



THE UNITED STATES  
CORPORATION  
COMPANY

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

ACCOUNT NO. : 072100000032

REFERENCE : 326686 5030952

AUTHORIZATION :

Patricia Pizut

COST LIMIT : \$ 78.75

ORDER DATE : August 2, 1999

ORDER TIME : 10:01 AM

ORDER NO. : 326686-005

CUSTOMER NO: 5030952

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CUSTOMER: Mr. Andrew I. Lewis  
PHILLIPS EISINGER & KOSS,  
PHILLIPS EISINGER & KOSS,  
Suite 265 South  
4000 Hollywood Boulevard  
Hollywood, FL 33021

DOMESTIC FILING

NAME: DALTRA FUNDING, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION  
       CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Angie Glisar

EXAMINER'S INITIALS:

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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**ARTICLES OF INCORPORATION  
OF  
DALTRA FUNDING, INC.**

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLE I  
NAME**

The name of this corporation shall be:

DALTRA FUNDING, INC.

**ARTICLE II  
DURATION**

This corporation shall commence its existence upon the filing of these Articles and the duration of this corporation is perpetual.

**ARTICLE III  
PURPOSE**

This corporation may engage in any activity or business permitted under the laws of the United States and of the State of Florida.

**ARTICLE IV  
CAPITAL STOCK**

This corporation is authorized to issue one hundred (100) shares of one dollar (\$1.00) par value common stock, which shall be designated "Common Shares."

**ARTICLE V  
PREEMPTIVE RIGHTS**

Every shareholder, upon the sale for cash of any new stock of this corporation of the same kind, class or series as that which he already holds, shall have the right to purchase his pro rata share thereof at the price at which it is offered to others.

**ARTICLE VI**  
**PRINCIPAL OFFICE OF BUSINESS**

The principal place of business of this corporation is: 3900 Hollywood Boulevard, Suite 201, Hollywood, Florida 33021.

**ARTICLE VII**  
**INITIAL REGISTERED OFFICE AND AGENT**

The street address of the initial registered office of this corporation is 4000 Hollywood Boulevard, Suite 265-S, Hollywood, Florida 33021, and the name of the initial registered agent is JEREMY A. KOSS, ESQ.

**ARTICLE VIII**  
**BOARD OF DIRECTORS AND INITIAL BOARD OF DIRECTORS**

The business and affairs of the corporation shall be managed by the Board of Directors thereof and the Directors need not be elected by ballot unless required by the bylaws of the corporation. The number of Directors of the corporation shall from time to time be fixed by, or in the manner provided in, the bylaws of the corporation, but in no event shall the number of Directors be less than one (1). The Board of Directors shall at all times include at least one (1) Independent Director (as defined below), and the corporation shall not have the authority to take the actions specified herein as requiring a vote of the Independent Director absent the currently effective appointment and approval of such Independent Director. The Board of Directors is expressly authorized to adopt, amend, alter, change or repeal the bylaws of the corporation.

This corporation shall have three (3) Director(s) initially. The name(s) and address(es) of the initial Director(s) are:

<u>Director's Name</u>	<u>Director's Address</u>
DOUGLAS J. JACOBS	3900 Hollywood Boulevard, Suite 201 Hollywood, Florida 33021
GLENN HAFT	1200 S. Pine Island Road, Suite 475 Plantation, Florida 33324
WILLIAM LEHMAN, JR.	21400 N.W. 2nd Avenue Miami, Florida 33169

The initial Independent Director of the corporation (as defined below) shall be GLENN HAFT.

## **ARTICLE IX**

### **INDEPENDENT DIRECTOR**

The term "Independent Director" shall mean a Director of the corporation who is not at the time of initial appointment and has not been at any time during the five (5) years preceding such appointment: (i) an equityholder, director, officer, employee, member, manager, attorney or partner of Affiliated Financial Corporation ("AFC"), the corporation or any of their respective affiliates; (ii) a customer of, supplier to or other person who derives more than 1% of its purchases or revenues from its activities with AFC, the corporation or any of their respective affiliates; (iii) a person or other entity controlling, controlled by or under common control with any such equityholder, partner, member, manager, customer, supplier or other person; or (iv) a member of the immediate family of any such equityholder, director, officer, employee, member, manager, partner, customer, supplier or other person. As used in these Articles, (a) the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise, and (b) an "affiliate" of a specified person or entity means an entity or person controlling, controlled by, or under common control with, the specified person or entity.

The Independent Director shall be elected in the same manner as the other Directors. In the event of the death, incapacity, resignation or removal of the Independent Director, the Board of Directors shall promptly appoint a replacement Independent Director. Notwithstanding any other provision in these Articles, when considering whether to approve the taking of any Bankruptcy Action (as such term is defined below), no Independent Director shall owe a fiduciary duty or other obligation to the corporation's stockholders (except as may be required specifically by the statutory law of any applicable jurisdiction); instead, when considering whether to approve the taking of any Bankruptcy Action, the Independent Director's fiduciary duty or other obligations shall be owed to the corporation, including the corporation's creditors. Every stockholder of the corporation shall be deemed to have consented to the foregoing by virtue of such stockholder's purchase or other acquisition of shares of capital stock of the corporation, and no further act or deed of any stockholder shall be required to evidence such consent.

## **ARTICLE X**

### **AUTHORITY FOR CERTAIN ACTIONS**

Notwithstanding any other provision of these Articles or any provision of law that otherwise so empowers the corporation, from and after the date of these Articles and until the date on which all amounts advanced by or owed to Auto Funding Services, L.L.C.

(“Lender”) pursuant to the Loan and Security Agreement, to be entered into among AFC, the corporation and Lender (as amended or modified from time to time, the “Loan Agreement”) shall have been paid in full, (i) the corporation shall not take any of the following actions without the written consent of the Independent Director: (a) dissolve or liquidate, in whole or in part; (b) be a party to any merger or consolidation or sell, transfer, assign, convey or lease any substantial part of the assets of the corporation; (c) except for the purchase of motor vehicle installment or conditional sales contracts from AFC, directly or indirectly purchase or otherwise acquire all or substantially all of the assets, or any equity interest of any class, of any legal entity; (d) amend, alter, change or repeal any of the provisions of these Articles; or (e) incur or assume any indebtedness or obligations except indebtedness and obligations permitted pursuant to the Loan Agreement, and (ii) the corporation shall not, without the unanimous consent of all members of the Board of Directors, which consent must include the consent of the Independent Director, take any Bankruptcy Action.

#### **ARTICLE XI** **BANKRUPTCY ACTION**

The term “Bankruptcy Action” means:

- a. Commencing any case, proceeding or other action on behalf of the corporation under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, relief from debts or the protection of debtors generally;
- b. Instituting proceedings to have the corporation adjudicated as bankrupt or insolvent;
- c. Consenting to the institution of bankruptcy or insolvency proceedings against the corporation;
- d. Filing a petition or consenting to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the corporation of its debts under any federal or state law relating to bankruptcy or insolvency;
- e. Seeking or consenting to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or similar official for the corporation or a substantial portion of its properties;
- f. Making any assignment for the benefit of the corporation’s creditors; or
- g. Taking any action in furtherance of any of the foregoing.

**ARTICLE XII**  
**BOOKS AND RECORDS**

The corporation shall: (a) maintain accurate and appropriately detailed books, financial records and bank accounts that are separate and distinct from the books, financial records and bank accounts of any other person or entity; (b) maintain books, financial records and bank accounts in a manner so that it will not be difficult or costly to segregate, ascertain and otherwise identify the assets and liabilities of the corporation; (c) not commingle any of its assets, funds, liabilities or business functions with the assets, funds, liabilities or business functions of any other person or entity; (d) observe all appropriate corporate procedures and formalities; (e) pay its own liabilities, losses and expenses only out of its own funds; (f) maintain separate annual financial statements prepared in accordance with generally accepted accounting principals, consistently applied, showing its assets and liabilities separate and distinct from those of any other person or entity; (g) pay or bear the cost of the preparation of its financial statements; (h) to the extent the financial statements of the corporation are consolidated with the financial statements of any other entity, cause to be included in such consolidated financial statements a narrative description of the separate assets, liabilities, business functions, operations and existence of the corporation to ensure that such separate assets, liabilities, business functions, operations and existence are readily distinguishable by any person or entity receiving or relying upon a copy of such consolidated financial statements; (i) not guarantee or become obligated for the debts or obligations of any other entity or person; (j) not hold out its credit as being available to satisfy the debts or obligations of any other person or entity; (k) hold itself out as an entity separate and distinct from any other person or entity (including its affiliates); (l) correct any known misunderstanding regarding its separate identity; (m) conduct its business using its own telephone listing and using separate stationery, business cards, purchase orders, invoices, checks and the like bearing its own name; (n) compensate all consultants, independent contractors, employees and agents from its own funds for services provided to it by such consultants, independent contractors, employees and agents; (o) establish and maintain an office through which its business shall be conducted that is physically segregated from the office of any other person or entity and, to the extent that the corporation and any of its affiliates occupy any premises in the same location, allocate fairly, appropriately and nonarbitrarily any rent and overhead expenses among and between such entities with the result that each entity bears its fair share of all such rent and expenses; (p) to the extent that the corporation and any of its affiliates share the same officers and other employees, allocate fairly, appropriately and nonarbitrarily any salaries and expenses related to providing benefits to such officers and other employees between or among such entities, with the result that each such entity will bear its fair share of the salary and benefit costs associated with all such common and shared officers or other employees; (q) to the extent that the corporation and any of its affiliates jointly contract or do business with vendors or service providers or share overhead expenses, allocate fairly, appropriately and nonarbitrarily any costs and expenses incurred in so doing

between or among such entities, with the result that each entity bears its fair share of all such costs and expenses; (r) to the extent the corporation contracts or does business with vendors or service providers where the goods or services are wholly or partially for the benefit of its affiliates, allocate fairly, appropriately and nonarbitrarily any costs incurred in so doing to the entity for whose benefit such goods or services are provided, with the result that each such entity bears its fair share of all such costs; (s) conduct its own business in its own name; (t) hold all of its assets in its own name; (u) maintain an arm's length relationship with its affiliates and enter into transactions with affiliates only on a commercially reasonable basis; (v) not pledge its assets for the benefit of any other person or entity; (w) not identify itself as a division or department of any other entity; (x) use its best efforts to maintain adequate capital in light of its contemplated business operations; (y) conduct transactions between the corporation and third parties in the name of the corporation and as an entity separate and independent from each of its affiliates; (z) cause representatives, employees and agents of the corporation to hold themselves out to third parties as being representatives, employees or agents, as the case may be, of the corporation; (aa) cause transactions and agreements between the corporation, on the one hand, and any one or more of its affiliates, on the other hand (including transactions and agreements pursuant to which the assets or property of one is used or to be used by the other), to be entered into in the names of the entities that are parties to the transaction or agreement, to be formally documented in writing and to be approved in advance by the Board of Directors of the corporation (including the affirmative vote of the Independent Director); (bb) cause the pricing and other material terms of all such transactions and agreements to be established at the inception of the particular transaction or agreement on commercially reasonable terms (substantially similar to the terms that would have been established in a transaction between unrelated third parties) by written agreement (by formula or otherwise); and (cc) not acquire or assume the obligations of its affiliates; provided, however, that notwithstanding any other provision of these Articles, the corporation is authorized to engage in and consummate each of the transactions contemplated by the Loan Agreement and all other "Loan Documents" (as defined therein) and the corporation is authorized to perform its obligations under the Loan Agreement and each other Loan Document.

### **ARTICLE XIII**

#### **INCORPORATOR**

The name and address of the person signing these Articles as Incorporator is JEREMY A. KOSS, ESQ., 4000 Hollywood Boulevard, Suite 265-S, Hollywood, Florida 33021. The Incorporator shall not be liable, in any form or fashion, for any acts or omissions of the Corporation.

**ARTICLE XIV**  
**BYLAWS**

The power to adopt, alter, amend or repeal Bylaws shall be vested in the Board of Directors and the Shareholders.

**ARTICLE XV**  
**AMENDMENTS**

This Corporation reserves the right to amend or repeal any provision contained in these Articles of Incorporation or any Amendment hereto and any right conferred upon the Shareholders is subject to this reservation.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation this 29 day of July, 1999.

  
\_\_\_\_\_  
JEREMY A. KOSS, ESQ., Sole Incorporator



**ACCEPTANCE OF REGISTERED AGENT**

HAVING BEEN NAMED AS REGISTERED AGENT OF THE CORPORATION NAMED ABOVE, THE UNDERSIGNED DOES HEREBY ACCEPT SUCH APPOINTMENT AND DOES HEREBY AGREE TO DO ALL THINGS NECESSARY IN ORDER TO CARRY OUT ANY AND ALL DUTIES REQUIRED OF SUCH POSITION.

DATED THIS 29 DAY OF July, 1999.

  
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JEREMY A. KOSS, ESQ.

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