

Application for Recognition of Exemption  
Under Section 501(c)(3) of the Internal Revenue Code

OMB No. 1545-0056

Note: If exempt status is approved, this application will be open for public inspection.

Read the instructions for each Part carefully.

**A User Fee must be attached to this application.**

If the required information and appropriate documents are not submitted along with Form 8718 (with payment of the appropriate user fee), the application may be returned to you.

**Complete the Procedural Checklist on page 8 of the instructions.****Part I Identification of Applicant**

<b>1a</b> Full name of organization (as shown in organizing document)		<b>2</b> Employer identification number (EIN) (If none, see page 3 of the <b>Specific Instructions</b> ). <b>20   0097189</b>
<b>MOZILLA FOUNDATION</b>		
<b>1b</b> c/o Name (if applicable)		
<b>c/o OSAF</b>		
<b>1c</b> Address (number and street)	Room/Suite	
<b>543 Howard Street</b>	<b>5th Floor</b>	
<b>1d</b> City, town, or post office, state, and ZIP + 4. If you have a foreign address, see <b>Specific Instructions</b> for Part I, page 3.		<b>4</b> Month the annual accounting period ends <b>December</b>
<b>San Francisco, CA 94105</b>		<b>5</b> Date incorporated or formed <b>7/14/2003</b>
<b>1e</b> Web site address <b>www.mozilla.org</b>		<b>6</b> Check here if applying under section: a <input type="checkbox"/> 501(e) b <input type="checkbox"/> 501(f) c <input type="checkbox"/> 501(k) d <input type="checkbox"/> 501(n) <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>7</b> Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? . . . . . If "Yes," attach an explanation.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>8</b> Is the organization required to file Form 990 (or Form 990-EZ)? . . . . . If "No," attach an explanation (see page 3 of the <b>Specific Instructions</b> ).		<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>9</b> Has the organization filed Federal income tax returns or exempt organization information returns? . . . . . If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>10</b> Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING. (See <b>Specific Instructions</b> for Part I, Line 10, on page 3.) See also Pub. 557 for examples of organizational documents.)		
a <input checked="" type="checkbox"/>	Corporation—Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official; also include a copy of the bylaws.	
b <input type="checkbox"/>	Trust—Attach a copy of the Trust Indenture or Agreement, including all appropriate signatures and dates.	
c <input type="checkbox"/>	Association—Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence the organization was formed by adoption of the document by more than one person; also include a copy of the bylaws.	

If the organization is a corporation or an unincorporated association that has not yet adopted bylaws, check here ► 

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please  
Sign  
Here  
(Signature)

Mitchell Baker, President

(Type or print name and title or authority of signer)

11/25/03  
(Date)

**Part II Activities and Operational Information**

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- 1** Provide a detailed narrative description of all the activities of the organization—past, present, and planned. **Do not merely refer to or repeat the language in the organizational document.** List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: **(a)** a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; **(b)** when the activity was or will be initiated; and **(c)** where and by whom the activity will be conducted.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 1.**

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- 2** What are or will be the organization's sources of financial support? List in order of size.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 2.**

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- 3** Describe the organization's fundraising program, both actual and planned, and explain to what extent it has been put into effect. Include details of fundraising activities such as selective mailings, formation of fundraising committees, use of volunteers or professional fundraisers, etc. Attach representative copies of solicitations for financial support.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 3.**

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**Part II Activities and Operational Information (Continued)**

**4** Give the following information about the organization's governing body:

a Names, addresses, and titles of officers, directors, trustees, etc.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 4a.**

b Annual compensation

**PLEASE SEE**

**ATTACHMENT**

**PART II, QUESTION 4b.**

c Do any of the above persons serve as members of the governing body by reason of being public officials or being appointed by public officials? . . . . .  Yes  No  
If "Yes," name those persons and explain the basis of their selection or appointment.

d Are any members of the organization's governing body "disqualified persons" with respect to the organization (other than by reason of being a member of the governing body) or do any of the members have either a business or family relationship with "disqualified persons"? (See **Specific Instructions** for Part II, Line 4d, on page 3.) . . . . .  Yes  No  
If "Yes," explain.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 4d.**

**5** Does the organization control or is it controlled by any other organization? . . . . .  Yes  No  
Is the organization the outgrowth of (or successor to) another organization, or does it have a special relationship with another organization by reason of interlocking directorates or other factors? . . . . .  Yes  No  
If either of these questions is answered "Yes," explain.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 5.**

**6** Does or will the organization directly or indirectly engage in any of the following transactions with any political organization or other exempt organization (other than a 501(c)(3) organization): (a) grants; (b) purchases or sales of assets; (c) rental of facilities or equipment; (d) loans or loan guarantees; (e) reimbursement arrangements; (f) performance of services, membership, or fundraising solicitations; or (g) sharing of facilities, equipment, mailing lists or other assets, or paid employees? . . . . .  Yes  No  
If "Yes," explain fully and identify the other organizations involved.

**7** Is the organization financially accountable to any other organization? . . . . .  Yes  No  
If "Yes," explain and identify the other organization. Include details concerning accountability or attach copies of reports if any have been submitted.

**Part II Activities and Operational Information (Continued)**

- 8 What assets does the organization have that are used in the performance of its exempt function? (Do not include property producing investment income.) If any assets are not fully operational, explain their status, what additional steps remain to be completed, and when such final steps will be taken. If none, indicate "N/A."

**PLEASE SEE ATTACHMENT, PART II, QUESTION 8.**

- 9 Will the organization be the beneficiary of tax-exempt bond financing within the next 2 years? . . . . .  Yes  No
- 10a Will any of the organization's facilities or operations be managed by another organization or individual under a contractual agreement? . . . . .  Yes  No
- b Is the organization a party to any leases? . . . . .  Yes  No  
If either of these questions is answered "Yes," attach a copy of the contracts and explain the relationship between the applicant and the other parties.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 10a.**

- 11 Is the organization a membership organization? . . . . .  Yes  No  
If "Yes," complete the following:
- a Describe the organization's membership requirements and attach a schedule of membership fees and dues.
- b Describe the organization's present and proposed efforts to attract members and attach a copy of any descriptive literature or promotional material used for this purpose.
- c What benefits do (or will) the members receive in exchange for their payment of dues?

- 12a If the organization provides benefits, services, or products, are the recipients required, or will they be required, to pay for them? . . . . .  N/A  Yes  No  
If "Yes," explain how the charges are determined and attach a copy of the current fee schedule.

**PLEASE SEE ATTACHMENT, PART II, QUESTION 12a.**

- b Does or will the organization limit its benefits, services, or products to specific individuals or classes of individuals? . . . . .  N/A  Yes  No  
If "Yes," explain how the recipients or beneficiaries are or will be selected.

- 13 Does or will the organization attempt to influence legislation? . . . . .  Yes  No  
If "Yes," explain. Also, give an estimate of the percentage of the organization's time and funds that it devotes or plans to devote to this activity.

- 14 Does or will the organization intervene in any way in political campaigns, including the publication or distribution of statements? . . . . .  Yes  No  
If "Yes," explain fully.

**Part III Technical Requirements**

- 1 Are you filing Form 1023 within 15 months from the end of the month in which your organization was created or formed? . . . . .  Yes  No  
If you answer "Yes," do not answer questions on lines 2 through 6 below.

- 2 If one of the exceptions to the 15-month filing requirement shown below applies, check the appropriate box and proceed to question 7.

**Exceptions**—You are not required to file an exemption application within 15 months if the organization:

- a Is a church, interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church. See **Specific Instructions**, Line 2a, on page 4;
- b Is not a private foundation and normally has gross receipts of not more than \$5,000 in each tax year; or
- c Is a subordinate organization covered by a group exemption letter, but only if the parent or supervisory organization timely submitted a notice covering the subordinate.

- 3 If the organization does not meet any of the exceptions on line 2 above, are you filing Form 1023 within 27 months from the end of the month in which the organization was created or formed? . . . . .  Yes  No

If "Yes," your organization qualifies under Regulation section 301.9100-2, for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 4 through 6.

If "No," answer question 4.

- 4 If you answer "No" to question 3, does the organization wish to request an extension of time to apply under the "reasonable action and good faith" and the "no prejudice to the interest of the government" requirements of Regulations section 301.9100-3? . . . . .  Yes  No

If "Yes," give the reasons for not filing this application within the 27-month period described in question 3. See **Specific Instructions**, Part III, Line 4, before completing this item. Do not answer questions 5 and 6.

If "No," answer questions 5 and 6.

- 5 If you answer "No" to question 4, your organization's qualification as a section 501(c)(3) organization can be recognized only from the date this application is filed. Therefore, do you want us to consider the application as a request for recognition of exemption as a section 501(c)(3) organization from the date the application is received and not retroactively to the date the organization was created or formed? . . . . .  Yes  No

- 6 If you answer "Yes" to question 5 above and wish to request recognition of section 501(c)(4) status for the period beginning with the date the organization was formed and ending with the date the Form 1023 application was received (the effective date of the organization's section 501(c)(3) status), check here ►  and attach a completed page 1 of Form 1024 to this application.

**Part III Technical Requirements (Continued)**

**7** Is the organization a private foundation?

- Yes** (Answer question 8.)  
 **No** (Answer question 9 and proceed as instructed.)

**8** If you answer "Yes" to question 7, does the organization claim to be a private operating foundation?

- Yes** (Complete Schedule E.)  
 **No**

After answering question 8 on this line, go to line 14 on page 7.

**9** If you answer "No" to question 7, indicate the public charity classification the organization is requesting by checking the box below that most appropriately applies:

**THE ORGANIZATION IS NOT A PRIVATE FOUNDATION BECAUSE IT QUALIFIES:**

<b>a</b> <input type="checkbox"/>	As a church or a convention or association of churches <b>(CHURCHES MUST COMPLETE SCHEDULE A.)</b>	Sections 509(a)(1) and 170(b)(1)(A)(i)
<b>b</b> <input type="checkbox"/>	As a school <b>(MUST COMPLETE SCHEDULE B.)</b>	Sections 509(a)(1) and 170(b)(1)(A)(ii)
<b>c</b> <input type="checkbox"/>	As a hospital or a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital (These organizations, except for hospital service organizations, <b>MUST COMPLETE SCHEDULE C.</b> )	Sections 509(a)(1) and 170(b)(1)(A)(iii)
<b>d</b> <input type="checkbox"/>	As a governmental unit described in section 170(c)(1).	Sections 509(a)(1) and 170(b)(1)(A)(v)
<b>e</b> <input type="checkbox"/>	As being operated solely for the benefit of, or in connection with, one or more of the organizations described in <b>a</b> through <b>d</b> , <b>g</b> , <b>h</b> , or <b>i</b> <b>(MUST COMPLETE SCHEDULE D.)</b>	Section 509(a)(3)
<b>f</b> <input type="checkbox"/>	As being organized and operated exclusively for testing for public safety.	Section 509(a)(4)
<b>g</b> <input type="checkbox"/>	As being operated for the benefit of a college or university that is owned or operated by a governmental unit.	Sections 509(a)(1) and 170(b)(1)(A)(iv)
<b>h</b> <input type="checkbox"/>	As receiving a substantial part of its support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.	Sections 509(a)(1) and 170(b)(1)(A)(vi)
<b>i</b> <input type="checkbox"/>	As normally receiving not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).	Section 509(a)(2)
<b>j</b> <input checked="" type="checkbox"/>	The organization is a publicly supported organization but is not sure whether it meets the public support test of <b>h</b> or <b>i</b> . The organization would like the IRS to decide the proper classification.	Sections 509(a)(1) and 170(b)(1)(A)(vi) or Section 509(a)(2)

If you checked one of the boxes **a** through **f** in question 9, go to question 14. If you checked box **g** in question 9, go to questions 11 and 12.

If you checked box **h**, **i**, or **j**, in question 9, go to question 10.

**Part III Technical Requirements (Continued)**

- 10** If you checked box **h**, **i**, or **j** in question 9, has the organization completed a tax year of at least 8 months?
- Yes**—Indicate whether you are requesting:
- A definitive ruling. (Answer questions 11 through 14.)
- An advance ruling. (Answer questions 11 and 14 and attach two Forms 872-C completed and signed.)
- No**—**You must request an advance ruling by completing and signing two Forms 872-C and attaching them to the Form 1023.**
- 
- 11** If the organization received any unusual grants during any of the tax years shown in Part IV-A, **Statement of Revenue and Expenses**, attach a list for each year showing the name of the contributor; the date and the amount of the grant; and a brief description of the nature of the grant.
- N.A.**
- 
- 12** If you are requesting a definitive ruling under section 170(b)(1)(A)(iv) or (vi), check here ►  and:
- a Enter 2% of line 8, column (e), Total, of Part IV-A . . . . .
  - b Attach a list showing the name and amount contributed by each person (other than a governmental unit or "publicly supported" organization) whose total gifts, grants, contributions, etc., were more than the amount entered on line **12a** above.
- 
- 13** If you are requesting a definitive ruling under section 509(a)(2), check here ►  and:
- a For each of the years included on lines 1, 2, and 9 of Part IV-A, attach a list showing the name of and amount received from each "disqualified person." (For a definition of "disqualified person," see **Specific Instructions**, Part II, Line 4d, on page 3.)
  - b For each of the years included on line 9 of Part IV-A, attach a list showing the name of and amount received from each payer (other than a "disqualified person") whose payments to the organization were more than \$5,000. For this purpose, "payer" includes, but is not limited to, any organization described in sections 170(b)(1)(A)(i) through (vi) and any governmental agency or bureau.
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- 14** Indicate if your organization is one of the following. If so, complete the required schedule. (Submit only those schedules that apply to your organization. **Do not submit blank schedules.**)

Yes	No	If "Yes," complete Schedule:
✓		A
✓		B
✓		C
✓		D
✓		E
✓		F
✓		G
✓		H
✓		I

Is the organization a church? . . . . .

Is the organization, or any part of it, a school? . . . . .

Is the organization, or any part of it, a hospital or medical research organization? . . . . .

Is the organization a section 509(a)(3) supporting organization? . . . . .

Is the organization a private operating foundation? . . . . .

Is the organization, or any part of it, a home for the aged or handicapped? . . . . .

Is the organization, or any part of it, a child care organization? . . . . .

Does the organization provide or administer any scholarship benefits, student aid, etc.? . . . . .

Has the organization taken over, or will it take over, the facilities of a "for profit" institution? . . . . .

**Part IV Financial Data**      Please see Attachment, Part IV.A

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.

**A. Statement of Revenue and Expenses**

	Current tax year	3 prior tax years or proposed budget for 2 years				<b>(e) TOTAL</b>
		<b>(a) From..... to</b>	<b>(b) .....</b>	<b>(c) .....</b>	<b>(d) .....</b>	
<b>Revenue</b>	1 Gifts, grants, and contributions received (not including unusual grants—see page 6 of the instructions). . . . .					
	2 Membership fees received . . .					
	3 Gross investment income (see instructions for definition) . . .					
	4 Net income from organization's unrelated business activities not included on line 3 . . . .					
	5 Tax revenues levied for and either paid to or spent on behalf of the organization . . . .					
	6 Value of services or facilities furnished by a governmental unit to the organization without charge (not including the value of services or facilities generally furnished the public without charge) . . . .					
	7 Other income (not including gain or loss from sale of capital assets) (attach schedule) . . .					
	<b>8 Total (add lines 1 through 7)</b> . . .					
	9 Gross receipts from admissions, sales of merchandise or services, or furnishing of facilities in any activity that is not an unrelated business within the meaning of section 513. Include related cost of sales on line 22 . . . .					
	<b>10 Total (add lines 8 and 9)</b> . . .					
	11 Gain or loss from sale of capital assets (attach schedule) . . . .					
	12 Unusual grants. . . . .					
	<b>13 Total revenue (add lines 10 through 12)</b> . . . . .					
<b>Expenses</b>	14 Fundraising expenses . . . .					
	15 Contributions, gifts, grants, and similar amounts paid (attach schedule) . . . . .					
	16 Disbursements to or for benefit of members (attach schedule) . . . .					
	17 Compensation of officers, directors, and trustees (attach schedule) . . . . .					
	18 Other salaries and wages . . . .					
	19 Interest . . . . .					
	20 Occupancy (rent, utilities, etc.). . . .					
	21 Depreciation and depletion . . . .					
	22 Other (attach schedule) . . . .					
	<b>23 Total expenses (add lines 14 through 22)</b> . . . . .					
	<b>24 Excess of revenue over expenses (line 13 minus line 23)</b>					

**Part IV Financial Data (Continued)**      Please see Attachment, Part IV.B

<b>B. Balance Sheet (at the end of the period shown)</b>		<b>Current tax year Date.....</b>
<b>Assets</b>		
1	Cash . . . . .	1
2	Accounts receivable, net . . . . .	2
3	Inventories . . . . .	3
4	Bonds and notes receivable (attach schedule) . . . . .	4
5	Corporate stocks (attach schedule) . . . . .	5
6	Mortgage loans (attach schedule) . . . . .	6
7	Other investments (attach schedule) . . . . .	7
8	Depreciable and depletable assets (attach schedule) . . . . .	8
9	Land . . . . .	9
10	Other assets (attach schedule) . . . . .	10
11	<b>Total assets (add lines 1 through 10)</b> . . . . .	11
<b>Liabilities</b>		
12	Accounts payable . . . . .	12
13	Contributions, gifts, grants, etc., payable . . . . .	13
14	Mortgages and notes payable (attach schedule) . . . . .	14
15	Other liabilities (attach schedule) . . . . .	15
16	<b>Total liabilities (add lines 12 through 15)</b> . . . . .	16
<b>Fund Balances or Net Assets</b>		
17	Total fund balances or net assets . . . . .	17
18	<b>Total liabilities and fund balances or net assets (add line 16 and line 17)</b> . . . . .	18

If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation . . . . . ►

**ATTACHMENT TO FORM 1023  
APPLICATION FOR RECOGNITION OF EXEMPTION**

**MOZILLA FOUNDATION  
543 Howard Street, 5<sup>th</sup> Floor  
San Francisco, CA 94105  
EMPLOYER ID#: 20-0097189**

**Part II, Question 1**

**A. Introduction.** Mozilla Foundation (the “Foundation”) was incorporated as a nonprofit public benefit corporation in the State of California on July 14, 2003. A true and correct copy of the Foundation’s Articles of Incorporation, certified by the California Secretary of State, and a copy of its Bylaws are attached hereto as Exhibit A and Exhibit B, respectively.

**B. Background.** The Internet, which was initially created as a project to connect leading research institutions funded by the U.S. Department of Defense, has become the key infrastructure for the emerging information society. What distinguishes the Internet from computer networks that came before it, and the key to its success, is that it is not a network, but a “network of networks” that is not controlled by any central authority. Rather, at its most fundamental level, the Internet is a series of technology and communications standards (also referred to as “protocols”) that allow diverse computer networks, whether operated by government agencies, academic institutions, or commercial enterprises, to interact with each other and to operate as one giant network.

The most famous and widespread uses of the Internet are e-mail and the World Wide Web (the “Web”). These technologies, more than any other, are the foundation of the information economy and, more generally, of the information society. The true power of e-mail and the Web lies in their universality. Over the Internet, one can send e-mail to people around the world, unfettered by the kind of computer and Internet service used by the recipients. Similarly, one can access Web pages from anywhere in the world, regardless of how the pages were created and regardless of the type of computer used to “serve” the pages. This universality of e-mail and the Web owes its existence to a set of standards to which all the key contributors to the Internet adhere. These contributors consist of software vendors, telecommunications providers, and, in the case of the Web, content providers.

However, such universality is not natural, but is the result of tremendous efforts spanning decades by academics, business leaders, and government agencies, largely in standards organizations and open source software development projects (described below). Furthermore, some Internet technologies, such as “instant messaging” (also known as “chat”) are not universal because commercial vendors that control these technologies have no interest in making their technologies interoperate. Even more daunting is the fact that the universality of e-mail and the Web can be substantially curtailed. For instance, the massive volume of spam (commercial junk e-mail) is threatening the universality of e-mail, as users reconfigure their e-mail programs to reject mail from strangers. Further, some Web pages can be viewed solely on a certain type of

computer or with a specific Web browsing software. The use of such non-standard technologies, often promoted by commercial software developers and vendors who are eager to maintain a competitive advantage, reduces the Web's universality and, consequently, limits Internet access on those unable or unwilling to afford the commercial technologies. Commercial software developers and vendors seek to maintain their monopoly over specific Web applications by keeping the software's "source code" confidential, while releasing the "object code" to their licensees. The source code consists of the lines of human-readable computer programming code that make up a software application. The object code consists of the 0's and 1's that are decipherable only by computers. One way to visualize the relationship between the two codes is to think of the object code as enabling the software to perform its function without revealing the source code.

In marked contrast to the foregoing commercially driven mode of operation is the approach adopted by the open source software community. Under an open source arrangement, the source code is made available, through royalty-free software licenses, to interested users and developers, even though they were not involved in creating the original product. The distributors of open source software expect and encourage users and outside programmers to examine the code in order to identify problems, and to modify the code with suggested improvements and enhancements. The practical benefit of the collaboration that is inherent in the open source process is the rapid development of high quality software. This has been borne out in practice through the Linux computer operating system and many of the core computer programs that allow the Internet to function (e.g., "web servers," "domain name servers" and "proxy servers" programs). It is fair to say that the Internet was built and continues to operate largely on open source software.

**C. Exempt Purpose of the Foundation.** The exempt purpose of the Foundation is to serve the general public by undertaking activities to (1) keep the Internet a universal platform that is accessible by anyone from anywhere, using any computer, and (2) promote the continuation of the innovation on the Internet (which has already affected the lives of more than 500 million Internet users). Specifically, the Foundation's exempt purpose is to develop (a) open source, standards-compliant, free Internet applications that will be usable by (and made available free-of-charge to) tens of millions of users, and (b) foundational technologies that will be used by content developers and software developers to develop standards-compliant online content and open source Internet software. By doing so, the Foundation will help guard the open nature of the Internet. The gateway technologies of the Internet are the key to the development of the information economy in much the same way that the network of public highways was the engine of our country's industrial development. The Foundation will help ensure that the new, virtual highways can accommodate all members of the general public, are free of toll-booths and will provide other software and content developers with the tools to do the same.

**D. Key Activities.** The Foundation plans to engage in the following key activities in pursuance of its exempt purpose:

- (1) Facilitate the development of a web browser, e-mail software and other Internet software that (a) are open source, (b) implement open standards, (c) are available

free of charge to all Internet users around the world, regardless of the make or model of computers they use, the language they speak, or disabilities they may have, (d) are developed in an open process in which any interested party (individuals, government agencies, nonprofit organizations, corporations) can contribute, and (e) are powerful and easy to use. The Foundation plans to spend approximately 40% of its time on this activity.

(2) Facilitate the development of technologies that can be used by other software developers as building blocks for other Internet software. These technologies will be fully open source, standards-compliant and available free of charge to all software developers. The Foundation plans to dedicate approximately 20% of its time to this activity.

(3) Facilitate the development of software products that can be used by any open source development project to improve their ability to develop software. These products will be fully open source, standards-compliant and available free of charge to all open source software development projects. The Foundation plans to spend approximately 15% of its time on this activity.

(4) Provide documentation and training for all of the above-mentioned technologies, aimed at both end users and software developers, with the goals of (a) increasing awareness among the public and software developers about the importance of open source software and open standards, and (b) providing a methodology for the development of Internet software and content that will be accessible to people regardless of disability, language or computer environment. The Foundation also plans to conduct educational campaigns directed at the general public to promote adoption of the Mozilla software. The Foundation plans to devote approximately 15% of its time to this activity.

(5) Participate in Internet standards development efforts with the focus of promoting standards that complement the Foundation's exempt purpose (*i.e.*, the availability of software to the general public free-of-charge, regardless of the make or model of computers they use, the language they speak, or disabilities they may have). The Foundation plans to spend approximately 10% of its time on this activity.

## E. Specific Undertakings.

### Specific Undertakings for Activities Described in D(1) through D(3):

The Foundation plans the following specific undertakings to carry out the three activities described in paragraphs D(1) through (3) above:

- create open source software;
- establish and maintain the necessary facilities to make the source code available to software developers;
- create and maintain forums where software developers can collaborate in the development of the open source software;
- serve as a repository of code and documentation contributed by software developers;

- oversee the operations, technology strategy and the incorporation of the technology contributed by software developers into the open source software and the source code, as applicable;
  - establish technical standards for the open source software;
  - license Mozilla software to all members of the general public, including commercial and non-commercial software developers, generally on a royalty-free basis. Such licensing would be consistent with the Foundation's exempt purpose. However, it is possible that the Foundation will grant some licenses for the use of Mozilla software in return for royalty payments. If such licensing occurs, the Foundation will take the necessary steps to insure that the terms are fair and reasonable to it; and
    - promote world-wide adoption of the Mozilla (open source) software, documentation and standards by working with organizations outside the United States that are organized and operated for substantially the same exempt purpose as the Foundation. Specifically, the Foundation plans to assume a leadership role with respect to issues and policies of global concern to the international open source community. For example, the Foundation would take the lead on the formulation of the technical direction for the core Mozilla distributions. The Foundation plans to assist such overseas organization in fulfilling their purposes by licensing the Mozilla name and trademarks to those organizations, on a royalty-free basis, to be used in connection with their Mozilla open source projects at the local level (e.g., Mozilla France, Mozilla Japan).

With regard to adoption of Mozilla software, the Foundation notes that many universities have adopted Mozilla technologies. These include Columbia University, Rutgers, Purdue, the University of California at Davis, Florida State University, St. Joseph's College, University of Saskatchewan, University of Calgary, Deakin University (Australia), Vrije University (the Netherlands), Wake Forest, and the University of Chicago. The fact that the Mozilla stability releases have been downloaded at the monthly rate of approximately 100,000 times is additional evidence of wide adoption. In addition, the South Korean government is adopting the Mozilla browser as the national standard. Moreover, various agencies of both the French and Swiss governments have provided Mozilla software to their citizens.

Additional Specific Undertakings for Activity Described in D(1):

In connection with the activity described in paragraph D(1) above, the Foundation plans to:

- establish and maintain the necessary facilities to make the executable code<sup>1</sup> available to all end users (i.e., members of the general public). Users may download the code free-of-charge at the Foundation's Web site. In addition, the Foundation has learned that many users prefer to obtain complex software on compact discs ("CDs") over a long download via the Internet. In order to facilitate adoption of the Mozilla software by this group, the Foundation will arrange to make the code available on CD by contracting with an independent third party (the "CD Service"). The Foundation expects that those who choose to

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<sup>1</sup> In most instances, the "executable code" is the same as the "object code."

get a CD rather than use the *free* Internet service will be charged a fee for this optional delivery mechanism. The initial fee is anticipated to be \$4.00. The Foundation does not anticipate generating significant revenues from this activity; and

- make technical assistance available to end users of the Mozilla open source software. By way of background, the Foundation has learned that many people cannot adopt the software for use unless there is someone available to answer their questions or walk them through the process. Accordingly, the Foundation plans to provide a variety of technical assistance options free of charge to all users who request them. However, because of its limited resources, the Foundation also plans to arrange for an independent third party to provide technical support by telephone (the "TTS Service"). Because the provision of individualized technical support (via telephone) is generally time consuming, users will be charged a fee. The current fee is \$39.95 per call, based on an anticipated call average of 25 minutes. The Foundation does not anticipate generating significant revenues from this activity.

Specific Undertakings for Activity Described in D(4): The Foundation further plans the following specific undertakings to carry out the activity described in paragraph D(4) above:

- create the documentation;
- establish and maintain the necessary facilities to make the documentation available to developers and end-users;
- create and maintain forums where documentation writers can collaborate in the development of the documentation;
- oversee the operations, documentation strategy and the incorporation of the materials contributed by documentation writers into the documentation; and
- establish technical standards for the documentation.

Specific Undertakings for Activity Described in D(5): Finally, the Foundation plans the following undertakings in furtherance of the activity described in paragraph D(5) above:

- join Internet standards organizations such as the World Wide Web Consortium, the Internet Engineering Task Force and other standards bodies and contribute to the development of Internet standards;
- establish a Technology Advisory Board composed of representatives from the technology industry and research institutions to help identify new standards to be developed; and
- operate an outreach program that works with web site developers to ensure that web sites are standards-compliant.

In addition to the foregoing, the Foundation plans to establish a wholly-owned taxable subsidiary to conduct activities that support the wide adoption of the Mozilla software, documentation and standards. By doing so, the subsidiary will further the Foundation's exempt purpose. Please refer to Exhibit C for a detailed description of the subsidiary.

## Part II, Question 2

It is anticipated that the Foundation's primary sources of financial support will include grants from governmental agencies, foundations, and donations from members of the general public, businesses and trade associations. The Foundation has received a start-up grant from AOL Time Warner ("AOL") in the amount of \$1 million. It is noteworthy that the Foundation has, in its first four months of operations, garnered tremendous support from the general public, both in terms of encouragement and financial support. Attached hereto as Exhibit D is a schedule showing contributions from over 1,500 individuals (and a few companies) that the Foundation has received during its first four months of existence. The Exhibit, which lists the amount of the contributions with the donors' name redacted, illustrates the broad public support for the Foundation. Some of the individual donors' words of encouragement are reproduced below:

"I am a senior citizen attempting to learn how to maintain a web site for a non-profit educational organization run by volunteers, most of whom are not computer literate." \$50 donation from an individual in San Antonio, Texas (9/1/03).

"To Mozilla Foundation and all its employees. May God bless you for your attempt to make the online world a better place for all mankind." \$100 donation from an individual in Santa Clara, California (10/16/03)

"I want to thank the Mozilla Foundation for offering a competent alternative web browser and email client for people ... who ... have chosen your open source, open standards-based solution. I hope my small dollar contribution to your organization's effort reinforces how much people like myself want to see high quality products like yours succeed and improve." \$100 donation from an individual in Lake Geneva, Wisconsin (9/12/03).

"Go ahead and deposit my check. I don't have enough income to even need to file a return, so tax deductibility is meaningless to me. I'm retired, disabled (depression), and living on Social Security alone. I don't have much, but I consider my investment in Mozilla a good one. The browser is great, and I really appreciate the open source movement and the process behind Mozilla. So put the money to work as soon as possible." \$25 donation from an individual in Reston, Virginia (9/8/03).

Another source of revenue involves the Foundation's expediting the development of specific functionality to the Mozilla software. Because initial development efforts of the Mozilla software have focused on personal rather than institutional use, institutional adoption is not possible unless the code is expanded to meet the needs of large institutions. For example, code expansion would be necessary for the deployment of software to large numbers of people. Although such expansion will likely be made in due course by volunteers, some institutions may wish to have the Foundation expedite the code expansion. The institutions contemplated by this paragraph include both for-profit businesses and governmental entities. For example, the Foundation has entered into an agreement for code expansion to enable a for-profit company to deploy the Mozilla email to its 45,000 employees. The agreement requires the company to pay the Foundation a fee for expediting the development of this functionality. Similarly, the

Foundation is in discussion with one of the National Institutes regarding functionality the Institute would like to see added to the Mozilla codebase. Whether the institution for whom the Foundation expedites code expansion is for-profit or non-profit, the Foundation will so expedite only if the resulting functionality is appropriate for release to and use by the general public, and, consistent with its exempt purpose, the resulting product will be released to the general public free of charge.

It is anticipated that the Foundation will generate additional revenues from (1) an investment in its wholly-owned taxable subsidiary (described at the bottom of page 5 & top of page 6 and on Exhibit C), (2) selling Mozilla merchandise such as t-shirts and hats bearing the Mozilla logo, and (3) selling advertising space. Merchandise and advertising sales are planned to be conducted at the Foundation's Web site.

In addition, the Foundation contemplates generating modest revenues from the provision of the CD Service and TTS Service (described in the response to Part II, Question 1 above), both of which are activities that are substantially related to the Foundation's exempt purpose.

### Part II, Question 3

The Foundation solicits donations from the general public on its web site and other customary means of communication. In addition to raising funds for its overall exempt activities, the Foundation plans to conduct directed giving campaigns in order to provide public input into and funding of specific development programs. It is envisioned that each directed giving campaign will begin with a survey of the general public to determine the types of improvements to the Mozilla open source software that are important or desirable to the public. The initial determinations will become the basis for a public discussion, through which the Foundation seeks to crystallize the types and relative priorities of the improvements wanted by the public.

Following the public discussion, the Foundation would publish a final set of improvements to be undertaken for a given campaign, along with its best estimate of the cost of implementation. An example could be a campaign for: "Improved User Experience in Email," which could include such specific tasks as: improve spam filters to reduce unwanted e-mail messages, improve ability to group messages into topics such that users can segregate their family, work and volunteer e-mails, and enable family members to share one computer while having their separate set of information stored in the email program.<sup>2</sup> After a campaign's monetary target has been met, the Foundation will begin development of the subject open source software. Again, consistent with its exempt purpose, the Foundation will make the software freely available to all users and developers in both source code and object code formats.

In addition to donations from the general public, the Foundation has been able to secure, through direct solicitation by members of its Board of Directors, pledges from IBM and

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<sup>2</sup> Note that this is a hypothetical example, the Foundation has neither made such an initial determination nor conducted public discussion nor begun fund-raising for such a topic.

Sun Microsystems for \$150,000 each. AOL has also pledged an additional \$1 million for the Foundation's next fiscal year.

Part II, Question 4a

<b>Names of Directors and Officers</b>	<b>Address</b>
<u>Directors</u>	
Mitchell Kapor	c/o Mozilla Foundation 543 Howard Street, 5th Floor San Francisco, CA 94105
Mitchell Baker	c/o Mozilla Foundation 543 Howard Street, 5th Floor San Francisco, CA 94105
Brian Behlendorff	c/o Mozilla Foundation 543 Howard Street, 5th Floor San Francisco, CA 94105
Brendan Eich	c/o Mozilla Foundation 543 Howard Street, 5th Floor San Francisco, CA 94105
Chris Blizzard	c/o Mozilla Foundation 543 Howard Street, 5th Floor San Francisco, CA 94105
<u>President</u>	
Mitchell Baker	c/o Mozilla Foundation 543 Howard Street, 5th Floor San Francisco, CA 94105

Secretary

Chris Blizzard

c/o Mozilla Foundation  
543 Howard Street, 5th Floor  
San Francisco, CA 94105

Treasurer

Bart Decrem

c/o Mozilla Foundation  
543 Howard Street, 5th Floor  
San Francisco, CA 94105

The Foundation's directors, whose brief biographies are summarized and attached hereto as Exhibit E, have been invited to serve on the Board because they are each on the leading edge of open source and Internet technology and because their experience, both within and outside the industry, will provide the guidance and support required by the Foundation during its start-up phase and for its growth thereafter. It is the Foundation's intent to continue the practice of having a Board of Directors that consists of community leaders and professional or other members of the general public who have special knowledge or expertise in open source and Internet software technology and who are representative of the community. As disclosed in the response to Part II, Question 1 above, the Board of Directors will be assisted by the Technology Advisory Board, composed of representatives from the technology industry and research institutions.

Part II, Question 4b

None of the Foundation's directors or officers will be compensated for the services they render to the Foundation in their capacity as directors or officers.

Part II, Question 4d

Brendan Eich, in addition to being a member of the Board of Directors, is also employed by the Foundation as its Chief Architect. His resume is attached hereto as part of Exhibit E. As Chief Architect, Mr. Eich is responsible for overseeing the technical direction of the Mozilla Project. Mr. Eich's performance as the Foundation's Chief Architect is subject to review by the Foundation's Board of Directors. The Board of Directors has determined, with Mr. Eich abstaining, that the compensation being paid to him is fair and reasonable to the Foundation.

Another member of the Foundation's Board of Directors, Mitchell Kapor, also owns the controlling interest in Kapor Enterprises, Inc. ("KEI"). The Foundation contemplates outsourcing its administrative and accounting functions to KEI under contract. Although an agreement has not been reached, the Foundation will only enter into such a contract on terms that are fair and reasonable to it.

## Part II, Question 5

The Foundation is the successor to a project that was launched by Netscape Communications Corporation (“Netscape”) in the spring of 1998 under the name the “Mozilla Project.” In launching the Project, Netscape released the source code of its “Netscape Navigator,” which was previously a proprietary asset of Netscape, under terms allowing it to be controlled and managed by the community as an asset dedicated to promoting general public benefit (by way of background, the Netscape Navigator is a software developed by Netscape that made Web browsing a household term and activity). Netscape released the Netscape Navigator source code to the public pursuant to the terms of licenses that make the source code available to everyone free of charge, to use in any way and for any purpose. These licenses are known as the Netscape and Mozilla Public Licenses.

Netscape also established a group of individuals to run the Project. The group, named The Mozilla Organization, is commonly known in the community as “mozilla.org.” The group’s specific responsibility was to manage the development of the Mozilla codebase for the benefit of the entire community, not just for Netscape’s benefit. Initially, the entire mozilla.org staff were Netscape employees. As mozilla.org evolved, its staff consisted of fewer Netscape employees and more volunteers who contribute to the Project. Mozilla.org is best described as a “virtual” organization, comprised of a geographically-distributed group of individuals who have diverse backgrounds and expertise.

Today, participants of the Project consist of employees of other organizations (both non-profit and for-profit) and individual volunteers not affiliated with any organization. These volunteers contribute to the Project in various ways. For example, some contribute by developing and contributing new features to and fixing bugs in the Mozilla code. Others contribute by testing Mozilla products, finding and documenting bugs, and creating test cases and other tools to assist Mozilla software developers. Other means by which volunteers contribute to the Project include: (a) implementing Mozilla standards, (b) writing documentation for Mozilla software, (c) educating members of the community about Mozilla software, and (d) localizing the Mozilla software for particular languages and cultures. All contributions of code (e.g., new software features, bug fixes) are, in turn, made available, free of charge, by the Project to all individuals and persons (including governmental entities, non-profit organizations and for-profit companies) for whatever use the individual or person wishes.

In July 2003 AOL, which had acquired Netscape and the Project, determined that the Project and its assets should be permanently dedicated to the general public. AOL proposed to implement such dedication by transferring the Project and the activities and assets of the Project to an independent nonprofit organization. The Foundation was created to fill this role. Project assets have been transferred from AOL to the Foundation, to be held and used by the Foundation for its exempt purpose. This included ownership of the Mozilla trademarks, the Mozilla Public License, a set of computers for operating the computing infrastructure and rights to the material on the Project’s Web site ([www.mozilla.org](http://www.mozilla.org)). In addition, AOL contributed \$1

million in seed funding to the Foundation and pledged an additional \$1 million for the Foundation's operations.

It is noted that AOL does not have any control over the Foundation as a result of the foregoing transfer to the Foundation. For example, AOL does not have any representation on the Foundation's Board of Directors and there is no other mechanism through which AOL could influence the Foundation's operations or affairs. It is conceivable that AOL may decide to use one or more Mozilla technologies in its products or to develop additional features or bug fixes to the Mozilla software. If and when AOL does, in fact, undertake any such activities, it may only do so on the same terms as are offered by the Foundation to all other individuals and persons. In other words, the Foundation will not confer any favorable treatment upon AOL. More importantly, all code developments by AOL (e.g., for additional features or bug fixes) will be subject to the same requirements of free of charge source code availability as code written by others.

#### Part II, Question 8

The initial assets to be used to fulfill the Foundation's exempt purpose consist of the following:

- Mozilla trademarks;
- Mozilla Public License;
- Computers for operating the computing infrastructure;
- Server computers to host the Foundation's web site, source code and other data; and
- Rights to the material on the Project's Web site ([www.mozilla.org](http://www.mozilla.org)).

#### Part II, Question 10a

The Foundation has contracted with DecisionOne to provide the TTS Service. In addition, the Foundation plans to contract with the Kendall Bryan Companies for the provision of the CD Service. Both of the foregoing entities are independent third parties. A copy of the signed agreement for the TTS Service and a copy of the agreement for the CD Service (unsigned because negotiations are pending) are attached hereto as Exhibit F.

Further, as disclosed in the response to Part II, Question 4d, the Foundation plans to outsource some of its administrative and accounting functions to Kapor Enterprises, Inc. under a contractual arrangement. The Foundation is in negotiation with Kapor Enterprises, Inc. respecting the terms of such an arrangement and will take steps to insure that the arrangement, if entered into, will be on terms that are fair and reasonable to the Foundation.

The Foundation leases office space in Mountain View, California. A copy of that lease is attached hereto as Exhibit G.

In addition, it is contemplated that Open Source Applications Foundation, an organization described in Section 501(c)(3) of the Internal Revenue Code that is other than a private foundation, will serve as the Foundation's fiscal sponsor. The Foundation and Open Source Applications Foundation are in negotiation with respect to the terms of the sponsorship.

Part II, Question 12a

As set forth in the response to Part II, Question 1 above, the Foundation plans to provide the Mozilla code and technical support to end users free of charge at its Web site. End users who request the code on compact discs will be charged a nominal fee, currently set at \$4 per disc. Similarly, end users requesting telephone technical support service will be charged a nominal fee, currently set at \$39.95 per incident.

[No further text on this page]

**Part IV, Financial Data:**

**A. Statement of Revenue and Expenses**

	<u>7/14/03-9/11/03<sup>A</sup></u>	<u>9/12/03-12/31/03<sup>B</sup></u>	<u>FYE 12/31/04<sup>C</sup></u>
<b>Revenue</b>			
1. Grants & Contributions	\$2,340,000	\$ 340,000	\$ 660,000
2. Gross receipts from the provision of the CD Service and the TTS Service (activities that are substantially related to the Foundation's exempt purpose)	\$ 0	\$ 3,750	\$ 25,550
3. Investment Income <sup>D</sup>	\$ 100	\$ 500	\$ 5,000
4. Other (e.g., advertising)	\$ 0	\$ 0	\$ 5,475
<b>TOTAL REVENUE</b>	<b>\$2,340,100</b>	<b>\$ 344,250</b>	<b>\$ 696,025</b>

<sup>A</sup> The figures in this column represent actual support and expenses for the Foundation's first sixty days, which began on July 14, 2003 (the date of its incorporation).

<sup>B</sup> The figures in this column represent those budgeted for the remainder of the Foundation's first fiscal year.

<sup>C</sup> The figures in this column are an estimation only.

<sup>D</sup> The Foundation anticipates that some of its investment income will be in the form of dividends from its wholly-owned taxable Subsidiary.

[Budget continues on next page.]

7/14/03-9/11/03<sup>A</sup>   9/12/03-12/31/03<sup>B</sup>   FYE 12/31/04

Expenses

1. Wages & Salaries (see attached <u>Schedule I</u> )	\$ 17,633	\$ 233,236	\$ 1,189,979
2. Cost of operating Web site	\$ 0	\$ 8,000	\$ 24,000
3. Postage & Parcel Delivery	\$ 25	\$ 75	\$ 150
4. Occupancy Costs (Office Space)	\$ 0	\$ 3,543	\$ 31,336
5. Office Furniture	\$ 0	\$ 500	\$ 1,000
6. Computers, Servers, Translators	\$ 0	\$ 12,000	\$ 24,000
7. Telephone Installation & Service	\$ 0	\$ 1,750	\$ 3,000
8. Supplies	\$ 100	\$ 600	\$ 1,500
9. Legal	\$ 400	\$ 40,000	\$ 20,000
10. Accounting	\$ 0	\$ 2,500	\$ 5,000
11. Insurance	\$ 0	\$ 6,000	\$ 10,000
12. Photocopier	\$ 0	\$ 100	\$ 500
13. Web Site Design, Installation & Service	\$ 0	\$ 6,400	\$ 6,400
14. High Speed Line Installation & Service	\$ 0	\$ 7,450	\$ 4,200
15. Travel	\$ 0	\$ 1,000	\$ 5,000
<b>TOTAL EXPENSES</b>	<b>\$ 18,158</b>	<b>\$ 323,154</b>	<b>\$1,326,065</b>
<b>EXCESS OF SUPPORT AND REVENUE OVER EXPENSES</b>	<b>\$2,321,942</b>	<b>\$ 21,096</b>	<b>(\$630,040)</b>

<sup>A</sup> The figures in this column represent actual support and expenses for the Foundation's first sixty days, which began on July 14, 2003 (the date of its incorporation).

<sup>B</sup> The figures in this column represent those budgeted for the remainder of the Foundation's first fiscal year.

<sup>C</sup> The figures in this column are an estimation only.

B. Balance Sheet as of 9/11/03

ASSETS

Cash	\$1,135,034
Equipment	<u>\$ 40,000</u>
Total Assets	\$1,175,034

LIABILITIES

Accounts payable	(\$ 400)
Total liabilities	<u>(\$ 400)</u>
<u>NET ASSETS</u>	<b>\$1,174,634</b>

## **SCHEDULE I**

### **Wages & Salaries**

<b>Title</b>	<b><u>7/14/03-9/11/03</u></b>	<b><u>9/12/03-12/31/03</u></b>	<b><u>FYE 12/31/04</u></b>
1. Chief Architect	\$ 0	\$ 23,077	\$ 150,000
2. Senior Director	\$ 8,077	\$ 45,769	\$ 140,000
3. Technical Lead	\$ 7,500	\$ 42,500	\$ 130,000
4. Technical Lead	\$ 0	\$ 17,692	\$ 115,000
5. Technical Lead	\$ 0	\$ 21,154	\$ 110,000
6. Technical Lead	\$ 0	\$ 14,616	\$ 95,000
7. Technical Lead	\$ 0	\$ 25,846	\$ 80,000
8. Technical Lead	\$ 0	\$ 15,385	\$ 80,000
9. Outreach Coordinator	\$ 0	\$ 0	\$ 45,000
10. Education Coordinator	\$ 0	\$ 0	\$ 45,000
11. Fringe Benefits	<u>\$ 2,056</u>	<u>\$ 27,197</u>	<u>\$ 199,979</u>
<b>Total</b>	<b>\$ 17,633</b>	<b>\$ 233,236</b>	<b>\$1,189,979</b>

**EXHIBIT A**

**ARTICLES OF INCORPORATION**

# State of California



## SECRETARY OF STATE

I, *Kevin Shelley*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 2 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

**IN WITNESS WHEREOF**, I execute this certificate and affix the Great Seal of the State of California this day of

JUL 14 2003



*Kevin Shelley*  
Secretary of State

**ARTICLES OF INCORPORATION**

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**OF**

**MOZILLA FOUNDATION**

**JUL 14 2003**

**KEVIN SHELLEY**  
**Secretary of State**

**(A California Nonprofit Public Benefit Corporation)**

**I.**

The name of the corporation is Mozilla Foundation (the "Corporation").

**II.**

- A. This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public or charitable purposes.
- B. The specific purpose of the Corporation is to promote the development of, public access to and adoption of the open source Mozilla web browsing and Internet application software.
- C. The Corporation is organized and operated exclusively for scientific, educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code") or the corresponding provision of any future United States internal revenue law.
- D. Notwithstanding any other provision of these articles, the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of the Corporation, and the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law or (b) by a corporation, contributions to which are deductible under Sections 170(c)(2), 2055(a) or 2522(a) of the Code or the corresponding provision of any future United States internal revenue law.

**III.**

The name of the Corporation's initial agent for service of process is CT Corporation System.

**IV.**

No substantial part of the activities of the Corporation shall consist of lobbying or propaganda, or otherwise attempting to influence legislation, except as provided in Section 501(h) of the Code

or the corresponding provision of any future United States internal revenue law and the Corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of or in opposition to any candidate for public office, except as provided in section 501(h) of the Code or the corresponding provision of any future United States internal revenue law.

V.

The property of the Corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of the Corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person, within the meaning Section 501(c)(3) of the Code. Upon the dissolution or winding up of the Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed to an organization (or organizations) which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation as of the  
14 day of July, 2003.

W. Mitchell Baker  
W. Mitchell Baker, Sole Incorporator



**EXHIBIT B**

**BYLAWS**

**BYLAWS**

**QF**

**MOZILLA FOUNDATION**

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**BYLAWS**  
**OF**  
**MOZILLA FOUNDATION**

**ARTICLE I**

**OFFICES; CORPORATE SEAL**

**Section 1.1 Principal Office.** The principal office of Mozilla Foundation (the "Foundation") shall be located at such place as the Board of Directors may from time to time authorize. If the principal office is located outside the State of California, and the Foundation has one or more offices in the State of California, the Board of Directors shall fix and designate a principal office in the State of California.

**Section 1.2 Other Offices.** Additional offices of the Foundation shall be located at such place or places, within or outside the State of California, as the Board of Directors may from time to time authorize.

**Section 1.3 Corporate Seal.** If the Board of Directors adopts a corporate seal such seal shall have inscribed thereon the name of the Foundation and the state and date of its incorporation. If and when a seal is adopted by the Board of Directors, such seal may be engraved, lithographed, printed, stamped, impressed upon or affixed to any contract, conveyance or other instrument executed by the Foundation.

**ARTICLE II**

**MEMBERS**

**Section 2.1 Members.** This Foundation shall have no members.

**ARTICLE III**

**BOARD OF DIRECTORS**

**Section 3.1 Powers.** Subject to the provisions of law, the activities and affairs of the Foundation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors. The Board of Directors may delegate the management of the activities of the Foundation to any person or persons, management company or committee, however composed, provided that the activities and affairs of the Foundation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board of Directors.

**Section 3.2 Number of Directors.** The authorized number of directors of the Foundation shall be not less than a minimum of five (5) nor more than a maximum of fifteen (15) until changed by a duly adopted amendment to these bylaws. The exact number of directors shall be set within these limits from time to time by approval of the Board of Directors.

No reduction of the authorized number of directors shall remove any director prior to the expiration of such director's term of office.

**Section 3.3 Election Of Directors, Term.** All directors of the Foundation shall be elected annually by the Board of Directors and shall hold office until their respective successors are elected and have qualified, or until their death, resignation or removal.

**Section 3.4 Resignations.** Any director of the Foundation may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board of Directors of the Foundation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation specifies effectiveness at a future time, a successor may be elected pursuant to Section 3.6 of these bylaws to take office on the date the resignation becomes effective. Notwithstanding the foregoing, except upon notice to the Attorney General of the State of California no director may resign if such resignation would leave the Foundation without a duly elected director or directors in charge of its affairs.

**Section 3.5 Removal.** Any director may be removed from office, with or without cause, by the vote of a majority of the other directors then in office.

**Section 3.6 Vacancies.** A vacancy or vacancies on the Board of Directors shall be deemed to exist in case of the death, resignation or removal of any director, or upon increase in the authorized number of directors or if, for whatever reason, there are fewer directors on the Board of Directors than the full number authorized. Such vacancy or vacancies may be filled by the remaining directors, though less than a quorum, or by a sole remaining director.

**Section 3.7 Regular Meetings.** Regular meetings of the Board of Directors shall be held at such times, places and dates as fixed by the Board of Directors; provided, however, that if the date for such a meeting falls on a legal holiday, then the meeting shall be held at the same time on the next succeeding full business day. Regular meetings of the Board of Directors held pursuant to this Section 3.7 may be held without notice.

**Section 3.8 Participation by Telephone.** Directors may participate in a Board of Directors meeting through use of conference telephone or similar communications equipment, so long as all directors participating in such meeting can hear one another. Such participation constitutes presence in person at such meeting.

**Section 3.9 Special Meetings.** Special meetings of the Board of Directors for any purpose may be called by the Chairman of the Board or the President or any vice president or the Secretary of the Foundation or any three (3) directors.

**Section 3.10 Notice of Meetings.** Notice of the date, time and place of all meetings of the Board of Directors, other than regular meetings held pursuant to Section 3.7 hereinabove, shall be delivered personally, orally or in writing, or by telephone, including a voice messaging

system or other system or technology designed to record and communicate messages, by facsimile or electronic mail, or other electronic means to each director, at least forty-eight (48) hours before the meeting, or sent in writing to each director by first-class mail, charges prepaid, at least four (4) days before the meeting or other means specifically permitted under the California Nonprofit Corporation Law, including amendments of such law, after the date of these bylaws. Such notice may be given by the Secretary of the Foundation or by the person or persons who called the meeting. Such notice need not specify the purpose of the meeting. Notice of any meeting of the Board of Directors need not be given to any director who signs a waiver of notice of such meeting, or a consent to holding the meeting or an approval of the minutes thereof, either before or after the meeting, or who attends the meeting without protesting prior thereto or at its commencement such director's lack of notice. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

**Section 3.11 Place of Meetings.** Meetings of the Board of Directors may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated by resolution of the Board of Directors or, if not so designated or stated, at the principal office of the Foundation.

**Section 3.12 Action by Written Consent Without a Meeting.** Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all directors individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

**Section 3.13 Quorum and Transaction of Business.** A majority of the authorized number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be the act of the Board of Directors, unless otherwise provided by law or, the Articles of Incorporation or these bylaws specifically requires a greater number. A meeting at which a quorum is initially present may continue to transact business, notwithstanding withdrawal of directors, if any action taken is approved by at least a majority of the number of directors constituting a quorum for such meeting. In the absence of a quorum at any meeting of the Board of Directors, a majority of the directors present may adjourn the meeting, as provided in Section 3.14 of these bylaws.

**Section 3.14 Adjournment.** Any meeting of the Board of Directors, whether or not a quorum is present, may be adjourned to another time and place by the affirmative vote of a majority of the directors present. If the meeting is adjourned for more than twenty-four (24) hours, notice of such adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

**Section 3.15 Organization.** The Chairman of the Board shall preside at every meeting of the Board of Directors, if present. If the Chairman of the Board is not present, a director chosen by a majority of the directors present shall act as chairman. The Secretary of the Foundation or, in the absence of the Secretary, any person appointed by the Chairman of the Board shall act as secretary of the meeting.

**Section 3.16 Compensation.** Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by the Board of Directors.

**Section 3.17 Committees.** The Board of Directors may, by resolution adopted by a majority of the directors then in office, provided a quorum is present, create one or more committees, each consisting of two (2) or more directors, to serve at the pleasure of the Board of Directors. Appointments to such committees shall be by a majority vote of the directors then in office. The Board of Directors may appoint one or more directors as alternate members of any committee to replace any absent member at any meeting of such committee. Any such committee shall have authority to act in the manner and to the extent provided in the resolution of the Board of Directors, and may have all the authority of the Board of Directors in the management of the activities and affairs of the Foundation, except with respect to:

- (a) the approval of any action for which, if the Foundation had members, approval of the members or approval of a majority of all members would be required by the California Corporations Code;
- (b) the filling of vacancies on the Board of Directors or any committee which has the authority of the Board of Directors;
- (c) the fixing of compensation of directors for serving on the Board of Directors or any of its committees;
- (d) the amendment or repeal of these bylaws or the adoption of new bylaws;
- (e) the amendment or repeal of any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (f) the appointment of other committees of the Board of Directors or the members thereof;
- (g) the expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected; or
- (h) the approval of any transaction within the provisions of California Corporations Code Section 5233, except as provided in California Corporations Code Section 5233(d)(3).

The foregoing provisions of this Section 3.17 shall not apply to any committee which is not authorized to exercise the authority of the Board of Directors.

Any committee may from time to time provide by resolution for regular meetings at specified times and places. If the date of such a meeting falls on a legal holiday, then the meeting shall be held at the same time on the next succeeding full business day. No notice of such a meeting need be given. Such regular meetings need not be held if the committee shall so determine at any time before or after the time when such meeting would otherwise have taken place. Special meetings may be called at any time in the same manner and by the same persons

as stated in Sections 3.9 and 3.10 of these bylaws for meetings of the Board of Directors. The provisions of Sections 3.8, 3.11, 3.12, 3.13, 3.14 and 3.15 of these bylaws shall apply to committees, committee members and committee meetings as if the words "committee" and "committee member" were substituted for the word "Board of Directors", and "director", respectively, throughout such sections.

**Section 3.18 Interested Persons.** At no time shall more than forty-nine percent (49%) of the directors of the Foundation be "interested persons" as defined in Section 5227 of the California Corporations Code. As presently in effect, Section 5227 of the California Corporations Code defines an "interested person" as:

- (a) any person currently being compensated by the Foundation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor or otherwise, excluding any reasonable compensation paid to a director as a director; or
- (b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law of any such person.

## **ARTICLE IV**

### **OFFICERS**

**Section 4.1 Officers.** The Foundation shall have a Chairman of the Board or a President or both, a Secretary, a Treasurer and such other officers with such titles and duties as the Board of Directors may determine. Any two or more offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President or Chairman of the Board. Other than a Chairman of the Board, an officer may, but need not be, a Director. Only a Director may serve as Chairman of the Board.

**Section 4.2 Appointment.** All officers shall be chosen and appointed by the Board of Directors; provided, however, that the Board of Directors may empower the chief executive officer of the Foundation to appoint such officers, other than Chairman of the Board, President, Secretary or Treasurer, as the activities of the Foundation may require. All officers shall serve at the pleasure of the Board of Directors, subject to the rights, if any, of an officer under a contract of employment.

**Section 4.3 Inability to Act.** In the case of absence or inability to act of any officer of the Foundation or of any person authorized by these bylaws to act in such officer's place, the Board of Directors may from time to time delegate the powers or duties of such officer to any other officer, or any director or other person whom it may select, for such period of time as the Board of Directors deems necessary.

**Section 4.4 Resignations.** Any officer may resign at any time upon written notice to the Foundation, without prejudice to the rights, if any, of the Foundation under any contract to which such officer is a party. Such resignation shall be effective upon its receipt by the Chairman of the Board, the President, the Secretary or the Board of Directors, unless a different

time is specified in the notice for effectiveness of such resignation. The acceptance of any such resignation shall not be necessary to make it effective unless otherwise specified in such notice.

**Section 4.5 Removal.** Any officer may be removed from office at any time, with or without cause, but subject to the rights, if any, of such officer under any contract of employment, by the Board of Directors or by any committee to whom such power of removal has been duly delegated, or, with regard to any officer who has been appointed by the chief executive officer pursuant to Section 4.2 hereinabove, by the chief executive officer or any other officer upon whom such power of removal may be conferred by the Board of Directors.

**Section 4.6 Vacancies.** A vacancy occurring in any office for any reason may be filled by the Board of Directors, in the manner prescribed by this Article of the bylaws for initial appointment to such office.

**Section 4.7 Chairman of the Board.** The Chairman of the Board, if there be such an officer, shall, if present, preside at all meetings of the Board of Directors and shall exercise and perform such other powers and duties as may be assigned from time to time by the Board of Directors or prescribed by these bylaws. If no President is appointed, the Chairman of the Board shall be the general manager and chief executive officer of the Foundation, and shall exercise all powers of the President described in Section 4.8 herein below.

**Section 4.8 President.** Subject to such powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, the President shall be the general manager and chief executive officer of the Foundation and shall have general supervision and control over the activities and affairs of the Foundation, subject to the control of the Board of Directors. The President may sign and execute, in the name of the Foundation, any instrument authorized by the Board of Directors, except when the signing and execution thereof shall have been expressly delegated by the Board of Directors or by these bylaws to some other officer or agent of the Foundation. The President shall have all the general powers and duties of management usually vested in the president of a Foundation, and shall have such other powers and duties as may be prescribed from time to time by the Board of Directors or these bylaws. The President shall have discretion to prescribe the duties of other officers and employees of the Foundation in a manner not inconsistent with the provisions of these bylaws and the directions of the Board of Directors.

**Section 4.9 Secretary.** The Secretary shall:

(a) Keep, or cause to be kept, minutes of all meetings of the Board of Directors and committees of the Board of Directors, if any. Such minutes shall be kept in written form.

(b) Keep, or cause to be kept, at the principal office of the Foundation, or if the principal office is not in California, at its principal office in California, an original or copy of the Articles of Incorporation and these bylaws, as amended.

(c) Give, or cause to be given, notice of all meetings of directors and committees of the Board of Directors, as required by law or by these bylaws.

- (d) Keep the seal of the Foundation, if any, in safe custody.
- (e) Exercise such powers and perform such duties as are usually vested in the office of secretary of a Foundation, and exercise such other powers and perform such other duties as may be prescribed from time to time by the Board of Directors or these bylaws.

If any assistant secretaries are appointed, the assistant secretary, or one of the assistant secretaries in the order of their rank as fixed by the Board of Directors or, if they are not so ranked, the assistant secretary designated by the Board of Directors, in the absence or disability of the Secretary or in the event of such officer's refusal to act or if a vacancy exists in the office of Secretary, shall perform the duties and exercise the powers of the Secretary and discharge such duties as may be assigned from time to time pursuant to these bylaws or by the Board of Directors.

**Section 4.10 Treasurer.** The Treasurer shall:

- (a) Be responsible for all functions and duties of the treasurer of the Foundation.
- (b) Keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account for the Foundation.
- (c) Receive or be responsible for receipt of all monies due and payable to the Foundation from any source whatsoever; have charge and custody of, and be responsible for, all monies and other valuables of the Foundation and be responsible for deposit of all such monies in the name and to the credit of the Foundation with such depositaries as may be designated by the Board of Directors or a duly appointed and authorized committee of the Board of Directors.
- (d) Disburse or be responsible for the disbursement of the funds of the Foundation as may be ordered by the Board of Directors or a duly appointed and authorized committee of the Board of Directors.
- (e) Render to the chief executive officer and the Board of Directors a statement of the financial condition of the Foundation if called upon to do so.
- (f) Exercise such powers and perform such duties as are usually vested in the office of chief financial officer of a Foundation, and exercise such other powers and perform such other duties as may be prescribed by the Board of Directors or these bylaws.

If any assistant financial officer is appointed, the assistant financial officer, or one of the assistant financial officers, if there are more than one, in the order of their rank as fixed by the Board of Directors or, if they are not so ranked, the assistant financial officer designated by the Board of Directors, shall, in the absence or disability of the Treasurer or in the event of such officer's refusal to act, perform the duties and exercise the powers of the Treasurer, and shall have such powers and discharge such duties as may be assigned from time to time pursuant to these bylaws or by the Board of Directors.

**Section 4.11 Compensation.** The compensation of the officers shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving such compensation by reason of the fact that such officer is also a director of the Foundation.

## ARTICLE V

### CONTRACTS, LOANS, BANK ACCOUNTS, CHECKS AND DRAFTS

**Section 5.1 Execution of Contracts and Other Instruments.** Except as these bylaws may otherwise provide, the Board of Directors or its duly appointed and authorized committee may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authorization may be general or confined to specific instances. Except as so authorized or otherwise expressly provided in these bylaws, no officer, agent or employee shall have any power or authority to bind the Foundation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

**Section 5.2 Loans.** No loans shall be contracted on behalf of the Foundation and no negotiable paper shall be issued in its name, unless and except as authorized by the Board of Directors or its duly appointed and authorized committee. When so authorized by the Board of Directors or such committee, any officer or agent of the Foundation may effect loans and advances at any time for the Foundation from any bank, trust company or other institution, or from any firm, Foundation or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other evidences of indebtedness of the Foundation and, when authorized as aforesaid, may mortgage, pledge, hypothecate or transfer any and all stocks, securities and other property, real or personal, at any time held by the Foundation, and to that end endorse, assign and deliver the same as security for the payment of any and all loans, advances, indebtedness and liabilities of the Foundation. Such authorization may be general or confined to specific instances. Except as provided by Section 5236 of the Nonprofit Public Benefit Corporation Law, this Foundation shall not make any loan of money or property to or guarantee the obligation of any director or officer.

**Section 5.3 Bank Accounts.** The Board of Directors or its duly appointed and authorized committee from time to time may authorize the opening and keeping of general and/or special bank accounts with such banks, trust companies or other depositaries as may be selected by the Board of Directors, its duly appointed and authorized committee or by any officer or officers, agent or agents, of the Foundation to whom such power may be delegated from time to time by the Board of Directors. The Board of Directors or its duly appointed and authorized committee may make such rules and regulations with respect to such bank accounts, not inconsistent with the provisions of these bylaws, as are deemed advisable.

**Section 5.4 Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money, notes, acceptances or other evidences of indebtedness issued in the name of the Foundation shall be signed by such officer or officers, agent or agents, of the Foundation, and in such manner, as shall be determined from time to time by resolution of the Board of Directors or its duly appointed and authorized committee. Endorsements for deposit to the credit of the Foundation in any of its duly authorized depositaries may be made, without counter-signature, by

the President or any vice president or the Treasurer or any assistant financial officer or by any other officer or agent of the Foundation to whom the Board of Directors or its duly appointed and authorized committee, by resolution, shall have delegated such power or by hand-stamped impression in the name of the Foundation.

## ARTICLE VI

### INDEMNIFICATION OF DIRECTORS AND OFFICERS

#### **Section 6.1 Indemnification by Foundation.**

**(a)** For the purposes of this Article VI, "agent" means any person who is or was an employee or other agent of the Foundation, or is or was serving at the request of the Foundation as an employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was an employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Foundation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Paragraphs (b), (c) and (d) of this Section 6.1.

**(b)** The Foundation shall, to the fullest extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was a director or officer, or is or was serving at the request of the Foundation as a director or officer of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise or was a director or officer of a foreign or domestic corporation which was a predecessor corporation of the Foundation or of another enterprise at the request of such predecessor corporation of the Foundation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding.

**(c)** The Foundation may, in its discretion, upon the affirmative vote of a majority of the Board of Directors, to the fullest extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was an agent of the Foundation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding.

**(d)** In the event entitlement to indemnification is required by law to be based upon a determination by the Board of Directors that the director, officer or agent has met the standards of conduct prescribed by law, such body shall meet and shall reach a determination on the issue within a reasonable period of time after request for such body to meet is received by the Foundation from the director, officer or agent.

#### **Section 6.2 Advancing Expenses.**

**(a)** The Foundation shall advance to each director and officer the expenses incurred in defending any proceeding referred to in Section 6.1 of these Bylaws prior to the final

disposition of such proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount unless it shall be determined ultimately that such director or officer is entitled to be indemnified as authorized in Section 6.1.

(b) The Foundation may advance to each agent the expenses incurred in defending any proceeding referred to in Section 6.1 of these Bylaws prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in Section 6.1.

### **Section 6.3 Insurance.**

The Foundation shall have power to purchase and maintain insurance on behalf of any director, officer or agent of the Foundation against any liability asserted against or incurred by such director, officer or agent in such capacity or arising out of such director's, officer's or agent's status as such whether or not the Foundation would have the power to indemnify such director, officer or agent against such liability under the provisions of this Article VI; provided, however, that the Foundation shall have no power to purchase and maintain such insurance to indemnify any director, officer or agent of the Foundation for a violation of Section 5233 of the California Corporations Code (relating to self-dealing transactions).

### **Section 6.4 Other Rights to Indemnification.**

The provisions of this Article VI are in addition to and not in limitation of any other rights to indemnification to which the agent might be entitled.

## **ARTICLE VII**

### **FISCAL YEAR AND FINANCIAL MATTERS**

#### **Section 7.1 Fiscal Year.**

The fiscal year of the Foundation shall begin on the first day of January and end on the last day of December, and may be changed, by resolution of the Board of Directors.

#### **Section 7.2 Distribution of Income and Prohibited Activities.**

In the event that the Foundation shall at any time be a private foundation within the meaning of section 509 of the United States Internal Revenue Code of 1986, as amended (hereinafter referred to as the "Code"), the Foundation, so long as it shall be such a private foundation, shall distribute its income for each taxable year at such time and in such manner as not to subject it to the tax on undistributed income imposed by section 4942 of the Code, and the Foundation shall not (i) engage in any act of self-dealing as defined in section 4941(d) of the Code; (ii) retain any excess business holdings as defined in section 4943(c) of the Code; (iii) make any investments in such manner as to subject the Foundation to any tax under section 4944 of the Code; or (iv) make any taxable expenditures as defined in section 4945(d) of the Code. (All references to the Code contained herein are deemed to include corresponding provisions of any future United States Internal Revenue Law.)

### **Section 7.3 Annual Audit.**

The Board of Directors shall cause an annual audit by independent accountants to be prepared and sent to the Directors not later than one hundred eighty (180) days after the close of the Foundation's fiscal year unless such requirement is waived by a majority vote of the Directors then in office.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**Section 8.1 Directors' Inspection Rights.** Every director shall have the right at any reasonable time to inspect and copy all books, records and documents of every kind of the Foundation and any of its subsidiaries and to inspect the physical properties of the Foundation and any of its subsidiaries. Such inspection may be made by the director in person or by agent or attorney, and the right of inspection includes the right to copy and make extracts.

**Section 8.2 Bylaw Amendments.** Except as otherwise provided by law, these bylaws may be amended or repealed and new bylaws may be adopted by the Board of Directors.

**Section 8.3 Time Notice Given or Sent.** Whenever any notice is given or sent pursuant to these bylaws, the time such notice is deemed to have been given or sent shall be determined by reference to Section 5015 of the California Corporations Code.

**Section 8.4 Construction and Definition.** Unless the context requires otherwise, the general provisions, rules of construction and definitions contained in the California Corporations Code shall govern the construction of these bylaws. Without limiting the foregoing, "shall" is mandatory and "may" is permissive.

**EXHIBIT C**

**TAXABLE SUBSIDIARY**

## TAXABLE SUBSIDIARY

As stated above, the Foundation's goal is to safeguard the open nature of the Internet such that it remains available to all users on a fair and reasonable basis. The wide adoption of the Mozilla open source software and documentation developed and/or produced by the Foundation and the standards adopted with the Foundation's assistance and/or leadership will be critical to fulfilling the goal of keeping the Internet a community resource. Thus, in addition to the steps that the Foundation plans to undertake (as described in the response to Part II, Question 1), the Foundation plans to form a wholly-owned taxable subsidiary whose purpose will be to conduct activities that promote the wide adoption of the Mozilla software, documentation and standards (the "Subsidiary"). By enhancing the Foundation's efforts at achieving wide adoption, the Subsidiary will substantially and directly further the Foundation's exempt purpose.

The Foundation plans to establish the Subsidiary as a separate legal entity with its own business purpose and an independent board of directors that will have the sole authority to determine its policies and manage its affairs. In addition, there will be no overlap in officers with managerial authority between the Subsidiary and the Foundation. Moreover, the Foundation will not intervene in the day-to-day management of the Subsidiary.

Following is a sampling of the additional activities that the Foundation believes to be necessary to the wide adoption of the Mozilla software, documentation and standards. These and similar activities would be undertaken by the Subsidiary, subject to the approval of its board of directors:

- Contracting with Internet access providers and computer makers to bundle the Mozilla software as part of their product offerings. One example would have the Subsidiary entering into an agreement with a computer maker to have the Mozilla web browser installed on computers sold by such maker. Such bundling arrangements would increase adoption of the Mozilla browser and other software.
- Contracting with retail stores for the sales of Mozilla software on compact discs.
- Contracting with specific user or group of users, both non-profit and for-profit, for expedited development of additional Mozilla software features for their use. In such instances, the Subsidiary would be in a position to negotiate with the requesting party as to the terms of the engagement, including the amount to be paid to the Subsidiary for performing the development work. Assuming that the parties reach agreement on the terms, the Subsidiary would perform the work and permit the requesting party to use the (modified) software.
- Providing technical support to users of customized Mozilla software. Such support typically takes the form of working with the users to identify software bugs (errors) and modifying the code to remedy the problem. Again, the specific

user would be required to compensate the Subsidiary for the technical support and the resulting bug fix (modified code) would be subject to the same requirement of being available to the general public as the rest of the Mozilla codebase.

By establishing the Subsidiary to undertake the foregoing and similar activities, the Foundation will insulate itself from liability that might arise out of such activities.

**EXHIBIT D**

**LIST OF OVER 1,500 INDIVIDUAL DONORS SINCE JULY 2003**

**Exhibit D**

**LIST OF INDIVIDUAL CONTRIBUTIONS TO THE FOUNDATION  
DURING ITS FIRST 4 MONTHS OF EXISTENCE**

<b>Contribution Date</b>	<b>Donor's Name</b>	<b>Contribution Amount</b>
11/19/2003	Redacted	\$33.33
11/19/2003	Redacted	\$10.00
11/19/2003	Redacted	\$25.00
11/19/2003	Redacted	\$5.00
11/19/2003	Redacted	\$10.00
11/19/2003	Redacted	\$1.00
11/18/2003	Redacted	\$5.00
11/18/2003	Redacted	\$10.00
11/18/2003	Redacted	\$25.00
11/18/2003	Redacted	\$2.20
11/18/2003	Redacted	\$16.00
11/18/2003	Redacted	\$10.00
11/18/2003	Redacted	\$5.00
11/18/2003	Redacted	\$50.00
11/17/2003	Redacted	\$10.00
11/17/2003	Redacted	\$5.00
11/17/2003	Redacted	\$50.00
11/17/2003	Redacted	\$20.00
11/17/2003	Redacted	\$5.00
11/17/2003	Redacted	\$10.00
11/17/2003	Redacted	\$100.00
11/17/2003	Redacted	\$10.00
11/17/2003	Redacted	\$1.00
11/16/2003	Redacted	\$10.00
11/16/2003	Redacted	\$10.00
11/16/2003	Redacted	\$10.00
11/16/2003	Redacted	\$25.00
11/16/2003	Redacted	\$25.00
11/16/2003	Redacted	\$15.00
11/16/2003	Redacted	\$2.00
11/16/2003	Redacted	\$5.00
11/16/2003	Redacted	\$10.00
11/16/2003	Redacted	\$20.00
11/16/2003	Redacted	\$2.00
11/15/2003	Redacted	\$4.00
11/15/2003	Redacted	\$50.00
11/15/2003	Redacted	\$30.00
11/15/2003	Redacted	\$50.00
11/15/2003	Redacted	

11/15/2003	Redacted	\$5.00
11/15/2003	Redacted	\$15.00
11/15/2003	Redacted	\$15.00
11/15/2003	Redacted	\$100.00
11/15/2003	Redacted	\$10.00
11/14/2003	Redacted	\$10.00
11/14/2003	Redacted	\$10.00
11/14/2003	Redacted	\$20.00
11/14/2003	Redacted	\$2.00
11/14/2003	Redacted	\$50.00
11/14/2003	Redacted	\$5.00
11/13/2003	Redacted	\$3.00
11/13/2003	Redacted	\$10.00
11/13/2003	Redacted	\$10.00
11/13/2003	Redacted	\$10.00
11/13/2003	Redacted	\$30.00
11/13/2003	Redacted	\$45.00
11/13/2003	Redacted	\$25.00
11/13/2003	Redacted	\$10.00
11/13/2003	Redacted	\$25.00
11/12/2003	Redacted	\$10.00
11/12/2003	Redacted	\$20.00
11/12/2003	Redacted	\$20.00
11/12/2003	Redacted	\$10.00
11/12/2003	Redacted	\$20.00
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9/13/2003	Redacted	\$10.00
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**EXHIBIT E**

**BOARD OF DIRECTORS**

**BIOGRAPHIES**

## **Mitchell Kapor**

Mitchell Kapor, 53, is the President and Chair of the Open Source Applications Foundation ([www.osafoundation.org](http://www.osafoundation.org)), a non-profit organization he founded in 2001 to promote the development and acceptance of high-quality application software developed and distributed using open source methods and licenses.

He is widely known as founder of Lotus Development Corporation and the designer of Lotus 1-2-3, the “killer application” which made the personal computer ubiquitous in the business world in the 1980s. He has been at the forefront of the information technology revolution for a generation as an entrepreneur, investor, social activist, and philanthropist.

Mr. Kapor was born in Brooklyn, New York in 1950 and attended public schools in Freeport, Long Island, where he graduated from high school in 1967. He received a B.A. from Yale College in 1971 and studied psychology, linguistics, and computer science as part of an interdisciplinary major in Cybernetics. At Yale, he was very involved with the college's commercial radio station, WYBC-FM, where he served as Music Director and Program Director.

In the 1970's Mr. Kapor worked as a disc jockey at WHCN-FM, a commercial progressive rock station in Hartford, Connecticut; became a teacher of Transcendental Meditation and taught TM in Cambridge, Massachusetts, and Fairfield, Iowa; and worked as an entry-level computer programmer in Cambridge, Massachusetts. In 1978, he received a Master's degree in counseling psychology from Campus-Free College (later called Beacon College) in Boston and worked as a mental health counselor at New England Memorial Hospital in Stoneham, Massachusetts. He also attended the Sloan School of Management at MIT, taking a leave of absence one term of short of graduation in 1980 in order to take a job in a Silicon Valley start-up company.

In 1978 he bought an Apple II personal computer and worked as an independent software consultant; as the co-developer of Tiny Troll, the first graphics and statistics program for the Apple II; as a product manager for Personal Software Inc., the publisher of VisiCalc, the world's first electronic spreadsheet; and as the designer and programmer (in BASIC) of VisiPlot and VisiTrend, companion products to VisiCalc.

He founded Lotus Development Corp. in 1982 and with Jonathan Sachs, who was responsible for technical architecture and implementation, created Lotus 1-2-3. He served as the President (later Chairman) and Chief Executive Officer of Lotus from 1982 to 1986 and as a Director until 1987. In 1983, Lotus' first year of operations, the company achieved revenues of \$53,000,000 and had a successful public offering. In 1984 the company tripled in revenue to \$156,000,000. The number of employees grew to over a thousand by 1985.

After leaving executive management at Lotus, he spent 1986 and 1987 completing work on his favorite product, Lotus Agenda, the first application for Personal Information Management (PIM), and as a visiting scientist at MIT's Center for Cognitive Science and the MIT Artificial Intelligence Laboratory. From 1987-1990 Mr. Kapor served as the

Chairman and Chief Executive Officer of ON Technology, a developer of software applications for workgroup computing. In 1990 with John Perry Barlow, he co-founded the Electronic Frontier Foundation, and served as its chairman until 1994. The EFF is a non-profit civil liberties organization working in the public interest to protect privacy, free expression, and access to public resources and information online, as well as to promote responsibility in new media.

In 1992 and 1993 he chaired the Massachusetts Commission on Computer Technology and Law which was chartered to investigate and report on issues raised by the problem of computer crime in the state. He also served as a member of the Computer Science and Technology Board of the National Research Council and the National Information Infrastructure Advisory Council. From 1994-1996, he served as Adjunct Professor at the Massachusetts Institute of Technology's Media Lab where he taught courses on software design, Democracy and the Internet, and digital community.

For almost 20 years, Mr. Kapor has been an investor in high-technology start-up companies (through Kapor Enterprises, Inc.) and an advisor to entrepreneurs. He was a founding investor of UUNET and Real Networks. He is also Chairman of the Board of Linden Research, founded by Philip Rosedale, former CTO of Real Networks.

From 1999 to 2001, Mr. Kapor was a partner at Accel Partners, a leading venture capital firm based in Palo Alto, California. He has also served on the boards of Groove Networks founded by Ray Ozzie, the developer of Lotus Notes; Ximian, and Reactivity.

From 1984 until its dissolution in 1998, Mr. Kapor served as a trustee of the Kapor Family Foundation. Beginning in 1997, he created and endowed the Mitchell Kapor Foundation ([www.mkf.org](http://www.mkf.org)), a private foundation focused on the intersection of health and the environment, the social impact of information technology, and the removing barriers to full participation in education and the workplace by historically disadvantaged groups.

In 2001, he became the founding Chair of the Open Source Applications Foundation ([www.osafoundation.org](http://www.osafoundation.org)), a San Francisco-based non-profit organization, whose mission is to promote the development and distribution of open source cross-platform Personal Information Management application software to the public.

In 2003, he became the founding Chair of the Mozilla Foundation, which is dedicated to the development and promulgation of standards-compliant open source web browser software and wxWindows Software Foundation ([www.wxwindows.org](http://www.wxwindows.org)), a San Francisco-based non-profit organization whose mission is to promote the development and distribution of open source cross-platform development application software to the public. He is on the Board of Nutch Organization, a Petaluma, CA based non-profit whose mission is to promote public access to Internet search technology without commercial bias.

Mr. Kapor is a trustee of the Level Playing Field Institute ([www.lpf.org](http://www.lpf.org)), a San Francisco-based non-profit research organization, whose mission is to enhance equal opportunity in the workplace and support the values of an inclusive society.

Mr. Kapor has written widely about the impact of personal computing and networks on society. He has contributed articles, columns, and op-ed pieces on information infrastructure policy, intellectual property issues, and antitrust in the digital era to publications such as Scientific American, The New York Times, Forbes, Tricycle: The Buddhist Review, and Communications of the ACM. Mr. Kapor is married and lives in San Francisco, California.



**mozilla**

## Brendan Eich

Brendan Eich has been intimately involved in the creation of critical technologies for the graphical World Wide Web since the mid-1990s and is a leader in the design of web browsing, email and related technologies. In 1995 he created JavaScript, a scripting language designed for use in World Wide Web pages. JavaScript is and remains the single most common method for providing interactivity between a human being and a web page. It is also an officially adopted standard (known as ECMAScript) for creating web content. Brendan also created the first implementation of what is now known as the "Document Object Model (DOM), which allows a browser to understand and respond to scripting languages such as JavaScript. These two technologies remain at the very heart of world wide web browsing.

In 1998 Brendan joined with several other key contributors to found and lead the Mozilla Organization, the open source project seeded by Netscape with Navigator source code. Brendan remains the technical leader of the Mozilla project, acting as chief architect, ultimate decision-maker for all technical issues, and central figure in the overall development and operation of the Mozilla open source project. Brendan helped create and is a Director of the Mozilla Foundation.



**mozilla**

## Christopher Blizzard

Christopher Blizzard has been a developer for the last five years at Red Hat, Inc. He was part of the Red Hat Labs, a research group within Red Hat that explored various emerging technologies for the Linux platform. This group was eventually promoted to build a desktop product for Red Hat, and Chris has been the technical lead for Mozilla as part of Red Hat's entire product line.

As part of that work he has been responsible for the development of the Mozilla Browser including many of the integration issues for the Linux platform. This includes building and maintaining the Linux-specific of the Mozilla platform, including ensuring that Mozilla's long term goals are closely aligned with the ongoing evolution of the Linux platform. He is a member of the board that oversees Mozilla's technical direction as well as a member of the board that determines the non-technical direction of the Mozilla project. He is also a member of the board of the Mozilla Foundation, a legal entity set up to oversee and promote the Mozilla project.

As a member of the board of the Mozilla Foundation, Chris will be responsible for considering technical issues when making board decisions, as well as communicating those issues to other members of the board. His ability to describe technical issues to non-technical people makes him an important asset when conducting board business. His long-time involvement with the Mozilla project also gives him the historical context in which to make the decisions that are required of the board.

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2003**About CollabNet****Our Executive Team**

Bill Portelli

Brian Behlendorf

Ken Comee

Gopinath Ganapathy

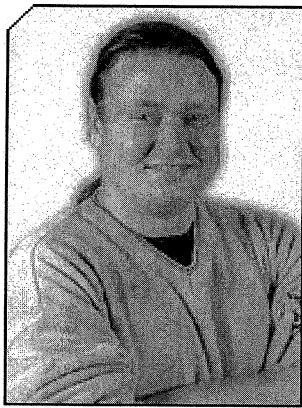
Bernie Mills

Terry Thurlow

Maria L. Carlile

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# About CollabNet

**Our Executive Staff**

**Brian Behlendorf**  
*Founder and CTO*

Brian Behlendorf founded CollabNet, with O'Reilly & Associates, in July 1999. The company provides tools and services based on open source methods. Before launching CollabNet, Behlendorf was co-founder and CTO of Organic Online, a Web design and engineering consultancy located in San Francisco. During his five years at Organic, Behlendorf helped create Internet strategies for dozens of Fortune 500 companies. During that time, he co-founded and contributed heavily to the Apache Web Server Project, co-founded and supported the VRML (Virtual Reality Modeling Language) effort, and assisted several IETF working groups, particularly the HTTP standardization effort. Before starting Organic, Behlendorf was the first Chief

**The Yankee Group**

Creating and Delivering Value with Collaborative Software Development, the Yankee Group

**Seminars & Papers**

[Web Seminar Archive](#)  
 [White Paper Archive](#)

**About CollabNet**

CollabNet provides companies with solutions for Collaborative Software Development (CSD) by combining a Web-based software application with a suite of consulting services. Using CollabNet solutions, software teams can collaborate on development across multiple locations within the extended enterprise or securely integrate business partners, contractors, or offshore development firms. CollabNet enables companies to reduce costs and increase revenues by eliminating the inefficiencies and limitations of

Engineer at Wired Magazine and later HotWired, one of the first large-scale publishing Web sites.

Behlendorf is President of the Apache Software Foundation. He also serves as a Technical Advisor to Critical Path (CPTH) and Topica.

traditional  
LAN-based  
development  
platforms.

The CollabNet SourceCast environment is being used by hundreds of thousands of developers at Fortune 500 and industry-leading enterprise companies around the world.

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OPEN SOURCE APPLICATIONS FOUNDATION

## More on Mitchell Baker

Mitchell is responsible for community topics at OSAF. In this role she helps develop mechanisms through which OSAF employees and Chandler volunteers interact, and helps promote the development of an open-source community for Chandler. She will help OSAF develop a work style that allows the entire community to participate to the maximum extent feasible. That means getting information dispersed as quickly and effectively as possible, developing good feedback channels, driving the integration of qualified contributors into the core development team, developing policies for the project when necessary, and whatever else develops. Our shorthand for this is that she will oversee OSAF's "**Community and Partner Relations**".

Mitchell Baker is also the President of the Mozilla Foundation, home of the [Mozilla project](#). The Mozilla project strives to create great software and maintain choice and innovation in key Internet applications, and is one of the largest open-source software development projects in existence. Mozilla software provides browser functionality that competes with Microsoft's Internet Explorer, email, news, and chat capabilities, as well as a framework for the creation of web-enabled applications. The Mozilla project includes paid and volunteer staff members, engineers paid by various employers to work on Mozilla, a volunteer population numbering in the thousands, a range of spin-off projects, and a set of companies using [Mozilla technology to build products](#). The Mozilla Foundation and its affiliate "mozilla.org" guide the technical direction, development, testing, quality assurance, project management, software release, and infrastructure-building activities for this diverse group.

Prior to joining the Mozilla organization in 1999, Mitchell was Associate General Counsel for Netscape Communications Corporation, where she was responsible for all legal issues related to product development and intellectual property protection. During that time she wrote the [Mozilla Public License](#), an open source license which has been widely adopted and emulated as a "middle ground" between the "BSD" license and the GNU General Public License.

She received her J.D. from the Boalt Hall School of Law and her A.B. in Asian Studies from the University of California at Berkeley.

## Mozilla Related Documents

- Mozilla Public License: <http://www.mozilla.org/MPL/MPL-1.1.html>
- Mozilla Roles and Responsibilities: <http://www.mozilla.org/about/roles.html>
- The Mozilla project and mozilla.org:  
<http://www.mozilla.org/editorials/mozilla-overview.html>
- Mozilla [code] Modules and Module Ownership:  
<http://www.mozilla.org/hacking/module-ownership.html>
- Code Review Requirements:  
<http://www.mozilla.org/hacking/code-review-faq.html>
- Super-review: <http://www.mozilla.org/hacking/reviewers.html>

- Getting CVS write access:  
<http://www.mozilla.org/hacking/getting-cvs-write-access.html>
- Policy on handling performance regressions:  
<http://www.mozilla.org/hacking/regression-policy.html>
- Tips on Contributing New Features:  
<http://www.mozilla.org/hacking/new-features.html>

**EXHIBIT F**

**TTS SERVICE & CD SERVICE AGREEMENTS**

[This document is not currently available]

Form **872-C**

(Rev. September 1998)

Department of the Treasury  
Internal Revenue Service

**Consent Fixing Period of Limitation Upon  
Assessment of Tax Under Section 4940 of the  
Internal Revenue Code**

OMB No. 1545-0056

To be used with  
Form 1023. Submit  
in duplicate.

(See instructions on reverse side.)

Under section 6501(c)(4) of the Internal Revenue Code, and as part of a request filed with Form 1023 that the organization named below be treated as a publicly supported organization under section 170(b)(1)(A)(vi) or section 509(a)(2) during an advance ruling period,

**MOZILLA FOUNDATION**

(Exact legal name of organization as shown in organizing document)

**c/o OSAF, 543 Howard St., 5th Flr., San Francisco, CA 94105**

(Number, street, city or town, state, and ZIP code)

} District Director of  
Internal Revenue, or  
Assistant  
Commissioner  
(Employee Plans and  
Exempt Organizations)  
and the

consent and agree that the period for assessing tax (imposed under section 4940 of the Code) for any of the 5 tax years in the advance ruling period will extend 8 years, 4 months, and 15 days beyond the end of the first tax year.

However, if a notice of deficiency in tax for any of these years is sent to the organization before the period expires, the time for making an assessment will be further extended by the number of days the assessment is prohibited, plus 60 days.

Ending date of first tax year **December 31, 2003**  
(Month, day, and year)

Name of organization (as shown in organizing document)

Date

*11/25/03*

**MOZILLA FOUNDATION**

Officer or trustee having authority to sign

Type or print name and title

Signature ►

*Mitchell Baker*

**Mitchell Baker, President**

For IRS use only

District Director or Assistant Commissioner (Employee Plans and Exempt Organizations)

Date

*Lois G. Lerner*

*6/17/04*

By ►

*Jane A. Rubin E.O. Review*

For Paperwork Reduction Act Notice, see page 7 of the Form 1023 Instructions.

Cat. No. 16905Q