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

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**FORM 8-K**

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**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported):  
March 5, 2012**

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**THE GOLDMAN SACHS GROUP, INC.**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction  
of incorporation)

**No. 001-14965**  
(Commission  
File Number)

**No. 13-4019460**  
(IRS Employer  
Identification No.)

**200 West Street**  
**New York, New York**  
(Address of principal executive offices)

**10282**  
(Zip Code)

**Registrant's telephone number, including area code: (212) 902-1000**

**N/A**  
(Former name or former address, if changed since last report)

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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))
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### **Item 9.01 Financial Statements and Exhibits.**

Exhibits are filed herewith in connection with the issuance of the following securities by Murray Street Investment Trust I (the "Trust") and The Goldman Sachs Group, Inc. (the "Company") on March 9, 2012, pursuant to the Company's automatic shelf registration statement on Form S-3 (File No. 333-176914) (as amended, the "Registration Statement"):

- \$1,750,010,000 aggregate liquidation amount of the Trust's 4.647% Senior Guaranteed Trust Securities due 2017, guaranteed on a senior basis by the Company; and
- \$1,750,010,000 aggregate principal amount of the Company's Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017.

#### **(d) Exhibits.**

The following exhibits are incorporated by reference into the Registration Statement as exhibits thereto and are filed as part of this Current Report:

- 1.1 Distribution Agreement, dated March 5, 2012, among Murray Street Investment Trust I, The Goldman Sachs Group, Inc. and Goldman, Sachs & Co. as representative of the several Agents named therein.
- 4.1 Sixth Supplemental Indenture, dated as of March 9, 2012, between The Goldman Sachs Group, Inc., as Issuer, and The Bank of New York Mellon, as Trustee, with respect to the junior subordinated notes of The Goldman Sachs Group, Inc.
- 4.2 Guarantee Agreement, dated as of March 9, 2012, between The Goldman Sachs Group, Inc., as Guarantor, and The Bank of New York Mellon, as Guarantee Trustee, with respect to Murray Street Investment Trust I.
- 4.3 Amended and Restated Declaration of Trust, dated as of March 9, 2012, among The Goldman Sachs Group, Inc. as Sponsor, The Bank of New York Mellon, as Property Trustee, BNY Mellon Trust of Delaware, as Delaware Trustee, the Administrative Trustees and the several Holders of the Trust Securities, with respect to Murray Street Investment Trust I.
- 5.1 Opinion of Richards, Layton & Finger, P.A.
- 5.2 Opinion of Sullivan & Cromwell LLP.
- 8.1 Tax Opinion of Sullivan & Cromwell LLP.
- 23.1 Consent of Richards, Layton & Finger, P.A. (included as part of Exhibit 5.1).
- 23.2 Consent of Sullivan & Cromwell LLP (included as part of Exhibits 5.2 and 8.1).

SIGNATURE

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

THE GOLDMAN SACHS GROUP, INC.  
(Registrant)

Date: March 9, 2012

By: /s/ Kenneth L. Josselyn  
Name: Kenneth L. Josselyn  
Title: Assistant Secretary

**MURRAY STREET INVESTMENT TRUST I**  
**4.647% Senior Guaranteed Trust Securities**  
**(Liquidation amount \$1,000 per Trust Security)**  
**guaranteed by**  
**THE GOLDMAN SACHS GROUP, INC.**  
**DISTRIBUTION AGREEMENT**

March 5, 2012

Goldman, Sachs & Co.,  
As representative of the Agents  
named in Schedule I hereto,  
200 West Street,  
New York, New York 10282.

Ladies and Gentlemen:

Murray Street Investment Trust I (the "**Trust**"), a statutory trust created under the Statutory Trust Act of the State of Delaware (the "**Delaware Statutory Trust Act**"), and The Goldman Sachs Group, Inc., a Delaware corporation, as sponsor of the Trust and as guarantor (the "**Guarantor**"), propose, subject to the terms and conditions stated herein, that the Trust issue and sell an aggregate of 1,750,010 4.647% Trust Preferred Securities (liquidation amount \$1,000 per Trust Preferred Security) (the "**Securities**"), representing undivided beneficial interests in the assets of the Trust, guaranteed by the Guarantor as to the payment of distributions and payments on liquidation or redemption (the "**Guarantee**") pursuant to a guarantee agreement (the "**Guarantee Agreement**") between the Guarantor and The Bank of New York Mellon, as trustee (including any successor trustee, the "**Guarantee Trustee**"). The proceeds of the sale of the Securities by the Trust are to be used to purchase \$1,750,010,000 Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017 (the "**Junior Subordinated Notes**") of the Guarantor, to be issued pursuant to the Subordinated Debt Indenture, dated as of February 20, 2004, as amended and supplemented by the Second Supplemental Indenture, dated as of May 15, 2007, the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture (the "**Indenture**"), each between the Guarantor and The Bank of New York Mellon, as trustee (including any successor trustee, the "**Note Trustee**"). The Agents named in Schedule I hereto (the "**Agents**") are undertaking to solicit and receive offers for the Securities. The term "**Representative**" refers to Goldman, Sachs & Co. acting as representative of the Agents. All determinations and actions required or permitted to be made by the Representative on behalf of the Agents (including determinations as to whether or not any closing condition has been satisfied and whether or not any unsatisfied conditions shall be waived) shall be made solely by the Representative on behalf of the Agents.

The Trust and the Guarantor acknowledge and agree that Goldman Sachs & Co. may use the Prospectus (as defined below) in connection with offers and sales of the Securities as contemplated in the Prospectus under the caption “Plan of Distribution – Market-Making Resales by Affiliates” (“**Secondary Market Transactions**”). The Trust and the Guarantor further acknowledge and agree that Goldman, Sachs & Co. is under no obligation to effect any Secondary Market Transactions and, if it does so, it may discontinue effecting such transactions at any time without providing any notice to the Trust or the Guarantor. The term “**Agent**”, whenever used in this Agreement, shall include Goldman, Sachs & Co., whether acting in its capacity as an Agent or acting in connection with a Secondary Market Transaction, except as may be specifically provided otherwise herein.

1. Each of the Guarantor and the Trust, jointly and severally, represents and warrants to, and agrees with, each of the Agents that:

(a) An “automatic shelf registration statement” as defined under Rule 405 under the Securities Act of 1933, as amended (the “**Act**”), on Form S-3 (File No. 333-176914) in respect of the Securities has been filed with the Securities and Exchange Commission (the “**Commission**”) not earlier than three years prior to the date hereof; such registration statement, and any post-effective amendment thereto, became effective on filing; and no stop order suspending the effectiveness of such registration statement or any part thereof has been issued and no proceeding for that purpose has been initiated or threatened by the Commission, and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act has been received by the Guarantor (the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the “**Base Prospectus**”); any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act is hereinafter called a “**Preliminary Prospectus**”; the various parts of such registration statement, including all exhibits thereto but excluding Form T-1 and including any prospectus supplement relating to the Securities that is filed with the Commission and deemed by virtue of Rule 430B to be part of such registration statement, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the “**Registration Statement**”; the Base Prospectus, as amended and supplemented immediately prior to the Applicable Time (as defined in Section 1(c) hereof), is hereinafter called the “**Pricing Prospectus**”; the form of the final prospectus relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof is hereinafter called the “**Prospectus**”; any reference herein to the Base Prospectus, the Pricing Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Act, as of the date of such prospectus; any reference to any amendment or supplement to the Base Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act and any documents filed under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), and

incorporated therein, in each case after the date of the Base Prospectus, such Preliminary Prospectus or the Prospectus, as the case may be; and any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Guarantor filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement);

(b) No order preventing or suspending the use of any Preliminary Prospectus or any “issuer free writing prospectus” as defined in Rule 433 under the Act relating to the Securities (an “**Issuer Free Writing Prospectus**”) has been issued by the Commission, and each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the Trust Indenture Act of 1939, as amended (the “**Trust Indenture Act**”), and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Guarantor by an Agent through Goldman, Sachs & Co. expressly for use therein;

(c) For the purposes of this Agreement, the “**Applicable Time**” is 4:40 p.m. (New York City time) on the date of this Agreement; the Pricing Prospectus together with the statements under the caption “Specific Terms of the Senior Guaranteed Securities – Terms of the Senior Guaranteed Securities” in, and the information in the table on the front cover of, the Prospectus (collectively, the “**Pricing Disclosure Package**”) as of the Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus listed on Schedule II(a) hereto (if any) does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the Prospectus and each such Issuer Free Writing Prospectus, as supplemented by and taken together with the Pricing Disclosure Package as of the Applicable Time, did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in an Issuer Free Writing Prospectus in reliance upon and in conformity with information furnished in writing to the Guarantor by an Agent through Goldman, Sachs & Co. expressly for use therein;

(d) The documents incorporated by reference in the Pricing Prospectus and the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein, or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

any further documents so filed and incorporated by reference in the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Guarantor by an Agent through Goldman, Sachs & Co. expressly for use therein; and no such documents were filed with the Commission since the Commission's close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement, except as set forth on Schedule II(a) hereto;

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the requirements of the Act and the Trust Indenture Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement and as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Guarantor by an Agent through Goldman, Sachs & Co. expressly for use therein;

(f) Neither the Guarantor nor any of its subsidiaries that are listed in the Guarantor's latest annual report on Form 10-K pursuant to the requirements of Form 10-K and Item 601(b)(21) of the Commission's Regulation S-K and are "significant subsidiaries" as defined in Rule 1-02(w) of the Commission's Regulation S-X (the "***Significant Subsidiaries***") has sustained since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Pricing Prospectus; and since the respective dates as of which information is given in the Registration Statement and the Pricing Prospectus, there has not been any material adverse change in the capital stock or long-term debt of the Guarantor or any of its Significant Subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, stockholders' equity or results of operations of the Guarantor and its subsidiaries, otherwise than as set forth or contemplated in the Pricing Prospectus;

(g) The Guarantor has been duly incorporated and is validly existing as a corporation in good standing under the laws of the State of Delaware, with power and authority (corporate and other) to own its properties and conduct its business as described in the Pricing Prospectus;

(h) The Trust has been duly created and is validly existing as a statutory trust in good standing under the Delaware Statutory Trust Act with the power and authority to own its properties and conduct its business as described in the Prospectus, and the Trust has conducted no business to date other than as contemplated by this Agreement; the Trust is not a party to or bound by any agreement or instrument other than this Agreement, the Amended and Restated Declaration of Trust (the “**Trust Declaration**”), among the Guarantor, the trustees named therein (including any successor trustees, the “**Trustees**”) and the holders of the Securities issued thereunder, and the agreements and instruments contemplated by the Trust Declaration; the Trust has no liabilities or obligations other than those arising out of the transactions contemplated by this Agreement and the Trust Declaration and described in the Pricing Prospectus; the Trust is not classified as an association taxable as a corporation for United States federal income tax purposes; and the Trust is not a party to or subject to any action, suit or proceeding of any nature;

(i) The Guarantor has an authorized capitalization as set forth in the Pricing Prospectus, and all of the issued shares of capital stock of the Guarantor have been duly and validly authorized and issued and are fully paid and non-assessable;

(j) The Securities have been duly authorized and, when issued and delivered pursuant to this Agreement, will have been duly executed, authenticated, issued and delivered and will constitute valid and legally binding obligations of the Trust entitled to the benefits provided by the Guarantor Agreements (as defined in Section 1(k) below); the Indenture and the Guarantee have been duly authorized and duly qualified under the Trust Indenture Act and, when executed and delivered by the Guarantor and, in the case of the Indenture, by the Note Trustee, and in the case of the Guarantee, by the Guarantee Trustee, will constitute valid and legally binding instruments, enforceable in accordance with their terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles;

(k) The Guarantee, the Junior Subordinated Notes, the Trust Declaration, the Indenture and the Note Purchase Agreement among the Guarantor, the Trust, Goldman Sachs Capital II and Goldman, Sachs & Co. (the “**Note Purchase Agreement**”) (the Guarantee, the Junior Subordinated Notes, the Trust Declaration, the Indenture and the Note Purchase Agreement being collectively referred to as the “**Guarantor Agreements**”), when validly executed and delivered by the Guarantor and, in the case of the Guarantee, by the Guarantee Trustee, in the case of the Trust Declaration, by the Trustees and, in the case of the Indenture, by the Note Trustee, will constitute valid and legally binding obligations of the Guarantor, enforceable in accordance with their terms subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors’ rights and to general equity principles; and the Securities and the Guarantor Agreements will conform to the descriptions thereof in the Pricing Prospectus;



(l) The issue and sale of the Securities, the compliance by the Guarantor and the Trust with all of the provisions of the Securities, the Guarantor Agreements, and this Agreement and the consummation of the transactions herein and therein contemplated will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Guarantor is a party or by which the Guarantor is bound or to which any of the property or assets of the Guarantor is subject, nor will such action result in any violation of the provisions of the Restated Certificate of Incorporation or Amended and Restated By-laws of the Guarantor or any statute or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Guarantor or any of its properties; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities by the Trust or the consummation by the Guarantor and the Trust of the transactions contemplated by this Agreement or the Guarantor Agreements, except such as have been obtained under the Act and the Trust Indenture Act and such consents, approvals, authorizations, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the solicitation of offers to purchase and distribution of the Securities by the Agents;

(m) Neither the Guarantor nor any of its Significant Subsidiaries is in violation of its organizational documents or in default in the performance or observance of any material obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound;

(n) The statements set forth in the Pricing Prospectus and the Prospectus under the captions “Specific Terms of the Senior Guaranteed Securities”, “Description of the Trust, the Senior Guaranteed Securities, the Guarantee and the Notes – The Senior Guaranteed Trust Securities” and “Description of the Senior Guaranteed Securities” insofar as they purport to constitute a summary of the terms of the Securities, under the captions “Description of the Trust, the Senior Guaranteed Securities, the Guarantee and the Notes – Guarantee” and “Description of the Guarantees” insofar as they purport to constitute a summary of the terms of the Guarantee; under the captions “Description of the Trust, the Senior Guaranteed Securities, the Guarantee and the Notes – Junior Subordinated Notes” and “Description of the Junior Subordinated Notes” insofar as they purport to constitute a summary of the terms of the Junior Subordinated Notes, and under the captions “Material United States Federal Income Tax Considerations – Treatment of the Senior Guaranteed Trust Securities” and “Plan of Distribution”, insofar as they purport to describe the provisions of the laws and documents referred to therein, are accurate, complete and fair;

(o) Other than as set forth in the Pricing Prospectus, there are no legal or governmental proceedings pending to which the Guarantor or any of its subsidiaries is a party or of which any property of the Guarantor or any of its subsidiaries is the subject which, if determined adversely to the Guarantor or any of its subsidiaries, would individually or in the aggregate have a material adverse effect on the current or future

consolidated financial position, stockholders' equity or results of operations of the Guarantor and its subsidiaries; and, to the best of the Guarantor's knowledge, no such proceedings are threatened or contemplated by governmental authorities or threatened by others;

(p) The Trust is not and, after giving effect to the offering and sale of the Securities and the application of the proceeds thereof, will not be an "investment company", as such term is defined in the Investment Company Act of 1940, as amended (the "*Investment Company Act*");

(q) (A) (i) At the time of filing the Registration Statement, (ii) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (iii) at the time the Guarantor or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Act) made any offer relating to the Securities in reliance on the exemption of Rule 163 under the Act, the Guarantor was a "well-known seasoned issuer" as defined in Rule 405 under the Act; and (B) at the earliest time after the filing of the Registration Statement that the Guarantor or another offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Securities, the Guarantor was not an "ineligible issuer" as defined in Rule 405 under the Act;

(r) The Guarantor and its Significant Subsidiaries possess all authorizations issued by the appropriate Federal, state and foreign governments, governmental or regulatory authorities, self-regulatory organizations and all courts or other tribunals, and are members in good standing of each Federal, state or foreign exchange, board of trade, clearing house or association and self-regulatory or similar organization necessary to conduct their respective businesses as described in the Pricing Prospectus, except as would not, individually or in the aggregate, have a material adverse effect on the prospects, financial position, stockholders' equity or results of operations of the Guarantor and its subsidiaries;

(s) PricewaterhouseCoopers LLP, who certified certain financial statements of the Guarantor and its subsidiaries, are and audited the Guarantor's internal control over financial reporting are an independent registered accounting firm as required by the Act and the rules and regulations of the Commission thereunder;

(t) The Guarantor maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that complies with the requirements of the Exchange Act and has been designed by the Guarantor's principal executive officer and principal financial officer, or under their 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. Except as disclosed in the Pricing Prospectus, the Guarantor's internal control over financial reporting is effective and the Guarantor is not aware of any material weaknesses in its internal control over financial reporting; and

(u) The Guarantor maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Guarantor and its subsidiaries is made known to the Guarantor's principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective.

2. Subject to the terms and conditions herein set forth, the Trust agrees to issue and the Agents agree to use their commercially reasonable efforts to obtain offers to purchase, the Securities at a purchase price of 102.792% of the liquidation amount thereof, plus accrued distributions, if any, from March 9, 2012 to the Time of Delivery (as defined below) hereunder.

As compensation for the performance of their services as Agents hereunder, and in view of the fact that the proceeds from the sale of the Securities will be used by the Trust to purchase the Junior Subordinated Notes, the Guarantor at the Time of Delivery will pay by wire transfer of immediately available funds to Goldman, Sachs & Co., for the account of the Agents, \$6,125,035.00 in the aggregate, to be allocated to each Agent in the proportions set forth in Schedule I hereto at the Time of Delivery.

3. Reserved.

4. (a) The Securities to be issued and sold by the Trust hereunder will be represented by one or more definitive global Securities in book-entry form which will be deposited by or on behalf of the Trust with The Depository Trust Company ("**DTC**") or its designated custodian. The Trust will deliver the Securities to Goldman, Sachs & Co., for the account of each purchaser, against payment by or on behalf of the purchasers of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Trust to Goldman, Sachs & Co. at least forty-eight hours in advance, by causing DTC to credit the Securities to the account of Goldman, Sachs & Co. at DTC. The Trust will cause the certificates representing the Securities to be made available to Goldman, Sachs & Co. for checking prior to the Time of Delivery (as defined below) at the office of DTC or its designated custodian (the "**Designated Office**"). The time and date of such delivery and payment shall be 9:30 a.m., New York City time, on March 9, 2012 or at such other place and time and date as Goldman, Sachs & Co., the Guarantor and the Trust may agree upon in writing. Such time and date are herein called the "**Time of Delivery**".

(b) The documents to be delivered at the Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross-receipt for the Securities and any additional documents requested by the Agents pursuant to Section 8(k) hereof, will be delivered at the offices of Sullivan & Cromwell LLP, 125 Broad St., New York, New York 10004 (the "**Closing Location**"), and the Securities will be delivered at the Designated Office, all at the Time of Delivery. A meeting will be held at

the Closing Location at 1:00 p.m., New York City time, on the New York Business Day next preceding the Time of Delivery, at which meeting the final drafts of the documents to be delivered pursuant to the preceding sentence will be available for review by the parties hereto. For the purposes of this Section 4, "***New York Business Day***" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. Each of the Guarantor and the Trust, jointly and severally, agrees with each of the Agents:

(a) To prepare the Prospectus in a form approved by you and to file the Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the date of this Agreement; to make no further amendment or any supplement to the Registration Statement, the Base Prospectus or the Prospectus prior to the Time of Delivery which shall be disapproved by you promptly after reasonable notice thereof; to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; if requested by Goldman, Sachs & Co. prior to the Applicable Time, to prepare a final term sheet, containing solely a description of the Securities, in substantially the form set forth in Schedule III hereto and to file such term sheet pursuant to Rule 433(d) under the Act within the time required by such Rule; to file promptly all other material required to be filed by the Guarantor with the Commission pursuant to Rule 433(d) under the Act; to file promptly all reports and any definitive proxy or information statements required to be filed by the Guarantor with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required in connection with the offering or sale of the Securities (including, in the case of Goldman, Sachs & Co., in any Secondary Market Transactions during the Secondary Transactions Period (as defined in Section 5A(a) hereof)), and during such same period to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any supplement to the Prospectus or any amended Prospectus has been filed with the Commission, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and, in the event of the issuance of any such stop order or of any such order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities or suspending any such qualification, to promptly use its best efforts to obtain the withdrawal of such order; and in the event of any such issuance of a notice of objection, promptly to take such steps

including, without limitation, amending the Registration Statement or filing a new registration statement, at its own expense, as may be necessary to permit offers and sales of the Securities as contemplated by this Agreement (references herein to the Registration Statement shall include any such amendment or new registration statement);

(b) If required by Rule 430B(h) under the Act, to prepare a form of prospectus in a form approved by you and to file such form of prospectus pursuant to Rule 424(b) under the Act not later than may be required by Rule 424(b) under the Act; and to make no further amendment or supplement to such form of prospectus which shall be disapproved by you promptly after reasonable notice thereof;

(c) If by the third anniversary (the “**Renewal Deadline**”) of the initial effective date of the Registration Statement, any of the Agents has purchased Securities that remain unsold, the Guarantor and the Trust will file, if they have not already done so and are eligible to do so, a new automatic shelf registration statement relating to the Securities, in a form satisfactory to you. If at the Renewal Deadline the Guarantor and the Trust are no longer eligible to file an automatic shelf registration statement, the Guarantor and the Trust will, if it they have not already done so, file a new shelf registration statement relating to the Securities, in a form satisfactory to you and will use their best efforts to cause such registration statement to be declared effective within 180 days after the Renewal Deadline. The Guarantor and the Trust will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating to the Securities. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be;

(d) Promptly from time to time to take such action as you may reasonably request to qualify the Securities for offering and sale under the securities laws of such jurisdictions as you may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities (including, in the case of Goldman, Sachs & Co., in any Secondary Market Transactions during the Secondary Transactions Period), provided that in connection therewith neither the Trust nor the Guarantor shall be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction;

(e) Prior to 10:00 a.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, to furnish the Agents with written and electronic copies of the Prospectus in New York City in such quantities as you may reasonably request, and, if the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities (or, in the case of Goldman, Sachs & Co., in connection with any Secondary Market Transactions during the Secondary Transactions Period, whether before or after such expiration) and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any

material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such same period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference in the Prospectus in order to comply with the Act, the Exchange Act or the Trust Indenture Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Agent and to any dealer in securities as many written and electronic copies as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Agent is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Agent, to prepare and deliver to such Agent as many written and electronic copies as you may request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act (it being understood, however, that the preceding clause, rather than this clause, shall apply with respect to Goldman, Sachs & Co. in connection with any Secondary Market Transactions during the Secondary Transactions Period); provided, however, that the Guarantor and the Trust may elect, upon notice to Goldman, Sachs & Co., not to comply with this paragraph (e) with respect to any Secondary Market Transaction, but only for a period or periods that the Guarantor reasonably determines are necessary in order to avoid premature disclosure of material, non-public information, unless, notwithstanding such election, such disclosure would otherwise be required under this Agreement; and provided, further, that no such period or periods described in the preceding proviso shall exceed 90 days in the aggregate during any period of 12 consecutive calendar months. Upon receipt of any such notice, Goldman, Sachs & Co. shall cease using the Prospectus or any amendment or supplement thereto in connection with Secondary Market Transactions until it receives notice from the Guarantor that it may resume using such document (or such document as it may be amended or supplemented);

(f) To make generally available to its security holders as soon as practicable, but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Guarantor and its subsidiaries (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Guarantor, Rule 158);

(g) To issue the Guarantee and to cause Goldman Sachs Capital II to sell the Junior Subordinated Notes pursuant to the Note Purchase Agreement to the Trust concurrently with the issue and sale of the Securities as contemplated herein;

(h) During the period beginning from the date hereof and continuing to and including the later of (i) the termination of trading restrictions for the Securities as notified to the Guarantor by you and (ii) the Time of Delivery, not to offer, sell, contract to sell or otherwise dispose of, except as provided hereunder any securities of the Guarantor that are substantially similar to the Securities, without your prior written consent;

(i) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Act; and

(j) To use the net proceeds received by it from the sale of the Securities pursuant to this Agreement to purchase the Junior Subordinated Notes from Goldman Sachs Capital II pursuant to the Note Purchase Agreement.

5A. Each of the Guarantor and the Trust, jointly and severally, agrees with Goldman, Sachs & Co., with respect to the issuance of the Securities:

(a) To make no amendment or supplement to the Registration Statement, the Base Prospectus or the Prospectus during the Secondary Transactions Period which shall be disapproved by Goldman, Sachs & Co. promptly after reasonable notice thereof. The “*Secondary Transactions Period*” means the period beginning on the date hereof and continuing for as long as may be required under applicable law, in the reasonable judgment of Goldman, Sachs & Co. after consultation with the Guarantor, in order to offer and sell any such Securities in Secondary Market Transactions as contemplated by the Pricing Prospectus;

(b) During the Secondary Transactions Period, to furnish to Goldman, Sachs & Co. copies of all reports or other communications (financial or other) furnished to stockholders generally, and to deliver to Goldman, Sachs & Co. (i) as soon as they are available, copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange on which the Securities or any class of securities of the Guarantor is listed; and (ii) such additional information concerning the business and financial condition of the Guarantor as Goldman, Sachs & Co. may from time to time reasonably request (such financial statements to be on a consolidated basis to the extent the accounts of the Guarantor and its subsidiaries are consolidated in reports furnished to its stockholders generally or to the Commission); and

(c) Each time the Registration Statement, the Base Prospectus or the Prospectus shall be amended or supplemented during the Secondary Transactions Period, to furnish or cause to be furnished to Goldman, Sachs & Co., upon its request, written opinions of counsel for the Guarantor, a letter from the independent accountants who have certified the financial statements included in the Registration Statement as then amended and certificates of officers of the Guarantor, in each case in form and substance reasonably satisfactory to Goldman, Sachs & Co., all to the effect specified in subsections (c), (d) and (i), respectively, of Section 8 hereof (as modified to relate to the Registration Statement and the Prospectus as then amended or supplemented).

Notwithstanding the foregoing provisions, the Guarantor and the Trust may elect, upon notice to Goldman, Sachs & Co., not to comply with this Section 5A with respect to any

Secondary Market Transaction, but only for a period or periods that the Guarantor reasonably determines are necessary in order to avoid premature disclosure of material, non-public information, unless, notwithstanding such election, such disclosure would otherwise be required under this Agreement; and provided, further, that no such period or periods described in the preceding proviso shall exceed 90 days in the aggregate during any period of 12 consecutive calendar months. Upon receipt of any such notice, Goldman, Sachs & Co. shall cease using the Prospectus or any amendment or supplement thereto in connection with Secondary Market Transactions until it receives notice from the Guarantor that it may resume using such document (or such document as it may be amended or supplemented).

6. (a) The Guarantor and each Agent agree that the Agents may prepare and use one or more preliminary or final term sheets relating to the Securities containing customary information;

(i) Each Agent represents that, other than as permitted under subparagraph (a)(i) above, it has not made and will not make any offer relating to the Securities that would constitute a “free writing prospectus” as defined in Rule 405 under the Act without the prior consent of the Guarantor and Goldman, Sachs & Co. and that Schedule II(b) hereto is a complete list of any free writing prospectus for which the Agents have received such consent; and

(ii) The Guarantor and the Trust each represents and agrees that it has not made and will not make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus without the prior consent of Goldman, Sachs & Co. and that Schedule II(a) hereto is a complete list of any Issuer Free Writing Prospectuses for which the Guarantor has received such consent;

(b) The Guarantor and the Trustee have complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and

(c) The Guarantor agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurred or occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Guarantor will give prompt notice thereof to Goldman, Sachs & Co. and, if requested by Goldman, Sachs & Co., will prepare and furnish without charge to each Agent (or, in the case of any Secondary Market Transaction, to Goldman, Sachs & Co.) an Issuer Free Writing Prospectus or other document which will correct such conflict, statement or omission; provided, however, that this representation and warranty shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with information furnished in writing to the Guarantor by an Agent through Goldman, Sachs & Co. expressly for use therein.



7. Each of the Guarantor and the Trust, jointly and severally, covenants and agrees with the several Agents that the Guarantor and the Trust will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Guarantor's and the Trust's counsel and accountants in connection with the registration of the Securities under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, the Base Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Agents and dealers; (ii) the cost of printing or producing any Agreement among Agents, this Agreement, the Guarantor Agreements, the Blue Sky Memorandum, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all expenses in connection with the qualification of the Securities for offering and sale under state securities laws as provided in Section 5(d) hereof, including the fees and disbursements of counsel for the Agents in connection with such qualification and in connection with the Blue Sky survey; (iv) any fees charged by securities rating services for rating the Securities; (v) any filing fees incident to, and the fees and disbursements of counsel for the Agents in connection with, any required review by the Financial Industry Regulatory Authority, Inc. of the terms of the sale of the Securities; (vi) the cost of preparing the Securities; (vii) the fees and expenses of the Trustees, the Note Trustee and the Guarantee Trustee and any of their agents and the fees and disbursements of their counsel in connection with the Guarantor Agreements and the Securities; and (viii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section. It is understood, however, that, except as provided in this Section, and Sections 9 and 13 hereof, the Agents will pay all of their own costs and expenses, including the fees of their counsel, transfer taxes on resale of any of the Securities by them, the cost of preparing and distributing any term sheet prepared by any Agent, and any advertising expenses connected with any offers they may make.

8. The obligations of the Agents hereunder shall be subject, in your discretion, to the condition that all representations and warranties and other statements of the Guarantor and the Trust herein are, at and as of the Time of Delivery, true and correct, the condition that the Guarantor and the Trust shall have performed all of its obligations hereunder theretofore to be performed, and the following additional conditions:

(a) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; any final term sheet contemplated by Section 5(a) hereof, and any other material required to be filed by the Guarantor pursuant to Rule 433(d) under the Act shall have been filed with the Commission within the applicable time periods prescribed for such filings by Rule 433; no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act shall have been received; no stop order suspending or preventing the use of the Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Counsel for the Agents shall have furnished to you a written opinion and letter, dated the Time of Delivery, to the effect set forth in Annex I hereto;

(c) A General Counsel or Associate General Counsel for the Guarantor shall have furnished to you his or her written opinion, dated the Time of Delivery, in form and substance satisfactory to you, to the effect set forth in Annex II hereto;

(d) On the date hereof at a time prior to the execution of this Agreement and at the Time of Delivery for the Securities, the independent accountants shall have furnished to you a letter, dated the date hereof, and a letter, dated such Time of Delivery, respectively, to the effect set forth in Annex III hereto, and with respect to such letter dated such Time of Delivery, as to such other matters as you may reasonably request, and in form and substance satisfactory to Goldman, Sachs & Co.;

(e) (i) Neither the Guarantor nor any of its Significant Subsidiaries shall have sustained since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in the Pricing Prospectus, and (ii) since the respective dates as of which information is given in the Pricing Prospectus there shall not have been any change in the capital stock or long-term debt of the Guarantor or any of its Significant Subsidiaries or any change, or any development involving a prospective change, in or affecting the general affairs, management, financial position, stockholders' equity or results of operations of the Guarantor and its Significant Subsidiaries, otherwise than as set forth or contemplated in the Pricing Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in the judgment of Goldman, Sachs & Co. so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities on the terms and in the manner contemplated in the Prospectus;

(f) On or after the Applicable Time (i) no downgrading shall have occurred in the rating accorded the Guarantor's debt securities by any "nationally recognized statistical rating organization", as that term is defined by the Commission for purposes of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Guarantor's debt securities;

(g) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the New York Stock Exchange; (ii) a suspension or material limitation in trading in the Guarantor's securities on the New York Stock Exchange; (iii) a general moratorium on commercial banking activities declared by either Federal or New York State

authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war; or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in the judgment of Goldman, Sachs & Co. makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities on the terms and in the manner contemplated in the Prospectus;

(h) The Guarantor and the Trust shall have complied with the provisions of Section 5(e) hereof with respect to the furnishing of prospectuses on the New York Business Day next succeeding the date of this Agreement;

(i) Richards, Layton & Finger, P.A., special Delaware counsel for the Guarantor and the Trust, shall have furnished to the Representative their written opinion, dated the Time of Delivery, in form and substance satisfactory to the Representative, to the effect set forth in Annex IV hereto;

(j) Sullivan & Cromwell LLP, special tax counsel for the Guarantor, shall have furnished to the Representative their written opinion, dated the Time of Delivery, in form and substance satisfactory to the Representative, to the effect that such firm confirms its opinion set forth in the Pricing Prospectus under the caption "Material United States Federal Income Tax Considerations"; and

(k) The Guarantor shall have furnished or caused to be furnished to you at the Time of Delivery (i) certificates of officers of the Guarantor satisfactory to you as to the accuracy of the representations and warranties of the Guarantor herein at and as of such time, as to the performance by the Guarantor of all of its obligations hereunder to be performed at or prior to such time, as to the matters set forth in subsections (a) and (e) of this Section and as to such other matters as you may reasonably request and (ii) written confirmation of the ratings assigned to the Securities.

9. (a) Each of the Guarantor and the Trust, jointly and severally, will indemnify and hold harmless each Agent against any losses, claims, damages or liabilities, joint or several, to which such Agent may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon (i) an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Base Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus or any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Act or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or (ii) the engagement of the Agents pursuant to, or the performance by the Agents of the services contemplated by, this Agreement, and will reimburse each Agent for any legal or other expenses reasonably incurred by such Agent in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that neither the Guarantor nor the Trust shall be liable in any such case to the extent that any such loss, claim, damage or liability

arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Base Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with written information furnished to the Guarantor by any Agent through Goldman, Sachs & Co. expressly for use therein; and provided, further, that neither the Guarantor nor the Trust shall be liable under clause (ii) to the extent that such liability is judicially determined to have resulted from the bad faith, gross negligence or willful misconduct on the part of the Agents.

(b) Each Agent will indemnify and hold harmless the Guarantor and the Trust against any losses, claims, damages or liabilities to which the Guarantor or the Trust may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Base Prospectus, any Preliminary Prospectus or the Prospectus, or any amendment or supplement thereto, the Pricing Prospectus or any Issuer Free Writing Prospectus or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Base Prospectus, any Preliminary Prospectus or the Prospectus, or any such amendment or supplement thereto, the Pricing Prospectus or any Issuer Free Writing Prospectus, in reliance upon and in conformity with written information furnished to the Guarantor or the Trust by such Agent through Goldman, Sachs & Co. expressly for use therein; and will reimburse the Guarantor and the Trust for any legal or other expenses reasonably incurred by them in connection with investigating or defending any such action or claim as such expenses are incurred.

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under such subsection. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or

claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Guarantor and the Trust on the one hand and the Agents on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under subsection (c) above, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Guarantor and the Trust on the one hand and the Agents on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Guarantor and the Trust on the one hand and the Agents on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Guarantor and the Trust bear to the total commissions received by the Agents, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Guarantor or the Trust on the one hand or the Agents on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Guarantor, the Trust and the Agents agree that it would not be just and equitable if contribution pursuant to this subsection (d) were determined by pro rata allocation (even if the Agents were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Agent shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Agent has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such

fraudulent misrepresentation. The Agents' obligations in this subsection (d) to contribute are several in the same proportion as their entitlements to the commissions set forth in Section 2 and not joint.

(e) The obligations of the Guarantor and the Trust under this Section 9 shall be in addition to any liability which the Guarantor and the Trust may otherwise have and shall extend, upon the same terms and conditions, to each person, if any, who controls any Agent within the meaning of the Act and each broker-dealer affiliate of any Agent; and the obligations of the Agents under this Section 9 shall be in addition to any liability which the respective Agents may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Guarantor or the Trust and to each person, if any, who controls the Guarantor within the meaning of the Act.

10. Any Agent may resign and be discharged from its duties and obligations hereunder, and the Guarantor or the Trust may remove any Agent, by giving prior written notice to, in the case of a resignation, the Guarantor and the Trust, and, in the case of a removal, the removed Agent. The provisions of Sections 7 and 9 shall survive the resignation or removal of an Agent pursuant to this Agreement.

11. The respective indemnities, agreements, representations, warranties and other statements of the Guarantor and the Trust and the Agents, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Agent or any controlling person of any Agent, or the Guarantor and the Trust, or any officer or director or controlling person of the Guarantor or the Trust, and shall survive delivery of and payment for the Securities.

12. Anything herein to the contrary notwithstanding, the indemnity agreement of the Trust and the Guarantor in subsection (a) of Section 9 hereof, the representations and warranties in subsections (b) and (c) of Section 1 hereof and any representation or warranty as to the accuracy of the Registration Statement or the Prospectus contained in any certificate furnished by the Guarantor or the Trust pursuant to Section 8 hereof, insofar as they may constitute a basis for indemnification for liabilities (other than payment by the Guarantor and the Trust of expenses incurred or paid in the successful defense of any action, suit or proceeding) arising under the Act, shall not extend to the extent of any interest therein of a controlling person or partner of an Agent who is a director or officer of the Guarantor who signed the Registration Statement or a controlling person of the Guarantor or the Trust when the Registration Statement has become effective, except in each case to the extent that an interest of such character shall have been determined by a court of appropriate jurisdiction as not against public policy as expressed in the Act. Unless in the opinion of counsel for the Guarantor and the Trust the matter has been settled by controlling precedent, the Guarantor and the Trust will, if a claim for such indemnification is asserted, submit to a court of appropriate jurisdiction the question of whether such interest is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

13. If this Agreement shall be terminated pursuant to Section 10 hereof, neither the Guarantor nor the Trust shall then be under any liability to any Agent except as

provided in Sections 7 and 9 hereof; but, if for any other reason, the Securities are not delivered by or on behalf of the Trust as provided herein, the Guarantor and the Trust will reimburse the Agents through you for all out-of-pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Agents in making preparations for the purchase, sale and delivery of the Securities, but the Guarantor and the Trust shall then be under no further liability to any Agent except as provided in Sections 7 and 9 hereof.

14. In all dealings hereunder, Goldman, Sachs & Co. (and only Goldman, Sachs & Co.) shall act on behalf of each of the Agents (including with respect to any determination as to whether any condition to the obligations of the Agents has been satisfied, any representation or agreement of the Guarantor has been complied with or any such condition, representation or agreement may be waived), and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Agent made or given by Goldman, Sachs & Co.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Agents shall be delivered or sent by mail, telex or facsimile transmission to the Representative, c/o Goldman, Sachs & Co., at 200 West Street, New York, New York 10282, Attention: Registration Department; and if to the Guarantor or the Trust shall be delivered or sent by mail, telex or facsimile transmission to the address of the Guarantor or the Trust set forth in the Registration Statement, Attention: Secretary; provided, however, that any notice to an Agent pursuant to Section 9(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Agent at its address set forth in its Agents' Questionnaire, or telex constituting such Questionnaire, which address will be supplied to the Guarantor and the Trust by you upon request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

15. This Agreement shall be binding upon, and inure solely to the benefit of, the Agents, the Guarantor, the Trust and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Guarantor and the Trust and each person who controls the Guarantor, the Trust or any Agent, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities shall be deemed a successor or assign by reason merely of such purchase.

16. Time shall be of the essence of this Agreement. As used herein, the term "business day" shall mean any day when the Commission's office in Washington, D.C. is open for business.

17. The Guarantor and the Trust acknowledge and agrees that (i) no Agent has assumed an advisory or fiduciary responsibility in favor of the Guarantor or the Trust with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Agent has advised or is currently advising the Guarantor or the Trust on other matters) or any other obligation to the Guarantor or the Trust except the obligations expressly set forth in this Agreement and (ii) the Guarantor and the Trust have consulted their own legal and financial advisors to the extent they deemed appropriate. The Guarantor and the Trust agree that they will not claim that the Agents, or any of them, has rendered advisory services of any nature

or respect, or owes a fiduciary or similar duty to the Guarantor or the Trust, in connection with such transaction or the process leading thereto. The duties and obligations of the Agents shall be determined solely by the express provisions of this Agreement. No implied covenants or obligations of or against the Remarketing Agent shall be read into this Agreement. In the absence of bad faith on the part of the Agents, the Agents may conclusively rely upon any document furnished to it, which purports to conform to the requirements of this Agreement as to the truth of the statements expressed in any of such documents. The Agents shall be protected in acting upon any document or communication reasonably believed by it to have been signed, presented or made by the proper party or parties. The Agents, acting under this Agreements, shall incur no liability to the Guarantor or the Trust in its individual capacity or as Agent for any action or failure to act, on its part in connection with this Agreement or otherwise, except if such liability is judicially determined to have resulted from the bad faith, negligence or willful misconduct on its part.

18. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Guarantor and the Trust, on the one hand, and the Agents, or any of them, on the other hand, with respect to the subject matter hereof.

19. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

20. The Guarantor, the Trust and each of the Agents hereby irrevocably waives, to the fullest extent permitted by applicable 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.

21. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument.

22. Notwithstanding anything herein to the contrary, the Guarantor and the Trust are authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Guarantor or the Trust relating to that treatment and structure, without the Agents imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, "tax structure" is limited to any facts that may be relevant to that treatment.



If the foregoing is in accordance with your understanding, please sign and return to us four counterparts hereof, and upon the acceptance hereof by you, on behalf of each of the Agents, this letter and such acceptance hereof shall constitute a binding agreement between each of the Agents, the Guarantor and the Trust. It is understood that your acceptance of this letter on behalf of each of the Agents is pursuant to the authority set forth in a form of Agreement among Agents, the form of which shall be submitted to the Guarantor and the Trust for examination upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

Murray Street Investment Trust I

By: /s/ Ellis J. Whipple

Name: Ellis J. Whipple

Title: Administrative Trustee

The Goldman Sachs Group, Inc.

By: /s/ Ellis J. Whipple

Name: Ellis J. Whipple

Title: Assistant Treasurer

Accepted as of the date hereof:

(Goldman, Sachs & Co.)

By:                   /s/ Goldman, Sachs & Co.  
(Goldman, Sachs & Co.)

On behalf of each of the Agents

## SCHEDULE I

<u>Agent</u>	<u>Allocation of Sales Commission</u>
Goldman, Sachs & Co.	98.50%
Drexel Hamilton, LLC	0.50%
Loop Capital Markets, LLC	0.50%
Samuel A. Ramirez & Company, Inc.	<u>0.50%</u>
Total	<u><u>100%</u></u>

**SCHEDULE II(a)**

None

**SCHEDULE II(b)**

None

### SCHEDULE III

#### FORM OF FINAL TERM SHEET

<b>Issuer:</b>	Murray Street Investment Trust I
<b>Issue of Securities:</b>	4.647% Senior Guaranteed Trust Securities due 2017 (Liquidation amount \$1,000 per senior guaranteed trust security), fully and unconditionally guaranteed by The Goldman Sachs Group, Inc.
<b>Aggregate Liquidation Amount:</b>	U.S. \$1,750,010,000
<b>Coupon:</b>	5.593% (from and including December 1, 2011 to but excluding March 9, 2012); 4.647% (thereafter)
<b>Distribution Payment Dates:</b>	semi-annually in arrears on each June 1 and December 1, commencing on June 1, 2012.
<b>Mandatory Redemption:</b>	On March 9, 2017, at the Senior Guaranteed Trust Securities' liquidation amount plus accrued and unpaid distributions to the date of redemption.
<b>Clean Price to Public:</b>	101.269%
<b>Spread to Treasury:</b>	3.50% over 0.875 UST due 2/28/2017
<b>10yr UST Spot:</b>	100-02 1/4 / 0.861%
<b>Redemption in the Event of Tax Event or Investment Company Event:</b>	Issuer may redeem the Senior Guaranteed Trust Securities in whole, but not in part, within 60 days after the occurrence of a tax event or investment company event, at a redemption price equal to the greater of 100% of the principal amount thereof and the applicable make-whole amount, plus accrued and unpaid distributions to the date of redemption.
<b>Make-Whole Premium:</b>	U.S. Treasury + 50 bps
<b>Settlement Date:</b>	March 9, 2012 (T+3)
<b>Co-Managers:</b>	Goldman, Sachs & Co. Drexel Hamilton, LLC Loop Capital Markets, LLC Samuel A. Ramirez & Company, Inc.

## ANNEX I

### Form of Opinion of Counsel to the Agents

[date]

Goldman, Sachs & Co.,  
As Representative of the Agents,  
200 West Street,  
New York, New York 10282.

Ladies and Gentlemen:

In connection with (i) the issuance today by Murray Street Investment Trust I, a Delaware statutory trust (the "Issuer"), of \$1,750,010,000 liquidation amount of 4.647% Senior Guaranteed Trust Securities (the "Trust Securities"), representing undivided beneficial interests in the assets of the Issuer, issued pursuant to the Amended and Restated Declaration of Trust, dated as of March 9, 2012 (the "Declaration of Trust"), among The Goldman Sachs Group, Inc., a Delaware corporation (the "Company"), as Sponsor, The Bank of New York Mellon, as Property Trustee, BNY Mellon Trust of Delaware, as Delaware Trustee, the Administrative Trustees named therein (together, the "Issuer Trustees") and the several holders thereof from the Issuer, pursuant to the Distribution Agreement, dated March 5, 2012 (the "Distribution Agreement"), among the Issuer, the Company and you, as Representative of the several Agents named therein (the "Agents"), and (ii) the Issuer's purchase today of \$1,750,010,000 principal amount of Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017 (the "Notes") of the Company, issued pursuant to the Subordinated Debt Indenture, dated as of February 20, 2004 (the "Subordinated Debt Indenture"), as supplemented by the Second Supplemental Indenture, dated as of May 15, 2007, the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture (the "Supplemental Indenture" and, together with the Subordinated Debt Indenture, the "Indenture"), each between the Company and The Bank of New York Mellon, as Trustee (the "Note Trustee"), from Goldman Sachs Capital II, a Delaware statutory trust (the "Note Seller"), pursuant to the Note Purchase Agreement, dated as of March 5, 2012 (the "Note Purchase Agreement"), among the Issuer, the Company, Goldman, Sachs & Co. and the Note Seller, we, as counsel for the several Agents, have examined such corporate and trust records, certificates and other documents, and such questions of law, as we have considered necessary or appropriate for the purposes of this opinion. Upon the basis of such examination, we advise you that, in our opinion:

(1) The Company has been duly incorporated and is an existing corporation in good standing under the laws of the State of Delaware.

(2) All regulatory consents, authorizations, approvals and filings required to be obtained or made by the Company under the Federal laws of the United States, the laws of the State of New York and the General Corporation Law of the State of Delaware for the issuance, sale and delivery of the Trust Securities by the Issuer, the sale and delivery of the Notes by the

Note Seller to the Issuer, and the execution, delivery and performance by the Company of the Guarantee Agreement, dated as of March 9, 2012 (the "Guarantee Agreement"), between the Company, as Guarantor, and The Bank of New York Mellon, as Guarantee Trustee, have been obtained or made; *provided, however*, that for the purposes of this paragraph (2) we express no opinion with respect to federal or state securities laws or to any regulatory consent, authorization, approval or filing required to be obtained or made by the Note Seller or the Issuer.

(3) The sale of the Notes by the Note Seller to the Issuer in accordance with the Note Purchase Agreement, the execution and delivery of the Guarantee Agreement, the issuance of the Trust Securities in accordance with the Trust Declaration and the sale of the Trust Securities by the Issuer pursuant to the Distribution Agreement do not, and the performance by the Company of its obligations under the Notes, the Indenture, the Guarantee Agreement, the Note Purchase Agreement and the Distribution Agreement, and by the Issuer of its obligations under the Trust Securities, the Trust Declaration and the Note Purchase Agreement, and by the Note Seller of its obligations under the Note Purchase Agreement, and the consummation of the transactions therein contemplated, in each case with respect to the Notes and the Trust Securities, will not, (a) violate the Restated Certificate of Incorporation or the Amended and Restated By-laws of the Company, (b) result in a default under or breach of the agreements filed as exhibits nos. 10.1 through 10.61, inclusive, to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2011, or (c) violate any federal law of the United States or law of the State of New York applicable to the Company, the Trust or the Note Seller; *provided, however*, that for the purposes of this paragraph (3), we express no opinion with respect to federal or state securities laws, fraudulent transfer laws, other antifraud laws and the Employee Retirement Income Security Act of 1974 and related laws or with respect to any laws insofar as they may apply to the Issuer; and *provided, further*, that insofar as the performance by the Company, the Trust or the Note Seller of its obligations, if any, under the Notes, the Indenture, the Guarantee Agreement, the Note Purchase Agreement and the Distribution Agreement is concerned, we express no opinion as to bankruptcy, insolvency, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights.

(4) The Indenture has been duly authorized, executed and delivered by the Company and duly qualified under the Trust Indenture Act of 1939; the Notes have been duly authorized, executed, authenticated, issued and delivered; and the Indenture and the Notes constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(5) The Trust Declaration has been duly authorized, executed and delivered by the Company and duly qualified under the Trust Indenture Act of 1939.

(6) Each of the Guarantee Agreement and the Note Purchase Agreement has been duly authorized, executed and delivered by the Company and constitutes a valid and legally binding obligation of the Company enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles; and the Guarantee Agreement has been duly qualified under the Trust Indenture Act of 1939. For the

purposes of this paragraph (6), however, we express no opinion with respect to any obligations that the Company, the Issuer and the Issuer Trustees may have with respect to the Trust Securities or the Trust Declaration or the effect that their performance of such obligations may have on the matters addressed in this paragraph (6).

(7) The Distribution Agreement has been duly authorized, executed and delivered by the Company.

(8) Neither the Issuer nor the Company is, and immediately after giving effect to the offering and sale of the Trust Securities (as well as the use of all the proceeds from the sale of the Trust Securities by the Issuer to purchase the Notes from the Note Seller) will be, an “investment company” as such term is defined in the Investment Company Act of 1940.

The foregoing opinion is limited to the federal laws of the United States, the laws of the State of New York and the General Corporation Law of the State of Delaware, and we are expressing no opinion as to the effect of the laws of any other jurisdiction.

We have relied as to certain matters upon information obtained from public officials, officers of the Company, the Issuer Trustees and other sources believed by us to be responsible, and we have assumed that (i) the Indenture has been duly authorized, executed and delivered by the Note Trustee, (ii) the Trust Declaration has been duly executed and delivered by the Issuer under Delaware law and has been duly authorized, executed and delivered by each of the Issuer Trustees, (iii) the Guarantee Agreement has been duly authorized, executed and delivered by the Guarantee Trustee, (iv) the Notes conform to the specimen thereof examined by us, (v) the Note Trustee’s certificate of authentication of the Notes has been manually signed by one of the Note Trustee’s authorized officers, (vi) each of the Issuer and the Note Seller has been duly created and is validly existing under the Delaware Statutory Trust Act and the Note Purchase Agreement and the Distribution Agreement are valid and legally binding obligations of the Trust and the Note Purchaser, as the case may be, and (vii) the signatures on all documents examined by us are genuine, assumptions which we have not independently verified.

Very truly yours,



## Form of Letter of Counsel to the Agents

[date]

Goldman, Sachs & Co.,  
As Representative of the Agents,  
200 West Street,  
New York, New York 10282.

Ladies and Gentlemen:

This is with reference to the registration under the Securities Act of 1933 (the “Securities Act”) and offering of 1,750,010 4.647% Senior Guaranteed Trust Securities, liquidation amount \$1,000 per security (the “Securities”), of Murray Street Investment Trust I, a Delaware statutory trust (the “Trust”), and the related guarantee thereof by The Goldman Sachs Group, Inc., a Delaware corporation (the “Guarantor”), which is the sponsor of the Trust and the guarantor under the Guarantee Agreement referred to below.

The Registration Statement relating to the Securities and the related securities (including the Notes and the Guarantee (each as defined in the Prospectus Supplement referred to below and, collectively, the “Related Securities”)) (File Nos. 333-176914) was filed on Form S-3 in accordance with procedures of the Securities and Exchange Commission (the “Commission”) permitting a delayed or continuous offering of securities pursuant thereto and, if appropriate, a post-effective amendment, document incorporated by reference therein or prospectus supplement that provides information relating to the terms of the securities and the manner of their distribution. The Securities have been offered by the Prospectus, dated February 16, 2012 (the “Base Prospectus”), as supplemented by the Prospectus Supplement, dated March 5, 2012 (the “Prospectus Supplement”), which updates or supplements certain information contained in the Base Prospectus. The Base Prospectus, as supplemented by the Prospectus Supplement, does not necessarily contain a current description of the Company’s business and affairs since, pursuant to Form S-3, it incorporates by reference certain documents filed with the Commission that contain information as of various dates.

In accordance with our understanding with you as to the scope of our services under the circumstances applicable to the offering of the Securities, we reviewed the Registration Statement, the Base Prospectus, the Preliminary Prospectus Supplement, dated March 5, 2012, the Final Term Sheet, dated March 5, 2012 (the “Final Term Sheet”) and filed pursuant to Rule 433 under the Securities Act (such Final Term Sheet, taken together with the Base Prospectus and the Preliminary Prospectus Supplement, being referred to herein as the “Pricing Disclosure Package”) and the Prospectus Supplement and participated in discussions with your representatives and those of the Guarantor, its counsel, special Delaware counsel to the Trust and Goldman Sachs Capital II, a Delaware statutory trust (the “Note Seller”), and the Guarantor’s accountants and advised you as to the requirements of the Securities Act and the applicable rules and regulations thereunder. Between the date of the Prospectus Supplement and the time of delivery of this letter, we participated in further discussions with your representatives and those of the Guarantor, its counsel, special Delaware counsel to the Trust and the Note Seller and the Guarantor’s accountants concerning certain matters relating to the Guarantor and the Trust and

reviewed certificates of certain officers of the Guarantor and the administrative trustees of the Trust, opinions addressed to you from an Associate General Counsel of the Guarantor and special Delaware counsel to the Trust and the Note Seller and a letter addressed to you from the Guarantor's accountants.

On the basis of the information that we gained in the course of the performance of the services referred to above, considered in the light of our understanding of the applicable law (including the requirements of Form S-3 and the character of the prospectus contemplated thereby) and the experience we have gained through our practice under the Securities Act, we advised you and now confirm that, in our opinion, each part of the Registration Statement, when such part became effective, and the Base Prospectus, as supplemented by the Prospectus Supplement, as of the date of the Prospectus Supplement, appeared on their face to be appropriately responsive, in all material respects relevant to the offering of the Securities, to the requirements of the Securities Act, the Trust Indenture Act of 1939 and the applicable rules and regulations of the Commission thereunder. Further, nothing that came to our attention in the course of such review has caused us to believe that, insofar as relevant to the offering of the Securities,

- (i) any part of the Registration Statement, when such part became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, or
- (ii) the Pricing Disclosure Package, as of 4:30 p.m. on March 5, 2012 (which you have informed us is prior to the time of the first sale of the Securities by any Agent), contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or
- (iii) the Base Prospectus, as supplemented by the Prospectus Supplement, as of the date of the Prospectus Supplement, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of circumstances under which they were made, not misleading.

We also advise you that nothing that came to our attention in the course of the procedures described in the second sentence of the prior paragraph has caused us to believe that the Base Prospectus, as supplemented by the Prospectus Supplement, as of the time of delivery of this letter, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

In addition, we do not know of any litigation or any governmental proceeding instituted or threatened against the Company that was required to be disclosed in the Company's Annual Report on Form 10-K for the year ended December 31, 2011 when such Report was filed and was not so disclosed. We call to your attention, however, the fact that the Company has an internal legal department and that, while we represent the Company on a regular basis, our engagement has been limited to specific matters as to which we were consulted by the Company

and, accordingly, our knowledge with respect to litigation and governmental proceedings instituted or threatened against the Company is similarly limited. Also, insofar as the offering of the Securities is concerned, we do not know of any documents that were required to be filed as exhibits to the Company's Annual Report on Form 10-K for the year ended December 31, 2011 when such Report was filed and were not so filed.

The limitations inherent in the independent verification of factual matters and the character of determinations involved in the registration process are such, however, that we do not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Registration Statement, any Post-Effective Amendment thereto, the Base Prospectus, the Pricing Disclosure Package or the Prospectus Supplement except for those made under the captions "Description of the Trust, the Senior Guaranteed Securities, the Guarantee and the Notes" and "Plan of Distribution" in the Prospectus Supplement insofar as they relate to provisions of the Amended and Restated Declaration of Trust, the Guarantee Agreement and the Indenture (as each of those terms are defined in the Prospectus Supplement), as well as the Distribution Agreement therein described. Also, we do not express any opinion or belief as to the financial statements or other financial data derived from accounting records contained in the Registration Statement, any Post-Effective Amendment thereto, the Base Prospectus, the Pricing Disclosure Package or the Prospectus Supplement, as to the report of management's assessment of the effectiveness of internal control over financial reporting or the auditors' attestation report thereon, each as included in the Registration Statement, any Post-Effective amendment thereto, the Base Prospectus, the Pricing Disclosure Package or the Prospectus Supplement, or as to the statements of the eligibility of the respective Trustees under the Amended and Restated Declaration of Trust, the Indenture and the Guarantee Agreement under which the Securities and certain of the Related Securities are being issued.

This letter is furnished by us, as counsel to the Agents, to you, as Representative of the Agents, solely for the benefit of the Agents in their capacity as such, and may not be relied upon by any other person. This letter may not be quoted, referred to or furnished to any purchaser or prospective purchaser of the Securities or the Related Securities and may not be used in furtherance of any offer or sale of the Securities or the Related Securities.

Very truly yours,

## ANNEX II

### Form of Opinion of General Counsel or Associate General Counsel

1. The Guarantor has been duly incorporated and is validly existing as a corporation under the laws of the State of Delaware;
2. This Agreement has been duly authorized, executed and delivered by the Guarantor;
3. The Junior Subordinated Notes have been duly authorized, executed, issued and delivered;
4. The Guarantor Agreements have been duly authorized, executed and delivered by the Guarantor.

In rendering such opinion, such counsel may state that such counsel expresses no opinion as to the laws of any jurisdiction other than the Federal laws of the United States, the laws of the State of New York and the General Corporation Law of the State of Delaware; that, insofar as such opinion involves factual matters, such counsel has relied upon certificates of officers of the Company and its subsidiaries and certificates of public officials and other sources believed by such counsel to be responsible; and that such counsel has assumed that each Guarantor Agreement has been duly authorized, executed and delivered by each party thereto other than the Guarantor, that the Junior Subordinated Notes conform to the forms thereof examined by such counsel (or members of the legal department of the Company and certain of its subsidiaries acting under such counsel's supervision), that the Trustee's certificates of authentication of the Junior Subordinated Notes have been manually signed by one of the Trustee's authorized signatories and that the signatures on all documents examined by such counsel (or members of the legal department of the Company and certain of its subsidiaries acting under such counsel's supervision) are genuine, assumptions that such counsel has not independently verified. In addition, such counsel may state that such counsel has examined, or has caused members of the legal department of the Company and certain of its subsidiaries acting under such counsel's supervision to examine, such corporate and partnership records, certificates and other documents, and such questions of law, as such counsel has considered necessary or appropriate for the purposes of such opinion.

### ANNEX III

Pursuant to Section 8(d) of the Distribution Agreement, the accountants shall furnish letters to the Agents to the effect that:

(i) They are an independent registered public accounting firm with respect to the Guarantor within the meaning of the Act and the applicable published rules and regulations thereunder adopted by the Securities and Exchange Commission (the “SEC”) and the Public Company Accounting Oversight Board (United States) (the “PCAOB”);

(ii) In their opinion, the financial statements and any supplementary financial information and schedules (and, if applicable, financial forecasts and/or pro forma financial information) audited or examined by them and included or incorporated by reference in the Registration Statement or the Prospectus comply as to form in all material respects with the applicable accounting requirements of the Act or the Exchange Act, as applicable, and the related published rules and regulations thereunder; and, if applicable, they have made a review in accordance with standards established by the PCAOB of the consolidated interim financial statements, selected financial data, pro forma financial information, financial forecasts and/or condensed financial statements derived from audited financial statements of the Guarantor for the periods specified in such letter, as indicated in their reports thereon, copies of which have been furnished to the Agents;

(iii) They have made a review in accordance with standards established by the PCAOB of the unaudited condensed consolidated statements of income, consolidated balance sheets and consolidated statements of cash flows included in the Prospectus and/or included in the Guarantor’s Quarterly Report(s) on Form 10-Q covering periods after the latest full fiscal year and incorporated by reference into the Prospectus as indicated in their reports thereon copies of which have been furnished to the Agents; and on the basis of specified procedures including inquiries of officials of the Guarantor, who have responsibility for financial and accounting matters regarding whether the unaudited condensed consolidated financial statements referred to in paragraph (vi)(A)(i) below comply as to form in all material respects with the applicable accounting requirements of the Act and the Exchange Act and the related published rules and regulations, nothing came to their attention that caused them to believe that the unaudited condensed consolidated financial statements do not comply as to form in all material respects with the applicable accounting requirements of the Act and the Exchange Act and the related published rules and regulations;

(iv) The unaudited selected financial information with respect to the consolidated results of operations and financial position of the Guarantor for the five most recent fiscal years included in the Prospectus and/or included or incorporated by reference in Item 6 of the Guarantor’s Annual Report on Form 10-K for the most recent fiscal year agrees with the corresponding amounts (after restatement where applicable) in the audited consolidated financial statements for such five fiscal years which were included or incorporated by reference in the Guarantor’s Annual Reports on Form 10-K for such fiscal years;

(v) They have compared the information in the Prospectus under selected captions with the disclosure requirements of Regulation S-K and on the basis of limited procedures specified in such letter nothing came to their attention as a result of the foregoing procedures that caused them to believe that this information does not conform in all material respects with the disclosure requirements of Items 301, 302 and 503(d), respectively, of Regulation S-K;

(vi) On the basis of limited procedures, not constituting an examination in accordance with generally accepted auditing standards, consisting of a reading of the unaudited financial statements and other information referred to below, a reading of the latest available interim financial statements of the Guarantor and its subsidiaries, inspection of the minute books of the Guarantor and its subsidiaries since the date of the latest audited financial statements included or incorporated by reference in the Prospectus, inquiries of officials of the Guarantor and its subsidiaries responsible for financial and accounting matters and such other inquiries and procedures as may be specified in such letter, nothing came to their attention that caused them to believe that:

(A) (i) the unaudited condensed consolidated statements of income, consolidated balance sheets and consolidated statements of cash flows included in the Prospectus and/or included or incorporated by reference in the Guarantor's Quarterly Reports on Form 10-Q incorporated by reference in the Prospectus do not comply as to form in all material respects with the applicable accounting requirements of the Exchange Act and the related published rules and regulations, or (ii) any material modifications should be made to the unaudited condensed consolidated statements of income, consolidated balance sheets and consolidated statements of cash flows included in the Prospectus and/or included or incorporated by reference in the Guarantor's Quarterly Report(s) on Form 10-Q incorporated by reference in the Prospectus, for them to be in conformity with generally accepted accounting principles;

(B) any other unaudited income statement data and balance sheet items included in the Prospectus do not agree with the corresponding items in the unaudited consolidated financial statements from which such data and items were derived, and any such unaudited data and items were not determined on a basis substantially consistent with the basis for the corresponding amounts in the audited consolidated financial statements included or incorporated by reference in the Guarantor's Annual Report on Form 10-K for the most recent fiscal year;

(C) the unaudited financial statements which were not included in the Prospectus but from which were derived the unaudited condensed financial statements referred to in clause (A) and any unaudited income statement data and balance sheet items included in the Prospectus as most recently amended or supplemented and referred to in clause (B) were not determined on a basis substantially consistent with the basis for the audited financial statements included or incorporated by reference in the Guarantor's Annual Report on Form 10-K for the most recent fiscal year;

(D) any unaudited pro forma consolidated condensed financial statements included or incorporated by reference in the Prospectus do not comply as to form in all material respects with the applicable accounting requirements of the Act and the published rules and regulations thereunder or the pro forma adjustments have not been properly applied to the historical amounts in the compilation of those statements;

(E) as of a specified date not more than five days prior to the date of such letter, there have been any changes in the consolidated capital stock (other than issuances or forfeitures of restricted stock units issued under the Guarantor's Stock Incentive Plan and repurchases of common stock in accordance with the Guarantor's common stock repurchase program or issuances of stock associated with the Guarantor's employee stock option plans) or any increase in the consolidated long-term debt of the Guarantor and its subsidiaries, or any decreases in consolidated total current assets or stockholders' equity or other items specified by the Representatives, or any increases in any items specified by the Representatives, in each case as compared with amounts shown in the latest balance sheet included or incorporated by reference in the Prospectus, except in each case for changes, increases or decreases which the Prospectus discloses have occurred or may occur or which are described in such letter; and

(F) for the period from the date of the latest financial statements included or incorporated by reference in the Prospectus to the specified date referred to in clause (E) there were any decreases in consolidated total revenues or consolidated revenues, net of interest expense, pre-tax earnings or net earnings or other items specified by the Representatives, or any increases in any items specified by the Representatives, in each case as compared with the comparable items in the comparable period of the preceding year and with any other period of corresponding length specified by the Representative, except in each case for increases or decreases which the Prospectus discloses have occurred or may occur or which are described in such letter [insert if applicable — and except that, because no final consolidated income statement information was available for that period, the accountants are unable to provide an opinion as to whether there have been any such decreases or increases]; and

(vii) In addition to the audit referred to in their report(s) included or incorporated by reference in the Prospectus and the limited procedures, inspection of minute books, inquiries and other procedures referred to in paragraphs (iii) and (vi) above, they have carried out certain specified procedures, not constituting an audit in accordance with generally accepted auditing standards, with respect to certain amounts, percentages and financial information specified by the Representatives which are derived from the general accounting records of the Guarantor and its subsidiaries which appear in the Prospectus (excluding documents incorporated by reference), or in Part II of, or in exhibits and schedules to, the Registration Statement specified by the Representatives or in documents incorporated by reference in the Prospectus specified by the Representatives, and have compared certain of such amounts, percentages and financial information with the accounting records of the Guarantor and its subsidiaries and have found them to be in agreement.

## ANNEX IV

### Form of Opinion of the Special Delaware Counsel to the Guarantor and the Trust

1. Each of the Trust and Goldman Sachs Capital II (the “*Seller*”) has been duly created and is validly existing and in good standing under the Delaware Statutory Trust Act and all filings required under the laws of the State of Delaware with respect to the creation and valid existence of the Trust as a statutory trust have been made;

2. Under the Delaware Statutory Trust Act and the Trust Declaration, the Trust has the trust power and authority to own its property and conduct its business, all as described in the Prospectus;

3. The provisions of the Trust Declaration, including the terms of the Securities, are permitted under the Delaware Statutory Trust Act and the Trust Declaration constitutes a valid and binding obligation of the Guarantor and the Trustees, enforceable against the Guarantor and the Trustees in accordance with its terms, subject, as to enforcement, to the effect upon the Trust Declaration of (i) bankruptcy, insolvency, moratorium, receivership, reorganization, liquidation, fraudulent conveyance or transfer and other similar laws relating to or affecting the rights and remedies of creditors generally, (ii) principles of equity, including applicable law relating to fiduciary duties (regardless of whether considered and applied in a proceeding in equity or at law), and (iii) applicable public policy on the enforceability of provisions relating to indemnification or contribution;

4. Under the Delaware Statutory Trust Act and the Trust Declaration, (i) the Trust has the trust power and authority to (x) execute and deliver this Agreement and the Note Purchase Agreement and to perform its obligations under this Agreement and the Note Purchase Agreement, and (y) issue and perform its obligations under the Securities and (ii) the Seller has the trust power and authority to execute and deliver the Note Purchase Agreement and to perform its obligations thereunder;

5. (i)(x) Under the Delaware Statutory Trust Act and the Trust Declaration, the execution and delivery by the Trust of this Agreement and the Note Purchase Agreement and the performance by the Trust of its obligations hereunder and thereunder have been duly authorized by all necessary trust action on the part of the Trust; and (y) the Guarantor is authorized to execute and deliver this Agreement on behalf of the Trust and (ii) under the Delaware Statutory Trust Act and the Amended and Restated Trust Declaration, dated as of May 15, 2007 (the “*Seller Trust Declaration*”), among the Guarantor, as Sponsor, The Bank of New York Mellon, as Property Trustee, BNY Mellon Delaware, as Delaware Trustee, the several Administrative Trustees named therein, and the several holders of the trust securities, the execution and delivery by the Seller of the Note Purchase Agreement and the performance by the Trust of its obligations thereunder have been duly authorized by all necessary trust action on the part of the Seller;

6. Under the Delaware Statutory Trust Act, the form of certificates attached to the Trust Declaration to represent the Securities are appropriate forms of certificates to evidence ownership of the Securities. The Securities have been duly authorized by the Trust



Declaration and, when delivered to and paid for by the Agents, in accordance with this Agreement, will be validly issued and fully paid and nonassessable beneficial interests in the Trust. The holders of the Securities are entitled to the benefits provided by the Trust Declaration (subject to the terms of the Trust Declaration); and the holders of Securities, as beneficial owners of the Trust, will be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware; provided that such counsel may note that the holders of Securities may be obligated, pursuant to the Trust Declaration, to (a) provide indemnity and/or security in connection with and pay taxes or governmental charges arising from transfers or exchanges of Securities certificates and the issuance of replacement Securities certificates, and (b) provide security and indemnity in connection with requests of or directions to the Property Trustee (as defined in the Trust Declaration) to exercise its rights and remedies under the Trust Declaration;

7. Under the Delaware Statutory Trust Act and the Trust Declaration, the issuance of the Securities is not subject to preemptive rights;

8. The issuance and sale by the Trust of the Securities, the execution, delivery and performance by the Trust of this Agreement and the Note Purchase Agreement, the consummation by the Trust of the transactions contemplated hereby and thereby and compliance by the Trust with its obligations hereunder and thereunder do not violate (x) any of the provisions of the Certificate of Trust of the Trust or the Trust Declaration, or (y) any Delaware law or administrative regulation applicable to the Trust; the execution, delivery and performance by the Seller of the Note Purchase Agreement, the consummation by the Seller of the transactions contemplated thereby and compliance by the Seller with its obligations thereunder do not violate (x) any of the provisions of the Certificate of Trust of the Seller or the Seller Trust Declaration, or (y) any Delaware law or administrative regulation applicable to the Seller.

9. No authorization, approval, consent or order of any Delaware court or Delaware governmental authority or Delaware agency is required to be obtained by the Trust solely in connection with the issuance and sale of the Securities or the execution, delivery and performance by the Trust of this Agreement or the Note Purchase Agreement. No authorization, approval, consent or order of any Delaware court or Delaware governmental authority or Delaware agency is required to be obtained by the Seller solely in connection with the execution, delivery and performance by the Seller of the Note Purchase Agreement. In rendering the opinion expressed in this paragraph (9), such counsel need express no opinion concerning the securities laws of the State of Delaware; and

10. Assuming that the Trust derives no income from or connected with services provided within the State of Delaware and has no assets, activities (other than maintaining the Delaware Trustee and the filing of documents with the Secretary of State of the State of Delaware) or employees in the State of Delaware and assuming that the Trust is treated as a grantor trust or as an association not taxable as a corporation for federal income tax purposes, the holders of Securities (other than those holders who reside or are domiciled in the State of Delaware) will have no liability for income taxes imposed by the State of Delaware solely as a result of their participation in the Trust, and the Trust will not be liable for any income tax imposed by the State of Delaware.

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**THE GOLDMAN SACHS GROUP, INC.,**  
*as Issuer*

to

**THE BANK OF NEW YORK MELLON,**  
*as Trustee*

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**Sixth Supplemental Indenture**

*Dated as of March 9, 2012*

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\$1,750,010,000

Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017

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**SIXTH SUPPLEMENTAL INDENTURE**, dated as of March 9, 2012, between **THE GOLDMAN SACHS GROUP, INC.**, a corporation duly organized and existing under the laws of the State of Delaware (the “*Company*”), having its principal office at 200 West Street, New York, New York 10282, and **THE BANK OF NEW YORK MELLON**, a New York banking corporation, as Trustee (the “*Trustee*”), to the Subordinated Debt Indenture, dated as of February 20, 2004, between the Company and the Trustee (the “*Original Indenture*”).

**WITNESSETH:**

**WHEREAS**, the Original Indenture provides for the issuance from time to time thereunder, in one or more series, of unsecured debentures, notes or other evidence of indebtedness of the Company, and Section 301 of the Original Indenture provides for the establishment of the form or terms of Securities of any series issued thereunder, and any additions to, changes in or eliminations of any provisions of the Original Indenture in respect of such series as provided therein, through one or more supplemental indentures;

**WHEREAS**, the Company, by a Second Supplemental Indenture, dated as of May 15, 2007 (the “*Second Supplemental Indenture*”), created and issued a series of Securities known as the Company’s Remarketable 5.593% Junior Subordinated Notes due 2043 (the “*Remarketable Notes*”), the terms and provisions of which were as specified in the Second Supplemental Indenture, and to the extent not added to, changed or eliminated by the Second Supplemental Indenture, the Original Indenture;

**WHEREAS**, the Company, by a Fourth Supplemental Indenture, dated as of February 6, 2012 (the “*Fourth Supplemental Indenture*”), modified certain terms of the Remarketable Notes and of the Second Supplemental Indenture (the Second Supplement Indenture as so modified, the “*Supplemental Indenture*”, and the Original Indenture, as modified and supplemented by the Supplemental Indenture, the “*Indenture*”);

**WHEREAS**, Section 901(11) of the Original Indenture and Section 3.6 of the Supplemental Indenture permit the Company to enter into a supplemental indenture without the consent of any Holder of the Remarketable Notes or of any APEX Holder to reflect any modifications to the terms of the Remarketable Notes pursuant to the terms of Article III of the Supplemental Indenture and to provide for the exchange of the Remarketable Notes for notes in the form reflecting such modifications and adopted pursuant to such supplemental indenture;

**WHEREAS**, Section 3.2 of the Supplemental Indenture permits the Company, without the consent of any Holder of the Notes or any APEX Holders to (a) divide the Remarketable Notes into multiple tranches, and if so, determine the principal amount of each tranche of notes into which each Remarketable Note shall be exchanged (collectively, the “*Remarketed Notes*”), (b) keep the Stated Maturity Date of any tranche of Remarketed Notes at June 1, 2043 or change it to an earlier date (specifying such date if applicable); *provided* that the Stated Maturity Date of any tranche of Remarketed Notes may not be changed to a date earlier than the later of (i) June 1, 2016 and (ii) if the Remarketing Settlement Date occurs during an Extension Period, the seventh anniversary of the first day of such Extension Period, (c) change the date after which any tranche of Remarketed Notes will be redeemable at the Company’s option and the redemption price or prices; *provided* that no redemption date for any tranche of Remarketed Notes may be earlier than the later of (i) June 1, 2016 and (ii) if the Remarketing Settlement Date occurs during an Extension Period, the seventh anniversary of the first day of such Extension Period; and *provided, further*, that no Redemption Price may be less than 100% of the principal amount of such tranche of Remarketed Notes plus accrued and unpaid interest, including deferred interest, if any, to the Redemption Date, in accordance with Article XI of the Original Indenture; (d) remarket each tranche of Remarketed Notes as fixed rate notes or floating rate notes, and (e) if the Remarketed Notes of

SIXTH SUPPLEMENTAL INDENTURE

any tranche will be remarketed as floating rate notes, determine the applicable index (which must be a qualified floating rate) and the interest payment dates and manner of calculation of interest on such tranche of Remarketed Notes, which the Company may change to correspond with the market conventions applicable to notes bearing interest at rates based on the applicable index, any such changes to apply automatically and come into effect on the Remarketing Settlement Date;

**WHEREAS**, Section 901 of the Original Indenture, as supplemented by Section 2.9 of the Supplemental Indenture, permits the Company, when authorized by a Board Resolution, and the Trustee to enter into a supplemental indenture without the consent of any Holders of Remarketable Notes in the event any Notes are sold in the Remarketing to one or more statutory trusts sponsored by the Company, to modify the provisions of Sections 2.7, 2.9(c), 2.10 through 2.15, 4.1 and 7.3 of the Supplemental Indenture to make comparable provision with respect to each such trust and the holders of its trust securities, and to modify the definitions of “Investment Company Event” and “Tax Event” to refer to each such statutory trust in lieu of Goldman Sachs Capital II, a Delaware statutory trust (the “*APEX Trust*”), and to replace references to the date of issuance of the APEX with references to the Remarketing Settlement Date;

**WHEREAS**, Murray Street Investment Trust I, a Delaware statutory trust (the “*New Trust*”), has agreed pursuant to a Distribution Agreement dated March 5, 2012, with the Company and Goldman, Sachs & Co. (as representative of the agents named therein) to issue \$1,750,010,000 liquidation amount of its 4.647% Senior Guaranteed Trust Securities (the “*Trust Securities*”);

**WHEREAS**, the Company has determined to remarket the Remarketable Notes as a single tranche to be redesignated as the Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017 (the “*Notes*”) in accordance with this Sixth Supplemental Indenture;

**WHEREAS**, the New Trust has accordingly agreed pursuant to a Note Purchase Agreement, dated March 5, 2012, with the Company, the APEX Trust, and Goldman, Sachs & Co., as remarketing agent, to use the net proceeds of the issuance and sale of the Trust Securities to purchase \$1,750,010,000 principal amount of the Notes from the APEX Trust on the date hereof;

**WHEREAS**, the Company wishes to make certain changes as specified herein to the terms of and provisions of the Indenture and establish the terms of the Notes and to authorize the exchange of the Remarketable Notes for the Notes;

**WHEREAS**, the Company has duly authorized the execution and delivery of this Sixth Supplemental Indenture; and

**WHEREAS**, all things necessary to make this Sixth Supplemental Indenture a valid agreement according to its terms have been done.

NOW, THEREFORE, for and in consideration of the premises, the Company covenants and agrees with the Trustee as follows:

## ARTICLE I DEFINITIONS

### Section 1.1 Provisions of the Indenture

Except insofar as herein otherwise expressly provided, all the definitions, provisions, terms and conditions of the Indenture shall remain in full force and effect and, for all purposes of this Sixth Supplemental Indenture (including the recitals hereto), shall have the meanings assigned to them in the Supplemental Indenture or the Original Indenture, as applicable. The Indenture, as amended and supplemented by this Sixth Supplemental Indenture, is in all respects ratified and confirmed. The Original Indenture, as supplemented and amended by the Supplemental Indenture and this Sixth Supplemental Indenture, shall be read, taken and considered as one and the same instrument for all purposes and every Holder of Notes authenticated and delivered under the Indenture (and every holder of Senior Debt with respect to the Notes) shall be bound hereby.

### Section 1.2 Rules of Interpretation

For all purposes of this Sixth Supplemental Indenture, the Indenture and the Notes, except as herein otherwise expressly provided or unless the subject matter or context hereof otherwise requires:

- (i) “*Sixth Supplemental Indenture*” means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more agreements supplemental hereto entered into pursuant to the applicable provisions hereof;
- (ii) all terms used in this Sixth Supplemental Indenture (including in the recitals) that are defined in the Indenture or the Trust Agreement have the meanings assigned to them therein;
- (iii) references to any agreement or other instrument are to such agreement or other instrument as it has been or may be amended or supplemented from time to time; and
- (iv) references to the Second Supplemental Indenture in such Second Supplemental Indenture or in this Sixth Supplemental Indenture shall be references to the Supplemental Indenture as amended and supplemented by this Sixth Supplemental Indenture.

## ARTICLE II AMENDMENTS TO EXISTING INDENTURE

The provisions of the Supplemental Indenture are hereby modified as follows:

- (a) Section 1.2(f) is hereby amended by adding the following terms (and where appropriate, by deleting the definition of any such term currently set forth therein):

“*Distribution Agreement*” means the Distribution Agreement, dated March 5, 2012, among the Issuer Trust, the Company and Goldman, Sachs & Co. (as representative of the agents named therein) in respect of the Trust Securities.

**“Event of Default,”** for purposes of the Notes, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body): (i) default in the payment of any interest upon any Note, in full for a period of 30 days after the conclusion of any Extension Period; (ii) the termination of the Issuer Trust without redeeming the Trust Securities; (iii) the entry of a decree or order by a court having jurisdiction in the premises adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law, or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 90 consecutive days; or (iv) the institution by the Company of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due and its willingness to be adjudicated a bankrupt, or the taking of corporate action by the Company in furtherance of any such action.

**“Guarantee Agreement”** means the Guarantee Agreement, dated as of March 9, 2012, between the Company, as Guarantor and The Bank of New York Mellon, as Guarantee Trustee named thereunder, as it may be amended from time to time.

**“Holder”**, when used in connection with a Trust Security, has the meaning set forth in the Trust Agreement.

**“Indenture”** means the Original Indenture as originally executed, as it is supplemented and amended by the Second Supplemental Indenture, including, for all purposes of each such instrument, the provisions of the Trust Indenture Act that are deemed to be a part of and govern such instrument. The term **“Indenture”** shall also include the terms of the Notes.

**“Investment Company Event”** means the Company’s receipt of an Opinion of Counsel to the effect that, as a result of the occurrence of a change in law or regulation or a written change, including any announced prospective change, in interpretation or application of law or regulation by any legislative body, court, governmental agency or

regulatory authority, there is more than an insubstantial risk that the Issuer Trust is or will be considered an investment company that is required to be registered under the Investment Company Act of 1940, and this change becomes effective or would become effective on or after the date of issuance of the Trust Securities.

**“Issuer Trust”** means Murray Street Investment Trust I, a Delaware statutory trust.

**“Make-Whole Amount”** shall be calculated by or on behalf of the Company and shall be equal to the sum of the present values of the principal amount of the Notes and each interest payment thereon that would have been payable to and including the Stated Maturity Date (not including any portion of such payments of interest accrued as of the date of redemption), discounted from the Stated Maturity Date or the applicable interest payment date to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the Treasury Rate *plus* 50 basis points.

**“Pari Passu Securities”** means all indebtedness and obligations that, among other things, by their terms rank equally with the Notes in right of payment and upon liquidation and guarantees of such indebtedness and includes the Company’s Remarketable Floating Rate Junior Subordinated Notes due 2043; *provided that* **“Pari Passu Securities”** shall not be deemed to include the Company’s 6.345% Junior Subordinated Debentures Due February 15, 2034 or guarantees issued in connection with the trust preferred securities of Goldman Sachs Capital I, each of which ranks or will rank senior to the Notes, or any junior subordinated debentures or guarantees that may be issued in the future in connection with trust preferred securities.

**“Paying Agent”**, when used with respect to the Notes, The Bank of New York Mellon or any other Person authorized by the Company to pay the principal of (and premium, if any) or interest on the Notes on behalf of the Company.

**“Paying Agent Office”** means the office of the applicable Paying Agent at which at any particular time its corporate agency business shall principally be administered in a Place of Payment, which office at the date hereof in the case of The Bank of New York Mellon, in its capacity as Paying Agent with respect to the Notes under the Indenture, is located at 101 Barclay Street, Floor 4E, New York, New York 10286 – Attention: International Corporate Trust.

**“Second Supplemental Indenture”** means this Second Supplemental Indenture, as amended by the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture, dated as of March 9, 2012, each between the Company and the Trustee, and as it may from time to time be further supplemented or amended by one or more other indentures supplemental hereto entered into pursuant to the applicable provisions hereof.

**“Securities Registrar Office”** means the office of the applicable Securities Registrar at which at any particular time its corporate agency business shall principally be



administered, which office at the date hereof in the case of The Bank of New York Mellon, in its capacity as Securities Registrar with respect to the Notes under the Indenture, is located at 101 Barclay Street, Floor 4E, New York, New York 10286 – Attention: International Corporate Trust.

“**Senior Debt**” means all indebtedness and obligations (other than the Notes) of, or guaranteed or assumed by, the Company, that are for borrowed money or are evidenced by bonds, debentures, notes or other similar instruments, whether now existing or hereafter created, and all amendments, renewals, extensions, modifications and refundings of such indebtedness and obligations, but not including trade accounts payable and accrued liabilities arising in the ordinary course of business, which rank equally in right of payment and upon liquidation with the Notes, unless in any such case, in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is provided that such obligations are subordinate, or not superior, in right of payment to the Notes; *provided, however*, that the Notes will rank equally in right of payment with any *Pari Passu* Securities. The obligations of the Company under the Guarantee Agreement shall constitute Senior Debt.

“**Stated Maturity Date**” means March 9, 2017.

“**Tax Event**” means the Company’s receipt of an Opinion of Counsel to the effect that, as a result of: (i) an amendment to or change (including any announced prospective change) in the laws or regulations of the United States or any political subdivision or taxing authority of or in the United States that is enacted or becomes effective after the initial issuance of the Trust Securities; (ii) a proposed change in those laws or regulations that is announced after the initial issuance of the Trust Securities; (iii) an official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced after the initial issuance of the Trust Securities; or (iv) a threatened challenge asserted in connection with an audit of the Issuer Trust or any similar statutory trust sponsored by the Company, the Company or the Company’s Subsidiaries, or a threatened challenge asserted in writing against any other taxpayer that has raised capital through the issuance of securities that are substantially similar to the Notes or the Trust Securities, there is more than an insubstantial increase in risk that: (a) the Issuer Trust is, or will be, subject to United States federal income tax with respect to income received or accrued on the Notes; (b) interest payable by the Company on the Notes is not, or will not be, deductible by the Company, in whole or in part, for United States Federal income tax purposes; or (c) the Issuer Trust is, or will be, subject to more than an insignificant amount of other taxes, duties or other governmental charges.

“**Trust Agreement**” means the Amended and Restated Declaration of Trust, dated as of March 9, 2012, of the Issuer Trust among the Company, as Sponsor, the Property Trustee, the Delaware Trustee, the Administrative Trustees (each as named therein) and the several holders of the Trust Securities, as amended from time to time.

“**Trust Securities**” means the 4.647% Senior Guaranteed Trust Securities of the Issuer Trust.

(b) The following definitions appearing in Section 1.2(f) are hereby deleted:

Additional Subordinated Notes	Released Note
Allowable Capital	Remarketed Note
APEX	Remarketing Disruption Event
APEX Holder	Remarketing Period
Capital APEX	Remarketing Settlement Date
Capital Treatment Event	Remarketing Value
Collateral Agent	Reset Rate
Collateral Agreement	Reset Spread
CSE Rules	SEC Securities Intermediary
Custodial Agent	Series E Preferred Stock
Early Remarketing	Stock Purchase Contract Agreement
Early Settlement Event	Stripped APEX
Early Termination Event	Subjected Note
Failed Remarketing	Successful
Final Remarketing	Trust Common Securities
Normal APEX	Unsuccessful
qualified floating rate	
Rating Agency Event	

(c) Section 2.5(b) is hereby amended by:

- (i) deleting the second sentence thereof;
- (ii) deleting clauses (ii) and (vi) of the fourth sentence thereof;
- (iii) replacing the words “the Goldman Sachs Guarantee” in clause (E) of the fourth sentence thereof with the words “the Notes”;
- (iv) deleting clause (f) of the fourth sentence thereof; and
- (v) renumbering the remaining clauses in the fourth sentence thereof appropriately.

(d) Section 2.5(d) is hereby amended by replacing the words “the Capital APEX, and if such election is made prior to the Stock Purchase Date or, if earlier, the Remarketing Settlement Date, to the holders of the Normal APEX” with the words “the Trust Securities”.

(e) Section 2.5(f) is hereby deleted in its entirety.

(f) Section 2.6 is hereby amended and restated in its entirety as follows:

**“Section 2.6 Redemption of the Notes**

(a) Prior to June 1, 2016, the Company may redeem all, but not less than all, of the Notes upon the occurrence of an Investment Company Event or Tax Event at a redemption price equal to the greater of 100% of the principal amount thereof and the Make-Whole Amount, plus accrued and unpaid interest, including deferred interest (if any), to the date of redemption, in accordance with Article XI of the Indenture.

(b) On or after June 1, 2016, the Company may from time to time redeem Notes, in whole or in part, on any date, at a redemption price equal to the greater of 100% of the principal amount thereof and the Make-Whole Amount, plus accrued and unpaid interest, including deferred interest (if any), to the date of redemption, in accordance with Article XI of the Indenture.

(c) The Notes are not entitled to any sinking fund payments.”

(g) Section 2.7 is hereby amended by replacing each reference to “the Normal APEX, Trust Common Securities and Capital APEX” with a reference to “the Trust Securities”.

(h) Section 2.9(c) is hereby amended and restated in its entirety as follows:

(c) So long as the Notes are held by or on behalf of the Issuer Trust, no modification or amendment of any provision in the Indenture shall be made that adversely affects the Holders of the Trust Securities in any material respect, and no termination of the Indenture shall occur, and no waiver of any Event of Default or compliance with any covenant under the Indenture shall be effective, without prior consent of the Holders of at least a majority of the aggregate Liquidation Amount of the Trust Securities then outstanding, unless and until the principal (and premium, if any) of the Notes and all accrued and unpaid interest (including any Additional Interest) thereon have been paid in full. If the consent of the Holder of each outstanding Note is required for such modification or waiver, no such modification or waiver shall be effective without the prior consent of each Holder of the Trust Securities.

(i) Section 2.9(b) is hereby amended by inserting the word “or” at the end of subparagraph (13) and by deleting subparagraph (15).

(j) Sections 2.9(e), 2.13, 2.14, 2.15 and 4.1 (including in the headings thereof) are each hereby amended by:

(i) replacing each reference to “APEX Holder” with a reference to the “Holder of the Trust Securities”;

(ii) replacing each reference to “APEX Holders” with a reference to the “Holders of the Trust Securities”;

(iii) replacing each reference to “APEX” with a reference to “Trust Securities”.

(k) Section 2.10 is hereby amended by replacing the word “APEX” with the words “the Trust Securities or under Section 2.12”.

(l) Section 2.11(a) is hereby amended by replacing the words “the Normal APEX and Capital APEX then outstanding shall have such right prior to the Stock Purchase Date or, if earlier, the Remarketing Settlement Date” with the words “the Trust Securities”.

(m) Section 2.11(b) is hereby amended by replacing the words “the holders of Normal APEX and Capital APEX and before a judgment or decree for payment of the money due has been obtained by the Trustee, the Holders of a majority in aggregate Liquidation Amount of

the Normal APEX and Capital APEX” with the words “the Holders of the Trust Securities and before a judgment or decree for payment of the money due has been obtained by the Trustee, the Holders of a majority in aggregate Liquidation Amount of the Holders of the Trust Securities”.

(n) Section 2.12 is hereby amended and restated in its entirety as follows:

**“Section 2.12 Direct Action by Holders of Trust Securities**

So long as the Notes are held by or on behalf of the Issuer Trust, any holder of Trust Securities shall have the right, upon the occurrence of an Event of Default with respect to the Notes (other than as described in Clause (iii) or (iv)), to institute a suit directly against the Company for enforcement of payment to such Holder (subject to Section 507 of the Original Indenture) of principal or interest on the Notes having a principal amount equal to the aggregate Liquidation Amount of Trust Securities held by such Holder, in each case in accordance with the Indenture and the Notes.”

(o) Section 4.1 is further amended by replacing the reference to the “Underwriting Agreement” with a reference to the “Distribution Agreement”.

**ARTICLE III**

**TERMS AND CONDITIONS OF THE NOTES**

**Section 3.1 Redesignation**

The Notes are hereby redesignated the “*Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017*”.

**Section 3.2 Stated Maturity**

The Stated Maturity of the Notes will be March 9, 2017.

**Section 3.3 Redemption**

The Notes shall be redeemable as provided in Section 2.6 of the Supplemental Indenture, as modified by this Sixth Supplemental Indenture.

**Section 3.4 Form and Exchange**

Notes issued on the date hereof in exchange for Remarketable Notes held by the Collateral Agent shall be issued in definitive form only.

**Section 3.5 Denominations**

Notes shall be issued in denominations of \$1,000 and integral multiples thereof.

**Section 3.6 Certain Provisions**

Article III and Sections 2.4, 6.2 and 6.3 of the Supplemental Indenture shall not apply to the Notes after the date hereof.

### Section 3.7 Benefits of Indenture for Holders of Trust Securities

Notwithstanding Section 111 of the Indenture, the Holders of Trust Securities shall have such rights and benefits, but only such rights and benefits as are specified in the Indenture, the Notes and as are specified in Sections 2.9, 2.10, 2.11, 2.12, 2.13 and 2.14 of the Supplemental Indenture, as modified by this Sixth Supplemental Indenture. Such rights and benefits shall terminate with respect to each Trust Security and Holder thereof when such Trust Security is no longer Outstanding. Without limiting the effect of Section 6.1 of the Trust Agreement, nothing herein or in the Notes shall impair the rights and benefits afforded to the Holders of the Notes under the Indenture and such Notes, even if such rights and benefits overlap, conflict with or otherwise differ from those afforded to the Holders of Trust Securities hereunder. Subject to the foregoing, Section 111 of the Indenture shall remain in full force and effect with respect to the Notes and the Indenture as it applies to the Notes.

### Section 3.8 Paying Agent

The Company hereby appoints The Bank of New York Mellon as Securities Registrar and Paying Agent for the Notes.

## ARTICLE IV

### FORM OF NOTE

Any Notes issued on or after the date hereof are to be substantially in the following form:

#### (FACE OF SECURITY)

No. \_\_\_\_\_ Principal Amount: \$ \_\_\_\_\_  
Issue Date: \_\_\_\_\_ CUSIP No.: \_\_\_\_\_

#### THE GOLDMAN SACHS GROUP, INC.

#### SERIES MS-1 REMARKETED 4.647% JUNIOR SUBORDINATED NOTE DUE 2017

**THE GOLDMAN SACHS GROUP, INC.**, a corporation organized and existing under the laws of the State of Delaware (hereinafter called the "**Company**"), which term includes any successor corporation under the Indenture hereinafter referred to), for value received, hereby promises to pay to \_\_\_\_\_, or registered assigns, the principal sum of \_\_\_\_\_ Dollars on March 9, 2017 (the "**Stated Maturity Date**"). The Company further promises to pay interest (subject to deferral as set forth herein) on said principal sum from and including December 1, 2011, or from and including the most recent Interest Payment Date on which interest has been paid or duly provided for, until the principal hereof is paid or made available for payment. Interest shall be payable semi-annually in arrears on June 1 and December 1 of each year, commencing June 1, 2012, (i) at the rate of 5.593% *per annum* from and including December 1, 2011 to but excluding March 9, 2012, and (ii) from and including March 9, 2012 until the principal hereof is paid or duly provided for or made available for payment at a rate of 4.647% *per annum*, in each case plus Additional Interest, if any. If any date on which an interest payment is due is not a Business Day, then the payment of such interest shall be made on the next succeeding day that is a

SIXTH SUPPLEMENTAL INDENTURE

Business Day (and without any interest or other payment in respect of any such delay) with the same force and effect as if made on the date such payment was originally payable (each such date on which interest is payable, an “**Interest Payment Date**”). The amount of interest payable for any period less than a full Interest Period shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. A “**Business Day**” shall mean a Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions in New York City generally are authorized or obligated by law or executive order to close. The interest installment so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Note (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest installment, which shall be the calendar day immediately preceding the applicable Interest Payment Date. Any such interest installment not so punctually paid or duly provided for shall 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 Note (or one or more Predecessor Securities) 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 Notes 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 Notes may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Indenture.

If the principal amount hereof or any portion of such principal amount is not paid when due (whether upon acceleration, upon the date set for payment of the Redemption Price or upon the Stated Maturity Date) or if interest due hereon (or any portion of such interest), is not paid when due, then in each such case the overdue amount shall, to the extent permitted by law, bear interest at the rate then borne by this Note for the applicable Interest Period, compounded at the end of such Interest Period, which interest shall accrue from the date such overdue amount was originally due to the date payment of such amount, including interest thereon, has been made or duly provided for. All such interest shall be payable as set forth in the Indenture.

The Company shall have the right, at any time during the term of this Note, to defer the payment of interest on this Note, at any time or from time to time, for up to 10 consecutive semi-annual Interest Periods with respect to each deferral period (each, an “**Extension Period**”), during which Extension Periods the Company shall have the right to make partial payments of interest on any Interest Payment Date. No Extension Period shall end on a date other than an Interest Payment Date. At the end of any such Extension Period, the Company shall pay all interest then accrued and unpaid on this Note (together with Additional Interest thereon, to the extent permitted by applicable law); *provided* that no Extension Period shall extend beyond the Stated Maturity Date; *provided, further*, that if (a) there shall have occurred and be continuing any Event of Default with respect to the Notes; (b) the Company shall have given notice of the election to defer payments of interest on the Notes but the related Extension Period has not yet commenced; (c) the Company has not paid in full interest scheduled to have been paid on the most recent Interest Payment Date; or (d) any amount of deferred interest remains unpaid, then the Company shall not: (i) declare or pay any dividends or distributions on, or redeem, purchase, acquire or make a liquidation payment with respect to, any shares of the Company’s capital stock, (ii) permit any of its subsidiaries over which the Company has voting control to purchase or acquire or make any other payment or distribution on or with respect to any shares of the Company’s capital stock, (iii) make any payment of principal of or interest or premium, if any, on or repay, repurchase or redeem any debt securities issued by the Company that rank or make any payments under any guarantee that ranks, upon the liquidation of the Company, *pari passu* with the Notes (including the Notes, “**Parity Securities**”) or junior to the Notes, (iv) permit any of its subsidiaries over which the Company has voting control to purchase or acquire or make any other payment on or with respect to any of the Company’s debt securities or any guarantee that ranks, upon the liquidation of the Company, *pari passu* with or junior to the Notes; or (v) make any payment under any guarantee by the Company that ranks junior in interest to

the Notes (other than (a) any repurchase, redemption or other acquisition of shares of the Company's capital stock in connection with (1) any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors, consultants or independent contractors, (2) the satisfaction of the Company's obligations pursuant to any contract entered into in the ordinary course prior to the beginning of the Extension Period, (3) a dividend reinvestment or stockholder purchase plan, or (4) the issuance of the Company's capital stock, or securities convertible into or exercisable for such capital stock, as consideration in an acquisition transaction entered into prior to the applicable Extension Period; (b) any exchange, redemption or conversion of any class or series of the Company's capital stock, or the capital stock of one of its Subsidiaries, for any other class or series of the Company's capital stock, or any class or series of the Company's indebtedness for any class or series of its capital stock; (c) any purchase of fractional interests in shares of the Company's capital stock pursuant to the conversion or exchange provisions of such capital stock or the securities being converted or exchanged; (d) any declaration of a dividend in connection with any rights plan, or the issuance of rights, stock or other property under any rights plan, or the redemption or repurchase of rights pursuant thereto; (e) any payment of current or deferred interest on Parity Securities that is made pro rata to the amounts due on such Parity Securities (including the Notes), and any payments of principal of or deferred interest on Parity Securities that, if not made, would cause us to breach the terms of the instrument governing such Parity Securities; (f) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock; or (g) any purchase or other acquisition of shares of the Company's capital stock or debt securities (and any related guarantees) or payment with respect to shares of the Company's capital stock or debt securities (and any related guarantees) if made in connection with (x) the initial distribution of shares of the Company's capital stock or debt securities (and any related guarantees) or (y) market-making or other secondary market activities). Prior to the termination of any such Extension Period, the Company may further defer the payment of interest on the Notes, *provided* that no Extension Period shall exceed the period or periods specified in this Note or extend beyond the Stated Maturity of the principal of this Note. Upon the termination of any such Extension Period and upon the payment of all accrued and unpaid interest and any Additional Interest then due on any Interest Payment Date, the Company may elect to begin a new Extension Period, subject to the above requirements. No interest shall be due and payable during an Extension Period except at the end thereof. The Company shall give the Trustee, the Property Trustee and the Paying Agent notice of its election to begin or extend any Extension Period at least 10 Business Days prior to the date on which interest on the Notes would be payable but for the election to begin or extend such Extension Period. The Trustee or its designee shall give notice of the Company's election to begin or extend any Extension Period to the Holders of the Notes, to the Administrative Trustees and to the Holders of the Trust Securities.

Payment of the principal of (and premium, if any) and interest on this Note will be made at the office or agency of the Company maintained for that purpose in the United States, 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* that at the option of the Company payment of interest may be made (i) by check mailed to the address of the Person entitled thereto as such address shall appear in the Securities Register or (ii) by wire transfer in immediately available funds at such place and to such account as may be designated by the Person entitled thereto as specified in the Securities Register in writing not less than 10 days before the date of the interest payment.

The indebtedness evidenced by this Note is, to the extent provided in the Indenture, subordinate and junior in right of payment and upon liquidation to the prior payment in full of all Senior Debt, and this Note is issued subject to the provisions of the Indenture with respect thereto. Each Holder of this Note, by accepting the same, (a) agrees to and shall be bound by such provisions, (b) authorizes and directs the Trustee on his behalf to take such actions as may be necessary or appropriate to effectuate

the subordination so provided and (c) appoints the Trustee his attorney-in-fact for any and all such purposes. Each Holder hereof, by his acceptance hereof, waives all notice of the acceptance of the subordination provisions contained herein and in the Indenture by each holder of Senior Debt, whether now outstanding or hereafter incurred, and waives reliance by each such holder upon said provisions.

Reference is hereby made to the further provisions of this Note 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 Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose.

SIXTH SUPPLEMENTAL INDENTURE



**IN WITNESS WHEREOF**, the Company has caused this instrument to be duly executed under its corporate seal.

Dated:

**THE GOLDMAN SACHS GROUP, INC.**

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

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

Dated:

**THE BANK OF NEW YORK MELLON**, as Trustee

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

SIXTH SUPPLEMENTAL INDENTURE

## (REVERSE OF SECURITY)

This Note is one of a duly authorized issue of securities of the Company (herein called the “Notes”), issued and to be issued in one or more series under the Subordinated Debt Indenture, dated as of February 20, 2004 (herein called the “*Original Indenture*”), between the Company and The Bank of New York Mellon, as trustee (the “*Trustee*”), as amended and supplemented by the Second Supplemental Indenture, dated as of May 15, 2007, between the Company and the Trustee, which was amended and supplemented by the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture, dated as of March 9, 2012 (such Second Supplemental Indenture, as so amended and supplemented, the “*Second Supplemental Indenture*”), each between the Company and the Trustee (together with the Original Indenture and the Second Supplemental Indenture, the “*Indenture*”), to which Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Trustee, the Company and the Holders of the Notes, and of the terms upon which the Notes are, and are to be, authenticated and delivered. By terms of the Indenture, the Securities are issuable in series that may vary as to amount, date of maturity, rate of interest, rank and in other respects provided in the Indenture. This Note is one of the series designated on the face hereof, is a “Security” under the Indenture and is limited in aggregate principal amount to \$1,750,010,000.

All terms used in this Note that are defined in the Indenture or in the Amended and Restated Declaration of Trust Agreement, dated as of March 9, 2012, as amended (the “*Trust Agreement*”), of Murray Street Investment Trust I among The Goldman Sachs Group, Inc., as Sponsor, the Trustees named therein and the several Holders of the Trust Securities, shall have the meanings assigned to them in the Indenture or the Trust Agreement, as the case may be.

Prior to June 1, 2016, the Company may redeem all, but not less than all, of the Notes upon the occurrence of an Investment Company Event or Tax Event at a redemption price equal to the greater of 100% of the principal amount thereof and the applicable Make-Whole Amount, plus accrued and unpaid interest, including deferred interest (if any), to the date of redemption, in accordance with Article XI of the Indenture.

On or after June 1, 2016, the Company may from time to time redeem Notes, in whole or in part, on any date, at a redemption price equal to the greater of 100% of the principal amount thereof and the applicable Make-Whole Amount, plus accrued and unpaid interest, including deferred interest (if any), to the date of redemption, in accordance with Article XI of the Original Indenture.

No sinking fund is provided for the Notes.

The Indenture contains provisions for satisfaction and discharge of the entire indebtedness of this Note upon compliance by the Company with certain conditions set forth in the Indenture.

The Indenture permits, with certain exceptions as therein provided, the Company and the Trustee at any time to enter into a supplemental indenture or indentures for the purpose of modifying in any manner the rights and obligations of the Company and of the Holders of the Notes, with the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes to be affected by such supplemental indenture. The Indenture also contains provisions permitting Holders of specified percentages in principal amount of the Notes at the time Outstanding, on behalf of the Holders of all Notes, 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

Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note 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 Note.

As provided in and subject to the provisions of the Indenture, if an Event of Default with respect to the Notes at the time Outstanding occurs and is continuing, then and in every such case the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes may declare the entire principal amount and all accrued but unpaid interest of all the Notes to be due and payable immediately, by a notice in writing to the Company (and to the Trustee if given by Holders), *provided* that, in the case of Notes issued to and held by the Issuer Trust, or any trustee thereof or agent therefor, if upon an Event of Default, the Trustee or the Holders of not less than 25% in principal amount of the Outstanding Notes fails to declare the entire principal and all accrued but unpaid interest of all the Notes to be immediately due and payable, the holders of at least 25% in aggregate liquidation amount of the Trust Securities then outstanding, shall have such right by a notice in writing to the Company and the Trustee. Upon any such declaration, such amount of the principal of and the accrued but unpaid interest on all the Notes shall become immediately due and payable, *provided* that the payment of principal and interest on the Notes shall remain subordinated to the extent provided in Article XIV of the Original Indenture, as modified by the Second Supplemental Indenture. Upon payment (i) of the amount of principal so declared due and payable and (ii) of interest on any overdue principal and overdue interest (in each case to the extent that the payment of such interest shall be legally enforceable), all of the Company's obligations in respect of the payment of the principal of and interest (including Additional Interest), if any, on this Note shall terminate.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of (and premium, if any) and interest on this Note 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 Note is registrable in the Securities Register, upon surrender of this Note for registration of transfer at the office or agency of the Company maintained under Section 1002 of the Original Indenture duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Securities Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Notes, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees. No service charge shall be made for any such registration of transfer or exchange, but the Company 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 Note for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee shall treat the Person in whose name this Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

The Notes are issuable only in registered form without coupons in minimum denominations of \$1,000 and any integral multiples of \$1,000 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, Notes are exchangeable for a like aggregate principal amount of Notes of a different authorized denomination, as requested by the Holder surrendering the same.

The Company and, by its acceptance of this Note or a beneficial interest therein, the Holder of, and any Person that acquires a beneficial interest in, this Note agree to treat for United States

Federal income tax purposes (i) the Notes as indebtedness of the company, and (ii) the stated interest on the Notes as ordinary interest income that is includible in the Holder's or beneficial owner's gross income at the time the interest is paid or accrued in accordance with the Holder's or beneficial owner's regular method of tax accounting, and otherwise to treat the Notes as described in the Prospectus.

**The Indenture and this Note shall be governed by and construed in accordance with the laws of the State of New York.**

**ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned assigns and transfers this Note to:

\_\_\_\_\_

\_\_\_\_\_

(Insert assignee’s social security or tax identification number)

\_\_\_\_\_

\_\_\_\_\_

(Insert address and zip code of assignee)

agent to transfer this Note on the books of the Securities Registrar. The agent may substitute another to act for him or her.

Dated:

Signature:

Signature Guarantee:

(Sign exactly as your name appears on the other side of this Note)

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Securities Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Securities Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

**ARTICLE V**

**MISCELLANEOUS PROVISIONS**

**Section 5.1 Separability of Invalid Provisions**

In case any one or more of the provisions of this Sixth Supplemental Indenture should be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Sixth Supplemental Indenture, and to the extent and only to the extent that any such provision is invalid, illegal or unenforceable, this Sixth Supplemental Indenture shall be construed as if such provision had never been contained herein.

## **Section 5.2 Execution in Counterparts**

This Sixth Supplemental Indenture may be simultaneously executed and delivered in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

## **Section 5.3 Effectiveness**

This Sixth Supplemental Indenture will become effective upon its execution and delivery.

## **Section 5.4 Successors and Assigns**

All covenants and agreements in the Indenture, as supplemented and amended by this Sixth Supplemental Indenture, by the Company shall bind its successors and assigns, whether so expressed or not.

## **Section 5.5 Further Assurances**

The Company will, at its own cost and expense, execute and deliver any documents or agreements, and take any other actions that the Trustee or its counsel may from time to time request in order to assure the Trustee of the benefits of the rights granted to the Trustee under the Indenture, as supplemented and amended by this Sixth Supplemental Indenture.

## **Section 5.6 Effect of Recitals**

The recitals contained herein and in the Notes, except the Trustee's certificates of authentication, shall be taken as the statements of the Company, and neither the Trustee nor any Authenticating Agent assumes any responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Sixth Supplemental Indenture or of the Notes. Neither the Trustee nor any Authenticating Agent shall be accountable for the use or application by the Company of the Notes or the proceeds thereof.

## **Section 5.7 Ratification of Indenture**

The Indenture as supplemented by this Sixth Supplemental Indenture, is in all respects ratified and confirmed, and this Sixth Supplemental Indenture shall be deemed part of the Indenture in the manner and to the extent herein and therein provided.

## **Section 5.8 Governing Law**

**This Sixth Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York.**

**IN WITNESS WHEREOF**, the parties hereto have caused this Sixth Supplemental Indenture to be duly executed all as of the day and year first above written.

**THE GOLDMAN SACHS GROUP, INC.**

By: /s/ Ellis J. Whipple

Name: Ellis J. Whipple

Title: Assistant Treasurer

**THE BANK OF NEW YORK MELLON, as Trustee**

By: /s/ Teisha Wright

Name: Teisha Wright

Title: Senior Associate

SIXTH SUPPLEMENTAL INDENTURE

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**GUARANTEE AGREEMENT**

between

The Goldman Sachs Group, Inc.,  
as Guarantor,

and

The Bank of New York Mellon,  
as Guarantee Trustee

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Murray Street Investment Trust I

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Dated as of March 9, 2012

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Murray Street Investment Trust I

Certain Sections of this Guarantee Agreement relating to  
Sections 310 through 318 of the  
Trust Indenture Act of 1939:

<u>Section of Trust Indenture Act</u>	<u>Section of Guarantee Agreement</u>
310(a)	4.1(a)
(b)	4.1(c)
311(a)	2.2(b)
(b)	2.2(b)
312(a)	2.2(a)
(b)	2.2(b)
313	2.3
314(a)	2.4
(b)	Inapplicable
(c)	2.5
(d)	Inapplicable
(e)	1.2, 2.5, 3.2
(f)	2.1, 3.2
315(a)	3.1(d)
(b)	2.7
(c)	3.1(c)
(d)	3.1(d)
316(a)	1.1, 2.6, 5.4
(b)	5.3, 5.7
(c)	7.2
317(a)	Inapplicable
(b)	Inapplicable
318(a)	2.1(b)
(b)	2.1
(c)	2.1(a)

Note: This reconciliation and tie sheet shall not, for any purpose, be deemed to be a part of the Guarantee Agreement and shall not affect the interpretation of any of its terms or provisions.

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GUARANTEE AGREEMENT

**GUARANTEE AGREEMENT**, dated as of March 9, 2012, is executed and delivered by **THE GOLDMAN SACHS GROUP, INC.**, a Delaware corporation (the “*Guarantor*”), having its principal office at 200 West Street, New York, New York 10282, and **THE BANK OF NEW YORK MELLON**, a New York banking corporation, as trustee (the “*Guarantee Trustee*”), for the benefit of the Holders (as defined herein) from time to time of the Trust Securities (as defined herein) of **MURRAY STREET INVESTMENT TRUST I**, a Delaware statutory trust (the “*Issuer Trust*”).

**WITNESSETH:**

**WHEREAS**, pursuant to an Amended and Restated Declaration of Trust, dated as of March 9, 2012 (as it may be amended from time to time, the “*Trust Declaration*”), among the Guarantor, as Sponsor, the Property Trustee, the Delaware Trustee and the Administrative Trustees named therein and the Holders from time to time of undivided beneficial interests in the assets of the Issuer Trust, the Issuer Trust is issuing \$1,750,010,000 aggregate Liquidation Amount (as defined in the Trust Declaration) of its 4.647% Senior Guaranteed Trust Securities, Liquidation Amount \$1,000 per Trust Security (as they may be amended from time to time, the “*Trust Securities*”), representing undivided beneficial interests in the assets of the Issuer Trust and having the terms set forth in the Trust Declaration;

**WHEREAS**, the Trust Securities will be issued by the Issuer Trust and the proceeds thereof will be used to purchase the Notes (as defined in the Trust Declaration) of the Guarantor which will be deposited with The Bank of New York Mellon, as Property Trustee under the Trust Declaration, as trust assets; and

**WHEREAS**, as an incentive for the Holders to purchase the Trust Securities and for the Issuer Trust to purchase the Notes, the Guarantor irrevocably and unconditionally agrees, to the extent set forth herein, to pay to the Holders of the Trust Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the purchase by each Holder of Trust Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Guarantee Agreement to provide as follows for the benefit of the Holders from time to time of the Trust Securities:

**ARTICLE I**

**INTERPRETATION AND DEFINITIONS**

Section 1.1 *Interpretation.*

In this Guarantee Agreement, unless the context otherwise requires:

- (a) capitalized terms used in this Guarantee Agreement but not defined in the preamble hereto have the respective meanings assigned to them in Section 1.2;
- (b) a term defined anywhere in this Guarantee Agreement has the same meaning throughout;
- (c) all references to “*the Guarantee Agreement*” or “*this Guarantee Agreement*” are to this Guarantee Agreement as modified, supplemented or amended from time to time;

GUARANTEE AGREEMENT

(d) all references in this Guarantee Agreement to Articles and Sections are to Articles and Sections of this Guarantee Agreement unless otherwise specified;

(e) a term defined in the Trust Indenture Act has the same meaning when used in this Guarantee Agreement unless otherwise defined in this Guarantee Agreement or unless the context otherwise requires;

(f) a reference to the singular includes the plural and vice-versa; and

(g) the masculine, feminine or neuter genders used herein shall include the masculine, feminine and neuter genders.

#### Section 1.2 *Definitions.*

As used in this Guarantee Agreement, the terms set forth below shall, unless the context otherwise requires, have the following meanings:

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; *provided, however*, that the Issuer Trust shall not be deemed to be an Affiliate of the Guarantor. For the purposes of this definition, “*control*”, when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “*controlling*” and “*controlled*” have meanings correlative to the foregoing.

“*Board of Directors*” means either the board of directors of the Guarantor or any committee of that board duly authorized to act hereunder.

“*Corporate Trust Office*” means the principal office of the Guarantee Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, Floor 4E, New York, New York 10286, Attention: International Corporate Trust, or such other address as the Guarantee Trustee may designate from time to time by notice to the Holders and the Guarantor, or the principal corporate trust office of any successor Guarantee Trustee (or such other address as such successor Guarantee Trustee may designate from time to time by notice to the Holders and the Guarantor).

“*Event of Default*” means a default by the Guarantor on any of its payment or other obligations under this Guarantee Agreement; *provided, however*, that, except with respect to a default in payment of any Guarantee Payments, the Guarantor shall have received notice of default and shall not have cured such default within 30 days after receipt of such notice.

“*Guarantee Payments*” means the following payments or distributions, without duplication, with respect to the Trust Securities: (i) any accumulated and unpaid Distributions (as such term is defined in the Trust Declaration) required to be paid on the Trust Securities, (ii) the redemption price, including all accumulated and unpaid Distributions to the date of redemption (the “*Redemption Price*”), with respect to any Trust Securities called for redemption by the Issuer Trust, (iii) upon a voluntary or involuntary termination, winding up or liquidation of the Issuer Trust, the aggregate of the Liquidation Amount of \$1,000 per Trust Security plus accumulated and unpaid Distributions on the Trust Securities to the date of payment (in either case, the “*Liquidation Distribution*”) and (iv) amounts due upon acceleration of the Trust Securities pursuant to Section 5.12(c) of the Trust Declaration.

“*Guarantee Trustee*” means The Bank of New York Mellon, until a Successor Guarantee Trustee has been appointed and has accepted such appointment pursuant to the terms of this Guarantee Agreement, and thereafter means each such Successor Guarantee Trustee.

“*Holder*” means any holder, as registered on the books and records of the Issuer Trust, of any Trust Securities; *provided, however,* that in determining whether the holders of the requisite percentage of Trust Securities have given any request, notice, consent or waiver hereunder, “Holder” shall not include the Guarantor, the Guarantee Trustee, any other obligor hereunder or any Affiliate of the Guarantor, the Guarantee Trustee or any such other obligor.

“*Indenture*” means the Original Indenture, as amended and supplemented by the Supplemental Indenture, and as may be further amended or supplemented from time to time.

“*List of Holders*” has the meaning specified in Section 2.2(a).

“*Majority in Liquidation Amount of the Trust Securities*” means, except as provided by the Trust Indenture Act, a vote by the Holder(s) of more than 50% of the Liquidation Amount of all then outstanding Trust Securities issued by the Issuer Trust.

“*Officers’ Certificate*” means, with respect to any Person, a certificate signed by the Chairman or a Vice Chairman of the Board of Directors of such Person or the President or a Vice President of such Person, and by the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of such Person, and delivered to the Guarantee Trustee. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Guarantee Agreement shall include:

(a) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;

(b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers’ Certificate;

(c) a statement that each officer has made such examination or investigation as, in such officer’s opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each officer, such condition or covenant has been complied with.

“*Original Indenture*” means the Indenture, dated as of February 20, 2004, between the Sponsor and the Note Trustee, as trustee.

“*Person*” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

“*Responsible Officer*” means, with respect to the Guarantee Trustee, any Vice President, any Assistant Vice President, any Assistant Secretary, any Assistant Treasurer, any trust officer or assistant trust officer or any other officer of the corporate trust department of the Guarantee Trustee and also means, with respect to a particular corporate trust matter, any other officer

having direct responsibility for the administration of this Guarantee Agreement to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"*Successor Guarantee Trustee*" means a successor Guarantee Trustee possessing the qualifications to act as Guarantee Trustee under Section 4.1.

"*Supplemental Indenture*" means the Second Supplemental Indenture, dated as of May 15, 2007, between the Sponsor and the Note Trustee, as trustee, as amended and supplemented by the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture, dated as of March 9, 2012, each between the Sponsor and the Note Trustee, as trustee, and as may be further amended or supplemented from time to time.

"*Trust Indenture Act*" means the Trust Indenture Act of 1939, as amended.

Capitalized or otherwise defined terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Trust Declaration.

## ARTICLE II

### TRUST INDENTURE ACT

#### Section 2.1 *Trust Indenture Act; Application.*

(a) This Guarantee Agreement is subject to the provisions of the Trust Indenture Act that are required to be part of this Guarantee Agreement and shall, to the extent applicable, be governed by such provisions.

(b) If and to the extent that any provision of this Guarantee Agreement limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act through the operation of Section 318(c) thereof, such imposed duties shall control. If any provision of this Guarantee Agreement modifies or excludes any provision of the Trust Indenture Act which may be so modified or excluded, the latter provision shall be deemed to apply to this Guarantee Agreement as so modified or to be excluded, as the case may be.

#### Section 2.2 *List of Holders.*

(a) The Guarantor shall furnish or cause to be furnished to the Guarantee Trustee (i) semiannually, on or before June 30 and December 31 of each year, a list, in such form as the Guarantee Trustee may reasonably require, of the names and addresses of the Holders (the "*List of Holders*") as of a date not more than 15 days prior to the delivery thereof, and (ii) at such other times as the Guarantee Trustee may request in writing, within 30 days after the receipt by the Guarantor of any such request, a List of Holders as of a date not more than 15 days prior to the time such list is furnished, in each case to the extent such information is in the possession or control of the Guarantor and is not identical to a previously supplied list of Holders or has not otherwise been received by the Guarantee Trustee in its capacity as such. The Guarantee Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Guarantee Trustee shall comply with its obligations under Section 311(a), Section 311(b) and Section 312(b) of the Trust Indenture Act.

GUARANTEE AGREEMENT

*Section 2.3 Reports by the Guarantee Trustee.*

Not later than July 1 of each year, commencing July 1, 2012, the Guarantee Trustee shall provide to the Holders such reports as are required by Section 313 of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Guarantee Trustee shall also comply with the requirements of Section 313(d) of the Trust Indenture Act. The Guarantor will notify the Guarantee Trustee if and when any Trust Securities are listed on any stock exchange and of any delisting thereof.

*Section 2.4 Periodic Reports to the Guarantee Trustee.*

The Guarantor shall provide to the Guarantee Trustee, the Securities and Exchange Commission and the Holders such documents, reports and information, if any, as required by Section 314 of the Trust Indenture Act and the compliance certificate required by Section 314 of the Trust Indenture Act, in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act.

*Section 2.5 Evidence of Compliance with Conditions Precedent.*

The Guarantor shall provide to the Guarantee Trustee such evidence of compliance with such conditions precedent, if any, provided for in this Guarantee Agreement that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer of the Guarantor pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate.

*Section 2.6 Events of Default; Waiver.*

The Holders of a Majority in Liquidation Amount of the Trust Securities may, by vote, on behalf of the Holders, waive any past Event of Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Guarantee Agreement, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent therefrom.

*Section 2.7 Events of Default; Notice.*

(a) The Guarantee Trustee shall, within 90 days after the occurrence of an Event of Default, transmit by mail, first class postage prepaid, to the Holders, notices of all Events of Default known to the Guarantee Trustee, unless such defaults have been cured before the giving of such notice, provided, that, except in the case of a default in the payment of a Guarantee Payment, the Guarantee Trustee shall be protected in withholding such notice if and so long as the Board of Directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Guarantee Trustee in good faith determines that the withholding of such notice is in the interests of the Holders.

(b) The Guarantee Trustee shall not be deemed to have knowledge of any Event of Default unless the Guarantee Trustee shall have received written notice, or a Responsible Officer charged with the administration of this Guarantee Agreement shall have obtained written notice, of such Event of Default.



### ARTICLE III

#### POWERS, DUTIES AND RIGHTS OF THE GUARANTEE TRUSTEE

##### Section 3.1 *Powers and Duties of the Guarantee Trustee.*

(a) This Guarantee Agreement shall be held by the Guarantee Trustee for the benefit of the Holders, and the Guarantee Trustee shall not transfer this Guarantee Agreement to any Person except a Holder exercising his or her rights pursuant to Section 5.4(iv) or to a Successor Guarantee Trustee on acceptance by such Successor Guarantee Trustee of its appointment to act as Successor Guarantee Trustee. The right, title and interest of the Guarantee Trustee shall automatically vest in any Successor Guarantee Trustee, upon acceptance by such Successor Guarantee Trustee of its appointment hereunder, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Guarantee Trustee.

(b) If an Event of Default has occurred and is continuing, the Guarantee Trustee shall enforce this Guarantee Agreement for the benefit of the Holders.

(c) The Guarantee Trustee, before the occurrence of any Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Guarantee Agreement, and no implied covenants shall be read into this Guarantee Agreement against the Guarantee Trustee. In case an Event of Default has occurred (that has not been cured or waived pursuant to Section 2.6), the Guarantee Trustee shall exercise such of the rights and powers vested in it by this Guarantee Agreement, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(d) No provision of this Guarantee Agreement shall be construed to relieve the Guarantee Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) prior to the occurrence of any Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Guarantee Trustee shall be determined solely by the express provisions of this Guarantee Agreement, and the Guarantee Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Guarantee Agreement; and

(B) in the absence of bad faith on the part of the Guarantee Trustee, the Guarantee Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Guarantee Trustee and conforming to the requirements of this Guarantee Agreement; but in the case of any such certificates or opinions that by any provision hereof or of the Trust Indenture Act are specifically required to be furnished to the Guarantee Trustee, the Guarantee Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Guarantee Agreement;

(ii) the Guarantee Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Guarantee Trustee, unless it shall be proved that the Guarantee Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

(iii) the Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in Liquidation Amount of the Trust Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee, or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement; and

(iv) no provision of this Guarantee Agreement shall require the Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Guarantee Trustee shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Guarantee Agreement or adequate indemnity against such risk or liability is not reasonably assured to it.

### Section 3.2 *Certain Rights of Guarantee Trustee.*

(a) Subject to the provisions of Section 3.1:

(i) The Guarantee Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document reasonably believed by it to be genuine and to have been signed, sent or presented by the proper party or parties.

(ii) Any direction or act of the Guarantor contemplated by this Guarantee Agreement shall be sufficiently evidenced by an Officers' Certificate unless otherwise prescribed herein.

(iii) Whenever, in the administration of this Guarantee Agreement, the Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting to take any action hereunder, the Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and rely upon an Officers' Certificate which, upon receipt of such request from the Guarantee Trustee, shall be promptly delivered by the Guarantor.

(iv) The Guarantee Trustee may consult with legal counsel of its selection, and the advice or opinion of such legal counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder in good faith and in accordance with such advice or opinion. Such legal counsel may be legal counsel to the Guarantor or any of its Affiliates and may be one of its employees. The Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Guarantee Agreement from any court of competent jurisdiction.

(v) The Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Guarantee Agreement at the request or direction of any Holder, unless such Holder shall have provided to the Guarantee Trustee security and indemnity reasonably satisfactory to the Guarantee Trustee, against the costs, expenses (including attorneys' fees and expenses) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Guarantee Trustee;

*provided* that, nothing contained in this Section 3.2(a)(v) shall be taken to relieve the Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Guarantee Agreement.

(vi) The Guarantee Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Guarantee Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit.

(vii) The Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through its agents or attorneys, and the Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any such agent or attorney appointed with due care by it hereunder.

(viii) Whenever in the administration of this Guarantee Agreement the Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Guarantee Trustee (A) may request instructions from the Holders, (B) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (C) shall be protected in acting in accordance with such instructions.

(ix) The Guarantee Trustee may request that the Guarantor deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Guarantee Agreement.

(x) The Guarantee Trustee shall not be liable for special, indirect or consequential damages except to the extent caused by its negligence, willful misconduct or bad faith.

(xi) In no event shall the Guarantee Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Guarantee Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(b) No provision of this Guarantee Agreement shall be deemed to impose any duty or obligation on the Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Guarantee Trustee shall be construed to be a duty to act in accordance with such power and authority.

Section 3.3 *Compensation; Indemnity; Fees.*

The Guarantor agrees:

(a) to pay to the Guarantee Trustee from time to time such compensation as shall be agreed in writing between the Guarantor and the Guarantee Trustee for all services rendered by it hereunder (which compensation shall not be limited by any provisions of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided herein, to reimburse the Guarantee Trustee upon request for all reasonable expenses, disbursements and advances incurred or made by the Guarantee Trustee in accordance with any provision of this Guarantee Agreement (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to its negligence or bad faith; and

(c) to indemnify the Guarantee Trustee and its directors, officers, agents and employees for, and to hold it harmless against, any loss, liability or expense (including reasonable out-of-pocket legal fees and expenses) incurred without negligence or bad faith on the part of the Guarantee Trustee, arising out of or in connection with the acceptance or administration of this Guarantee Agreement, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The Guarantee Trustee will not claim or exact any lien or charge on any Guarantee Payments as a result of any amount due to it under this Guarantee Agreement.

The provisions of this Section 3.3 shall survive the termination of this Guarantee Agreement or the earlier resignation or removal of the Guarantee Trustee.

## ARTICLE IV

### GUARANTEE TRUSTEE

Section 4.1 *Guarantee Trustee; Eligibility.*

(a) There shall at all times be a Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a Person that is eligible pursuant to the Trust Indenture Act to act as such and has a combined capital and surplus of at least \$50,000,000, and shall be a corporation meeting the requirements of Section 310(a) of the Trust Indenture Act. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority, then, for the purposes of this Section 4.1 and to the extent permitted by the Trust Indenture Act, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Guarantee Trustee shall cease to be eligible to so act under Section 4.1(a), the Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 4.1(c).

(c) If the Guarantee Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Guarantee Trustee and Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

Section 4.2 *Appointment, Removal and Resignation of the Guarantee Trustee.*

(a) Subject to Section 4.2(b), the Guarantee Trustee may be appointed or removed without cause at any time by the Guarantor. If the instrument of acceptance by the Successor Guarantee Trustee required by Section 4.2(b) shall not have been delivered to the Guarantee Trustee within 60 days after the giving of such notice of resignation, the Guarantee Trustee may petition, at the expense of the Issuer Trust, any court of competent jurisdiction for the appointment of a Successor Guarantee Trustee.

(b) The Guarantee Trustee shall not be removed until a Successor Guarantee Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Guarantee Trustee and delivered to the Guarantor.

(c) The Guarantee Trustee appointed hereunder shall hold office until a Successor Guarantee Trustee shall have been appointed or until its removal or resignation. The Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Guarantee Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Guarantee Trustee and delivered to the Guarantor and the resigning Guarantee Trustee.

(d) If no Successor Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 4.2 within 60 days after delivery to the Guarantor of an instrument of resignation, the resigning Guarantee Trustee may petition, at the expense of the Guarantor, any court of competent jurisdiction for appointment of a Successor Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Guarantee Trustee.

## ARTICLE V

### GUARANTEE

Section 5.1 *Guarantee.*

The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by or on behalf of the Issuer Trust), as and when due. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer Trust to pay such amounts to the Holders. The obligations of the Guarantor hereunder shall rank *pari passu* with the obligations of the Guarantor under its unsubordinated and unsecured obligations.

Section 5.2 *Waivers.*

(a) The Guarantor hereby waives notice of acceptance of this Guarantee Agreement and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Guarantee Trustee, the Issuer Trust or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

(b) The Guarantor hereby waives, to the extent permitted by law, any other suretyship defense and any defenses based on lack of authority or the validity or enforceability of the Trust Securities or this Guarantee Agreement. Any payment by the Guarantor under this Guarantee

Agreement shall be made without setoff or counterclaim. In addition, with respect to any amount that remains due and owing under the Trust Securities, the Guarantor hereby waives, to the extent permitted by law, any setoff, counterclaim, recoupment or defense which may be available to the Issuer Trust. Notwithstanding any provision to the contrary herein, nothing in this Guarantee Agreement shall be deemed to waive any claim or defense the Guarantor may have with regard to whether and the extent to which an amount was due and owing under the Trust Securities.

#### *Section 5.3 Obligations Not Affected.*

The obligations, covenants, agreements and duties of the Guarantor under this Guarantee Agreement shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer Trust of any express or implied agreement, covenant, term or condition relating to the Trust Securities to be performed or observed by the Issuer Trust;

(b) the extension of time for the payment by the Issuer Trust of all or any portion of the Distributions, Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Trust Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Trust Securities;

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Trust Securities, or any action on the part of the Issuer Trust granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer Trust or any of the assets of the Issuer Trust;

(e) any invalidity of, or defect or deficiency in, the Trust Securities; or

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred.

There shall be no obligation of the Holders to give notice to, or obtain the consent of, the Guarantor with respect to the happening of any of the foregoing.

#### *Section 5.4 Rights of Holders.*

The Guarantor expressly acknowledges that: (i) this Guarantee Agreement will be deposited with the Guarantee Trustee to be held for the benefit of the Holders; (ii) the Guarantee Trustee has the right to enforce this Guarantee Agreement on behalf of the Holders; (iii) the Holders of a Majority in Liquidation Amount of the Trust Securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Guarantee Trustee in respect of this Guarantee Agreement or exercising any trust or power conferred upon the Guarantee Trustee under this Guarantee Agreement; and (iv) any Holder may institute a legal proceeding directly against the Guarantor to enforce its rights under this Guarantee Agreement, without first instituting a legal proceeding against the Guarantee Trustee, the Issuer Trust or any other Person.

Section 5.5 *Guarantee of Payment.*

This Guarantee Agreement creates a guarantee of payment and not of collection. This Guarantee Agreement will not be discharged except by payment of the Guarantee Payments in full (without duplication of amounts theretofore paid by the Issuer Trust).

Section 5.6 *Subrogation.*

The Guarantor shall be subrogated to all rights (if any) of the Holders against the Issuer Trust in respect of any amounts paid to the Holders by the Guarantor under this Guarantee Agreement and shall have the right to waive payment by the Issuer Trust pursuant to Section 5.1; *provided, however*, that the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any rights which it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Guarantee Agreement, until all accumulated and unpaid Distributions on, and the Redemption Price or Liquidation Amount of, the Trust Securities shall have been previously paid in full. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

Section 5.7 *Independent Obligations.*

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer Trust with respect to the Trust Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Guarantee Agreement notwithstanding the occurrence of any event referred to in subsections (a) through (f), inclusive, of Section 5.3.

**ARTICLE VI**

**TERMINATION**

Section 6.1 *Termination.*

This Guarantee Agreement shall continue in full force and effect until the earlier of (i) full payment of the Redemption Price of all Trust Securities or (ii) full payment of the amounts payable in accordance with the Trust Declaration upon liquidation of the Issuer Trust, at which time this Guarantee Agreement shall terminate and be of no further force and effect. Notwithstanding the foregoing, this Guarantee Agreement will continue to be effective or will be reinstated, as the case may be, if at any time any Holder must restore payment of any sums paid with respect to Trust Securities or this Guarantee Agreement in connection with a bankruptcy, insolvency or other similar proceeding.

**ARTICLE VII**

**MISCELLANEOUS**

Section 7.1 *Successors and Assigns.*

All guarantees and agreements contained in this Guarantee Agreement shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the

Holders of the Trust Securities then outstanding. Except in connection with a consolidation, merger or sale involving the Guarantor that is permitted under Article VIII of the Indenture, and pursuant to which the successor or assignee agrees in writing to perform the Guarantor's obligations hereunder, the Guarantor shall not assign its obligations hereunder. Upon any permitted assignment of obligations, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such assignment.

*Section 7.2 Amendments.*

Except with respect to any changes which do not adversely affect the rights of the Holders in any material respect (in which case no consent of the Holders will be required), this Guarantee Agreement may only be amended with the prior approval of the Holders of not less than a Majority in Liquidation Amount of the Trust Securities. The provisions of Article VI of the Trust Declaration concerning meetings of the Holders shall apply to the giving of such approval.

The Property Trustee shall be entitled to receive an Opinion of Counsel and an Officers' Certificate stating that any amendment to this Guarantee Agreement is in compliance with this Guarantee Agreement.

*Section 7.3 Notices.*

Any notice, request or other communication required or permitted to be given hereunder shall be in writing, duly signed by the party giving such notice, and delivered, telecopied or mailed by first class mail as follows:

(a) if given to the Guarantor, to the address set forth below or such other address, facsimile number or to the attention of such other Person as the Guarantor may give notice to the Holders:

The Goldman Sachs Group, Inc.  
200 West Street  
New York, New York 10282  
Facsimile No.: (212) 902-3325  
Attention: Corporate Treasury – Debt Administration

(b) if given to the Issuer Trust, in care of the Guarantee Trustee, at the Issuer Trust's (and the Guarantee Trustee's) address set forth below or such other address as the Guarantee Trustee on behalf of the Issuer Trust may give notice to the Holders:

Murray Street Investment Trust I  
c/o The Goldman Sachs Group, Inc.  
200 West Street  
New York, New York 10282  
Facsimile No.: (212) 902-3325  
Attention: Corporate Treasury – Debt Administration

with a copy to:

The Bank of New York Mellon  
101 Barclay Street, Floor 4E  
New York, New York 10286  
Facsimile No.: (212) 815-5305/5366  
Attention: International Corporate Trust



(c) if given to any Holder, at the address set forth on the books and records of the Issuer Trust.

All notices hereunder shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

*Section 7.4 Benefit.*

This Guarantee Agreement is solely for the benefit of the Holders and is not separately transferable from the Trust Securities.

*Section 7.5 Governing Law.*

**THIS GUARANTEE AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

*Section 7.6 Counterparts.*

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

*Section 7.7 Waiver of Jury Trial.*

EACH OF THE PARTIES HERETO HERBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTEE AGREEMENT, THE TRUST SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

IN WITNESS WHEREOF, the undersigned have executed this Guarantee Agreement as of the date first above written.

**THE GOLDMAN SACHS GROUP, INC.**

By /s/ Ellis J. Whipple

\_\_\_\_\_  
Name: Ellis J. Whipple

Title: Assistant Treasurer

**THE BANK OF NEW YORK MELLON,**  
as Guarantee Trustee

By /s/ Teisha Wright

\_\_\_\_\_  
Name: Teisha Wright

Title: Senior Associate

GUARANTEE AGREEMENT

Amended and Restated Declaration of Trust

among

The Goldman Sachs Group, Inc.  
as Sponsor,

The Bank of New York Mellon,  
as Property Trustee,

BNY Mellon Trust of Delaware,  
as Delaware Trustee,

the Administrative Trustees (as named herein),

and the several Holders of the Trust Securities

Dated as of March 9, 2012

of

Murray Street Investment Trust I

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Murray Street Investment Trust I

Certain Sections of this Amended and Restated Declaration of Trust relating to Section 310 through 318, inclusive, of the Trust Indenture Act of 1939:

<u>Trust Indenture Act Section</u>	<u>Trust Declaration Section</u>
310 (a)(1)	8.7
(a)(2)	8.7
(a)(3)	8.9
(a)(4)	2.7(a)(ii)(E)
(b)	8.8, 10.10
311 (a)	8.13
(b)	8.13
312 (a)	5.7, 10.10
(b)	5.7, 10.10
(c)	5.8, 10.10
313 (a)	8.14(a)
(a)(4)	8.14(b)
(b)	8.14(b)
(c)	10.8
(d)	8.14(c)
314 (a)	8.15
(b)	Not Applicable
(c)(1)	8.16
(c)(2)	8.16
(c)(3)	Not Applicable
(d)	Not Applicable
(e)	1.1, 8.16
315 (a)	8.1(a), 8.3(a)
(b)	8.2, 10.8
(c)	8.1(a), 8.1(d)
(d)	8.1(e), 8.3
(e)	Not Applicable
316 (a)(1)(A)	Not Applicable
(a)(1)(B)	5.12(b), 5.12(c)
(a)(2)	Not Applicable
(b)	5.12(d)
(c)	6.8
317 (a)(1)	Not Applicable
(a)(2)	Not Applicable
(b)	5.10
318 (a)	10.10

Note: This reconciliation and tie sheet shall not, for any purpose, be deemed to be a part of the Amended and Restated Declaration of Trust.

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**AMENDED AND RESTATED DECLARATION OF TRUST**, dated as of March 9, 2012, among (i) **THE GOLDMAN SACHS GROUP INC.**, a Delaware corporation (including any successors or assigns, the "**Sponsor**"), (ii) **THE BANK OF NEW YORK MELLON** (the "**Bank**"), as property trustee (in such capacity, the "**Property Trustee**"); (iii) **BNY MELLON TRUST OF DELAWARE** (the "**Delaware Trustee**"), (iv) Ellis J. Whipple, an individual, Steven M. Bunson, an individual, and Rajashree Datta, an individual, each of whose address is c/o The Goldman Sachs Group Inc., 200 West Street, New York, NY 10282 (each, an "**Administrative Trustee**," and collectively, the "**Administrative Trustees**") (the Property Trustee, the Delaware Trustee, and the Administrative Trustees being referred to collectively as the "**Issuer Trustees**"), and (iv) the several Holders, as hereinafter defined.

#### WITNESSETH

**WHEREAS**, the Sponsor and certain of the Issuer Trustees have heretofore duly declared and established a statutory trust pursuant to the Delaware Statutory Trust Act by entering into that certain Declaration of Trust, dated as of February 10, 2012 (the "**Original Trust Declaration**"), and by the execution and filing by certain of the Issuer Trustees with the Secretary of State of the State of Delaware of the Certificate of Trust (the "**Certificate of Trust**"), filed on February 10, 2012, attached as Exhibit A; and

**WHEREAS**, the parties hereto desire to amend and restate the Original Trust Declaration in its entirety as set forth herein to provide for, among other things, (i) the issuance and sale of the Trust Securities by the Issuer Trust pursuant to the Distribution Agreement, (ii) the acquisition by the Issuer Trust from Goldman Sachs Capital II of all of the right, title and interest in the Notes and (iii) the appointment of the Property Trustee;

**NOW, THEREFORE**, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, each party, for the benefit of the other parties and for the benefit of the Holders, hereby amends and restates the Original Trust Declaration in its entirety and agrees as follows:

#### ARTICLE I

##### DEFINED TERMS

###### Section 1.1 *Definitions.*

For all purposes of this Trust Declaration, except as otherwise expressly provided or unless the context otherwise requires:

(a) the terms defined in this ARTICLE I have the meanings assigned to them in this ARTICLE I and include the plural as well as the singular;

(b) all other terms used herein that are defined in the Trust Indenture Act, either directly or by reference therein, have the meanings assigned to them therein;

DECLARATION OF TRUST



(c) unless the context otherwise requires, any reference to an “Article” or a “Section” refers to an Article or a Section, as the case may be, of this Trust Declaration;

(d) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Trust Declaration as a whole and not to any particular Article, Section or other subdivision; and

(e) unless the context otherwise requires, any reference to a statute, rule or regulation refers to the same (including any successor statute, rule or regulation thereto) as it may be amended from time to time.

“*Act*” has the meaning specified in Section 6.9.

“*Administrative Trustees*” means each of the individuals identified as an “Administrative Trustee” in the preamble to this Trust Declaration solely in such individual’s capacity as Administrative Trustee of the Issuer Trust and not in such individual’s individual capacity, or any such Administrative Trustee’s successor in interest in such capacity, or any successor trustee appointed as herein provided.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person; provided, however, that the Issuer Trust shall not be deemed an Affiliate of the Sponsor. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“*Agents*” means each of the Agents named in Schedule I to the Distribution Agreement.

“*Applicable Procedures*” means, with respect to any transfer or transaction involving Book-Entry Trust Securities, the rules and procedures of the Clearing Agency for such Book-Entry Trust Securities, in each case to the extent applicable to such transaction and as in effect from time to time.

“*Authorized Officer*” of any Person means any officer of such Person or any Person authorized by or pursuant to a resolution of the Board of Directors of such Person.

“*Bank*” has the meaning specified in the preamble to this Trust Declaration and includes any successor in interest thereto and any other Person appointed successor Property Trustee as herein provided, but in each case only in its separate corporate capacity and not in its capacity as Property Trustee.

“*Bankruptcy Event*” means, with respect to any Person:

(a) the entry of a decree or order by a court having jurisdiction in the premises judging such Person a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjudication or composition of or in respect of such Person under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law, or

appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of such Person or of any substantial part of its property or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 90 consecutive days; or

(b) the institution by such Person of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable Federal or State bankruptcy, insolvency, reorganization or other similar law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or similar official) of such Person or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due and its willingness to be adjudicated a bankrupt, or the taking of corporate action by such Person in furtherance of any such action.

“*Bankruptcy Laws*” has the meaning specified in Section 10.9.

“*Book-Entry Trust Securities*” means a beneficial interest in a Global Trust Securities Certificate, the ownership and transfers of which shall be made through book entries by a Clearing Agency as described in Section 5.4.

“*Business Day*” means a day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in The City of New York are authorized or required by law or executive order to close.

“*Certificate Depositary Agreement*” means the agreement among the Issuer Trust, the Sponsor and DTC, as the initial Clearing Agency, dated March 6, 2012, relating to the Trust Securities Certificates, as the same may be amended and supplemented from time to time.

“*Clearing Agency*” means an organization registered as a “clearing agency” pursuant to Section 17A of the Exchange Act. DTC will be the initial Clearing Agency.

“*Clearing Agency Participant*” means a broker, dealer, bank, other financial institution or other Person for whom from time to time a Clearing Agency effects book-entry transfers and pledges of securities deposited with the Clearing Agency.

“*Closing Date*” shall mean the date of the “Time of Delivery” as such term is defined in the Distribution Agreement, which date is also the date of execution and delivery of this Trust Declaration.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Commission*” means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Trust Declaration such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

“*Corporate Trust Office*” means (i) when used with respect to the Property Trustee, the office of the Property Trustee at which, at any particular time, its corporate trust business shall be principally administered, which office at the date hereof is located at The Bank of New York Mellon, 101 Barclay Street, Floor 4E, New York, New York 10286 – Attention: International Corporate Trust, or such other address as the Property Trustee may designate from time to time by notice to the Holders and the Sponsor, or the principal corporate trust office of any successor Property Trustee (or such other address as such successor Property Trustee may designate from time to time by notice to the Holders and the Sponsor), and (ii) when used with respect to the Note Trustee, its Corporate Trust Office as defined in the Indenture.

“*Definitive Trust Securities Certificates*” means either or both (as the context requires) of (a) Trust Securities Certificates issued as Book-Entry Trust Securities as provided in Sections 5.2 or 5.4 and (b) Trust Securities Certificates issued in certificated, fully registered form as provided in Sections 5.2, 5.4 or 5.5.

“*Delaware Statutory Trust Act*” means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. § 3801, *et seq.*, as it may be amended from time to time.

“*Delaware Trustee*” means the Person identified as the “Delaware Trustee” in the preamble to this Trust Declaration solely in its capacity as Delaware Trustee of the Issuer Trust and not in its individual capacity, or its successor in interest in such capacity, or any successor trustee appointed as herein provided.

“*Distribution Agreement*” means the Distribution Agreement, dated March 5, 2012, among the Issuer Trust, the Sponsor and Goldman, Sachs & Co, as representative of the Agents named therein, as the same may be amended from time to time.

“*Distribution Date*” has the meaning specified in Section 4.1(a).

“*Distribution Period*” means (i) the period from and including December 1, 2011 to but excluding the first Distribution Date and (ii) any period from and including a Distribution Date to but excluding the next succeeding Distribution Date.

“*Distribution Rate*” means, with respect to any Distribution Period, a rate *per annum* equal to the Interest Rate with respect to the Interest Period that begins on the same date as such Distribution Period begins and ends on the same date as such Distribution Period ends, it being understood that the Distribution Rate with respect to any portion of the initial Distribution Period preceding the date of initial issuance of the Trust Securities shall be equal to the Interest Rate applicable to the Notes for the corresponding portion of the corresponding Interest Period.

“*Distributions*” means amounts payable in respect of the Trust Securities as provided in Section 4.1.

“*DTC*” means The Depository Trust Company.

“*Early Termination Event*” has the meaning specified in Section 9.2.

“*Event of Default*” means any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) the occurrence of a Note Event of Default; or

(b) default by the Issuer Trust in the payment of any Distribution when it becomes due and payable, and continuation of such default for a period of 30 days; or

(c) default by the Issuer Trust in the payment of any Redemption Price of any Trust Security when it becomes due and payable; or

(d) default in the performance, or breach, in any material respect, of any covenant or warranty of the Issuer Trustees in this Trust Declaration (other than a covenant or warranty a default in the performance or breach of which is described in clause (b) or (c) above) and continuation of such default or breach for a period of 60 days after there has been given, by registered or certified mail, to the Issuer Trustees and the Sponsor by the Holders of at least 25% in aggregate Liquidation Amount of the Outstanding Trust Securities a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a “Notice of Default” hereunder; or

(e) the occurrence of a Bankruptcy Event with respect to the Property Trustee and a successor Property Trustee not being appointed within 90 days thereof.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended from time to time.

“*Expiration Date*” has the meaning specified in Section 9.1.

“*Global Trust Securities Certificate*” means a Trust Securities Certificate that is registered in the Security Register in the name of a Clearing Agency or a nominee thereof.

“*Guarantee Agreement*” means the Guarantee Agreement executed and delivered by the Sponsor and The Bank of New York Mellon, as trustee, for the benefit of the Holders of the Trust Securities, as amended from time to time.

“*Guarantee Payments*” has the meaning given to such term in the Guarantee Agreement.

“*Holder*” means a Person in whose name a Trust Security or Trust Securities is or are registered in the Securities Register; any such Person shall be a beneficial owner within the meaning of the Delaware Statutory Trust Act; *provided, however*, that in determining whether the Holders of the requisite amount of Trust Securities have voted on any matter provided for in this Trust Declaration, then for the purpose of any such determination, so long as Definitive Trust Securities Certificates have not been issued, the term Holders as used herein shall refer to the Owners, notwithstanding the provisions of Section 5.7.

“*Indenture*” means the Original Indenture, as amended and supplemented by the Supplemental Indenture, and as may be further amended or supplemented from time to time.

“*Interest Period*” means any period from and including an Interest Payment Date to but excluding the next succeeding Interest Payment Date and, for this purpose, “Interest Payment Date” has the meaning set forth in the Indenture as applied to the Notes.

“*Interest Rate*” means the rate at which interest accrues on the principal of Outstanding Notes pursuant thereto.

“*Issuer Trust*” means the statutory trust created under the laws of the State of Delaware and identified on the cover page to this Trust Declaration and any successor thereto pursuant to Section 9.5.

“*Issuer Trustees*” means, collectively, the Property Trustee, the Delaware Trustee and the Administrative Trustees.

“*Lien*” means any lien, pledge, charge, encumbrance, mortgage, deed of trust, adverse ownership interest, hypothecation, assignment, security interest or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever.

“*Like Amount*” means (a) with respect to any redemption of Trust Securities, Trust Securities having a Liquidation Amount equal to the principal amount of Notes to be contemporaneously redeemed in accordance with the Indenture, the proceeds of which will be used to pay the Redemption Price of such Trust Securities and (b) with respect to a distribution of Notes to the Sponsor or any of its Affiliates pursuant to Section 4.7, Notes having a principal amount equal to the aggregate Liquidation Amount of the Trust Securities of the Sponsor or its Affiliate(s) to whom such Notes are distributed.

“*Liquidation Amount*” means the stated amount of \$1,000 per Trust Security.

“*Liquidation Date*” means the date of distribution of the assets of the Issuer Trust to the Holders pursuant to Section 9.4.

“*Liquidation Distribution*” has the meaning specified in Section 9.4(a).

“*1940 Act*” means the Investment Company Act of 1940, as amended from time to time.

“*Note Event of Default*” means an “Event of Default” with respect to the Notes as defined in the Indenture.

“*Note Redemption Date*” means, with respect to any Notes to be redeemed under the Indenture, the date fixed for redemption under the Indenture.

“*Note Purchase Agreement*” means the Note Purchase Agreement, dated March 5, 2012, among the Sponsor, Goldman Sachs Capital II, as seller, Goldman, Sachs & Co., as remarketing agent, and the Issuer Trust, as purchaser.

“*Note Trustee*” means The Bank of New York Mellon, a New York banking corporation, solely in its capacity as trustee pursuant to the Indenture and not in its individual capacity, or its successor in interest in such capacity, and any successor thereto.

“*Notes*” means the Sponsor’s Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017, issued pursuant to the Indenture and as they may be amended from time to time.

“*Officers’ Certificate*” means, with respect to any Person, a certificate signed by any two Authorized Officers of such Person. Any Officers’ Certificate delivered with respect to compliance with a condition or covenant provided for in this Trust Declaration shall include:

(a) a statement that each officer signing the Officers’ Certificate has read the covenant or condition and the definitions relating thereto;

(b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers’ Certificate;

(c) a statement that each such officer has made such examination or investigation as, in such officer’s opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

“*Opinion of Counsel*” means a written opinion of counsel, who may be counsel for or an employee of the Sponsor or an Affiliate of the Sponsor and who shall be reasonably acceptable to the Property Trustee.

“*Original Indenture*” means the Indenture, dated as of February 20, 2004, between the Sponsor and the Note Trustee, as trustee.

“*Original Trust Declaration*” has the meaning specified in the recitals to this Trust Declaration.

“*Outstanding*,” when used with respect to Trust Securities, means, as of the date of determination, all Trust Securities theretofore executed and delivered under this Trust Declaration, *except*:

(a) Trust Securities theretofore cancelled by the Securities Registrar or delivered to the Securities Registrar for cancellation;

(b) Trust Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Property Trustee or any Paying Agent (other than the Sponsor) in trust or set aside and segregated in trust by the Issuer Trust (if the Issuer Trust shall act as its own Paying Agent) for the Holders of such Trust Securities; *provided* that, if such Trust Securities are to be redeemed, notice of such redemption has been duly given pursuant to this Trust Declaration;

(c) Trust Securities which have been paid or in exchange for or in lieu of which other Trust Securities have been executed and delivered pursuant to Sections 5.4, 5.5, and 5.6;

*provided, however*, that in determining whether the Holders of the requisite aggregate Liquidation Amount of the Outstanding Trust Securities have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Trust Securities owned by the Sponsor, any Issuer Trustee, any other obligor upon the Trust Securities or any Affiliate of the Sponsor, any Issuer Trustee or any such other obligor shall be disregarded and deemed not to be Outstanding, except that (a) in determining whether any Issuer Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Trust Securities that such Administrative Trustee or a Responsible Officer of such other Issuer Trustee or such Administrative Trustee, as the case may be, actually knows to be so owned shall be so disregarded, and (b) the foregoing shall not apply at any time when all of the outstanding Trust Securities are owned by the Sponsor, one or more of the Issuer Trustees, and/or any such Affiliate. Trust Securities so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Administrative Trustees the pledgee's right so to act with respect to such Trust Securities and that the pledgee is not the Sponsor or any Affiliate of the Sponsor.

*"Owner"* means each Person who is the beneficial owner of Book-Entry Trust Securities as reflected in the records of the Clearing Agency or, if a Clearing Agency Participant is so reflected but is not the beneficial owner, then as reflected in the records of a Person maintaining an account with such Clearing Agency (directly or indirectly, in accordance with the rules of such Clearing Agency).

*"Paying Agent"* means any paying agent or co-paying agent appointed pursuant to Section 5.10 and shall initially be the Bank.

*"Payment Account"* means a segregated non-interest-bearing corporate trust account maintained by the Property Trustee with the Bank in its trust department for the benefit of the Holders in which all amounts paid in respect of the Notes will be held and from which the Property Trustee, through the Paying Agent, shall make payments to the Holders in accordance with Sections 4.1 and 4.2.

*"Person"* means any individual, corporation, partnership, joint venture, trust, limited liability company or corporation, unincorporated organization or government or any agency or political subdivision thereof.

*"Property Trustee"* means the Person identified as the "Property Trustee" in the preamble to this Trust Declaration solely in its capacity as Property Trustee of the Issuer Trust and not in its individual capacity, or its successor in interest in such capacity, or any successor property trustee appointed as herein provided.

*"Prospectus"* means the prospectus, dated February 16, 2012, of the Sponsor and the Issuer Trust, as supplemented by the prospectus supplement, dated March 5, 2012.

“*Redemption Date*” means, with respect to any Trust Security to be redeemed, the date fixed for such redemption by or pursuant to this Trust Declaration; *provided* that each Note Redemption Date shall be a Redemption Date for a Like Amount of Trust Securities and the stated maturity of the Notes shall be a Redemption Date for all outstanding Trust Securities.

“*Redemption Price*” means, with respect to any Trust Security, the Liquidation Amount of such Trust Security, plus accumulated and unpaid Distributions to the Redemption Date; *provided* that if the Sponsor paid the Make-Whole Amount (as defined in the Indenture) upon the concurrent redemption of a Like Amount of Notes, “Redemption Price” shall mean the Make-Whole Amount (as calculated and paid pursuant to the Indenture) allocated on a *pro rata* basis (based on Liquidation Amounts) among the Trust Securities, plus accumulated and unpaid Distributions to the Redemption Date.

“*Relevant Trustee*” shall have the meaning specified in Section 8.10.

“*Responsible Officer*” means (1) when used with respect to the Property Trustee, any vice president, any assistant treasurer, any assistant secretary, any trust officer, any assistant trust officer or any other officer of the Property Trustee, in each case located in the Corporate Trust Office and also, with respect to a particular corporate trust matter, any other officer having direct responsibility for the administration of this Trust Declaration to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject and (2) when used with respect to the Delaware Trustee, any officer of the Delaware Trustee customarily performing functions similar to those performed by any of the above designated officers, and also, with respect to a particular matter, any other officer and having direct responsibility for the administration of this Trust Declaration to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“*Securities Act*” means the Securities Act of 1933, as amended from time to time.

“*Securities Register*” and “*Securities Registrar*” have the respective meanings specified in Section 5.5(a).

“*Sponsor*” has the meaning specified in the preamble to this Trust Declaration.

“*Successor Trust Security*” of any particular Trust Security means every Trust Security issued after, and evidencing all or a portion of the same beneficial interest in the Issuer Trust as that evidenced by, such particular Trust Security; and, for the purposes of this definition, any Trust Security executed and delivered under Section 5.6 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Trust Security shall be deemed to evidence the same beneficial interest as the mutilated, destroyed, lost or stolen Trust Securities Certificate.

“*Supplemental Indenture*” means the Second Supplemental Indenture, dated as of May 15, 2007, between the Sponsor and the Note Trustee, as trustee, as amended and supplemented by the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture, dated as of March 9, 2012, each between the Sponsor and the Note Trustee, as trustee, and as may be further amended or supplemented from time to time.



“*Trust Declaration*” means this Amended and Restated Trust Declaration, as the same may be modified, amended or supplemented in accordance with the applicable provisions hereof, including (i) all exhibits hereto and (ii) for all purposes of this Trust Declaration and any such modification, amendment or supplement, the provisions of the Trust Indenture Act that are deemed to be a part of and govern this Trust Declaration and any such modification, amendment or supplement, respectively.

“*Trust Indenture Act*” means the Trust Indenture Act of 1939 as in force at the date as of which this Trust Declaration is executed; *provided, however*, that in the event the Trust Indenture Act of 1939 is amended after such date, “Trust Indenture Act” means, to the extent required by any such amendment, the Trust Indenture Act of 1939 as so amended.

“*Trust Property*” means (a) the Notes registered in the name of the Property Trustee, as Holder, in the Security Register maintained with respect to the Notes pursuant to the Indenture (and solely for this purpose “Holder” and “Security Register” have the meanings set forth in the Indenture), (b) any cash on deposit in, or owing to, the Payment Account and (c) all proceeds and rights in respect of the foregoing and any other property and assets for the time being held or deemed to be held by the Property Trustee pursuant to the trusts of this Trust Declaration.

“*Trust Securities Certificate*” means a certificate evidencing Trust Securities, substantially in the form attached as Exhibit B.

“*Trust Security*” means an undivided beneficial interest in the assets of the Issuer Trust, having a Liquidation Amount of \$1,000 and having the rights provided therefor in this Trust Declaration, including the right to receive Distributions and a Liquidation Distribution as provided herein.

“*United States Person*” means, for U.S. federal income tax purposes, a citizen or resident of the United States, a domestic partnership, a domestic corporation, an estate the income of which is subject to U.S. federal income taxation regardless of its source, and a trust if (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or more United States persons have the authority to control all substantial decisions of the trust.

## ARTICLE II

### CONTINUATION OF THE ISSUER TRUST; ISSUANCE OF TRUST SECURITIES AND RELATED MATTERS

#### Section 2.1 *Name.*

The statutory trust continued hereby shall be known as “*Murray Street Investment Trust I*,” as such name may be modified from time to time by the Administrative Trustees following written notice to the Holders of Trust Securities and the other Issuer Trustees, in which name the Issuer Trustees may conduct the business of the Issuer Trust, make and execute contracts and other instruments on behalf of the Issuer Trust and sue and be sued.

*Section 2.2 Office of the Delaware Trustee; Principal Place of Business.*

The address of the Delaware Trustee in the State of Delaware is BNY Mellon Trust of Delaware, 100 White Clay Center, Suite 102, Newark, Delaware, 19711, Attention: Corporate Trust Administration, or such other address in the State of Delaware as the Delaware Trustee may designate by written notice to the Property Trustee, the Administrative Trustees and the Sponsor. The principal executive office of the Issuer Trust is in care of The Goldman Sachs Group, Inc., 200 West Street, New York, NY 10282.

*Section 2.3 Initial Contribution of Trust Property; Organizational Expenses.*

The Property Trustee acknowledges receipt in trust from the Sponsor in connection with the Original Trust Declaration of the sum of \$10, which constituted the initial Trust Property and shall be returned to the Sponsor contemporaneously with the issuance of the Trust Securities pursuant to Section 2.4. The Sponsor shall pay organizational expenses of the Issuer Trust as they arise or shall, upon request of any Issuer Trustee, promptly reimburse such Issuer Trustee for any such expenses paid by such Issuer Trustee. The Sponsor shall make no claim upon the Trust Property for the payment of such expenses.

*Section 2.4 Issuance of the Trust Securities.*

On March 5, 2012, the Sponsor, acting on its own behalf, and an Administrative Trustee, on behalf of the Issuer Trust and pursuant to the Original Trust Declaration, executed and delivered the Distribution Agreement and the Note Purchase Agreement, which action is hereby authorized, approved, ratified and confirmed in all respect. Contemporaneously with the execution and delivery of this Trust Declaration, an Administrative Trustee, on behalf of the Issuer Trust, shall execute in accordance with Sections 5.2, 5.3 and 8.9(a) and deliver to the Agents, Trust Securities Certificates, registered in the names requested by the Agents or a representative thereof, evidencing 1,750,010 Trust Securities having an aggregate Liquidation Amount of \$1,750,010,000, against receipt of the aggregate purchase price for such Trust Securities of \$1,798,862,209.71 by the Property Trustee.

*Section 2.5 Subscription and Purchase of Notes.*

Contemporaneously with the execution and delivery of this Trust Declaration, pursuant to the Note Purchase Agreement an Administrative Trustee, on behalf of the Issuer Trust, shall purchase from Goldman Sachs Capital II the Notes, registered in the name of the Property Trustee on behalf of the Issuer Trust and having an aggregate principal amount equal to \$1,750,010,000, and, in satisfaction of the purchase price for such Notes, the Property Trustee, on behalf of the Issuer Trust, shall deliver (i) to Goldman, Sachs & Co., as remarketing agent, \$1,798,815,564.33 and (ii) to Goldman Sachs Capital II \$46,645.38 (being together the amount delivered to the Property Trustee pursuant to Section 2.4).

*Section 2.6 Declaration of Trust.*

The exclusive purposes and functions of the Issuer Trust are (a) to issue and sell Trust Securities and to use the proceeds from such sale to acquire the Notes pursuant to the Note Purchase Agreement, and (b) to engage in only those activities necessary or incidental thereto.

The Sponsor hereby appoints the Issuer Trustees as trustees of the Issuer Trust, to have all the rights, powers and duties to the extent set forth herein, and the Issuer Trustees hereby accept such appointment. The Property Trustee hereby declares that it will hold the Trust Property in trust upon and subject to the conditions set forth herein for the benefit of the Issuer Trust and the Holders. The Administrative Trustees shall have all the rights, powers and duties set forth herein and in accordance with applicable law with respect to accomplishing the purposes of the Issuer Trust and, to the fullest extent permitted by law, shall not be fiduciaries with respect to the Issuer Trust or the Holders. The Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Property Trustee or the Administrative Trustees, or any of the duties and responsibilities of the Issuer Trustees generally, set forth herein. The Delaware Trustee shall be one of the trustees of the Issuer Trust for the sole and limited purpose of fulfilling the requirements of Section 3807(a) of the Delaware Statutory Trust Act and for taking such actions as are required to be taken by a Delaware trustee under the Delaware Statutory Trust Act.

*Section 2.7 Authorization To Enter into Certain Transactions.*

(a) The Issuer Trustees shall conduct the affairs of the Issuer Trust in accordance with the terms of this Trust Declaration. Subject to the limitations set forth in Section 2.7(b), and in accordance with the following clauses (i) and (ii) of this Section 2.7(a), the Issuer Trustees shall have the authority to enter into all transactions and agreements determined by the Issuer Trustees to be appropriate in exercising the authority, express or implied, otherwise granted to the Issuer Trustees, as the case may be, under this Trust Declaration, and to perform all acts in furtherance thereof, including without limitation the following:

(i) As among the Issuer Trustees, the Administrative Trustees, and each of them, shall have the power and authority to act on behalf of the Issuer Trust with respect to the following matters:

(A) the issuance and sale of the Trust Securities;

(B) causing the Issuer Trust to perform the Distribution Agreement and the Note Purchase Agreement, and causing the Issuer Trust to execute, deliver and perform the Certificate Depositary Agreement and such other agreements as may be necessary or desirable in connection with the purposes and function of the Issuer Trust;

(C) assisting in the registration of the Trust Securities under the Securities Act and under applicable state securities or blue sky laws, and the qualification of this Trust Declaration as a trust indenture under the Trust Indenture Act;

(D) assisting in the listing of the Trust Securities upon such securities exchange or exchanges, if any, as shall be determined by the Sponsor, with the registration of the Trust Securities under the Exchange Act, and the preparation and filing of all periodic and other reports and other documents pursuant to the foregoing;

(E) the sending of notices (other than notices of default) and other information regarding the Trust Securities and the Notes to the Holders in accordance with this Trust Declaration;

(F) consenting to the appointment of a Paying Agent and Securities Registrar in accordance with this Trust Declaration (which consent shall not be unreasonably withheld);

(G) the execution of the Trust Securities in accordance with this Trust Declaration;

(H) the execution and delivery of closing certificates, if any, pursuant to the Distribution Agreement and the Note Purchase Agreement;

(I) application for a taxpayer identification number for the Issuer Trust;

(J) to the extent provided in this Trust Declaration, the winding up of the affairs of and liquidation of the Issuer Trust and the preparation and filing of the certificate of cancellation with the Secretary of State of the State of Delaware;

(K) unless otherwise required by applicable law, executing on behalf of the Issuer Trust (either acting alone or together with any or all of the Administrative Trustees) any documents that the Administrative Trustees have the power to execute pursuant to this Trust Declaration; and

(L) the taking of any action incidental to the foregoing as the Administrative Trustees may from time to time determine is necessary or advisable to give effect to the terms of this Trust Declaration for the benefit of the Holders (without consideration of the effect of any such action on any particular Holder).

(ii) As among the Issuer Trustees, the Property Trustee shall have the power, duty and authority to act on behalf of the Issuer Trust with respect to the following matters:

(A) the establishment of the Payment Account;

(B) the receipt of the Notes;

(C) the collection of interest, principal and any other payments made in respect of the Notes and the holding of such amounts in the Payment Account;

(D) the distribution through the Paying Agent of amounts distributable to the Holders in respect of the Trust Securities;

(E) the exercise of all of the rights, powers and privileges of a holder of the Notes;

(F) the sending of notices of default and other information regarding the Trust Securities and the Notes to the Holders in accordance with this Trust Declaration;

(G) the distribution of the Trust Property in accordance with the terms of this Trust Declaration;

(H) to the extent provided in this Trust Declaration, the winding up of the affairs of and liquidation of the Issuer Trust and the execution and filing of the certificate of cancellation with the Secretary of State of the State of Delaware; and

(I) after an Event of Default (other than under paragraph (b), (c), (d) or (e) of the definition of such term if such Event of Default is by or with respect to the Property Trustee) the taking of any action incidental to the foregoing as the Property Trustee may from time to time determine is necessary or advisable to give effect to the terms of this Trust Declaration and protect and conserve the Trust Property for the benefit of the Holders (without consideration of the effect of any such action on any particular Holder).

Except as otherwise provided in this Section 2.7(a)(ii), the Property Trustee shall have none of the duties, liabilities, powers or the authority of the Administrative Trustees set forth in Section 2.7(a)(i).

(b) So long as this Trust Declaration remains in effect, the Issuer Trust (or the Issuer Trustees acting on behalf of the Issuer Trust) shall not undertake any business, activities or transaction except as expressly provided herein or contemplated hereby. In particular, the Issuer Trustees (acting on behalf of the Issuer Trust) shall not (i) acquire any investments or engage in any activities not authorized by this Trust Declaration, (ii) sell, assign, transfer, exchange, mortgage, pledge, set-off or otherwise dispose of any of the Trust Property or interests therein, including to Holders, except as expressly provided herein, (iii) take any action that would cause the Issuer Trust to be classified as an association taxable as a corporation or as other than a grantor trust for U.S. federal income tax purposes, (iv) incur any indebtedness for borrowed money or issue any other debt or (v) take or consent to any action that would result in the placement of a Lien on any of the Trust Property. The Property Trustee shall, at the sole cost and expense of the Issuer Trust, defend all claims and demands of all Persons at any time claiming any Lien on any of the Trust Property adverse to the interest of the Issuer Trust or the Holders in their capacity as Holders.

(c) In connection with the issuance and sale of the Trust Securities, if the Administrative Trustees acting on behalf of the Issuer Trust shall desire that the actions be taken, the Sponsor shall have the responsibility to assist the Issuer Trust with respect to, or effect on behalf of the Issuer Trust, the following (and any actions taken by the Sponsor in furtherance of the following prior to the date of this Trust Declaration are hereby ratified and confirmed in all respects):

(i) the preparation and filing by the Issuer Trust with the Commission and the execution on behalf of the Issuer Trust of a registration statement on the appropriate form

in relation to the Trust Securities, including any amendments thereto, and the taking of any action necessary or desirable to sell the Trust Securities in a transaction or a series of transactions pursuant thereto;

(ii) the determination of the States in which to take appropriate action to qualify or register for sale all or part of the Trust Securities and the determination of any and all such acts, other than actions that must be taken by or on behalf of the Issuer Trust, and the advice to the Issuer Trust of actions they must take on behalf of the Issuer Trust, and the preparation for execution and filing of any documents to be executed and filed by the Issuer Trust or on behalf of the Issuer Trust, as the Sponsor deems necessary or advisable in order to comply with the applicable laws of any such States in connection with the sale of the Trust Securities;

(iii) the preparation for filing by the Issuer Trust and execution on behalf of the Issuer Trust of an application to the New York Stock Exchange or any other national stock exchange for listing, upon notice of issuance, of any Trust Securities;

(iv) the preparation for filing by the Issuer Trust with the Commission and the execution on behalf of the Issuer Trust of a registration statement on Form 8-A relating to the registration of the Trust Securities under Section 12(b) or 12(g) of the Exchange Act, including any amendments thereto;

(v) the preparation and execution of a Letter of Representations to The Depository Trust Company on behalf of the Issuer Trust;

(vi) the negotiation of the terms of, and the execution and delivery of, the Distribution Agreement providing for the sale of the Trust Securities and the Note Purchase Agreement providing for the purchase of the Notes; and

(vii) the taking of any other actions necessary or desirable to carry out any of the foregoing activities.

(d) Notwithstanding anything herein to the contrary, the Administrative Trustees are authorized and directed to conduct the affairs of the Issuer Trust and to operate the Issuer Trust so that the Issuer Trust will not be deemed to be an “*investment company*” required to be registered under the 1940 Act, or to be classified as an association taxable as a corporation or as other than a grantor trust for United States federal income tax purposes and so that the Notes will be treated as indebtedness of the Sponsor for United States Federal income tax purposes. In this connection, the Administrative Trustees are authorized to take any action, not inconsistent with applicable law, the Certificate of Trust or this Trust Declaration, that each Administrative Trustee determines in its discretion to be necessary or desirable for such purposes, as long as such action does not adversely affect in any material respect the interests of the Holders of the Trust Securities. In no event shall the Sponsor or the Administrative Trustees be liable to the Issuer Trust or the Holders for any failure to comply with this Section 2.7 that results from a change in law or regulation or interpretation thereof.

Section 2.8 *Assets of Issuer Trust.*

The assets of the Issuer Trust shall consist solely of the Trust Property.

Section 2.9 *Title to Trust Property.*

Legal title to all Trust Property shall be vested at all times in the Property Trustee (in its capacity as such) and shall be held and administered by the Property Trustee for the benefit of the Issuer Trust and the Holders in accordance with this Trust Declaration.

### ARTICLE III

#### PAYMENT ACCOUNT

Section 3.1 *Payment Account.*

(a) On or prior to the Closing Date, the Property Trustee shall establish the Payment Account. The Property Trustee and any agent of the Property Trustee shall have exclusive control and sole right of withdrawal with respect to the Payment Account for the purpose of making deposits in and withdrawals from the Payment Account in accordance with this Trust Declaration. All monies and other property deposited or held from time to time in the Payment Account shall be held by the Property Trustee in the Payment Account for the exclusive benefit of the Holders and for distribution as herein provided, including (and subject to) any priority of payments provided for herein; *provided, however*, that upon payment in full of the Redemption Price or Liquidation Amount (including all accumulated and unpaid Distributions thereon) in respect of the Trust Securities, any funds remaining in the Payment Account may at the direction of the Sponsor be applied in satisfaction of any obligations owing to the Sponsor pursuant to Section 5.6 of the Guarantee Agreement.

(b) The Property Trustee shall deposit in the Payment Account, promptly upon receipt, all payments of principal of or interest on, and any other payments or proceeds with respect to, the Notes, as well as all Guarantee Payments deposited by the Sponsor pursuant to the Guarantee Agreement. Amounts held in the Payment Account shall not be invested by the Property Trustee pending distribution thereof.

### ARTICLE IV

#### DISTRIBUTIONS; REDEMPTION

Section 4.1 *Distributions.*

(a) Notwithstanding that the Trust Securities represent undivided beneficial interests in the Trust Property, Distributions will be made on the Trust Securities at the rate and on the dates that payments of interest are payable on the Notes without giving effect to any deferral or nonpayment of interest on the Notes. Accordingly:

(i) Distributions on the Trust Securities shall be payable whether or not there are funds of the Issuer Trust available for the payment of Distributions and notwithstanding any exercise by the Sponsor of its right to defer the payment of interest on the Notes pursuant to the Indenture. Distributions shall accrue from and including December 1, 2011, to but excluding March 9, 2012 at the rate of 5.593% *per annum* and thereafter at the rate of 4.647% *per annum* of the Liquidation Amount of the Trust Securities and shall be payable semi-annually in arrears on each June 1 and December 1, commencing on June 1, 2012. If any date on which a Distribution is otherwise payable on the Trust Securities is not a Business Day, then the payment of such Distribution shall be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) with the same force and effect as if made on the date such payment was originally payable (each date on which Distributions are payable in accordance with this Section 4.1(a), a “**Distribution Date**”). Each Distribution Date shall be the same as the corresponding Interest Payment Date (as defined in the Indenture) for the Notes, and the number of days during each accrual period for Distributions shall be the same as the number of days during the corresponding interest accrual period for the Notes. Any Distributions not paid on the applicable Distribution Date shall accrue interest at the rate of 4.647% *per annum*, to the extent permitted by law.

(ii) The amount of Distributions payable for any period less than a full Distribution Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(iii) Distributions on the Trust Securities shall be made by the Property Trustee from the Payment Account and shall be payable on each Distribution Date.

(b) Distributions on the Trust Securities (including any Guarantee Payments in respect thereof) with respect to a Distribution Date shall be payable to the Holders thereof as they appear on the Securities Register for the Trust Securities at the close of business (or 5:00 P.M., New York City time, on any day that is not a Business Day) on the relevant record date, which shall be the Business Day next preceding the relevant Distribution Date at any time when the Trust Securities are represented by a Global Trust Securities Certificate(s) (and at any other time, the fifteenth calendar date preceding the relevant Distribution Date, whether or not a Business Day).

#### Section 4.2 *Redemption.*

(a) On each Note Redemption Date, the Issuer Trust will be required to redeem a Like Amount of Trust Securities at the Redemption Price. On the stated maturity of the Notes, the Issuer Trust will be required to redeem any Outstanding Trust Securities at the Redemption Price.

(b) Notice of redemption shall be prepared by the Administrative Trustees and shall be given by the Property Trustee by first-class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the Redemption Date to each Holder of Trust Securities to be redeemed, at such Holder's address appearing in the Security Register. All notices of redemption shall state:

(i) the Redemption Date;



(ii) the Redemption Price or, if the Redemption Price cannot be calculated prior to the time the notice is required to be sent, the estimate of the Redemption Price provided pursuant to the Indenture together with a statement that it is an estimate and that the actual Redemption Price will be calculated on the third Business Day prior to the Redemption Date (and if an estimate is provided, a further notice shall be sent of the actual Redemption Price on the date that notice of such actual Redemption Price is received pursuant to the Indenture);

(iii) the CUSIP number or CUSIP numbers of the Trust Securities affected;

(iv) if less than all the Outstanding Trust Securities are to be redeemed, the identification and the total Liquidation Amount of the particular Trust Securities to be redeemed;

(v) that on the Redemption Date the Redemption Price will become due and payable upon each such Trust Security to be redeemed and that Distributions thereon will cease to accumulate on or after said date, except as provided in Section 4.2 (d); and

(vi) the place or places where the Trust Securities are to be surrendered for the payment of the Redemption Price.

(c) The Trust Securities redeemed on each Redemption Date shall be redeemed at the Redemption Price with the proceeds from the contemporaneous redemption or repayment of Notes. Redemptions of the Trust Securities shall be made and the Redemption Price shall be payable on each Redemption Date whether or not the Issuer Trust has funds then on hand and available in the Payment Account for the payment of such Redemption Price.

(d) If the Property Trustee gives a notice of redemption in respect of any Trust Securities, then, by 12:00 noon, New York City time, on the Redemption Date, subject to Section 4.2(c), the Property Trustee will, with respect to Book-Entry Trust Securities, irrevocably deposit with the Clearing Agency for such Book-Entry Trust Securities, to the extent available therefor, funds sufficient to pay the applicable Redemption Price (which funds may include Guarantee Payments made by the Sponsor under the Guarantee Agreement with respect thereto) and will give such Clearing Agency irrevocable instructions and authority to pay the Redemption Price to the Owners thereof. With respect to Trust Securities that are not Book-Entry Trust Securities, the Property Trustee, subject to Section 4.2(c), will irrevocably deposit with the Paying Agent, to the extent available therefor, funds sufficient to pay the applicable Redemption Price and will give the Paying Agent irrevocable instructions and authority to pay the Redemption Price to the Holders thereof upon surrender of their Trust Securities Certificates. Notwithstanding the foregoing, Distributions payable on or prior to the Redemption Date for any Trust Securities called for redemption shall be payable to the Holders of such Trust Securities as they appear on the Securities Register for the Trust Securities on the relevant record dates for the related Distribution Dates. If notice of redemption shall have been given and funds deposited as

required, then upon the date of such deposit, all rights of Holders of Trust Securities so called for redemption will cease, except the right of such Holders to receive the Redemption Price including any unpaid Distribution payable on or prior to the Redemption Date, but without interest, and such Trust Securities will cease to be Outstanding. In the event that any date on which any Redemption Price is payable is not a Business Day, then payment of the Redemption Price payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay), except that, if such Business Day falls in the next calendar year, such payment will be made on the immediately preceding Business Day, in each case, with the same force and effect as if made on such date. In the event that payment of the Redemption Price in respect of any Trust Securities called for redemption is improperly withheld or refused and not paid either by the Issuer Trust or by the Sponsor pursuant to the Guarantee Agreement, Distributions on such Trust Securities will continue to accumulate as set forth in Section 4.1, from the Redemption Date originally established by the Issuer Trust for such Trust Securities to the date such Redemption Price is actually paid, in which case the actual payment date will be the date fixed for redemption for purposes of calculating the Redemption Price.

(e) If less than all of the Outstanding Trust Securities are to be redeemed on a Redemption Date, then the aggregate Liquidation Amount of the Trust Securities to be redeemed will be allocated pro rata to the Trust Securities. The particular Trust Securities to be redeemed will be selected on a pro rata basis not more than 60 days prior to the applicable Redemption Date by the Property Trustee from the Outstanding Trust Securities not previously called for redemption, by a customary method that the Property Trustee deems fair and appropriate and which may provide for the selection for redemption of portions (equal to \$1,000 or an integral multiple of \$1,000 in excess thereof) of the Liquidation Amount of Trust Securities of a denomination larger than \$1,000. The Property Trustee will promptly notify the Securities Registrar in writing of the Trust Securities selected for redemption and, in the case of any Trust Securities selected for partial redemption, the Liquidation Amount to be redeemed. For all purposes of this Amended and Restated Declaration of Trust, unless the context otherwise requires, all provisions relating to the redemption of Trust Securities will relate, in the case of any Trust Securities redeemed or to be redeemed only in part, to the portion of the aggregate Liquidation Amount of Trust Securities which has been or is to be redeemed.

#### *Section 4.3 Payment Procedures.*

Payments of Distributions in respect of the Trust Securities (including Guarantee Payments in respect thereof) shall be made by check mailed to the address of the Holder entitled thereto as such address shall appear on the Securities Register or, if the Trust Securities are held by a Clearing Agency, such Distributions shall be made to the Clearing Agency in immediately available funds, which shall credit the relevant Holders' accounts at such Clearing Agency on the applicable Distribution Dates.

#### *Section 4.4 Payment of Taxes, Duties, Etc. of the Issuer Trust.*

Upon receipt of funds therefor from the Sponsor pursuant to Section 4.6, the Property Trustee shall promptly pay any taxes, duties or governmental charges of whatsoever nature (other than withholding taxes) imposed on the Issuer Trust by the United States or any other taxing authority.

Section 4.5 *Payments Under Indenture or Pursuant to Direct Actions.*

Any amount payable hereunder to any Holder of Trust Securities shall be reduced by the amount of any corresponding payment such Holder (or an Owner with respect to the Holder's Trust Securities) has directly received pursuant to Section 2.12 of the Supplemental Indenture or Section 5.12 of this Trust Declaration.

Section 4.6 *Payment of Expenses of the Issuer Trust.*

The Sponsor shall pay to the Issuer Trust, and reimburse the Issuer Trust for, the full amount of any costs, expenses or liabilities of the Issuer Trust (other than obligations of the Issuer Trust to pay the Holders of any Trust Securities or other similar interests in the Issuer Trust the amounts due such Holders pursuant to the terms of the Trust Securities or such other similar interests, as the case may be), including, without limitation, any taxes, duties or other governmental charges of whatever nature (other than withholding taxes) imposed on the Issuer Trust by the United States or any other taxing authority. Such payment obligation includes any such costs, expenses or liabilities of the Issuer Trust that are required by applicable law to be satisfied in connection with a dissolution of the Issuer Trust.

Section 4.7 *Exchanges.*

If at any time the Sponsor or any of its Affiliates (in either case, a "*Sponsor Affiliated Owner/Holder*") is the Owner or Holder of any Trust Securities, such Sponsor Affiliated Owner/Holder shall have the right to deliver to the Property Trustee all or such portion of its Trust Securities as it elects and receive, in exchange therefor, a Like Amount of Notes. Such election (i) shall be exercisable effective on any Distribution Date by such Sponsor Affiliated Owner/Holder delivering to the Property Trustee a written notice of such election specifying the Liquidation Amount of the Trust Securities with respect to which such election is being made and the Distribution Date on which such exchange shall occur, which Distribution Date shall be not less than 10 Business Days after the date of receipt by the Property Trustee of such election notice and (ii) shall be conditioned upon such Sponsor Affiliated Owner/Holder having delivered or caused to be delivered to the Property Trustee or its designee the Trust Securities which are the subject of such election by 10:00 A.M. New York time, on the Distribution Date on which such exchange is to occur. After the exchange, such Trust Securities will be cancelled and will no longer be deemed to be Outstanding and all rights of the Sponsor or its Affiliate(s) with respect to such Trust Securities will cease.

## ARTICLE V

### TRUST SECURITIES CERTIFICATES

#### Section 5.1 *Initial Ownership.*

Upon the formation of the Issuer Trust and the contribution by the Sponsor pursuant to Section 2.3 and until the issuance of the Trust Securities, and at any time during which no Trust Securities are outstanding, the Sponsor shall be the sole beneficial owner of the Issuer Trust. At any time during which any Trust Securities are outstanding, the Sponsor shall not be a beneficial owner of the Issuer Trust, except to the extent it is a Holder or Owner of Trust Securities.

#### Section 5.2 *The Trust Securities Certificates.*

(a) The Trust Securities Certificates shall be issued in denominations of \$1,000 Liquidation Amount and integral multiples thereof. The Trust Securities Certificates shall be executed on behalf of the Issuer Trust by manual or facsimile signature of at least one Administrative Trustee. Trust Securities Certificates bearing the manual or facsimile signatures of Administrative Trustees shall be validly issued and entitled to the benefits of this Trust Declaration, notwithstanding that such individuals or any of them shall have ceased to be Administrative Trustees prior to the delivery of such Trust Securities Certificates or did not hold such offices at the date of delivery of such Trust Securities Certificates. A transferee of a Trust Securities Certificate shall become a Holder, and shall be entitled to the rights and subject to the obligations of a Holder hereunder, upon due registration of such Trust Securities Certificate in such transferee's name pursuant to Section 5.5.

(b) Upon their original issuance, Trust Securities Certificates shall be issued in the form of one or more Global Trust Securities Certificates registered in the name of DTC, as Clearing Agency, or its nominee and deposited with DTC or a custodian for DTC for credit by DTC to the respective accounts of the Owners thereof (or such other accounts as they may direct). All Trust Securities Certificates shall be issued substantially in the form of Exhibit B hereto, with such changes, insertions, notations and legends (if other than as contemplated by Exhibit B) as may be deemed appropriate by the Sponsor and the Administrative Trustees.

#### Section 5.3 *Execution and Delivery of Trust Securities Certificates.*

At the Closing Date, the Administrative Trustees shall cause Trust Securities Certificates, in an aggregate Liquidation Amount as provided in Section 2.4, to be executed on behalf of the Issuer Trust by manual or facsimile signature and delivered to or upon the written order of the Sponsor executed by one of its Authorized Officers without further corporate action by the Sponsor, in authorized denominations.

#### Section 5.4 *Book-Entry Trust Securities.*

As provided in Section 5.2(b), Trust Securities, upon original issuance, will be issued in the form of Global Trust Securities Certificates representing Book-Entry Trust Securities, to be delivered to DTC or its nominee by, or on behalf of, the Issuer Trust. Such Global Trust Securities Certificates shall initially be registered on the Securities Register in the name of

Cede & Co., the nominee of DTC, and no Owner will receive a Definitive Trust Securities Certificate representing such Owner's interest in such Trust Securities, except as provided in this Section 5.4.

(a) Each Global Trust Securities Certificate issued under this Trust Declaration shall be registered in the name of the Clearing Agency or a nominee thereof designated by the Sponsor for the related Book-Entry Trust Securities and delivered to such Clearing Agency or a nominee thereof or custodian therefor and each such Global Trust Securities Certificate shall constitute a single Trust Securities Certificate for all purposes of this Trust Declaration.

(b) Notwithstanding any other provision in this Trust Declaration, no Global Trust Securities Certificate may be exchanged in whole or in part for Trust Securities Certificates registered, and no transfer of a Global Trust Securities Certificate in whole or in part may be registered, in the name of any Person other than the Clearing Agency for such Global Trust Securities Certificate or a nominee thereof unless (i) the Clearing Agency advises the Sponsor and the Property Trustee in writing that the Clearing Agency is no longer willing or able to discharge its responsibilities with respect to the Global Trust Securities Certificates or has ceased to be a Clearing Agency, (ii) the Sponsor at its option advises the Clearing Agency in writing that it elects to terminate the book-entry system through the Clearing Agency or (iii) a Note Event of Default has occurred and is continuing. Upon the occurrence of any event specified in clause (i) or (ii) above, the Sponsor and one or more Administrative Trustees acting on behalf of the Issuer Trust may, in their sole discretion within 60 days, designate a successor Clearing Agency to maintain a book-entry system for Trust Securities represented by a Global Trust Securities Certificate(s), whereupon the certificate(s) representing all Outstanding Book-Entry Trust Securities shall be promptly exchanged for a new Global Trust Securities Certificate(s) representing all such Trust Securities and registered in the name of the successor Clearing Agency or its nominees. Upon the occurrence of any event specified in clause (iii) above, or in clause (i) or (ii) above if the Sponsor does not designate a successor Clearing Agency as provided above, all the Global Trust Securities Certificate(s) representing all Book-Entry Trust Securities shall, promptly upon surrender to the Property Trustee or its agent as provided in this ARTICLE V, be exchanged for Definitive Trust Securities Certificate(s) registered in such names and having such denominations as the Clearing Agency, or its nominee, shall designate as provided in this ARTICLE V.

(c) If any Global Trust Securities Certificate is to be exchanged for other Trust Securities Certificates or cancelled in part, or if another Trust Securities Certificate is to be exchanged in whole or in part for a beneficial interest in any Global Trust Securities Certificate, then either (i) such Global Trust Securities Certificate shall be so surrendered for exchange or cancellation as provided in this ARTICLE V or (ii) the aggregate Liquidation Amount represented by such Global Trust Securities Certificate shall be reduced, subject to Section 5.2, or increased by an amount equal to the Liquidation Amount represented by that portion of the Global Trust Securities Certificate to be so exchanged or cancelled, or equal to the Liquidation Amount represented by such other Trust Securities Certificates to be so exchanged for Global Trust Securities represented thereby, as the case may be, by means of an appropriate adjustment made on the records of the Securities Registrar, whereupon the Property Trustee, in accordance with the Applicable Procedures, shall instruct the Clearing Agency or its authorized representative to make a corresponding adjustment to its records. Upon surrender to the

Administrative Trustees or the Securities Registrar of the Global Trust Securities Certificate or Certificates by the Clearing Agency, accompanied by registration instructions, the Administrative Trustees, or any one of them, shall execute the Definitive Trust Securities Certificates in accordance with the instructions of the Clearing Agency. None of the Securities Registrar or the Issuer Trustees shall be liable for any delay in delivery of such instructions and may conclusively rely on, and shall be protected in relying on, such instructions. Upon the issuance of Definitive Trust Securities Certificates, the Issuer Trustees and shall recognize the Holders of the Definitive Trust Securities Certificates as Holders. The Definitive Trust Securities Certificates shall be printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Administrative Trustees, as evidenced by the execution thereof by the Administrative Trustees or any one of them.

(d) Every Trust Securities Certificate executed and delivered upon registration of transfer of, or in exchange for or in lieu of, a Global Trust Securities Certificate or any portion thereof, whether pursuant to this ARTICLE V or ARTICLE IV or otherwise, shall be executed and delivered in the form of, and shall be, a Global Trust Securities Certificate, unless such Trust Securities Certificate is registered in the name of a Person other than the Clearing Agency for such Global Trust Securities Certificate or a nominee thereof.

(e) The Clearing Agency or its nominee, as registered owner of a Global Trust Securities Certificate, shall be the Holder of such Global Trust Securities Certificate for all purposes under this Trust Declaration and the Global Trust Securities Certificate, and Owners with respect to a Global Trust Securities Certificate shall hold any interests they may have therein pursuant to the Applicable Procedures. The Securities Registrar and the Issuer Trustees shall be entitled to deal with the Clearing Agency for all purposes of this Trust Declaration relating to the Book-Entry Trust Securities (including payment of the Liquidation Amount of and Distributions on the Trust Securities evidenced by Book-Entry Trust Securities and giving notices to Holders, and Holders giving notices or taking any other action, with respect to such Trust Securities) as the sole Holder of Trust Securities evidenced by the Book-Entry Trust Securities and shall have no obligations to the Owners thereof. Neither the Property Trustee nor the Securities Registrar shall have any liability in respect of any transfers effected by the Clearing Agency.

The rights of the Owners of the Book-Entry Trust Securities shall be exercised only through the Clearing Agency and shall be limited to those established by law, the Applicable Procedures and agreements between such Owners and the Clearing Agency and/or the Clearing Agency Participants. All payments, transfers, credits and debits effected by the Clearing Agency or any direct or indirect participant therein, and all actions taken by the Clearing Agency or its nominee as Holder, in respect of Book-Entry Trust Securities shall be the responsibility solely of the Clearing Agency and/or its direct and indirect participants, as applicable, and none of the Sponsor or the Issuer Trustees shall have any responsibility or obligation with respect thereto.

*Section 5.5 Registration of Transfer and Exchange of Trust Securities Certificates.*

(a) The Property Trustee shall keep or cause to be kept, at the office or agency maintained pursuant to Section 5.9, a register or registers for the purpose of registering Trust Securities Certificates and transfers and exchanges of Trust Securities Certificates (the

“*Securities Register*”) in which the registrar designated by the Property Trustee (the “*Securities Registrar*”) with the reasonable consent of the Administrative Trustees, subject to such reasonable regulations as it may prescribe, shall provide for the registration of Trust Securities Certificates and registration of transfers and exchanges of Trust Securities Certificates as herein provided. The Bank shall be the initial Securities Registrar.

Upon surrender for registration of transfer of any Trust Securities Certificate at the office or agency maintained pursuant to Section 5.9, the Administrative Trustees or any one of them shall execute by manual or facsimile signature and deliver to the Property Trustee for further delivery, in the name of the designated transferee or transferees, one or more new Trust Securities Certificates in authorized denominations of a like aggregate Liquidation Amount dated the date of execution by such Administrative Trustee.

The Securities Registrar shall not be required to register the transfer of any Trust Securities that have been called for redemption. At the option of a Holder, Trust Securities Certificates may be exchanged for other Trust Securities Certificates in authorized denominations of the same class and of a like aggregate Liquidation Amount upon surrender of the Trust Securities Certificates to be exchanged at the office or agency maintained pursuant to Section 5.9.

Every Trust Securities Certificate presented or surrendered for registration of transfer or exchange shall be accompanied by a written instrument of transfer in form satisfactory to the Securities Registrar duly executed by the Holder or his attorney duly authorized in writing. Each Trust Securities Certificate surrendered for registration of transfer or exchange shall be cancelled and subsequently disposed of by the Property Trustee or Securities Registrar in accordance with such Person’s customary practice.

No service charge shall be made for any registration of transfer or exchange of Trust Securities Certificates, but the Securities Registrar may require payment of a sum sufficient to cover any tax or governmental charge that may be imposed in connection with any transfer or exchange of Trust Securities Certificates.

The provisions of Sections 8.1, 8.3 and 8.6 herein shall apply to the Bank also in its role as Securities Registrar, for so long as the Bank shall act as Securities Registrar.

Whenever this Trust Declaration makes reference to the execution of Trust Securities Certificates, such reference to execution shall mean manual execution by an Administrative Trustee or, in the alternative, execution by facsimile signature by an Administrative Trustee and authentication by the Property Trustee.

Trust Securities Certificates bearing the manual or facsimile signatures of individuals who were at any time the proper Administrative Trustees of the Issuer Trust shall bind the Issuer Trust, notwithstanding that such individuals or any of them have ceased to hold such office prior to the authentication and delivery of such Trust Securities Certificates or did not hold such offices at the date of such Trust Securities Certificates.

Each Trust Securities Certificate that is executed by facsimile and authenticated by the Property Trustee shall be dated the date of its authentication.

(b) *Certain Transfers and Exchanges.* Notwithstanding any other provision of this Trust Declaration, transfers and exchanges of Trust Securities Certificates and beneficial interests in Book-Entry Trust Securities of the kinds specified in this Section 5.5(b) shall be made only in accordance with this Section 5.5(b).

(i) *Non-Global Trust Securities Certificate to Global Trust Securities Certificate.* If the Holder of a Trust Securities Certificate (other than a Global Trust Securities Certificate) wishes at any time to transfer all or any portion of the Trust Securities represented thereby to a Person who wishes to take delivery thereof in the form of Book-Entry Trust Securities represented by a Global Trust Securities Certificate, such transfer may be effected only in accordance with the provisions of this Clause (b)(i) and subject to the Applicable Procedures, and only if there are other Book-Entry Trust Securities Outstanding or the Sponsor consents to such exchange in advance. Upon receipt by the Securities Registrar of such Trust Securities Certificate as provided in Section 5.5(a) and instructions satisfactory to the Securities Registrar directing that a specified number of Trust Securities to be represented by the Global Trust Securities Certificate not greater than the number of Trust Securities represented by such Trust Securities Certificate be credited to a specified Clearing Agency Participant's account then the Securities Registrar shall cancel such Trust Securities Certificate (and issue a new Trust Securities Certificate in respect of any untransferred portion thereof) as provided in Section 5.5(a) and increase the aggregate Liquidation Amount of the Global Trust Securities Certificate by the Liquidation Amount represented by such Trust Securities so transferred as provided in Section 5.5(c).

(ii) *Non-Global Trust Securities Certificate to Non-Global Trust Securities Certificate.* Trust Securities other than Book-Entry Trust Securities may be transferred, in whole or in part, to a Person who takes delivery in the form of a Trust Securities Certificate that is not a Global Trust Securities Certificate as provided in Section 5.5(a).

(iii) *Global Trust Securities Certificate to Non-Global Trust Securities Certificate.* Trust Securities represented by a Global Trust Securities Certificate may be exchanged for a Trust Securities Certificate that is not a Global Trust Securities Certificate as provided in Section 5.4.

Before registering for transfer or exchange any Trust Securities Certificates issued in certificated fully registered form as provided in Sections 5.2, 5.4 or 5.5, the Property Trustee as Securities Registrar may require an Opinion of Counsel or other evidence satisfactory to it (which may include a certificate from such purchaser or Holder) that the purchase and holding of such Trust Securities by such purchaser or Holder will be exempt from Section 406 of ERISA and Section 4975 of the Code by reason of U.S. Department of Labor Prohibited Transaction Class Exemption (“PTCE”) 96-23, 95-60, 91-38, 90-1 or 84-14 or another applicable exemption with respect to such purchase or holding and, in the case of any purchaser or Holder relying on any exemption other than PTCE 96-23, 95-60, 91-38, 90-1 or 84-14, an Opinion of Counsel or other evidence satisfactory to the Property Trustee with respect to the availability of such exemption. Any purchaser or Holder of any Trust Securities or any interest therein will be deemed to have represented by its purchase and holding thereof that it either (i) is not a Plan or a Plan Asset Entity and is not purchasing such Trust Securities on behalf of or with “plan assets”



of any Plan, or (ii) the purchase and holding of any such Trust Security is exempt from Section 406 of ERISA and Section 4975 of the Code by reason of PTCE 96-23, 95-60, 91-38, 90-1 or 84-14 or another applicable exemption with respect to such purchase or holding.

(c) The Property Trustee shall not be required to insure or verify compliance with securities laws, including the Securities Act, Exchange Act and 1940 Act, in connection with transfers and exchanges of Trust Securities Certificates.

*Section 5.6 Mutilated, Destroyed, Lost or Stolen Trust Securities Certificates.*

If (a) any mutilated Trust Securities Certificate shall be surrendered to the Securities Registrar, or if the Securities Registrar shall receive evidence to its satisfaction of the destruction, loss or theft of any Trust Securities Certificate and (b) there shall be delivered to the Securities Registrar and the Administrative Trustees such security or indemnity as may be required by them to save each of them harmless, then in the absence of notice that such Trust Securities Certificate shall have been acquired by a protected purchaser, the Administrative Trustees, or any one of them, on behalf of the Issuer Trust shall execute and make available for delivery, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Trust Securities Certificate, a new Trust Securities Certificate of like class, tenor and denomination. In connection with the issuance of any new Trust Securities Certificate under this Section 5.6, the Administrative Trustees or the Securities Registrar may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Trust Securities Certificate issued pursuant to this Section 5.6 shall constitute conclusive evidence of an undivided beneficial interest in the assets of the Issuer Trust, as if originally issued, whether or not the lost, stolen or destroyed Trust Securities Certificate shall be found at any time.

*Section 5.7 Persons Deemed Holders.*

The Issuer Trustees, the Paying Agent and the Securities Registrar shall treat the Person in whose name any Trust Securities Certificate shall be registered in the Securities Register as the owner of such Trust Securities Certificate for the purpose of receiving Distributions and for all other purposes whatsoever, and neither the Issuer Trustees, the Paying Agent nor the Securities Registrar shall be bound by any notice to the contrary.

*Section 5.8 Access to List of Holders' Names and Addresses.*

Each Holder and each Owner shall be deemed to have agreed not to hold the Sponsor, the Property Trustee, the Delaware Trustee or the Administrative Trustees accountable by reason of the disclosure of its name and address, regardless of the source from which such information was derived.

*Section 5.9 Maintenance of Office or Agency.*

The Property Trustee shall designate, with the consent of the Administrative Trustees, which consent shall not be unreasonably withheld, an office or offices or agency or agencies where Trust Securities Certificates may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Issuer Trustees in respect of the Trust Securities

Certificates may be served. The Corporate Trust Office of the Property Trustee is initially designated the office for such purpose. The Administrative Trustees or the Property Trustee shall give prompt written notice to the Sponsor and to the Holders of any change in the location of the Securities Register or any such office or agency.

*Section 5.10 Appointment of Paying Agent.*

The Paying Agent shall make Distributions (including Guarantee Payments in respect thereof) to Holders from the Payment Account and shall report the amounts of such Distributions to the Property Trustee and the Administrative Trustees. Any Paying Agent shall have the revocable power to withdraw funds from the Payment Account for the purpose of making the Distributions referred to above. The Administrative Trustees may revoke such power and remove the Paying Agent in their sole discretion. The Paying Agent shall initially be the Bank, and any co-paying agent chosen by the Bank, and reasonably acceptable to the Administrative Trustees. Any Person acting as Paying Agent shall be permitted to resign as Paying Agent upon 30 days' written notice to the Administrative Trustees and the Property Trustee. In the event that the Bank shall no longer be the Paying Agent or a successor Paying Agent shall resign or its authority to act be revoked, the Administrative Trustees shall appoint a successor that is reasonably acceptable to the Property Trustee and the Sponsor to act as Paying Agent (which shall be a bank or trust company). Such successor Paying Agent or any additional Paying Agent shall execute and deliver to the Issuer Trustees an instrument in which such successor Paying Agent or additional Paying Agent shall agree with the Issuer Trustees that as Paying Agent, such successor Paying Agent or additional Paying Agent will hold all sums, if any, held by it for payment to the Holders in trust for the benefit of the Holders entitled thereto until such sums shall be paid to such Holders. The Paying Agent shall return all unclaimed funds to the Property Trustee and upon removal of a Paying Agent such Paying Agent shall also return all funds in its possession to the Property Trustee. The provisions of Section 8.1 (other than (c), (d), (e)(i), (e)(iii) and (e)(vii) thereof), Section 8.3 (other than (g) and (j) thereof) and Section 8.6 shall apply to the Bank also in its role as Paying Agent, for so long as the Bank shall act as Paying Agent and, to the extent applicable, to any other paying agent appointed hereunder. Any reference in this Trust Declaration to the Paying Agent shall include any co-paying agent unless the context requires otherwise.

*Section 5.11 Notices to Clearing Agency.*

To the extent that a notice or other communication to the Owners is required under this Trust Declaration, unless and until Definitive Trust Securities Certificates shall have been issued to all Owners pursuant to Section 5.4(b), the Issuer Trustees shall give all such notices and communications specified herein to be given to Owners to the Clearing Agency, and shall have no obligations to the Owners.

*Section 5.12 Rights of Holders.*

(a) The legal title to the Trust Property is vested exclusively in the Property Trustee (in its capacity as such) in accordance with Section 2.9, and the Holders shall not have any right or title therein other than the undivided beneficial interest in the assets of the Issuer Trust conferred by their Trust Securities and they shall have no right to call for any partition or

division of property, profits or rights of the Issuer Trust except as described below. The Trust Securities shall be personal property giving only the rights specifically set forth therein and in this Trust Declaration. The Trust Securities shall have no preemptive or similar rights and, when issued and delivered to Holders against payment of the purchase price therefor will be fully paid and nonassessable undivided beneficial interests in Trust Property. The Holders, in their capacities as such, shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

(b) For so long as any Trust Securities remain Outstanding, if, upon a Note Event of Default, the Note Trustee fails or the holders of not less than 25% in aggregate principal amount of the outstanding Notes fail to declare the principal of all of the Notes to be immediately due and payable, the Property Trustee or the Holders of at least 25% in aggregate Liquidation Amount of the Trust Securities then Outstanding shall have such right, which may be exercised by giving notice in writing to the Sponsor and the Note Trustee with a copy to the Property Trustee, in the case of notice by the Holders of the Trust Securities, or to the Sponsor, the Notes Trustee and the Holders of the Trust Securities, in the case of notice by the Property Trustee; and upon any such declaration such principal amount of and the accrued interest on all of the Notes shall become immediately due and payable, *provided* that the payment of principal and interest on such Notes shall remain subordinated to the extent provided in the Indenture.

At any time after such a declaration of acceleration with respect to the Notes has been made by the Holders of Trust Securities and before a judgment or decree for payment of the money due has been obtained by the Note Trustee as provided in the Indenture, the Holders of at least a majority in aggregate Liquidation Amount of the Outstanding Trust Securities, by written notice to the Property Trustee, the Sponsor and the Note Trustee, may rescind and annul such declaration and its consequences if:

(i) the Sponsor has paid or deposited with the Note Trustee a sum sufficient to pay

(A) all overdue interest on all of the Notes,

(B) the principal of (and premium, if any, on) any Notes that have become due otherwise than by such declaration of acceleration and interest thereon at the rate borne by the Notes, and

(C) all sums paid or advanced by the Note Trustee under the Indenture and the reasonable compensation, expenses, disbursements and advances of the Note Trustee, its agents and counsel; and

(ii) all Note Events of Default, other than the non-payment of the principal of the Notes that has become due solely by such acceleration, have been cured or waived as provided in Section 513 of the Indenture.

The Holders of at least a majority in aggregate Liquidation Amount of the Outstanding Trust Securities may, on behalf of the Holders of all the Trust Securities, waive any past default under the Indenture, except a default in the payment of principal, premium (if any) or interest

(unless such default has been cured and a sum sufficient to pay all overdue interest and principal due otherwise than by acceleration has been deposited with the Note Trustee) or a default in respect of a covenant or provision which under Article IX of the Original Indenture, as modified by the Supplemental Indenture, cannot be modified or amended without the consent of the holder of each outstanding Note. No such rescission shall affect any subsequent default or impair any right consequent thereon.

Upon receipt by the Property Trustee of written notice declaring such an acceleration, or rescission and annulment thereof, by Holders of the Trust Securities, a record date shall be established for determining Holders of Outstanding Trust Securities entitled to join in such notice, which record date shall be at the close of business on the day the Property Trustee receives such notice. The Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to join in such notice, whether or not such Holders remain Holders after such record date; *provided* that, unless such declaration of acceleration, or rescission and annulment, as the case may be, shall have become effective by virtue of the requisite percentage having joined in such notice prior to the day which is 90 days after such record date, such notice of declaration of acceleration, or rescission and annulment, as the case may be, shall automatically and without further action by any Holder be canceled and of no further effect. Nothing in this paragraph shall prevent a Holder, or a proxy of a Holder, from giving, after expiration of such 90-day period, a new written notice of declaration of acceleration, or rescission and annulment thereof, as the case may be, that is identical to a written notice that has been canceled pursuant to the proviso to the preceding sentence, in which event a new record date shall be established pursuant to the provisions of this Section 5.12(b).

(c) For so long as any Trust Securities remain Outstanding, upon an Event of Default described in clause (b) or (c) of the definition of such term (unless the Sponsor shall have made payment of the defaulted amount pursuant to the Guarantee Agreement) or an Event of Default described in clause (d) of the definition of such term, the Property Trustee or the Holders of at least 25% in aggregate Liquidation Amount of the Trust Securities then Outstanding shall have the right to declare the entire Liquidation Amount of the Trust Securities to be immediately due and payable, which may be exercised by giving notice in writing to the Sponsor with a copy to the Property Trustee, in the case of notice by the Holders of the Trust Securities, or to the Sponsor and the Holders of the Trust Securities, in the case of notice by the Property Trustee; and upon any such declaration such Liquidation Amount of and the accrued Distributions on all of the Trust Securities shall become immediately due and payable.

At any time after such a declaration of acceleration with respect to the Trust Securities has been made by the Holders of Trust Securities and before a judgment or decree for payment of the money due has been obtained by the Property Trustee or by the Guarantee Trustee pursuant to the Guarantee Agreement, the Holders of at least a majority in aggregate Liquidation Amount of the Outstanding Trust Securities, by written notice to the Property Trustee and the Sponsor, may rescind and annul such declaration and its consequences if:

- (i) the Sponsor has paid or deposited with the Property Trustee or the Guarantee Trustee a sum sufficient to pay
  - (A) all overdue amounts on all of the Trust Securities, and

(B) all sums paid or advanced by the Property Trustee hereunder or by the Guarantee Trustee under the Guarantee Agreement and the reasonable compensation, expenses, disbursements and advances of the Property Trustee, the Guarantee Trustee and their agents and counsel; and

(ii) all Events of Default, other than the non-payment of the Liquidation Amount of the Trust Securities that has become due solely by such acceleration, have been cured or waived as provided herein.

The Holders of at least a majority in aggregate Liquidation Amount of the Outstanding Trust Securities may, on behalf of the Holders of all the Trust Securities, waive any past default hereunder, except a payment default (unless such default has been cured and a sum sufficient to pay all overdue distributions on the Trust Securities has been deposited with the Property Trustee or the Guarantee Trustee).

Upon receipt by the Property Trustee of written notice declaring such an acceleration, or rescission and annulment thereof, by Holders of the Trust Securities, a record date shall be established for determining Holders of Outstanding Trust Securities entitled to join in such notice, which record date shall be at the close of business on the day the Property Trustee receives such notice. The Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to join in such notice, whether or not such Holders remain Holders after such record date; *provided* that, unless such declaration of acceleration, or rescission and annulment, as the case may be, shall have become effective by virtue of the requisite percentage having joined in such notice prior to the day which is 90 days after such record date, such notice of declaration of acceleration, or rescission and annulment, as the case may be, shall automatically and without further action by any Holder be canceled and of no further effect. Nothing in this paragraph shall prevent a Holder, or a proxy of a Holder, from giving, after expiration of such 90-day period, a new written notice of declaration of acceleration, or rescission and annulment thereof, as the case may be, that is identical to a written notice that has been canceled pursuant to the proviso to the preceding sentence, in which event a new record date shall be established pursuant to the provisions of this Section 5.12(c).

(d) For so long as any Trust Securities remain Outstanding, to the fullest extent permitted by law and subject to the terms of this Trust Declaration and the Indenture, upon a Note Event of Default specified in Section 501(1) or 501(2) of the Indenture, any Holder of Trust Securities shall have the right to institute a proceeding directly against the Sponsor, pursuant to Section 2.12 of the Supplemental Indenture for enforcement of payment to such Holder of the principal amount of or premium (if any) or interest on Notes having a principal amount equal to the Liquidation Amount of the Trust Securities of such Holder (a "*Direct Action*"). Except as set forth in this Section 5.12, the Holders of Trust Securities shall have no right to exercise directly any right or remedy available to the holders of, or in respect of, the Notes.

#### Section 5.13 *CUSIP Numbers.*

The Issuer Trust in issuing the Trust Securities may use "CUSIP" numbers (if then generally in use), and, if so, the Property Trustee shall indicate the "CUSIP" numbers of the Trust Securities in notices of redemption and related materials as a convenience to Holders;

*provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Trust Securities or as contained in any notice of redemption and related materials.

## ARTICLE VI

### ACTS OF HOLDERS; MEETINGS; VOTING

#### Section 6.1 *Limitations on Voting Rights.*

(a) Except as expressly provided in this Trust Declaration and in the Indenture and as otherwise required by law, no Holder of Trust Securities shall have any right to vote or in any manner otherwise control the administration, operation and management of the Issuer Trust or the obligations of the parties hereto, nor shall anything herein set forth, or contained in the terms of the Trust Securities Certificates, be construed so as to constitute the Holders from time to time as partners or members of an association.

(b) So long as any Notes are held by the Issuer Trust, the Property Trustee shall not (i) direct the time, method or place of conducting any proceeding for any remedy available to the Note Trustee, or execute any trust or power conferred on the Property Trustee with respect to such Notes, (ii) waive any past default that may be waived under Section 513 of the Indenture, (iii) exercise any right to rescind or annul a declaration that the principal of all the Notes shall be due and payable or (iv) consent to any amendment, modification or termination of the Indenture or the Notes, where such consent shall be required, without, in each case obtaining the prior approval of the Holders of at least a majority of the aggregate Liquidation Amount of Outstanding Trust Securities, *provided* that where a consent under the Indenture would require the consent of each holder of Notes affected thereby, no such consent shall be given by the Property Trustee without the prior written consent of the Holder of each Outstanding Trust Security. The Issuer Trustees shall not revoke any action previously authorized or approved by a vote of the Holders of Trust Securities, except by a subsequent vote of the Holders of Trust Securities. The Property Trustee shall notify all Holders of the Trust Securities of any notice of default received from the Note Trustee with respect to the Notes. In addition to obtaining the foregoing approvals of the Holders of the Trust Securities, prior to taking any of the foregoing actions, the Property Trustee shall, at the expense of the Sponsor, obtain an Opinion of Counsel experienced in such matters to the effect that such action shall not cause the Issuer Trust to be classified as an association taxable as a corporation or as other than a grantor trust for United States Federal income tax purposes.

#### Section 6.2 *Notice of Meetings.*

Notice of all meetings of Holders of Trust Securities, stating the time, place and purpose of the meeting, shall be given by the Property Trustee pursuant to Section 10.8 to each such Holder at such Holder's address as it appears in the Securities Register as of the record date for such meeting. Such notice shall be sent, first-class mail, at least 15 days and not more than 90 days before the meeting. At any such meeting, any business properly before the meeting may be so considered whether or not stated in the notice of the meeting. Any adjourned meeting may be held as adjourned without further notice.

Section 6.3 *Meetings of Holders of Trust Securities.*

No annual meeting of Holders is required to be held. The Property Trustee, however, shall call a meeting of Holders of Trust Securities to vote on any matter upon the written request of the Holders of record of at least 25% of the aggregate Liquidation Amount of Outstanding Trust Securities and the Administrative Trustees or the Property Trustee may, at any time in their discretion, call a meeting of Holders of Trust Securities to vote on any matters as to which Holders of Trust Securities are entitled to vote.

Holders of at least 50% of the aggregate Liquidation Amount of Outstanding Trust Securities, present in person or by proxy, shall constitute a quorum at any meeting of Holders of Trust Securities.

If a quorum is present at a meeting, an affirmative vote by the Holders of record present, in person or by proxy, holding at least a majority of the aggregate Liquidation Amount of Outstanding Trust Securities held by the Holders of record present, either in person or by proxy, at such meeting shall constitute the action of the Holders of Trust Securities, unless this Issuer Trust Declaration requires a greater number of affirmative votes.

Section 6.4 *Voting Rights.*

In respect of any matter as to which a Holder is entitled to vote, such Holder shall be entitled to one vote for each \$1,000 in Liquidation Amount of Trust Securities held of record by such Holder.

Section 6.5 *All Votes Must Be Made by a United States Person.*

Voting and consensual rights available to or in favor of Holders or Owners under this Trust Declaration may be exercised only by a United States Person that is a beneficial owner of a Trust Security or by a United States Person acting as irrevocable agent with discretionary powers for the beneficial owner of a Trust Security that is not a United States Person. Holders that are not United States Persons must irrevocably appoint a United States Person with discretionary powers to act as their agent with respect to such voting and consensual rights.

Section 6.6 *Proxies, Etc.*

At any meeting of Holders, any Holder entitled to vote thereat may vote by proxy, *provided* that no proxy shall be voted at any meeting unless it shall have been placed on file with the Property Trustee, or with such other officer or agent of the Issuer Trust as the Property Trustee may direct, for verification prior to the time at which such vote shall be taken. Pursuant to a resolution of the Property Trustee, proxies may be solicited in the name of the Property Trustee or one or more officers of the Property Trustee. Only Holders of record shall be entitled to vote. When Trust Securities are held jointly by several Persons, any one of them may vote at any meeting in person or by proxy in respect of such Trust Securities, but if more than one of them shall be present at such meeting in person or by proxy, and such joint owners or their

proxies so present disagree as to any vote to be cast, such vote shall not be received in respect of such Trust Securities. A proxy purporting to be executed by or on behalf of a Holder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger. No proxy shall be valid more than three years after its date of execution.

*Section 6.7 Holder Action by Written Consent.*

Any action that may be taken by Holders at a meeting may be taken without a meeting and without prior notice, if Holders holding a majority of the aggregate Liquidation Amount of the Outstanding Trust Securities entitled to vote in respect of such action (or such larger proportion thereof as shall be required by any express provision of this Trust Declaration) shall consent to the action in writing.

*Section 6.8 Record Date for Voting and Other Purposes.*

For the purpose of determining the Holders who are entitled to notice of and to vote at any meeting or to act by written consent, or to participate in any Distribution on the Trust Securities in respect of which a record date is not otherwise provided for in this Trust Declaration, or for the purpose of any other action, the Administrative Trustees or Property Trustee may from time to time fix a date, not more than 90 days prior to the date of any meeting of Holders or the payment of a Distribution or other action, as the case may be, as a record date for the determination of the identity of the Holders of record for such purposes.

*Section 6.9 Acts of Holders.*

Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Trust Declaration to be given, made or taken by Holders or Owners may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders or Owners in person or by an agent duly appointed in writing; and, except as otherwise expressly provided herein, such action shall become effective when such instrument or instruments are delivered to the Property Trustee. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “*Act*” of the Holders or Owners signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Trust Declaration and (subject to Section 8.1) conclusive in favor of the Issuer Trustees, if made in the manner provided in this Section 6.9.

The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness to such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that any Issuer Trustee receiving the same deems sufficient.

The ownership of Trust Securities shall be proved by the Securities Register.



Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Trust Security shall bind every future Holder of the same Trust Security and the Holder of every Trust Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Issuer Trustees or the Issuer Trust in reliance thereon, whether or not notation of such action is made upon such Trust Security.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Trust Security may do so with regard to all or any part of the Liquidation Amount of such Trust Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such Liquidation Amount.

If any dispute shall arise between the Holders and the Issuer Trustees with respect to the authenticity, validity or binding nature of any request, demand, authorization, direction, consent, waiver or other Act of such Holder or Issuer Trustee under this ARTICLE VI, then the determination of such matter by the Property Trustee shall be conclusive with respect to such matter.

#### Section 6.10 *Inspection of Records.*

Upon reasonable written notice to the Administrative Trustees and the Property Trustee, the records of the Issuer Trust shall be open to inspection by Holders during normal business hours for any purpose reasonably related to such Holder's interest as a Holder.

## ARTICLE VII

### REPRESENTATIONS AND WARRANTIES

#### Section 7.1 *Representations and Warranties of the Property Trustee and the Delaware Trustee.*

The Property Trustee and the Delaware Trustee, each severally on behalf of and as to itself, hereby represents and warrants for the benefit of the Sponsor and the Holders that:

(a) the Property Trustee is a New York banking corporation;

(b) the Property Trustee has full corporate power, authority and legal right to execute, deliver and perform its obligations under this Trust Declaration and has taken all necessary action to authorize the execution, delivery and performance by it of this Trust Declaration;

(c) the Delaware Trustee is a banking corporation duly organized, validly existing under the laws of the State of Delaware;

(d) the Delaware Trustee has full corporate power, authority and legal right to execute, deliver and perform its obligations under this Trust Declaration and has taken all necessary action to authorize the execution, delivery and performance by it of this Trust Declaration;

(e) this Trust Declaration has been duly authorized, executed and delivered by the Property Trustee and the Delaware Trustee and constitutes the valid and legally binding agreement of each of the Property Trustee and the Delaware Trustee enforceable against each of them in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(f) the execution, delivery and performance of this Trust Declaration have been duly authorized by all necessary corporate or other action on the part of the Property Trustee and the Delaware Trustee and do not require any approval of shareholders of the Property Trustee and stockholders of the Delaware Trustee and such execution, delivery and performance will not (i) violate the charter or by-laws of the Property Trustee or the Delaware Trustee, (ii) violate any provision of any indenture, mortgage, credit agreement, license or other agreement or instrument to which the Property Trustee or the Delaware Trustee is a party or by which it is bound, which violation would materially and adversely affect the Issuer Trust, the Holders or the ability of the Property Trustee or the Delaware Trustee to enter into or perform their obligations under the Trust Declaration, or result in the creation, or imposition of any Lien on any properties included in the Trust Property, or (iii) violate any law, governmental rule or regulation of the United States, the State of New York or the State of Delaware, as the case may be, governing the banking, trust or general powers of the Property Trustee or the Delaware Trustee (as appropriate in context) or any order, judgment or decree applicable to the Property Trustee or the Delaware Trustee;

(g) neither the authorization, execution or delivery by the Property Trustee or the Delaware Trustee of this Trust Declaration nor the consummation of any of the transactions by the Property Trustee or the Delaware Trustee (as appropriate in context) contemplated herein requires the consent or approval of, the giving of notice to, the registration with or the taking of any other action with respect to any governmental authority or agency under any existing federal law governing the banking, trust or general powers of the Property Trustee or the Delaware Trustee, as the case may be, under the laws of the United States, the State of New York or the State of Delaware; and

(h) there are no proceedings pending or, to the best of each of the Property Trustee's and the Delaware Trustee's knowledge, threatened against or affecting the Property Trustee or the Delaware Trustee in any court or before any governmental authority, agency or arbitration board or tribunal which, in the good faith judgment of the Property Trustee or the Delaware Trustee, as the case may be, as amended individually or in the aggregate, would materially and adversely affect the Issuer Trust or the right, power and authority of the Property Trustee or the Delaware Trustee, as the case may be, to enter into or perform its obligations as one of the Issuer Trustees under this Trust Declaration.

Section 7.2 *Representations and Warranties of Sponsor.*

The Sponsor hereby represents and warrants for the benefit of the Holders that the Trust Securities Certificates issued on the Closing Date on behalf of the Issuer Trust have been duly authorized and will have been, duly and validly executed, issued and delivered by the Issuer Trustees pursuant to the terms and provisions of, and in accordance with the requirements of, this Trust Declaration and the Holders will be, as of each such date, entitled to the benefits of this Trust Declaration.

**ARTICLE VIII**

**THE ISSUER TRUSTEES**

Section 8.1 *Certain Duties and Responsibilities.*

(a) The duties and responsibilities of the Issuer Trustees shall be as provided by this Trust Declaration and, in the case of the Property Trustee, by the Trust Indenture Act. Notwithstanding the foregoing, no provision of this Trust Declaration shall require any of the Issuer Trustees 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. Whether or not therein expressly so provided, every provision of this Trust Declaration relating to the conduct or affecting the liability of or affording protection to the Issuer Trustees shall be subject to the provisions of this ARTICLE VIII. To the extent that, at law or in equity, an Issuer Trustee has duties and liabilities relating to the Issuer Trust or to the Holders, such Issuer Trustee shall not be liable to the Issuer Trust or to any Holder for such Issuer Trustee's good faith reliance on the provisions of this Trust Declaration. Except as otherwise required by the Trust Indenture Act and the Commission's rules and regulations thereunder applicable to indentures qualified under such Act, the provisions of this Trust Declaration, to the extent that they restrict the duties and liabilities of the Issuer Trustees otherwise existing at law or in equity, are agreed by the Sponsor and the Holders to replace such other duties and liabilities of the Issuer Trustees.

(b) All payments made by the Property Trustee or a Paying Agent in respect of the Trust Securities shall be made only from the revenue and proceeds from the Trust Property and only to the extent that there shall be sufficient revenue or proceeds from the Trust Property to enable the Property Trustee or a Paying Agent to make payments in accordance with the terms hereof. Each Holder, by its acceptance of a Trust Security, agrees that it will look solely to the revenue and proceeds from the Trust Property to the extent legally available for distribution to it as herein provided and that the Issuer Trustees are not personally liable to it for any amount distributable in respect of any Trust Security or for any other liability in respect of any Trust Security. This Section 8.1(b) does not limit the liability of the Issuer Trustees expressly set forth elsewhere in this Trust Declaration or, in the case of the Property Trustee, in the Trust Indenture Act.

(c) If an Event of Default has occurred and is continuing, the Property Trustee shall enforce this Trust Declaration for the benefit of the Holders.

(d) The Property Trustee, before the occurrence of any Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Trust Declaration (including pursuant to Section 10.10), and no implied covenants shall be read into this Trust Declaration against the Property Trustee. If an Event of Default has occurred (that has not been cured or waived pursuant to Section 5.13 of the Original Indenture or Section 5.12(c) hereof), the Property Trustee shall exercise such of the rights and powers vested in it by this Trust Declaration, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(e) No provision of this Trust Declaration shall be construed to relieve the Property Trustee or the Delaware Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) prior to the occurrence of any Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Property Trustee shall be determined solely by the express provisions of this Trust Declaration (including pursuant to Section 10.10), and the Property Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Trust Declaration (including pursuant to Section 10.10); and

(B) in the absence of bad faith on the part of the Property Trustee, the Property Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Property Trustee and conforming to the requirements of this Trust Declaration; but in the case of any such certificates or opinions that by any provision hereof or of the Trust Indenture Act are specifically required to be furnished to the Property Trustee, the Property Trustee shall be under a duty to examine the same to determine whether or not they conform on their face to the requirements of this Trust Declaration;

(ii) the Property Trustee shall not be liable for any error of judgment made in good faith by an authorized officer of the Property Trustee, unless it shall be proved that the Property Trustee was negligent in ascertaining the pertinent facts;

(iii) the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in Liquidation Amount of the Outstanding Trust Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under this Trust Declaration;

(iv) the Property Trustee's sole duty with respect to the custody, safe keeping and physical preservation of the Notes and the Payment Account shall be to deal with such property in a similar manner as the Property Trustee deals with similar property for its own account, subject to the protections and limitations on liability afforded to the Property Trustee under this Trust Declaration and the Trust Indenture Act;

(v) the Property Trustee shall not be liable for any interest on any money received by it except as it may otherwise agree in writing with the Sponsor; and money held by the Property Trustee need not be segregated from other funds held by it except in relation to the Payment Account maintained by the Property Trustee pursuant to Section 3.1 and except to the extent otherwise required by law;

(vi) the Property Trustee shall not be responsible for monitoring the compliance by the Administrative Trustees or the Sponsor with their respective duties under this Trust Declaration, nor shall the Property Trustee be liable for the default or misconduct of the Administrative Trustees or the Sponsor; and

(vii) subject to Section 8.1(c), no provision of this Trust Declaration shall require the Property Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Property Trustee shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Trust Declaration or adequate indemnity against such risk or liability is not reasonably assured to it.

(f) The Administrative Trustees shall not be responsible for monitoring the compliance by the other Issuer Trustees or the Sponsor with their respective duties under this Trust Declaration, nor shall any Administrative Trustee be liable for the default or misconduct of any other Administrative Trustee, the other Issuer Trustees or the Sponsor.

#### Section 8.2 *Certain Notices.*

Within 30 days after the occurrence of any Event of Default actually known to a Responsible Officer of the Property Trustee, the Property Trustee shall transmit, in the manner and to the extent provided in Section 10.8, notice of such Event of Default to the Holders, the Administrative Trustees and the Sponsor, unless such Event of Default shall have been cured or waived.

Within five Business Days after the receipt of written notice of the Sponsor's exercise of its right to defer the payment of interest on the Notes pursuant to the Indenture, the Property Trustee shall transmit, in the manner and to the extent provided in Section 10.8, notice of such exercise to the Holders, unless such exercise shall have been revoked.

The Property Trustee shall not be deemed to have knowledge of an Event of Default unless the Property Trustee shall have received written notice or a Responsible Officer of the Property Trustee charged with the administration of this Trust Declaration shall have obtained actual knowledge of such Event of Default.

Section 8.3 *Certain Rights of Property Trustee.*

Subject to the provisions of Section 8.1:

(a) the Property Trustee may conclusively rely and shall be protected in acting or refraining from acting in good faith upon any resolution, Opinion of Counsel, certificate, written representation of a Holder or transferee, certificate of auditors or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, appraisal, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) if (i) in performing its duties under this Trust Declaration the Property Trustee is required to decide between alternative courses of action or (ii) in construing any of the provisions of this Trust Declaration the Property Trustee finds the same ambiguous or inconsistent with any other provisions contained herein or (iii) the Property Trustee is unsure of the application of any provision of this Trust Declaration, then, except as to any matter as to which the Holders of Trust Securities are entitled to vote under the terms of this Trust Declaration, the Property Trustee shall deliver a notice to the Sponsor requesting the Sponsor's direction as to the course of action to be taken and, if not so directed, the Property Trustee shall take such action, or refrain from taking such action, as the Property Trustee shall deem advisable and in the best interests of the Holders, in which event the Property Trustee shall have no liability except for its own bad faith, negligence or willful misconduct;

(c) any direction or act of the Sponsor contemplated by this Trust Declaration shall be sufficiently evidenced by an Officers' Certificate;

(d) any direction or act of an Administrative Trustee contemplated by this Declaration of Trust shall be sufficiently evidenced by a certificate executed by such Administrative Trustee and setting forth such direction or act;

(e) the Property Trustee shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement or any filing under tax or securities laws) or any rerecording, refiling or reregistration thereof;

(f) the Property Trustee may consult with counsel of its selection (which counsel may be counsel to the Sponsor or any of its Affiliates, and may include any of its employees) and the advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon and in accordance with such advice; the Property Trustee shall have the right at any time to seek instructions concerning the administration of this Trust Declaration from any court of competent jurisdiction;

(g) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Declaration at the request or direction of any of the Holders pursuant to this Trust Declaration, unless such Holders shall have offered to the Property Trustee reasonable security or indemnity satisfactory to it against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction; *provided* that nothing contained in this Section 8.3(g) shall be taken to relieve the Property Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Trust Declaration;

(h) the Property Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture, note or other evidence of indebtedness or other paper or document, unless requested in writing to do so by one or more Holders, but the Property Trustee may make such further inquiry or investigation into such facts or matters as it may see fit at the expense of the Sponsor and in all events shall incur no liability of any kind by reason of such inquiry or investigation;

(i) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through its agents or attorneys, *provided* that the Property Trustee shall be responsible only for its own negligence or willful misconduct with respect to selection of any agent or attorney appointed by it hereunder and shall not be liable for any act or omission of such agent or attorney selected with due care;

(j) whenever in the administration of this Trust Declaration the Property Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder the Property Trustee (i) may request instructions from the Holders of the Trust Securities which instructions may only be given by the Holders of the same proportion in Liquidation Amount of the Trust Securities as would be entitled to direct the Property Trustee under the terms of the Trust Securities in respect of such remedy, right or action, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (iii) shall be protected in acting in accordance with such instructions;

(k) except as otherwise expressly provided by this Trust Declaration, the Property Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Trust Declaration;

(l) the Property Trustee shall not be liable for special, indirect or consequential damages except to the extent caused by its negligence, willful misconduct or bad faith;

(m) in no event shall the Property Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Property Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances; and

(n) the rights, privileges, protections, immunities and benefits given to the Property Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Property Trustee in each of its capacities hereunder.

No provision of this Trust Declaration shall be deemed to impose any duty or obligation on any Issuer Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which any Issuer Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation. No permissive power or authority available to any Issuer Trustee shall be construed to be a duty.

*Section 8.4 Not Responsible for Recitals or Issuance of Securities.*

The recitals contained herein and in the Trust Securities Certificates shall be taken as the statements of the Issuer Trust, and the Issuer Trustees do not assume any responsibility for their correctness. The Issuer Trustees shall not be accountable for the use or application by the Sponsor of the proceeds of the Notes.

*Section 8.5 May Hold Securities.*

Any Issuer Trustee or any other agent of any Issuer Trustee or the Issuer Trust, in its individual or any other capacity, may become the owner or pledgee of Trust Securities and, subject to Sections 8.8 and 8.13 and except as provided in the definition of the term “*Outstanding*” in ARTICLE I, may otherwise deal with the Issuer Trust with the same rights it would have if it were not an Issuer Trustee or such other agent.

*Section 8.6 Compensation; Indemnity; Fees.*

The Sponsor agrees:

(a) to pay to the Issuer Trustees from time to time such reasonable compensation as shall be agreed in writing between the Issuer Trustees and the Sponsor for all services rendered by them hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided herein, to reimburse the Issuer Trustees upon request for all reasonable expenses, disbursements and advances incurred or made by the Issuer Trustees in accordance with any provision of this Trust Declaration (including the reasonable compensation and the expenses and disbursements of their agents and counsel), except any such expense, disbursement or advance as shall have been determined to have been caused by its negligence, bad faith or willful misconduct; and

(c) to the fullest extent permitted by applicable law, to indemnify and hold harmless (i) each Issuer Trustee, (ii) each Paying Agent, (iii) any Affiliate of any Issuer Trustee, (iv) any officer, director, shareholder, employee, representative or agent of any Issuer Trustee, and (v) any employee or agent of the Issuer Trust (referred to herein as an “*Indemnified Person*”) from and against any loss, damage, liability, action, suit, tax, penalty, expense or claim of any kind or nature whatsoever incurred by such Indemnified Person by reason of the creation, operation or dissolution of the Issuer Trust or any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Issuer Trust and in a manner such Indemnified Person reasonably believed to be within the scope of authority conferred on such Indemnified Person by this Trust Declaration, except that no Indemnified Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Indemnified Person by reason of negligence, bad faith or willful misconduct with respect to such acts or omissions.



The provisions of this Section 8.6 shall survive the termination of this Trust Declaration or the earlier resignation or removal of any Issuer Trustee.

No Issuer Trustee may claim any Lien on any Trust Property as a result of any amount due pursuant to this Section 8.6.

Notwithstanding any provisions of law or equity, the Sponsor and any Issuer Trustee (in the case of the Property Trustee, subject to Section 8.8) may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Issuer Trust, and the Issuer Trust and the Holders of Trust Securities shall have no rights by virtue of this Trust Declaration in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Issuer Trust, shall not be deemed wrongful or improper. Notwithstanding any provisions of law or equity, neither the Sponsor nor any other Issuer Trustee shall be obligated to present any particular investment or other opportunity to the Issuer Trust even if such opportunity is of a character that, if presented to the Issuer Trust, could be taken by the Issuer Trust, and the Sponsor or any Issuer Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Issuer Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act as Depository for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of the Sponsor or its Affiliates.

*Section 8.7 Corporate Property Trustee Required; Eligibility of Issuer Trustees.*

(a) There shall at all times be a Property Trustee hereunder with respect to the Trust Securities. The Property Trustee shall be a Person that is a national or state chartered bank and eligible pursuant to the Trust Indenture Act to act as such, and has a combined capital and surplus of at least \$50,000,000. If any such Person publishes reports of condition at least annually, pursuant to law or to the requirements of its supervising or examining authority, then for the purposes of this Section 8.7 and to the extent permitted by the Trust Indenture Act, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Property Trustee with respect to the Trust Securities shall cease to be eligible in accordance with the provisions of this Section 8.7, it shall resign immediately in the manner and with the effect hereinafter specified in this ARTICLE VIII. At the time of appointment, the Property Trustee must have securities rated in one of the three highest rating categories by a nationally recognized statistical rating organization.

(b) There shall at all times be one or more Administrative Trustees hereunder with respect to the Trust Securities. Each Administrative Trustee shall be either a natural person who is at least 21 years of age or a legal entity that shall act through one or more persons authorized to bind that entity.

(c) There shall at all times be a Delaware Trustee. The Delaware Trustee shall either be (i) a natural person who is at least 21 years of age and a resident of the State of Delaware or (ii) a legal entity with its principal place of business in the State of Delaware and that otherwise meets the requirements of applicable Delaware law and that shall act through one or more persons authorized to bind such entity.

#### Section 8.8 *Conflicting Interests.*

(a) If the Property Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Property Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, the Trust Indenture Act and this Trust Declaration.

(b) The Guarantee Agreement and the Indenture shall be deemed to be specifically described in this Trust Declaration for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

#### Section 8.9 *Co-Trustees and Separate Trustee.*

Unless and until a Note Event of Default shall have occurred and be continuing, at any time or times, for the purpose of meeting the legal requirements of the Trust Indenture Act or of any jurisdiction in which any part of the Trust Property may at the time be located, the Property Trustee shall have power to appoint, and upon the written request of the Property Trustee, the Sponsor and the Administrative Trustees shall for such purpose join in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Property Trustee either to act as co-trustee, jointly with the Property Trustee, of all or any part of such Trust Property, or to the extent required by law to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such Person or Persons in the capacity aforesaid, any property, title, right or power deemed necessary or desirable, subject to the other provisions of this Section 8.9. If a Note Event of Default shall have occurred and be continuing, the Property Trustee shall have the sole power to so appoint such a co-trustee or separate trustee, and upon the written request of the Property Trustee, the Sponsor, and the Administrative Trustees shall for such purpose join with the Property Trustee in the execution, delivery, and performance of all instruments and agreements necessary or proper to appoint, such co-trustee or separate trustee. Any co-trustee or separate trustee appointed pursuant to this Section 8.9 shall either be (i) a natural person who is at least 21 years of age and a resident of the United States or (ii) a legal entity with its principal place of business in the United States that shall act through one or more persons authorized to bind such entity.

Should any written instrument from the Sponsor be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right, or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Sponsor.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

(a) The Trust Securities shall be executed by at least one Administrative Trustee and the Trust Securities shall be delivered by the Property Trustee or an Administrative Trustee on behalf of the Property Trustee and all rights, powers, duties, and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Property Trustee specified hereunder shall be exercised solely by the Property Trustee and not by such co-trustee or separate trustee.

(b) The rights, powers, duties, and obligations hereby conferred or imposed upon the Property Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Property Trustee or by the Property Trustee and such co-trustee or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Property Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee or separate trustee.

(c) The Property Trustee at any time, by an instrument in writing executed by it, with the written concurrence of the Sponsor, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section 8.9, and, in case a Note Event of Default has occurred and is continuing, the Property Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Sponsor. Upon the written request of the Property Trustee, the Sponsor shall join with the Property Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigning or removed may be appointed in the manner provided in this Section 8.9.

(d) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Property Trustee or any other trustee hereunder.

(e) The Property Trustee shall not be liable by reason of any act of a co-trustee or separate trustee.

(f) Any Act of Holders delivered to the Property Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

*Section 8.10 Resignation and Removal; Appointment of Successor.*

No resignation or removal of any Issuer Trustee (the “*Relevant Trustee*”) and no appointment of a successor Issuer Trustee pursuant to this ARTICLE VIII shall become effective until the acceptance of appointment by the successor Issuer Trustee in accordance with the applicable requirements of Section 8.11.

Subject to the immediately preceding paragraph, a Relevant Trustee may resign at any time by giving written notice thereof to the Holders and by appointing a successor Relevant Trustee. The Relevant Trustee shall appoint a successor by requesting from at least three Persons meeting the eligibility requirements its expenses and charges to serve as the Relevant Trustee on a form provided by the Administrative Trustees, and selecting the Person who agrees to the lowest expenses and charges. If the instrument of acceptance by the successor Issuer

Trustee required by Section 8.11 shall not have been delivered to the Relevant Trustee within 60 days after the giving of such notice of resignation, the Relevant Trustee may petition, at the expense of the Sponsor, in the case of the Property Trustee, any court of competent jurisdiction for the appointment of a successor Relevant Trustee.

The Administrative Trustees, or any of them, may be removed at any time by the Sponsor.

The Property Trustee or the Delaware Trustee, or both of them, may be removed by Act of the Holders of at least a majority of the aggregate Liquidation Amount of Outstanding Trust Securities, delivered to the Relevant Trustee (in its individual capacity and, in the case of the Property Trustee, on behalf of the Issuer Trust) (i) for cause (including upon the occurrence of an Event of Default described in subparagraph (d) of the definition thereof with respect to the Relevant Trustee), or (ii) at any time if a Note Event of Default shall have occurred and be continuing. Unless and until a Note Event of Default shall have occurred and be continuing, the Property Trustee or the Delaware Trustee, or both of them, may be removed at any time by the Sponsor.

If a resigning Property Trustee or Delaware Trustee shall fail to appoint a successor, or if the Property Trustee or the Delaware Trustee shall be removed or become incapable of acting as Issuer Trustee, or if a vacancy shall occur in the office of the Property Trustee or the Delaware Trustee for any cause, the Sponsor or, if a Note Event of Default shall have occurred and be continuing, the Holders of the Trust Securities, by Act of the Holders of not less than 25% in aggregate Liquidation Amount of the Trust Securities then Outstanding delivered to such Relevant Trustee, may appoint a successor Relevant Trustee or Issuer Trustees, and such successor Issuer Trustee shall comply with the applicable requirements of Section 8.11. If no successor Relevant Trustee shall have been so appointed by the Sponsor or the Holders of the Trust Securities, as the case may be, and accepted appointment in the manner required by Section 8.11, any Holder, on behalf of such Holder and all others similarly situated, or any other Issuer Trustee, may petition any court of competent jurisdiction for the appointment of a successor Relevant Trustee.

The Property Trustee shall give notice of each resignation and each removal of an Issuer Trustee and each appointment of a successor Issuer Trustee to all Holders in the manner provided in Section 10.8 and shall give notice to the Sponsor and the Administrative Trustees. Each notice shall include the name of the successor Relevant Trustee and the address of its Corporate Trust Office if it is the Property Trustee.

Notwithstanding the foregoing or any other provision of this Trust Declaration, in the event any Administrative Trustee who is a natural person dies or becomes, in the opinion of the Sponsor, incompetent or incapacitated, or resigns and fails to appoint a successor, the vacancy created by such death, incompetence, incapacity or resignation may be filled by appointment by the remaining Administrative Trustees.

Section 8.11 *Acceptance of Appointment by Successor.*

In case of the appointment hereunder of a successor Relevant Trustee, the retiring Relevant Trustee (if requested by the Sponsor) and each successor Relevant Trustee with respect to the Trust Securities shall execute and deliver an amendment hereto wherein each successor Relevant Trustee shall accept such appointment and which (a) shall contain such provisions as shall be necessary or desirable to transfer and confirm to, and to vest in, each successor Relevant Trustee all the rights, powers, trusts and duties of the retiring Relevant Trustee with respect to the Trust Securities and the Issuer Trust and (b) shall add to or change any of the provisions of this Trust Declaration as shall be necessary to provide for or facilitate the administration of the Issuer Trust by more than one Relevant Trustee, it being understood that nothing herein or in such amendment shall constitute such Relevant Trustees co-trustees and upon the execution and delivery of such amendment the resignation or removal of the retiring Relevant Trustee shall become effective to the extent provided therein and each such successor Relevant Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Relevant Trustee, other than the filing of an amendment to the Certificate of Trust to the extent required under the Delaware Statutory Trust Act; but, on request of the Issuer Trust or any successor Relevant Trustee such retiring Relevant Trustee shall duly assign, transfer and deliver to such successor Relevant Trustee all Trust Property, all proceeds thereof and money held by such retiring Relevant Trustee hereunder with respect to the Trust Securities and the Issuer Trust.

Upon request of any such successor Relevant Trustee, the Issuer Trust shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Relevant Trustee all such rights, powers and trusts referred to in the preceding paragraph.

No successor Relevant Trustee shall accept its appointment unless at the time of such acceptance such successor Relevant Trustee shall be qualified and eligible under this ARTICLE VIII.

Section 8.12 *Merger, Conversion, Consolidation or Succession to Business.*

Any Person into which the Property Trustee or the Delaware Trustee may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Relevant Trustee shall be a party, or any Person succeeding to all or substantially all the corporate trust business of such Relevant Trustee, shall be the successor of such Relevant Trustee hereunder, *provided* that such Person shall be otherwise eligible under this ARTICLE VIII, without the execution or filing of any paper or any further act on the part of any of the parties hereto, other than the filing of an amendment to the Certificate of Trust to the extent required under the Delaware Statutory Trust Act.

Section 8.13 *Preferential Collection of Claims Against Sponsor or the Issuer Trust.*

If and when the Property Trustee shall be or become a creditor of the Sponsor or the Issuer Trust (or any other obligor upon the Trust Securities), the Property Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of claims against the Sponsor or the Issuer Trust (or any such other obligor).

In case of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other similar judicial proceeding relative to the Issuer Trust or any other obligor upon the Trust Securities or the property of the Issuer Trust or of such other obligor or their creditors, the Property Trustee (irrespective of whether any Distributions on the Trust Securities shall then be due and payable and irrespective of whether the Property Trustee shall have made any demand on the Issuer Trust for the payment of any past due Distributions) shall be entitled and empowered, to the fullest extent permitted by law, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of any Distributions owing and unpaid in respect of the Trust Securities and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Property Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Property Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding; and

(b) to collect and receive any moneys 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 judicial proceeding is hereby authorized by each Holder to make such payments to the Property Trustee and, in the event the Property Trustee shall consent to the making of such payments directly to the Holders, to pay to the Property Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Property Trustee, its agents and counsel, and any other amounts due the Property Trustee.

Nothing herein contained shall be deemed to authorize the Property Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement adjustment or compensation affecting the Trust Securities or the rights of any Holder thereof or to authorize the Property Trustee to vote in respect of the claim of any Holder in any such proceeding.

*Section 8.14 Reports by Property Trustee.*

(a) Within 60 days after May 15 of each year commencing with May 15, 2012, the Property Trustee shall transmit to all Holders in accordance with Section 10.8, and to the Sponsor, a brief report dated as of the immediately preceding May 15, with respect to:

(i) its eligibility under Section 8.7 or, in lieu thereof, if to the best of its knowledge it has continued to be eligible under said Section 8.7, a written statement to such effect;

(ii) a statement that the Property Trustee has complied with all of its obligations under this Trust Declaration during the twelve-month period (or, in the case of the initial report, the period since the Closing Date) ending with such May 15 or, if the Property Trustee has not complied in any material respect with such obligations, a description of such noncompliance; and

(iii) any change in the property and funds in its possession as Property Trustee since the date of its last report and any action taken by the Property Trustee in the performance of its duties hereunder which it has not previously reported and which in its opinion materially affects the Trust Securities.

(b) In addition the Property Trustee shall transmit to Holders such reports concerning the Property Trustee and its actions under this Trust Declaration as may be required pursuant to the Trust Indenture Act at the times and in the manner provided pursuant thereto.

(c) A copy of each such report shall, at the time of such transmission to Holders, be filed by the Property Trustee with each national stock exchange or such other interdealer quotation system or self-regulatory organization upon which the Trust Securities are listed or quoted, with the Commission and with the Sponsor. The Sponsor shall promptly notify the Property Trustee whenever the Trust Securities are so listed and of any delisting thereof.

#### Section 8.15 *Reports to the Property Trustee.*

Each of the Sponsor and the Administrative Trustees shall provide to the Property Trustee such documents, reports and information as required by Section 314 of the Trust Indenture Act (if any) and the compliance certificate required by Section 314(a) of the Trust Indenture Act in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act. The Sponsor and the Administrative Trustees shall annually file with the Property Trustee a certificate specifying whether such Person is in compliance with all of the terms and covenants (if any) applicable to such Person hereunder.

#### Section 8.16 *Evidence of Compliance with Conditions Precedent.*

Each of the Sponsor and the Administrative Trustees shall provide to the Property Trustee such evidence of compliance with any conditions precedent, if any, *provided* for in this Trust Declaration that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) or Section 314 (e) of the Trust Indenture Act shall be given in the form of an Officers' Certificate.

#### Section 8.17 *Number of Issuer Trustees.*

(a) The number of Issuer Trustees shall be at least three and not more than five. The Property Trustee and the Delaware Trustee may be the same Person.

(b) If an Issuer Trustee ceases to hold office for any reason, a vacancy shall occur. The vacancy shall be filled with an Issuer Trustee appointed in accordance with Section 8.10.

(c) The death, resignation, retirement, removal, bankruptcy, incompetence or incapacity to perform the duties of an Issuer Trustee shall not operate to dissolve, terminate or annul the Issuer Trust.

Section 8.18 *Delegation of Power*.

(a) Any Administrative Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 2.7(a), including any registration statement or amendment thereto filed with the Commission, or making any other governmental filing.

(b) The Administrative Trustees shall have power to delegate from time to time to such of their number the doing of such things and the execution of such instruments either in the name of the Issuer Trust or the names of the Administrative Trustees or otherwise as the Administrative Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of this Trust Declaration, as set forth herein.

## ARTICLE IX

### TERMINATION, LIQUIDATION AND MERGER

Section 9.1 *Dissolution upon Expiration Date*.

Unless earlier dissolved, the Issuer Trust shall automatically dissolve on March 9, 2018 (the “*Expiration Date*”).

Section 9.2 *Early Termination*.

The first to occur of any of the following events is an “*Early Termination Event*,” upon the occurrence of which the Issuer Trust shall dissolve:

- (a) the redemption of all of the Trust Securities in connection with the redemption or repayment of all the Notes; and
- (b) the entry of an order for dissolution of the Issuer Trust by a court of competent jurisdiction.

Section 9.3 *Termination*.

The respective obligations and responsibilities of the Issuer Trustees and the Issuer Trust created and continued hereby shall terminate upon the latest to occur of the following: (a) the distribution by the Property Trustee to Holders upon the liquidation of the Issuer Trust pursuant to Section 9.4, or upon the redemption of all of the Trust Securities pursuant to Section 4.2, of all amounts required to be distributed hereunder upon the final payment of the Trust Securities; (b) the payment of any expenses owed by the Issuer Trust; and (c) the discharge of all administrative duties of the Administrative Trustees, including the performance of any tax reporting obligations with respect to the Issuer Trust or the Holders.



Section 9.4 *Liquidation.*

(a) If an Early Termination Event specified in Section 9.2(b) occurs, or upon the Expiration Date, the Trust Property shall be liquidated, and the Issuer Trust shall be wound-up by the Property Trustee and the Administrative Trustees in such manner as the Property Trustee and the Administrative Trustees determine. In such event, on the date of the dissolution of the Issuer Trust, Holders will be entitled to receive out of the assets of the Issuer Trust available for distribution to Holders, after satisfaction of liabilities to creditors of the Issuer Trust as provided by applicable law, an amount equal to the Liquidation Amount per Trust Security plus accumulated and unpaid Distributions (including Guarantee Payments in respect thereof) thereon to the date of payment (such amount being the “*Liquidation Distribution*”). If, upon any such winding up, the Liquidation Distribution can be paid only in part because the Issuer Trust has insufficient assets available to pay in full the aggregate Liquidation Distribution, then the amounts payable by the Issuer Trust on the Trust Securities shall be paid on a *pro rata* basis (based upon Liquidation Amounts). Notice of liquidation shall be prepared by the Administrative Trustees and shall be given by the Property Trustee by first-class mail, postage prepaid mailed not later than 30 nor more than 60 days prior to the Liquidation Date to each Holder of Trust Securities at such Holder’s address appearing in the Securities Register. All notices of liquidation shall:

(i) state the Liquidation Date;

(ii) state that from and after the Liquidation Date, the Trust Securities will no longer be deemed to be Outstanding;

and

(iii) provide such information with respect to the mechanics by which Holders may receive a Liquidation Distribution upon surrender of their Trust Securities Certificates, as the Property Trustee (after consultation with the Administrative Trustees) shall deem appropriate.

(b) In order to effect the liquidation of the Issuer Trust, the Property Trustee shall establish a record date for payment of the Liquidation Distribution (which shall be not more than 45 days prior to the Liquidation Date).

(c) After the Liquidation Date, (i) the Trust Securities will no longer be deemed to be Outstanding, (ii) any Trust Securities Certificates not surrendered in exchange for the corresponding Liquidation Distribution will be deemed to represent the right to receive the Liquidation Distribution without any additional interest accruing and (iii) all rights of Holders holding Trust Securities will cease, except the right of such Holders to receive the Liquidation Distribution (without any additional interest accruing) upon surrender of the corresponding Trust Securities Certificates.

Section 9.5 *Mergers, Consolidations, Amalgamations or Replacements of the Issuer Trust.*

The Issuer Trust may not merge, consolidate or amalgamate with or into, be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to any entity, except pursuant to this ARTICLE IX. At the request of the Sponsor and with the consent of the

Administrative Trustees, but without the consent of the Holders of the Trust Securities, the Delaware Trustee or the Property Trustee, the Issuer Trust may merge, consolidate or amalgamate with or into, be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to a trust organized as such under the laws of any State; *provided* that (i) such successor entity either (a) expressly assumes all of the obligations of the Issuer Trust with respect to the Trust Securities or (b) substitutes for the Trust Securities other securities having substantially the same terms as the Trust Securities (“*Successor Securities*”) so long as the Successor Securities rank the same as the Trust Securities rank in priority with respect to distributions and payments upon liquidation, redemption and otherwise, (ii) a trustee of such successor entity possessing the same powers and duties as the Property Trustee is appointed as the holder of the Notes, (iii) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause the Trust Securities (including any Successor Securities) to be downgraded by any nationally recognized statistical rating organization, (iv) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the Holder of the Trust Securities (including any Successor Securities) in any material respect, (v) such successor entity has a purpose substantially identical to that of the Issuer Trust, (vi) prior to such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, the Issuer Trust has received an Opinion of Counsel to the effect that (a) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the Holders of the Trust Securities (including any Successor Securities) in any material respect, and (b) following such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, neither the Issuer Trust nor such successor entity will be required to register as an investment company under the 1940 Act and (vii) the Sponsor guarantees the obligations of such successor entity under the Successor Securities at least to the extent provided by the Guarantee Agreement. Notwithstanding the foregoing, the Issuer Trust shall not, except with the consent of Holders of all Outstanding Trust Securities, merge, consolidate or amalgamate with or into, be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to any other Person or permit any other Person to merge, consolidate or amalgamate with or into or replace it if such merger, consolidation or amalgamation, replacement, conveyance, transfer or lease would cause the Issuer Trust or the successor Person to be classified as an association taxable as a corporation or as other than a grantor trust for U.S. federal income tax purposes. Upon any merger, consolidation, amalgamation, replacement, conveyance, transfer or lease effected in accordance with this Section 9.5, the successor entity shall succeed to, and be substituted for, the Issuer Trust hereunder with the same effect as if such successor entity had been initially created and named as the Issuer Trust herein and thereafter, except in the case of a lease, the predecessor entity shall be relieved of all obligations and covenants hereunder.

## ARTICLE X

### MISCELLANEOUS PROVISIONS

#### Section 10.1 *Limitation of Rights of Holders.*

The death or incapacity, or the dissolution, liquidation, termination, or the bankruptcy of any Person having an interest, beneficial or otherwise, in Trust Securities shall not operate to

terminate this Trust Declaration, nor dissolve, terminate or annul the Trust, nor entitle the legal representatives, successors or heirs of such Person or any Holder for such Person, to claim an accounting, take any action or bring any proceeding in any court for a partition or winding up of the arrangements contemplated hereby, nor otherwise affect the rights, obligations and liabilities of the parties hereto or any of them.

Section 10.2 *Amendment.*

(a) This Trust Declaration may be amended from time to time by the Administrative Trustees and the Sponsor, without the consent of any Holder of the Trust Securities, the Property Trustee or the Delaware Trustee; provided that any such amendment may not alter or change, in any material respect, the powers, preferences or special rights of the Trust Securities affected thereby so as to affect them adversely without obtaining the vote or consent of Holders as provided in Section 10.2(b).

(b) Except as provided in Section 10.2(c), any amendment that alters or changes, in any material respect, the powers, preferences or special rights of the Trust Securities affected thereby so as to affect them adversely shall require the consent of Holders of at least a majority in aggregate Liquidation Amount of the Outstanding Trust Securities affected thereby.

(c) In addition to and notwithstanding any other provision in this Trust Declaration, without the consent of the Holder of each Outstanding Trust Security affected thereby, this Trust Declaration may not be amended to (i) adversely change the amount or timing of any distribution on or redemption of the Trust Securities or otherwise adversely affect the amount of any distribution required to be made in respect of the Trust Securities as of a specified date, (ii) restrict the right of a Holder of Trust Securities to institute suit for the enforcement of any such payment on or after such date, (iii) permit the Issuer Trust to redeem any Trust Security if, absent such amendment, the Issuer Trust would not be permitted to do so, or (iv) amend any of the provisions of Section 6.1(b) (except to increase any percentage approval referenced in such section), Section 9.1, Section 9.2, or this Section 10.2(c) (except to provide that other provisions besides those provided in this Section 10.2(c) may not be amended without the consent of the Holder of each Outstanding Trust Security affected thereby); *provided* that this clause (iv) shall not require the consent of any Holder with respect to changes in references to the Issuer Trustees or any of them and concomitant changes herein in accordance with the requirements of Section 8.9 or 8.11 or as otherwise necessary to facilitate the administration of the trusts hereunder by more than one Property Trustee (or other Issuer Trustee) appointed pursuant hereto.

(d) Notwithstanding anything in this Trust Declaration to the contrary, without the consent of the Property Trustee, this Trust Declaration may not be amended in a manner that imposes any additional obligation on the Property Trustee or that adversely affects the Property Trustee.

(e) Notwithstanding anything in this Trust Declaration to the contrary, without the consent of the Delaware Trustee, this Trust Declaration may not be amended in a manner that imposes any additional obligation on the Delaware Trustee or that adversely affects the Delaware Trustee.

(f) Notwithstanding anything in this Trust Declaration to the contrary, without the consent of the Securities Registrar and the Paying Agent, this Trust Declaration may not be amended in a manner that imposes any additional obligation on the Securities Registrar or the Paying Agent or that adversely affects the Securities Registrar or the Paying Agent.

(g) Notwithstanding any other provisions of this Trust Declaration, no Issuer Trustee shall enter into or consent to any amendment to this Trust Declaration which would cause the Issuer Trust to be classified as an association taxable as a corporation or not to be a grantor trust for United States Federal income tax purposes or to fail or cease to qualify for the exemption from status of an investment company under the 1940 Act.

(h) Notwithstanding anything in this Trust Declaration to the contrary, without the consent of the Sponsor and the Administrative Trustees, this Trust Declaration may not be amended in a manner which imposes any additional obligation or liability on the Sponsor or the Administrative Trustees.

(i) If any amendment to this Trust Declaration is made, the Administrative Trustees shall promptly provide to the Property Trustee a copy of such amendment.

(j) No amendment to this Trust Declaration that affects the Property Trustee's or the Delaware Trustee's rights, duties or immunities under this Trust Declaration or would otherwise expose the Property Trustee to any liability or be contrary to applicable law shall be adopted unless the prior written consent to such amendment be received by the Sponsor from the Property Trustee or the Delaware Trustee, as the case may be. The Property Trustee shall be entitled to receive an Opinion of Counsel and an Officers' Certificate stating that any amendment to this Trust Declaration is in compliance with this Trust Declaration.

#### Section 10.3 *Separability.*

If any provision in this Trust Declaration or in the Trust Securities Certificates 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 10.4 *Governing Law.*

This Trust Declaration and the Trust Securities shall be governed by and construed in accordance with the laws of the State of Delaware (without regard to conflicts of laws principles).

#### Section 10.5 *Payments Due on Non-Business Day.*

If the date fixed for any payment on any Trust Security shall be a day that is not a Business Day, then such payment need not be made on such date but may be made on the next succeeding day that is a Business Day (except as otherwise provided in Section 4.2(d)), with the same force and effect as though made on the date fixed for such payment, and no interest shall accrue thereon for the period after such date.

Section 10.6 *Successors.*

This Trust Declaration shall be binding upon and shall inure to the benefit of any successor to the Sponsor, the Issuer Trust or the Relevant Trustee, including any successor by operation of law. Except in connection with a consolidation, merger, conveyance, transfer or lease involving the Sponsor that is permitted under Article Eight of the Indenture and pursuant to which the successor thereunder agrees in writing to perform the Sponsor's obligations hereunder, the Sponsor shall not assign its obligations hereunder.

Section 10.7 *Headings.*

The Article and Section headings are for convenience only and shall not affect the construction of this Trust Declaration.

Section 10.8 *Reports, Notices and Demands.*

Any report, notice, demand or other communication which by any provision of this Trust Declaration is required or permitted to be given or served to or upon any Holder or the Sponsor may be given or served in writing by deposit thereof, first-class postage prepaid, in the United States mail, hand delivery or facsimile transmission, in each case, addressed, (a) in the case of a Holder of Trust Securities, to such Holder as such Holder's name and address may appear on the Securities Register; and (b) in the case of the Sponsor, to The Goldman Sachs Group, Inc., 200 West Street, New York, NY 10282, Attention: Corporate Treasury – Debt Administration, or to such other address as may be specified in a written notice by the Sponsor to the Property Trustee. Such notice, demand or other communication to or upon a Holder shall be deemed to have been sufficiently given or made, for all purposes, upon hand delivery, mailing or transmission.

Any notice, demand or other communication that by any provision of this Trust Declaration is required or permitted to be given or served to or upon the Issuer Trust, the Property Trustee, the Delaware Trustee or the Administrative Trustees shall be given in writing addressed (until another address is published by the Issuer Trust) as follows: (a) with respect to the Property Trustee to The Bank of New York Mellon, 101 Barclay Street, Floor 4E, New York, New York 10286 – Attention: International Corporate Trust; (b) with respect to the Delaware Trustee, to BNY Mellon Trust of Delaware, 100 White Clay Center, Suite 102, Newark, Delaware 19711, and (c) with respect to the Administrative Trustees, to them at the address above for notices to the Sponsor, marked "Attention Administrative Trustees of Murray Street Investment Trust I". Such notice, demand or other communication to or upon the Issuer Trust or the Property Trustee shall be deemed to have been sufficiently given or made only upon actual receipt of the writing by the Issuer Trust or the Property Trustee.

Section 10.9 *Agreement Not To Petition.*

Each of the Issuer Trustees and the Sponsor agree for the benefit of the Holders that, until at least one year and one day after the Issuer Trust has been dissolved in accordance with ARTICLE IX, they shall not file, or join in the filing of, a petition against the Issuer Trust under any bankruptcy, insolvency, reorganization or other similar law (including, without limitation, the United States Bankruptcy Code) (collectively, "**Bankruptcy Laws**") or otherwise join in the commencement of any proceeding against the Issuer Trust under any Bankruptcy Law. In the

event the Sponsor takes action in violation of this Section 10.9, the Property Trustee agrees, for the benefit of Holders, that at the expense of the Sponsor, it shall file an answer with the bankruptcy court or otherwise properly contest the filing of such petition by the Sponsor against the Issuer Trust or the commencement of such action and raise the defense that the Sponsor has agreed in writing not to take such action and should be stopped and precluded therefrom and such other defenses, if any, as counsel for the Issuer Trustees or the Issuer Trust may assert. The provisions of this Section 10.9 shall survive the termination of this Trust Declaration.

*Section 10.10 Trust Indenture Act; Conflict with Trust Indenture Act.*

(a) This Trust Declaration is subject to the provisions of the Trust Indenture Act that are required to be part of this Trust Declaration and shall, to the extent applicable, be governed by such provisions.

(b) The Property Trustee shall be the only Issuer Trustee which is deemed a trustee for the purposes of the Trust Indenture Act.

(c) If any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Trust Declaration by any of the provisions of the Trust Indenture Act, such required provision shall control. If any provision of this Trust Declaration modifies or excludes any provision of the Trust Indenture Act which may be so modified or excluded, the latter provision shall be deemed to apply to this Trust Declaration as so modified or excluded, as the case may be.

(d) The application of the Trust Indenture Act to this Trust Declaration shall not affect the nature of the Trust Securities as equity securities representing undivided beneficial interests in the assets of the Issuer Trust.

*Section 10.11 Acceptance of Terms of Trust Declaration, Guarantee Agreement and Indenture.*

THE RECEIPT AND ACCEPTANCE OF A TRUST SECURITY OR ANY INTEREST THEREIN BY OR ON BEHALF OF A HOLDER OR ANY BENEFICIAL OWNER, WITHOUT ANY SIGNATURE OR FURTHER MANIFESTATION OF ASSENT, SHALL CONSTITUTE THE UNCONDITIONAL ACCEPTANCE BY THE HOLDER AND ALL OTHERS HAVING A BENEFICIAL INTEREST IN SUCH TRUST SECURITY OF ALL THE TERMS AND PROVISIONS OF THIS TRUST DECLARATION, THE GUARANTEE AGREEMENT AND THE INDENTURE, AND SHALL CONSTITUTE THE AGREEMENT OF THE ISSUER TRUST, SUCH HOLDER AND SUCH OTHERS THAT THE TERMS AND PROVISIONS OF THIS TRUST DECLARATION SHALL BE BINDING, OPERATIVE AND EFFECTIVE AS BETWEEN THE ISSUER TRUST AND SUCH HOLDER AND SUCH OTHERS.

*Section 10.12 Counterparts.*

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 10.13 *Waiver of Jury Trial.*

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS TRUST DECLARATION, THE TRUST SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the undersigned have executed this Amended and Restated Declaration of Trust as of the date first above written.

**THE GOLDMAN SACHS GROUP, INC.**, as Sponsor

By /s/ Ellis J. Whipple

Name: Ellis J. Whipple

Title: Assistant Treasurer

**THE BANK OF NEW YORK MELLON**, as Property  
Trustee

By /s/ Teisha Wright

Name: Teisha Wright

Title: Senior Associate

**BNY MELLON TRUST OF DELAWARE**, as Delaware  
Trustee

By /s/ Kristine K. Gullo

Name: Kristine K. Gullo

Title: Vice President

/s/ Ellis J. Whipple

Ellis J. Whipple,

as Administrative Trustee of the Issuer Trust

/s/ Steven M. Bunson

Steven M. Bunson,

as Administrative Trustee of the Issuer Trust

/s/ Rajashree Datta

Rajashree Datta,

as Administrative Trustee of the Issuer Trust



**EXHIBIT A**

[CERTIFICATE OF TRUST]

DECLARATION OF TRUST

## [FORM OF TRUST SECURITIES CERTIFICATE]

NO EMPLOYEE BENEFIT OR OTHER PLAN SUBJECT TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OR SECTION 4975 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”) (EACH, A “PLAN”), NO ENTITY WHOSE UNDERLYING ASSETS INCLUDE “PLAN ASSETS” BY REASON OF ANY PLAN’S INVESTMENT IN THE ENTITY (A “PLAN ASSET ENTITY”), AND NO PERSON INVESTING “PLAN ASSETS” OF ANY PLAN, MAY ACQUIRE OR HOLD THIS SECURITY OR ANY INTEREST THEREIN, UNLESS SUCH PURCHASER OR HOLDER IS ELIGIBLE FOR THE EXEMPTIVE RELIEF AVAILABLE UNDER U.S. DEPARTMENT OF LABOR PROHIBITED TRANSACTION CLASS EXEMPTION (“PTCE”) 96-23, 95-60, 91-38, 90-1 OR 84-14 WITH RESPECT TO SUCH PURCHASE OR HOLDING. ANY PURCHASER OR HOLDER OF THIS SECURITY OR ANY INTEREST THEREIN WILL BE DEEMED TO HAVE REPRESENTED BY ITS PURCHASE AND HOLDING THEREOF THAT IT EITHER (A) IS NOT A PLAN OR A PLAN ASSET ENTITY AND IS NOT PURCHASING THIS SECURITY ON BEHALF OF OR WITH “PLAN ASSETS” OF ANY PLAN OR (B) IS ELIGIBLE FOR THE EXEMPTIVE RELIEF AVAILABLE UNDER PTCE 96-23, 95-60, 91-38, 90-1 OR 84-14 WITH RESPECT TO SUCH PURCHASE OR HOLDING.

[IF THIS TRUST SECURITY IS A GLOBAL TRUST SECURITIES CERTIFICATE, THEN INSERT—This Trust Security is a Global Trust Securities Certificate within the meaning of the Trust Declaration hereinafter referred to and is registered in the name of a clearing agency or a nominee thereof. This Trust Security may not be exchanged in whole or in part for a Trust Security registered, and no transfer of this Trust Security in whole or in part may be registered, in the name of any person other than such clearing agency or a nominee thereof, except in the limited circumstances described in the Trust Declaration.]

[If this Trust Security is a Global Trust Securities Certificate and The Depository Trust Company is to be the Clearing Agency therefor, then insert—Unless this Trust Security is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to Murray Street Investment Trust I or its agent for registration of transfer, exchange or payment, and any Trust Security issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment hereon is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY A PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

No.

Number of Trust Securities:  
CUSIP No. 62718Q AA3

B-1

DECLARATION OF TRUST

Murray Street Investment Trust I

4.647% Senior Guaranteed Trust Securities due 2017

(Liquidation Amount \$1,000 per Trust Security)

Murray Street Investment Trust I, a statutory trust created under the laws of the State of Delaware (the "*Issuer Trust*"), hereby certifies that [ ] (the "*Holder*") is the registered owner of the number of trust securities of the Issuer Trust set forth above representing an undivided beneficial interest in the assets of the Issuer Trust and designated the Murray Street Investment Trust I 4.647% Senior Guaranteed Trust Securities due 2017 (liquidation amount \$1,000 per Trust Security) (the "*Trust Securities*"). The Trust Securities are transferable on the books and records of the Issuer Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer as provided in Section 5.5 of the Trust Declaration (as defined below). The designations, rights, privileges, restrictions, preferences and other terms and provisions of the Trust Securities are set forth in, and this certificate and the Trust Securities represented hereby are issued and shall in all respects be subject to the terms and provisions of, the Amended and Restated Declaration of Trust of the Issuer Trust, dated as of March 9, 2012, as the same may be amended from time to time (the "*Trust Declaration*"), including the designation of the terms of Trust Securities as set forth therein. The Holder is entitled to the benefits of the Guarantee Agreement entered into by The Goldman Sachs Group, Inc., a Delaware corporation, and The Bank of New York Mellon, as guarantee trustee, dated as of March 9, 2012, as amended from time to time (the "*Guarantee Agreement*"), to the extent provided therein. The Issuer Trust will furnish a copy of the Trust Declaration and the Guarantee Agreement to the Holder without charge upon written request to the Issuer Trust at its principal place of business or registered office.

By receipt and acceptance of this certificate, the Holder agrees to be bound by the Trust Declaration and is entitled to the benefits thereunder.

IN WITNESS WHEREOF, the undersigned Administrative Trustee of the Issuer Trust has executed this certificate as of the day of , .

Murray Street Investment Trust I

By \_\_\_\_\_  
Name:  
Administrative Trustee

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this instrument, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM: as tenants in common

UNIF GIFT MIN ACT: Custodian (cust)(minor) under Uniform Gifts to Minors Act of

TENANT: as tenants by the entireties

JT TEN: as joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED, the undersigned hereby sell(s), assign(s) and transfer(s) unto

(Please insert Social Security or Taxpayer I.D. or other Identifying Number of Assignee)

(Please print or type name and address including Postal Zip Code of Assignee)

the within Trust Securities and all rights thereunder, hereby irrevocably constituting and appointing attorney, to transfer said Trust Securities on the books of Murray Street Investment Trust I, with full power of substitution in the premises.

Dated: Signature

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Trust Securities in every particular, without alteration or enlargement or any change whatsoever.

Signature Guarantee:



March 9, 2012

Murray Street Investment Trust I  
c/o The Goldman Sachs Group, Inc.  
200 West Street  
New York, New York 10282

Re: Murray Street Investment Trust I

Ladies and Gentlemen:

We have acted as special Delaware counsel for The Goldman Sachs Group, Inc., a Delaware corporation (the “Company”), and Murray Street Investment Trust I, a Delaware statutory trust (the “Trust”), in connection with the matters set forth herein. At your request, this opinion is being furnished to you.

For purposes of giving the opinions hereinafter set forth, our examination of documents has been limited to the examination of originals or copies of the following:

(a) The Certificate of Trust of the Trust (the “Certificate of Trust”), as filed with the office of the Secretary of State of the State of Delaware (the “Secretary of State”) on February 10, 2012;

(b) The Declaration of Trust of the Trust, dated as of February 10, 2012, among the Company, and the trustees names therein;

(c) Post-Effective Amendment No. 1 to the Registration Statement (the “Registration Statement”) on Form S-3, including a prospectus and a prospectus supplement with respect to the Trust (the “Prospectus”), relating to the Trust Securities of the Trust representing undivided beneficial interests in the assets of the Trust (each, a “Trust Security” and collectively, the “Trust Securities”), filed by the Company and the Trust with the Securities and Exchange Commission;

(d) The Amended and Restated Declaration of Trust of the Trust, dated as of March 9, 2012, among the Company, the trustees of the Trust named therein, and the holders, from time to time, of the undivided beneficial interests in the assets of the Trust (the “Declaration of Trust”), designated as an exhibit to the Registration Statement; and



One Rodney Square ■ 920 North King Street ■ Wilmington, DE 19801 ■ Phone: 302-651-7700 ■ Fax: 302-651-7701

[www.rlf.com](http://www.rlf.com)

(e) A Certificate of Good Standing for the Trust, dated March 8, 2012, obtained from the Secretary of State.

Initially capitalized terms used herein and not otherwise defined are used as defined in the Declaration of Trust.

For purposes of this opinion, we have not reviewed any documents other than the documents listed in paragraphs (a) through (e) above. In particular, we have not reviewed any document (other than the documents listed in paragraphs (a) through (e) above) that is referred to in or incorporated by reference into the documents reviewed by us. We have assumed that there exists no provision in any document that we have not reviewed that is inconsistent with the opinions stated herein. We have conducted no independent factual investigation of our own but rather have relied solely upon the foregoing documents, the statements and information set forth therein and the additional matters recited or assumed herein, all of which we have assumed to be true, complete and accurate in all material respects.

With respect to all documents examined by us, we have assumed (i) the authenticity of all documents submitted to us as authentic originals, (ii) the conformity with the originals of all documents submitted to us as copies or forms, and (iii) the genuineness of all signatures.

For purposes of this opinion, we have assumed (i) that each of the Declaration of Trust and the Certificate of Trust are in full force and effect and have not been, nor will be, amended, (ii) except to the extent provided in paragraph 1 below, the due organization or due formation, as the case may be, and valid existence in good standing of each party to the documents examined by us under the laws of the jurisdiction governing its creation, organization or formation, (iii) the legal capacity of natural persons who are parties to the documents examined by us, (iv) that each of the parties to the documents examined by us has the power and authority to execute and deliver, and to perform its obligations under, such documents, (v) the due authorization, execution and delivery by all parties thereto of all documents examined by us, (vi) the receipt by each Person to whom a Trust Security was issued by the Trust (collectively, the "Trust Security Holders") of a Trust Security Certificate for such Trust Security and the payment for such Trust Security, in accordance with the Declaration of Trust and the Registration Statement, and (vii) that the Trust Securities were issued and sold to the Trust Security Holders in accordance with the Declaration of Trust and the Registration Statement. We have not participated in the preparation of the Registration Statement and assume no responsibility for its contents.

This opinion is limited to the laws of the State of Delaware (excluding the securities laws of the State of Delaware), and we have not considered and express no opinion on the laws of any other jurisdiction, including federal laws and rules and regulations relating thereto. Our opinions are rendered only with respect to Delaware laws and rules, regulations and orders thereunder which are currently in effect.

Based upon the foregoing, and upon our examination of such questions of law and statutes of the State of Delaware as we have considered necessary or appropriate, and subject to the assumptions, qualifications, limitations and exceptions set forth herein, we are of the opinion that:

1. The Trust has been duly formed and is validly existing in good standing as a statutory trust under the Delaware Statutory Trust Act.

2. The Trust Securities of the Trust represent valid and, subject to the qualifications set forth in paragraph 3 below, fully paid and nonassessable undivided beneficial interests in the assets of the Trust.

3. The Trust Security Holders, as beneficial owners of the Trust, are entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware. We note that the Trust Security Holders may be obligated to make payments as set forth in the Declaration of Trust.

We consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to a Current Report on Form 8-K and its incorporation by reference into the Registration Statement. We hereby consent to the use of our name under the heading "Validity of the Securities" in the Prospectus. In giving the foregoing consents, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder. Except as stated above, without our prior written consent, this opinion may not be furnished or quoted to, or relied upon by, any other person for any purpose.

Very truly yours,

/s/ Richards, Layton & Finger, P.A.

DKD/JWP

[Letterhead of Sullivan & Cromwell LLP]

March 9, 2012

The Goldman Sachs Group, Inc.,  
200 West Street,  
New York, New York 10282.

Murray Street Investment Trust I,  
c/o The Goldman Sachs Group, Inc.,  
200 West Street,  
New York, New York 10282.

Ladies and Gentlemen:

We are acting as counsel to The Goldman Sachs Group, Inc., a Delaware corporation (the “Company”), and to Murray Street Investment Trust I, a Delaware statutory trust (the “Trust”), in connection with the issuance and delivery on the date hereof of \$1,750,010,000 aggregate liquidation amount of the Trust’s 4.647% Senior Guaranteed Trust Securities due 2017 (“Trust Securities”), each representing an undivided beneficial interest in the assets of the issuing Trust; guarantees of the Company, on a senior basis, to the extent provided therein, with respect to the payment of distributions on and the redemption price or liquidation amount of the Trust Securities (“Trust Guarantees”); and \$1,750,010,000 aggregate principal amount of Series MS-1 Remarketed 4.647% Junior Subordinated Notes due 2017, issued by the Company and purchased by the Trust on the date hereof in connection with the issuance by the Trust of Trust Securities having corresponding payment terms (“Notes” and, collectively with the Trust Guarantees, the “Company Securities”). The Trust Securities and the Company Securities are referred to collectively as the “Securities”. The Company and the Trust filed with the Securities and Exchange Commission, on February 16, 2012, a post-effective amendment to the Company’s Registration Statement on Form S-3 (File No. 333-176914) (as so amended, the “Registration Statement”) under the Securities Act of 1933 (the “Act”) relating to the proposed offer and sale of an unspecified liquidation amount of the Trust Securities and the Trust Guarantees. The Trust Guarantees with respect to the Trust Securities of the Trust are being issued under a guarantee agreement, dated as of March 9, 2012 (the “Guarantee Agreement”), between the Company and The



Bank of New York Mellon, as guarantee trustee (the "Guarantee Trustee"). The Notes are being issued under the indenture, dated as of February 20, 2004, as supplemented by the Second Supplemental Indenture, dated as of May 15, 2007, the Fourth Supplemental Indenture, dated as of February 6, 2012, and the Sixth Supplemental Indenture, dated as of March 9, 2012, each between the Company and The Bank of New York Mellon, as trustee (the "Trustee") (such Indenture, as so supplemented, the "Indenture").

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

1. The Restated Certificate of Incorporation and the Amended and Restated By-Laws of the Company;
2. The Guarantee Agreement;
3. The Indenture;
4. Certificates of officers of the Company with respect to the authorization of the Company Securities, the determination of the terms of the Company Securities and related matters; and
5. Specimens of the Trust Securities and the Notes.

We also have examined such questions of law as we have considered necessary or appropriate for the purposes of this opinion. Upon the basis of such examination, we advise you that, in our opinion, the Trust Guarantees and the Notes constitute valid and legally binding obligations of the Company, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

The foregoing opinion is limited to the Federal laws of the United States, the laws of the State of New York and the General Corporation Law of the State of Delaware, and we are expressing no opinion as to the effect of the laws of any other jurisdiction.

In rendering the foregoing opinion, we are not passing upon, and assume no responsibility for, any disclosure in the Registration Statement or any related prospectus or other offering material regarding the Company, the Trust or the Securities or their offering and sale.

We have relied as to certain matters on information obtained from public officials, officers of the Company and other sources believed by us to be responsible. We have assumed, without independent verification, that the Indenture has been duly authorized, executed and delivered by the Trustee, that the Guarantee Agreement has

been duly authorized, executed and delivered by the Guarantee Trustee, that the Notes conform to the specimen thereof examined by us, that the Trust Securities constitute valid and legally binding obligations of the Trust under the laws of the State of Delaware, that the Trustee's certificate of authentication of the Notes has been manually signed by one of the Trustee's authorized officers, and that the signatures on all documents examined by us are genuine.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the reference to us under the heading "Validity of the Securities" in the prospectus contained therein. 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/ Sullivan & Cromwell LLP

[Letterhead of Sullivan & Cromwell LLP]

March 9, 2012

The Goldman Sachs Group, Inc.,  
200 West Street,  
New York, New York 10282,

Murray Street Investment Trust I,  
c/o The Goldman Sachs Group, Inc.,  
200 West Street,  
New York, New York 10282.

Ladies and Gentlemen:

We have acted as your United States federal income tax counsel in connection with the prospectus supplement, filed with the Securities and Exchange Commission (the "SEC") on March 7, 2012 (the "Prospectus Supplement"), to the prospectus included in the post-effective amendment, filed with the SEC on February 16, 2012, to the Company's Registration Statement on Form S-3 (File No. 333-176914) (as so amended, the "Registration Statement") under the Securities Act of 1933 (the "Act").

We hereby confirm to you that our opinion as to United States federal income tax matters is as set forth under the heading "Material United States Federal Income Tax Consequences" in the Prospectus Supplement, subject to the limitations set forth therein.

We hereby consent to the filing of this letter as an exhibit to the Registration Statement. 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/ Sullivan & Cromwell LLP