

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS
401 NORTH STREET, ROOM 206
P.O. BOX 8722
HARRISBURG, PA 17105-8722
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The OpenAFS Foundation, Inc.

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ENTITY NUMBER: 4189117

Prosperi, Louis
1910 Cochran Road, Manor Oak Two, Suite 730
Pittsburgh, PA 15220

**PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

Articles of Incorporation-Nonprofit
(15 Pa.C.S.)

- Domestic Nonprofit Corporation (§ 5306)
 Nonprofit Cooperative Corporation (§ 7102B)

Name		
Louis A. Properi		
Address		
1910 Cochran Road, Manor Oak Two, Suite 730		
City	State	Zip Code
Pittsburgh	PA	15220

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Commonwealth of Pennsylvania
ARTICLES OF INCORPORATION-NON-PROFIT 7 Page(s)



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Fee: \$125

**Articles of Incorporation
of
The OpenAFS Foundation, Inc.**

In compliance with the requirements of Section 5306 of the Nonprofit Corporation Law of 1988, as amended, the undersigned, desiring to incorporate a nonprofit corporation, hereby states that:

1. Corporate Name. The name of the corporation is The OpenAFS Foundation, Inc.
2. Registered Office. The location and address of the initial registered office of the corporation in this Commonwealth is 5607 Beacon Street, Allegheny County, Pittsburgh, PA 15217.
3. Purposes. The corporation is incorporated under the Nonprofit Corporation Law of 1988 exclusively for charitable, religious, educational, scientific and testing for public safety purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") or the corresponding section of any future Federal tax code, including but not limited to, for such purposes, (a) to nurture and evolve the OpenAFS technology, (b) to foster the OpenAFS technology community of experts, and (c) to attract and increase the community of OpenAFS technology users.
4. No Gain or Profit. The corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

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5. Non-stock. The corporation is organized on a non-stock basis.
6. Members. The corporation shall have no members.
7. Incorporator. The name and address of the sole incorporator is Roman W. Mitz, Jr., 5607 Beacon Street, Pittsburgh, PA 15217.
8. Restrictions. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article 3 hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt for Federal income tax under Section 501(c)(3) of the Code, or the corresponding section of any future Federal tax code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, or the corresponding section of any future Federal tax code.
9. Dissolution. Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organizations, as said court shall determine, which are organized and operated exclusively for such purposes. No private individual shall share in the distribution of any assets of the corporation upon dissolution or sale of the assets of the corporation.
10. Private Foundation Status. During any period in which the corporation is a "private foundation" subject to the provisions of Subtitle D, Chapter 42, Subchapter A of the Code or the corresponding provisions of any future Federal tax code, the corporation (a) will distribute its income for each tax year at a time and in a manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code or the corresponding section of any future Federal tax code, (b) will not engage in any act of self-dealing as defined in Section 4941(d) of the Code or the corresponding section of any future Federal tax code, (c) will not retain any excess business holdings as defined in Section 4943(c) of the Code or the corresponding section of any future Federal tax code, (d) will not make any investments in a manner as to subject it to tax under Section 4944 of the Code or the corresponding section of any future Federal tax code, and (e) will not make any taxable expenditures as

defined in Section 4945(d) of the Code or the corresponding section of any future Federal tax code.

11. Personal Liability of Directors.

- (a) Elimination of Liability. To the fullest extent that the laws of the Commonwealth of Pennsylvania, as now in effect or as hereafter amended, permit elimination or limitation of the liability of Directors, no Director of the corporation shall be personally liable for monetary damages as such for any action taken, or any failure to take any action, as a Director.
- (b) Nature and Extent of Rights. The provisions of this Article shall be deemed to be a contract with each Director of the corporation who serves as such at any time while this Article is in effect and each such Director shall be deemed to be so serving in reliance on the provisions of this Article. Any amendment or repeal of this Article or adoption of any By-Law or provision of the Articles of Incorporation of the corporation which has the effect of increasing Director liability shall operate prospectively only and shall not have any effect with respect to any action taken, or any failure to act, by a Director prior thereto.

12. Indemnification of, and Advancement of Expenses to, Directors, Officers and Others.

- (a) Right to Indemnification. Unless in a particular case indemnification would jeopardize the corporation's tax-exempt status under Section 501(a) of the Code or the corresponding section of any future Federal tax code, or result in the corporation's failure to be described in Section 501(c)(3) of the Code or the corresponding section of any future Federal tax code, or result in an act of self-dealing under Section 4941 of the Code or the corresponding section of any future Federal tax code, and except as prohibited by law, every Director and officer of the corporation shall be entitled as of right to be indemnified by the corporation against expenses and any liabilities paid or incurred by such person in connection with any actual or threatened claim, action, suit or proceeding, civil, criminal, administrative, investigative or other, whether brought by or in the right of the corporation or otherwise, in which he or she may be involved in any manner, as a party, witness or otherwise, or is threatened to be made so involved, by reason of such person being or having been a Director or officer of the corporation or by reason of the fact that such person is or was serving at the request of the corporation as a Director, officer, employee, fiduciary or other representative of another company, partnership, joint venture, trust, employee benefit plan or other entity (such claim, action, suit or proceeding hereinafter being referred to as an "Action"); provided, that no such right of indemnification shall exist with respect to an Action initiated by an indemnitee (as hereafter defined) against the corporation (an "Indemnitee Action") except as provided in the last sentence of this Article 12(a). Persons who are not Directors or officers of the corporation may be similarly indemnified in respect of service to the

corporation or to another such entity at the request of the corporation to the extent the Board of Directors at any time denominates any of such persons as entitled to the benefits of this Article. As used in this Article, "indemnitee" shall include each Director and officer of the corporation and each other person denominated by the Board of Directors as entitled to the benefits of this Article, "expenses" shall include all expenses actually and reasonably incurred, including fees and expenses of counsel selected by an indemnitee, and "liabilities" shall include amounts of judgments, excise taxes, fines, penalties and amounts paid in settlement. An indemnitee shall be entitled to be indemnified pursuant to this Article 12(a) for expenses incurred in connection with any Indemnatee Action only (i) if the Indemnatee Action is instituted under Article 12(c) hereof and the indemnitee is successful in whole or in part in such Indemnatee Action, (ii) if the indemnitee is successful in whole or in part in another Indemnatee Action for which expenses are claimed or (iii) if the indemnification for expenses is included in a settlement of, or is awarded by a court in, such other Indemnatee Action.

- (b) Right of Advancement of Expenses. Unless in a particular case advancement of expenses would jeopardize the corporation's tax-exempt status under Section 501(a) of the Code or the corresponding section of any future Federal tax code, or result in the corporation's failure to be described in Section 501(c)(3) of the Code or the corresponding section of any future Federal tax code, or result in an act of self-dealing under Section 4941 of the Code or the corresponding section of any future Federal tax code, every indemnitee shall be entitled as of right to have his or her expenses in defending any Action, or in initiating and pursuing any Indemnatee Action for indemnity or advancement of expenses under Article 12(c) hereof, paid in advance by the corporation prior to final disposition of such Action or Indemnatee Action, provided that the corporation receives a written undertaking by or on behalf of the indemnitee to repay the amount advanced if it should ultimately be determined that the indemnitee is not entitled to be indemnified for such expenses.
- (c) Right of Indemnitee to Initiate Action. If a written claim under Article 12(a) or (b) hereof is not paid in full by the corporation within thirty days after such claim has been received by the corporation, the indemnitee may at any time thereafter initiate an Indemnatee Action to recover the unpaid amount of the claim and, if successful in whole or in part, the indemnitee shall also be entitled to be paid the expense of prosecuting such Indemnatee Action. The only defenses to an Indemnatee Action to recover on a claim for indemnification otherwise properly asserted under Article 12(a) hereof shall be (i) that the indemnitee's conduct was such that under Pennsylvania law the corporation is prohibited from indemnifying the indemnitee for the amount claimed, or (ii) that indemnification would jeopardize the corporation's tax-exempt status under Section 501(a) of the Code or the corresponding section of any future Federal tax code, or result in the corporation's failure to be described in Section 501(c)(3) of the Code or the corresponding section of

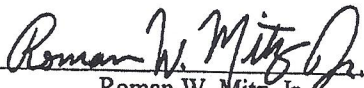
any future Federal tax code, or result in an act of self-dealing under Section 4941 of the Code or the corresponding section of any future Federal tax code, but the burden of proving any such defense shall be on the corporation. Neither the failure of the corporation (including its Board of Directors and independent legal counsel) to have made a determination prior to the commencement of such Indemnitee Action that indemnification of the indemnitee is proper in the circumstances, nor an actual determination by the corporation (including its Board of Directors and independent legal counsel) that the indemnitee's conduct was such that indemnification is prohibited by Pennsylvania law or under clause (ii) of the immediately preceding sentence, shall be a defense to such Indemnitee Action or create a presumption that the indemnitee's conduct was such that indemnification is prohibited by Pennsylvania law or under clause (ii) of the immediately preceding sentence. The only defenses to an Indemnitee Action to recover on a claim for advancement of expenses otherwise properly asserted under Article 12(b) hereof shall be the indemnitee's failure to provide the undertaking required by Article 12(b) hereof or that advancement of expenses would jeopardize the corporation's tax-exempt status under Section 501(a) of the Code or the corresponding section of any future Federal tax code, or result in the corporation's failure to be described in Section 501(c)(3) of the Code or the corresponding section of any future Federal tax code, or result in an act of self-dealing under Section 4941 of the Code or the corresponding section of any future Federal tax code, but the burden of proving any such defense shall be on the corporation.

- (d) Insurance and Funding. The corporation may purchase and maintain insurance to protect itself and any person eligible to be indemnified hereunder against any liability or expense asserted or incurred by such person in connection with any Action, whether or not the corporation would have the power to indemnify such person against such liability or expense by law or under the provisions of this Article. The corporation may create a trust fund, grant a security interest, cause a letter of credit to be issued or use other means (whether or not similar to the foregoing) to ensure the payment of such sums as may become necessary to effect indemnification as provided herein.
- (e) Non-Exclusivity; Nature and Extent of Rights. The rights to indemnification and advancement of expenses provided for in this Article 12 shall (i) not be deemed exclusive of any other rights, whether now existing or hereafter created, to which any indemnitee may be entitled under any agreement or By-Law, charter provision, vote of Directors or otherwise, (ii) be deemed to create contractual rights in favor of each indemnitee who serves the corporation at any time while this Article is in effect (and each such indemnitee shall be deemed to be so serving in reliance on the provisions of this Article), and (iii) continue as to each indemnitee who has ceased to have the status pursuant to which he or she was entitled or was denominated as entitled to indemnification under this Article and shall inure to the benefit of

the heirs and legal representatives of each indemnitee. Any amendment or repeal of this Article or adoption of any By-Law or provision of the Articles of Incorporation of the corporation which has the effect of limiting in any way the rights to indemnification or advancement of expenses provided for in this Article shall operate prospectively only and shall not affect any action taken, or failure to act, by an indemnitee prior to the adoption of such amendment, repeal, By-Law or other provision.

- (f) Partial Indemnity. If an indemnitee is entitled under any provision of this Article to indemnification by the corporation for some or a portion of the expenses or liabilities paid or incurred by the indemnitee in the preparation, investigation, defense, appeal or settlement of any Action or Indemnitee Action but not, however, for the total amount thereof, the corporation shall indemnify the indemnitee for the portion of such expenses or liabilities to which the indemnitee is entitled.

IN TESTIMONY WHEREOF, the incorporator has signed these Articles of Incorporation this 17th day of May, 2013.



Roman W. Mitz, Jr.
Sole Incorporator