

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT  
Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 15, 2021

**PHENIXFIN CORPORATION**  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

814-00818  
(Commission file number)

27-4576073  
(I.R.S. employer  
identification no.)

445 Park Avenue, 10<sup>th</sup> Floor, New York, NY  
(Address of principal executive offices)

10022  
(Zip code)

Registrant's telephone number, including area code: **(212) 859-0390**

**Not Applicable**  
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of 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

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

## **Item 1.01 Entry Into a Material Definitive Agreement.**

On November 15, 2021, in connection with a previously announced public offering, PhenixFIN Corporation (the “Company”) and U.S. Bank National Association, as trustee (the “Trustee”), entered into a Fourth Supplemental Indenture (the “Fourth Supplemental Indenture”) to the Indenture, dated February 7, 2012, between the Company and the Trustee (together with the Fourth Supplemental Indenture, the “Indenture”). The Fourth Supplemental Indenture relates to the Company’s issuance, offer and sale of \$57,500,000 (including the underwriters’ option to purchase up to \$7,500,000 aggregate principal amount of the 2028 Notes (as defined below)) aggregate principal amount of its 5.25% Notes due 2028 (the “2028 Notes”).

The 2028 Notes will mature on November 1, 2028, unless previously redeemed or repurchased in accordance with their terms. The interest rate of the 2028 Notes is 5.25% per year, and interest on the 2028 Notes will be paid on February 1, May 1, August 1 and November 1 of each year, beginning on February 1, 2022. The 2028 Notes are the Company’s direct unsecured obligations and rank pari passu with the Company’s existing and future unsecured, unsubordinated indebtedness, including its 6.125% Notes due 2023 (the “2023 Notes”); senior to any series of preferred stock that the Company may issue in the future; senior to any of the Company’s future indebtedness that expressly provides it is subordinated to the 2028 Notes; effectively subordinated to any future secured indebtedness of the Company (including indebtedness that is initially unsecured to which the Company subsequently grants security), to the extent of the value of the assets securing such indebtedness; and structurally subordinated to all existing and future indebtedness and other obligations of any of the Company’s existing or future subsidiaries.

The 2028 Notes may be redeemed in whole or in part at any time or from time to time at the Company’s option on or after November 1, 2023, upon not less than 30 days nor more than 60 days written notice by mail prior to the date fixed for redemption thereof, at a redemption price of 100% of the outstanding principal amount of the 2028 Notes to be redeemed plus accrued and unpaid interest payments otherwise payable for the then-current quarterly interest period accrued to, but not including, the date fixed for redemption.

The Indenture contains certain covenants, including covenants requiring the Company, for the period of time during which the 2028 Notes are outstanding, to not incur additional indebtedness, including through the issuance of additional debt securities, or issue preferred stock unless its asset coverage, as defined in the Investment Company Act of 1940, as amended (the “1940 Act”), equals at least 200%, whether or not the Company continues to be subject to the 1940 Act, after giving effect to such borrowings and/or issuances; to not, for the period of time during which the 2028 Notes are outstanding, declare any dividend (except a dividend payable in its stock), or declare any other distribution, upon a class of its capital stock, or purchase any such capital stock, unless, in every such case, at the time of the declaration of any such dividend or distribution, or at the time of any such purchase, the Company has an asset coverage, as defined in the 1940 Act, of at least 200%, whether or not the Company continues to be subject to the 1940 Act and after deducting the amount of such dividend, distribution or purchase price, as the case may be, and except that the Company will be permitted to declare dividends or distributions on its capital stock to the extent necessary to maintain its status as a regulated investment company (“RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended; and to provide certain financial information to the holders of the 2028 Notes and the Trustee if the Company should no longer be subject to the reporting requirements under the Securities Exchange Act of 1934, as amended. These covenants are subject to important limitations and exceptions that are set forth in the Indenture.

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The 2028 Notes were offered and sold pursuant to the Company's effective shelf registration statement on Form N-2 (Registration No. 333-258913) 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. This Current Report on Form 8-K shall not constitute an offer to sell or a solicitation of an offer to buy any securities, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or other jurisdiction. The transaction closed on November 15, 2021.

The Company intends to use the net proceeds from the offering of its 2028 Notes to redeem a portion of the outstanding principal amount of the 2023 Notes.

The description above is only a summary of the material provisions of the Fourth Supplemental Indenture and the 2028 Notes and is qualified in its entirety by reference to copies of the Fourth Supplemental Indenture and the 2028 Notes, respectively, each filed as exhibits to this Current Report on Form 8-K and incorporated by reference herein.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth under Item 1.01 of this Form 8-K is incorporated herein by reference.

**Item 8.01 Other Events.**

On November 15, 2021, 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 \$55,325,000 in aggregate principal amount of issued and outstanding 2023 Notes at a price equal to 100% of the principal amount of the 2023 Notes, plus accrued and unpaid interest on the 2023 Notes to, but excluding, the date of redemption, in accordance with the terms of the indenture governing the 2023 Notes. The Company expects the redemption to be completed on December 16, 2021. Following the redemption, approximately \$22.5 million in aggregate principal amount of the 2023 Notes will remain outstanding. The Company intends to fund the redemption of the 2023 Notes with the net proceeds of the issuance of its 2028 Notes, as described in further detail in Item 1.01 of this Current Report on Form 8-K. This Current Report on Form 8-K does not constitute a notice of redemption of the 2023 Notes. A copy of the notice of redemption is attached to this Current Report on Form 8-K as Exhibit 99.1 and is incorporated herein by reference.

*Statements included herein may constitute "forward-looking statements." Statements other than statements of historical facts included in this report may constitute forward-looking statements and are not guarantees of future performance, condition or results and involve a number of risks and uncertainties. Actual results may differ materially from those in the forward-looking statements as a result of a number of factors, including those described from time to time in the Company's filings with the Securities and Exchange Commission. The Company undertakes no duty to update any forward-looking statement made herein. All forward-looking statements speak only as of the date of this report.*

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
4.1	<a href="#"><u>Fourth Supplemental Indenture between PhenixFIN Corporation and U.S. Bank National Association, dated as of November 15, 2021.</u></a>
4.2	<a href="#"><u>Form of Global Note with respect to the 5.25% Notes due 2028, incorporated by reference to Exhibit 4.1 hereto.</u></a>
5.1	<a href="#"><u>Opinion of Kramer Levin Naftalis &amp; Frankel LLP.</u></a>
23.1	<a href="#"><u>Consent of Kramer Levin Naftalis &amp; Frankel LLP (included in Exhibit 5.1 hereto).</u></a>
99.1	<a href="#"><u>Notice of Redemption, dated November 15, 2021</u></a>

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, PhenixFIN Corporation has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

DATE: November 15, 2021

**PHENIXFIN CORPORATION**

/s/ David Lorber

Name: David Lorber

Title: Chief Executive Officer

**FOURTH SUPPLEMENTAL INDENTURE**

between

**PHENIXFIN CORPORATION**

and

**U.S. BANK NATIONAL ASSOCIATION,**

as Trustee

**Dated as of November 15, 2021****FOURTH SUPPLEMENTAL INDENTURE**

THIS FOURTH SUPPLEMENTAL INDENTURE (this “Fourth Supplemental Indenture”), dated as of November 15, 2021, is between PhenixFIN Corporation (formerly known as Medley Capital Corporation), a Delaware corporation (the “Company”), and U.S. Bank National Association, as trustee (the “Trustee”). All capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Base Indenture (as defined below).

**RECITALS OF THE COMPANY**

The Company and the Trustee executed and delivered an Indenture, dated as of February 7, 2012 (the “Base Indenture” and, as amended and supplemented by this Fourth Supplemental Indenture, the “Indenture”), to provide for the issuance by the Company from time to time of the Company’s unsecured debentures, notes or other evidences of indebtedness (the “Securities”), to be issued in one or more series as provided in the Indenture.

The Company desires to issue and sell \$50,000,000 in aggregate principal amount (or up to \$57,500,000 in aggregate principal amount if the underwriters’ option to purchase additional Notes is exercised in full) of the Company’s 5.25% Notes due 2028 (the “Notes”).

The Company previously entered into the First Supplemental Indenture, dated as of March 21, 2012 (the “First Supplemental Indenture”), the Second Supplemental Indenture, dated as of March 18, 2013 (the “Second Supplemental Indenture”) and the Third Supplemental Indenture, dated as of December 17, 2015 (the “Third Supplemental Indenture”) each of which amended and supplemented the Base Indenture. The First Supplemental Indenture, the Second Supplemental Indenture and the Third Supplemental Indenture are not applicable to the Notes.

Sections 901(5) and 901(7) of the Base Indenture provide that without the consent of Holders of the Securities of any series issued under the Indenture, the Company, when authorized by or pursuant to a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental to the Base Indenture to (i) change or eliminate any of the provisions of the Indenture when there is no Security Outstanding of any series created prior to the execution of the supplemental indenture that is entitled to the benefit of such provision and (ii) establish the form or terms of Securities of any series as permitted by Section 201 and Section 301 of the Base Indenture.

The Company desires to establish the form and terms of the Notes and to modify, alter, supplement and change certain provisions of the Base Indenture for the benefit of the Holders of the Notes (except as may be provided in a future supplemental indenture to the Indenture applicable to the Notes (“Future Supplemental Indenture”).

The Company has duly authorized the execution and delivery of this Fourth Supplemental Indenture to provide for the issuance of the Notes and amendment of certain provisions of the Base Indenture as herein provided and all acts and things necessary to make this Fourth Supplemental Indenture a valid, binding, and legal obligation of the Company and to constitute a valid agreement of the Company, in accordance with its terms, have been done and performed.

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NOW, THEREFORE, for and in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Notes, as follows:

**ARTICLE I**  
**TERMS OF THE NOTES**

**Section 1.01 Terms of the Notes.** The following terms relating to the Notes are hereby established:

(a) The Notes shall constitute a series of Senior Securities having the title “5.25% Notes due 2028.” The Notes shall bear a CUSIP number of 71742W 301 and an ISIN number of US71742W3016.

(b) The aggregate principal amount of the Notes that may be initially authenticated and delivered under the Indenture (except for Notes authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, other Notes pursuant to Sections 304, 305, 306, 906, 1107 or 1305 of the Base Indenture, and except for any Securities that, pursuant to Section 303 of the Base Indenture, are deemed never to have been authenticated and delivered under the Indenture) shall be \$57,500,000. Under a Board Resolution, Officers’ Certificate pursuant to Board Resolutions or an indenture supplement, the Company may from time to time, without the consent of the Holders of Notes, issue additional Notes (in any such case “Additional Notes”) having the same ranking and the same interest rate, maturity and other terms as the Notes; provided that, if such Additional Notes are not fungible with the Notes (or any other tranche of Additional Notes) for U.S. federal income tax purposes, then such Additional Notes shall have different CUSIP numbers from the Notes (and any such other tranche of Additional Notes). Any Additional Notes and the existing Notes will constitute a single series under the Indenture and all references to the relevant Notes herein shall include the Additional Notes unless the context otherwise requires.

(c) The entire outstanding principal of the Notes shall be payable on November 1, 2028, unless earlier redeemed or repurchased in accordance with the provisions of the Indenture.

(d) The rate at which the Notes shall bear interest shall be 5.25% per annum (the “Applicable Interest Rate”). The date from which interest shall accrue on the Notes shall be November 15, 2021, or the most recent Interest Payment Date to which interest has been paid or provided for; the Interest Payment Dates for the Notes shall be February 1, May 1, August 1 and November 1 of each year, commencing February 1, 2022 (if an Interest Payment Date falls on a day that is not a Business Day, then the applicable interest payment will be made on the next succeeding Business Day and no additional interest will accrue as a result of such delayed payment); the initial interest period will be the period from and including November 15, 2021, to, but excluding, the initial Interest Payment Date, and the subsequent interest periods will be the periods from and including an Interest Payment Date to, but excluding, the next Interest Payment Date or the Stated Maturity, as the case may be; the interest so payable, and punctually paid or duly provided for, on any Interest Payment Date, will be paid to the Person in whose name the Note (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be January 15, April 15, July 15 or October 15 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Payment of principal of (and premium, if any, on) and any such interest on the Notes will be made at the Corporate Trust Office of the Trustee in Boston, Massachusetts in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; provided, however, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register; *provided, further, however*, that so long as the Notes are registered to Cede & Co., such payment will be made by wire transfer in accordance with the procedures established by The Depository Trust Company and the Trustee. Interest on the Notes will be computed on the basis of a 360-day year of twelve 30-day months.

(e) The Notes shall be initially issuable in global form (each such Note, a “Global Note”). The Global Notes and the Trustee’s certificate of authentication thereon shall be substantially in the form of Exhibit A to this Fourth Supplemental Indenture. Each Global Note shall represent the aggregate principal amount of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee or the Security Registrar, in accordance with Sections 203 and 305 of the Base Indenture.

(f) The depository for such Global Notes (the “Depository”) shall be The Depository Trust Company, New York, New York. The Security Registrar with respect to the Global Notes shall be the Trustee.

(g) The Notes shall be defeasible pursuant to Section 1402 or Section 1403 of the Base Indenture. Covenant defeasance contained in Section 1403 of the Base Indenture shall apply to the covenants contained in Sections 1007, 1008 and 1009 of the Indenture.

(h) The Notes shall be redeemable pursuant to Section 1101 of the Base Indenture and as follows:

(i) The Notes will be redeemable in whole or in part at any time or from time to time, at the option of the Company, on or after November 1, 2023, at a Redemption Price equal to 100% of the outstanding principal amount thereof plus accrued and unpaid interest payments otherwise payable for the then-current quarterly interest period accrued to, but excluding, the Redemption Date.

(ii) Notice of redemption shall be given in writing and mailed, first-class postage prepaid or by overnight courier guaranteeing next-day delivery, to each Holder of the Notes to be redeemed, not less than thirty (30) nor more than sixty (60) days prior to the Redemption Date, at the Holder’s address appearing in the Security Register. All notices of redemption shall contain the information set forth in Section 1104 of the Base Indenture.

(iii) Any exercise of the Company’s option to redeem the Notes will be done in compliance with the Indenture and the Investment Company Act to the extent applicable.

(iv) If the Company elects to redeem only a portion of the Notes, the Trustee or the Depository, as applicable, will determine the method for selecting the particular Notes to be redeemed, in accordance with Section 1103 of the Indenture and the Investment Company Act and the rules of any national securities exchange or quotation system on which the Notes are listed, in each case to the extent applicable.

(v) Unless the Company defaults in payment of the Redemption Price, on and after the Redemption Date, interest will cease to accrue on the Notes called for redemption hereunder.

(i) The Notes shall not be subject to any sinking fund pursuant to Section 1201 of the Base Indenture.

(j) The Notes shall be issuable in denominations of \$25 and integral multiples of \$25 in excess thereof.

(k) Holders of the Notes will not have the option to have the Notes repaid prior to the Stated Maturity.

(l) The Notes are hereby designated as “Designated Senior Securities” under the Indenture.

## ARTICLE II DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

**Section 2.01** Except as may be provided in a Future Supplemental Indenture, for the benefit of the Holders of the Notes but no other series of Securities under the Indenture, whether now or hereafter issued and Outstanding, Article One of the Base Indenture shall be amended by adding the following defined terms to Section 101 in appropriate alphabetical sequence, as follows:

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any statute successor thereto.”

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, the opinions and pronouncements of the Public Company Accounting Oversight Board and the statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession in the United States, which are in effect from time to time.”

“‘Investment Company Act’ means the Investment Company Act of 1940, as amended, and the rules, regulations and interpretations promulgated thereunder, to the extent applicable, and any statute successor thereto.”

### ARTICLE III COVENANTS

**Section 3.01** Except as may be provided in a Future Supplemental Indenture, for the benefit of the Holders of the Notes but no other series of Securities under the Indenture, whether now or hereafter issued and Outstanding, Article Ten of the Base Indenture shall be amended by adding the following new Sections 1007, 1008 and 1009 thereto, each as set forth below:

“Section 1007. Asset Coverage Requirement.

The Company hereby agrees that for the period of time during which the Notes are Outstanding, the Company will not incur additional indebtedness, including through the issuance of additional debt securities, or issue preferred stock unless the Company’s asset coverage (as defined in the Investment Company Act) equals at least 200 per centum, whether or not the Company continues to be subject to the Investment Company Act, after giving effect to such borrowings and/or issuances.”

“Section 1008. Dividends, Distributions, Purchases.

The Company hereby agrees that for the period of time during which the Notes are Outstanding, the Company will not declare any dividend (except a dividend payable in stock of the issuer), or declare any other distribution, upon a class of the capital stock of the Company, or purchase any such capital stock, unless, in every such case, at the time of the declaration of any such dividend or distribution, or at the time of any such purchase, the Company has an asset coverage (as defined in the Investment Company Act) of at least 200 per centum, whether or not the Company continues to be subject to the Investment Company Act and after deducting the amount of such dividend, distribution or purchase price, as the case may be, and except that the Company will be permitted to declare dividends or distributions on its capital stock to the extent necessary to maintain the Company’s status as a regulated investment company under Subchapter M of the Code.”

“Section 1009. Commission Reports and Reports to Holders.

If, at any time, the Company is not subject to the reporting requirements of Sections 13 or 15(d) of the Exchange Act to file any periodic reports with the Commission, the Company agrees to furnish to the Holders of Notes and the Trustee for the period of time during which the Notes are Outstanding: (i) within 90 days after the end of the each fiscal year of the Company, audited annual consolidated financial statements of the Company and (ii) within 45 days after the end of each fiscal quarter of the Company (other than the Company’s fourth fiscal quarter), unaudited interim consolidated financial statements of the Company. All such financial statements shall be prepared, in all material respects, in accordance with GAAP.”

### ARTICLE IV REDEMPTION OF SECURITIES

**Section 4.01** Except as may be provided in a Future Supplemental Indenture, for the benefit of the Holders of the Notes but no other series of Securities under the Indenture, whether now or hereafter issued and Outstanding, Section 1103 of the Base Indenture shall be amended by replacing the heading and the first paragraph thereof with the following:

“Section 1103. Selection of Securities to Be Redeemed.

If less than all the Securities of any series issued on the same day with the same terms are to be redeemed, the particular Securities to be redeemed shall be selected not more than 60 days prior to the Redemption Date by the Trustee, or by the Depository in the case of global Securities, from the Outstanding Securities of such series issued on such date with the same terms not previously called for redemption, in compliance with the requirements of The Depository Trust Company and in compliance with the requirements of the principal national securities exchange on which the Securities are listed (if the Securities are listed on any national securities exchange), or if the Securities are not held through The Depository Trust Company or listed on any national securities exchange, or The Depository Trust Company prescribed no method of selection, on a pro rata basis, or by such method as the Trustee shall deem fair and appropriate and subject to and otherwise in accordance with the procedures of the applicable Depository; provided that such method may provide for the selection for redemption of portions (equal to the minimum authorized denomination for Securities of that series or any integral multiple thereof) of the principal amount of Securities of such series of a denomination larger than the minimum authorized denomination for Securities of that series; provided, however, that no such partial redemption shall reduce the portion of the principal amount of a Security not redeemed to less than the minimum authorized denomination for Securities of such series.”

**ARTICLE V**  
**MEETINGS OF HOLDERS OF SECURITIES**

**Section 5.01** Except as may be provided in a Future Supplemental Indenture, for the benefit of the Holders of the Notes but no other series of Securities under the Indenture, whether now or hereafter issued and Outstanding, Section 1505 of the Base Indenture shall be amended by replacing clause (c) thereof with the following:

“(c) At any meeting of Holders, each Holder of a Security of such series or proxy shall be entitled to one vote for each \$25.00 principal amount of the Outstanding Securities of such series held or represented by such Holder; provided, however, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Security of such series or proxy.”

**ARTICLE VI**  
**MISCELLANEOUS**

**Section 6.01** This Fourth Supplemental Indenture and the Notes shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of laws. This Fourth Supplemental Indenture is subject to the provisions of the Trust Indenture Act that are required to be part of the Indenture and shall, to the extent applicable, be governed by such provisions.

**Section 6.02** In case any provision in this Fourth Supplemental Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 6.03** This Fourth Supplemental Indenture may be executed in counterparts, each of which will be an original, but such counterparts will together constitute but one and the same Fourth Supplemental Indenture. The exchange of copies of this Fourth Supplemental Indenture and of signature pages by facsimile, .pdf transmission, email or other electronic means shall constitute effective execution and delivery of this Fourth Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, .pdf transmission, email or other electronic means shall be deemed to be their original signatures for all purposes. Any reference to “execute”, “executed”, “sign”, “signed”, “signature” or any other like term hereunder shall include execution by electronic signature (including, without limitation, any .pdf file, .jpeg file, or any other electronic or image file, or any “electronic signature” as defined under the U.S. Electronic Signatures in Global and National Commerce Act (E-SIGN) or the New York Electronic Signatures and Records Act (ESRA), which includes any electronic signature provided using Orbit, Adobe Fill & Sign, Adobe Sign, DocuSign, or any other similar platform identified by the Company and reasonably available at no undue burden or expense to the Trustee). Any such electronic signatures shall be valid, effective and legally binding as if such electronic signatures were handwritten signatures and shall be deemed to have been duly and validly delivered for all purposes hereunder. The Company agrees to assume all risks arising out of the use of using digital signatures and electronic methods to submit communications to Trustee, including without limitation the risk of Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

**Section 6.04** The Base Indenture, as supplemented and amended by this Fourth Supplemental Indenture, is in all respects ratified and confirmed, and the Base Indenture and this Fourth Supplemental Indenture shall be read, taken and construed as one and the same instrument with respect to the Notes. All provisions included in this Fourth Supplemental Indenture supersede any conflicting provisions included in the Base Indenture with respect to the Notes, unless not permitted by law. The Trustee accepts the trusts created by the Base Indenture, as supplemented by this Fourth Supplemental Indenture, and agrees to perform the same upon the terms and conditions of the Base Indenture, as supplemented by this Fourth Supplemental Indenture.

**Section 6.05** The provisions of this Fourth Supplemental Indenture shall become effective as of the date hereof.

**Section 6.06** Notwithstanding anything else to the contrary herein, the terms and provisions of this Fourth Supplemental Indenture shall apply only to the Notes and shall not apply to any other series of Securities under the Indenture and this Fourth Supplemental Indenture shall not and does not otherwise affect, modify, alter, supplement or change the terms and provisions of any other series of Securities under the Indenture, whether now or hereafter issued and Outstanding.

**Section 6.07** The recitals contained herein and in the Notes, except the Trustee's certificate of authentication, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Fourth Supplemental Indenture, the Notes or any Additional Notes, except that the Trustee represents that it is duly authorized to execute and deliver this Fourth Supplemental Indenture, authenticate the Notes and any Additional Notes and perform its obligations hereunder. The Trustee shall not be accountable for the use or application by the Company of the Notes or any Additional Notes or the proceeds thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Supplemental Indenture to be duly executed as of the date first above written.

**PHENIXFIN CORPORATION**

By: /s/ David Lorber

Name: David Lorber

Title: Chief Executive Officer

**U.S. BANK NATIONAL ASSOCIATION,**

as Trustee

By: /s/ Steven Gomes

Name: Steven Gomes

Title: Vice President

*[Signature page to Fourth Supplemental Indenture]*

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Exhibit A – Form of Global Note

This Security is a Global Note within the meaning of the Indenture hereinafter referred to and is registered in the name of The Depository Trust Company or a nominee thereof. This Security may not be exchanged in whole or in part for a Security registered, and no transfer of this Security in whole or in part may be registered, in the name of any Person other than The Depository Trust Company or a nominee thereof, except in the limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment and such certificate issued in exchange for this certificate is registered in the name of Cede & Co., or such other name as requested by an authorized representative of The Depository Trust Company, any transfer, pledge or other use hereof for value or otherwise by or to any person is wrongful, as the registered owner hereof, Cede & Co., has an interest herein.

PhenixFIN Corporation

No.

\$  
CUSIP No. 71742W 301  
ISIN No. US71742W3016

5.25% Notes due 2028

PhenixFIN Corporation, a corporation duly organized and existing under the laws of Delaware (herein called the “Company,” which term includes any successor Person under the Indenture hereinafter referred to), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of U.S. DOLLARS (U.S.\$ ) on November 1, 2028, and to pay interest thereon from November 15, 2021, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, quarterly on February 1, May 1, August 1 and November 1 in each year, commencing February 1, 2022, at the rate of 5.25% per annum, until the principal hereof is paid or made available for payment. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Indenture, be paid to the Person in whose name this Security is registered at the close of business on the Regular Record Date for such interest, which shall be January 15, April 15, July 15 and October 15 (whether or not a Business Day), as the case may be, next preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities of this series not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities of this series may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture. This Security may be issued as part of a series.

Payment of the principal of (and premium, if any, on) and any such interest on this Security will be made at the Corporate Trust Office of the Trustee in Boston, Massachusetts in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts; *provided, however*, that at the option of the Company payment of interest may be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register; *provided, further, however*, that so long as this Security is registered to Cede & Co., such payment will be made by wire transfer in accordance with the procedures established by The Depository Trust Company and the Trustee.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

**PHENIXFIN CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

Attest

By: \_\_\_\_\_  
Name:  
Title:

Exh. A - 2

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This is one of the Securities of the series designated therein referred to in the within-mentioned Indenture.

Dated:

**U.S. BANK NATIONAL ASSOCIATION**  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

Exh. A - 3

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## PhenixFIN Corporation

### 5.25% Notes due 2028

This Security is one of a duly authorized issue of Senior Securities of the Company (herein called the “Securities”), issued and to be issued in one or more series under an Indenture, dated as of February 7, 2012 (herein called the “Base Indenture”, which term shall have the meaning assigned to it in such instrument), between the Company and U.S. Bank National Association, as Trustee (herein called the “Trustee”, which term includes any successor trustee under the Base Indenture), and reference is hereby made to the Base Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee, and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered, as supplemented by the Fourth Supplemental Indenture relating to the Securities, dated as of November 15, 2021, by and between the Company and the Trustee (herein called the “Fourth Supplemental Indenture”; the Fourth Supplemental Indenture and the Base Indenture collectively are herein called the “Indenture”). In the event of any conflict between the Base Indenture and the Fourth Supplemental Indenture, the Fourth Supplemental Indenture shall govern and control.

This Security is one of the series designated on the face hereof, which series is initially limited in aggregate principal amount to \$ (or up to \$ in aggregate principal amount if the underwriters’ option to purchase additional Securities is exercised in full). Under a Board Resolution, Officers’ Certificate pursuant to Board Resolutions or an indenture supplement, the Company may from time to time, without the consent of the Holders of Securities, issue additional Securities of this series (in any such case “Additional Securities”) having the same ranking and the same interest rate, maturity and other terms as the Securities; provided that, if such Additional Securities are not fungible with the Securities (or any other tranche of Additional Securities for U.S. federal income tax purposes, then such Additional Securities shall have a different CUSIP number from the Securities (and any such other tranche of Additional Securities). Any Additional Securities and the existing Securities will constitute a single series under the Indenture and all references to the relevant Securities herein shall include the Additional Securities unless the context otherwise requires. The aggregate amount of outstanding Securities represented hereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions.

The Securities of this series are subject to redemption in whole or in part at any time or from time to time, at the option of the Company, on or after November 1, 2023, at a Redemption Price per security equal to 100% of the outstanding principal amount thereof plus accrued and unpaid interest payments otherwise payable for the then-current quarterly interest period accrued to, but excluding, the Redemption Date.

Notice of redemption shall be given in writing and mailed, first-class postage prepaid or by overnight courier guaranteeing next-day delivery, to each Holder of the Securities to be redeemed, not less than thirty (30) nor more than sixty (60) days prior to the Redemption Date, at the Holder’s address appearing in the Security Register. All notices of redemption shall contain the information set forth in Section 1104 of the Base Indenture.

Any exercise of the Company’s option to redeem the Securities will be done in compliance with the Indenture and the Investment Company Act, to the extent applicable.

If the Company elects to redeem only a portion of the Securities, the Trustee or the Depository, as applicable, will determine the method for selecting the particular Securities to be redeemed, in accordance with the Indenture and the Investment Company Act and the rules of any national securities exchange or quotation system on which the Securities are listed, in each case to the extent applicable. In the event of redemption of this Security in part only, a new Security or Securities of this series and of like tenor for the unredeemed portion hereof will be issued in the name of the Holder hereof upon the cancellation hereof.

Unless the Company defaults in payment of the Redemption Price, on and after the Redemption Date, interest will cease to accrue on the Securities called for redemption.

Holders of Securities do not have the option to have the Securities repaid prior to November 1, 2028.

The Indenture contains provisions for defeasance at any time of the entire indebtedness of this Security or certain restrictive covenants and Events of Default with respect to this Security, in each case upon compliance with certain conditions set forth in the Indenture.

If an Event of Default with respect to Securities of this series shall occur and be continuing, the principal of the Securities of this series may be declared due and payable in the manner and with the effect provided in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Securities of each series to be affected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of not less than a majority in principal amount of the Securities at the time Outstanding of each series to be affected. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Securities of each series at the time Outstanding, on behalf of the Holders of all Securities of such series, to waive compliance by the Company with certain provisions of the Indenture and certain past defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Security.

As provided in and subject to the provisions of the Indenture, the Holder of this Security shall not have the right to institute any proceeding with respect to the Indenture or for the appointment of a receiver or trustee or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Securities of this series, the Holders of not less than 25% in principal amount of the Securities of this series at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, and the Trustee shall not have received from the Holders of a majority in principal amount of Securities of this series at the time Outstanding a direction inconsistent with such request, and shall have failed to institute any such proceeding, for sixty (60) days after receipt of such notice, request and offer of indemnity. The foregoing shall not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of principal hereof or any premium or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Indenture and no provision of this Security or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and any premium and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in any place where the principal of and any premium and interest on this Security are payable, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities of this series and of like tenor, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities of this series are issuable only in registered form without coupons in denominations of \$25 and any integral multiples of \$25 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, Securities of this series are exchangeable for a like aggregate principal amount of Securities of this series and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company or Trustee may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, whether or not this Security be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

All terms used in this Security which are defined in the Indenture shall have the meanings assigned to them in the Indenture.

To the extent any provision of this Security conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

The Indenture and this Security shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of laws.



# Kramer Levin

November 15, 2021

PhenixFIN Corporation  
445 Park Avenue, 10<sup>th</sup> Floor  
New York, NY 10022

Ladies and Gentlemen:

We have acted as counsel to PhenixFIN Corporation, a Delaware corporation (the "Issuer"), in connection with the registration statement on Form N-2 (File No. 333-258913) (the "Registration Statement") filed by the Issuer with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Act"), declared effective by the Commission, relating to the public offering of securities of the Issuer that may be offered by the Issuer from time to time as set forth in the prospectus dated October 19, 2021, which forms a part of the Registration Statement (the "Prospectus"), and as may be set forth from time to time in one or more supplements to the Prospectus. This opinion is delivered in connection with the issuance and sale of \$57,500,000 aggregate principal amount of the Issuer's 5.25% Notes due 2028 (the "Securities") as described in the Prospectus and a prospectus supplement dated November 9, 2021 (the "Prospectus Supplement"). All of the Securities are to be sold by the Issuer as described in the Registration Statement, the Prospectus and the Prospectus Supplement.

In rendering this opinion, we have examined copies of the following documents:

- A. Registration Statement;
- B. Prospectus;
- C. Prospectus Supplement;
- D. Certificate of Incorporation of the Issuer and Amendments No. 1 and No. 2 to the Certificate of Incorporation of the Issuer;
- E. Bylaws of the Issuer and Amendments No. 1, No. 2 and No. 3 to the Bylaws of the Issuer;
- F. Indenture dated as of February 7, 2012 (the "Base Indenture"), as supplemented by the Fourth Supplemental Indenture dated as of November 15, 2021 (the "Fourth Supplemental Indenture") and, together with the Base Indenture, the "Indenture"), between the Company and U.S. Bank National Association, as trustee;

1177 AVENUE OF THE AMERICAS NEW YORK NY 10036-2714 PHONE 212.715.9100 FAX 212.715.8000  
990 MARSH ROAD MENLO PARK CA 94025-1949 PHONE 650.752.1700 FAX 650.752.1800  
47 AVENUE HOICHE 75008 PARIS FRANCE PHONE (33-1) 44 09 46 00 FAX (33-1) 44 09 46 01  
WWW.KRAMERLEVIN.COM

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November 15, 2021

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- G. Underwriting Agreement, dated as of November 9, 2021, between the Company and Oppenheimer & Co. Inc., as representative of the several underwriters named in Exhibit A thereto (the “Underwriting Agreement”), pursuant to which the Securities will be sold;
- H. Certificate of Good Standing with respect to the Issuer issued by the Secretary of State for the State of Delaware as of a recent date;
- I. Resolutions of the Board of Directors of the Issuer relating to, among other things, (i) the authorization and approval of the preparation and filing of the Registration Statement, (ii) the authorization, issuance and sale of the Securities and (iii) the authorization, execution and delivery of the Indenture and any supplements thereto; and
- J. A specimen copy of the form of the Securities to be issued pursuant to the Indenture in the form attached to the Indenture.

We have also made such inquiries and reviewed such documents and records as we have deemed necessary or appropriate as a basis for our opinion. As to factual matters only, we have also relied upon the statements, representations and certificates of officers or other representatives of the Issuer, public officials and others. We have not independently verified the facts so relied on.

Based on the foregoing, and subject to the qualifications, limitations and assumptions set forth herein, we are of the opinion that the Securities, when (i) delivered to the underwriters against payment therefor in accordance with the terms of the Underwriting Agreement and (ii) duly executed, authenticated, issued and delivered in accordance with the terms and conditions of the Indenture, will be legally issued and will constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance or transfer and other similar laws relating to or affecting the rights and remedies of creditors generally and to general principles of equity, including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing (regardless of whether considered in a proceeding in equity or at law).

We express no opinion as to any laws other than the laws of the State of New York and the federal laws of the United States of America (the “Relevant Laws”).

The opinions expressed herein are based upon the Relevant Laws and interpretations thereof in effect on the date hereof, and the facts and circumstances in existence on the date hereof, and we assume no obligation to revise or supplement this opinion letter should any such law or interpretation be changed by legislative action, judicial decision or otherwise or should there be any change in such facts or circumstances.

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November 15, 2021  
Page 3

We hereby authorize the addressee of this opinion to file it as an exhibit to a Current Report on Form 8-K of the Issuer and consent to the incorporation by reference of this opinion into the Registration Statement and the reference to us under the captions “Legal Matters” in the prospectus that is a part of the Registration Statement and the Prospectus Supplement, without admitting that we are an “expert” within the meaning of the Act or the rules and regulations of the Commission thereunder with respect to any part of the Registration Statement or the Prospectus Supplement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act.

Very truly yours,

/s/ Kramer Levin Naftalis & Frankel LLP

Kramer Levin Naftalis & Frankel LLP

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## NOTICE OF REDEMPTION TO THE HOLDERS OF THE

**6.125% Senior Notes due 2023  
of PhenixFIN Corporation  
(CUSIP No. 71742W 202)\*****Redemption Date: December 16, 2021**

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 National Association (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 \$55,325,000 of the Company's issued and outstanding 6.125% Notes due 2023 (the "Notes"), comprising a portion of all issued and outstanding Notes, on December 16, 2021 (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 September 30, 2021, 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 \$715,382.99 (or approximately \$0.3233 on each \$25 principal amount of the Redeemed Notes).

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. Upon the surrender of any Notes that are to be redeemed in part, the Holder of such Notes shall receive, without charge, a new Note or Notes in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Notes surrendered.

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**  
**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.*

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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](http://www.usbank.com/corporatetrust) and click on the “Bondholder Services” link.

Dated: November 15, 2021

*PhenixFIN Corporation*

By: **U.S. Bank National Association**, as  
Trustee and Paying Agent

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned have executed this Notice of Redemption as of this 15<sup>th</sup> day of November, 2021.

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]*

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