

COMPUTERSHARE TRUST COMPANY OF CANADA

DECLARATION OF TRUST
made as of May 9, 2016

establishing

EVERGREEN CREDIT CARD TRUST™
FIDUCIE DE CARTES DE CRÉDIT EVERGREEN™

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THIS DECLARATION OF TRUST made as of May 9, 2016 by COMPUTERSHARE TRUST COMPANY OF CANADA, a trust company existing under the laws of Canada,

RECITES THAT:

WHEREAS Computershare Trust Company of Canada (“**Issuer Trustee**”), has determined to establish the Trust (as defined below) for the purpose of carrying on the activities hereinafter described in order to produce income for the benefit of the Beneficiary (as defined below);

DECLARATION:

The Issuer Trustee hereby declares that it holds in trust as trustee the sum of TEN DOLLARS (\$10.00) and all property, real, personal or otherwise, tangible or intangible, which it may acquire in its capacity as trustee of the Trust, and all income, earnings, profits and gains therefrom (collectively, the “**Trust Estate**”), for the benefit of the Beneficiary, in accordance with and subject to the provisions of this DOT.

**ARTICLE I
DEFINITIONS**

1.01 **Definitions.**

For purposes of this DOT, the following terms have the following meanings:

“**Additional Transferor**” has the meaning specified in the Transfer Agreement.

“**Administrator**” means TD, in its capacity as Administrator pursuant to the Servicing Agreement, and any successors or assigns.

“**Adverse Effect**” has the meaning specified in the Indenture.

“**Affiliate**” has the meaning specified in the Indenture.

“**Annual Net Income of the Trust**” means the income of the Trust for the taxation year of the Trust as computed in accordance with the ITA, and after deducting all expenses properly incurred by the Trust.

“**Beneficiary**” means any one or more of the charities designated in writing by the Issuer Trustee, in consultation with the Administrator, on an annual basis or upon the termination of the Trust, to be the recipient of the Trust Estate and any successor of any such charity, provided that at all times each such charity or successor:

- (a) is a registered charity under the ITA;
- (b) is not a trust;

(c) is not a non-resident person (within the meaning assigned by subsection 248(1) of the ITA) and deals at arm's length (within the meaning assigned by subsection 251(1) of the ITA) with such a non-resident person; and

(d) does not decline to accept a payment,

and the term "**Beneficiaries**" refers to more than one such registered charity.

"**Business Day**" has the meaning specified in the Indenture.

"**Class**" means, with respect to any Note, the Class specified in the applicable Indenture Supplement.

"**Collateral Certificate**" has the meaning specified in the Transfer Agreement.

"**Commission**" means the United States Securities and Exchange Commission.

"**Corporate Trust Office**" means, with respect to the Issuer Trustee, the principal corporate trust office of the Issuer Trustee located at 100 University Avenue, 11th Floor, Toronto, Ontario, M5J 2Y1, Attention: Manager, Corporate Trust; or such other address as the Issuer Trustee may designate in accordance with Section 2.02, or the principal corporate trust office of any successor Issuer Trustee (the address of which the successor Issuer Trustee will notify the Transferor).

"**Derivative Agreement**" means any currency or interest rate swap with respect to the Notes.

"**DOT**" means this Evergreen Credit Card Trust Declaration of Trust, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Expenses**" has the meaning specified in Section 8.02.

"**Indemnified Parties**" has the meaning specified in Section 8.02.

"**Indenture**" means the Trust Indenture, dated as of May 9, 2016, between the Trust and the Indenture Trustee, which by its terms is identified as being the Indenture referred to herein, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"**Indenture Supplement**" has the meaning specified in the Indenture.

"**Indenture Trustee**" means BNY Trust Company of Canada, not in its individual capacity but solely as Indenture Trustee under the Indenture, and each successor Indenture Trustee under such Indenture, or such other party identified as the Indenture Trustee within the Indenture.

"**Issuer**" means the Trust.

“**Issuer Trustee**” means Computershare Trust Company of Canada, not in its individual capacity but solely in its capacity as issuer trustee hereunder, and each successor trustee under Article X, in its capacity as issuer trustee hereunder.

“**ITA**” means the Income Tax Act (Canada), as the same may be amended, restated or re-enacted from time to time.

“**Master Trust**” has the meaning specified in the Indenture.

“**Note**” has the meaning specified in the Indenture.

“**Note Rating Agency**” has the meaning specified in the Indenture.

“**Note Rating Agency Condition**” has the meaning specified in the Indenture.

“**Noteholder**” has the meaning specified in the Indenture.

“**Outstanding Dollar Principal Amount**” has the meaning specified in the Indenture.

“**Perpetuity Date**” means the date that is 21 years after the death of the last survivor of the descendants of Her Majesty Queen Elizabeth II of the United Kingdom of Great Britain and Northern Ireland living on the date of the creation of the Trust.

“**Person**” has the meaning specified in the Indenture.

“**PPSA**” shall mean the Personal Property Security Act (Ontario), as amended from time to time, and shall include the personal property security legislation or assignment of book debts legislation or any similar legislation (including the Civil Code of Quebec and any uniform commercial code legislation) in any jurisdiction other than Ontario where an assignment, financing statement or continuation statement is required to be registered in order to preserve, protect and perfect the Trust’s right, title and interest in the Receivables.

“**Receivables**” has the meaning specified in the Transfer Agreement.

“**Regulation AB**” means Subpart 229.1100 – Asset Backed Securities (Regulation AB), 17 C.F.R. §§229.1100-229.1125, and all related rules and regulations of the Commission, as such rules may be amended from time to time, and subject to such clarification and interpretation as have been provided by the Commission or by the staff of the Commission, or as may be provided by the Commission or its staff from time to time.

“**Repurchase Reporting Series**” has the meaning specified in the Indenture.

“**Repurchase Rules and Regulations**” is defined in subsection 12.01(a).

“**Securitization Transaction**” means any transaction involving a new issuance of Notes pursuant to the Indenture, whether publicly offered or privately placed, rated or unrated.

“**Series**” has the meaning specified in the Indenture.

“**Series Supplement**” has the meaning specified in the Indenture.

“**Servicer**” has the meaning specified in the Servicing Agreement.

“**Servicing Agreement**” means the Servicing Agreement, dated as of May 9, 2016, among the Trust, as Issuer, Evergreen Funding Limited Partnership, as Transferor, TD, as Servicer and Administrator, and BNY Trust Company of Canada, as Indenture Trustee, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“**Subordinated Loan Agreement**” means any loan agreement between TD and the Trust, pursuant to which TD lends money to the Trust for the purpose of financing the payment by the Trust of expenses payable by the Trust in connection with the transactions contemplated pursuant to the Transaction Documents.

“**TD**” means The Toronto-Dominion Bank, a Canadian chartered bank, and its successors and assigns.

“**Tranche**” has the meaning specified in the Indenture.

“**Transaction Documents**” means the Indenture, any Indenture Supplement thereto, this DOT, the Transfer Agreement (including any assignments and reassignments related thereto), any Subordinated Loan Agreement, any Derivative Agreement and the Servicing Agreement and other documents delivered in connection herewith and therewith, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“**Transfer Agreement**” means the Transfer Agreement, dated as of May 9, 2016, among the Trust, as Issuer, Evergreen Funding Limited Partnership, as Transferor, and BNY Trust Company of Canada, as Indenture Trustee, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“**Transferor**” means (a) Evergreen Funding Limited Partnership or its successors under the Transfer Agreement and (b) any Additional Transferor or Additional Transferors to the extent permitted under the Transfer Agreement. References to “each Transferor” shall refer to each entity mentioned in the preceding sentence and references to “the Transferor” shall refer to all of such entities.

“**Transferor Indebtedness**” has the meaning specified in the Transfer Agreement.

“**Trust**” means the trust established by this DOT.

“**Trust Assets**” has the meaning specified in the Transfer Agreement.

“**Trust Estate**” has the meaning specified in the Recitals hereto.

“**U.S. Securities Act**” means the Securities Act of 1933, as amended.

1.02 **Other Definitional Provisions.**

- (a) Capitalized terms used herein and not otherwise defined have the meanings specified in the Transfer Agreement or the Servicing Agreement or, if not defined therein, in the Indenture.
- (b) All terms defined in this DOT will have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein.
- (c) As used in this DOT and in any certificate or other document made or delivered pursuant hereto or thereto, accounting terms not defined in this DOT or in any such certificate or other document, and accounting terms partly defined in this DOT or in any such certificate or other document to the extent not defined, will have the respective meanings given to them under generally accepted accounting principles (including the International Financial Reporting Standards as published by the International Accounting Standards Board, or any successor accounting standards board) and, except as otherwise herein expressly provided, the term “generally accepted accounting principles” with respect to any computation required or permitted hereunder means such accounting principles as are generally accepted in Canada at the date of such computation. To the extent that the definitions of accounting terms in this DOT or in any such certificate or other document are inconsistent with the meanings of such terms under generally accepted accounting principles, the definitions contained in this DOT or in any such certificate or other document will control.
- (d) The words “hereof,” “herein,” “hereunder,” and words of similar import when used in this DOT will refer to this DOT as a whole and not to any particular provision of this DOT; Section and Exhibit references contained in this DOT are references to Sections and Exhibits in or to this DOT unless otherwise specified; and the term “including” will mean “including without limitation.”
- (e) The definitions contained in this DOT are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms.
- (f) For greater certainty, where any reference is made in this DOT to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty by or with respect to either (i) the Trust or (ii) the Issuer Trustee, such reference will be construed and applied for all purposes as if it referred to an act to be performed by, an appointment to be made by, an obligation or liability of, an asset or right of, a discharge or release to be provided by, a suit or proceeding to be taken by or against, or a covenant, representation or warranty by or with respect to, the Issuer Trustee for and on behalf of the Trust.

ARTICLE II ORGANIZATION

2.01 Name.

The English form of the name of the Trust is “Evergreen Credit Card Trust” and the French form of the name of the Trust is “Fiducie de cartes de crédit Evergreen”, under which names the Trust, the Issuer Trustee or the Administrator may conduct any activities and business of the Trust contemplated hereby, execute contracts and other instruments on behalf of the Trust and sue and be sued on behalf of the Trust. The Trust may use and may be legally designated by either the English form or the French form of its name.

2.02 Office.

The head office, chief executive office, chief place of business and situs of the administration of the Trust will be in care of the Issuer Trustee at the Corporate Trust Office. The Issuer Trustee may at any time or from time to time, by written notice to the Transferor, change the head office, chief executive office, chief place of business and situs of the administration of the Trust to another location within Canada or have such other offices or places of administration within Canada as the Issuer Trustee may from time to time determine is necessary or desirable.

2.03 Purposes and Powers; Trust To Operate as a Single Purpose Entity.

(a) The purpose of the Trust is to establish and carry on business activities in order to produce income for the benefit of the Beneficiary and to distribute the Trust Estate in accordance with Article IX and not for any religious, charitable, educational or public purpose. The business activities of the Trust will be to engage solely in a program of acquiring the Trust Estate and issuing Notes under the Indenture and related activities. Subject to the specific restrictions and limitations set forth in this DOT, and notwithstanding the provisions of the Trustee Act (Ontario) or any other similar legislation in any jurisdiction, the Issuer Trustee will have, without the necessity of authorization by, and free from any power or control on the part of, the Beneficiary, full, exclusive and absolute power, control and authority over the Trust Estate and the Trust activities to the same extent as if the Issuer Trustee were the sole and absolute owner thereof in its own right including, without limitation, such power, control and authority to do all such acts and things as in its sole judgment and discretion are necessary, incidental or desirable for carrying on the activities of the Trust in accordance with the Transaction Documents with such powers of delegation as may be permitted by this DOT. Without limiting the generality of the foregoing, the Trust may and will have the power and authority to, in accordance with and subject to the terms of the Transaction Documents:

- (i) acquire and hold the Trust Estate;
- (ii) from time to time, grant a security interest in the Trust Estate, and grant a security interest in accounts established for the benefit of indebtedness of the Trust under the Indenture;

- (iii) from time to time, authorize and approve the issuance of, and to execute, deliver and issue, Notes pursuant to the Indenture without limitation as to aggregate amounts and, in connection therewith, determine the terms and provisions of such Notes and of the issuance and sale thereof, including the following:
- (A) determining the principal amount of the Notes;
 - (B) determining the maturity date of the Notes;
 - (C) determining the rate of interest, if any, to be paid on the Notes;
 - (D) determining the price or prices at which such Notes will be sold by the Trust;
 - (E) determining the provisions, if any, for the redemption or amortization of such Notes;
 - (F) determining the form, terms and provisions of the indentures, fiscal agency agreements or other instruments under which the Notes may be issued and the banks or trust companies to act as trustees, fiscal agents and paying agents thereunder,
 - (G) preparing and filing all documents necessary or appropriate in connection with the registration of the Notes under the U.S. Securities Act, and the qualification under any other applicable federal, foreign, state, provincial local or other governmental requirements;
 - (H) preparing any prospectus, offering memorandum, private placement memorandum or other descriptive material relating to the offering or issuance of the Notes;
 - (I) listing the Notes on any Canadian or non-Canadian securities exchange;
 - (J) entering into one or more interest rate, basis, credit default or currency swaps, caps, collars, guaranteed investment contracts or other derivative agreements with counterparties to manage interest rate, basis or currency risk relating to the Notes;
 - (K) entering into one or more supplemental credit enhancement agreements or liquidity agreements;
 - (L) entering into one or more Subordinated Loan Agreements with respect to expenses of an offering of Notes;
 - (M) appointing a paying agent or agents for purposes of payments on the Notes; and

- (N) arranging for the underwriting, subscription, purchase or placement of the Notes and selecting underwriters, managers and purchasers or agents for that purpose;
- (iv) from time to time, receive payments and proceeds with respect to the Trust Estate and the Indenture and either invest or distribute those payments and proceeds;
- (v) from time to time, make deposits to and withdrawals from accounts established under the Indenture;
- (vi) from time to time, make and receive payments pursuant to derivative agreements, supplemental credit enhancement agreements and supplemental liquidity agreements;
- (vii) from time to time, make payments on the Notes;
- (viii) from time to time, acquire additional collateral to be included in the Trust Estate;
- (ix) from time to time, perform such obligations and exercise and enforce such rights and pursue such remedies as may be appropriate by virtue of the Trust being party to any of the agreements contemplated in clauses (i) through (viii) above;
- (x) execute, deliver and perform the Transaction Documents to which it is to be a party, the Notes and any Transferor Certificates, and all other documents, certificates and agreements necessary or incidental in connection therewith (including, without limitation, the documents listed in subsection 2.03(b));
- (xi) issue the Transferor Indebtedness to the Transferor in accordance with subsection 4.01(a) and any Transferor Certificates in accordance with subsection 4.01(b);
- (xii) to sell, convey, transfer and assign all Trust Estate free and clear of any and all trusts hereby established, at public or private sale, for cash or on terms, with or without advertisement and subject to such restrictions, stipulations, agreements and reservations as it may deem proper;
- (xiii) to indemnify or enter into agreements with respect to indemnification with any Person with whom the Issuer Trustee or the Trust deals to such extent as the Issuer Trustee determines necessary or desirable;
- (xiv) own, manage, use, invest and hold the Trust Estate and to enter into agreements in respect of the Trust Estate or its use including, without limitation, agreements to modify, amend, extend, renew or terminate any grant or agreement relating to the Trust Estate and to waive compliance with any of the terms and conditions thereof, in each case, without the approval of or notice to the Beneficiary; and
- (xv) subject to compliance with the Transaction Documents, engage in such other related activities as may be required or convenient in connection with

conservation of the Trust Estate and the making of payments to the Noteholders and distributions to the applicable Transferor.

In connection with any of the foregoing, the Trust may (x) execute and deliver, and/or accept, such instruments, agreements, certificates, PPSA financing statements and other documents, and create such security interests, as may be necessary or desirable in connection therewith, and (y) subject to the terms of this DOT, take such other action as may be necessary or incidental to the foregoing.

(b) Notwithstanding any other provision of this DOT, the Trust, and the Issuer Trustee, on behalf of the Trust, is hereby authorized and will have the power to execute and deliver from time to time loan agreements, underwriting agreements, terms agreements, selling agent agreements, note purchase agreements and other purchase agreements, private placement agreements, swap and other derivative agreements, including performance agreements, indentures, indenture supplements, terms documents, notes, security agreements and other agreements and instruments as are consistent with the purposes of the Trust. Without limiting the generality of the foregoing, the Trust, and the Issuer Trustee, on behalf of the Trust, is specifically authorized to execute and deliver without any further act, vote or approval, and notwithstanding any other provision of this DOT, or any applicable law, rule or regulation, agreements, documents or securities relating to the purposes of the Trust, including:

- (i) the Transaction Documents and each Issuer Certificate (as defined in the Indenture), including all amendments thereto;
- (ii) the Notes;
- (iii) each interest rate, basis or currency swap, cap, collar, guaranteed investment contract or other derivative agreement, including agreements related thereto, between the Trust and a counterparty to manage interest rate, basis or currency risk relating to the Notes, including all amendments thereto;
- (iv) any certificate evidencing the Transferor Indebtedness, substantially in the form attached as Exhibit A;
- (v) any license agreement with respect to the use by the Trust of a trademark of any Person; and
- (vi) any other document necessary or desirable in connection with the fulfillment of the purposes of the Trust described in, and pursuant to, subsection 2.03(a).

The authorization set forth in the preceding sentence will not be deemed a restriction on the power and authority of the Issuer Trustee, on behalf of the Trust, to execute and deliver other agreements, documents, instruments and securities or to take other actions on behalf of the Trust in connection with the fulfillment of the purposes of the Trust described in, and pursuant to, subsection 2.03(a).

(c) The Issuer Trustee, on behalf of the Trust, is hereby authorized and will have the power to execute and file any periodic regulatory or continuous disclosure filings on behalf of the Trust.

(d) The Issuer Trustee will at all times maintain the books, records and accounts of the Trust separate and apart from those of any other Person, and will cause the Trust to hold itself out as being a Person separate and apart from any other Person.

(e) The Trust will not engage in any business or own any assets unrelated to the purposes of the Trust.

(f) In accordance with and subject to the terms of the Transaction Documents, the Issuer Trustee will have the power to appoint, employ or contract with any Person as the Issuer Trustee may deem necessary or desirable for the transaction of the activities of the Trust and may transfer assets to such Person and delegate to such Person any or all of the discretionary powers given to the Issuer Trustee with respect to the management of the Trust Estate. Without in any way limiting the generality of the foregoing, the Issuer Trustee will have the power to:

- (i) appoint, employ or contract with any Person who, under the supervision of the Issuer Trustee, may, among other things: (i) furnish and supervise or cause to be furnished and supervised the performance of the clerical and administrative services necessary to the administration of the Trust and the Trust Estate including, without limitation, the provision of office space, office equipment and personnel for the performance of such services, property management, administration and servicing, the maintenance of books and records for the Trust, the receipt and disbursement of Trust Estate, the servicing and payment of debt and other obligations and generally all matters relating to the obtaining of and the administration and servicing of Trust Estate, including, without limitation, as provided in the Servicing Agreement; (ii) serve as an advisor to the Issuer Trustee, furnish reports to the Issuer Trustee and provide research, economic and statistical data in connection with the activities of the Trust; (iii) act as consultant, accountant, correspondent, lender, technical advisor, counsel, broker and dealer, underwriter, fiscal agent, corporate fiduciary, escrow agent, depository, custodian or agent for collection from obligors, loan administrator, appraiser, bank, insurer or insurance agent, transfer agent or registrar or issuing and paying agent for Notes or in any other capacity deemed by the Issuer Trustee necessary or desirable; (iv) act as attorney or agent in the purchase or sale or other disposition of the Trust Estate or the property secured thereby and the handling, prosecution or settling of any claims of the Trust and assist in the performance of such functions necessary in the management of the Trust as may be agreed upon with the Issuer Trustee; and (v) execute and deliver the Transaction Documents. For greater certainty, the appointment by the Issuer Trustee of the Administrator under the Servicing Agreement will, where applicable, be deemed to constitute adequate supervision by the Issuer Trustee of any Person thereby engaged in connection with the foregoing activities; and

- (ii) investigate, select and conduct negotiations with Persons acting in the capacities referred to in subsection 2.03(f)(i) and, to the extent practical, pay appropriate fees to, and enter into appropriate contracts with, employ or retain the services of, any of them in connection with the Trust Estate or property secured thereby, other assets and any security related thereto funded, acquired, sold or otherwise disposed of, or committed, negotiated or contemplated to be funded, acquired, sold, or otherwise disposed of or in connection with Notes; and
- (iii) substitute any other Person for any Person referred to in subsection 2.03(f)(i).

The enumeration of any specific power or authority of the Issuer Trustee in this DOT will not be construed as limiting the aforesaid power or authority or any other specific power or authority. Subject only to the express limitations contained in this DOT, every discretion or power hereby conferred on the Issuer Trustee is an absolute and uncontrolled discretion or power.

2.04 **Nature of Trust.**

The Trust is a special purpose trust and, other than as permitted by the Transaction Documents, the Trust Estate will be segregated and not commingled with the money and investments of any other Person and the Issuer Trustee and the Administrator will hold the Trust out as separate and independent from any other Person, maintain separate books and records for the Trust from those of any other Persons, conduct the business of the Trust in the name of the Trust and comply with other formalities inherent in treating the Trust as separate and independent from any other Person.

The Trust is not and is not intended to be, will not be deemed to be and will not be treated as a general partnership, limited partnership, syndicate, association, joint venture, company or corporation, nor will the Issuer Trustee or the Beneficiary or any of them for any purpose be, or be deemed to be, or be treated in any way whatsoever as, liable or responsible hereunder as partners or joint venturers. The Issuer Trustee will not be, or be deemed to be, the agent of the Beneficiary. The relationship of the Beneficiary to the Issuer Trustee will be solely that of the beneficiary of the Trust and the rights of the Beneficiary will be limited to those expressly conferred upon it by this DOT and, for greater certainty, the Issuer Trustee will be entitled to deal with the Trust Estate in the manner provided in this DOT without the consent of or approval from or notice to the Beneficiary.

2.05 **Title to Trust Estate.**

The Issuer Trustee will have the power to cause any and all Trust Estate to be held by and/or registered in the name of any Person. The Beneficiaries will not have any interest in the Trust Estate, other than the beneficial interest conferred to them under this DOT. The Beneficiaries will not have any right to call for any partition or division of any part of the Trust Estate nor can they be called on to pay for, contribute toward or assume any losses of the Trust. The Trust Estate will be considered at all times as property held in trust by the Issuer Trustee, as trustee of the Trust, according and subject to this DOT. All Trust Estate is subject to the Transaction Documents.

2.06 **[RESERVED].**

2.07 **Tax Matters.**

(a) The Issuer Trustee will have the power to determine conclusively whether money or other assets received by the Trust or expenses or disbursements made by the Trust will be charged or credited to income or capital or allocated between income and capital, provided, however, that such determination will not be inconsistent with calculation of income in accordance with the ITA at the time the determination is made.

(b) The Issuer Trustee will have the power to pay all taxes or assessments of whatever kind or nature imposed upon the Issuer Trustee and/or the Trust in connection with the Trust Estate or upon or against the income from the activities of the Trust or any part thereof, to settle and compromise disputed tax liabilities and, for the foregoing purposes, to make such returns and do all such other acts and things as may be deemed by the Issuer Trustee necessary or desirable. The Issuer Trustee will have the power to deduct and remit any taxes which are required by law to be deducted and remitted from any payment made by the Issuer Trustee under any Transaction Document or otherwise.

2.08 **Fiscal Year.**

The fiscal year of the Trust will end on the last day of October of each year. For the purposes of the ITA, the taxation year of the Trust will end on the last day of December of each year.

2.09 **Auditor.**

In accordance with and subject to the terms of the Transaction Documents, the Issuer Trustee will have the power from time to time to select and appoint and discharge and reappoint an auditor of the Trust in its discretion and to negotiate and fix the fees of any such auditor.

2.10 **Books and Records.**

(a) The Issuer Trustee will keep or cause to be kept at the head office of the Trust or at the office of the Administrator proper records and books of account as are by law or good business practice necessary. Such records or books may be kept at the office of any Person whom the Issuer Trustee has appointed to maintain the same, provided that the Issuer Trustee has access to such books and records on one day's notice to such Person.

(b) Where this DOT requires the Issuer Trustee to cause a book or record to be kept, it may be kept in bound or loose-leaf form or by means of a mechanical, electronic or other device.

2.11 **Limitation on Liability of Transferor and Others.**

The Transferor and any director or officer or employee or agent or member of the Transferor may rely in good faith on the advice of counsel or on any document of any kind, prima facie properly executed and submitted by any Person respecting any matters arising

hereunder. The Transferor, in its capacity as such, will not be under any obligation to appear in, prosecute or defend any legal action that will not be incidental to its obligations under this DOT, and that in its opinion may involve it in any expense or liability.

2.12 Defect in Appointment.

Notwithstanding anything to the contrary herein contained, no action taken by the Issuer Trustee will be invalid by reason only of any defect that is thereafter discovered in its appointment.

**ARTICLE III
POWER TO CHANGE GOVERNING LAW**

3.01 General.

Notwithstanding anything herein contained, the Issuer Trustee, subject to obtaining evidence of the satisfaction of the Note Rating Agency Condition, and consent of the Indenture Trustee, not to be unreasonably withheld, may at any time or times and from time to time during the existence of the trusts hereby created by deed declare that the Trust will, from the date of such declaration, take effect in accordance with the law of some other province of Canada (not being a province under the law of which this Trust would not be irrevocable) and that the forum for the administration thereof will thenceforth be the courts of that province and as from the date of such declaration the law of the province named therein will be the law applicable to this Trust and the courts of that province will be the forum for the administration thereof but subject to the powers conferred by this Section and until any further declaration is made hereunder, provided, however, the Issuer Trustee will take advice with respect to the implications associated therewith, including any tax implications.

**ARTICLE IV
DISTRIBUTIONS OF FUNDS**

4.01 Transferor Indebtedness; Transferor Certificates.

(a) The Transferor will hold the Transferor Indebtedness having such rights as are set forth in this DOT and the other Transaction Documents. Such Transferor Indebtedness includes the right of the Transferor to receive payment of the unpaid balance of the purchase price for the Trust Assets determined in accordance with the Transfer Agreement, the Servicing Agreement, the Trust Indenture and any Indenture Supplement.

(b) At the election of the Transferor (which election may, from time to time, be changed or otherwise revised by the Transferor upon written notice by the Transferor to the Issuer Trustee), a Transferor Certificate representing the Transferor's interest in the Transferor Indebtedness may be issued to the Transferor in registered form, substantially in the form attached as Exhibit A (the "**Transferor Certificate**"). The Transferor Certificate will not entitle its holder to any benefit under this DOT, or be valid for any purpose, unless there will appear on such Transferor Certificate a certificate of authentication substantially in the form provided in Exhibit A, executed by the Issuer Trustee or the Issuer Trustee's authentication agent, by manual signature; such authentication will constitute conclusive evidence that the Certificate will have

been duly authenticated and delivered hereunder. Each Transferor Certificate will be dated the date of its authentication.

(c) To the fullest extent permitted by applicable law, neither the Transferor Certificates (or any interest therein) nor any Transferor Indebtedness (or any interest therein) may be sold, transferred, assigned, participated, pledged or otherwise disposed of to any Person, unless (i) the Note Rating Agency Condition has been satisfied in connection with such disposition or (ii) such disposition is made in connection with a transaction permitted by Section 3.2 of the Transfer Agreement.

(d) If (i) a mutilated Transferor Certificate will be surrendered to the Issuer Trustee, or if the Issuer Trustee will receive evidence to its satisfaction of the destruction, loss or theft of a Transferor Certificate and (ii) in the case of a destroyed, lost or stolen Transferor Certificate, there will be delivered to the Issuer Trustee (as such and in its individual capacity) such security or indemnity as may be required by it to save it harmless, then the Issuer Trustee on behalf of the Trust will execute and the Issuer Trustee will authenticate and deliver, in exchange for or in lieu of the mutilated, destroyed, lost or stolen Transferor Certificate, a new Transferor Certificate of like tenor and denomination. In connection with the issuance of any new Transferor Certificate under this subsection 4.01(d), the Issuer Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge or expense that may be imposed in connection therewith. Any duplicate Transferor Certificate issued pursuant to this subsection 4.01(d) will constitute conclusive evidence of ownership in the Trust, as if originally issued, whether or not the lost, stolen or destroyed Transferor Certificate will be found at any time.

ARTICLE V ACTIONS BY ISSUER TRUSTEE

5.01 Prior Notice to Transferor with Respect to Certain Matters.

With respect to the following matters, unless otherwise instructed by the Transferor, the Issuer Trustee will not take action unless at least 30 days before the taking of such action the Issuer Trustee will have notified the Transferor:

(a) the initiation of any claim or lawsuit by the Trust (other than an action to collect on any Receivable) and the settlement of any action, claim or lawsuit brought by or against the Trust (other than an action to collect on any Receivable);

(b) the amendment of the Indenture by a supplemental indenture in circumstances where the consent of any Noteholder is required;

(c) the amendment of the Indenture by a supplemental indenture in circumstances where the consent of any Noteholder is not required and such amendment materially adversely affects the interest of the Transferor;

(d) the amendment, change or modification of the Transfer Agreement or the Servicing Agreement, except to cure any ambiguity or to amend or supplement any provision in a manner that would not materially adversely affect the interests of the Transferor; or

(e) the appointment pursuant to the Indenture of a replacement or successor Note Registrar or Indenture Trustee, or the consent to the assignment by the Note Registrar or Indenture Trustee of its obligations under the Indenture.

5.02 Restrictions on Power.

The Issuer Trustee will not be required to take or refrain from taking any action if such action or inaction would be contrary to any obligation of the Trust or the Issuer Trustee under any of the Transaction Documents or would be contrary to Section 2.03.

**ARTICLE VI
AUTHORITY AND DUTIES OF ISSUER TRUSTEE**

6.01 General.

(a) The Issuer Trustee agrees that it will, in its individual capacity and at its own cost and expense, promptly take all action as may be necessary to discharge any lien, pledge, security interest or other encumbrance on any part of the Trust Estate which results from actions by or claims against the Issuer Trustee not related to the ownership of any part of the Trust Estate.

(b) The Issuer Trustee agrees that it will not manage, control, use, lease, sell, dispose of or otherwise deal with any part of the Trust Estate except in accordance with the powers granted to, or the authority conferred upon, the Issuer Trustee pursuant to this DOT.

6.02 Trust Operation.

The operations of the Trust will be conducted in accordance with the following standards:

(a) the Trust will act solely in its own name through the Issuer Trustee or the Administrator;

(b) the Trust will not incur any indebtedness for money borrowed or incur any obligations except in connection with the purposes set forth in Section 2.03 of this DOT; and

(c) to the fullest extent permitted by applicable law, the Trust will not enter into any voluntary bankruptcy or insolvency proceeding without a finding by the Issuer Trustee that the Trust's liabilities exceed its assets or that the Trust is unable to pay its debts in a timely manner as they become due.

6.03 Execution of Documents.

The Issuer Trustee will execute and deliver on behalf of the Trust such instruments, agreements and certificates contemplated hereby to which the Trust is a party.

**ARTICLE VII
CONCERNING THE ISSUER TRUSTEE**

7.01 Acceptance of Trusts and Duties.

The Issuer Trustee accepts the trusts hereby created and agrees to perform its duties hereunder with respect to such trusts but only upon the terms of this DOT. The Issuer Trustee also agrees to disburse all moneys actually received by it constituting part of the Trust Estate in accordance with the terms of this DOT. The Issuer Trustee will not be answerable or accountable under any circumstances in its individual capacity, except for its own fraud, willful misconduct, bad faith or negligence. In particular, but not by way of limitation:

(a) the Issuer Trustee will not be personally liable for any error of judgment made in good faith by a director, officer, employee or representative of the Issuer Trustee so long as the same will not constitute fraud, negligence, bad faith or willful misconduct;

(b) no provision of this DOT or any Transaction Document will require the Issuer Trustee to expend or risk funds or otherwise incur any financial liability in the performance of any of its rights or powers hereunder, if the Issuer Trustee determines that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to it;

(c) under no circumstance will the Issuer Trustee be personally liable for the accuracy or performance of any representation, warranty, covenant, agreement or other obligation, including any indebtedness, of the Trust;

(d) the Issuer Trustee will not be personally responsible or liable for or in respect of the validity or sufficiency of this DOT or with respect to any agreement entered into by the Trust;

(e) in no event will the Issuer Trustee be personally liable for special, consequential or punitive damages unless such damages result from its fraud, willful misconduct, bad faith or negligence, for the acts or omissions of its nominees, correspondents, clearing agencies or securities depositories, for the acts or omissions of brokers or dealers, and for any losses due to forces beyond the control of the Issuer Trustee, including strikes, work stoppages, acts of war or terrorism, insurrection, revolution, nuclear or natural catastrophes or acts of God and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services. The Issuer Trustee will have no responsibility for the accuracy of any information provided to any Person that has been obtained from, or provided to the Issuer Trustee by, any other Person; and

(f) the Issuer Trustee will not be personally liable for the default or misconduct of the Indenture Trustee under any of the Transaction Documents or otherwise, and the Issuer Trustee will have no obligation or liability to perform the obligations of the Trust under this DOT or the Transaction Documents, in each case that are required to be performed by the Indenture Trustee under the Indenture.

7.02 **Furnishing of Documents.**

The Issuer Trustee will furnish to the Indenture Trustee, promptly upon written request therefor, duplicates or copies of all reports, notices, requests, demands, certificates, financial statements and any other instruments furnished to the Issuer Trustee with respect to the Trust or the Trust Estate.

7.03 **Standard of Care.**

The Issuer Trustee will exercise its powers and carry out its obligations hereunder as Issuer Trustee honestly, in good faith and in the best interests of the Trust and the Beneficiary and in connection therewith will exercise that degree of care, diligence and skill that a reasonably prudent Person would exercise in comparable circumstances. To the extent that the Issuer Trustee has delegated or subcontracted the performance of all or a portion of its duties to the Administrator as contemplated by subsection 2.03(f)(i), it will be deemed to have satisfied the aforesaid standard of care. Unless otherwise required by law, the Issuer Trustee will not be required to give bond, surety or security in any jurisdiction for the performance of any duties or obligations hereunder. The Issuer Trustee will not be required to devote its entire time to the activities of the Trust. For greater certainty, the entering into of any Transaction Document by the Trust and the performance by the Trust of its obligations thereunder will be deemed to be in the best interests of the Beneficiary and the Trust.

7.04 **Reliance; Advice of Counsel.**

(a) The Issuer Trustee will incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties. The Issuer Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any entity as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically prescribed herein, the Issuer Trustee may for all purposes rely on an officer's certificate of the relevant party, as to such fact or matter, and such officer's certificate will constitute full protection to the Issuer Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.

(b) The Issuer Trustee may rely and act upon any statement, notice, report or opinion prepared by or any advice received from the Administrator or from the auditors, counsel or other professional advisors of the Issuer Trustee and will not be responsible or held liable for any loss or damage resulting from so relying or acting if the Issuer Trustee acted reasonably and in good faith relied upon the advice received and if the professional advisor was aware that the Issuer Trustee was receiving the advice in its capacity as Issuer Trustee.

7.05 **Not Acting in Individual Capacity.**

Except as provided in this Article VII, in accepting the trust hereunder, the Issuer Trustee acts solely as Issuer Trustee hereunder and not in its individual capacity; and all Persons having any claim against the Trust or the Issuer Trustee, whether by reason of the transactions contemplated by this DOT or otherwise, will look only to the Trust Estate (or a part thereof, as

the case may be) for payment or satisfaction thereof, except as specifically provided in this Article VII.

7.06 No Representations and Warranties as to the Trust Estate.

The Issuer Trustee makes no representation or warranty as to, and will not be liable for, the title, value, condition, design, operation, merchantability or fitness for use of the Trust Estate (or any part thereof) or any other representation or warranty, express or implied, whatsoever with respect to the Trust Estate (or any part thereof).

7.07 Issuer Trustee May Own Notes.

The Issuer Trustee may become the owner or pledgee of Notes and may deal with the Transferor, the Administrator and the Indenture Trustee in banking transactions with the same rights as it would have if it were not Issuer Trustee.

**ARTICLE VIII
COMPENSATION OF ISSUER TRUSTEE AND INDEMNIFICATION**

8.01 Issuer Trustee's Fees and Expenses.

The Issuer Trustee will have the power to incur and make payment of any charges or expenses which in the opinion of the Issuer Trustee are necessary or incidental to or proper for carrying out any of the purposes of this DOT and the activities of the Trust and to pay appropriate compensation or fees from the funds of the Trust to Persons with whom the Trust has contracted or transacted business including, without limitation, any charges, expenses, compensation or fees payable under or in connection with the Transaction Documents. The Issuer Trustee will be entitled to receive reasonable fees and expenses from the funds of the Trust without any requirement of a passing of accounts in respect thereof or approval of the Beneficiary. Except to the extent specifically provided in Section 7.06 of the Indenture, payment of such fees and expenses will not be a recourse obligation of the Trust.

8.02 Indemnification.

To the fullest extent permitted by law, the Issuer Trustee and its successors, assigns, agents and servants (collectively, the "**Indemnified Parties**") will at all times be indemnified and saved harmless out of the Trust Estates from and against, any and all liabilities, obligations, losses, damages, taxes, claims, actions and suits, and any and all reasonable costs, expenses and disbursements (including reasonable legal fees and expenses) of any kind and nature whatsoever (collectively, "**Expenses**") which may at any time be imposed on, incurred by, or asserted against the Issuer Trustee or any Indemnified Party in any way relating to or arising out of the Transaction Documents, the Trust Estate, the acceptance and administration of the Trust Estate or the action or inaction of the Issuer Trustee hereunder; provided the foregoing provisions of this Section 8.02 do not apply with respect to any Expenses arising or resulting from any of the matters described in the third sentence of Section 7.01; provided further the foregoing provisions of this Section 8.02 do not apply with respect to expenses arising or resulting from the Indemnified Party's own fraud, willful misconduct, bad faith or negligence.

Except to the extent specifically provided in Section 6.02 of the Indenture, the payment of such indemnified amounts will not be a recourse obligation of the Trust. The indemnification set forth herein will survive the termination of this DOT and the resignation or removal of the Issuer Trustee.

8.03 Payments to the Issuer Trustee.

Any amounts paid to the Issuer Trustee pursuant to this Article VIII will be deemed not to be a part of the Trust Estate immediately after such payment.

**ARTICLE IX
TERMINATION OF TRUST**

9.01 Termination.

(a) The Trust will continue in full force and effect for so long as any Notes remain outstanding and until the Trust has satisfied all of its obligations under the Transaction Documents or otherwise for the purposes of carrying on the Trust Activities. Notwithstanding the foregoing, the Issuer Trustee will wind up the affairs of the Trust and terminate the Trust and distribute the Trust Estate no later than the day immediately before the Perpetuity Date.

(b) Subject to Section 9.01(a), the Issuer Trustee may in its sole discretion wind up the affairs of the Trust and terminate the Trust and select the Beneficiary or Beneficiaries and, upon receipt of such releases, indemnities and refunding agreements as the Issuer Trustee deems necessary for its protection, distribute the remaining Trust Estate, after payment of all other obligations of the Trust, in cash or in kind or partly in each to the Beneficiary or Beneficiaries.

9.02 Distribution of Annual Net Income.

Subject to the payment priorities specified in the Transaction Documents, the Issuer Trustee, or the Administrator on its behalf, shall distribute to the Beneficiaries in such shares or proportions or to the complete exclusion of any one or more if more than one, periodically throughout each taxation year as it shall in its sole discretion determine any part of the Annual Net Income of the Trust. On or before the last Business Day of each taxation year or, in the case of the termination of the Trust, on the last Business Day preceding such termination, the Annual Net Income of the Trust or such lesser amount as the Issuer Trustee determines on or prior to such date, shall be payable to the Beneficiary or, if there is more than one, the Beneficiaries, in such shares or proportions or to the complete exclusion of any one or more than one, failing the exercise of such determination on or before such last Business Day, to the Beneficiary having received distributions in the year pro rata and if no such distributions were made in the year, to the Beneficiary or Beneficiaries that received distributions in the preceding year pro rata, provided that a sufficient amount shall be made payable such that the Trust will not have any liability for income tax under Part I of the ITA in respect of such taxation year or part thereof. Such amount payable shall be distributed by the Issuer Trustee after the final determination of the Annual Net Income of the Trust in respect of such taxation year or part thereof. The Issuer Trustee may make a partial distribution of such amount payable prior to the final determination of the Annual Net Income to the Trust based on an estimate of the amount to be distributed, such estimate to be provided by the Administrator immediately prior to the date of

distribution or before the end of the taxation year in respect of which the Annual Net Income of the Trust is estimated, as the case may be.

ARTICLE X SUCCESSOR ISSUER TRUSTEES

10.01 Eligibility Requirements for Issuer Trustee.

The Issuer Trustee will at all times be a federally or provincially incorporated trust company licensed to carry on business in all provinces and territories of Canada. If at any time the Issuer Trustee will cease to be eligible in accordance with the provisions of this Section 10.01, the Issuer Trustee will resign immediately in the manner and with the effect specified in Section 10.02.

10.02 Resignation or Removal of Issuer Trustee.

The Issuer Trustee may at any time resign and be discharged from the trusts hereby created by giving 30 days prior written notice thereof to the Transferor and the Administrator; provided, however, that such resignation and discharge will only be effective upon the appointment of a successor Issuer Trustee. Upon receiving such notice of resignation, the Administrator may appoint a successor Issuer Trustee by written instrument, in duplicate, one copy of which instrument will be delivered to the resigning Issuer Trustee and one copy to the successor Issuer Trustee. Any such successor Issuer Trustee shall be a federally or provincially incorporated trust company licensed to carry on business in all provinces and territories of Canada. If no successor Issuer Trustee will have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Issuer Trustee may petition any court of competent jurisdiction for the appointment of a successor Issuer Trustee.

If at any time the Issuer Trustee will cease to be eligible in accordance with the provisions of Section 10.01, or if at any time the Issuer Trustee will be legally unable to act, or will be adjudged bankrupt or insolvent, or a receiver of the Issuer Trustee or of its property will be appointed, or any public officer will take charge or control of the Issuer Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation, then the Administrator may, but will not be required to, remove the Issuer Trustee. If the Administrator will remove the Issuer Trustee under the authority of the immediately preceding sentence, the Administrator will promptly (i) appoint a successor Issuer Trustee by written instrument, in duplicate, one copy of which instrument will be delivered to the outgoing Issuer Trustee so removed and one copy to the successor Issuer Trustee, provided that any such successor Issuer Trustee shall be a federally or provincially incorporated trust company licensed to carry on business in all provinces and territories of Canada, and (ii) pay all fees owed to the outgoing Issuer Trustee.

Any resignation or removal of the Issuer Trustee and appointment of a successor Issuer Trustee pursuant to any of the provisions of this Section will not become effective until acceptance of appointment by the successor Issuer Trustee pursuant to Section 10.03 and

payment of all fees and expenses owed to the outgoing Issuer Trustee. The Administrator will provide notice of such resignation or removal of the Issuer Trustee to each Note Rating Agency.

10.03 Successor Issuer Trustee.

Any successor Issuer Trustee will become vested with all the estates, properties, rights, powers, duties, responsibilities and trusts of its predecessors in the trusts hereunder as if it had been originally named as Issuer Trustee pursuant to this DOT. Any successor Issuer Trustee appointed pursuant to Section 10.02 will execute, acknowledge and deliver to the Administrator and to its predecessor Issuer Trustee an instrument accepting such appointment under this DOT, and thereupon the resignation or removal of the predecessor Issuer Trustee will become effective and such successor Issuer Trustee, without any further act, deed or conveyance, will become fully vested with all the rights, powers, duties, and obligations of its predecessor under this DOT, with like effect as if originally named as Issuer Trustee. The predecessor Issuer Trustee will upon payment of its fees and expenses deliver to the successor Issuer Trustee all documents and statements and monies held by it under this DOT; and the Administrator and the predecessor Issuer Trustee will execute and deliver such instruments and do such other things as may reasonably be required for fully and certainly vesting and confirming in the successor Issuer Trustee all such rights, powers, duties, and obligations.

No successor Issuer Trustee will accept appointment as provided in this Section 10.03 unless at the time of such acceptance such successor Issuer Trustee will be eligible pursuant to Section 10.01.

Upon acceptance of appointment by a successor Issuer Trustee pursuant to this Section 10.03, the Administrator will mail notice of such acceptance of appointment, including the name of such successor Issuer Trustee to the Transferor, the Administrator, the Indenture Trustee, the Noteholders and each Note Rating Agency. If the Administrator will fail to mail such notice within ten days after acceptance of appointment by the successor Issuer Trustee, the successor Issuer Trustee will cause such notice to be mailed at the expense of the Administrator.

10.04 Merger or Consolidation of Issuer Trustee.

Notwithstanding anything herein to the contrary, any corporation into which the Issuer Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Issuer Trustee will be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Issuer Trustee, will be the successor of the Issuer Trustee hereunder (provided that such corporation will meet the eligibility requirements set forth in Section 10.01), without the execution or filing of any instrument or any further act on the part of any of the parties hereto; provided further that the Issuer Trustee will mail notice of such merger or consolidation to each Note Rating Agency.

**ARTICLE XI
MISCELLANEOUS**

11.01 Supplements and Amendments.

(a) This DOT may be amended from time to time, by a written amendment duly executed and delivered by the Issuer Trustee, without the consent or approval of the Beneficiary or any court, the Indenture Trustee or any of the Noteholders, to the extent deemed necessary by the Issuer Trustee in good faith to be necessary to make any change or correction in this DOT which is a typographical change or correction or which the Issuer Trustee has been advised by legal counsel is required for the purpose of curing any ambiguity or defect or inconsistent provision or clerical omission or mistake or manifest error contained herein.

Additionally, notwithstanding any provision of this Article XI to the contrary and in addition to the immediately preceding paragraph, this DOT may also be amended from time to time, including in connection with the execution of additional indentures, by a written amendment duly executed and delivered by the Issuer Trustee, without the consent or approval of the Beneficiary or any court, the Indenture Trustee or any of the Noteholders, provided, however, that such amendment will not, as evidenced by an Officer's Certificate of each Transferor addressed and delivered to the Issuer Trustee and the Indenture Trustee, be reasonably expected to have an Adverse Effect (as defined in the Indenture) and is not reasonably expected to have an Adverse Effect at any time in the future; provided further, however, that such amendment will not significantly change the activities of the Trust. The Issuer Trustee will not be responsible for determining whether such amendment to this DOT will significantly change the activities of the Trust.

Additionally, notwithstanding any provision of this Article XI to the contrary and in addition to the immediately preceding paragraph, this DOT may also be amended without the consent or approval of the Beneficiary or any court, the Indenture Trustee or any of the Noteholders, to provide for (i) the establishment of multiple asset pools and the designation of Trust Assets to be included as part of specific asset pools or (ii) those changes necessary for compliance with securities law requirements or banking laws or regulations; provided, however, that (i) the Trust shall deliver to the Indenture Trustee and the Issuer Trustee an Officer's Certificate to the effect that the Trust reasonably believes that such amendment will not have an Adverse Effect and is not reasonably expected to have an Adverse Effect at any time in the future and (ii) the Note Rating Agency Condition shall have been satisfied with respect to such amendment.

Additionally, notwithstanding any other provision of this Section 11.01, this DOT may be amended from time to time, without the consent or approval of the Beneficiary or any court, by an instrument signed by the Issuer Trustee to modify, eliminate or add to the provisions of this DOT (i) to facilitate compliance with changes in laws or regulations applicable to the Issuer Trustee or the transactions described in this DOT or (ii) to enable the Trust to file a Registration Statement (and any related exhibits thereto) for the offering of securities registered under the U.S. Securities Act and to comply with Regulation AB (including, without limitation, ongoing reporting obligations thereunder), in each case upon delivery by the Administrator to the Indenture Trustee and the Issuer Trustee of an Officer's Certificate of the Administrator, dated

the date of any such amendment, to the effect that (A) the Administrator reasonably believes that such amendment will not have an Adverse Effect or (B) such amendment is required to remain in compliance with any other change of law or regulation which applies to the Issuer Trustee, the Indenture Trustee or the transactions governed by the Transaction Documents.

(b) This DOT may also be amended from time to time, by a written instrument executed by the Issuer Trustee, without the consent or approval of the Beneficiary or any court and with prior written notice to each Note Rating Agency, and (A) in the case of a significant change to subsection 2.03(a) which the Trust reasonably believes will not have an Adverse Effect (as defined in the Indenture), with the consent of holders of not less than a majority of the Outstanding Dollar Principal Amount of each Series, Class or Tranche of Notes affected by such change, and (B) in all other cases, with the consent of holders of not less than 66 $\frac{2}{3}$ % of the Outstanding Dollar Principal Amount of each Series, Class or Tranche of Notes affected by such change; provided, however, that, without the consent of the holders of all of the Notes then outstanding, no such amendment will (a) increase or reduce in any manner the amount of, or accelerate or delay the timing of, collections of payments in respect of any Receivables or any Collateral Certificates or distributions that are required to be made for the benefit of the Noteholders or (b) reduce the aforesaid percentage of the Outstanding Dollar Principal Amount of the Notes, the holders of which are required to consent to any such amendment.

Promptly after the execution of any such amendment or consent, the Administrator will furnish written notification of the substance of such amendment or consent to the Indenture Trustee and each Note Rating Agency.

It will not be necessary for the consent of the Noteholders pursuant to this Section 11.01 to approve the particular form of any proposed amendment or consent, but it will be sufficient if such consent will approve the substance thereof.

The Issuer Trustee will be entitled to receive, and will be fully protected in relying upon, an Officer's Certificate of the Transferor or the Administrator to the effect that the amendment is authorized and that the conditions to such amendment have been satisfied. The Issuer Trustee may, but will not be obligated to, enter into any such amendment which affects the Issuer Trustee's own rights, duties or immunities under this DOT or otherwise.

(c) Upon the Issuer Trustee ceasing to be a trustee of the Trust, this DOT will be automatically amended to delete any reference to the name of the trustee so ceasing to be a trustee of the Trust and to substitute therefor the name of the successor trustee of the Trust. Notice of any change in the Issuer Trustee may be endorsed upon or attached to this DOT and signed by the successor Issuer Trustee and every such notice will be sufficient evidence to any Person dealing with the Issuer Trustee under this DOT as to the facts to which it relates.

11.02 Limitation of Liability of Beneficiary.

The Beneficiary will not be held to have any personal liability as such, and no resort will be had to its private property for satisfaction of any obligation or claim arising out of or in connection with any contract or obligation in respect of which the Beneficiary would otherwise

have to indemnify the Issuer Trustee for any liability incurred by the Issuer Trustee as such, but rather the Trust Estate only will be subject to levy or execution for such satisfaction.

11.03 **[RESERVED].**

11.04 **Notices.**

Unless otherwise expressly specified or permitted by the terms hereof, all notices will be in writing and will be deemed given upon receipt by the intended recipient or three Business Days after mailing if mailed by certified mail, postage prepaid (except that notice to the Issuer Trustee will be deemed given only upon actual receipt by the Issuer Trustee), if to the Issuer Trustee, addressed to the Corporate Trust Office; if to the Transferor, addressed to Evergreen Funding Limited Partnership, c/o Evergreen GP Inc., 66 Wellington Street West, 21st Floor, TD Bank Tower, Toronto, Ontario M5K 1A2, Attention: Associate Vice President, Funding, Treasury & Balance Sheet Management (facsimile number (416) 307-7525); or, as to each party, at such other address as will be designated by such party in a written notice to each other party.

11.05 **Severability.**

Any provision of this DOT that is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction.

11.06 **Separate Counterparts.**

This DOT may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute but one and the same instrument.

11.07 **Successors and Assigns.**

All covenants and agreements contained herein will be binding upon, and inure to the benefit of, the Transferor and its successors and assigns, and the Issuer Trustee and its successors and assigns.

11.08 **Nonpetition Covenants.**

To the fullest extent permitted by applicable law, notwithstanding any prior termination of the Trust or this DOT, the Issuer Trustee (not in its individual capacity) will not at any time with respect to the Trust or any applicable Master Trust, acquiesce, petition or otherwise invoke or cause the Trust or any applicable Master Trust to invoke the process of any court or government authority for the purpose of commencing or sustaining a case against the Trust or any applicable Master Trust under any federal, provincial or territorial bankruptcy, insolvency or similar law or appointing a receiver, conservator, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Trust or any applicable Master Trust or any substantial part of its property, or ordering the winding up or liquidation of the affairs of the

Trust or any applicable Master Trust; provided, however, that this Section 11.08 will not operate to preclude any remedy described in Article VII of the Indenture.

11.09 Headings.

The headings of the various Articles and Sections herein are for convenience of reference only and will not define or limit any of the terms or provisions hereof.

11.10 GOVERNING LAW.

THIS DECLARATION OF TRUST WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE PARTIES HEREUNDER WILL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS. EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS DECLARATION OF TRUST. THE PARTIES HERETO HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS DECLARATION OF TRUST.

11.11 Integration of Documents.

This DOT, together with the Transfer Agreement and the Servicing Agreement, constitutes the entire agreement of the parties hereto and thereto with respect to the subject matter hereof and thereof and supersedes all prior agreements relating to the subject matter hereof and thereof.

11.12 Force Majeure

The Issuer Trustee shall not be liable to any Person, or held in breach of this DOT, if prevented, hindered, or delayed in the performance or observance of any provision contained herein by reason of act of God, riots, terrorism, acts of war, epidemics, governmental action or judicial order, earthquakes, or any other similar causes (including, but not limited to, mechanical, electronic or communication interruptions, disruptions or failures). Performance times under this DOT shall be extended for a period of time equivalent to the time lost because of any delay that is excusable under this Section 11.12. The Issuer Trustee will use reasonable efforts consistent with accepted practices in the trust industry to resume performance as soon as practicable in the circumstances.

**ARTICLE XII
REPURCHASE DEMAND ACTIVITY REPORTING**

12.01 Repurchase Demand Activity Reporting.

(a) To assist in the Transferor's compliance with the provisions of Rule 15Ga-1 under the Securities Exchange Act (the "**Repurchase Rules and Regulations**"), the Issuer Trustee

shall provide certain information regarding certain asset repurchase demand activities related to the Repurchase Reporting Series:

- (i) No later than the second Business Day following the end of each calendar quarter in which any Repurchase Reporting Series is Outstanding, the Issuer Trustee shall provide information regarding repurchase demands during the preceding calendar quarter related to the underlying assets for each such Repurchase Reporting Series in substantially the form of Exhibit B hereto.
 - (ii) No later than the second Business Day of each month in which any Repurchase Reporting Series subject to continuing obligations for filing of reports on Form 10-D under the Securities Exchange Act is outstanding, the Issuer Trustee shall provide information regarding repurchase demands during the preceding month related to the underlying assets for each such Repurchase Reporting Series in substantially the form of Exhibit B hereto.
- (b) The Issuer Trustee shall provide the information described in paragraph (a) above subject to the following understandings and conditions:
- (i) The Issuer Trustee shall provide the information described in paragraph (a) above only to the extent that the Issuer Trustee has such information or can obtain such information without unreasonable effort or expense; provided that the Issuer Trustee's efforts to obtain such information shall be limited to a review of its internal written records of repurchase demand activity for the applicable Repurchase Reporting Series and that the Issuer Trustee is not required to request information from any unaffiliated parties.
 - (ii) The reporting of repurchase demand activity pursuant to this Section 12.01 is subject to the best knowledge of the trust officer responsible for the applicable Repurchase Reporting Series.
 - (iii) The reporting of repurchase demand activity pursuant to this Section 12.01 is required only in respect of Repurchase Reporting Series that include a covenant to repurchase or replace underlying assets upon breach of a representation or warranty. For purposes hereof, the term "demand" shall not include repurchases or replacements made pursuant to instruction, direction or request from the securitizer (as defined in Rule 15Ga-1) or its affiliates.
 - (iv) The Issuer Trustee's reporting pursuant to this Section 12.01 is limited to information that the Issuer Trustee has received or acquired solely in its capacity as Issuer Trustee for and not in any other capacity. Other than any express duties or responsibilities as Issuer Trustee under the Transaction Documents, the Issuer Trustee has no duty or obligation to undertake any investigation or inquiry related to repurchase demand activity or otherwise to assume any additional duties or responsibilities in respect of any Repurchase Reporting Series, and no such additional obligations or duties are implied. The Issuer Trustee is entitled to the full benefit of any and all protections, limitations on duties or liability and rights

of indemnity provided by the terms of the Transaction Documents in connection with any actions pursuant to this Section 12.01.

- (v) The Issuer Trustee's obligation to provide reporting with regard to each Repurchase Reporting Series will continue so long as any Repurchase Reporting Series is Outstanding or until the Transferor notifies the Issuer Trustee that such reporting no longer is required.

IN WITNESS WHEREOF, the Issuer Trustee has caused this Declaration of Trust to be executed as of the day and year first above written by its duly authorized signatories.

**COMPUTERSHARE TRUST COMPANY
OF CANADA**

By: 
Name: **Sam Golder**
Title: **Corporate Trust Officer**

By: 
Name: **Ann Samuel**
Title: **Associate Trust Officer**

Acknowledged and agreed to as of the day and year first written above by:

**EVERGREEN FUNDING LIMITED
PARTNERSHIP**, by its managing general
partner **EVERGREEN GP INC.**, as
Transferor

By: _____
Name: Christina Wang
Title: Vice President

IN WITNESS WHEREOF, the Issuer Trustee has caused this Declaration of Trust to be executed as of the day and year first above written by its duly authorized signatories.

**COMPUTERSHARE TRUST COMPANY
OF CANADA**

By: _____
Name:
Title:

By: _____
Name:
Title:

Acknowledged and agreed to as of the day and year first written above by:

**EVERGREEN FUNDING LIMITED
PARTNERSHIP, as Transferor**


By:  _____
Name: Christina Wang
Title: Vice President

EXHIBIT A
FORM OF EVERGREEN CREDIT CARD TRUST
TRANSFEROR CERTIFICATE

THIS TRANSFEROR CERTIFICATE WAS ACQUIRED ON A PRIVATE PLACEMENT BASIS IN RELIANCE UPON EXEMPTIONS FROM THE PROSPECTUS REQUIREMENTS OF APPLICABLE SECURITIES LEGISLATION. AS A RESULT, ANY RESALE OF THIS TRANSFEROR CERTIFICATE WILL BE SUBJECT TO THE RESTRICTIONS (INCLUDING ANY APPLICABLE HOLD PERIODS) AS SET OUT IN SUCH SECURITIES LEGISLATION.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THIS TRANSFEROR CERTIFICATE IS NOT PERMITTED TO BE TRANSFERRED, ASSIGNED, EXCHANGED OR OTHERWISE PLEDGED OR CONVEYED EXCEPT IN COMPLIANCE WITH THE TERMS OF THE DECLARATION OF TRUST REFERRED TO HEREIN.

No. [●]

EVERGREEN CREDIT CARD TRUST
TRANSFEROR CERTIFICATE

THIS TRANSFEROR CERTIFICATE REPRESENTS A TRANSFEROR INDEBTEDNESS
RELATING TO EVERGREEN CREDIT CARD TRUST (THE “**TRUST**”)

(Not an interest in or obligation of the Transferor or any affiliate thereof)

Computershare Trust Company of Canada, in its capacity as trustee of EVERGREEN CREDIT CARD TRUST, without personal liability (the “**Trust**”), for value received hereby acknowledges itself indebted and promises to pay certain amounts to the registered holder hereof on or about the dates specified in, and in the amounts and in the manner specified in, the Trust Indenture, dated as of May 9, 2016 (as amended and supplemented, the “**Indenture**”), between BNY Trust Company of Canada, as indenture trustee (the “**Indenture Trustee**”) and the Trust, existing pursuant to the Evergreen Credit Card Trust Declaration of Trust, dated as of May 9, 2016 (as amended and supplemented, the “**DOT**”), between Evergreen Funding Limited Partnership, as transferor (the “**Transferor**”), and Computershare Trust Company of Canada, as issuer trustee (not in its individual capacity, but solely as issuer trustee the “**Issuer Trustee**”), the Transfer Agreement, dated as of May 9, 2016 (as amended and supplemented, the “**Transfer Agreement**”), among the Transferor, the Trust, as issuer, and the Indenture Trustee and the Servicing Agreement, dated as of May 9, 2016 (as amended and supplemented, the “**Servicing Agreement**”), among the Transferor, The Toronto-Dominion Bank, as servicer and administrator, the Trust, as issuer, and the Indenture Trustee. Although a summary of certain provisions of the Transfer Agreement, the DOT, the Servicing Agreement and the Indenture (collectively, the “**Agreements**”) is set forth below, this Transferor Certificate does not purport to summarize the Agreements and reference is made to the Agreements for information with respect to the interests, rights, benefits, obligations, proceeds and duties evidenced hereby and the rights, duties and obligations of the Issuer Trustee. A copy of the Agreements may be

requested from the Issuer Trustee by writing to the Issuer Trustee. To the extent not defined herein, the capitalized terms used herein have the meanings ascribed to them in the Agreements.

This Transferor Certificate is issued under and is subject to the terms, provisions and conditions of the Agreements, to which Agreements, as amended and supplemented from time to time, the Transferor by virtue of its acceptance hereof assents and is bound.

This Transferor Certificate (this “**Transferor Certificate**”) represents all of the Transferor’s interest in the Transferor Indebtedness. The Transferor Indebtedness includes the right of the Transferor to receive payment of the unpaid balance of the purchase price for the Trust Assets determined in accordance with the Transfer Agreement, the Servicing Agreement, the Trust Indenture and any Indenture Supplement. The principal amount hereof and the other amounts to be paid hereunder shall be determined in the manner and paid at the times specified in the Transfer Agreement, the Servicing Agreement, the Trust Indenture and any Indenture Supplement. In addition to the Transferor Certificate, Notes will be issued to investors pursuant to the Indenture.

Unless the certificate of authentication hereon has been executed by or on behalf of the Issuer Trustee, by manual signature, this Transferor Certificate shall not be entitled to any benefit under the DOT or be valid for any purpose.

THIS TRANSFEROR CERTIFICATE SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE PROVINCE OF ONTARIO AND THE FEDERAL LAWS OF CANADA APPLICABLE THEREIN, AND THE OBLIGATIONS, RIGHTS, AND REMEDIES OF THE TRANSFEROR WILL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS. THE TRANSFEROR SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY ONTARIO COURTS SITTING IN TORONTO IN ANY ACTION, APPLICATION, REFERENCE OR OTHER PROCEEDING ARISING OUT OF OR RELATED TO THIS TRANSFEROR CERTIFICATE. THE TRANSFEROR HEREBY WAIVES ANY RIGHT THEY MAY HAVE TO REQUIRE A TRIAL BY JURY OF ANY PROCEEDING COMMENCED IN CONNECTION WITH THIS TRANSFEROR CERTIFICATE.

IN WITNESS WHEREOF, the Trust has caused this Transferor Certificate to be duly executed.

EVERGREEN CREDIT CARD TRUST

By: **COMPUTERSHARE TRUST
COMPANY OF CANADA,**
not in its individual capacity, but
solely as Issuer Trustee

By: _____

Dated: [], 20[●]

CERTIFICATE OF AUTHENTICATION

This is the Transferor Certificate referred to in the within-mentioned DOT.

**COMPUTERSHARE TRUST
COMPANY OF CANADA**, not in its
individual capacity but solely as Issuer
Trustee

Or **COMPUTERSHARE TRUST
COMPANY OF CANADA**, not in its
individual capacity but solely as Issuer
Trustee

By: _____
Authenticating Agent

By: _____
Authorized Signatory

By: _____
Authorized Signatory

EXHIBIT B
FORM OF ASSET REPURCHASE DEMAND ACTIVITY REPORT

Reporting Period:
Issuing Entity: Evergreen Credit Card Trust
Reporting Entity: Computershare Trust Company of Canada

Check here if nothing to report.

Activity During Period¹

Date of Reputed Demand	Party Making Reputed Demand	Date of Withdrawal of Reputed Demand
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¹ The Issuer Trustee should attach and forward copies of any written demands to the securitizer.