*" means, with respect to any Term Benchmark Borrowing, the Term SOFR Rate.

"*Report*" means reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the Borrower's assets from information furnished by or on behalf of the Borrower, after the Administrative Agent has exercised its rights of inspection pursuant to this Agreement, which Reports may be distributed to the Lenders by the Administrative Agent.

"*Required Contribution Date*" has the meaning assigned to such term in Section 7.03(b).

"*Required Lenders*" means, subject to Section 2.20, at any time prior to the earlier of the Loans becoming due and payable pursuant to Article VII or the Commitments terminating or expiring, Lenders having Credit Exposure and Unfunded Commitments representing more than 50% of the sum of the Aggregate Credit Exposure and Unfunded Commitments at such time; provided that, (a) in the event there are only two Lenders, Required Lenders shall mean both Lenders, and (b) in the event there are three or four Lenders, Required Lenders shall mean Lenders having Credit Exposure and Unfunded Commitments representing more than 66 ⅔% of the sum of the Aggregate Credit Exposure and Unfunded Commitments at such time.

"*Requirement of Law*" means, with respect to any Person, (a) the charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents of such Person and (b) any statute, law (including common law), treaty, rule, regulation, code, ordinance, order, decree, writ, judgment, injunction or determination of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"*Resolution Authority*" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"*Responsible Officer*" means the president, Financial Officer or other executive officer of the Borrower.

"*Restricted Payment*" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests or any option, warrant or other right to acquire any such Equity Interests.

"*Revolving Borrowing*" means Revolving Loans of the same Type, made, converted or continued on the same date.

"*Revolving Commitment*" means, with respect to each Lender, the amount set forth on the Commitment Schedule opposite such Lender's name, or in the Assignment and Assumption or other documentation or record (as such term is defined in Section 9-102(a)(70) of the New York Uniform Commercial Code) as provided in Section 9.04(b)(ii)(C), pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable, as such Revolving Commitment may be reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04; provided, that at no time shall the Revolving Exposure of any Lender exceed its Revolving Commitment. The initial aggregate amount of the Lenders' Revolving Commitments is $50,000,000.

"*Revolving Credit Maturity Date*" means December 15, 2025 (if the same is a Business Day, or if not then the immediately next succeeding Business Day), or any earlier date on which the Revolving Commitments are reduced to zero or otherwise terminated pursuant to the terms hereof.

"*Revolving Exposure*" means, with respect to any Lender, at any time, the sum of the aggregate outstanding principal amount of such Lender's Revolving Loans at such time.

"*Revolving Lender*" means, as of any date of determination, a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Exposure.

"*Revolving Loan*" means a Loan made pursuant to Section 2.01(a).

"*RIC*" or "regulated investment company" shall mean an investment company or business development company that qualifies for the special tax treatment provided for by subchapter M of the Code.

"*S&P*" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"*Sanctioned Country*" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the Effective Date, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic, the Crimea Region of Ukraine, Cuba, Iran, North Korea and Syria).

"*Sanctioned Person*" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

"*Sanctions*" means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

"*SEC*" means the Securities and Exchange Commission of the U.S.

"*Secured Obligations*" means all Obligations, together with all (a) Banking Services Obligations and (b) Swap Agreement Obligations owing to one or more Lenders or their respective Affiliates; provided, however, that the definition of "*Secured Obligations*" shall not create any guarantee by any Guarantor of (or grant of security interest by any Guarantor to support, as applicable) any Excluded Swap Obligations of such Guarantor for purposes of determining any obligations of any Guarantor.

"*Secured Parties*" means (a) the Lenders, (b) the Administrative Agent, (c) each provider of Banking Services, to the extent the Banking Services Obligations in respect thereof constitute Secured Obligations, (d) each counterparty to any Swap Agreement, to the extent the obligations thereunder constitute Secured Obligations, (e) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (f) the successors and assigns of each of the foregoing.

"*Security Agreement*" means that certain Pledge and Security Agreement (including any and all supplements thereto), dated as of the Effective Date, among the Loan Parties and the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, and any other pledge or security agreement entered into, after the Effective Date by any other Loan Party (as required by this Agreement or any other Loan Document) or any other Person for the benefit of the Administrative Agent and the other Secured Parties, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"*SOFR*" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"*SOFR Administrator*" means the NYFRB (or a successor administrator of the secured overnight financing rate).

"*SOFR Administrator's Website*" means the NYFRB's website, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"*SOFR Determination Date*" has the meaning specified in the definition of Daily Simple SOFR.

"*SOFR Rate Day*" has the meaning specified in the definition of Daily Simple SOFR.

"*Statements*" has the meaning assigned to such term in Section 2.18(f).

"*Subordinated Indebtedness*" of a Person means any Indebtedness of such Person, the payment of which is subordinated to payment of the Obligations to the written satisfaction of the Administrative Agent.

"*subsidiary*" means, with respect to any Person (the "*parent*") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, by the parent and/or one or more subsidiaries of the parent.

"*Subsidiary*" means any direct or indirect subsidiary of the Borrower or a Loan Party, as applicable, but excluding each Excluded Subsidiary.

"*Supported QFC*" has the meaning assigned to it in Section 9.21.

"*Swap Agreement*" means any agreement with respect to any swap, forward, spot, future, credit default or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries shall be a Swap Agreement.

"*Swap Agreement Obligations*" means any and all obligations of the Loan Parties, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any Swap Agreement permitted hereunder with a Lender or an Affiliate of a Lender, and (b) any cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction permitted hereunder with a Lender or an Affiliate of a Lender.

"*Swap Obligation*" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

"*Tangible Net Worth*" means, with respect to any Person, the consolidated net worth of such Person and its consolidated Subsidiaries calculated in accordance with GAAP after subtracting therefrom the aggregate amount of the intangible assets of such Person and its consolidated Subsidiaries, including, without limitation, goodwill, franchises, licenses, patents, trademarks, tradenames, copyrights and service marks.

"*Taxes*" means any and all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), value added taxes, or any other goods and services, use or sales taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"*Term Benchmark*" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, is bearing interest at a rate determined by reference to the Term SOFR Rate.

"*Term SOFR Determination Day*" has the meaning assigned to it under the definition of Term SOFR Reference Rate.

"*Term SOFR Rate*" means the Term SOFR Reference Rate for a tenor of one month at approximately 5:00 p.m., New York City time, two (2) U.S. Government Securities Business Days prior to the commencement of such one month tenor, as such rate is published by the CME Term SOFR Administrator.

"*Term SOFR Reference Rate*" means, for any day and time (such day, the "*Term SOFR Determination Day*"), and for a one month tenor, the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR. If by 5:00 p.m. (New York City time) on such Term SOFR Determination Day, the "Term SOFR Reference Rate" for a one month tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding Business Day is not more than five (5) Business Days prior to such Term SOFR Determination Day.

"*Transactions*" means the execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents, the borrowing of Loans and other credit extensions, and the use of the proceeds thereof.

"*Triggering Event*" means with respect to a Debt Security, (a) a default under such Debt Security (after giving effect to any grace and/or cure period set forth in the applicable loan document), which causes the indebtedness thereunder to become due or to be repurchased, prepaid, defeased or redeemed and the Borrower has received notice thereof, or (b) the Obligor of such Debt Security becomes subject to an Bankruptcy Event, as to which the Borrower has received notice.

"*2023 Notes*" means the Borrower's outstanding 6.125% Senior Notes due 2023, issued under that certain Indenture, dated as of February 7, 2012, as supplemented by that certain Second Supplemental Indenture, dated as of March 18, 2013, between the Borrower and U.S. Bank National Association (the "*Indenture Trustee*").

"*Type*", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Term SOFR Rate or the Alternate Base Rate.

"*UCC*" means the Uniform Commercial Code as in effect from time to time in the State of New York or in any other state, the laws of which are required to be applied in connection with the issue of perfection of security interests.

"*Unadjusted Benchmark Replacement*" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"*Unfunded Commitment*" means, with respect to each Lender, the Revolving Commitment of such Lender less its Revolving Exposure.

"*Unliquidated Obligations*" means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is: (a) an obligation to reimburse a bank for drawings not yet made under a letter of credit issued by it; (b) any other obligation (including any guarantee) that is contingent in nature at such time; or (c) an obligation to provide collateral to secure any of the foregoing types of obligations.

"*Unquoted Investment*" means a Portfolio Investment for which market quotations from an Approved Pricing Service are not readily available.

"*U.S.*" means the United States of America.

"*U.S. Government Securities Business Day*" means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"*U.S. Person*" means a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"*U.S. Special Resolution Regime*" has the meaning assigned to it in Section 9.21.

"*U.S. Tax Compliance Certificate*" has the meaning assigned to such term in Section 2.17(f)(ii)(B)(III).

"*USA PATRIOT Act*" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

"*Value*" means, as of any date of determination, the value of Portfolio Investments as provided below:

(a) Quoted Investments. With respect to Quoted Investments, the Borrower shall quarterly, or upon the reasonable request of the Administrative Agent, determine the market value of such Portfolio Investments as the average of the recent bid prices as determined by two Approved Dealers selected by Borrower or an Approved Pricing Service which makes reference to at least two Approved Dealers with respect to such Portfolio Investment; and

(b) Unquoted Investments. With respect to Unquoted Investments, the "fair value" of such Unquoted Investment as reported in the most recent Form 10-Q or Form 10-K filed by Borrower with the SEC (which valuations are (i) produced by Borrower consistent with its Investment Policies and (ii) are reviewed by Borrower's external auditors); provided that, (i) for each Unquoted Investment acquired by Borrower prior to the "fair value" thereof having been reported in the most recent Form 10-Q or Form 10-K filed by Borrower with the SEC, the value thereof shall be the par value of such Unquoted Investment multiplied by the purchase price (expressed as a percentage of par) paid by Borrower to acquire such Unquoted Investment, until such time as the "fair value" thereof is reported as described above in this clause (b), (ii) if the Administrative Agent so requests as a result of its determination that intervening events may have resulted in a change in the most recently determined (pursuant to this definition) "fair value" of such Unquoted Investment, Borrower shall recalculate (as of the date of determination of the value of such Unquoted Investment) its "fair value" calculation of such Unquoted Investment using the same methodology as described above in this clause (b), and (iii) at the request of the Administrative Agent, the Borrower shall to deliver internal valuation memorandum pursuant to which the "fair value" of any Unquoted Investment is established.

"*Withdrawal Liability*" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"*Woodforest*" means Woodforest National Bank, in its individual capacity, and its successors.

"*Write-Down and Conversion Powers*" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Type (*e.g.*, a "Term Benchmark Loan" or an "ABR Loan").

Section 1.03 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "law" shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply) and all judgments, orders and decrees of all Governmental Authorities. The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignments set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (f) any reference in any definition to the phrase "at any time" or "for any period" shall refer to the same time or period for all calculations or determinations within such definition, and (g) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.04 Accounting Terms; GAAP; Rounding.

(a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if after the Effective Date there occurs any change in GAAP or in the application thereof on the operation of any provision hereof and the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of such change in GAAP or in the application thereof (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Financial Accounting Standards Board Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Loan Party at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness under Financial Accounting Standards Board Accounting Standards Codification 470-20 or 2015-03 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) Notwithstanding anything to the contrary contained in Section 1.04(a) or in the definition of "*Capital Lease Obligations*", any change in accounting for leases pursuant to GAAP resulting from the adoption of Financial Accounting Standards Board Accounting Standards Update No. 2016-02, Leases (Topic 842), to the extent such adoption would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on December 31, 2015, such lease shall not be considered a capital lease, and all calculations and deliverables under this Agreement or any other Loan Document shall be made or delivered, as applicable, in accordance therewith.

(c) Any financial ratios required to be maintained by any Loan Party pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 Interest Rates; Benchmark Notification. The interest rate on a Loan denominated in dollars may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. Upon the occurrence of a Benchmark Transition Event, Section 2.14(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

Section 1.06 [Section Intentionally Omitted].

Section 1.07 Status of Obligations. In the event that the Borrower or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Borrower shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Administrative Agent and the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Secured Obligations are hereby designated as "senior indebtedness" and as "designated senior indebtedness" and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

Section 1.08 [Section Intentionally Omitted]

Section 1.09 Divisions. For all purposes under the Loan Documents, in connection with any Division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE CREDITS

Section 2.01 Revolving Commitments. Subject to the terms and conditions set forth herein, each Lender severally (and not jointly) agrees to make Revolving Loans in Dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (i) such Lender's Revolving Exposure exceeding such Lender's Revolving Commitment or (ii) the Aggregate Revolving Exposure exceeding the lesser of (A) the aggregate Revolving Commitments and (B) the Borrowing Base. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

Section 2.02 Loans and Borrowings.

(a) Each Loan shall be made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.14, each Revolving Borrowing shall be comprised entirely of ABR Loans or Term Benchmark Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) For any Term Benchmark Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $1,000 and not less than $500,000. ABR Borrowings may be in any amount. Borrowings of more than one Type may be outstanding at the same time.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Revolving Credit Maturity Date.

Section 2.03 Requests for Borrowings. To request a Borrowing, the Borrower shall notify the Administrative Agent of such request either in writing (delivered by hand or fax) by delivering a Borrowing Request signed by a Responsible Officer of the Borrower or through Electronic System, if arrangements for doing so have been approved by the Administrative Agent, (a) in the case of a Term Benchmark Borrowing, not later than 10:00 a.m., New York City time, two Business Days before the date of the proposed Borrowing (or a later date and time as agreed by the Administrative Agent) or (b) in the case of an ABR Borrowing, not later than noon (or a later time as agreed by the Administrative Agent), New York City time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable. Each such Borrowing Request shall specify the following information in compliance with Section 2.01:

(i) the aggregate amount of the requested Borrowing, and a breakdown of the separate wires comprising such Borrowing;

(ii) the date of such Borrowing, which shall be a Business Day; and

(iii) whether such Borrowing is to be an ABR Borrowing or a Term Benchmark Borrowing.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04 [Section Intentionally Omitted]

Section 2.05 [Section Intentionally Omitted]

Section 2.06 [Section Intentionally Omitted]

Section 2.07 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by such Lender hereunder on the proposed date thereof solely by wire transfer of immediately available funds by 2:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's Applicable Percentage. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the funds so received in the aforesaid account of the Administrative Agent to the Funding Account(s).

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower each severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing; provided, that any interest received from the Borrower by the Administrative Agent during the period beginning when Administrative Agent funded the Borrowing until such Lender pays such amount shall be solely for the account of the Administrative Agent.

Section 2.08 Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election either in writing (delivered by hand or fax) by delivering an Interest Election Request signed by a Responsible Officer of the Borrower or through Electronic System, if arrangements for doing so have been approved by the Administrative Agent, by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such Interest Election Request shall be irrevocable.

(c) Each Interest Election Request (including requests submitted through Electronic System) shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day; and

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Term Benchmark Borrowing.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Term Benchmark Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Term Benchmark Borrowing and (ii) unless repaid, each Term Benchmark Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.09 Termination or Reduction of Commitments.

(a) Unless previously terminated, all the Revolving Commitments shall terminate on the Revolving Credit Maturity Date.

(b) The Borrower may at any time terminate or, from time to time, reduce, without premium or penalty, the Revolving Commitments; provided that no such termination or reduction of Revolving Commitment shall be permitted if, after giving effect thereto and to any prepayments of Borrowings, the Aggregate Revolving Exposure exceeds the lesser of (i) the aggregate Revolving Commitments and (ii) the Borrowing Base; provided that, (i) any reduction of the Revolving Commitments shall be in an amount that is an integral multiple of $1,000,000 and not less than $1,000,000 and (ii) Borrower shall not request a reduction in Revolving Commitments more than three times in any fiscal year.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Revolving Commitments under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Revolving Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Revolving Commitments shall be permanent. Each reduction of the Revolving Commitments shall be made ratably among the Lenders in accordance with their respective Revolving Commitments.

Section 2.10 Repayment and Amortization of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Revolving Lender the then unpaid principal amount of each Revolving Loan on the Revolving Credit Maturity Date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) and (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

Section 2.11 Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time, without penalty or premium, to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (e) of this Section and, if applicable, payment of any break funding expenses under Section 2.16.

(b) In the event and on such occasion that the Aggregate Revolving Exposure exceeds the lesser of (i) the aggregate Revolving Commitments and (ii) the Borrowing Base, the Borrower shall prepay, on demand, the Revolving Loans in an aggregate amount equal to such excess.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of any Loan Party in respect of any Prepayment Event, the Borrower shall, immediately after such Net Proceeds are received by any Loan Party, prepay the Obligations as set forth in Section 2.11(d) below in an aggregate amount equal to 100% of such Net Proceeds; provided, however, in the case of a Prepayment Event described in clause (c) thereof that is not the issuance of Equity Interests in connection with Borrower exercising its Cure Right pursuant to Section 7.03, the Borrower shall only be required to prepay the Obligations in an aggregate amount equal to 50% of such Net Proceeds.

(d) All prepayments made pursuant to Section 2.11(c) shall be applied to prepay such Loans in accordance with the Lenders' respective Applicable Percentages without a corresponding reduction in the Revolving Commitments.

(e) The Borrower shall notify the Administrative Agent by telephone (confirmed by fax) or through Electronic System, if arrangements for doing so have been approved by the Administrative Agent, of any prepayment under this Section: (i) in the case of prepayment of a Term Benchmark Borrowing, not later than 10:00 a.m., New York City time, two (2) Business Days before the date of prepayment, or (ii) in the case of prepayment of an ABR Borrowing, not later than 10:00 a.m., New York City time, one (1) Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that if a notice of prepayment is given in connection with a conditional notice of termination of the Revolving Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments pursuant to Section 2.16.

Section 2.12 Fees.

(a) The Borrower agrees to pay to the Administrative Agent a commitment fee for the account of each Revolving Lender (other than a Defaulting Lender, in accordance with Section 2.20(a)), which shall accrue at the Applicable Rate on the actual daily amount of the undrawn portion of the Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which the Lenders' Revolving Commitments terminate. Commitment fees accrued through and including the last day of March, June, September and December of each year shall be payable in arrears on the fifteenth (15th) day following such last day and on the date on which the Revolving Commitments terminate, commencing on the first such date to occur after the Effective Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day and the last day of each period but excluding the date on which the Revolving Commitments terminate).

(b) [Section Intentionally Omitted].

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in Dollars in immediately available funds, to the Administrative Agent for distribution, in the case of commitment fees and participation fees, to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

Section 2.13 Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate; provided that, in no event shall the interest rate for ABR Borrowings be less than the Floor.

(b) The Loans comprising each Term Benchmark Borrowing shall bear interest at the Term SOFR Rate plus the Applicable Rate; provided that, in no event shall the interest rate for Term Benchmark Borrowings be less than the Floor.

(c) Notwithstanding the foregoing, during the occurrence and continuance of an Event of Default under Section 7.01(a) or Section 7.01(b), the Administrative Agent or the Required Lenders may, at their option, by notice to the Borrower (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 9.02 requiring the consent of "each Lender affected thereby" for reductions in interest rates), declare that (i) all Loans shall bear interest at 2.0% plus the rate otherwise applicable to such Loans as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount outstanding hereunder, such amount shall accrue at 2.0% plus the rate applicable to such fee or other obligation as provided hereunder.

(d) Accrued interest on each Loan (for ABR Loans, accrued through the last day of the prior calendar month) shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Revolving Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Term Benchmark Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) Interest computed by reference to the Term SOFR Rate hereunder shall be computed on the basis of a year of 360 days. Interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year). In each case, interest shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All interest hereunder on any Loan shall be computed on a daily basis based upon the outstanding principal amount of such Loan as of the applicable date of determination. The applicable Alternate Base Rate or Term SOFR Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.14 Alternate Rate of Interest; Illegality.

(a) Subject to clauses (b), (c), (d), (e) and (f) of this Section 2.14, if:

(i) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error), prior to commencement of any Interest Period for a Term Benchmark Borrowing, that adequate and reasonable means do not exist for ascertaining the Term SOFR Rate (including, because the Term SOFR Reference Rate is not available or published on a current basis) for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that, prior to the commencement of any Interest Period for a Term Benchmark Borrowing, the Term SOFR Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or Loan) included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders through Electronic System as provided in Section 9.01 as promptly as practicable thereafter and, until (I) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (II) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.08 or a new Borrowing Request in accordance with the terms of Section 2.03, (1) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Term Benchmark Borrowing and any Borrowing Request that requests a Term Benchmark Borrowing shall instead be deemed to be an Interest Election Request or a Borrowing Request, as applicable, for an ABR Borrowing. Furthermore, if any Term Benchmark Loan is outstanding on the date of the Borrower's receipt of the notice from the Administrative Agent referred to in this Section 2.14(a) with respect to a Relevant Rate applicable to such Term Benchmark Loan, then until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.08 or a new Borrowing Request in accordance with the terms of Section 2.03, (1) any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, an ABR Loan.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document (and any Swap Agreement shall be deemed not to be a "*Loan Document*" for purposes of this Section 2.14), if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (i) if a Benchmark Replacement is determined in accordance with clause (a) of the definition of "*Benchmark Replacement*" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (ii) if a Benchmark Replacement is determined in accordance with clause (b) of the definition of "*Benchmark Replacement*" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(d) The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (f) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.14, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.14.

(e) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "*Interest Period*" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "*Interest Period*" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Term Benchmark Borrowing of, conversion to or continuation of Term Benchmark Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any request for a Term Benchmark Borrowing into a request for a Borrowing of or conversion to an ABR Borrowing. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR. Furthermore, if any Term Benchmark Loan is outstanding on the date of the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a Relevant Rate applicable to such Term Benchmark Loan, then until such time as a Benchmark Replacement is implemented pursuant to this Section 2.14, any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day if such day is not a Business Day), be converted by the Administrative Agent to, and shall constitute, an ABR Loan.

Section 2.15 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Term SOFR Rate); or

(ii) impose on any Lender or the applicable offshore interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting into or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender or such other Recipient hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Commitments of or the Loans made by such Lender, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.16 Break Funding Payments. In the event of (i) the payment of any principal of any Term Benchmark Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (ii) the conversion of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto, (iii) the failure to borrow, convert, continue or prepay any Term Benchmark Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.09(c) and is revoked in accordance therewith), or (iv) the assignment of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19 or 9.02(d), then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

Section 2.17 Withholding of Taxes; Gross-Up.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.17), the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.17, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment, or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the amount of such payment or liability delivered to any Loan Party by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an executed copy of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the U.S. is a party (1) with respect to payments of interest under any Loan Document, an executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed copy of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (1) a certificate substantially in the form of Exhibit C-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "*U.S. Tax Compliance Certificate*") and (2) an executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(IV) to the extent a Foreign Lender is not the beneficial owner, an executed copy of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-2 or Exhibit C-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "*FATCA*" shall include any amendments made to FATCA after the Effective Date.

(iii) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.17 (including by the payment of additional amounts pursuant to this Section 2.17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph (g) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document (including the Payment in Full of the Secured Obligations).

(i) Defined Terms. For purposes of this Section 2.17, the term "applicable law" includes FATCA.

Section 2.18 Payments Generally; Allocation of Proceeds; Sharing of Setoffs.

(a) The Borrower shall make each payment or prepayment required to be made by it hereunder (whether of principal, interest, fees, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., New York City time, on the date when due or the date fixed for any prepayment hereunder, in immediately available funds, without setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the account set forth under the Administrative Agent's signature hereto, except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Unless otherwise provided for herein, if any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) All payments and any proceeds of Collateral received by the Administrative Agent (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrower), or (B) a mandatory prepayment (which shall be applied in accordance with Section 2.11) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, shall be applied ratably first, to pay any fees, indemnities, or expense reimbursements then due to the Administrative Agent from the Borrower (other than in connection with Banking Services Obligations or Swap Agreement Obligations), second, to pay any fees, indemnities, or expense reimbursements then due to the Lenders from the Borrower (other than in connection with Banking Services Obligations or Swap Agreement Obligations), third, to pay interest then due and payable on the Loans ratably, fourth, to prepay principal on the Loans and to pay any amounts owing in respect of Swap Agreement Obligations and Banking Services Obligations up to and including the amount most recently provided to the Administrative Agent pursuant to Section 2.22, ratably, and fifth, to the payment of any other Secured Obligation due to the Administrative Agent or any Lender from the Borrower or any other Loan Party. Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Borrower, or unless a Default is in existence, neither the Administrative Agent nor any Lender shall apply any payment which it receives to any Term Benchmark Loan, except (I) on the expiration date of the Interest Period applicable thereto, or (II) in the event, and only to the extent, that there are no outstanding ABR Loans and, in any such event, the Borrower shall pay the break funding payment required in accordance with Section 2.16. The Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations. Notwithstanding the foregoing, Secured Obligations arising under Banking Services Obligations or Swap Agreement Obligations shall be excluded from the application described above and paid in clause fifth if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may have reasonably requested from the applicable provider of such Banking Services or Swap Agreements.

(c) At the election of the Administrative Agent, all payments of principal, interest, fees, premiums, reimbursable expenses (including, without limitation, all reimbursement for fees, costs and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder, whether made following a request by the Borrower pursuant to Section 2.03 or a deemed request as provided in this Section or may be deducted from any deposit account of the Borrower maintained with the Administrative Agent. The Borrower hereby irrevocably authorizes (i) the Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agrees that all such amounts charged shall constitute Loans, and that all such Borrowings shall be deemed to have been requested pursuant to Sections 2.03, and (ii) the Administrative Agent to charge any deposit account of the Borrower maintained with the Administrative Agent for each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(d) If, except as otherwise expressly provided herein, any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other similarly situated Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by all such Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received, prior to any date on which any payment is due to the Administrative Agent for the account of the Lenders pursuant to the terms hereof or any other Loan Document (including any date that is fixed for prepayment by notice from the Borrower to the Administrative Agent pursuant to Section 2.11(e)), notice from the Borrower that the Borrower will not make such payment or prepayment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) The Administrative Agent may from time to time provide the Borrower with account statements or invoices with respect to any of the Secured Obligations (the "*Statements*"). The Administrative Agent is under no duty or obligation to provide Statements, which, if provided, will be solely for the Borrower's convenience. Statements may contain estimates of the amounts owed during the relevant billing period, whether of principal, interest, fees or other Secured Obligations. If the Borrower pays the full amount indicated on a Statement on or before the due date indicated on such Statement, the Borrower shall not be in default of payment with respect to the billing period indicated on such Statement; provided, that acceptance by the Administrative Agent, on behalf of the Lenders, of any payment that is less than the total amount actually due at that time (including but not limited to any past due amounts) shall not constitute a waiver of the Administrative Agent's or the Lenders' right to receive payment in full at another time.

Section 2.19 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender (or Affiliate or Participant of any Lender, pursuant to Sections 2.02 or 9.04(c)) requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender (or Affiliate or Participant of any Lender, pursuant to Sections 2.02 or 9.04(c)) or any Governmental Authority for the account of any Lender (or Affiliate or Participant of any Lender) pursuant to Section 2.17, or if any Lender becomes a Defaulting Lender, or any Lender fails to consent to a requested amendment, waiver or modification to any Loan Document in which the Required Lenders and the Administrative Agent have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, no later than thirty (30) days following the applicable event set forth above (x) require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Sections 2.15 or 2.17) and obligations under this Agreement and other Loan Documents to an assignee selected by the Borrower that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment) provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent to the assignee, which consent shall not unreasonably be withheld, (ii) such Lender, Affiliate or Participant shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), and (iii) the Borrower shall have no right to replace Woodforest National Bank; or (y) on prior written notice to the Administrative Agent and such Lender, repay the Loans and terminate the Revolving Commitments held by such Lender, notwithstanding anything to the contrary herein, on a non pro rata basis, so long as any accrued and unpaid interest and required fees are paid to any such Lender. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each party hereto agrees that (A) an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (B) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender, provided that any such documents shall be without recourse to or warranty by the parties thereto.

Section 2.20 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.12(a);

(b) any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 2.18(b) or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; third, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender or against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; and sixth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (I) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (II) such Loans were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans is held by the Lenders pro rata in accordance with the Commitments. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto; and

(c) such Defaulting Lender shall not have the right to vote on any issue on which voting is required (other than to the extent expressly provided in Section 9.02(b)) and the Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder or under any other Loan Document; provided that, except as otherwise provided in Section 9.02, this clause (iii) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby.

Section 2.21 Returned Payments. If, after receipt of any payment which is applied to the payment of all or any part of the Obligations (including a payment effected through exercise of a right of setoff), the Administrative Agent or any Lender is for any reason compelled to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion), then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Administrative Agent or such Lender. The provisions of this Section 2.21 shall be and remain effective notwithstanding any contrary action which may have been taken by the Administrative Agent or any Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.21 shall survive the termination of this Agreement.

Section 2.22 Banking Services and Swap Agreements. Each Lender or Affiliate thereof providing Banking Services for, or having Swap Agreements with, any Loan Party or any Subsidiary or Affiliate of a Loan Party shall deliver to the Administrative Agent, promptly after entering into such Banking Services or Swap Agreements, written notice setting forth the aggregate amount of all Banking Services Obligations and Swap Agreement Obligations of such Loan Party or Subsidiary or Affiliate thereof to such Lender or Affiliate (whether matured or unmatured, absolute or contingent). In furtherance of that requirement, each such Lender or Affiliate thereof shall furnish the Administrative Agent, from time to time after a significant change therein or upon a request therefor, a summary of the amounts due or to become due in respect of such Banking Services Obligations and Swap Agreement Obligations. The most recent information provided to the Administrative Agent shall be used in determining which tier of the waterfall, contained in Section 2.18(b), such Banking Services Obligations and/or Swap Agreement Obligations will be placed. For the avoidance of doubt, so long as Woodforest or its Affiliate is the Administrative Agent, neither Woodforest nor any of its Affiliates providing Banking Services for, or having Swap Agreements with, any Loan Party or any Subsidiary or Affiliate of a Loan Party shall be required to provide any notice described in this Section 2.22 in respect of such Banking Services or Swap Agreements.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Lenders that (and where applicable, agrees):

Section 3.01 Organization; Powers. Each Loan Party and each Subsidiary is duly organized or formed, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

Section 3.02 Authorization; Enforceability. The Transactions are within each Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational actions and, if required, actions by equity holders. Each Loan Document to which each Loan Party is a party has been duly executed and delivered by such Loan Party and constitutes a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.03 Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents, (b) will not violate any Requirement of Law applicable to any Loan Party or any Subsidiary, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or any Subsidiary or the assets of any Loan Party or any Subsidiary, or give rise to a right thereunder to require any payment to be made by any Loan Party or any Subsidiary, and (d) will not result in the creation or imposition of, or other requirement to create, any Lien on any asset of any Loan Party or any Subsidiary, except Liens created pursuant to the Loan Documents.

Section 3.04 Financial Condition; No Material Adverse Change.

(a) The Borrower has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows as of and for the fiscal year ended September 30, 2021, reported on by Ernst & Young LLP, independent public accountants. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP.

(b) No event, change or condition has occurred that has had, or could reasonably be expected to have, a Material Adverse Effect, since September 30, 2021.

Section 3.05 Properties.

(a) As of the Effective Date, Schedule 3.05 sets forth the address of each parcel of real property that is leased by any Loan Party. No Loan Party owns any real property.

(b) Each Loan Party and each Subsidiary owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property necessary to its business as currently conducted, a correct and complete list of which, as of the Effective Date, is set forth on Schedule 3.05, and the use thereof by each Loan Party and each Subsidiary does not infringe in any material respect upon the rights of any other Person, and each Loan Party's and each Subsidiary's rights thereto are not subject to any licensing agreement or similar arrangement.

Section 3.06 Litigation. There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Loan Party, threatened against or affecting any Loan Party or any Subsidiary (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) that involve any Loan Document or the Transactions.

Section 3.07 Compliance with Laws and Agreements; No Default. Except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Loan Party and each Subsidiary is in compliance with (a) all Requirement of Law applicable to it or its property and (b) all indentures, agreements and other instruments binding upon it or its property. No Default has occurred and is continuing.

Section 3.08 Business Development Company; RIC. Neither the Borrower nor any of its Affiliates is a "holding company" as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935, as amended. The Borrower qualifies as an RIC and is an "investment company" that has elected to be a "business development company" as defined in Section 2(a)(48) of the Investment Company Act and is subject to regulation as such under the Investment Company Act including Section 18, as modified by Section 61, of the Investment Company Act. The business and other activities of the Borrower, including but not limited to, the making of the Loans by the Lenders, the application of the proceeds and repayment thereof by the Borrower and the consummation of the transactions contemplated by the Loan Documents do not result in any violations of the provisions of the Investment Company Act, any rules, regulations or orders issued by the SEC thereunder, or any other Requirement of Law. The Borrower is in compliance with the Investment Policies.

Section 3.09 Taxes. Each Loan Party and each Subsidiary has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Subsidiary, as applicable, has set aside on its books adequate reserves. No tax liens have been filed and no claims are being asserted with respect to any such taxes.

Section 3.10 ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan.

Section 3.11 Disclosure.

(a) The Loan Parties have disclosed to the Lenders all agreements, instruments and corporate or other restrictions to which any Loan Party or any Subsidiary is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party or any Subsidiary to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or any other Loan Document (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Loan Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time delivered and, if such projected financial information was delivered prior to the Effective Date, as of the Effective Date.

(b) As of the Effective Date, to the best knowledge of the Borrower, the information included in the Beneficial Ownership Certification provided on or prior to the Effective Date to any Lender in connection with this Agreement is true and correct in all respects.

Section 3.12 Material Agreements. No Loan Party or any Subsidiary is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (a) any material agreement to which it is a party or (b) any agreement or instrument evidencing or governing Indebtedness.

Section 3.13 Solvency.

(a) Immediately after the consummation of the Transactions to occur on the Effective Date, (i) the fair value of the assets of the Loan Parties, on a consolidated basis, at a fair valuation, will exceed their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of the Loan Parties, on a consolidated basis, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Loan Parties, on a consolidated basis, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Loan Parties will not have unreasonably small capital with which to conduct the business in which they are engaged as such businesses are now conducted and are proposed to be conducted after the Effective Date.

(b) No Loan Party intends to, nor will permit any Subsidiary to, and no Loan Party believes that it or any Subsidiary will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by it or any such Subsidiary and the timing of the amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

Section 3.14 Insurance. Schedule 3.14 sets forth a description of all insurance maintained by or on behalf of the Loan Parties as of the Effective Date. As of the Effective Date, all premiums in respect of such insurance have been paid. The Loan Parties believe that the insurance maintained by or on behalf of the Loan Parties is adequate and is customary for companies engaged in the same or similar businesses operating in the same or similar locations.

Section 3.15 Capitalization and Subsidiaries. Schedule 3.15 sets forth (a) a correct and complete list of the name and relationship to the Borrower of each Subsidiary, (b) a true and complete listing of each class of each of the Borrower's authorized Equity Interests, of which all of such issued Equity Interests are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 3.15, and (c) the type of entity of the Borrower and each Subsidiary. All of the issued and outstanding Equity Interests owned by any Loan Party have been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and are fully paid and non-assessable.

Section 3.16 Security Interest in Collateral. The provisions of this Agreement and the other Loan Documents create legal and valid Liens on all the Collateral in favor of the Administrative Agent, for the benefit of the Secured Parties, and such Liens constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, enforceable against the applicable Loan Party and all third parties, and having priority over all other Liens on the Collateral except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Administrative Agent pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title), to the extent the Administrative Agent has not obtained or does not maintain possession of such Collateral.

Section 3.17 Employment Matters. As of the Effective Date, there are no strikes, lockouts or slowdowns against any Loan Party or any Subsidiary pending or, to the knowledge of any Loan Party, threatened. The hours worked by and payments made to employees of the Loan Parties and their Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local or foreign law dealing with such matters. All payments due from any Loan Party or any Subsidiary, or for which any claim may be made against any Loan Party or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of such Loan Party or such Subsidiary.

Section 3.18 Margin Regulations. No Loan Party is engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock, and no part of the proceeds of any Borrowing hereunder will be used to buy or carry any Margin Stock. Following the application of the proceeds of each Borrowing, not more than 25% of the value of the assets (either of any Loan Party only or of the Loan Parties and their Subsidiaries on a consolidated basis) will be Margin Stock.

Section 3.19 Use of Proceeds. The proceeds of the Loans have been used and will be used, whether directly or indirectly as set forth in Section 5.08.

Section 3.20 No Burdensome Restrictions. No Loan Party is subject to any Burdensome Restrictions except Burdensome Restrictions permitted under Section 6.10.

Section 3.21 Anti-Corruption Laws and Sanctions. Each Loan Party has implemented and maintains in effect policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and such Loan Party, its Subsidiaries and their respective officers and directors and, to the knowledge of such Loan Party, its employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any Loan Party being designated as a Sanctioned Person. None of (a) any Loan Party, any Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of any such Loan Party or Subsidiary, any agent of such Loan Party or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing, use of proceeds, Transaction or other transaction contemplated by this Agreement or the other Loan Documents will violate Anti-Corruption Laws or applicable Sanctions.

Section 3.22 Affected Financial Institutions. No Loan Party is an Affected Financial Institution.

Section 3.23 Plan Assets; Prohibited Transactions. None of the Loan Parties or any of their Subsidiaries is an entity deemed to hold "plan assets" (within the meaning of the Plan Asset Regulations), and neither the execution, delivery nor performance of the transactions contemplated under this Agreement, including the making of any Loan hereunder, will give rise to a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code.

Section 3.24 Affiliate Transactions. There are no existing or proposed agreements, arrangements, understandings or transactions between any Loan Party and any of the officers, members, managers, directors, stockholders, parents, holders of other Equity Interests, employees or Affiliates (other than Subsidiaries) of any Loan Party or any members of their respective immediate families, and none of the foregoing Persons are directly or indirectly indebted to or have any direct or indirect ownership, partnership, or voting interest in any Affiliate of any Loan Party or any Person with which any Loan Party has a business relationship or which competes with any Loan Party (except that any such Persons may own Equity Interests in (but not exceeding 2.0% of the outstanding Equity Interests of) any publicly traded company that may compete with a Loan Party).

Section 3.25 Portfolio Investments. Each Portfolio Investment was originated without any fraud or material misrepresentation by the Borrower or, to the best of the Borrower's knowledge, on the part of the Obligor. On the date of each Borrowing, the information contained in the Borrowing Base Certificate most recently delivered to the Administrative Agent pursuant to Section 5.01 is an accurate and complete listing of all of the Eligible Investments as of such date, and the information contained therein with respect to the identity of such Portfolio Investment and the amounts owning thereunder is true and correct in all respects as of such date. No procedures that would reasonably be expected to be adverse to the interests of the Administrative Agent and the Lenders were utilized by the Borrower in identifying and/or selecting the Portfolio Investments.

ARTICLE IV
CONDITIONS

Section 4.01 Effective Date.

(a) The obligations of the Lenders to make Loans hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(i) Credit Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received (A) from each party hereto a counterpart of this Agreement signed on behalf of such party (which, subject to Section 9.06(b), may include any Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page) and (B) duly executed copies of the Loan Documents and such other certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including any promissory notes requested by a Lender pursuant to Section 2.10 payable to the order of each such requesting Lender and a written opinion of the Loan Parties' counsel, addressed to the Administrative Agent and the Lenders, all in form and substance satisfactory to the Administrative Agent.

(ii) Financial Statements. The Lenders shall have received (A) audited consolidated financial statements of the Borrower for the 2020 and 2021 fiscal years, and (B) unaudited interim consolidated financial statements of the Borrower for each fiscal quarter ended after the date of the latest applicable financial statements delivered pursuant to clause (A) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Administrative Agent, reflect any material adverse change in the consolidated financial condition of the Borrower, as reflected in the audited, consolidated financial statements described in clause (A) of this paragraph.

(iii) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (A) a certificate of each Loan Party, dated the Effective Date and executed by its Secretary or Assistant Secretary, which shall (I) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (II) identify by name and title and bear the signatures of the officers of such Loan Party authorized to sign the Loan Documents to which it is a party and, in the case of the Borrower, its Financial Officers, and (III) contain appropriate attachments, including the charter, articles or certificate of organization or incorporation of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its bylaws or operating, management or partnership agreement, or other organizational or governing documents, and (B) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(iv) No Default Certificate. The Administrative Agent shall have received a certificate, signed by the chief financial officer of the Borrower, dated as of the Effective Date (A) stating that no Default has occurred and is continuing, (B) stating that the representations and warranties contained in the Loan Documents are true and correct as of such date, and (C) certifying as to any other factual matters as may be reasonably requested by the Administrative Agent.

(v) Fees. The Lenders and the Administrative Agent shall have received all fees required to be paid, and all expenses required to be reimbursed for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Effective Date, but excluding those fees to be paid in accordance with Section 4.02(c)(iii). All such amounts will be paid directly by Borrower and not with proceeds of Loans.

(vi) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in the jurisdiction of organization of each Loan Party and each jurisdiction where assets of the Loan Parties are located, and such search shall reveal no Liens on any of the assets of the Loan Parties except for liens permitted by Section 6.02 or discharged on or prior to the Effective Date pursuant to a pay-off letter or other documentation satisfactory to the Administrative Agent.

(vii) [Intentionally Omitted].

(viii) [Intentionally Omitted].

(ix) Control Agreements. The Administrative Agent shall have received a deposit account control agreement and/or securities account control agreement with respect to the Custodial Agreement and as otherwise required to be provided pursuant to the Security Agreement.

(x) Solvency. The Administrative Agent shall have received a solvency certificate signed by a Financial Officer dated the Effective Date in form and substance reasonably satisfactory to the Administrative Agent.

(xi) Borrowing Base Certificate. The Administrative Agent shall have received a Borrowing Base Certificate which calculates the Borrowing Base as of the end of the month immediately preceding the Effective Date.

(xii) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by the Collateral Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.02), shall be in proper form for filing, registration or recordation.

(xiii) Insurance. The Administrative Agent shall have received evidence of insurance coverage in form, scope, and substance reasonably satisfactory to the Administrative Agent and otherwise in compliance with the terms of Section 5.10 of this Agreement.

(xiv) USA PATRIOT Act, Etc. (A) The Administrative Agent shall have received, (I) at least five (5) days prior to the Effective Date, all documentation and other information regarding the Borrowers requested in connection with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, to the extent requested in writing of the Borrowers at least ten (10) days prior to the Effective Date, and (II) a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party, and (B) to the extent the Borrower qualify as a "legal entity customer" under the Beneficial Ownership Regulation, at least five (5) days prior to the Effective Date, any Lender that has requested, in a written notice to the Borrower at least the (10) days prior to the Effective Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided that, upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (B) shall be deemed to be satisfied).

(xv) Other Documents. The Administrative Agent shall have received such other documents as the Administrative Agent, any Lender or their respective counsel may have reasonably requested.

(b) The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the obligations of the Lenders to make Loans hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 9.02).

Section 4.02 Each Credit Event.

(a) The obligation of each Lender to make a Loan on the occasion of any Borrowing, is subject to the satisfaction of the following conditions:

(i) The representations and warranties of the Loan Parties set forth in the Loan Documents shall be true and correct in all material respects with the same effect as though made on and as of the date of such Borrowing (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, and that any representation or warranty which is subject to any materiality qualifier shall be required to be true and correct in all respects).

(ii) At the time of and immediately after giving effect to such Borrowing, no Default shall have occurred and be continuing.

(iii) After giving effect to any Borrowing, Availability shall not be less than zero.

(iv) No event shall have occurred and no condition shall exist which has or could be reasonably expected to have a Material Adverse Effect.

(b) Each Borrowing shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in this Section.

(c) The obligation of each Lender to make a Loan on the occasion of the initial Borrowing is subject to the satisfaction of the following conditions in form and substance reasonably satisfactory to the Administrative Agent:

(i) The Administrative Agent shall have received evidence of satisfaction and discharge in respect of the Indebtedness related to the 2023 Notes.

(ii) All proceeds of such initial Borrowing shall be paid directly from the Administrative Agent to the Indenture Trustee in connection with and in redemption in full of the 2023 Notes.

(iii) The Lenders and the Administrative Agent shall have received all fees required to be paid pursuant to the fee letter between the Administrative Agent and Borrower.

ARTICLE V
AFFIRMATIVE COVENANTS

Until all of the Secured Obligations shall have been Paid in Full, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the other Loan Parties, with the Lenders that:

Section 5.01 Financial Statements; Borrowing Base and Other Information.

(a) The Borrower will furnish to the Administrative Agent and each Lender:

(i) within one hundred fifty (150) days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing (without a "going concern" or like qualification, commentary or exception, and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, accompanied by any management letter prepared by said accountants;

(ii) within forty-five (45) days after the end of each of the first three fiscal quarters of the Borrower, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of such fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by a Financial Officer as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(iii) concurrently with any delivery of financial statements under clause (i) or (ii) or (iii) above, a Compliance Certificate (A) certifying, in the case of the financial statements delivered under clause (ii) or (iii) above, as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes, (B) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (C) setting forth reasonably detailed calculations demonstrating compliance with Section 6.12 and (D) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(iv) [reserved];

(v) as soon as available, but in any event no later than the end of the first fiscal quarter of each fiscal year of the Borrower, a copy of the plan and forecast (including a projected consolidated and consolidating balance sheet, income statement and cash flow statement) of the Borrower for each month of the upcoming fiscal year (the "*Projections*") in form reasonably satisfactory to the Administrative Agent;

(vi) as soon as available but in any event within fifteen (15) days of the end of each calendar month, and at such other times as may be necessary to re-determine Availability hereunder or as may be requested by the Administrative Agent, as of the period then ended, a Borrowing Base Certificate and supporting information in connection therewith, together with any additional reports with respect to the Borrowing Base as the Administrative Agent may reasonably request;

(vii) as soon as available but in any event within fifteen (15) days of the end of each calendar month and at such other times as may be requested by the Administrative Agent, as of the period then ended, all delivered electronically in a text formatted file acceptable to the Administrative Agent: (A) copies of all reports provided to Borrower by the Custodian and (B) a detailed asset portfolio statement together with all associated schedules;

(viii) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by any Loan Party or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(ix) promptly after receipt thereof by the Borrower or any Subsidiary, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by the SEC or such other agency regarding financial or other operational results of the Borrower or any Subsidiary thereof;

(x) promptly following any request therefor, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary, or any audit of any of them as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request;

(xi) promptly following any request therefor, (A) such other information regarding the operations, material changes in ownership of Equity Interests, business affairs and financial condition of any Loan Party or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender (through Administrative Agent) may reasonably request and (B) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation; and

(xii) promptly after any request therefor by the Administrative Agent or any Lender, copies of (A) any documents described in Section 101(k)(1) of ERISA that the Borrower or any ERISA Affiliate may request with respect to any Multiemployer Plan and (B) any notices described in Section 101(l)(1) of ERISA that the Borrower or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided that if the Borrower or any ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, the Borrower or the applicable ERISA Affiliate shall promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof.

(b) Documents required to be delivered pursuant to Section 5.01(a)(i), (ii) or (ix) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date (i) on which such materials are publicly available as posted on the Electronic Data Gathering, Analysis and Retrieval system (EDGAR); or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether made available by the Administrative Agent); provided that the Borrower shall notify the Administrative Agent and each Lender (by facsimile or through Electronic System) of the posting of any such documents and provide to the Administrative Agent through Electronic System electronic versions (*i.e.*, soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

Section 5.02 Notices of Material Events.

(a) The Borrower will furnish to the Administrative Agent and each Lender prompt (but in any event within any time period that may be specified below) written notice of the following:

(i) the occurrence of any Default;

(ii) receipt of any notice of any investigation by a Governmental Authority or any litigation or proceeding commenced or threatened against any Loan Party or any Subsidiary that (A) seeks damages in excess of $1,000,000.00, (B) seeks injunctive relief, (C) is asserted or instituted against any Plan, its fiduciaries or its assets, or (D) alleges criminal misconduct by any Loan Party or any Subsidiary;

(iii) any material change in accounting or financial reporting practices by the Borrower or any Subsidiary;

(iv) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of the Loan Parties which could reasonably be expected to result in a Material Adverse Effect;

(v) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect; and

(vi) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification.

(b) Each notice delivered under this Section (i) shall be in writing, (ii) shall contain a heading or a reference line that reads "Notice under Section 5.02 of that certain Credit Agreement, dated as of December 15, 2022", and (iii) shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.03 Existence; Conduct of Business. Each Loan Party will, and will cause each Subsidiary to, (a) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, qualifications, licenses, permits, franchises, governmental authorizations, intellectual property rights, licenses and permits material to the conduct of its business, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03 and (b) carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted.

Section 5.04 Payment of Obligations. Each Loan Party will pay or discharge all Material Indebtedness and all other material liabilities and obligations, including Taxes, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) such Loan Party or Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect; provided, however, that each Loan Party will remit withholding taxes and other payroll taxes to appropriate Governmental Authorities as and when claimed to be due, notwithstanding the foregoing exceptions.

Section 5.05 Maintenance of Properties. Each Loan Party will, and will cause each Subsidiary to, keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted.

Section 5.06 Books and Records; Inspection Rights. Each Loan Party will (a) keep proper books of record and account in which full, true and correct entries are made of all material financial transactions and matters involving the assets and business of the Loan Parties and (b) permit any representatives designated by the Administrative Agent (including employees of the Administrative Agent, or any consultants, accountants, lawyers, agents and appraisers retained by the Administrative Agent), at such reasonable times during normal business hours, upon reasonable advance notice to the Borrower, to visit and inspect its properties, conduct at the Loan Party's premises field examinations of the Loan Party's assets, liabilities, books and records, including examining and making extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants (and hereby authorizes the Administrative Agent to contact its independent accountants directly) and to provide contact information for each bank where each Loan Party has a depository and/or securities account and each such Loan Party hereby authorizes the Administrative Agent and each Lender to contact the bank(s) in order to request bank statements and/or balances; provided the Agent shall not exercise such rights more often than one (1) time during any calendar year absent the existence and continuance of an Event of Default. The Loan Parties acknowledge that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain Reports pertaining to the Loan Parties' assets for internal use by the Administrative Agent and the Lenders.

Section 5.07 Compliance with Laws, Material Contractual Obligations and Investment Policies. Each Loan Party will, and will cause each Subsidiary to, (a) comply with each Requirement of Law applicable to it or its property, including without limitation the Investment Company Act, (b) comply in all respects with the Investment Policies, (c) perform in all material respects its obligations under the Custodial Agreement, and (d) perform in all material respects its obligations under other material agreements to which it is a party, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. Each Loan Party will maintain in effect and enforce policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

Section 5.08 Use of Proceeds.

(a) The proceeds of the Loans will be used only to (i) refinance certain existing Indebtedness, (ii) pays certain fees and expenses incurred in connection with the transactions contemplated herein, and (iii) finance ongoing working capital, capital expenditures and the general corporate needs of Borrower. No part of the proceeds of any Loan will be used, whether directly or indirectly, or any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X.

(b) The Borrower will not request any Borrowing, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 5.09 Accuracy of Information. The Loan Parties will ensure that any information, including financial statements or other documents, furnished to the Administrative Agent or the Lenders in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder contains no material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and the furnishing of such information shall be deemed to be a representation and warranty by the Borrower on the date thereof as to the matters specified in this Section 5.09; provided that, with respect to the Projections, the Loan Parties will cause the Projections to be prepared in good faith based upon assumptions believed to be reasonable at the time.

Section 5.10 Insurance. Each Loan Party will, and will cause each Subsidiary to, maintain with financially sound and reputable carriers having a financial strength rating of at least A- by A.M. Best Company (a) insurance in such amounts (with no greater risk retention) and against such risks (including loss or damage by fire and loss in transit; theft, burglary, pilferage, larceny, embezzlement, and other criminal activities; business interruption; and general liability) and such other hazards, as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance required pursuant to the Collateral Documents. The Borrower will furnish to the Lenders, upon request of the Administrative Agent, but no less frequently than annually, information in reasonable detail as to the insurance so maintained.

Section 5.11 Business Development Company and RIC. The Borrower will maintain its status as a "business development company" under the Investment Company Act and as an RIC under the Code. The Borrower will, and will cause its Subsidiaries at all times to, subject to applicable grace periods set forth in the Code, comply with the portfolio diversification requirements set forth in the Code applicable to RICs, to the extent applicable.

Section 5.12 [Section Intentionally Omitted]

Section 5.13 [Section Intentionally Omitted]

Section 5.14 Additional Collateral; Further Assurances.

(a) Subject to applicable Requirement of Law, each Loan Party will cause each of its Subsidiaries (other than Excluded Subsidiaries) formed or acquired after the Effective Date to become a Loan Party by executing a Joinder Agreement. In connection therewith, the Administrative Agent shall have received all documentation and other information regarding such newly formed or acquired Subsidiaries as may be required to comply with the applicable "know your customer" rules and regulations, including the USA Patriot Act. Upon execution and delivery thereof, each such Person (i) shall automatically become a Guarantor hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will grant Liens to the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, in any property of such Loan Party which constitutes Collateral.

(b) The Borrower will cause 100% of the issued and outstanding Equity Interests of each of its Subsidiaries to be subject at all times to a first priority, perfected Lien in favor of the Administrative Agent for the benefit of the Administrative Agent and the other Secured Parties, pursuant to the terms and conditions of the Loan Documents or other security documents as the Administrative Agent shall reasonably request.

(c) Without limiting the foregoing, each Loan Party will execute and deliver, or cause to be executed and delivered, to the Administrative Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by any Requirement of Law or which the Administrative Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all in form and substance reasonably satisfactory to the Administrative Agent and all at the expense of the Borrower.

(d) If any material assets (other than the Excluded Property) are acquired by any Loan Party after the Effective Date (other than assets constituting Collateral under the Security Agreement that become subject to the Lien under the Security Agreement upon acquisition thereof), the Borrower will (i) notify the Administrative Agent and the Lenders thereof, and, if requested by the Administrative Agent or the Required Lenders, cause such assets to be subjected to a Lien securing the Secured Obligations and (ii) take, and cause each applicable Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent to grant and perfect such Liens, including actions described in paragraph (c) of this Section, all at the expense of the Loan Parties.

ARTICLE VI
NEGATIVE COVENANTS

Until all of the Secured Obligations shall have been Paid in Full, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the other Loan Parties, with the Lenders that:

Section 6.01 Indebtedness. No Loan Party will create, incur, assume or suffer to exist any Indebtedness, except:

(a) the Secured Obligations;

(b) Indebtedness existing on the Effective Date and set forth in Schedule 6.01 (excluding, however, following the making of the initial Loan hereunder, the Indebtedness to be repaid with the proceeds of such Loans as indicated on Schedule 6.01) and any extensions, renewals, refinancings and replacements of any such Indebtedness in accordance with clause (f) hereof;

(c) Indebtedness of any Loan Party to any other Loan Party;

(d) any Cure Debt Securities;

(e) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(f) additional unsecured Indebtedness in an aggregate principal amount not to exceed $1,000,000.00 at any one time outstanding; and

(g) Subordinated Indebtedness approved by the Administrative Agent.

Section 6.02 Liens. No Loan Party will create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including Accounts) or rights in respect of any thereof, except:

(a) Liens created pursuant to any Loan Document;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the Borrower or any Subsidiary existing on the Effective Date and set forth in Schedule 6.02; provided that (A) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (B) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof; and

(d) Liens of a collecting bank arising in the ordinary course of business under Section 4-210 of the UCC in effect in the relevant jurisdiction covering only the items being collected upon.

Section 6.03 Fundamental Changes.

(a) No Loan Party will merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or otherwise Dispose of all or any substantial part of its assets, or all or substantially all of the stock of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing, (i) any Subsidiary of the Borrower may merge into the Borrower in a transaction in which the Borrower is the surviving entity, and (ii) any Loan Party (other than the Borrower) may merge into any other Loan Party in a transaction in which the surviving entity is a Loan Party.

(b) No Loan Party will consummate a Division as the Dividing Person, without the prior written consent of Administrative Agent. Without limiting the foregoing, if any Loan Party that is a limited liability company consummates a Division (with or without the prior consent of Administrative Agent as required above), each Division Successor shall be required to comply with the obligations set forth in Section 5.14 and the other further assurances obligations set forth in the Loan Documents and become a Loan Party under this Agreement and the other Loan Documents.

(c) No Loan Party will engage in any business other than businesses of the type conducted by the Borrower and its Subsidiaries on the Effective Date and businesses reasonably related thereto.

(d) No Loan Party will change its fiscal year or any fiscal quarter from the basis in effect on the Effective Date.

(e) No Loan Party will change the accounting basis upon which its financial statements are prepared.

(f) The Borrower will not cease to be managed pursuant to an internalized management structure.

Section 6.04 Investments, Loans, Advances, Guarantees and Acquisitions. No Loan Party will, form or invest in any Subsidiary after the Effective Date, or purchase, hold or acquire (including pursuant to any merger with any Person that was not a Loan Party and a wholly owned Subsidiary prior to such merger) any Equity Interests, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit (whether through purchase of assets, merger or otherwise), except:

(a) Investments in Portfolio Investments made in accordance with the Borrower's Investment Policies and in compliance with all requirements of the Investment Company Act;

(b) Investments in Cash and Cash Equivalents, subject to control agreements in favor of the Administrative Agent for the benefit of the Secured Parties or otherwise subject to a perfected security interest in favor of the Administrative Agent for the benefit of the Secured Parties;

(c) Investments in existence on the Effective Date and described in Schedule 6.04;

(d) Investments by any Loan Party in Equity Interests in any other Loan Party, provided that any such Equity Interests held by a Loan Party shall be pledged pursuant to the Security Agreement;

(e) loans or advances made by any Loan Party to any other Loan Party, provided that any such loans and advances made by a Loan Party shall be evidenced by a promissory note pledged pursuant to the Security Agreement;

(f) Investments after the date hereof in Excluded Subsidiaries;

(g) notes payable, or stock or other securities issued by Account Debtors to a Loan Party pursuant to negotiated agreements with respect to settlement of such Account Debtor's Accounts in the ordinary course of business, consistent with past practices; and

(h) Investments in the form of Swap Agreements permitted by Section 6.07.

Section 6.05 Asset Sales. No Loan Party will Dispose of any asset, including any Equity Interest owned by it, nor will the Borrower permit any Subsidiary to issue any additional Equity Interest in such Subsidiary (other than to the Borrower or another Loan Party in compliance with Section 6.04), except:

(a) Dispositions of assets by any Loan Party to any other Loan Party;

(b) Dispositions of Investments permitted by Sections 6.04(a), (b) and (c); and

(c) Dispositions of property or assets that do not consist of Portfolio Investments so long as the aggregate amount of all Dispositions does not exceed $5,000,000 in any fiscal year;

provided that all Dispositions permitted under this Section 6.05 shall be made for fair value and cash consideration.

Section 6.06 [Section Intentionally Omitted]

Section 6.07 Swap Agreements. No Loan Party will enter into any Swap Agreement without the prior written consent of the Required Lenders.

Section 6.08 Restricted Payments; Certain Payments of Indebtedness.

(a) No Loan Party will declare or make, or agree to declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except (i) the Borrower may declare and pay dividends with respect to its common stock payable solely in additional shares of its common stock, and, with respect to its preferred stock, payable solely in additional shares of such preferred stock or in shares of its common stock, (ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, (iii) the Borrower may pay dividends or make distributions to its shareholders in an aggregate amount necessary to maintain in status as a RIC under the Code and to avoid U.S. federal income and excise taxes imposed on RICs, and (iv) the Borrower may repurchase its Equity Interests in accordance with any board-approved share repurchase program, so long as no Default or Event of Default exists or would result therefrom and the Borrower would be in pro forma compliance with the financial covenants in Section 6.12 as of the most recent fiscal quarter ended after giving effect thereto.

(b) No Loan Party will make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness, except:

(i) payment of Indebtedness created under the Loan Documents; and

(ii) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness permitted under Section 6.01, other than payments in respect of the Subordinated Indebtedness prohibited by the subordination provisions thereof.

Section 6.09 Transactions with Affiliates. No Loan Party will, nor will it permit any Subsidiary to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that (i) are in the ordinary course of business and (ii) are at prices and on terms and conditions not less favorable to such Loan Party or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Loan Parties not involving any other Affiliate, and (c) the payment of reasonable fees to directors of the Borrower or any Subsidiary who are not employees of the Borrower or any Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of the Borrower or its Subsidiaries in the ordinary course of business. No Loan Party will enter into any transactions with any issuer of an Affiliate Investment (including any existing Affiliate Investment and any Investment that becomes an Affiliate Investment as a result of such transaction, or any modification, supplement or waiver to an existing Affiliate Investment), except transactions in the ordinary course of business that are either (i) on terms and conditions not less favorable to the Loan Party than could be obtained at the time on an arm's-length basis from unrelated third parties or (ii) in the nature of an amendment, supplement or modification to any such Affiliate Investment on terms and conditions that are similar to those obtained by debt or equity investors in similar types of investments in which such investors do not have the controlling equity interest, in each case, as reasonably determined in good faith by the Borrower.

Section 6.10 Restrictive Agreements. No Loan Party will, directly or indirectly enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of such Loan Party to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any Equity Interests or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guarantee Indebtedness of the Borrower or any other Subsidiary; provided that the foregoing shall not apply to restrictions and conditions imposed by any Requirement of Law or by any Loan Document.

Section 6.11 Amendment of Material Documents. No Loan Party will amend, modify or waive any of its rights under (a) any agreement relating to any Subordinated Indebtedness, (b) its charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents, (c) the Custodial Agreement, the Indenture dated February 7, 2012 with U.S. Bank National Association, as amended, or (d) any other material agreement to the extent the amendment, modification or waiver of such other material agreement could reasonably be expected to have a Material Adverse Effect.

Section 6.12 Financial Covenants.

(a) Asset Coverage Ratio. The Asset Coverage Ratio, determined on the last day of any fiscal quarter set forth below, shall not be less than 2.0 to 1.0.

(b) Interest Coverage Ratio. The Interest Coverage Ratio, for any period of four consecutive fiscal quarters ending on the last day of any fiscal quarter ending during any period set forth below, shall not be less than the ratio set forth below opposite such period:

Period	Ratio
December 31, 2022 through June 30, 2023	1.25 to 1.0
September 30, 2023 through March 31, 2024	1.50 to 1.0
June 30, 2024 and thereafter	1.75 to 1.0

(c) Tangible Net Worth. The Borrower and its Subsidiaries on a consolidated basis shall have, on the last day of each fiscal quarter ending during the period set forth below, Tangible Net Worth equal to or greater than $85,000,000.

ARTICLE VII
EVENTS OF DEFAULT

Section 7.01 Events of Default. Each of the following shall constitute an "*Events of Default*":

(a) the Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of 5 days;

(c) any representation or warranty made or deemed made by or on behalf of any Loan Party or any Subsidiary in, or in connection with, this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been materially incorrect when made or deemed made;

(d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a)(i), 5.03 (with respect to a Loan Party's existence) or 5.08 or in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d)), and such failure shall continue unremedied for a period of (i) 5 days after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of Section 5.01, 5.02 (other than Section 5.02(a)(i)), 5.03, 5.04, 5.07, 5.10, 5.11 or 5.13 of this Agreement or (ii) 30 days after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Administrative Agent (which notice will be given at the request of any Lender) if such breach relates to terms or provisions of any other Section of this Agreement;

(f) any Loan Party or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of a Loan Party or Subsidiary or its debts, or of a substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed or unstayed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) any Loan Party or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for such Loan Party or Subsidiary of any Loan Party or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) any Loan Party or any Subsidiary shall become unable, admit in writing its inability, or publicly declare its intention not to, or fail generally, to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of $1,000,000.00 (to the extent not covered by independent third-party insurance or indemnitees) shall be rendered against any Loan Party, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of sixty (60) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Loan Party or any Subsidiary to enforce any such judgment or any Loan Party or any Subsidiary shall fail within sixty (60) days to discharge one or more non-monetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgments or orders, in any such case, are not stayed on appeal or otherwise being appropriately contested in good faith by proper proceedings diligently pursued;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in liability of the Borrower and its Subsidiaries which could reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur;

(n) the occurrence of any "default", as defined in any Loan Document (other than this Agreement), or the breach of any of the terms or provisions of any Loan Document (other than this Agreement), which default or breach continues beyond any period of grace therein provided;

(o) the Loan Guaranty shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of the Loan Guaranty, or any Guarantor shall fail to comply with any of the terms or provisions of the Loan Guaranty, or any Guarantor shall deny that it has any further liability under the Loan Guaranty, or shall give notice to such effect, including, but not limited to notice of termination delivered pursuant to Section 10.08;

(p) except as permitted by the terms of any Collateral Document, (i) any Collateral Document shall for any reason fail to create a valid security interest in any Collateral purported to be covered thereby, or (ii) any Lien securing any Secured Obligation shall cease to be a perfected, first priority Lien;

(q) any Collateral Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Collateral Document;

(r) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction that evidences its assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms);

(s) any Loan Party is criminally indicted or convicted under any law that may reasonably be expected to lead to a forfeiture of any property of such Loan Party having a fair market value in excess of $1,000,000.00; or

(t) the Custodian (1) shall (or shall attempt to) disaffirm, contest or deny its obligations under, or terminates or attempts to terminate, or is in default of its obligations under, a Custodial Agreement or (2) ceases in any respect to be acceptable to the Administrative Agent in its reasonable discretion and, in each case, such Custodian is not replaced by, and any Collateral held by such Custodian is not delivered to, a replacement Custodian satisfactory to the Administrative Agent within 10 days after (A) the first date of such occurrence, in the case of clause (1) or (B) the date written notice thereof has been given to the Borrower by the Administrative Agent, in the case of clause (2).

Section 7.02 Remedies. If any Event of Default shall occur (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments whereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole or in part, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees (including, for the avoidance of doubt, any break funding payment) and other obligations of the Borrower accrued hereunder and under any other Loan Document, shall become due and payable immediately, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and in the case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees (including, for the avoidance of doubt, any break funding payments) and other obligations of the Borrower accrued hereunder and under any other Loan Documents, shall automatically become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, increase the rate of interest applicable to the Loans and other Obligations as set forth in this Agreement and exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

Section 7.03 Cure Right. In the event the Loan Parties fail to comply with any financial covenant contain in Section 6.12 (a "*Financial Covenant Default*"), the Loan Parties shall have the right to cure such Event of Default on the following terms and conditions (the "*Cure Right*"):

(a) In the event the Borrower desires to cure a Financial Covenant Default, the Borrower shall deliver to the Administrative Agent irrevocable written notice of its intent to cure (a "*Cure Notice*") no later than ten (10) Business Days after the date on which financial statements and a Compliance Certificate for such fiscal quarter are required to be delivered; provided, however, that in no event shall the Borrower be permitted to exercise Cure Rights hereunder more than four (4) times during the term of this Agreement, two (2) times in any four (4) consecutive fiscal quarter period or in any two (2) consecutive fiscal quarters.

(b) In the event the Borrower delivers a Cure Notice, the Borrower shall issue Equity Interests or Cure Debt Securities for cash consideration in an amount equal to or greater than the amount necessary to cure the applicable Financial Covenant Defaults on or before the date that is 45 days after the date on which the Cure Notice was delivered to the Administrative Agent (the "*Required Contribution Date*"). Such cash consideration received by the Borrower shall be included in the calculation of the Borrower's assets for the purposes of determining compliance with the financial covenants in Section 6.12 for the fiscal quarter in which such Financial Covenant Default occurred and any subsequent period that includes such fiscal quarter.

(c) If a Cure Notice has been delivered, then from the end of the fiscal quarter related to such Cure Notice until the Required Contribution Date, the Event of Default on the basis of the applicable Financial Covenant Default in respect of which the Cure Notice was delivered shall not be deemed to exist and neither the Administrative Agent nor any Lender shall accelerate the Obligations, terminate the Revolving Commitments or exercise any enforcement remedy against any Loan Party or any of their properties solely as a result of the Financial Covenant Default that has been (or is to be) cured by the Cure Right pursuant to the terms hereof. Prior to the Cure Notice, any Financial Covenant Default that has occurred will be deemed to be continuing and, as a result, the Lenders will have no obligation to make any Revolving Loan or otherwise extend additional credit under this Agreement, and if there has occurred more than one (1) Financial Covenant Default during any calendar year, also will be entitled to the imposition of interest at the default rate set forth herein from the date of the applicable Financial Covenant Default.

(d) Notwithstanding anything to the contrary contained in this Agreement, to the extent that the financial covenant cure amount received by the Borrower pursuant to this Section 7.03 is greater than the amount required to cause the Borrower to be in compliance with the applicable financial covenants, the amount deemed included in the Borrower's assets for the purpose of calculating the financial covenants in Section 6.12 will nevertheless be limited to the minimum amount thereof necessary to cure the related Financial Covenant Default.

ARTICLE VIII
THE ADMINISTRATIVE AGENT

Section 8.01 Authorization and Action.

(a) Each Lender, on behalf of itself and any of its Affiliates that are Secured Parties hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors and assigns to serve as the administrative agent and collateral agent under the Loan Documents and each Lender authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction other than within the United States, each Lender hereby grants to the Administrative Agent any required powers of attorney to execute and enforce any Collateral Document governed by the laws of such jurisdiction on such Lender's behalf. Without limiting the foregoing, each Lender hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, and to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents.

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification and is exculpated in a manner satisfactory to it from the Lenders with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any other Loan Party, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender, any other Secured Party or holder of any other obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and/or the transactions contemplated hereby;

(ii) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account;

(d) The Administrative Agent may perform any of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) The Arranger shall have no obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) In case of the pendency of any proceeding with respect to any Loan Party under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.17 and 9.03) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender and each other Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03). Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

(g) The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and, except solely to the extent of the Borrower's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Borrower or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Secured Obligations provided under the Loan Documents, to have agreed to the provisions of this Article.

Section 8.02 Administrative Agent's Reliance, Limitation of Liability, Etc.

(a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable for any action taken or omitted to be taken by such party, the Administrative Agent or any of its Related Parties under or in connection with this Agreement or the other Loan Documents (A) with the consent of or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (B) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document (including, for the avoidance of doubt, in connection with the Administrative Agent's reliance on any Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page) or for any failure of any Loan Party to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any (i) notice of any of the events or circumstances set forth or described in Section 5.02 unless and until written notice thereof stating that it is a "notice under Section 5.02" in respect of this Agreement and identifying the specific clause under said Section is given to the Administrative Agent by the Borrower, or (ii) notice of any Default or Event of Default unless and until written notice thereof (stating that it is a "notice of Default" or a "notice of an Event of Default") is given to the Administrative Agent by the Borrower or a Lender. Further, the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items (which on their face purport to be such items) expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent, or (vi) the creation, perfection or priority of Liens on the Collateral.

(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 9.04, (ii) may rely on the Register to the extent set forth in Section 9.04(b), (iii) may consult with legal counsel (including counsel to the Borrower), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (iv) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender sufficiently in advance of the making of such Loan and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Section 8.03 Posting of Communications.

(a) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic system chosen by the Administrative Agent to be its electronic transmission system (the "*Approved Electronic Platform*").

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there may be confidentiality and other risks associated with such distribution. Each of the Lenders and the Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED "AS IS" AND "AS AVAILABLE". THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, THE ARRANGER OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, "*APPLICABLE PARTIES*") HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER, OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

(d) Each Lender agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender's email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders and the Borrower agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent or any Lender to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

Section 8.04 The Administrative Agent Individually. With respect to its Commitment and Loans, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender. The terms "*Lenders*", "*Required Lenders*" and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, any Loan Party, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders.

Section 8.05 Successor Administrative Agent.

(a) The Administrative Agent may resign at any time by giving 30 days' prior written notice thereof to the Lenders and the Borrower, whether or not a successor Administrative Agent has been appointed. Upon any such resignation, the Required Lenders shall have the right to appoint a successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. In either case, such appointment shall be subject to the prior written approval of the Borrower (which approval may not be unreasonably withheld and shall not be required while an Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding paragraph (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents; provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Collateral Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties, and continue to be entitled to the rights set forth in such Collateral Document and Loan Document, and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this Section (it being understood and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Collateral Document, including any action required to maintain the perfection of any such security interest), and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article, Section 2.17(d) and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

Section 8.06 Acknowledgements of Lenders.

(a) Each Lender represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility, (ii) it is engaged in making, acquiring or holding commercial loans and in providing other facilities set forth herein as may be applicable to such Lender in the ordinary course of business, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument (and each Lender agrees not to assert a claim in contravention of the foregoing),(iii) it has, independently and without reliance upon the Administrative Agent, the Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder and (iv) it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, the Arranger or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(b) Each Lender, by delivering its signature page to this Agreement on the Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date or the effective date of any such Assignment and Assumption or any other Loan document pursuant to which it shall have become a Lender hereunder.

(c) (i) Each Lender hereby agrees that (A) if the Administrative Agent notifies such Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "*Payment*") were erroneously transmitted to such Lender (whether or not known to such Lender), and demands the return of such Payment (or a portion thereof), such Lender shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (B) to the extent permitted by applicable law, such Lender shall not assert, and hereby waives, as to the Administrative Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender under this Section 8.06(c) shall be conclusive, absent manifest error.

(ii) Each Lender hereby further agrees that if it receives a Payment from the Administrative Agent or any of its Affiliates (A) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "*Payment Notice*") or (B) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one (1) Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(iii) The Borrower and each other Loan Party hereby agrees that (A) in the event an erroneous Payment (or portion thereof) are not recovered from any Lender that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender with respect to such amount and (B) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party.

(iv) Each party's obligations under this Section 8.06(c) shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

(d) Each Lender hereby agrees that (i) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (ii) the Administrative Agent (A) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (B) shall not be liable for any information contained in any Report; (iii) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (iv) it will keep all Reports confidential and strictly for its internal use, not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (v) without limiting the generality of any other indemnification provision contained in this Agreement, (A) it will hold the Administrative Agent and any such other Person preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any extension of credit that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (B) it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorneys' fees) incurred by the Administrative Agent or any such other Person as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

Section 8.07 Collateral Matters.

(a) Except with respect to the exercise of setoff rights in accordance with Section 9.08 or with respect to a Secured Party's right to file a proof of claim in an insolvency proceeding, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee of the Secured Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Secured Parties in accordance with the terms thereof. In its capacity, the Administrative Agent is a "representative" of the Secured Parties within the meaning of the term "secured party" as defined in the UCC. In the event that any Collateral is hereafter pledged by any Person as collateral security for the Secured Obligations, the Administrative Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Secured Parties any Loan Documents necessary or appropriate to grant and perfect a Lien on such Collateral in favor of the Administrative Agent on behalf of the Secured Parties.

(b) In furtherance of the foregoing and not in limitation thereof, no arrangements in respect of Banking Services the obligations under which constitute Secured Obligations and no Swap Agreement the obligations under which constitute Secured Obligations, will create (or be deemed to create) in favor of any Secured Party that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Loan Party under any Loan Document. By accepting the benefits of the Collateral, each Secured Party that is a party to any such arrangement in respect of Banking Services or Swap Agreement, as applicable, shall be deemed to have appointed the Administrative Agent to serve as administrative agent and collateral agent under the Loan Documents and agreed to be bound by the Loan Documents as a Secured Party thereunder, subject to the limitations set forth in this paragraph.

(c) The Secured Parties irrevocably authorize the Administrative Agent, at its option and in its discretion, to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(a)(ii). The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders or any other Secured Party for any failure to monitor or maintain any portion of the Collateral.

Section 8.08 Credit Bidding. The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership interests, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason, such Obligations shall automatically be reassigned to the Secured Parties pro rata with their original interest in such Obligations and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

Section 8.09 Certain ERISA Matters.

(a) Each Lender (i) represents and warrants, as of the date such Person became a Lender party hereto, to, and (ii) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(A) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans or the Commitments,

(B) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,

(C) (I) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (II) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (III) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (IV) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(D) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (A) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (D) in the immediately preceding clause (a), such Lender further (i) represents and warrants, as of the date such Person became a Lender party hereto, to, and (ii) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, or the Arranger or any of their respective Affiliates is a fiduciary with respect to the Collateral or the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent and the Arranger hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments, this Agreement and any other Loan Documents (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

Section 8.10 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender or Secured Party, or any Person who has received funds on behalf of a Lender or Secured Party (any such Lender, Secured Party or other recipient, a "*Payment Recipient*") that the Administrative Agent has determined in its sole discretion that any funds (as set forth in such notice from the Administrative Agent) received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Secured Party or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "*Erroneous Payment*") and (y) demands in writing the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent pending its return or repayment as contemplated below in this Section 8.10 and held in trust for the benefit of the Administrative Agent, and such Lender or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two (2) Business Days thereafter (or such later date as the Administrative Agent may, in its sole discretion, specify in writing), return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Payment Recipient agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:

(i) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender or Secured Party shall use commercially reasonable efforts to (and shall use commercially reasonable efforts to cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one (1) Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y) and (z)) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 8.10(b).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 8.10(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 8.10(a) or on whether or not an Erroneous Payment has been made.

(c) Each Lender and Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender or Secured Party under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender or Secured Party under any Loan Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the Administrative Agent has demanded to be returned under clause (a) above.

(d) The parties hereto agree that (x) irrespective of whether the Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be contractually subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender or Secured Party, to the rights and interests of such Lender or Secured Party, as the case may be) under the Loan Documents with respect to such amount and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party; provided that this Section 8.10 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; provided, further, that for the avoidance of doubt, immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower for the purpose of making such Erroneous Payment.

(e) If Administrative Agent pays an amount to any Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Administrative Agent from Borrower and such related payment is not received by Administrative Agent, then Administrative Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim, defense, or deduction of any kind.

(f) If Administrative Agent determines at any time that any amount received by Administrative Agent under this Agreement or any other Loan Document must be returned to any Loan Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Administrative Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Administrative Agent on demand any portion of such amount that Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as Administrative Agent is required to pay to any Borrower or such other Credit Party, without setoff, counterclaim or deduction of any kind, and Administrative Agent will be entitled to set-off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(g) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including, without limitation, any defense based on "discharge for value" or any similar doctrine.

(h) Each party's obligations, agreements and waivers under this Section 8.10 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or Secured Party, the termination of any Commitment and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE IX
MISCELLANEOUS

Section 9.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone or Electronic Systems (and subject in each case to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(i) if to any Loan Party, to it in care of the Borrower at:

PhenixFIN Corporation
445 Park Avenue, 10th Floor
New York, New York 10022
Attention: Ellida McMillan
Email: emcmillan@phenixfc.com

(ii) if to the Administrative Agent, to Woodforest National Bank at:

Woodforest National Bank-CMB Loan Operations
P.O. Box 7889
The Woodlands, TX 77387-7889

With copies to:

Woodforest National Bank
501 E. Kennedy Blvd, 6th Floor
Tampa, Florida 33602
Attention: Thomas Angley
Email: TAngley@woodforest.com

(iii) if to any other Lender, to it at its address or fax number set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail shall be deemed to have been given when received, (B) sent by fax shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day of the recipient, or (C) delivered through Electronic Systems or Approved Electronic Platforms, as applicable, to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Notices and other communications to the Borrower, any Loan Party and the Lenders hereunder may be delivered or furnished by using Electronic Systems or Approved Electronic Platforms, as applicable, or pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. Each of the Administrative Agent and the Borrower (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by using Electronic Systems or Approved Electronic Platforms, as applicable, pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise proscribes, all such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, e-mail or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day of the recipient.

(c) Any party hereto may change its address, facsimile number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

Section 9.02 Waivers; Amendments.

(a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Subject to Section 2.14(c), (d) and (e) and Section 9.02(d) below, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or (ii) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that no such agreement shall (A) increase the Commitment of any Lender without the written consent of such Lender (including any such Lender that is a Defaulting Lender), (B) reduce or forgive the principal amount of any Loan or reduce the rate of interest thereon, or reduce or forgive any interest or fees payable hereunder, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) directly affected thereby (except that any amendment or modification of the financial covenants in this Agreement (or defined terms used in the financial covenants in this Agreement) shall not constitute a reduction in the rate of interest or fees for purposes of this clause (B)), (C) postpone any scheduled date of payment of the principal amount of any Loan, or any date for the payment of any interest, fees or other Obligations payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) directly affected thereby, (D) change Section 2.09(c) or Section 2.18(b) or (d) in a manner that would alter the manner in which payments are shared, without the written consent of each Lender (other than any Defaulting Lender), (E) increase the advance rates set forth in the definition of Borrowing Base or otherwise change the definition of the term "*Borrowing Base*" or any component definition thereof or used therein if as a result thereof the amounts available to be borrowed by the Borrower would be increased, or add new categories of eligible assets, without the written consent of each Revolving Lender (other than any Defaulting Lender), (F) change any of the provisions of this Section or the definition of "*Required Lenders*" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (other than any Defaulting Lender) directly affected thereby, (G) change Section 2.20, without the consent of each Lender (other than any Defaulting Lender), (H) release any Guarantor from its obligation under the Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender (other than any Defaulting Lender), or (I) except as provided in clause (c) of this Section or in any Collateral Document, release all or substantially all of the Collateral without the written consent of each Lender (other than any Defaulting Lender); provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder without the prior written consent of the Administrative Agent (it being understood that any amendment to Section 2.20 shall require the consent of the Administrative Agent). The Administrative Agent may also amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.04.

(c) The Lenders hereby irrevocably authorize the Administrative Agent, at its option and in its sole discretion, to release any Liens granted to the Administrative Agent by the Loan Parties on any Collateral (i) upon the Payment in Full of all Secured Obligations, and the cash collateralization of all Unliquidated Obligations in a manner satisfactory to each affected Lender, (ii) constituting property being sold or disposed of if the Loan Party disposing of such property certifies to the Administrative Agent that the sale or disposition is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property leased to a Loan Party under a lease which has expired or been terminated in a transaction permitted under this Agreement, or (iv) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Administrative Agent and the Lenders pursuant to Article VII. Except as provided in the preceding sentence, the Administrative Agent will not release any Liens on Collateral without the prior written authorization of the Required Lenders. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral. Any execution and delivery by the Administrative Agent of documents in connection with any such release shall be without recourse to or warranty by the Administrative Agent.

(d) Notwithstanding anything to the contrary herein the Administrative Agent may, with the consent of the Borrower only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency.

Section 9.03 Expenses; Limitation of Liability; Indemnity; Etc.

(a) Expenses. The Loan Parties, jointly and severally, shall pay all (i) reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication and distribution (including, without limitation, via the internet or through an Electronic System or Approved Electronic Platform) of the credit facilities provided for herein, the preparation and administration of the Loan Documents and any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) out-of-pocket expenses incurred by the Administrative Agent or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender, in connection with the enforcement, collection or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans. Expenses being reimbursed by the Loan Parties under this Section include, without limiting the generality of the foregoing, fees, costs and expenses incurred in connection with:

(A) appraisals and insurance reviews;

(B) field examinations and the preparation of Reports based on the fees charged by a third party retained by the Administrative Agent or the internally allocated fees for each Person employed by the Administrative Agent with respect to each field examination;

(C) background checks regarding senior management and/or key investors, as deemed necessary or appropriate in the sole discretion of the Administrative Agent;

(D) Taxes, fees and other charges for (I) lien and title searches and title insurance and (II) recording the mortgages, filing financing statements and continuations, and other actions to perfect, protect, and continue the Administrative Agent’s Liens;

(E) sums paid or incurred to take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; and

(F) forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining the accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral.

All of the foregoing fees, costs and expenses may be charged to the Borrower as Revolving Loans or to another deposit account, all as described in Section 2.18(c).

(b) Limitation of Liability. To the extent permitted by applicable law (i) neither the Borrower nor any Loan Party shall assert, and the Borrower and each Loan Party hereby waives, any claim against the Administrative Agent, the Arranger, any Lender, and any Related Party of any of the foregoing Persons (each such Person being called a "*Lender-Related Person*") for any Liabilities arising from the use by others of information or other materials (including, without limitation, any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Internet), and (ii) no party hereto shall assert, and each such party hereby waives, any Liabilities against any other party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or the use of the proceeds thereof; provided that, nothing in this Section 9.03(b) shall relieve the Borrower or any Loan Party of any obligation it may have to indemnify an Indemnitee, as provided in Section 9.03(c), against any special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

(c) Indemnity. The Loan Parties, jointly and severally, shall indemnify the Administrative Agent, the Arranger, each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "*Indemnitee*") against, and hold each Indemnitee harmless from, any and all Liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, (ii) the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (iii) any Loan or the use of the proceeds therefrom, (iv) the failure of a Loan Party to deliver to the Administrative Agent the required receipts or other required documentary evidence with respect to a payment made by such Loan Party for Taxes pursuant to Section 2.17, or (v) any actual or prospective Proceeding relating to any of the foregoing, whether or not such Proceeding is brought by any Loan Party or their respective equity holders, Affiliates, creditors or any other third Person and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such Liabilities or related expenses are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted primarily from the gross negligence or willful misconduct of such Indemnitee. This Section 9.03(c) shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any non-Tax claim.

(d) Lender Reimbursement. Each Lender severally agrees to pay any amount required to be paid by any Loan Party under paragraphs (a), (b) or (c) of this Section 9.03 to the Administrative Agent, and each Related Party of the Administrative Agent (each, an "*Agent-Related Person*") (to the extent not reimbursed by the Loan Parties and without limiting the obligation of any Loan Party to do so), ratably according to their respective Applicable Percentage in effect on the date on which such payment is sought under this Section (or, if such payment is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Applicable Percentage immediately prior to such date), and agrees to indemnify and hold each Agent-Related Person harmless from and against any and all Liabilities and related expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent-Related Person in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent-Related Person under or in connection with any of the foregoing; provided that the unreimbursed expense or Liability or related expense, as the case may be, was incurred by or asserted against such Agent-Related Person in its capacity as such; provided, further, that no Lender shall be liable for the payment of any portion of such Liabilities, costs, expenses or disbursements that are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted primarily from such Agent-Related Person's gross negligence or willful misconduct. The agreements in this Section shall survive the termination of this Agreement and Payment in Full of the Secured Obligations.

(e) Payments. All amounts due under this Section 9.03 shall be payable not later than five (5) days after written demand therefor.

Section 9.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Borrower; provided that, the Borrower shall be deemed to have consented to an assignment of all or a portion of the Revolving Loans and Commitments unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof, and provided further that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee that is not a Disqualified Lender; and

(B) the Administrative Agent.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $5,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (I) an Assignment and Assumption or (II) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with (except in the case of an assignment to a Lender or an Affiliate of a Lender) a processing and recordation fee of $3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the other Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including federal and state securities laws.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (A) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (B) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to 2.07(b), 2.18(e) or 9.03(d), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "*Participant*") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrower, the Administrative Agent, and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Sections 2.17(f) and (g) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender and the information and documentation required under Section 2.17(g) will be delivered to the Borrower and the Administrative Agent)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (I) agrees to be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section; and (II) shall not be entitled to receive any greater payment under Sections 2.15 or 2.17 with respect to any participation than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

(ii) Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.19(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(d) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement or any other Loan Document (the "*Participant Register*"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or its other obligations under this Agreement or any other Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

Section 9.06 Counterparts; Integration; Effectiveness; Electronic Execution.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of (i) this Agreement, (ii) any other Loan Document and/or (iii) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 9.01), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or the transactions contemplated hereby and/or thereby (each an "*Ancillary Document*") that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable. The words "execution", "signed", "signature", "delivery", and words of like import in or relating to this Agreement, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in any electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be; provided that nothing herein shall require the Administrative Agent to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; provided, further, without limiting the foregoing, (A) to the extent the Administrative Agent has agreed to accept any Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of the Borrower or any other Loan Party without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (B) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the Borrower and each Loan Party hereby (I) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders, the Borrower and the Loan Parties, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity and enforceability as any paper original, (II) the Administrative Agent and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (III) waives any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (IV) waives any claim against any Lender-Related Person for any Liabilities arising solely from the Administrative Agent's and/or any Lender's reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of the Borrower and/or any Loan Party to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

Section 9.07 Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held, and other obligations at any time owing, by such Lender or any such Affiliate, to or for the credit or the account of any Loan Party against any and all of the Secured Obligations owing to such Lender or its Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Loan Parties may be contingent or unmatured or are owed to a branch office or Affiliate of such Lender different from the branch office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (a) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.20 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (b) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The applicable Lender or such Affiliate shall notify the Borrower and the Administrative Agent of such setoff or application; provided that the failure to give such notice shall not affect the validity of such setoff or application under this Section. The rights of each Lender its Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have.

Section 9.09 Governing Law; Jurisdiction; Consent to Service of Process.

(a) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with the internal laws of the State of New York.

(b) Each of the Lenders and the Administrative Agent hereby irrevocably and unconditionally agrees that, notwithstanding the governing law provisions of any applicable Loan Document, any claims brought against the Administrative Agent by any Secured Party relating to this Agreement, any other Loan Document, the Collateral or the consummation or administration of the transactions contemplated hereby or thereby shall be construed in accordance with and governed by the law of the State of New York.

(c) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any U.S. federal or New York state court sitting in New York, New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Documents, the transactions relating hereto or thereto, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may (and any such claims, cross-claims or third party claims brought against the Administrative Agent or any of its Related Parties may only) be heard and determined in such state court or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(d) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 9.10 **WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE OR OTHER AGENT (INCLUDING ANY ATTORNEY) OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.**

Section 9.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.12 Confidentiality.

(a) Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent requested by any Governmental Authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (iii) to the extent required by any Requirement of Law or by any subpoena or similar legal process, (iv) to any other party to this Agreement, (v) in connection with the exercise of any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (B) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Loan Parties and their obligations, (vii) with the consent of the Borrower, (viii) on a confidential basis to (A) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided for herein or (B) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of identification numbers with respect to the credit facilities provided for herein, or (ix) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section or (B) becomes available to the Administrative Agent or any Lender on a non-confidential basis from a source other than the Borrower. For the purposes of this Section, "*Information*" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a non-confidential basis prior to disclosure by the Borrower and other than information pertaining to this Agreement provided by arrangers to data service providers, including league table providers, that serve the lending industry; provided that, in the case of information received from the Borrower after the Effective Date, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION (AS DEFINED IN THIS SECTION 9.12) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER, THE OTHER LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

Section 9.13 Several Obligations; Nonreliance; Violation of Law. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. Each Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U of the Federal Reserve Board) for the repayment of the Borrowings provided for herein. Anything contained in this Agreement to the contrary notwithstanding, no Lender shall be obligated to extend credit to the Borrower in violation of any Requirement of Law.

Section 9.14 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

Section 9.15 Disclosure. Each Loan Party and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with, any of the Loan Parties and their respective Affiliates.

Section 9.16 Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Administrative Agent and the Secured Parties, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession or control. Should any Lender (other than the Administrative Agent) obtain possession or control of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

Section 9.17 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "*Charges*"), shall exceed the maximum lawful rate (the "*Maximum Rate*") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.18 No Fiduciary Duty, etc.

(a) The Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan Documents and the transactions contemplated herein and therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Credit Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated herein or in the other Loan Documents, and the Credit Parties shall have no responsibility or liability to the Borrower with respect thereto.

(b) The Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and other companies with which the Borrower may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

(c) In addition, the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use confidential information obtained from the Borrower by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such information to other companies. The Borrower also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower, confidential information obtained from other companies.

Section 9.19 Marketing Consent. The Borrower hereby authorizes Woodforest and its affiliates, at their respective sole expense, but without any prior approval by the Borrower, to publish such tombstones and give such other publicity to this Agreement as each may from time to time determine in its sole discretion. The foregoing authorization shall remain in effect unless the Borrower notifies Woodforest in writing that such authorization is revoked.

Section 9.20 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

Section 9.21 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support "*QFC Credit Support*" and each such QFC a "*Supported QFC*"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "*U.S. Special Resolution Regimes*") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a "*Covered Party*") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

ARTICLE X
LOAN GUARANTY

Section 10.01 Guaranty. Each Guarantor hereby agrees that it is jointly and severally liable for, and, as a primary obligor and not merely as surety, absolutely, unconditionally and irrevocably guarantees to the Secured Parties, the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations and all costs and expenses including, without limitation, all court costs and reasonable attorneys' and paralegals' fees (including allocated costs of in-house counsel and paralegals) and expenses paid or incurred by the Administrative Agent and the Lenders in endeavoring to collect all or any part of the Secured Obligations from, or in prosecuting any action against, the Borrower, any Guarantor or any other guarantor of all or any part of the Secured Obligations (such costs and expenses, together with the Secured Obligations, collectively the "*Guaranteed Obligations*"); provided, however, that the definition of "*Guaranteed Obligations*" shall not create any guarantee by any Guarantor of (or grant of security interest by any Guarantor to support, as applicable) any Excluded Swap Obligations of such Guarantor for purposes of determining any obligations of any Guarantor. Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. All terms of this Loan Guaranty apply to and may be enforced by or on behalf of any domestic or foreign branch or Affiliate of any Lender that extended any portion of the Guaranteed Obligations.

Section 10.02 Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Guarantor waives any right to require the Administrative Agent or any Lender to sue the Borrower, any Guarantor, any other guarantor of, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an "*Obligated Party*"), or otherwise to enforce its payment against any collateral securing all or any part of the Guaranteed Obligations.

Section 10.03 No Discharge or Diminishment of Loan Guaranty.

(a) Except as otherwise provided for herein, the obligations of each Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the Payment in Full of the Guaranteed Obligations), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of the Borrower or any other Obligated Party liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party, or their assets or any resulting release or discharge of any obligation of any Obligated Party; or (iv) the existence of any claim, setoff or other rights which any Guarantor may have at any time against any Obligated Party, the Administrative Agent, any Lender, or any other Person, whether in connection herewith or in any unrelated transactions.

(b) The obligations of each Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(c) Further, the obligations of any Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent or any Lender to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non-perfection, or invalidity of any indirect or direct security for the obligations of the Borrower for all or any part of the Guaranteed Obligations or any obligations of any other Obligated Party liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent or any Lender with respect to any collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Guarantor or that would otherwise operate as a discharge of any Guarantor as a matter of law or equity (other than the Payment in Full of the Guaranteed Obligations).

Section 10.04 Defenses Waived. To the fullest extent permitted by applicable law, each Guarantor hereby waives any defense based on or arising out of any defense of the Borrower or any Guarantor or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of the Borrower, any Guarantor or any other Obligated Party, other than the Payment in Full of the Guaranteed Obligations. Without limiting the generality of the foregoing, each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person. Each Guarantor confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. The Administrative Agent may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any collateral securing all or a part of the Guaranteed Obligations, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, without affecting or impairing in any way the liability of such Guarantor under this Loan Guaranty, except to the extent the Guaranteed Obligations have been Paid in Full. To the fullest extent permitted by applicable law, each Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any Obligated Party or any security.

Section 10.05 Rights of Subrogation. No Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification that it has against any Obligated Party, or any collateral, until the Loan Parties and the Guarantors have fully performed all their obligations to the Administrative Agent and the Lenders.

Section 10.06 Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations (including a payment effected through exercise of a right of setoff) is rescinded, or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise (including pursuant to any settlement entered into by a Secured Party in its discretion), each Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not the Administrative Agent and the Lenders are in possession of this Loan Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the Guarantors forthwith on demand by the Administrative Agent.

Section 10.07 Information. Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Guarantor assumes and incurs under this Loan Guaranty, and agrees that none of the Administrative Agent or any Lender shall have any duty to advise any Guarantor of information known to it regarding those circumstances or risks.

Section 10.08 Termination. Each of the Lenders may continue to make loans or extend credit to the Borrower based on this Loan Guaranty until five (5) days after it receives written notice of termination from any Guarantor. Notwithstanding receipt of any such notice, each Guarantor will continue to be liable to the Lenders for any Guaranteed Obligations created, assumed or committed to prior to the fifth day after receipt of the notice, and all subsequent renewals, extensions, modifications and amendments with respect to, or substitutions for, all or any part of such Guaranteed Obligations. Nothing in this Section 10.08 shall be deemed to constitute a waiver of, or eliminate, limit, reduce or otherwise impair any rights or remedies the Administrative Agent or any Lender may have in respect of, any Default or Event of Default that shall exist under Article VII hereof as a result of any such notice of termination.

Section 10.09 Taxes. Each payment of the Guaranteed Obligations will be made by each Guarantor without withholding for any Taxes, unless such withholding is required by law. If any Guarantor determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Guarantor may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Guarantor shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the Administrative Agent or Lender (as the case may be) receives the amount it would have received had no such withholding been made.

Section 10.10 Maximum Liability. Notwithstanding any other provision of this Loan Guaranty, the amount guaranteed by each Guarantor hereunder shall be limited to the extent, if any, required so that its obligations hereunder shall not be subject to avoidance under Section 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, Uniform Voidable Transactions Act or similar statute or common law. In determining the limitations, if any, on the amount of any Guarantor's obligations hereunder pursuant to the preceding sentence, it is the intention of the parties hereto that any rights of subrogation, indemnification or contribution which such Guarantor may have under this Loan Guaranty, any other agreement or applicable law shall be taken into account.

Section 10.11 Contribution.

(a) To the extent that any Guarantor shall make a payment under this Loan Guaranty (a "*Guarantor Payment*") which, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Guarantor if each Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Guarantor's "*Allocable Amount*" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Guarantors as determined immediately prior to the making of such Guarantor Payment, then, following indefeasible payment in full in cash of the Guarantor Payment, the Payment in Full of the Guaranteed Obligations and the termination of this Agreement, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(b) As of any date of determination, the "*Allocable Amount*" of any Guarantor shall be equal to the excess of the fair saleable value of the property of such Guarantor over the total liabilities of such Guarantor (including the maximum amount reasonably expected to become due in respect of contingent liabilities, calculated, without duplication, assuming each other Guarantor that is also liable for such contingent liability pays its ratable share thereof), giving effect to all payments made by other Guarantors as of such date in a manner to maximize the amount of such contributions.

(c) This Section 10.11 is intended only to define the relative rights of the Guarantors, and nothing set forth in this Section 10.11 is intended to or shall impair the obligations of the Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Loan Guaranty.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantor or Guarantors to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Guarantors against other Guarantors under this Section 10.11 shall be exercisable upon the Payment in Full of the Guaranteed Obligations and the termination of this Agreement.

Section 10.12 Liability Cumulative. The liability of each Loan Party as a Guarantor under this Article X is in addition to and shall be cumulative with all liabilities of each Loan Party to the Administrative Agent and the Lenders under this Agreement and the other Loan Documents to which such Loan Party is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

Section 10.13 Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Guarantee in respect of a Swap Obligation (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 10.13 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 10.13 or otherwise under this Loan Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). Except as otherwise provided herein, the obligations of each Qualified ECP Guarantor under this Section 10.13 shall remain in full force and effect until the termination of all Swap Obligations. Each Qualified ECP Guarantor intends that this Section 10.13 constitute, and this Section 10.13 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective authorized officers as of the day and year first above written.

BORROWER:

PHENIXFIN CORPORATION

By: _____
Name:
Title:

GUARANTORS:

PHENIXFIN SMALL BUSINESS FUND GP, LLC

By: _____
Name:
Title:

PHENIXFIN SMALL BUSINESS FUND, LP

By: _____
Name:
Title:

PHENIXFIN SLF FUNDING I LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS AAR LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS AMVESTAR LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS OMNIVERE LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENTS, LLC

By: _____
Name:
Title:

WOODFOREST NATIONAL BANK, individually, and as Administrative Agent

By: _____

Name: _____

Title: _____

_____

Insert account where debt service payments to be made

VALLEY NATIONAL BANK

By: _____
Name: _____
Title: _____

AXIOM BANK

By: _____
Name: _____
Title: _____

COMMITMENT SCHEDULE

Lender	Revolving Commitment	Commitment
Woodforest National Bank	$ 25,000,000.00	$ 25,000,000.00
Valley National Bank	$ 15,000,000.00	$ 15,000,000.00
Axiom Bank	$ 10,000,000.00	$ 10,000,000.00
Total	**$ 50,000,000.00**	**$ 50,000,000.00**

Commitment Schedule

SCHEDULE 3.05
PROPERTIES, ETC.

SCHEDULE 3.14
INSURANCE

SCHEDULE 3.15
CAPITALIZATION AND SUBSIDIARIES

SCHEDULE 6.01
EXISTING INDEBTEDNESS

SCHEDULE 6.02
EXISTING LIENS

SCHEDULE 6.04
EXISTING INVESTMENTS

EXHIBIT A
FORM OF ASSIGNMENT AND ASSUMPTION

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this "*Assignment and Assumption*") is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the "*Assignor*") and [Insert name of Assignee] (the "*Assignee*"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit and guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and other rights of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "*Assigned Interest*"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor:	[●]
2. Assignee:	[●] [and is an Affiliate/Approved Fund of [identify Lender][1]
3. Borrower:	PhenixFIN Corporation
4. Administrative Agent:	Woodforest National Bank, as the administrative agent under the Credit Agreement
5. Credit Agreement:	The Credit Agreement dated as of December 15, 2022 among Borrower, the Lenders party thereto, Administrative Agent, and the other parties thereto

[1] Select as applicable.

6. Assigned Interest:

Facility Assigned[2]	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans[3]
	$	$	%
	$	$	%
	$	$	%

Effective Date: [●] [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including federal and state securities laws.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR:

[NAME OF ASSIGNOR]

By: _____
Name: _____
Title: _____

ASSIGNEE:

[NAME OF ASSIGNEE]

By: _____
Name: _____
Title: _____

2 Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment (e.g. "Revolving Commitment," etc.)

3 Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

[Consented to and][4] Accepted:

WOODFOREST NATIONAL BANK,
as Administrative Agent

By: _____
Name: _____
Title: _____

[Consented to:][5]

[NAME OF RELEVANT PARTY]

By: _____
Name: _____
Title: _____

4 To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.
5 To be added only if the consent of the Borrower and/or other parties is required by the terms of the Credit Agreement.

ANNEX 1 to
ASSIGNMENT AND ASSUMPTION

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any Subsidiary or Affiliate or any other Person obligated in respect of any Loan Document, (iv) any requirements under applicable law for the Assignee to become a lender under the Credit Agreement or any other Loan Document or to charge interest at the rate set forth therein from time to time or (v) the performance or observance by the Borrower, any Subsidiary or Affiliate, or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement and under applicable law that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of this type, (v) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent, the Arranger, the Assignor or any other Lender or any of their respective Related Parties, and (vi) attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Arranger, the Assignor or any other Lender or any of their respective Related Parties, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance and adoption of the terms of this Assignment and Assumption by the Assignee and the Assignor by Electronic Signature (as defined in the Credit Agreement) or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Approved Electronic Platform (as defined in the Credit Agreement) shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B-1
FORM OF BORROWING REQUEST

BORROWING REQUEST

Woodforest National Bank
25231 Grogans Mill Road, 6th Floor
The Woodlands, TX 77380501

Date:

Ladies and Gentlemen:

This Borrowing Request is furnished pursuant to Section 2.03 of that certain Credit Agreement dated as of December 15, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "*Agreement*") among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*"). Unless otherwise defined herein, capitalized terms used in this Borrowing Request have the meanings ascribed thereto in the Agreement. The Borrowers represent that, as of this date, the conditions precedent set forth in Section 4.02 are satisfied.

The Borrowers hereby notify Administrative Agent of its request for the following Borrowing:

1. Revolving Borrowing

2. Aggregate Amount of the Revolving Borrowing[6] $[●]

3. Borrowing Date of the Borrowing (must be a Business Day): [●]

4. The Borrowing shall be a ___ ABR Borrowing or ___ Term Benchmark Borrowing.[7]

PhenixFIN Corporation

By: _____
Name:
Title:

6 Must comply with Section 2.02(c) of the Agreement.
7 If no election is made, then the requested Borrowing shall be an ABR Borrowing.

EXHIBIT B-2
FORM OF INTEREST ELECTION REQUEST

INTEREST ELECTION REQUEST

Woodforest National Bank
25231 Grogans Mill Road, 6th Floor
The Woodlands, TX 77380501

Date:

Ladies and Gentlemen:

This Interest Election Request is furnished pursuant to Section 2.08(c) of that certain Credit Agreement dated as of December 15, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "*Agreement*") among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*"). Unless otherwise defined herein, capitalized terms used in this Borrowing Request have the meanings ascribed thereto in the Agreement.

The Borrower is hereby requesting to convert or continue certain Borrowings as follows:

1. Borrowing to which this Interest Election Request applies: [●]

2. Date of conversion/continuation (must be a Business Day): [●]

2. Amount of Borrowings being converted/continued: $[●]

3. Nature of conversion/continuation:

☐ a. Conversion of ABR Borrowings to Term Benchmark Borrowings

☐ b. Conversion of Term Benchmark Borrowings to ABR Borrowings

☐ c. Continuation of Term Benchmark Borrowings as such

5. The undersigned officer of Borrower certifies that, both before and after giving effect to the request above, no Default or Event of Default has occurred and is continuing under the Agreement.

PhenixFIN Corporation

By: _____
Name:
Title:

EXHIBIT C-1

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 15, 2022 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any promissory note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Date: [●]

EXHIBIT C-2

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 15, 2022 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name: _____
Title: _____

Date: [●]

EXHIBIT C-3

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 15, 2022 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by a withholding statement together with an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name: _____
Title: _____

Date: [●]

EXHIBIT C-4

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 15, 2022 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*").

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any promissory note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any promissory note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, or (ii) an IRS Form W-8IMY accompanied by a withholding statement together with an IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate prior to the first payment to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name: _____
Title: _____

Date: [●]

EXHIBIT D
FORM OF COMPLIANCE CERTIFICATE

COMPLIANCE CERTIFICATE

To: The Lenders party to the
Credit Agreement described below

This Compliance Certificate (this "*Certificate*"), for the period ended [●], is furnished pursuant to that certain Credit Agreement dated as of December 15, 2022 (as amended, modified, renewed or extended from time to time, the "*Agreement*") among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the lenders party thereto, and Woodforest National Bank, as the Administrative Agent for the Lenders ("*Administrative Agent*"). Unless otherwise defined herein, capitalized terms used in this Certificate have the meanings ascribed thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the [●] of the Borrower and I am authorized to deliver this Certificate on behalf of the Borrower and its Subsidiaries;

2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the compliance of the Borrower and its Subsidiaries with the Agreement during the accounting period covered by the attached financial statements (the "*Relevant Period*");

3. The attached financial statements of the Borrower and, as applicable, its Subsidiaries and/or Affiliates for the Relevant Period: (a) have been prepared on an accounting basis (the "*Accounting Method*") consistent with the requirements of the Agreement and, except as may have been otherwise expressly agreed to in the Agreement, in accordance with GAAP consistently applied, and (b) to the extent that the attached are not the Borrower's annual fiscal year end statements, are subject to normal year-end audit adjustments and the absence of footnotes;

4. The examinations described in paragraph 2 did not disclose and I have no knowledge of, except as set forth below, (a) the existence of any condition or event which constitutes a Default or an Event of Default under the Agreement or any other Loan Document during or at the end of the Relevant Period or as of the date of this Certificate or (b) any change in the Accounting Method or in the application thereof that has occurred since the date of the annual financial statements delivered to the Administrative Agent in connection with the closing of the Agreement or subsequently delivered as required in the Agreement;

5. I hereby certify that, except as set forth below, no Loan Party has changed (a) its name, (b) its chief executive office, (c) its principal place of business, (d) the type of entity it is or (e) its state of incorporation or organization without having given the Administrative Agent the notice required by Section 4.15 of the Security Agreement;

6. The representations and warranties of the Loan Parties set forth in the Loan Documents are true and correct in all material respects as of the date hereof, except (a) to the extent that any such representation or warranty specifically refers to an earlier date, in which case it is true and correct in all material respects only as of such earlier date, and (b) that any representation or warranty which is subject to any materiality qualifier is true and correct in all respects;

7. Schedule I attached hereto sets forth financial data and computations evidencing the Borrower's compliance with certain covenants of the Agreement, all of which data and computations are true, complete and correct; and

Described below are the exceptions, if any, referred to in paragraph 4 hereof by listing, in detail, the (i) nature of the condition or event, the period during which it has existed and the action which the Borrower has taken, is taking, or proposes to take with respect to each such condition or event or (ii) change in the Accounting Method or the application thereof and the effect of such change on the attached financial statements:

[Insert Description]

The foregoing certifications, together with the computations set forth in Schedule I and Schedule II hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this [●] day of [●], 20[●].

PhenixFIN Corporation

By: _____
Name: _____
Title: _____

Schedule I to Compliance Certificate

Compliance as of [●] with Provisions of Section 6.12 of the Agreement

[Schedule I must include detailed calculation tables for all components of the financial covenant calculations. Sample calculation tables are set forth below.]

6.12 Financial Covenants.

(a) Asset Coverage Ratio

[Insert Calculation]

As of the Compliance Test Date shown above, the Asset Coverage Ratio is [Insert Calculated Covenant].

Compliance as of the Compliance Test Date shown above: [__] Yes [__] No

(b) Interest Coverage Ratio

[Insert Calculation]

As of the Compliance Test Date shown above, the Interest Coverage Ratio is [Insert Calculated Covenant].

Compliance as of the Compliance Test Date shown above: [__] Yes [__] No

(c) Tangible Net Worth

[Insert Calculation]

As of the Compliance Test Date shown above, the Tangible Net Worth is [Insert Calculated Covenant].

Compliance as of the Compliance Test Date shown above: [__] Yes [__] No

EXHIBIT E
FORM OF JOINDER AGREEMENT

JOINDER AGREEMENT

This JOINDER AGREEMENT (this "*Agreement*"), dated as of [●], is entered into between [●], a [●] (the "*New Subsidiary*"), and WOODFOREST NATIONAL BANK, in its capacity as administrative agent (the "*Administrative Agent*") under that certain Credit Agreement dated as of December 15, 2022 (as the same may be amended, modified, extended or restated from time to time, the "*Credit Agreement*") among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), the Lenders party thereto and the Administrative Agent for the Lenders. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Credit Agreement.

The New Subsidiary and the Administrative Agent, for the benefit of the Secured Parties, hereby agree as follows:

1. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a Loan Party under the Credit Agreement and a "*Guarantor*" for all purposes of the Credit Agreement and shall have all of the obligations of a Loan Party and a Guarantor thereunder as if it had executed the Credit Agreement. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Credit Agreement, including without limitation (a) all of the representations and warranties of the Loan Parties set forth in Article III of the Credit Agreement, *[and]* (b) all of the covenants set forth in Articles V and VI of the Credit Agreement *[and (c) all of the guaranty obligations set forth in Article X of the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the New Subsidiary, subject to the limitations set forth in Section 10.10 and 10.13 of the Credit Agreement, hereby guarantees, jointly and severally with the other Guarantors, to the Administrative Agent and the Lenders, as provided in Article X of the Credit Agreement, the prompt payment and performance of the Guaranteed Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof and agrees that if any of the Guaranteed Obligations are not paid or performed in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the New Subsidiary will, jointly and severally together with the other Guarantors, promptly pay and perform the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal.]*

2. If required, the New Subsidiary is, simultaneously with the execution of this Agreement, executing and delivering such Collateral Documents (and such other documents and instruments) as requested by the Administrative Agent in accordance with the Credit Agreement.

3. The address of the New Subsidiary for purposes of Section 9.01 of the Credit Agreement is as follows:

[Insert Address]

4. The New Subsidiary hereby waives acceptance by the Administrative Agent and the Lenders of the guaranty by the New Subsidiary upon the execution of this Agreement by the New Subsidiary.

5. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which together shall constitute one and the same instrument.

6. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

IN WITNESS WHEREOF, the New Subsidiary has caused this Agreement to be duly executed by its authorized officer, and the Administrative Agent, for the benefit of the Secured Parties, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: _____
Name: _____
Title: _____

Acknowledged and accepted:

WOODFOREST NATIONAL BANK,
as Administrative Agent

By: _____
Name: _____
Title: _____

EXHIBIT F
FORM OF BORROWING BASE CERTIFICATE

[see attached]

Exhibit 10.12

Execution Version

PLEDGE AND SECURITY AGREEMENT

This PLEDGE AND SECURITY AGREEMENT (as it may be amended, restated, supplemented or otherwise modified from time to time, this "*Security Agreement*") is entered into as of December 15, 2022 by and among PhenixFIN Corporation, a Delaware corporation (the "*Borrower*"), each of the Subsidiaries of Borrower set forth on Exhibit A hereto (the "*Loan Guarantors*"), and any additional entities which become parties to this Security Agreement by executing a Security Agreement Supplement hereto in substantially the form of Annex I hereto (such additional entities, together with the Borrower and the Loan Guarantors, each a "*Grantor*", and collectively, the "*Grantors*"), and Woodforest National Bank, in its capacity as administrative agent (the "*Administrative Agent*") for the Lenders party to the Credit Agreement referred to below.

PRELIMINARY STATEMENT

The Borrower, the Loan Guarantors, the Lenders party thereto and the Administrative Agent are entering into a Credit Agreement dated as of the date hereof (as it may be amended, restated, supplemented or otherwise modified from time to time, the "*Credit Agreement*"). Each Grantor is entering into this Security Agreement in order to induce the Lenders to enter into and extend credit to the Borrower under the Credit Agreement and to secure the Secured Obligations, which each Loan Guarantor has agreed to guarantee pursuant to Article X of the Credit Agreement.

ACCORDINGLY, the Grantors and the Administrative Agent, on behalf of the Secured Parties, hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 Terms Defined in Credit Agreement. All capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Credit Agreement.

Section 1.2 Terms Defined in UCC. Terms defined in the UCC which are not otherwise defined in this Security Agreement are used herein as defined in the UCC.

Section 1.3 Definitions of Certain Terms Used Herein. As used in this Security Agreement, in addition to the terms defined in the first paragraph hereof and in the Preliminary Statement, the following terms shall have the following meanings:

"*Accounts*" shall have the meaning set forth in Article 9 of the UCC, and includes all Debt Securities.

"*Applicable IP Office*" means the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency within or, solely in the case of Section 4.7, outside the United States.

"*Article*" means a numbered article of this Security Agreement, unless another document is specifically referenced.

"*Chattel Paper*" shall have the meaning set forth in Article 9 of the UCC.

"*Closing Date*" means the date of the Credit Agreement.

"*Collateral*" shall have the meaning set forth in Article II.

"*Collateral Report*" means any certificate (including any Borrowing Base Certificate), report or other document delivered by any Grantor to the Administrative Agent or any Lender, or provided by any Custodian with respect to the Collateral pursuant to any Loan Document or any Custodial Agreement, and includes without limitation the Asset Database (as defined in the Custodial Agreement).

"*Commercial Tort Claims*" means the commercial tort claims as defined in Article 9 of the UCC, including each commercial tort claim specifically described on Exhibit G.

"*Confirmatory Grant*" shall have the meaning set forth in Section 3.10(e).

"*Control*" shall have the meaning set forth in Section 8-106 of Article 8 of the UCC or, if applicable, in Section 9-104, 9-105, 9-106 or 9-107 of Article 9 of the UCC.

"*Control Agreement*" means an agreement, in form and substance satisfactory to the Administrative Agent, among any Grantor, a custodian, securities intermediary or financial institution holding such Grantor's Securities Accounts or Deposit Accounts, and the Administrative Agent, pursuant to which the Administrative Agent shall obtain Control over such Securities Accounts or Deposit Accounts, including without limitation the Account Control Agreement among the Administrative Agent, the Borrower Grantors, and the Custodian.

"*Copyrights*" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask works, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

"Custodial Agreement" means the Loan Administration and Custodial Agreement dated September 12, 2022, among the Borrower and the Custodian, and any amendment or replacement thereof.

"*Custodian*" means Computershare Trust Company, N.A., and all successor or replacement custodians under any Custodial Agreement or otherwise with respect to any Collateral.

"*Custody Account*" means Borrower's securities account number 6355067033 with the Custodian.

"*Default*" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"*Debt Securities*" has the meaning set forth in the Credit Agreement, and includes all "Loan Assets" as defined in the Custodial Agreement.

"*Deposit Accounts*" shall have the meaning set forth in Article 9 of the UCC.

"*Documents*" shall have the meaning set forth in Article 9 of the UCC.

"*Equipment*" shall have the meaning set forth in Article 9 of the UCC.

"*Event of Default*" means an event described in Section 5.1.

"*Excluded Property*" means (a) any and all Excluded Subsidiaries; (b) any bank accounts established by any Grantor used exclusively for payroll, payroll taxes or employee benefits, escrow, customs, insurance, or fiduciary purposes or compliance with legal requirements; (c) any contract, property rights, obligation, instrument or agreement to which a Grantor is a party (or to any of its rights or interests thereunder) if the grant of such security interest would constitute or result in either (i) the abandonment, invalidation or unenforceability of any right, title or interest of such Grantor therein, (ii) a breach or termination pursuant to the terms of, or a default under, any such contract, property rights, obligation, instrument or agreement (other than to the extent that any such terms would be rendered ineffective by Section 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code as in effect in the relevant jurisdiction), or (iii) any assets with respect to which applicable law prohibits the creation or perfection of such security interest therein (other than to the extent that any such prohibition is rendered ineffective by Section 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code as in effect in the relevant jurisdiction); and (d) those assets as to which the Administrative Agent shall reasonably determine, that the cost of obtaining a Lien thereon or perfection thereof are excessive in relation to the benefit to the Secured Parties of the security to be afforded thereby.

"*Exhibit*" refers to a specific exhibit to this Security Agreement, unless another document is specifically referenced.

"*Financial Assets*" means shall have the meaning set forth in Article 8 of the UCC.

"*Fixtures*" shall have the meaning set forth in Article 9 of the UCC.

"*General Intangibles*" shall have the meaning set forth in Article 9 of the UCC.

"*Goods*" shall have the meaning set forth in Article 9 of the UCC.

"*Industrial Designs*" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to registered industrial designs and industrial design applications.

"*Instruments*" shall have the meaning set forth in Article 9 of the UCC, and includes without limitation all promissory notes evidencing any Debt Security.

"*Intellectual Property*" means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Industrial Designs, Software, Trademarks, Internet Domain Names, Trade Secrets and IP Licenses.

"*Internet Domain Name*" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to internet domain names.

"*Inventory*" shall have the meaning set forth in Article 9 of the UCC.

"*Investment Property*" shall have the meaning set forth in Article 9 of the UCC.

"*IP Ancillary Rights*" means, with respect to any Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property throughout the world, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right throughout the world.

"*IP License*" means all contractual obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

"*Lenders*" means the lenders party to the Credit Agreement and their successors and assigns.

"*Letter-of-Credit Rights*" shall have the meaning set forth in Article 9 of the UCC.

"*Liabilities*" mean all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

"*Material Intellectual Property*" means Intellectual Property that is owned by or licensed to a Grantor and material to the conduct of such Grantor's business.

"Obligor" has the meaning set forth in the Credit Agreement.

"*Patents*" mean all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

"*Pledged Collateral*" means all Instruments, Securities and other Investment Property of the Grantors, whether or not physically delivered to the Administrative Agent pursuant to this Security Agreement, other than Excluded Property.

"*Portfolio Investments*" has the meaning set forth in the Credit Agreement, and includes all Debt Securities.

"*Receivables*" means the Debt Securities, Accounts, Chattel Paper, Documents, Investment Property, Instruments and any other rights or claims to receive money which are General Intangibles or which are otherwise included as Collateral.

"*Section*" means a numbered section of this Security Agreement, unless another document is specifically referenced.

"*Secured Parties*" shall have the meaning set forth in the Credit Agreement.

"*Security*" shall have the meaning set forth in Article 8 of the UCC.

"*Securities Accounts*" shall have the meaning set forth in Article 8 of the UCC, and includes the Custody Account.

"*Securities Entitlements*" shall have the meaning set forth in Article 8 of the UCC.

"*Software*" means (a) all computer programs, including source code and object code versions, (b) all data, databases and compilations of data, whether machine readable or otherwise, and (c) all documentation, training materials and configurations related to any of the foregoing.

"*Security Agreement Supplement*" shall mean any Security Agreement Supplement to this Security Agreement in substantially the form of Annex I hereto executed by an entity that becomes a Grantor under this Security Agreement after the date hereof.

"*Stock Rights*" means all dividends, instruments or other distributions and any other right or property which the Grantors shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Equity Interest constituting Collateral, any right to receive an Equity Interest and any right to receive earnings, in which the Grantors now have or hereafter acquire any right, issued by an issuer of such Equity Interest.

"*Supporting Obligations*" shall have the meaning set forth in Article 9 of the UCC.

"*Trade Secrets*" mean all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to proprietary, confidential and/or non-public information, however documented, including but not limited to confidential ideas, know-how, concepts, methods, processes, formulae, reports, data, customer lists, mailing lists, business plans and all other trade secrets.

"*Trademarks*" mean all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

"*UCC*" means the Uniform Commercial Code, as in effect from time to time, of the State of New York or of any other state the laws of which are required as a result thereof to be applied in connection with the attachment, perfection or priority of, or remedies with respect to, Administrative Agent's or any other Secured Party's Lien on any Collateral.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

ARTICLE II
GRANT OF SECURITY INTEREST

Section 2.1 Each Grantor hereby pledges, assigns and grants to the Administrative Agent, on behalf of and for the ratable benefit of the Secured Parties, a security interest in all of its right, title and interest in, to and under all personal property and other assets, whether now owned by or owing to, or hereafter acquired by or arising in favor of such Grantor (including under any trade name or derivations thereof), and whether owned or consigned by or to, or leased from or to, such Grantor, and regardless of where located (all of which will be collectively referred to as the "*Collateral*"), including:

(a) all Accounts;

(b) all Chattel Paper;

(c) all Copyrights, Patents and Trademarks;

(d) the Custody Account;

(e) the Custodial Agreement;

(f) all Documents;

(g) all Loan Assets, Debt Securities, and Portfolio Investments;

(h) all Equipment;

(i) all Financial Assets;

(j) all Fixtures;

(k) all General Intangibles;

(l) all Goods;

(m) all Instruments;

(n) all Inventory;

(o) all Investment Property;

(p) all Receivables;

(q) all cash or cash equivalents;

(r) all letters of credit, Letter-of-Credit Rights and Supporting Obligations;

(s) all Deposit Accounts;

(t) all Securities Accounts;

(u) all Securities Entitlements;

(v) all Commercial Tort Claims; and

(w) all accessions to, substitutions for and replacements, proceeds (including Stock Rights), insurance proceeds and products of the foregoing, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto and any General Intangibles at any time evidencing or relating to any of the foregoing;

provided, however, notwithstanding anything to the contrary contained in clauses (a) through (w) above, the security interest created by this Agreement shall not extend to, and the term "Pledged Collateral" shall not include, any Excluded Property; provided that, if any Excluded Property would have otherwise constituted Collateral, when such property shall cease to be Excluded Property, such property shall be deemed at all times from and after the date hereof to constitute Collateral;

to secure the prompt and complete payment and performance of the Secured Obligations.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Each Grantor represents and warrants, and each Grantor that becomes a party to this Security Agreement pursuant to the execution of a Security Agreement Supplement represents and warrants (after giving effect to supplements, if any, to each of the Exhibits hereto with respect to such Grantor as attached to such Security Agreement Supplement), to the Administrative Agent and the Secured Parties that:

Section 3.1 Title, Authorization, Validity, Enforceability, Perfection and Priority. Such Grantor has good and valid rights in or the power to transfer the Collateral and title to the Collateral with respect to which it has purported to grant a security interest hereunder, free and clear of all Liens except for Liens permitted under Section 4.1(e), and has full power and authority to grant to the Administrative Agent the security interest in the Collateral pursuant hereto. The execution and delivery by such Grantor of this Security Agreement has been duly authorized by proper corporate or limited liability company proceedings of such Grantor, and this Security Agreement constitutes a legal valid and binding obligation of such Grantor and creates a security interest which is enforceable against such Grantor in all Collateral it now owns or hereafter acquires, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. When financing statements have been filed in the appropriate offices against such Grantor in the locations listed on Exhibit F, the Administrative Agent will have a fully perfected first priority security interest in that Collateral of such Grantor in which a security interest may be perfected by filing, subject only to Liens permitted under Section 4.1(e).

Section 3.2 Type and Jurisdiction of Organization, Organizational and Identification Numbers. The type of entity of such Grantor, its state of organization, the organizational number issued to it by its state of organization and its federal employer identification number are set forth on Exhibit A.

Section 3.3 Principal Location. Such Grantor's mailing address and the location of its place of business (if it has only one) or its chief executive office (if it has more than one place of business), are disclosed in Exhibit A; such Grantor has no other places of business except those set forth in Exhibit A.

Section 3.4 Collateral Locations. All of such Grantor's locations where Collateral is located are listed on Exhibit A. All of said locations are owned by such Grantor except for locations which are leased by the Grantor as lessee and designated in Part VII(b) of Exhibit A. All Loan Assets, Debt Securities, and Portfolio Investments of all Grantors are held by the Custodian in the Custodial Account pursuant to the Custodial Agreement. The Asset Database (as defined in the Custodial Agreement), all Loan Assets held in the Custodial Account, and all promissory notes and other loan document evidencing such Loan Assets are maintained by the Custodian at the location set forth in the Custodial Agreement.

Section 3.5 Deposit Accounts; Securities Accounts. All of each Grantor's Deposit Accounts and Securities Accounts are listed on Exhibit B.

Section 3.6 Exact Names. Such Grantor's name in which it has executed this Security Agreement is the exact name as it appears in such Grantor's organizational documents, as amended, as filed with such Grantor's jurisdiction of organization. Such Grantor has not, during the past five years, been known by or used any other corporate or fictitious name, or been a party to any merger or consolidation, or been a party to any acquisition.

Section 3.7 Letter-of-Credit Rights and Chattel Paper. Exhibit C lists all Letter-of-Credit Rights and Chattel Paper of such Grantor. All action by such Grantor necessary or desirable to protect and perfect the Administrative Agent's Lien on each item listed on Exhibit C (including the delivery of all originals and the placement of a legend on all Chattel Paper as required hereunder) has been duly taken. The Administrative Agent will have a fully perfected first priority security interest in the Collateral listed on Exhibit C, subject only to Liens permitted under Section 4.1(e).

Section 3.8 Debt Securities.

(a) The names of the Obligors, amounts owing, due dates and other information with respect to its Debt Securities are and will be correctly stated in all records of such Grantor relating thereto and in all invoices and Collateral Reports with respect thereto furnished to the Administrative Agent by such Grantor from time to time. As of the time when each Debt Security arises, such Grantor shall be deemed to have represented and warranted that such Debt Security, and all records relating thereto, are genuine and in all respects what they purport to be. All Debt Securities are identified on the attached Exhibit E. Grantors will provide an update to such schedule with each Borrowing Base Certificate and each Compliance Certificate provided pursuant to the Credit Agreement.

(b) With respect to its Debt Securities, except as disclosed on the most recent Collateral Report, (i) all Debt Securities are Eligible Debt Securities; (ii) there are no setoffs, claims or disputes existing or asserted with respect thereto and such Grantor has not made any agreement with any Obligor for any extension of time for the payment thereof, any compromise or settlement for less than the full amount thereof, any release of any Obligor from liability therefor, or any deduction therefrom except a allowance allowed by such Grantor in the ordinary course of its business for prompt payment and disclosed to the Administrative Agent; (iii) to such Grantor's knowledge, there are no facts, events or occurrences which in any way impair the validity or enforceability thereof or could reasonably be expected to reduce the amount payable thereunder as shown on such Grantor's books and records and any invoices, statements and Collateral Reports with respect thereto; (iv) such Grantor has not received any notice of proceedings or actions which are threatened or pending against any Obligor which might result in any adverse change in such Obligor's financial condition; and (v) such Grantor has no knowledge that any Obligor has become insolvent or is generally unable to pay its debts as they become due, or is the subject of any insolvency proceeding.

(c) In addition, with respect to all of its Debt Securities, (i) the amounts shown on all Collateral Reports, invoices and statements with respect thereto are actually and absolutely owing to such Grantor as indicated thereon and are not in any way contingent, and (ii) to such Grantor's knowledge, all Obligors have the capacity to contract.

Section 3.9 [Section Intentionally Omitted].

Section 3.10 Intellectual Property.

(a) Exhibit D contains a complete and accurate listing of the following Intellectual Property such Grantor owns, licenses or otherwise has the right to use: (i) Intellectual Property that is registered or subject to applications for registration, (ii) Internet Domain Names and (iii) Material Intellectual Property and material Software, separately identifying that owned and licensed to such Grantor and including for each of the foregoing items (A) the owner, (B) the title, (C) the jurisdiction in which such item has been registered or otherwise arises or in which an application for registration has been filed, (D) as applicable, the registration or application number and registration or application date and (E) any IP Licenses or other rights (including franchises) granted by such Grantor with respect thereto. Such Grantor owns directly or is entitled to use, by license or otherwise, all Intellectual Property necessary for the conduct of such Grantor's business as currently conducted. All of the U.S. registrations, applications for registration or applications for issuance of the Intellectual Property are in good standing and are recorded or in the process of being recorded in the name of such Grantor.

(b) On the Effective Date, all Material Intellectual Property owned by such Grantor is valid, in full force and effect, subsisting, unexpired and enforceable, and no Material Intellectual Property has been abandoned. No breach or default of any Material License Agreement shall be caused by any of the following, and none of the following shall limit or impair the ownership, use, validity or enforceability of, or any rights of such Grantor in, any Material Intellectual Property: (i) the consummation of the transactions contemplated by any Loan Documents or (ii) any holding, decision, judgment or order rendered by any Governmental Authority. There are no pending (or, to the knowledge of such Grantor, threatened) actions, investigations, suits, proceedings, audits, claims, demands, orders or disputes challenging the ownership, use, validity, enforceability of, or such Grantor's rights in, any Material Intellectual Property of such Grantor. To such Grantor's knowledge, no Person has been or is infringing, misappropriating, diluting, violating or otherwise impairing any Intellectual Property of such Grantor. Such Grantor, and to such Grantor's knowledge each other party thereto, is not in material breach or default of any Material License Agreement.

(c) Such Grantor has taken or caused to be taken steps so that none of its Intellectual Property, the value of which to such Grantor is contingent upon maintenance of the confidentiality thereof, has been disclosed by such Grantor to any Person other than employees, contractors, customers, representatives and agents of such Grantor who are parties to customary confidentiality and nondisclosure agreements with such Grantor. Each employee and contractor of such Grantor involved in development or creation of any Material Intellectual Property has assigned any and all inventions and ideas of such Person in and to such Intellectual Property to such Grantor.

(d) No settlement or consents, covenants not to sue, nonassertion assurances, or releases have been entered into by such Grantor or exist to which such Grantor is bound that adversely affect its rights to own or use any Intellectual Property except as could not be reasonably expected to result in a Material Adverse Effect, in each case individually or in the aggregate.

(e) This Security Agreement is effective to create a valid and continuing Lien on such Copyrights, IP Licenses, Patents and Trademarks and, upon filing with the Applicable IP Office of the Confirmatory Grant of Security Interest in Copyrights, the Confirmatory Grant of Security Interest in Patents and the Confirmatory Grant of Security Interest in Trademarks (each, a "*Confirmatory Grant*"), and the filing of appropriate financing statements in the jurisdictions listed in Exhibit F hereto, all action necessary or desirable to protect and perfect the security interest in, to and on such Grantor's Patents, Trademarks, Copyrights, or IP Licenses have been taken and such perfected security interest is enforceable as such as against any and all creditors of and purchasers from such Grantor. Such Grantor has no interest in any Copyright that is necessary in connection with the operation of such Grantor's business, except for those Copyrights identified in Exhibit D attached hereto which have been registered with the United States Copyright Office.

Section 3.11 Filing Requirements. None of the Collateral owned by such Grantor is of a type for which security interests or liens may be perfected by filing under any federal statute except for Patents, Trademarks and Copyrights held by such Grantor and described in Exhibit D.

Section 3.12 No Financing Statements, Security Agreements. No financing statement or security agreement describing all or any portion of the Collateral which has not lapsed or been terminated (by a filing authorized by the secured party in respect thereof) naming such Grantor as debtor has been filed or is of record in any jurisdiction except for financing statements or security agreements (a) naming the Administrative Agent on behalf of the Secured Parties as the secured party and (b) in respect to other Liens permitted under Section 6.02 of the Credit Agreement.

Section 3.13 Pledged Collateral.

(a) Exhibit E sets forth a complete and accurate list of all of the Pledged Collateral owned by such Grantor. Such Grantor is the direct, sole beneficial owner and sole holder of record of the Pledged Collateral listed on Exhibit E as being owned by it, free and clear of any Liens, except for the security interest granted to the Administrative Agent for the benefit of the Secured Parties hereunder and Permitted Encumbrances. Such Grantor further represents and warrants that (i) all Pledged Collateral owned by it constituting an Equity Interest has been (to the extent such concepts are relevant with respect to such Pledged Collateral) duly authorized, validly issued, are fully paid and non assessable, (ii) with respect to any certificates delivered to the Administrative Agent representing an Equity Interest, either such certificates are Securities as defined in Article 8 of the UCC as a result of actions by the issuer or otherwise, or, if such certificates are not Securities, such Grantor has so informed the Administrative Agent so that the Administrative Agent may take steps to perfect its security interest therein as a General Intangible, (iii) all such Pledged Collateral held by a securities intermediary is covered by a Control Agreement among such Grantor, the securities intermediary and the Administrative Agent pursuant to which the Administrative Agent has Control and (iv) all Pledged Collateral which represents Indebtedness owed to such Grantor has been duly authorized, authenticated or issued and delivered by the Obligor of such Indebtedness, is the legal, valid and binding obligation of such Obligor and such Obligor is not in default thereunder.

(b) In addition, (i) none of the Pledged Collateral owned by it has been issued or transferred in violation of the securities registration, securities disclosure or similar laws of any jurisdiction to which such issuance or transfer may be subject, (ii) no options, warrants, calls or commitments of any character whatsoever (A) exist relating to such Pledged Collateral or (B) obligate the issuer of any Equity Interest included in the Pledged Collateral to issue additional Equity Interests, and (iii) no consent, approval, authorization, or other action by, and no giving of notice, filing with, any governmental authority or any other Person is required for the pledge by such Grantor of such Pledged Collateral pursuant to this Security Agreement or for the execution, delivery and performance of this Security Agreement by such Grantor, or for the exercise by the Administrative Agent of the voting or other rights provided for in this Security Agreement or for the remedies in respect of the Pledged Collateral pursuant to this Security Agreement, except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally.

(c) Except as set forth in Exhibit E, such Grantor owns 100% of the issued and outstanding Equity Interests which constitute Pledged Collateral owned by it and none of the Pledged Collateral which represents Indebtedness owed to such Grantor is subordinated in right of payment to other Indebtedness or subject to the terms of an indenture.

ARTICLE IV
COVENANTS

From the date of this Security Agreement and thereafter until this Security Agreement is terminated pursuant to the terms hereof, each Grantor party hereto as of the date hereof agrees, and from and after the effective date of any Security Agreement Supplement applicable to any Grantor (and after giving effect to supplements, if any, to each of the Exhibits hereto with respect to such subsequent Grantor as attached to such Security Agreement Supplement) and thereafter until this Security Agreement is terminated pursuant to the terms hereof, each such additional Grantor agrees that:

Section 4.1 General.

(a) Collateral Records. Such Grantor and the Custodian will maintain complete and accurate books and records with respect to the Collateral owned by such Grantor, and furnish to the Administrative Agent with sufficient copies for each of the Lenders, all Loan Asset information provided by Custodian pursuant to the Custodial Agreement, and such other reports and information relating to the Collateral as the Administrative Agent shall from time to time request.

(b) Authorization to File Financing Statements; Ratification. Such Grantor hereby authorizes the Administrative Agent to file, and if requested will deliver to the Administrative Agent, all financing statements and other documents and take such other actions as may from time to time be requested by the Administrative Agent in order to maintain a first perfected security interest in and, if applicable, Control of, the Collateral owned by such Grantor. Any financing statement filed by the Administrative Agent may be filed in any filing office in any UCC jurisdiction and may (i) indicate such Grantor's Collateral (A) as all assets of the Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC of such jurisdiction, or (B) by any other description which reasonably approximates the description contained in this Security Agreement, and (ii) contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether such Grantor is an organization, the type of organization and any organization identification number issued to such Grantor, and (B) in the case of a financing statement filed as a fixture filing or indicating such Grantor's Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Such Grantor also agrees to furnish any such information described in the foregoing sentence to the Administrative Agent promptly upon request. Such Grantor also ratifies its authorization for the Administrative Agent to have filed in any UCC jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(c) Further Assurances. Such Grantor will, if so requested by the Administrative Agent, furnish to the Administrative Agent, as often as the Administrative Agent reasonably requests, statements and schedules further identifying and describing the Collateral owned by it and such other reports and information in connection with its Collateral as the Administrative Agent may reasonably request, all in such detail as the Administrative Agent may specify. Such Grantor also agrees to take any and all actions necessary to defend title to the Collateral against all persons and to defend the security interest of the Administrative Agent in its Collateral and the priority thereof against any Lien not expressly permitted hereunder.

(d) Disposition of Collateral. Such Grantor will not sell, lease or otherwise dispose of the Collateral except for dispositions specifically permitted pursuant to Section 6.05 of the Credit Agreement.

(e) Liens. Such Grantor will not create, incur, or suffer to exist any Lien on the Collateral except (i) the security interest created by this Security Agreement, and (ii) other Liens permitted under Section 6.02 of the Credit Agreement.

(f) Other Financing Statements. Such Grantor will not authorize the filing of any financing statement naming it as debtor covering all or any portion of the Collateral owned by it, except for financing statements (i) naming the Administrative Agent on behalf of the Secured Parties as the secured party, and (ii) in respect to other Liens permitted under Section 6.02 of the Credit Agreement, unless otherwise permitted under the Credit Agreement. Such Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of the Administrative Agent, subject to such Grantor's rights under Section 9-509(d)(2) of the UCC and the Credit Agreement.

(g) [Intentionally omitted].

(h) Compliance with Terms. Such Grantor will perform and comply in all material respects with all obligations in respect of the Collateral owned by it and all agreements to which it is a party or by which it is bound relating to such Collateral.

Section 4.2 Receivables; Debt Securities.

(a) Certain Agreements on Receivables and Debt Securities. Such Grantor will not make or agree to make any discount, credit, rebate or other reduction in the original amount owing on a Receivable or any Debt Security or accept in satisfaction of a Receivable or any Debt Security less than the original amount thereof other than in accordance with the Investment Policies.

(b) Collection of Receivables and Debt Securities. Except as otherwise provided in this Security Agreement and in accordance with the Investment Policies, such Grantor will collect and enforce, at such Grantor's sole expense, all amounts due or hereafter due to such Grantor under the Receivables and Debt Securities owned by it.

(c) Delivery of Invoices. Such Grantor will deliver to the Administrative Agent immediately upon its request after the occurrence and during the continuation of an Event of Default duplicate invoices with respect to each Account owned by it bearing such language of assignment as the Administrative Agent shall specify.

(d) Disclosure of Counterclaims on Receivables or Debt Securities. If (i) any material discount, credit or agreement to make a rebate or to otherwise reduce the amount owing on any Receivable or any Debt Security owned by such Grantor exists or (ii) if, to the knowledge of such Grantor, any material dispute, setoff, claim, counterclaim or defense exists or has been asserted or threatened with respect to any such Receivable or Debt Security, such Grantor will promptly disclose such fact to the Administrative Agent in writing. Such Grantor shall promptly report each credit memorandum and each of the facts required to be disclosed to the Administrative Agent in accordance with this Section 4.2(d) on the Borrowing Base Certificates submitted by it.

(e) Electronic Chattel Paper. Such Grantor shall take all steps necessary to grant the Administrative Agent Control of all electronic chattel paper in accordance with the UCC and all "transferable records" as defined in each of the Uniform Electronic Transactions Act and the Electronic Signatures in Global and National Commerce Act.

Section 4.3 Securities Accounts. Such Grantor shall cause the Custodian and each other custodian, securities intermediary or financial institution holding such Grantor's Securities Accounts that are not Excluded Property to enter into a Control Agreement with respect to its Securities Accounts, which shall (a) establish the Administrative Agent's Control over and perfect the Administrative Agent's Lien on such Securities Accounts and (b) provide for the Custodian, or such other custodian, securities intermediary or financial institution to waive any Lien or offset right it may have, except to secure customary administrative charges. Upon the occurrence of an Event of Default, the Administrative Agent may, and at the direction of the Required Lenders will, deliver notice of sole Control to the Custodian or such other custodian, securities intermediary or financial institution holding such Securities Accounts. Each Grantor irrevocably waives the right to direct the application of any and all payments and collections at any time received by the Administrative Agent pursuant to this Section 4.3, and each Grantor does hereby irrevocably agree that the Administrative Agent shall have the continuing exclusive right to apply and reapply any and all such payments and collections received against the Secured Obligations in accordance with the Credit Agreement.

Section 4.4 Delivery of Instruments, Securities, Chattel Paper and Documents. Such Grantor will (a) deliver to the Administrative Agent promptly following execution of this Security Agreement the originals of all Chattel Paper, Securities and Instruments constituting Collateral owned by it (if any then exist), unless the same is being held by the Custodian, or such other a custodian, securities intermediary or financial institution and is subject to a Control Agreement, (b) hold in trust for the Administrative Agent upon receipt and immediately thereafter deliver to the Administrative Agent or to such Custodian any Chattel Paper, Securities and Instruments constituting Collateral, (c) upon the Administrative Agent's request, deliver to the Administrative Agent (and thereafter hold in trust for the Administrative Agent upon receipt and immediately deliver to the Administrative Agent) any Document evidencing or constituting Collateral.

Section 4.5 Uncertificated Pledged Collateral. Such Grantor will permit the Administrative Agent from time to time to cause the appropriate issuers (and, if held with a securities intermediary, such securities intermediary) of uncertificated securities or other types of Pledged Collateral owned by it not represented by certificates to mark their books and records with the numbers and face amounts of all such uncertificated securities or other types of Pledged Collateral not represented by certificates and all rollovers and replacements therefor to reflect the Lien of the Administrative Agent granted pursuant to this Security Agreement. With respect to any Pledged Collateral owned by it, such Grantor will take any actions necessary to cause (a) the issuers of uncertificated securities which are Pledged Collateral and (b) any securities intermediary which is the holder of any such Pledged Collateral, to cause the Administrative Agent to have and retain Control over such Pledged Collateral. Without limiting the foregoing, such Grantor will, with respect to any such Pledged Collateral held with a securities intermediary, cause such securities intermediary to enter into a Control Agreement with the Administrative Agent, in form and substance satisfactory to the Administrative Agent, giving the Administrative Agent Control.

Section 4.6 Pledged Collateral.

(a) [Intentionally omitted].

(b) [Intentionally omitted].

(c) Registration of Pledged Collateral. During the existence of an Event of Default, such Grantor will permit any registerable Pledged Collateral to be registered in the name of the Administrative Agent or its nominee at any time at the option of the Required Lenders; provided, that after any such Event of Default has been waived in accordance with the provisions of the Credit Agreement and to the extent the Administrative Agent has exercised its rights under this sentence, the Administrative Agent shall, promptly after the reasonable request of the applicable Grantor(s), cause such Pledged Collateral to be transferred to, or request that such Securities Collateral is registered in the name of, the applicable Grantor(s) to the extent it or its nominees holds an interest in such Pledged Collateral at such time.

(d) Exercise of Rights in Pledged Collateral.

(i) Without in any way limiting the foregoing and subject to clause (ii) below, such Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Collateral owned by it for all purposes not inconsistent with this Security Agreement, the Credit Agreement or any other Loan Document; provided however, that no vote or other right shall be exercised or action taken which would have the effect of impairing the rights of the Administrative Agent in respect of such Pledged Collateral.

(ii) Such Grantor will permit the Administrative Agent or its nominee at any time during the existence of an Event of Default, without notice, to exercise all voting rights or other rights relating to the Pledged Collateral owned by it, including, without limitation, exchange, subscription or any other rights, privileges, or options pertaining to any Equity Interest or Investment Property constituting Pledged Collateral as if it were the absolute owner thereof.

(iii) Such Grantor shall be entitled to collect and receive for its own use all dividends, options, warrants, rights, instruments, distributions, returns of capital or principal, income, interest, profits and other property interests (debt or equity) or proceeds in respect of the Pledged Collateral owned by it to the extent not in violation of the Credit Agreement other than distributions paid or payable other than in cash in respect of such Pledged Collateral, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral (collectively referred to as the "*Excluded Payments*"); provided however, that until actually paid, all rights to such distributions shall remain subject to the Lien created by this Security Agreement; and

(iv) All Excluded Payments in respect of any of the Pledged Collateral owned by such Grantor, whenever paid or made, shall be delivered to the Administrative Agent to hold as Pledged Collateral and shall, if received by such Grantor, be received in trust for the benefit of the Administrative Agent, be segregated from the other property or funds of such Grantor, and be forthwith delivered to the Administrative Agent as Pledged Collateral in the same form as so received (with any necessary endorsement).

Section 4.7 Intellectual Property.

(a) After any change to Exhibit D (or the information required to be disclosed thereon), the applicable Grantor shall provide the Administrative Agent notification thereof in the next compliance certificate required to be delivered under the Credit Agreement and the respective Confirmatory Grant as described in this Section 4.7 and any other documents that Administrative Agent reasonably requests with respect thereto.

(b) [Intentionally omitted].

(c) Such Grantor shall notify the Administrative Agent immediately if it knows, or has reason to know, that any application or registration relating to any Patent, Trademark, Copyright, or other Material Intellectual Property owned by it may become forfeited, misused, unenforceable, abandoned or dedicated to the public, or of any adverse determination or development regarding the validity or enforceability or Such Grantor's ownership of, interest in, right to use, register, own or maintain any Patent, Trademark, Copyright or other Material Intellectual Property (including the institution of, or any such determination or development in, any proceeding relating to the foregoing in any Applicable IP Office). Such Grantor shall take all actions that are necessary or reasonably requested by the Administrative Agent to maintain and pursue each application (and to obtain the relevant registration or recordation) and to maintain each registration and recordation included in the Material Intellectual Property owned by it.

(d) Such Grantor shall not knowingly do any act or omit to do any act to infringe, misappropriate, dilute, violate or otherwise impair the Intellectual Property of any other Person.

(e) Such Grantor shall execute and deliver to the Administrative Agent in form and substance reasonably acceptable to the Administrative Agent and suitable for filing in the Applicable IP Office the respective Confirmatory Grant in form and substance acceptable to the Administrative Agent for all Copyrights, Trademarks, Patents and Material License Agreements of such Grantor.

(f) Such Grantor shall take all actions necessary or requested by the Administrative Agent to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of all Material Intellectual Property owned by it (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings.

Section 4.8 Commercial Tort Claims. Such Grantor shall promptly, and in any event within two Business Days after the same is acquired by it, notify the Administrative Agent of any commercial tort claim (as defined in the UCC) acquired by it and, unless the Administrative Agent otherwise consents, such Grantor shall enter into an amendment to this Security Agreement, in the form of Exhibit H hereto, granting to Administrative Agent a first priority security interest in such commercial tort claim.

Section 4.9 Letter-of-Credit Rights. If such Grantor is or becomes the beneficiary of a letter of credit other than letters of credit representing amounts in the aggregate for all Grantors of less than $1,000,000.00, it shall promptly, and in any event within two (2) Business Days after becoming a beneficiary, notify the Administrative Agent thereof and cause the issuer and/or confirmation bank to consent to the assignment of any Letter-of-Credit Rights to the Administrative Agent, so that the Administrative Agent has Control of the Letter-of-Credit Rights.

Section 4.10 Federal, State or Municipal Claims. Such Grantor will promptly notify the Administrative Agent of any Collateral which constitutes a claim against the United States government or any state or local government or any instrumentality or agency thereof, the assignment of which claim is restricted by federal, state or municipal law.

Section 4.11 No Interference. Such Grantor agrees that it will not interfere with any right, power and remedy of the Administrative Agent provided for in this Security Agreement or now or hereafter existing at law or in equity or by statute or otherwise, or the exercise or beginning of the exercise by the Administrative Agent of any one or more of such rights, powers or remedies.

Section 4.12 Insurance.

(a) Within 30 days following the Effective Date, all applicable insurance policies required under Section 5.10 of the Credit Agreement shall name the Administrative Agent (for the benefit of the Administrative Agent and the Secured Parties) as an additional insured or as lender's loss payee, as applicable, and shall contain lender loss payable clauses or mortgagee clauses, through endorsements in form and substance reasonably satisfactory to the Administrative Agent, which provide that: (i) all proceeds thereunder with respect to any Collateral shall be payable to the Administrative Agent; (ii) no such insurance shall be affected by any act or neglect of the insured or owner of the property described in such policy; and (iii) such policy and lender loss payable or mortgagee clauses may be canceled, amended, or terminated only upon at least thirty (30) days prior written notice given to the Administrative Agent.

(b) All premiums on any such insurance shall be paid when due by such Grantor, and copies of the policies delivered to the Administrative Agent. If such Grantor fails to obtain or maintain any insurance as required by this Section, the Administrative Agent may obtain such insurance at the Borrower's expense. By purchasing such insurance, the Administrative Agent shall not be deemed to have waived any Default arising from a Grantor's failure to maintain such insurance or pay any premiums therefor.

Section 4.13 [Intentionally omitted]

Section 4.14 Control Agreements. Such Grantor will provide to the Administrative Agent, upon the Administrative Agent's request, a Control Agreement duly executed on behalf of each custodian, securities intermediary or financial institution holding a Securities Account or Deposit Account that is not Excluded Property of such Grantor as set forth in this Security Agreement.

Section 4.15 Change of Name or Location; Change of Fiscal Year. Subject to its rights under Section 6.03 of the Credit Agreement, such Grantor shall not (a) change its name as it appears in official filings in the state of its incorporation or organization, (b) change its chief executive office, principal place of business, mailing address, corporate offices or warehouses or locations at which Collateral is held or stored, or the location of its records concerning the Collateral as set forth in this Security Agreement, (c) change the type of entity that it is, (d) change its organization identification number, if any, issued by its state of incorporation or other organization, or (e) change its state of incorporation or organization, in each case, unless the Administrative Agent shall have received at least thirty (30) days prior written notice of such change and the Administrative Agent shall have acknowledged in writing that either (i) such change will not adversely affect the validity, perfection or priority of the Administrative Agent's security interest in the Collateral, or (ii) any reasonable action requested by the Administrative Agent in connection therewith has been completed or taken (including any action to continue the perfection of any Liens in favor of the Administrative Agent, on behalf of the Secured Parties, in any Collateral); provided that, any new location shall be in the continental U.S. Promptly following a Grantor having knowledge thereof, such Grantor will provide to the Administrative Agent notice of occurrence of any of the foregoing with respect to the Custodian, or any other custodian, securities intermediary or financial institution holding a Securities Account or Deposit Account.

ARTICLE V
REMEDIES

Section 5.1 Remedies.

(a) Upon the occurrence of an Event of Default, the Administrative Agent may, and at the direction of the Required Lenders will, exercise any or all of the following rights and remedies:

(i) those rights and remedies provided in this Security Agreement, the Credit Agreement, or any other Loan Document; provided that, this Section 5.2(a) shall not be understood to limit any rights or remedies available to the Administrative Agent and the other Secured Parties prior to an Event of Default;

(ii) those rights and remedies available to a secured party under the UCC (whether or not the UCC applies to the affected Collateral) or under any other applicable law (including, without limitation, any law governing the exercise of a bank's right of setoff or bankers' lien) when a debtor is in default under a security agreement;

(iii) give notice of sole control or any other instruction under any deposit account control agreement, any securities account control agreement, or and other control agreement with any securities intermediary and take any action therein with respect to such Collateral;

(iv) without notice (except as specifically provided in Section 8.1 or elsewhere herein), demand or advertisement of any kind to any Grantor or any other Person, enter the premises of any Grantor where any Collateral is located (through self-help and without judicial process) to collect, receive, assemble, process, appropriate, sell, lease, assign, grant an option or options to purchase or otherwise dispose of, deliver, or realize upon, the Collateral or any part thereof in one or more parcels at public or private sale or sales (which sales may be adjourned or continued from time to time with or without notice and may take place at any Grantor's premises or elsewhere), for cash, on credit or for future delivery without assumption of any credit risk, and upon such other terms as the Administrative Agent may deem commercially reasonable; and

(v) concurrently with written notice to the applicable Grantor, in accordance with Section 4.06(c), transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations, exercise the voting and all other rights as a holder with respect thereto, to collect and receive all cash dividends, interest, principal and other distributions made thereon and to otherwise act with respect to the Pledged Collateral as though the Administrative Agent was the outright owner thereof.

(b) The Administrative Agent, on behalf of the Secured Parties, may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(c) The Administrative Agent shall have the right upon any such public sale or sales and, to the extent permitted by law, upon any such private sale or sales, to purchase for the benefit of the Administrative Agent and the other Secured Parties, the whole or any part of the Collateral so sold, free of any right of equity redemption, which equity redemption the Grantor hereby expressly releases.

(d) Until the Administrative Agent is able to effect a sale, lease, or other disposition of Collateral, the Administrative Agent shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving Collateral or its value or for any other purpose deemed appropriate by the Administrative Agent. The Administrative Agent may, if it so elects, seek the appointment of a receiver or keeper to take possession of Collateral and to enforce any of the Administrative Agent's remedies (for the benefit of the Administrative Agent and the other Secured Parties), with respect to such appointment without prior notice or hearing as to such appointment.

(e) If, after the Credit Agreement has terminated by its terms and all of the Obligations have been Paid in Full, there remain Swap Agreement Obligations outstanding, the Required Lenders may exercise the remedies provided in this Section 5.2 upon the occurrence of any event which would allow or require the termination or acceleration of any Swap Agreement Obligations pursuant to the terms of the Swap Agreement.

(f) Notwithstanding the foregoing, neither the Administrative Agent nor any other Secured Party shall be required to (i) make any demand upon, or pursue or exhaust any of its rights or remedies against, any Grantor, any other obligor, guarantor, pledgor or any other Person with respect to the payment of the Secured Obligations or to pursue or exhaust any of its rights or remedies with respect to any Collateral therefor or any direct or indirect guarantee thereof, (ii) marshal the Collateral or any guarantee of the Secured Obligations or to resort to the Collateral or any such guarantee in any particular order, or (iii) effect a public sale of any Collateral.

(g) Each Grantor recognizes that the Administrative Agent may be unable to effect a public sale of any or all the Pledged Collateral and may be compelled to resort to one or more private sales thereof in accordance with clause (a) above. Each Grantor also acknowledges that any private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by virtue of such sale being private. The Administrative Agent shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit any Grantor or the issuer of the Pledged Collateral to register such securities for public sale under the Securities Act of 1933, as amended, or under applicable state securities laws, even if the applicable Grantor and the issuer would agree to do so.

Section 5.2 Grantor's Obligations Upon Default. Upon the request of the Administrative Agent after the occurrence of an Event of Default, each Grantor will:

(a) assemble and make available to the Administrative Agent the Collateral and all books and records relating thereto at any place or places specified by the Administrative Agent, whether at a Grantor's premises or elsewhere;

(b) permit the Administrative Agent, by the Administrative Agent's representatives and agents, to enter, occupy and use any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, and to make copies of the books and records relating thereto, without any obligation to pay the Grantor for such use and occupancy;

(c) [intentionally omitted];

(d) [intentionally omitted]; and

(e) [intentionally omitted].

Section 5.3 Grant of Intellectual Property License. For the purpose of enabling the Administrative Agent to exercise the rights and remedies under this Article V at such time as the Administrative Agent shall be lawfully entitled to exercise such rights and remedies (including in order to take possession of, collect, receive, assemble, process, appropriate, remove, realize upon, sell, assign, convey, transfer or grant options to purchase any Collateral), each Grantor hereby (a) grants to the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, an irrevocable, nonexclusive worldwide license (exercisable without payment of royalty or other compensation to any Grantor), including in such license the right to use, license, sublicense or practice any Intellectual Property now owned or hereafter acquired by such Grantor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer Software and programs used for the compilation or printout thereof and (b) irrevocably agrees that the Administrative Agent may sell any of such Grantor's Inventory directly to any person, including without limitation persons who have previously purchased the Grantor's Inventory from such Grantor and in connection with any such sale or other enforcement of the Administrative Agent's rights under this Security Agreement, may sell Inventory which bears any Trademark owned by or licensed to such Grantor and any Inventory that is covered by any Copyright owned by or licensed to such Grantor and the Administrative Agent may (but shall have no obligation to) finish any work in process and affix any Trademark owned by or licensed to such Grantor and sell such Inventory as provided herein.

ARTICLE VI
ACCOUNT VERIFICATION; ATTORNEY IN FACT; PROXY

Section 6.1 Account Verification. The Administrative Agent may at any time after the occurrence of an Event of Default, in the Administrative Agent's own name, in the name of a nominee of the Administrative Agent, or in the name of any Grantor communicate (by mail, telephone, facsimile or otherwise) with the Obligors and Account Debtors of any such Grantor, parties to contracts with any such Grantor and obligors in respect of Instruments of any such Grantor to verify with such Persons, to the Administrative Agent's satisfaction, the existence, amount, terms of, and any other matter relating to, Debt Securities, Accounts, Instruments, Chattel Paper, payment intangibles and/or other Receivables.

Section 6.2 Authorization for Administrative Agent to Take Certain Action.

(a) Each Grantor irrevocably authorizes the Administrative Agent at any time and from time to time in the sole discretion of the Administrative Agent and appoints the Administrative Agent as its attorney-in-fact (i) to endorse and collect any cash proceeds of the Collateral, (ii) to file any financing statement with respect to the Collateral and to file any other financing statement or amendment of a financing statement (which does not add new collateral or add a debtor) in such offices as the Administrative Agent in its sole discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Administrative Agent's security interest in the Collateral, (iii) in the case of any Intellectual Property owned by or licensed to a Grantor, execute, deliver and have recorded any document that the Administrative Agent may request to evidence, effect, publicize or record the Administrative Agent's security interest in such Intellectual Property and the goodwill and General Intangibles of such Grantor relating thereto or represented thereby, (vi) to contact and enter into one or more agreements with the issuers of uncertificated securities which are Pledged Collateral or with the Custodian, or any other custodian, financial institution or securities intermediaries holding Pledged Collateral as may be necessary or advisable to give the Administrative Agent Control over such Pledged Collateral, (v) to discharge past due taxes, assessments, charges, fees or Liens on the Collateral (except for such Liens that are permitted under Section 6.02 of the Credit Agreement), (vi) to contact Obligors and Account Debtors in accordance with the applicable transaction documents with such Obligor or Account Debtor, (vii) to demand payment or enforce payment of the Receivables in the name of the Administrative Agent or such Grantor and to endorse any and all checks, drafts, and other instruments for the payment of money relating to the Receivables, (viii) to sign such Grantor's name on any invoice or bill of lading relating to the Receivables, drafts against any Obligor or Account Debtor of the Grantor, assignments and verifications of Receivables, (ix) to exercise all of such Grantor's rights and remedies with respect to the collection of the Receivables and any other Collateral, (x) to settle, adjust, compromise, extend or renew the Receivables, (xi) to settle, adjust or compromise any legal proceedings brought to collect Receivables, (xii) to prepare, file and sign such Grantor's name on a proof of claim in bankruptcy or similar document against any Obligor or Account Debtor of such Grantor, (xiii) to prepare, file and sign such Grantor's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables, (xiv) to change the address for delivery of mail addressed to such Grantor to such address as the Administrative Agent may designate and to receive, open and dispose of all mail addressed to such Grantor, and (xv) to do all other acts and things necessary to carry out this Security Agreement; and such Grantor agrees to reimburse the Administrative Agent on demand for any payment made or any expense incurred by the Administrative Agent in connection with any of the foregoing; provided that, this authorization shall not relieve such Grantor of any of its obligations under this Security Agreement or under the Credit Agreement.

(b) All acts of said attorney or designee are hereby ratified and approved. The powers conferred on the Administrative Agent, for the benefit of the Administrative Agent and Secured Parties, under this Section 6.2 are solely to protect the Administrative Agent's interests in the Collateral and shall not impose any duty upon the Administrative Agent or any other Secured Party to exercise any such powers. The Administrative Agent agrees that, except as otherwise expressly set forth herein, it shall not exercise any power or authority granted to it unless an Event of Default has occurred and is continuing.

Section 6.3 Proxy. EACH GRANTOR HEREBY IRREVOCABLY CONSTITUTES AND APPOINTS THE ADMINISTRATIVE AGENT AS ITS PROXY AND ATTORNEY IN FACT (AS SET FORTH IN SECTION 6.2 ABOVE) OF THE GRANTOR WITH RESPECT TO ITS PLEDGED COLLATERAL, INCLUDING THE RIGHT TO VOTE SUCH PLEDGED COLLATERAL, WITH FULL POWER OF SUBSTITUTION TO DO SO. IN ADDITION TO THE RIGHT TO VOTE ANY SUCH PLEDGED COLLATERAL, THE APPOINTMENT OF THE ADMINISTRATIVE AGENT AS PROXY AND ATTORNEY-IN-FACT SHALL INCLUDE THE RIGHT TO EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES AND REMEDIES TO WHICH A HOLDER OF SUCH PLEDGED COLLATERAL WOULD BE ENTITLED (INCLUDING GIVING OR WITHHOLDING WRITTEN CONSENTS OF SHAREHOLDERS, CALLING SPECIAL MEETINGS OF SHAREHOLDERS AND VOTING AT SUCH MEETINGS). SUCH PROXY SHALL BE EFFECTIVE, AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION (INCLUDING ANY TRANSFER OF ANY SUCH PLEDGED COLLATERAL ON THE RECORD BOOKS OF THE ISSUER THEREOF) BY ANY PERSON (INCLUDING THE ISSUER OF SUCH PLEDGED COLLATERAL OR ANY OFFICER OR AGENT THEREOF), UPON THE OCCURRENCE OF A DEFAULT.

Section 6.4 Nature of Appointment; Limitation of Duty. THE APPOINTMENT OF THE ADMINISTRATIVE AGENT AS PROXY AND ATTORNEY-IN-FACT IN THIS ARTICLE VI IS COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE UNTIL THE DATE ON WHICH THIS SECURITY AGREEMENT IS TERMINATED IN ACCORDANCE WITH SECTION 7.14. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, NONE OF THE ADMINISTRATIVE AGENT, ANY LENDER, ANY OTHER SECURED PARTY, ANY OF THEIR RESPECTIVE AFFILIATES, OR ANY OF THEIR OR THEIR AFFILIATES' RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL HAVE ANY DUTY TO EXERCISE ANY RIGHT OR POWER GRANTED HEREUNDER OR OTHERWISE OR TO PRESERVE THE SAME AND SHALL NOT BE LIABLE FOR ANY FAILURE TO DO SO OR FOR ANY DELAY IN DOING SO, EXCEPT IN RESPECT OF DAMAGES ATTRIBUTABLE SOLELY TO SUCH PARTY'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION; PROVIDED THAT, IN NO EVENT SHALL THEY BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES.

ARTICLE VII
GENERAL PROVISIONS

Section 7.1 Waivers. Each Grantor hereby waives notice of the time and place of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made. To the extent such notice may not be waived under applicable law, any notice made shall be deemed reasonable if sent to Grantors, addressed as set forth in Article VIII, at least ten days prior to (a) the date of any such public sale or (b) the time after which any such private sale or other disposition may be made. To the maximum extent permitted by applicable law, each Grantor waives all claims, damages, and demands against the Administrative Agent or any Secured Party arising out of the repossession, retention or sale of the Collateral, except such as arise solely out of the gross negligence or willful misconduct of the Administrative Agent or such Secured Party as finally determined by a court of competent jurisdiction. To the extent it may lawfully do so, each Grantor absolutely and irrevocably waives and relinquishes the benefit and advantage of, and covenants not to assert against the Administrative Agent or any other Secured Party, any valuation, stay, appraisal, extension, moratorium, redemption or similar laws and any and all rights or defenses it may have as a surety now or hereafter existing which, but for this provision, might be applicable to the sale of any Collateral made under the judgment, order or decree of any court, or privately under the power of sale conferred by this Security Agreement, or otherwise. Except as otherwise specifically provided herein, each Grantor hereby waives presentment, demand, protest or any notice (to the maximum extent permitted by applicable law) of any kind in connection with this Security Agreement or any Collateral.

Section 7.2 Limitation on Administrative Agent's and Secured Parties' Duty with Respect to the Collateral. The Administrative Agent shall have no obligation to clean-up or otherwise prepare the Collateral for sale. The Administrative Agent and each other Secured Party shall use reasonable care with respect to the Collateral in its possession or under its control. Neither the Administrative Agent nor any other Secured Party shall have any other duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of the Administrative Agent or such other Secured Party, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. To the extent that applicable law imposes duties on the Administrative Agent to exercise remedies in a commercially reasonable manner, each Grantor acknowledges and agrees that it is commercially reasonable for the Administrative Agent (a) to fail to incur expenses deemed significant by the Administrative Agent to prepare Collateral for disposition or otherwise to transform raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against Obligors, Account Debtors or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (d) to exercise collection remedies against Obligors, Account Debtors and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other Persons, whether or not in the same business as such Grantor, for expressions of interest in acquiring all or any portion of such Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (h) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) to purchase insurance or credit enhancements to insure the Administrative Agent against risks of loss, collection or disposition of Collateral or to provide to the Administrative Agent a guaranteed return from the collection or disposition of Collateral, or (l) to the extent deemed appropriate by the Administrative Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Administrative Agent in the collection or disposition of any of the Collateral. The Grantor acknowledges that the purpose of this Section 7.2 is to provide non-exhaustive indications of what actions or omissions by the Administrative Agent would be commercially reasonable in the Administrative Agent's exercise of remedies against the Collateral and that other actions or omissions by the Administrative Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 7.2. Without limitation upon the foregoing, nothing contained in this Section 7.2 shall be construed to grant any rights to the Grantor or to impose any duties on the Administrative Agent that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 7.2.

Section 7.3 Compromises and Collection of Collateral. The Grantors and the Administrative Agent recognize that setoffs, counterclaims, defenses and other claims may be asserted by Obligors or Account Debtors with respect to certain of the Debt Securities or Receivables, that certain of the Debt Securities or Receivables may be or become uncollectible in whole or in part and that the expense and probability of success in litigating a disputed Debt Securities or Receivable may exceed the amount that reasonably may be expected to be recovered with respect to a Debt Security or Receivable. In view of the foregoing, each Grantor agrees that the Administrative Agent may at any time and from time to time, if an Event of Default has occurred and is continuing, compromise with the Obligor or Account Debtor on any Debt Security or Receivable, accept in full payment of any Debt Security or Receivable such amount as the Administrative Agent in its sole discretion shall determine or abandon any Debt Security or Receivable, and any such action by the Administrative Agent shall be commercially reasonable so long as the Administrative Agent acts in good faith based on information known to it at the time it takes any such action.

Section 7.4 Secured Party Performance of Debtor Obligations. Without having any obligation to do so, the Administrative Agent may perform or pay any obligation which any Grantor has agreed to perform or pay in this Security Agreement and the Grantors shall reimburse the Administrative Agent for any amounts paid by the Administrative Agent pursuant to this Section 7.4. The Grantors' obligation to reimburse the Administrative Agent pursuant to the preceding sentence shall be a Secured Obligation payable on demand.

Section 7.5 Specific Performance of Certain Covenants. Each Grantor acknowledges and agrees that a breach of any of the covenants contained in Sections 4.1(d), 4.1(e), 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.12, 4.13, 4.14, 4.15, 5.3, or 7.7 will cause irreparable injury to the Administrative Agent and the other Secured Parties, that the Administrative Agent and the other Secured Parties have no adequate remedy at law in respect of such breaches and therefore agrees, without limiting the right of the Administrative Agent or the other Secured Parties to seek and obtain specific performance of other obligations of the Grantors contained in this Security Agreement, that the covenants of the Grantors contained in the Sections referred to in this Section 7.5 shall be specifically enforceable against the Grantors.

Section 7.6 Dispositions Not Authorized. No Grantor is authorized to sell or otherwise dispose of the Collateral except as set forth in Section 4.1(d) and notwithstanding any course of dealing between any Grantor and the Administrative Agent or other conduct of the Administrative Agent, no authorization to sell or otherwise dispose of the Collateral (except as set forth in Section 4.1(d)) shall be binding upon the Administrative Agent or the other Secured Parties unless such authorization is in writing signed by the Administrative Agent with the consent or at the direction of the Required Lenders.

Section 7.7 No Waiver; Amendments; Cumulative Remedies. No failure or delay by the Administrative Agent or any other Secured Party in exercising any right or power under this Security Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the other Secured Parties hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Security Agreement or consent to any departure by the Grantor therefrom shall in any event be effective unless in writing signed by the Administrative Agent with the concurrence or at the direction of the Lenders required under Section 9.02 of the Credit Agreement and then only to the extent in such writing specifically set forth.

Section 7.8 Limitation by Law; Severability of Provisions. All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. Any provision in this Security Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction, and to this end the provisions of this Security Agreement are declared to be severable.

Section 7.9 Reinstatement. This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or reorganization, should any Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of any Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Secured Obligations, or any part thereof (including a payment effected through exercise of a right of setoff), is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise (including pursuant to any settlement entered into by a Secured Party in its discretion), all as though such payment or performance had not been made. In the event that any payment, or any part thereof (including a payment effected through exercise of a right of setoff), is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

Section 7.10 Benefit of Agreement. The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of the Grantors, the Administrative Agent and the other Secured Parties and their respective successors and assigns (including all persons who become bound as a debtor to this Security Agreement), except that no Grantor shall have the right to assign its rights or delegate its obligations under this Security Agreement or any interest herein, without the prior written consent of the Administrative Agent. No sales of participations, assignments, transfers, or other dispositions of any agreement governing the Secured Obligations or any portion thereof or interest therein shall in any manner impair the Lien granted to the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, hereunder.

Section 7.11 Survival of Representations. All representations and warranties of the Grantors contained in this Security Agreement shall survive the execution and delivery of this Security Agreement.

Section 7.12 Taxes and Expenses. Any taxes (including income taxes) payable or ruled payable by Federal or State authority in respect of this Security Agreement shall be paid by the Grantors, together with interest and penalties, if any. The Grantors shall reimburse the Administrative Agent for any and all out of pocket expenses and internal charges (including reasonable attorneys', auditors' and accountants' fees and reasonable time charges of attorneys, paralegals, auditors and accountants who may be employees of the Administrative Agent) paid or incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, collection and enforcement of this Security Agreement and, to the extent provided in the Credit Agreement in the audit, analysis, administration, collection, preservation or sale of the Collateral (including the expenses and charges associated with any periodic or special audit of the Collateral). Any and all costs and expenses incurred by the Grantors in the performance of actions required pursuant to the terms hereof shall be borne solely by the Grantors.

Section 7.13 Headings. The title of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement.

Section 7.14 Termination. This Security Agreement shall continue in effect (notwithstanding the fact that from time to time there may be no Secured Obligations outstanding) until (a) the Credit Agreement has terminated pursuant to its express terms and (b) all of the Secured Obligations have been Paid in Full.

Section 7.15 Entire Agreement. This Security Agreement and the other Loan Documents embody the entire agreement and understanding between the Grantors and the Administrative Agent relating to the Collateral and supersedes all prior agreements and understandings between the Grantors and the Administrative Agent relating to the Collateral.

Section 7.16 CHOICE OF LAW. THIS SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK.

Section 7.17 CONSENT TO JURISDICTION. EACH GRANTOR HEREBY IRREVOCABLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN NEW YORK, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH GRANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY LENDER TO BRING PROCEEDINGS AGAINST ANY GRANTOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY GRANTOR AGAINST THE ADMINISTRATIVE AGENT OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN NEW YORK, NEW YORK.

Section 7.18 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE OR OTHER AGENT (INCLUDING ANY ATTORNEY) OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS SECURITY AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 7.19 Indemnity. Each Grantor hereby agrees to indemnify the Administrative Agent and the other Secured Parties, and their respective successors, assigns, agents and employees, from and against any and all liabilities, damages, penalties, suits, fees, costs, and expenses of any kind and nature (including, without limitation, all expenses of litigation or preparation therefor whether or not the Administrative Agent or any Secured Party is a party thereto) imposed on, incurred by or asserted against the Administrative Agent or the other Secured Parties, or their respective successors, assigns, agents and employees, in any way relating to or arising out of this Security Agreement, or the manufacture, purchase, acceptance, rejection, ownership, delivery, lease, possession, use, operation, condition, sale, return or other disposition of any Collateral (including, without limitation, latent and other defects, whether or not discoverable by the Administrative Agent or the other Secured Parties or any Grantor, and any claim for Patent, Trademark or Copyright infringement).

Section 7.20 Counterparts. This Security Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Security Agreement by signing any such counterpart. Delivery of an executed counterpart of a signature page of this Security Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Security Agreement.

ARTICLE VIII
NOTICES

Section 8.1 Sending Notices. Any notice required or permitted to be given under this Security Agreement shall be sent in accordance with Section 9.01 of the Credit Agreement.

Section 8.2 Change in Address for Notices. Each of the Grantors, the Administrative Agent and the Lenders may change the address for service of notice upon it in accordance with Section 9.01 of the Credit Agreement.

ARTICLE IX
THE ADMINISTRATIVE AGENT

Woodforest National Bank has been appointed Administrative Agent for the Lenders hereunder pursuant to Article VIII of the Credit Agreement. It is expressly understood and agreed by the parties to this Security Agreement that any authority conferred upon the Administrative Agent hereunder is subject to the terms of the delegation of authority made by the Lenders to the Administrative Agent pursuant to Article VIII of the Credit Agreement, and that the Administrative Agent has agreed to act (and any successor Administrative Agent shall act) as such hereunder only on the express conditions contained in such Article VIII. Any successor Administrative Agent appointed pursuant to Article VIII of the Credit Agreement shall be entitled to all the rights, interests and benefits of the Administrative Agent hereunder.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Grantors and the Administrative Agent have executed this Pledge and Security Agreement as of the date first above written.

GRANTORS:

PHENIXFIN CORPORATION

By: _____
Name:
Title:

PHENIXFIN SMALL BUSINESS FUND GP, LLC

By: _____
Name:
Title:

PHENIXFIN SMALL BUSINESS FUND, LP

By: _____
Name:
Title:

PHENIXFIN SLF FUNDING I LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS AAR LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS AMVESTAR LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENT HOLDINGS OMNIVERE LLC

By: _____
Name:
Title:

PHENIXFIN INVESTMENTS, LLC

By: _____
Name:
Title:

WOODFOREST NATIONAL BANK,
as Administrative Agent

By: _____
Name: _____
Title: _____

EXHIBIT A
(See Sections 3.2, 3.3, 3.4, 3.9 and 8.1 of Security Agreement)

NOTICE ADDRESS FOR ALL GRANTORS

_____
c/o_____
_____
Attention:_____
Facsimile:_____

INFORMATION AND COLLATERAL LOCATIONS OF {Insert name of applicable Grantor}

I. Name of Grantor: _____

II. State of Incorporation or Organization: _____

III. Type of Entity: _____

IV. Organizational Number assigned by State of Incorporation or Organization: _____

V. Federal Identification Number: _____

VI. Place of Business (if it has only one) or Chief Executive Office (if more than one place of business) and Mailing Address:

_____
_____
_____
_____

Attention: _____

VII. Locations of Collateral:

(a) Properties Owned by the Grantor:

(b) Properties Leased by the Grantor (Include Landlord's Name):

[NOTE: ADD ADDITIONAL INFORMATION PAGE FOR EACH GRANTOR]

EXHIBIT B
(See Section 3.5 of Security Agreement)

DEPOSIT ACCOUNTS

Name of Grantor (must correspond to name of account holder)	Name of Institution	Account Number

SECURITIES ACCOUNTS

Name of Grantor (must correspond to name of account holder)	Name of Institution	Account Number

EXHIBIT C
(See Section 3.7 of Security Agreement)

LETTER-OF-CREDIT RIGHTS

CHATTEL PAPER

EXHIBIT D

(See Section 3.10 and 3.11 of Security Agreement)

INTELLECTUAL PROPERTY RIGHTS[1]

1 Describe all (a) Intellectual Property that is registered or subject to applications for registration, (b) Internet Domain Names and (c) Material Intellectual Property and material Software, separately identifying that owned and licensed to the Grantor and including for each of the foregoing items (i) the owner, (ii) the title, (iii) the jurisdiction in which such item has been registered or otherwise arises or in which an application for registration has been filed, (iv) as applicable, the registration or application number and registration or application date and (v) any IP Licenses or other rights (including franchises) granted by the Grantor with respect thereto.

EXHIBIT E

(See Section 3.13 of Security Agreement and Definition of "*Pledged Collateral*")

LIST OF PLEDGED COLLATERAL, SECURITIES AND OTHER INVESTMENT PROPERTY

INSTRUMENTS; PROMISSORY NOTES; DEBT SECURITIES

Name of Grantor	Issuer	Principal Amount	Interest Rate	Maturity

STOCKS

Name of Grantor	Issuer	Certificate Number(s)	Number of Shares	Class of Stock	Percentage of Outstanding Shares

BONDS

Name of Grantor	Issuer	Number	Face Amount	Coupon Rate	Maturity

GOVERNMENT SECURITIES

Name of Grantor	Issuer	Number	Type	Face Amount	Coupon Rate	Maturity

OTHER SECURITIES OR OTHER INVESTMENT PROPERTY
(CERTIFICATED AND UNCERTIFICATED)

Name of Grantor	Issuer	Description of Collateral	Percentage Ownership Interest

EXHIBIT F
(See Section 3.1 of Security Agreement)

FILING OFFICES

Exhibit F

EXHIBIT G
(See Definition of "*Commercial Tort Claim*")

COMMERCIAL TORT CLAIMS

{NOTE: SPECIFICALLY DESCRIBE THE CLAIM (I.E. PARTIES, DESCRIPTION OF THE DISPUTE, CASE NUMBER – IF AVAILABLE) - SEE OFFICIAL COMMENT 5 TO SECTION 9-108 OF THE UCC}.

Name of Grantor	Description of Claim	Parties	Case Number; Name of Court where Case was Filed

EXHIBIT H
(See Section 4.8 of Security Agreement)

AMENDMENT

This Amendment, dated [●] is delivered pursuant to Section 4.8 of the Security Agreement referred to below. All defined terms herein shall have the meanings ascribed thereto or incorporated by reference in the Security Agreement. The undersigned hereby certifies that the representations and warranties in Article III of the Security Agreement are and continue to be true and correct. The undersigned further agrees that this Amendment may be attached to that certain Security Agreement, dated December 15, 2022, between the undersigned, as the Grantors, and Woodforest National Bank, as the Administrative Agent, (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the "*Security Agreement*") and that the Collateral listed on Schedule I to this Amendment shall be and become a part of the Collateral referred to in said Security Agreement and shall secure all Secured Obligations referred to in the Security Agreement.

[●]

By: _____
Name: _____
Title: _____

Schedule I to Amendment to Security Agreement

COMMERCIAL TORT CLAIMS

{NOTE: SPECIFICALLY DESCRIBE THE CLAIM (I.E. PARTIES, DESCRIPTION OF THE DISPUTE, CASE NUMBER – IF AVAILABLE) - SEE OFFICIAL COMMENT 5 TO SECTION 9-108 OF THE UCC}.

Name of Grantor	Description of Claim	Parties	Case Number; Name of Court where Case was Filed

ANNEX I TO SECURITY AGREEMENT

Reference is hereby made to the Security Agreement (as amended, restated, supplemented or otherwise modified from time to time, the "*Security Agreement*"), dated as of December 15, 2022, by and among PhenixFIN Corporation, a Delaware corporation (the "Borrower"), the other existing Grantors party thereto, and certain other entities which become parties to the Security Agreement from time to time, including, without limitation, those that become party thereto by executing a Security Agreement Supplement in substantially the form hereof (such parties, including the undersigned, together with the Borrower and the other existing Grantors, the "*Grantors*"), in favor of Woodforest National Bank, as Administrative Agent (the "*Administrative Agent*"), for the benefit of the Secured Parties under the Credit Agreement. Each capitalized terms used herein and not defined herein shall have the meanings given to it in the Security Agreement.

By its execution below, the undersigned, [NAME OF NEW GRANTOR], a [●] [corporation] [partnership] [limited liability company] (the "*New Grantor*") agrees to become, and does hereby become, a Grantor under the Security Agreement and agrees to be bound by such Security Agreement as if originally a party thereto. The New Grantor hereby pledges, assigns and grants to the Administrative Agent, on behalf of and for the ratable benefit of the Secured Parties, a security interest in all of the New Grantor's right, title and interest in and to the Collateral, whether now owned or hereafter acquired, to secure the prompt and complete payment and performance of the Secured Obligations.

By its execution below, the New Grantor represents and warrants as to itself that all of the representations and warranties contained in the Security Agreement are true and correct in all respects as of the date hereof. The New Grantor represents and warrants that the supplements to the Exhibits to the Security Agreement attached hereto are true and correct in all respects and such supplements set forth all information required to be scheduled under the Security Agreement. The New Grantor shall take all steps necessary to perfect, in favor of the Administrative Agent, a first-priority security interest in and lien against the New Grantor's Collateral, including, without limitation, delivering all certificated Pledged Collateral to the Administrative Agent (and other Collateral required to be delivered under the Security Agreement), and taking all steps necessary to properly perfect the Administrative Agent's interest in any uncertificated Pledged Collateral.

IN WITNESS WHEREOF, [NAME OF NEW GRANTOR], a [_____] [corporation] [partnership] [limited liability company] has executed and delivered this Annex I counterpart to the Security Agreement as of this [●] day of [●].

[NAME OF NEW GRANTOR]

By: _____
Name: _____
Title: _____

Exhibit 31.1

Certification of Chief Executive Officer

of Periodic Report Pursuant to Rule 13a-14(a) and Rule 15d-14(a)

I, David Lorber, certify that:

1) I have reviewed this Annual Report on Form 10-K of PhenixFIN Corporation (the "Company");

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;

4) The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15 (e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the Company's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

5) The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Date: December 16, 2022

/s/ David Lorber

David Lorber
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

Certification of Chief Financial Officer

of Periodic Report Pursuant to Rule 13a-14(a) and Rule 15d-14(a)

I, Ellida McMillan, certify that:

1) I have reviewed this Annual Report on Form 10-K of PhenixFIN Corporation (the "Company");

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;

4) The Company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15 (e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Company and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the Company's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and

5) The Company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting.

Date: December 16, 2022

/s/ Ellida McMillan

Ellida McMillan
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

AND CHIEF FINANCIAL OFFICER PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K of PhenixFIN Corporation, (the "Company") for the annual period ended September 30, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, David Lorber and Ellida McMillan, Chief Executive Officer and Chief Financial Officer, respectively, of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to our knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and for the periods expressed in the Report.

Dated: December 16, 2022

By: /s/ David Lorber
David Lorber
Chief Executive Officer

By: /s/ Ellida McMillan
Ellida McMillan
Chief Financial Officer

Exhibit 99.1

December 15, 2022

U.S. Bank Trust Company, National Association, as trustee
One Federal Street, Third Floor
Boston, MA 02210
Attention: Corporate Trust Administration
Reference: PhenixFIN Corporation Ladies and Gentlemen:

PhenixFIN Corporation, a Delaware corporation (the "***Company***"), hereby provides notice, pursuant to the Indenture, dated as of February 7, 2012 (the "***Base Indenture***"), by and between the Company and you (as successor to U.S. Bank National Association), as trustee, as supplemented by the Second Supplemental Indenture, dated as of March 18, 2013 (the "***Second Supplemental Indenture***,") (together with the Base Indenture, the "***Indenture***"), relating to the Company's 6.125% Notes due 2023 (CUSIP No. 71742W 202) (the "***Notes***"), that the Company is electing to exercise its option pursuant to Section 101(h)(i) of the Second Supplemental Indenture to redeem issued and outstanding Notes having an aggregate principal amount of $22,521,800.00, comprising all issued and outstanding Notes (the "***Redeemed Notes***"), on January 17, 2023 (the "***Redemption Date***") at a redemption price equal to 100% of the outstanding principal amount thereof plus accrued and unpaid interest thereon from December 30, 2022, through, but excluding, January 17, 2023. The Record Date for such Redemption Date will be January 3, 2023.

Pursuant to Section 1104 of the Base Indenture, the Company hereby instructs U.S. Bank Trust Company, National Association, as trustee, to deliver (or cause to be delivered) on the Company's behalf the notice attached hereto as Exhibit A to each Holder of Redeemed Notes at such Holder's address appearing on the Security Register.

The Trustee acknowledges and confirms that the shorter notice period of 30 calendar days is satisfactory pursuant to Section 1102 of the Base Indenture.

Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Indenture.

[Signature Page Follows]

This letter has been executed as of the date and year first written above.

Very truly yours,

PhenixFIN Corporation

By: /s/ Ellida McMillan
Name: Ellida McMillan
Title: Chief Financial Officer

Acknowledged and agreed:

U.S. Bank Trust Company National Association, as trustee

By: _____
Name:
Title:

[Signature Page for Notice to Trustee re: Redemption of 6.125% Notes]

EXHIBIT A

Form of Notice of Redemption

NOTICE OF REDEMPTION TO THE HOLDERS OF THE
6.125% Senior Notes due 2023
of PhenixFIN Corporation
(CUSIP No. 71742W 202)*

Redemption Date: January 17, 2023
Record Date: January 3, 2023

NOTICE IS HEREBY GIVEN, pursuant to Section 1104 of the Indenture dated as of February 7, 2012 (the "Base Indenture"), between PhenixFIN Corporation (formerly known as Medley Capital Corporation), a Delaware corporation (the "Company"), and U.S. Bank Trust Company, National Association (successor to U.S. Bank National Association), as Trustee (the "Trustee), and Section 101(h) of the Second Supplemental Indenture dated as of March 18, 2013 (the "Second Supplemental Indenture," and together with the Base Indenture, the "Indenture"), that the Company is electing to exercise its option to redeem an aggregate principal amount of $22,521,800.00 of the Company's issued and outstanding 6.125% Notes due 2023 (the "Notes"), comprising all issued and outstanding Notes, on January 17, 2023 (the "Redemption Date"). The redemption price for the Notes selected for redemption (the "Redeemed Notes") equals $25 in principal amount per Note being redeemed, plus the accrued and unpaid interest thereon from December 30, 2022, through, but excluding, the Redemption Date (the "Redemption Price"). The aggregate accrued interest on the Redeemed Notes payable on the Redemption Date will be approximately $65,141.18 (or approximately $0.0723090) on each $25 principal amount of the Redeemed Notes). The Record Date for the Redemption shall be January 3, 2023.

On the Redemption Date, the Redemption Price will become due and payable to the Holders of the Redeemed Notes. Interest on the Redeemed Notes will cease to accrue on and after the Redemption Date. Unless the Company defaults in paying the Redemption Price with respect to the Redeemed Notes, the only remaining right of the Holders of Redeemed Notes with respect to the Redeemed Notes will be to receive payment of the Redemption Price upon presentation and surrender of the Redeemed Notes to the Trustee in its capacity as Paying Agent. Redeemed Notes held in book-entry form will be redeemed and the Redemption Price with respect to such Redeemed Notes will be paid in accordance with the applicable procedures of The Depository Trust Company.

Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Indenture.

Payment of the Redemption Price to the Holders will be made upon presentation and surrender of the Notes in the following manner:

If by Mail, Hand or Overnight Mail:

U.S. Bank Trust Company, National Association

Corporate Trust Services

111 Fillmore Avenue E.

St. Paul, MN 55107

**The CUSIP number has been assigned to this issue by organizations not affiliated with the Company or the Trustee and is included solely for the convenience of the Holders of the Notes. Neither the Company nor the Trustee shall be responsible for the selection or use of this CUSIP number, nor is any representation made as to the correctness or accuracy of the same on the Notes or as indicated in this Notice of Redemption.*

NOTICE

Under U.S. federal income tax law, the Trustee or other withholding agent may be required to withhold twenty-four percent (24%) (backup withholding) of any Redemption Price payable to a Holder of a Redeemed Note if such Holder fails to provide a taxpayer identification number, the Internal Revenue Service ("IRS") notifies the withholding agent that the furnished taxpayer identification number is incorrect, the IRS notifies the withholding agent that the Holder failed to properly report certain dividend and interest income to the IRS or the Holder fails to provide other required certifications. To avoid backup withholding, please complete a Form W-9 or an appropriate Form W-8, as applicable, which should be furnished in connection with the presentation and surrender of the Redeemed Notes, including through the facilities of DTC by book-entry or electronic means in accordance with its procedures. Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a holder's U.S. federal income tax liability provided the required information is timely furnished to the IRS. Holders should consult their tax advisors regarding the withholding and other tax consequences of the redemption.

For a list of other redemption requirements please visit our website at www.usbank.com/corporatetrust and click on the "Bondholder Services" link.

Dated: December 15, 2022

PhenixFIN Corporation

By: **U.S. Bank Trust Company, National Association**, as Trustee and Paying Agent

[*Signature page follows*.]

IN WITNESS WHEREOF, the undersigned have executed this Notice of Redemption as of this 15th day of December 2022.

By: /s/ David Lorber
Name: David Lorber
Title: Chief Executive Officer

By: /s/ Ellida McMillan
Name: Ellida McMillan
Title: Chief Financial Officer

[Signature Page to Notice of Redemption to Holders]

Exhibit 99.2

FLEXFIN, LLC

FINANCIAL STATEMENTS

SEPTEMBER 30, 2022

FLEXFIN, LLC
TABLE OF CONTENTS
SEPTEMBER 30, 2022

GIBGOT, WILLENBACHER & CO.
CERTIFIED PUBLIC ACCOUNTANTS

310 EAST SHORE ROAD
GREAT NECK, NEW YORK 11023
TEL: (516) 482-3660
FAX: (516) 482-3685

NEIL A. GIBGOT, CPA
WILLIAM L. MERINGOLO, CPA
JONATHAN G. SHORE, CPA
MIKHAIL STOLIAROV, CPA, CVA, MST, ESQ.

INDEPENDENT AUDITORS' REPORT

To the Members
FlexFIN, LLC
New York, New York

Unqualified Opinion

We have audited the accompanying financial statements of FlexFIN, LLC which comprise the balance sheet as of September 30, 2022 and the related statements of income and members equity and cash flows for the year then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of FlexFIN, LLC as of September 30, 2022 and the results of their operations and their cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Unqualified Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of FlexFIN, LLC and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our unqualified audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about FlexFIN, LLC's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with generally accepted auditing standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of FlexFIN, LLC's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about FlexFIN, LLC's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control–related matters that we identified during the audit.

Gibgot, Willenbacher & co.

CERTIFIED PUBLIC ACCOUNTANTS

Great Neck, New York
December 9, 2022

FLEXFIN, LLC
BALANCE SHEET
YEAR ENDED SEPTEMBER 30, 2022

ASSETS

Current Assets:	
Cash in bank (Note 2) (Page 5)	$ 20,635
Restricted inventory (Notes 2 and 3)	47,137,774
Prepaid expenses	9,460
TOTAL ASSETS	$ 47,167,869

LIABILITY AND MEMBERS' EQUITY

Current Liability:	
Due to related parties (Note 4)	$ 11,754
Commitments and Contingencies (Notes 3, 4 and 6)	
Members' Equity (Page 4)	47,156,115
TOTAL LIABILITY AND MEMBERS' EQUITY	$ 47,167,869

See accompanying notes to the financial statements.

FLEXFIN, LLC
STATEMENT OF INCOME AND MEMBERS' EQUITY
YEAR ENDED SEPTEMBER 30, 2022

Option extension fee income (Notes 2 and 7)	$ 3,855,350
Operating Expenses:	
Advertising and trade shows	87,253
Travel	62,213
Professional fees	33,578
Office expenses and fees	2,513
Total Operating Expenses	185,557
Income from operations before income taxes	3,669,793
New York City Unincorporated Business Tax (Note 2)	16,716
Net Income (Page 5)	3,653,077
Members' equity - beginning	2,428,655
Contributions from member (Note 5) (Page 5)	54,175,707
Distributions to member (Note 5) (Page 5)	(13,101,324)
MEMBERS' EQUITY - END (Page 3)	$ 47,156,115

See accompanying notes to the financial statements.

FLEXFIN, LLC
STATEMENT OF CASH FLOWS
YEAR ENDED SEPTEMBER 30, 2022

CASH FLOWS FROM OPERATING ACTIVITIES:	
Net income (Page 4)	$ 3,653,077
Adjustments to Reconcile Net Income to Net Cash	
Used For Operating Activities:	
Increase In Current Assets:	
Restricted inventory	(44,637,774)
Prepaid expenses	(9,460)
Decrease In Current Liability:	
Due to related parties	(59,591)
Total Adjustments	(44,706,825)
Net Cash Used For Operating Activities	(41,053,748)
CASH FLOWS FROM FINANCING ACTIVITIES:	
Contributions from member (Page 4)	54,175,707
Distributions to member (Page 4)	(13,101,324)
Net Cash Provided By Financing Activities	41,074,383
Net Increase In Cash in bank	20,635
Cash in bank - beginning	-
CASH IN BANK - END (Page 3)	$ 20,635
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:	
Taxes paid	$ 27,300

See accompanying notes to the financial statements.

NOTE 1 – ORGANIZATION AND NATURE OF BUSINESS

FlexFIN, LLC ("The Company"), a Delaware limited liability company organized in July 2021, is a purchaser of gemstones and jewelry with repurchase options. Monthly option extension fees are charged to the sellers in order to extend those repurchase options. In certain circumstances assets may be sold to third parties. The Company does business with both domestic and international Companies in the diamond and jewelry business.

The Company purchases gemstones and jewelry via purchase and sale agreements which contain repurchase options in favor of the sellers. While a repurchase option is active, the Company is prohibited from selling the related inventory. Some of the inventory may be sold at an agreed upon minimum price (Note 3). The seller must pay a monthly option extension fee in order to maintain the repurchase option. Once an item is no longer subject to a repurchase option the Company may sell it on its own terms. The majority of the Company's operations are located in the New York metropolitan area, while most of its revenue is from clients in Belgium.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation
The accompanying financial statements have been prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America.

Cash in Bank
The Company maintains a cash balance in one financial institution, which from time to time may be in excess of the Federally insured amount of $250,000. The Company has not experienced losses in this account.

Accounts Receivable, Revenue Recognition and Contracts with Customers
The Company generates revenues from option extension fees collected on asset repurchase option contracts with the sellers. Terms of purchases of inventory are detailed in the purchase contracts. Sellers of inventory to the Company pay monthly option extension fees to maintain the right to repurchase inventory assets sold to the Company. The option extension fee on each contract is calculated as a percentage of the purchase price with rates agreed upon in each transaction. Rates have typically been 0.875% to 1.25% per month, but management reserves the right to raise the fee rates on future contracts. Option extension fee income is paid by the seller at the beginning of each option extension period and is nonrefundable. Income is therefore recognized when the purchase is consummated, upon receipt of the goods and disbursement of funds by the Company. When a repurchase option is exercised by a seller the transaction is recognized as a a return of inventory.

At September 30, 2022 and 2021 the Company had no accounts receivable.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Income Taxes

As a limited liability company, the Company is treated as a partnership for Federal, New York State, and New York City income tax purposes. Accordingly, any income or loss is reported on the members' respective income tax returns based on their proportionate share of ownership. Limited liability companies are however subject to New York City Unincorporated Business Tax when New York City business income exceeds a certain amount.

The Company's tax filings are subject to audit by various taxing authorities. The Company's Federal, New York State and New York City income tax returns for the year ended December 31, 2021 remains open to examination by relevant Internal Revenue Service and New York State and City taxing authorities. In evaluating the Company's tax provisions and accruals, the Company and its members believe that their estimates are appropriate based on current facts and circumstances.

New York State Pass-Through Entity Tax (PTET)

New York State has enacted a new pass-through entity tax (PTET) for years beginning on or after January 1, 2021. The PTET is an optional tax that pass-through entities may elect annually and allows a pass-through entity to pay state-level taxes on business income and claim a corresponding Federal deduction which in turn permits the individual members to maximize their eligible deductions subject to the state and local tax (SALT) cap. The Company did not elect to pay PTET for the tax year beginning January 1, 2022 and does not expect to make the election in the future.

Tax Related Penalties and Interest

The Company's policy is to record interest expense and penalties assessed by taxing authorities in operating expenses. For the year ended September 30, 2022 there was no interest and penalties expense recorded and no accrued interest and penalties.

NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Use of Estimates
The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Inventory
Restricted, and when applicable unrestricted, inventory is stated at the lower of cost or net realizable value.

NOTE 3 – RESTRICTED INVENTORY

Items purchased and subject to seller repurchase options are reported as restricted inventory. The purchase contracts that establish the seller repurchase options state whether the items purchased by the Company can be sold for a specified minimum price, or if the Company is prohibited from selling the items (Note 1). Management monitors the inventory to ascertain that the value of items is always well above its cost. Should the value of an item decline below cost management will require the conveyor to provide additional goods.

Restricted inventory which is restricted by the minimum sale price criteria during the repurchase option period totals $6,933,986 at cost. Restricted inventory which is completely restricted from being sold during the repurchase option period totals $40,203,788 at cost.

Should a restricted inventory item no longer be subject to an active seller repurchase option it is classified as inventory held for sale. At September 30, 2022 the Company has no items held for sale.

NOTE 4 – RELATED PARTY TRANSACTIONS

Office and Administrative Support
Office and administrative support is provided by Kwiat Enterprises, LLC, an entity that has common ownership with a member. During the year ended September 30, 2022 these services were provided at no cost to the Company, and Kwiat Enterprises, LLC intends to continue in this arrangement until at least December 31, 2022. A management fee is currently being negotiated among Kwiat Enterprises, LLC and the Company, to take effect in January 2023.

NOTE 4 – RELATED PARTY TRANSACTIONS (Continued)

Sales and Purchases
There were no sales to or purchases from related parties during the year ended September 30, 2022.

Due From / Due To Related Parties
At September 30, 2022 amounts payable to Kwiat Enterprises, LLC, an entity that has common ownership with a member, totaled $11,754 which represent costs paid on behalf of the Company. There were no amounts receivable from any related entities.

NOTE 5 – CONTRIBUTIONS FROM AND DISTRIBUTIONS TO A MEMBER

PhenixFIN Corp., a member of the Company, contributed capital totaling $54,175,707 to the Company during the year ended September 30, 2022. PhenixFIN Corp. received distributions totaling $13,101,324 during the same period.

NOTE 6 – COMMITMENTS AND CONTINGENCIES

Due to the repurchase options that restrict inventory the Company is contractually obligated not to sell while the sellers are entitled to exercise their repurchase options. Upon the exercise of a repurchase option the Company is committed to return the item or items relevant to that seller's repurchase option in exchange for a full return of the purchase amount that it paid and all fees. Upon expiration of a repurchase option the Company is clear of that commitment and may market the relevant inventory item or items to third parties on its own terms.

NOTE 7 – CONCENTRATIONS OF RISK

Major Sellers
The Company is introduced to sellers primarily through managers' industry reputations and network connections, as well as advertising. Management has decades' long business relationships with the sellers, stemming from prior business ventures. This may result in the Company earning a substantial portion of its revenue from relatively few Sellers in any given period. Revenue derived from these contracts may at times exceed 10% of the Company's total revenue.

Major Sellers (Continued)
During the year ended September 30, 2022 two interrelated sellers accounted for 43% and 41% of option extension fee income.

NOTE 8 – SUBSEQUENT EVENTS

In preparing the financial statements, the Company has evaluated events and transactions for potential recognition or disclosure through December 9, 2022, the date that the financial statements were available to be issued.

FlexFIN, LLC

555 Madison Avenue, Suite 1400, New York, NY 10022
Phone: 212-223-1111 Fax: 212-223-2796

December 9, 2022

Gibgot, Willenbacher & Co.
310 East Shore Road
Great Neck, New York 11023

Gentlemen:

This representation letter is provided in connection with your audit of the financial statements of FlexFIN, LLC, which comprise the balance sheet as of September 30, 2022, and the related statements of income and members' equity, and cash flows for the year then ended, and the disclosures (collectively, the "financial statements"), for the purpose of expressing an opinion as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States (U.S. GAAP).

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm, to the best of our knowledge and belief, as of December 9, 2022, the following representations made to you during your audit.

Financial Statements

1) We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated October 10, 2022, including our responsibility for the preparation and fair presentation of the financial statements.

2) The financial statements referred to above are fairly presented in conformity with U.S. GAAP.

3) We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

4) We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.

5) Significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.

6) Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with U.S. GAAP.

7) All events subsequent to the date of the financial statements and for which U.S. GAAP requires adjustment or disclosure have been adjusted or disclosed.

8) We are in agreement with the adjusting journal entries you have proposed and they have been posted to the Company's accounts.

9) The effects of all known actual or possible litigation, claims, and assessments have been accounted for and disclosed in accordance with U.S. GAAP.

10) Significant estimates and material concentrations have been properly disclosed in accordance with U.S. GAAP.

11) Guarantees, whether written or oral, under which the Company is contingently liable, have been properly recorded or disclosed in accordance with U.S. GAAP.

12) Revenue from contracts with customers has been appropriately accounted for and disclosed in accordance with *FASB ASC 606, Revenue from Contracts with Customers*. All contracts underlying revenue recognized in the financial statements have commercial substance and have been approved by appropriate parties. We have considered side agreements, implied promises, and unstated customary business practices in identifying performance obligations in the contracts. We have sufficient and appropriate documentation supporting all estimates and judgments underlying the amount and timing of revenue recognized in the financial statements.

13) We consider items purchased from our customers, which we are obligated to return to them in exchange for our purchase price upon exercise of repurchase options, as restricted inventory. Items listed as inventory are protected from seizure in case of bankruptcy of one of our customers.

14) Inventories recorded in the financial statements are stated at the lower of cost or net realizable value, cost being determined on the basis of specific identification. During the audit you did identify several items with an appraised market value below cost, but since our repurchase agreements give the seller the right to repurchase all, but not less than all items in the given agreement, we take a portfolio view on all of the assets involved and in aggregate there is no adjustment needed. No provision is necessary to reduce all slow-moving, excess, obsolete, or unusable inventories to their estimated net realizable value.

15) Inventory quantities at the balance sheet dates were determined from physical counts or from the Company's perpetual inventory records, which have been adjusted on the basis of physical inventories taken by competent employees at various times of the year. Inventory at cost totaled $47,137,774 at September 30, 2022 and $2,500,000 at September 30, 2021. This consists solely of items purchased (whether paid or payable) by FlexFIN, LLC and does not include any items on consignment from vendors.

16) Accounts receivable totaled $0 at September 30, 2022 and $0 at September 30, 2021.

17) Capital contributions from members totaled $54,175,707 during the year ended September 30, 2022 and totaled $2,427,000 during the year ended September 30, 2021.

18) Capital distributions to members totaled $13,101,324 during the year ended September 30, 2022 and totaled $0 during the year ended September 30, 2021.

Greg Kwiat, Member

Dated

Information Provided: We have provided you with:

a) Access to all information, of which we are aware, that is relevant to the preparation and fair presentation of the financial statements, such as records (including information obtained from outside of the general and subsidiary ledgers), documentation, and other matters.

b) Additional information that you have requested from us for the purpose of the audit.

c) Unrestricted access to persons within the Company from whom you determined it necessary to obtain audit evidence.

19) The opening balance sheet values at October 1, 2021 are as follows:

Account	Description	Balance at 9/30/2021
0001-00	Cash - FR	$ -
0005-00	Account Receivable	-
0010-00	Restricted Inventory	2,500,000
2000-00	Acc. Payable - Kwiat	(22,052)
2500-00	Due to PhenixFin	(49,293)
3110-00	Partners' Contributions	(2,427,000)
4000-00	Retained Earnings	(1,655)
	Total	$ -

20) All material transactions have been recorded in the accounting records and are reflected in the financial statements.

21) We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

22) We have no knowledge of any fraud or suspected fraud that affects the Company and involves:

a) Management,

b) Employees who have significant roles in internal control, or

c) Others where the fraud could have a material effect on the financial statements.

23) We have no knowledge of any allegations of fraud or suspected fraud affecting the Company's financial statements communicated by employees, former employees, analysts, regulators, or others.

24) We have no knowledge of any instances of noncompliance or suspected noncompliance with laws and regulations whose effects should be considered when preparing financial statements.

Greg Kwiat, Member

Dated

25) We are not aware of any pending or threatened litigation, claims, or assessments, or unasserted claims or assessments that are required to be accrued or disclosed in the financial statements in accordance with U.S. GAAP, and we have not consulted a lawyer concerning litigation, claims, or assessments.

26) We have disclosed to you the names of all of the Company's related parties and all the related party relationships and transactions, including any side agreements.

27) The Company has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.

28) We have fully disclosed to you all terms of contracts with customers that affect the amount and timing of revenue recognized in the financial statements, including delivery terms, rights of return or price adjustments, side agreements, implicit provisions, unstated customary business practices, and all warranty provisions.

29) In regard to the tax return preparation services performed by you, we have—

    a) Assumed all management responsibilities.

    b) Designated Simina Kroculick who has suitable skill, knowledge, or experience to oversee the services.

    c) Evaluated the adequacy and results of the services performed.

    d) Accepted responsibility for the results of the services.

    e) Ensured that the entity's data and records are complete and received sufficient information to oversee the services.

In regards to the financial statement preparation services performed by you, we have: Assumed all management responsibilities, overseen the services by designating an individual who possesses suitable skill, knowledge and/or experience, evaluated the adequacy and results of the services performed and accepted responsibility for the results of the service.

We are aware and acknowledge that it is the Trustee's, not Gibgot, Willenbacher & Co. and its partners and employees as the independent public accountants, responsibility to prevent and detect fraud or negligence. We have no knowledge of nor do we suspect that any fraud or negligence affecting the Trust, Trustee or others has occurred during the years ended September 30, 2022 and 2021 and to the date of this letter.

Greg Kwiat, Member

Dated