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Draft - 8/18/99

NEW YORK STATE BANKING DEPARTMENT

In the Matter of

DELTA FUNDING CORPORATION, a
Mortgage Banker licensed pursuant to
Article 12-D of the New York Banking
Law.

**CONSENT
AGREEMENT**

WHEREAS, Delta Funding Corporation ("Delta"), a Mortgage Banker licensed pursuant to Article 12-D of the New York Banking Law, and the New York State Banking Department ("Department") have mutually agreed to enter into this Consent Agreement ("Agreement");

WHEREAS, the Department commenced and concluded an examination ("Examination") of Delta pursuant to Banking Law § 596 regarding Delta's compliance with the provisions of Article 12-D of the Banking Law and applicable Federal laws;

WHEREAS, the Examination encompassed, *inter alia*, a review of Delta's compliance with Section 296-a of the New York Executive Law, the federal Equal Credit Opportunity Act (15 U.S.C. 1691, et seq.) and the regulations promulgated thereunder ("ECOA"), the Fair Housing Act (42 U.S.C. 3601, et seq.) and the regulations promulgated thereunder ("FHA"), Article 12-D of the Banking Law, the Real Estate

Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) and the regulations promulgated thereunder, ("RESPA"),¹ and the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 et seq) and the regulations promulgated thereunder ("HOEPA"), all as amended;²

WHEREAS, the Department alleges that its Examination revealed certain violations of the foregoing statutes and regulations;

WHEREAS, Delta denies all of the Department's allegations and any wrongdoing, liability or violation of any law; and

WHEREAS, Delta and the Department desire to avoid the expense and uncertainty of litigation and seek to resolve all matters raised in the Department's Examination, and, as a result, have agreed to enter into this Agreement.

Understanding:

NOW, therefore, in consideration of the foregoing consideration, the receipt and sufficiency of which are hereby acknowledged, the Department and Delta hereby agree as follows:

- I. Delta, its directors, officers and employees, and any successor in interest shall refrain from engaging in any act or practice that discriminates on the basis of the racial or ethnic composition of the area in which the borrower resides as prohibited by Executive Law §296-a, FHA and ECOA.
- II. Defendant will commit a total of \$7,250,000.00 (as described in Paragraph II.D below) (the "Remediation Fund") for purposes of the relief described in this Paragraph II.

¹ 12 U.S.C. §2601, et. seq.

² HOEPA amended certain provisions of Truth in Lending Act, 15 U.S.C. §1602, et seq.

A. Within 30 days of the effective date of this Agreement, Delta will notify (by registered mail, return receipt requested) all borrowers for whom loans were originated by Delta during the period October 1, 1995 through the date of this agreement ("Borrowers") of their entitlement to seek compensation (solely in the form of monthly payment reductions) from the Remediation Fund. Delta will provide the Department with a list of the Borrowers.

1. The form of the correspondence shall be in the form set forth as Exhibit A, attached hereto. Delta shall notify the Department of the names and last known addresses of all Borrowers from whom no return receipt has been received within thirty (30) days of the mailing of the notice ("Non-Responding Borrowers"). Within five (5) business days thereafter, Delta shall attempt again to notify said Non-Responding Borrowers by registered mail, return receipt requested ("Second Notice"). Within thirty (30) days after mailing the Second Notice, Delta shall provide the Department with a list of such Non-Responding Borrowers from whom the return receipt was not received in response to the second notice;

2. The notice shall include a requirement that each Borrower respond within thirty (30) days of receipt of the notice and, in the event that the Borrower submits a claim, such borrower must waive his or her right to participate in any other litigation regarding such Borrower's loan and setting forth the same or

similar claims now raised by the Department and, in the event a payment is made to such Borrower, execute a release, substantially in the form set forth in Exhibit B, of any additional rights to proceed against Delta on claims arising from the allegations set forth in this Agreement or any other allegation of lending

discrimination related to the loans covered by this Agreement; *Promptly after receiving the consent of Delta's senior noteholders, which consent Delta shall seek to obtain,* Within 15 days from receipt of the notice from a Borrower stating that such Borrower is submitting his or her loan for consideration for

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loan reduction (a "Claim"), Delta will make available to the Department pertinent information with regard to the loan at issue in the claim (including copies or summaries of the loan application, supporting documentation, and the HUD-1 Settlement Statement).

4. Within 30 days of its receipt of such information, the Department shall determine whether the Borrower has stated a valid Claim and, if so, the amount by which the Borrower's monthly loan payments will be reduced. The Remediation Fund will be reduced by an amount equal to the present value of such payment reduction based on the remaining term of the loan based on a rate equal to the rate on United States Treasury Bills, as published in the Wall Street Journal as of the date of this Agreement. Delta shall have the right to determine the precise method of effectuating any payment reductions pursuant to this Agreement. Such methods may include (i) subsidizing borrower payments, (ii) reducing the interest rate, (iii) reducing the principal balance, or (iv) extending the

term of the loan; provided, however, that the total amount of interest paid over the life of the loan is not increased.

5. Only claims received within 30 days of the date on which the last notification to Borrowers was sent (the "Termination Date") will be evaluated by the Department. In the event that after all claims have been evaluated and determined by the Department and there are insufficient funds in the Remediation Fund to satisfy all claims as so evaluated and determined, the following adjustments shall be made:

A. First, the value of the loan payment reductions shall be recalculated based on the lesser of (i) the remaining term of the loan and (ii) 15 years; and, if there are still insufficient funds available in the Remediation Fund,

B. Second, the amount that each borrower is to be paid from the ~~Remediation~~ Fund will be reduced proportionately.

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6. Delta shall begin implementing the payment reductions contemplated herein within 45 days following its receipt of the borrower's executed release in accordance with Paragraph II.D, below.

7. After the Termination Date, Delta's obligation to reduce loan payments is terminated, except with regard to loan reductions determined by the Department with regard to claims received prior to the Termination Date.

C. If more than one individual is listed as borrowers on a loan, the borrowers listed on the loan will be deemed together to be a single Borrower and will split equally the compensation amount awarded on that loan.

D. Before receiving relief from the Remediation Fund, each borrower on the mortgage loan shall be required to sign the general release in the form set forth in Exhibit A, attached hereto.

III. ~~Within 15 days after the execution of this Agreement, Delta shall establish a fund~~ (the "Amelioration Fund") consisting of 525,000 shares of common stock of Delta Financial Corporation (the "Stock") (which, for purposes of this Agreement, shall be valued at \$9.10 per share), by depositing such shares of Stock with a trustee that is mutually agreeable to both Delta and the Department. No sooner than one year following the Date Delta deposits the Stock with the trustee, the trustee may, at the direction of the Department, sell the Stock or any portion thereof in one or more open market transactions, subject to Rule 144 of the Securities and Exchange Act of 1933, as amended. The proceeds of any such sale shall be used to fund activities including economic counseling, home ownership counseling and education programs.

IV. Delta shall not in the future agree to pay from the proceeds of a mortgage loan any borrower-paid mortgage broker fee an amount not reasonably related to the value of goods and facilities provided and performed.

V. Delta shall not accept applications for mortgage loans from mortgage brokers in which the broker fee is in excess of an amount reasonably related to the services provided.

Handwritten notes:
- "Interest free" with an arrow pointing to the word "fund" in section III.
- "15 days" with an arrow pointing to the underlined "15 days" in section III.
- A circular stamp containing the word "FUND".
- The initials "ML" written below the stamp.

Handwritten notes:
- "Services" written next to section V.
- "TJW" circled in a hand-drawn circle next to section V.
- "EMC" written in a cursive script to the right of the circle.

- VI. Delta shall not underwrite a mortgage loan without full consideration of the ability of the borrower to repay the mortgage loan. In particular, Delta shall comply with the compliance undertakings set forth in Paragraph XV, hereof.
- VII. Delta shall submit to the Department for its review and approval a new policy and a monitoring and compliance system to ensure uniform application of underwriting criteria and appropriate payment of mortgage broker fees.
- VIII. Any new policy and monitoring and compliance system shall include:
 - A. Development and implementation of policies and guidelines designed to ensure that the underwriting of mortgage loans is made in compliance with law. Such guidelines shall be incorporated into Delta's loan policy;
 - B. Development of a system that accurately records data related to the charging of brokers fees and mortgage loans underwritten by Delta including with respect to the dollar and percentage amount of the broker fee charged, the amount and type of loan, information about the borrower as required by the Home Mortgage Disclosure Act ("HMDA"), the name of the loan officer and the mortgage broker, and branch;
 - C. Development and implementation of a comprehensive system to permit detailed and ongoing monitoring of mortgage origination, pricing practices, ~~including regular analysis of such items according to the racial and ethnic composition of the area in which borrowers reside~~ to ensure that flexible pricing does not result in unlawful disparate treatment or disparate impact;

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D. The designation of managers, including senior-level managers, to serve as compliance officers and to monitor compliance with the foregoing compliance system; and

E. Development and implementation of a disciplinary policy for employees who violate the undertakings in this Agreement.

IX. Within thirty (30) days from the effective date of this Agreement, Delta shall amend its existing Fair Lending Training Program to include the elements described in this Paragraph and shall submit such amended training program ("Amended Training Program") to the Department for its review and approval within such thirty (30) day period.

A. Such training program shall be amended to include:

1. A detailed discussion of the purpose of, and the prohibitions contained in, Executive Law §296-a and Article 12-D of the Banking Law;

2. A detailed discussion of liability for violations of Executive Law §296-a and Article 12-D of the Banking Law;

3. A certification form (as described in Paragraph III(E), below) to be completed by each officer and employee attending the training program;

4. A schedule pursuant to which the training program and supplemental training programs will be offered;

B. Within sixty (60) days following the Department's completion of its review of the Amended Training Program, all Delta officers and

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employees with customer contact concerning mortgage loans or who are involved in the pricing of mortgage loans or the monitoring of mortgage pricing shall attend the Amended Training Program;

C. All new Delta officers and employees with customer contact concerning mortgage loans or who are involved in the pricing of mortgage loans or the monitoring of mortgage pricing shall attend the Amended Training Program within forty five (45) days of their employment with Delta;

D. All Delta officers and employees attending the Amended Training Program shall execute a certification form stating that the individual has attended the Amended Training Program, that the individual understands Delta's policies regarding non-discrimination in the origination and underwriting of mortgage loans, that the individual understands Delta's disciplinary policies with respect to originating and underwriting mortgage loans and compliance with Executive Law §296-a and Article 12-D of the Banking Law and that violations of Executive Law §296-a and Article 12-D of the Banking Law may subject the individual and/or Delta to sanctions;

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X. With respect to the new policy and monitoring and compliance system to be submitted to the Department pursuant hereto, and the Amended Training Program to be submitted to the Department pursuant to Paragraph IX, above, (collectively "Compliance Materials"), the Department shall have sixty (60) days to approve or disapprove all or part of the Compliance Materials.

- A. In the event that the Department determines that any part of the Compliance Materials is unacceptable, it shall notify Delta in writing, specifying the basis for such determination, and Delta shall submit revised Compliance Materials within fifteen (15) days of its receipt of such determination;
- B. In the event the Department determines that it has no objection to the proposed Compliance Materials, the Delta's Board of Directors shall adopt and implement the Compliance Materials within fifteen (15) days after receipt of such written determination;
- C. If the Department has not notified Delta in writing of any objection to the proposed Compliance Materials within the sixty (60) day period referred to above, the proposed Compliance Materials shall be deemed to have been acceptable to the Department at the expiration of such sixty (60) day period. Within fifteen (15) days thereafter, Delta's Board of Director shall adopt and implement the Compliance Materials.
- XI. Within thirty (30) days from the effective date of this Agreement, Delta shall designate a member of senior management, acceptable to the Department, to be responsible for the compliance and monitoring of this Agreement.
- XII. Delta shall report its compliance with this Agreement to the Department semi-annually during the term of this Agreement. Such compliance reports shall be submitted to the Department within forty-five (45) days following the end of each half-year period. Each report shall include:

A. ~~A report on Delta's performance in the processing and pricing of applications for mortgage loans that addresses the APRs and broker fees of such loans on the basis of the racial and ethnic composition of the areas in which borrowers reside, results of monitoring and compliance efforts, any disciplinary actions taken, training, and other relevant information.~~ *compliance with fair lending pricing requirements*

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B. Corrective actions taken to comply with each of the paragraphs of this Agreement.

XIII. All communications regarding this Agreement shall be sent to:

<p><i>(NAME)</i> NAME <i>(Title)</i> Title NYS Banking Department 2 Rector Street New York, NY</p>	<p><i>(NAME)</i> NAME <i>(Title)</i> Title Delta Funding Corporation 1000 Woodbury Road Woodbury, NY 11797</p>	<p><i>(TJM)</i></p>
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XIV.

A. Each provision of this Agreement shall remain in effect for a period of three years following the date hereof, until stayed, modified, terminated, suspended or complied within full, to the Department's satisfaction, as signified in writing by the Department.

B. This Agreement, when fully executed and performed by Delta to the reasonable satisfaction of the Department will resolve all the issues between the parties respecting the subject matter of the Examination. The Department has determined that the relief provided for under the terms of this decree is full and adequate compensation to the borrowers contemplated herein.

- C. The entry into this Agreement shall not be deemed or construed to be an admission of, or evidence of, any violation of any statute, law or regulation or of any liability or wrongdoing or of the truth of any of the claims or allegations of the Department, and may not be used against Delta in any other action or proceeding. The Department acknowledges and agrees that Delta's compliance with the terms and conditions of this Agreement constitute a "compelling business necessity" for purposes of any federal or state law prohibiting discrimination.
- D. The Department acknowledges and agrees that the relief awarded to borrowers from the funds set forth in Paragraphs II and III hereof shall constitute full and adequate compensation to all borrowers potentially eligible to obtain relief from Delta. The Department also acknowledges and agrees that Delta's compliance with the compliance undertakings set forth in Paragraph XIV shall constitute compliance with RESPA, HOEPA, FHA, ECOA, the New York State Human Rights Law, Executive Law § 296-a and Executive law § 63(12), respectively.
- E. Notwithstanding any provision in this Agreement to the contrary, the Department may, in its sole discretion, grant written extensions of time to Delta to comply with any provision of this Agreement.
- F. This Agreement shall be governed by the laws of the State of New York, and during the term hereof, Delta consents to the jurisdiction of the State and Federal Courts in New York to enforce the provisions hereof.

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G. The Department reserves the right to appoint outside auditors pursuant to Section 39 of the New York Banking Law.

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H. This Agreement shall become effective upon the execution by all parties.

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I. The signatories of this Agreement are duly authorized by their respective parties to enter into this Agreement.

J. This Agreement may be executed in multiple counterparts, each of which shall be deemed a duplicate original.

K. The terms of this Agreement shall bind the parties and their successors and assigns.

L. This Agreement may be amended or modified only pursuant to a writing executed by all parties hereto.

XV. Compliance Undertakings

A. Definitions

As used in this Paragraph XIV, the following terms shall have the following meanings:

1. The term "loan" shall mean a transaction secured by a 1-4 family, owner-occupied property that meets the definition of: (i) "credit" as that term is used and defined by 15 U.S.C. § 1691a and regulations promulgated thereunder; (ii) "federally related mortgage loan" as that term is used and defined by 12 U.S.C. § 2602 and regulations promulgated thereunder; and/or (iii) extension or provision of "credit" as that term is used and defined by New York Executive Law §296-a.

2. The term "HOEPA Loan" shall mean any loan which meets the definition in 15 U.S.C. § 1602(aa) and regulations promulgated thereunder.

3. The terms "close" or "closing" or "closed" when used in relation to a loan shall mean the date on which the loan transaction is "consummated" as defined in 12 C.F.R. § 226.2(a)(13).

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2. The term "HOEPA Loan" shall mean any loan which meets the definition in 15 U.S.C. § 1602(aa) and regulations promulgated thereunder.
3. The terms "close" or "closing" or "closed" when used in relation to a loan shall mean the date on which the loan transaction is "consummated" as defined in 12 C.F.R. § 226.2(a)(13).

4. The term "mortgage broker" shall mean a person defined as such in 24 C.F.R. § 3500.2.

5. The term "par" when used in relation to the interest rate on a loan shall mean the interest rate at which Delta will grant a loan to a given borrower without charging discount points or paying a "yield spread premium."

6. The term "yield spread premium" shall mean a fee paid by Delta to a mortgage broker, computed by reference to the interest rate, incident to a loan in which the interest rate is above par.

B. Compliance Measures

During the term of this Agreement, solely with respect to loans originated during the term of this Agreement (except with respect to Subparagraph 12, which shall apply to HOEPA Loans), Delta will conduct its lending operations as follows:

Practices Related to Post-Default Interest:

11. Delta shall not enter into any HOEPA Loan which provides for an "increase in the interest rate after default" as set forth in 12 C.F.R. § 226.32(d)(4) ("Post-Default Interest").

12. Delta shall not collect Post-Default Interest on any HOEPA Loan.

Practices Related To HOEPA:

13. Delta shall not engage in a pattern or practice of extending HOEPA loans based on the borrower's collateral if, after considering the borrower's current and expected income, current obligations, and employment status, the borrower will be unable to make the scheduled payments to repay the obligation.

14. Delta shall not extend any HOEPA Loan that contains any of the following characteristics, (hereinafter, "Repayment Warning Signs") unless there exists a HOEPA Justification (defined below) or a Special HOEPA Justification (defined below):

- (i) The HOEPA Loan repays a previous mortgage loan (whether or not originated by Delta); the borrower's total monthly obligations increase by more than five (5) percent; and, on the date the new HOEPA loan closed, the borrower was 60 days or more delinquent in payments of principal or interest on the previous mortgage loan. (For the purposes of this Paragraph, "60 days or more delinquent" shall mean an instance in which a borrower is a total of 60 calendar days or more late in making any payment of principal or interest required to date by that borrower's loan. For the purposes of this definition, each payment made by the borrower is assumed to be in satisfaction of the oldest outstanding payment. Thus, for example, where a borrower is required to make a \$1,000 payment on the first day of each month, and makes a \$1,000 payment on the first day of the first,

third and fifth months, on the first day of the sixth month, the borrower, having missed two payments, will be 60 days or more delinquent.)

(ii) After subtracting the borrower's monthly payments on the HOEPA loan from the borrower's total monthly income, the borrower is left monthly residual income which is less than the residual income limits set forth in Schedule A, attached hereto, unless, as a result of the HOEPA Loan, the borrower's total monthly obligations will decrease.

(iii) The borrower's monthly payment on the HOEPA Loan exceeds 50% of the borrower's monthly income, unless, as a result of the HOEPA Loan, the borrower's total monthly obligations will decrease.

15. A HOEPA Loan which contains one or more of the above Repayment Warning Signs will not violate this Agreement if Delta documents in the loan file the existence of one or more of the justifications set forth in Subparagraph _____, below (hereinafter "HOEPA Justifications"). A HOEPA Loan which contains one or more of the above Repayment Warning Signs and does not contain a HOEPA Justification nonetheless will not violate this Agreement if the Department determines that the loan is in compliance with application law (a "Special HOEPA Justification"). The Department will determine whether a loan is in compliance with applicable law within two days of receipt of Delta's request for such a determination.

16. Whenever Delta makes any HOEPA loan that does not contain one or more of the Repayment Warning Signs, Delta shall maintain either electronically or in the loan file information regarding: (i) the borrower's monthly debt payments under the prior loan; (ii) the borrower's past payment history; (iii) the borrower's monthly income; and (iv) the borrower's other outstanding monthly debts or obligations, if any.

17. Whenever Delta makes any loan which contains a HOEPA Justification, Delta shall state in the loan file the Repayment Warning Sign, HOEPA Justification or Special HOEPA Justification that exists, with documentation sufficient to demonstrate the existence of the HOEPA Justification or Special HOEPA Justification, as applicable. Such documentation shall include, with respect to HOEPA Justifications, documentation set forth in Schedule B or such other documentation as may be necessary to establish the existence of the HOEPA justification.

18 [Reserved]

Practices Related To ECOA:

19. Delta shall not extend credit that will have a negative financial impact upon the borrower which violates the Equal Credit Opportunity Act or Section 296-a of the New York Executive Law.

20. Delta shall not make any loan that contains any of the following characteristics, (hereinafter, "ECOA Characteristic") unless there exists an ECOA Justification (defined below) or a Special ECOA Justification (defined below) :

(i) After subtracting the borrower's monthly payments on the loan in question from the borrower's total monthly income, the borrower is left with monthly residual income which is less than the residual income limits set forth in Schedule A, attached hereto, unless, as a result of the loan, the borrower's total monthly obligations will decrease.

(ii) The loan in question ("new loan") repays a previous loan (whether or not originated by Delta); the borrower's monthly payments necessary to service the new loan (including both repayment of principal and payment of interest) exceed the borrower's "previous monthly payments;" and, the increase in monthly payments exceeds 2.5 percent of the "new funds" which the borrower obtained from the new loan. For the purposes of this Agreement, the term "previous monthly payments" shall include the monthly payment (as revealed on the borrower's credit report or, in the absence of such information, imputed based on customary underwriting standards) on all loans and other debts retired by the new loan. The term "new funds" shall mean the total principal amount of the new loan, less (1) the outstanding principal balance of any mortgage debt, installment debt, or credit card debt that had recurring monthly payments and was retired by the new loan and (2) any borrower-paid closing costs disclosed on the HUD-1 Settlement Statement, whether paid directly by the borrower or indirectly out of the principal of the new loan, including but not limited to borrower-paid broker fees, borrower-paid third-party charges such as title and appraisal fees and borrower-paid fees to Delta.)

(iii) The new loan repays a previous loan which was also originated by Delta; the previous loan closed within 12 months of closing the new loan; incident to closing the new loan, Delta charges the borrower a prepayment penalty as defined in 12 C.F.R. § 226.18(k)(1); and (a) the interest rate on the new loan is not at least one full percentage point lower than the interest rate on the previous loan or (b) the "new funds" (as defined in Paragraph 20(ii) above) provided by the new loan are less than 20% of the new loan.

21. A loan which contains one or more of the above ECOA Characteristics will not violate this Agreement if Delta documents in the loan file the existence of one or

more of the justifications set forth in Subparagraph _____, below (hereinafter "ECOA Justifications"). A loan which contains one or more of the above ECOA Characteristics and does not contain an ECOA Justification nonetheless will not violate this Agreement if the Department determines that the loan is in compliance with applicable law (a "Special ECOA Justification"). The Department will determine whether a loan is in compliance within two days of receipt of Delta's request for such a determination.

22. Whenever Delta makes any loan that does not contain one or more of the ECOA Characteristics, Delta maintain either electronically or in the loan file information regarding: (i) the borrower's previous monthly payments under the prior loan; (ii) the new funds obtained by the borrower; (iii) the borrower's monthly income, and (iv) the borrower's other outstanding monthly debts or obligations, if any.

23. Whenever Delta makes any mortgage containing an ECOA Justification or Special ECOA Justification, Delta shall state in the loan file the ECOA Characteristic, ECOA Justification or Special ECOA Justification that exists, with documentation sufficient to demonstrate the existence of the ECOA Justification or Special ECOA Justification. Such documentation shall include, with respect to ECOA Justifications, documentation set forth in Schedule C or such other documentation as may be necessary to establish the existence of the ECOA justification.

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Practices Related to RESPA:

25. Delta will not, in violation of the Real Estate Settlement Procedures Act ("RESPA"), give any yield spread premium to any mortgage broker pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a loan shall be referred to Delta.

26. Delta will be deemed to be in compliance with Paragraph 25 above with respect to a loan when either of the following two contentions (hereinafter the "RESPA Contentions") are true over any six month period in which such loan was closed: (i) in aggregate, total mortgage broker compensation on loans originated by Delta in which Delta paid yield spread premiums was not more than 5% higher than total mortgage broker compensation on similarly situated loans originated by Delta in which Delta did not pay yield spread premiums; or (ii) in aggregate, up-front broker fees charged to the borrower are 5% lower on loans originated by Delta in which Delta paid yield spread premiums than on similarly situated loans originated by Delta in which Delta did not pay yield spread premiums.

C. Income Verification Procedures

27. Delta will continue verifying the stability and adequacy of borrowers' income and ~~will~~ the following income verification practices ~~for~~ where applicable:

in accordance with generally accepted industry standards including

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~~In accordance with generally accepted industry standards~~
~~including a -~~

- a. ~~FNMA 1005 - Verification of Employment Form~~: Filled out by borrower's employer. This form and/or the most recent 2 year's W2's, along with the most recent paystubs are requirements for all salaried employees. TJA
- b. ~~Direct Telephone Verification of Employment~~: Performed by an underwriter. The borrower's employer is contacted and their salary, length and nature of employment is confirmed. AWC
- c. ~~Automated Verification Services~~: Subscribe to one or more of the various automated services that provide employment data on numerous companies in various regions throughout the country, such as "The Work # for Everyone" and/or "The VIE Mortgage Report".
- d. ~~IRS Form 4506~~: This form, in conjunction with 2 reporting services (National Tax Verification and Rapid Reporting) enable Delta to confirm the validity of tax returns
- e. ~~County Clerk Records~~: Frequently checked to verify employer tax ID #'s for self employed borrowers. TJA
- f. ~~Phone Disc~~: A software program utilized as a form of "directory assistance", used to locate and confirm names, addresses and phone numbers of employers. AWC
- g. ~~Registered Rent Rolls as Provided by the NYC DHCR~~: Used to confirm the actual amount of rental income for apartment buildings subject to rent control/stabilization.
- h. ~~Rental Confirmation~~: (i) All leases submitted as evidence of rental income are examined against the borrower's signature on the closing documents to ensure they are genuine. (ii) In the event that a borrower does not have a formal lease agreements with their tenant(s), but rather have tenants-at-will or month-to-month tenants, the borrower is required to sign a "rental affidavit", attesting to the amount of rental income they earn. (iii) All rental income is accepted at a 25% discount of the gross amount claimed.
- i. ~~Income From "Side Jobs"~~: Borrowers whose income is derived from "all cash" employment, or where a portion of their income (such as tips) is paid in "cash only", can have their income qualified through the use of a "job letter." This letter is to be signed by their employer, and spell out the length of time employed, the nature of the work and their rate of pay. In addition, this letter must also be countersigned by

the borrower at the loan closing, effectively attesting to and noting their acknowledgement with the letter and its contents.

D. Miscellaneous

54. Notwithstanding anything to the contrary contained herein, Delta may revise the undertakings contained in this Paragraph XIV to conform to generally accepted underwriting standards. For purposes of this Paragraph, use of a procedure authorized or approved by the Federal Housing Administration, the Department of Veterans Affairs, Fannie Mae or Freddie Mac shall be deemed generally accepted underwriting standards..

55. The Department and Delta shall meet periodically, and in no event less frequently than every six months, to determine whether additional HOEPA Justifications and/or ECOA Justifications should be added to this Agreement.

56. Except as otherwise expressly stated herein, for purposes of this Agreement, Delta may rely on representations of fact made to it by borrowers.

E. Residual Income Requirements

Loans amounts of \$69,999 and below:

Family members	Residual Income
1	\$410
2	\$687
3	\$828
4	\$933
5	\$968

Loans of \$70,000 and above:

Family members	Residual Income
1	\$473
2	\$793
3	\$955
4	\$1,077
5	\$1,115

F. HOEPA Justifications & Supporting Documentation

(AA) Monthly obligation increase on delinquent loans.

1. (a) Factor: Borrower has suffered a temporary reduction of income within the preceding 24 months.
(b) Documentation: Income and employment documentation and/or letters of explanation.
2. (a) Factor: Borrower had temporary loss of employment or employment income within preceding 24 months.
(b) Documentation: Income and employment documentation and/or letters of explanation.
3. (a) Factor: Borrower changes from self employed to salaried employment with a third party employer.
(b) Documentation: Income and employment documentation and/or letters of explanation.
4. (a) Factor: Borrower had medical or health problems resulting in increased expenses within the preceding 24 months.
(b) Documentation: Letter of explanation from borrower or medical provider.
5. (a) Factor: Documented financial emergency requiring significant commitment of funds.
(b) Documentation: Letter of explanation.
6. (a) Factor: Divorce judgment, separation agreement or similar division of financial responsibilities entered or agreed to within preceding 24 months.
(b) Documentation: Copies of Agreement/agreement and/or letter of explanation.
7. (a) Factor: Deed transfer that adds new borrower who will occupy the property is related to the original borrower.
(b) Documentation: Letter of explanation and/or copy of new deed.
8. (a) Factor: Total debt-to-income ratio or 41% or less.
(b) Documentation: Standard income and debt documentation.
9. (a) Factor: Mortgage proceeds to be used for home repair or maintenance.
(b) Documentation: Letter of explanation and/or contractor agreements.
10. (a) Factor: Mortgage proceeds to be used to add, repair, or renovate an income producing unit.
(b) Documentation: Letter of explanation and/or contractor agreements.

11. (a) Factor: Mortgage proceeds to be used to purchase, repair or renovate income-producing property.
(b) Documentation: Letter of explanation and/or purchase agreements
12. (a) Factor: Mortgage loan includes new cosigner or other obligor who will occupy the property or is related to the original borrower.
(b) Documentation: Letter of explanation and/or application and/or new note.
13. (a) Factor: Mortgage proceeds used to prevent foreclosure.
(b) Documentation: Letter of explanation.
14. (a) Factor: Mortgage proceeds used to pay off back taxes.
(b) Documentation: Title report; tax search and/or tax bills.
15. (a) Factor: Mortgage proceeds used to pay off balloon mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.

(BB). Residual income

1. (a) Factor: Reduction in monthly obligations.
(b) Documentation: Income and employment documentation and/or letters of explanation.
2. (a) Factor: Total debt-to-income ratio of 41% or less.
(b) Documentation: Standard income and debt documentation.
3. (a) Factor: Mortgage proceeds to be used to add, repair, or renovate an income producing unit provided the borrower has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation and/or contractor agreements.
4. (a) Factor: Mortgage proceeds to be used to purchase, repair or renovate income-producing property has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation and/or purchase agreements
5. (a) Factor: Mortgage proceeds used for business or investment purposes has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation.
6. (a) Factor: Mortgage proceeds to be used for home repair or maintenance has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation and/or contractor agreements.
7. (a) Factor: Mortgage proceeds to be used for education of borrower or person associated with borrower has residual income of at least 90% of that set forth in this

Agreement.

- (b) Documentation: Letter of explanation.
- 8. (a) Factor: Mortgage proceeds used to prevent foreclosure.
(b) Documentation: Letter of explanation.
- 9. (a) Factor: Mortgage pays off balloon construction loan.
(b) Documentation: Note for construction loan.
- 10. (a) Factor: Mortgage proceeds used to pay off back taxes.
(b) Documentation: Title report; tax search and/or tax bills.
- 11. (a) Factor: Mortgage proceeds used to pay off balloon mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.

(CC) DTI greater than 50%

- 1. (a) Factor: Reduction in monthly obligations.
(b) Documentation: Income and employment documentation and/or letters of explanation.
- 2. (a) Factor: Ability to manage credit obligations as evidenced by no more than not having been more than 30 days delinquent on a prior mortgage within the preceding 12 months with less than 20% increase in monthly obligations.
(b) Documentation: Credit report and/or verification of mortgage.
- 3. (a) Factor: Mortgage proceeds to be used to add, repair, or renovate an income producing unit provided the DTI ratio does not exceed 55%.
(b) Documentation: Letter of explanation and/or contractor agreements.
- 4. (a) Factor: Mortgage proceeds to be used to purchase, repair or renovate income producing property provided the DTI ratio does not exceed 55%.
(b) Documentation: Letter of explanation and/or purchase agreements
- 5. (a) Factor: Mortgage proceeds used for business or investment purposes provided the DTI ratio does not exceed 55%.
(b) Documentation: Letter of explanation.
- 6. (a) Factor: Mortgage proceeds to be used for home repair or maintenance provided the DTI ratio does not exceed 55%.
(b) Documentation: Letter of explanation and/or contractor agreements.
- 7. (a) Factor: Mortgage proceeds to be used for education of borrower or person associated with the borrower provided the DTI ratio does not exceed 55%.
(b) Documentation: Letter of explanation.

8. (a) Factor: Mortgage proceeds used to prevent foreclosure.
(b) Documentation: Letter of explanation.
9. (a) Factor: Mortgage pays off balloon construction loan.
(b) Documentation: Note for construction loan.
10. (a) Factor: Mortgage proceeds used to pay off back real estate taxes.
(b) Documentation: Title report; tax search and/or tax bills.
11. (a) Factor: Mortgage proceeds used to pay off balloon mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.

G. ECOA Justifications & Supporting Documentation

(AA) Residual income

1. (a) Factor: Reduction in monthly obligations.
(b) Documentation: Income and employment documentation and/or letters of explanation.
2. (a) Factor: Total debt-to-income ratio of 41% or less.
(b) Documentation: Standard income and debt documentation.
3. (a) Factor: Mortgage proceeds to be used to add, repair, or renovate an income producing unit provided the borrower has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation and/or contractor agreements.
4. (a) Factor: Mortgage proceeds to be used to purchase, repair or renovate income producing property has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation and/or purchase agreements
5. (a) Factor: Mortgage proceeds used for business or investment purposes has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation.
6. (a) Factor: Mortgage proceeds to be used for home repair or maintenance has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation and/or contractor agreements.
7. (a) Factor: Mortgage proceeds to be used for education of borrower or person associated with borrower has residual income of at least 90% of that set forth in this Agreement.
(b) Documentation: Letter of explanation.

8. (a) Factor: Mortgage proceeds used to prevent foreclosure.
(b) Documentation: Letter of explanation.
 9. (a) Factor: Mortgage pays off balloon construction loan.
(b) Documentation: Note for construction loan.
 10. (a) Factor: Mortgage proceeds used of pay off back taxes.
(b) Documentation: Title report; tax search and/or tax bills.
 11. (a) Factor: Mortgage proceeds used to pay off balloon mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.
- (BB) Monthly obligations increase by more than 2.5% of new funds.**
1. (a) Factor: New mortgage shortens term of old mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.
 2. (a) Factor: New mortgage is fixed rate and old mortgage is adjustable.
(b) Documentation: Copy of note and/or verification of mortgage.
 3. (a) Factor: Mortgage proceeds to be used for home repair or maintenance.
(b) Documentation: Letter of explanation and/or contractor agreements.
 4. (a) Factor: Mortgage proceeds used to prevent foreclosure.
(b) Documentation: Letter of explanation.
 5. (a) Factor: Mortgage pays off construction loan.
(b) Documentation: Note for construction loan.
 6. (a) Factor: Mortgage proceeds used of pay off back real estate taxes.
(b) Documentation: Title report; tax search and/or tax bills.
 7. (a) Factor: Mortgage proceeds used to pay off balloon mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.
- (CC) Prepayment penalty**
1. (a) Factor: New mortgage shortens term of old mortgage.
(b) Documentation:
 2. (a) Factor: Mortgage proceeds used to pay off adjustable rate mortgage.
(b) Documentation: Copy of note and/or verification of mortgage.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed

as of this ___ day of ___, 1999.

~~DELTA FINANCIAL CORPORATION~~

By:

~~Name
Title~~

THE NEW YORK STATE
BANKING DEPARTMENT

By:

Name
Title

[Signature]
Acty Supt of
Banks

DELTA FUNDING CORPORATION
Mortgage Banker Licensed pursuant
to Article 12-D of the Banking Law

By:

Name
Title

Thomas J. Jato
Kirkpatrick & Lockhart

EXHIBIT A
Notification Letter

Dear

You recently borrowed money from Delta Funding Corporation ("Delta"). We write to notify you that Delta has entered into a settlement agreement with the New York State Banking Department (the "Department") to resolve certain lending claims that were raised by the Department following its examination of our institution. The Department has alleged that the policies and practices of Delta has resulted in violations of HOEPA, RESPA and/or Section 296-a of the Executive Law. We have denied those allegations and continue to assert that we have never violated such laws.

Nevertheless, we have agreed with the Department voluntarily to resolve this controversy, in part, through reducing the loan payments of those persons allegedly injured by these practices. A copy of the agreement that we have reached with the Department is enclosed with this letter.

You maybe entitled to a payment reduction on your loan with Delta.

If you desire to apply for this payment reduction, you must agree not to pursue any claim against Delta regarding your loan based on the laws the Department has alleged that Delta has violated. In the event that a loan reduction is awarded, you must sign a General Release, enclosed with this letter, in which you agree to accept this payment reduction in exchange for your agreement not to make a claim against or sue Delta, or any entity affiliated with Delta, on your own. The release only waives your right to make a claim against or sue Delta for any alleged violation of law regarding the mortgage loan you received from Delta during the period October 1, 1995 through August 19, 1999. You must sign this release in the presence of a notary public and return the signed release to:

[Enter Delta address to which release should be sent]

The signed and notarized release must be returned to the above address no later than thirty (30) days after your receipt of this letter. Delta will implement the monthly payment reduction within 45 days after we receive the executed release.

If you have any questions, please feel free to call [name of Delta representative]

A stamped envelope is enclosed for your convenience in returning the signed and notarized General Release.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas S. ...". The signature is written in a cursive style and is positioned above the printed name and title.

Name

Title

The Delta Funding Corporation

EXHIBIT B
GENERAL RELEASE

STATE OF _____)
) ss.:
COUNTY OF _____)

WHEREAS, I/we, _____ and _____, understand that the New York State Banking Department (the "Department") has conducted an examination of Delta Funding Corporation ("Delta") and has alleged that Delta violated the provisions of the federal Home Ownership and Equity Protection Act, the federal Real Estate Settlement Procedures Act of 1974, the federal Equal Credit Opportunity Act and/or Section 296-a of the New York Executive Law;

WHEREAS, I/we understand that Delta denies that it violated any laws;

WHEREAS, I/we obtained a home mortgage loan with Delta during the period _____, 1996 through _____, 1998;

WHEREAS, I/we understand that in order to avoid protracted and costly litigation, Delta and the Department resolved the matter by entering into a Remediation Agreement and that I/we will be entitled to monthly mortgage payment reductions from the Remediation Fund established by Delta pursuant to the Remediation Agreement provided that I/we execute the General Release described below;

THEREFORE, I/we agree to the following:

In consideration of a monthly mortgage payment reduction of \$ _____, to be paid to me/us out of the Remediation Fund established pursuant to the Remediation Agreement, I/we _____ and _____ hereby agree, effective upon receipt of payment, to release and forever discharge Delta and its current, former and future officers,

directors, employees, agents, parent companies, affiliates, and successors-in-interest from all legal and equitable claims or causes of action that have been or might have been asserted by me/us or the Department, as of the date of execution of this General Release, that arise out of any alleged violation by Delta of the federal Home Ownership and Equity Protection Act, the federal Real Estate Settlement Procedures Act of 1974, the federal Equal Credit Opportunity Act and/or Section 296-a of the New York Executive Law in connection with my/our mortgage loan.

I/we understand that the payment to be made to me/us does not constitute an admission by Delta of the validity of any claims by me/us or by the Department on our behalf.

I/we understand that, by accepting payment from the Remediation Fund, I/we am/are waving my/our right to pursue my/our own legal action for damages and any other relief to which I/we may be entitled.

This General Release constitutes the entire agreement between Delta and me/us without exception or exclusion.

This General Release may not be amended or modified by oral agreement.

I/we have read this General Release and understand the contents hereof, and I/we execute this General Release of my/our own free act(s) and deed(s).

Signed this _____, day of _____, 1999, at _____.

Social Security Number _____

Other Identification _____

SWORN TO AND SUBSCRIBED

Before me this _____
day of _____, 1999.

Notary Public

(SEAL)

Social Security Number _____

Other Identification _____

SWORN TO AND SUBSCRIBED

Before me this _____
day of _____, 1999.

Notary Public

(SEAL)