

## 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)  The CarMax Foundation	<b>2</b> Employer identification number (EIN) (If none, see page 3 of the Specific Instructions.) 38-3681796
<b>1b</b> c/o Name (if applicable)  4701 Cox Road, Suite 301	<b>3</b> Name and telephone number of person to be contacted if additional information is needed  J. Conrad Garcia, Esq. (804) 783-6910
<b>1c</b> Address (number and street)	Room/Suite
<b>1d</b> City, town, or post office, state, and ZIP + 4. If you have a foreign address, see Specific Instructions for Part I, page 3.  Glen Allen, Virginia 23060	<b>4</b> Month the annual accounting period ends  February
<b>1e</b> Web site address	<b>5</b> Date incorporated or formed May 28, 2003
<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)	
<b>7</b> Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? ..... <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," attach an explanation.	
<b>8</b> Is the organization required to file Form 990 (or Form 990-EZ)? ..... <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach an explanation (see page 3 of the Specific Instructions).	
<b>9</b> Has the organization filed Federal income tax returns or exempt organization information returns? ..... <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.	

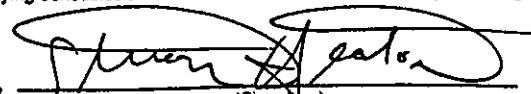
**10** Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING. (See Specific Instructions for Part I, Line 10, on page 3.) See also Pub. 557 for examples of organizational documents.)

- a  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  Trust — Attach a copy of the Trust indenture or Agreement, including all appropriate signatures and dates.
- c  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)
 

 STUART A. HEATON U.P.  
 (Type or print name and title or authority of signer)
 

 8/27/03  
 (Date)

**Part II** Activities and Operational Information

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.

The CarMax Foundation (the "Foundation") was incorporated on May 28, 2003 as a Virginia non-stock corporation. The Foundation will operate exclusively for charitable, educational, scientific and literary purposes, and will be classified as a private foundation.

The Foundation will make gifts and grants to other charitable organizations exempt from tax under Internal Revenue Code Section 501(c)(3). Grants from the Foundation shall be made for charitable purposes including, but not limited to, those purposes in furtherance of education, religion, science and literature.

The Foundation will develop operating procedures to assure that it adheres to the rules of Internal Revenue Code Sections, 4941, 4942, 4943, 4944 and 4945 as applicable to private foundations.

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

Primarily --- Contributions from CarMax, Inc. and its employees.  
Secondarily --- Investment income.

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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.  
fundraising activities are planned.

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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.  
See Attachment A

**b** Annual compensation  
See Attachment A

**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.

All current officers and directors are employees of CarMax, Inc. which will be a substantial contributor.

**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.

**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 III** Activities and Operational Information (Continued)

9 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."

N/A

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.

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.

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

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)

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:**

- |   |  |  |
|---|--|--|
| a | <input type="checkbox"/> As a church or a convention or association of churches (CHURCHES MUST COMPLETE SCHEDULE A.)   | Sections 509(a)(1) and 170(b)(1)(A)(i)                       |
| b | <input type="checkbox"/> As a school (MUST COMPLETE SCHEDULE B.)   | Sections 509(a)(1) and 170(b)(1)(A)(ii)                      |
| c | <input type="checkbox"/> As a hospital or cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital (These organizations, except for hospital service organizations, MUST COMPLETE SCHEDULE C.)  | Sections 509(a)(1) and 170(b)(1)(A)(iii)                     |
| d | <input type="checkbox"/> As a governmental unit described in section 170(c)(1).  | Sections 509(a)(1) and 170(b)(1)(A)(v)                       |
| e | <input type="checkbox"/> As being operated solely for the benefit of, or in connection with, one or more of the organizations described in a through d, g, h, or i (MUST COMPLETE SCHEDULE D.)   | Section 509(a)(3)  |
| f | <input type="checkbox"/> As being organized and operated exclusively for testing for public safety.  | Section 509(a)(4)  |
| g | <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)(vi)                      |
| h | <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)                      |
| i | <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)  |
| j | <input type="checkbox"/> The organization is a publicly supported organization but is not sure whether it meets the public support test of h or i. 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)

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.

**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.

**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:
Is the organization a church? .....		X	A
Is the organization, or any part of it, a school? .....		X	B
Is the organization, or any part of it, a hospital or medical research organization? .....		X	C
Is the organization a section 509(a)(3) supporting organization? .....		X	D
Is the organization a private operating foundation? .....		X	E
Is the organization, or any part of it, a home for the aged or handicapped? .....		X	F
Is the organization, or any part of it, a child care organization? .....		X	G
Does the organization provide or administer any scholarship benefits, student aid, etc.? .....		X	H
Has the organization taken over, or will it take over, the facilities of a "for profit" institution? .....		X	I

**Part IV Financial Data**

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. See Attachment B

**A. Statement of Revenue and Expenses**

	Current tax year	3 prior tax years or proposed budget for 2 years			(e) TOTAL
	(a) From 5/28/03 to 02/29/04	(b) 02/28/05	(c) 02/28/06	(d) _____	
<b>Revenue</b>					
1 Gifts, grants, and contributions received (not including unusual grants — see page 6 of the instructions).....	1,000,000	1,000,000	1,000,000		3,000,000.00
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) .....					
8 Total (add lines 1 through 7) .....	1,000,000.00	1,000,000.00	1,000,000.00		3,000,000.00
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. ....					
10 Total (add lines 8 and 9) .....	1,000,000.00	1,000,000.00	1,000,000.00		3,000,000.00
11 Gain or loss from sale of capital assets (attach schedule) .....					
12 Unusual grants .....					
13 Total revenue (add lines 10 through 12) .....	1,000,000.00	1,000,000.00	1,000,000.00		3,000,000.00
<b>Expenses</b>					
14 Fundraising expenses .....					
15 Contributions, gifts, grants, and similar amounts paid (attach schedule) .....	999,000	999,000	999,000		
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) .....	1,000	1,000	1,000		
23 Total expenses (add lines 14 through 22) .....	1,000,000.00	1,000,000.00	1,000,000.00		
24 Excess of revenue over expenses (line 13 minus line 23) .....	0.00	0.00	0.00		

**Part IV**

**Financial Data (Continued)**

**B. Balance Sheet (at the end of the period shown)**

Current tax year  
Date 8/31/03

**Assets**

1	Cash .....	1	None
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	0.00

**Liabilities**

12	Accounts payable .....	12	0
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	0.00

**Fund Balances or Net Assets**

17	<b>Total fund balances or net assets .....</b>	17	None
18	<b>Total liabilities and fund balances or net assets (add line 16 and line 17) .....</b>	18	0.00

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.

The CarMax Foundation  
EIN# 38-3681796  
Attachment A

a. Names, Addresses, and titles of officers, directors, trustees, etc.	b. Annual Compensation
Joseph S. Kunkel c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia President & Director	None
Michael K. Dolan c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia Vice President & Director	None
Scott A. Rivas c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia Vice President & Director	None
Stuart A. Heaton c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia Vice President, General Counsel, Secretary & Director	None
Thomas W. Reedy, Jr. c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia Vice President, Treasurer & Director	None

The CarMax Foundation

EIN# 38-3681796

Attachment B

Statement of Revenue and Expenses

Line 15: The Foundation will make contributions at its discretion to other charitable organizations that are exempt from tax under IRC §501(c)(3). The Foundation shall at a minimum grant distributions equal to the requirements set forth in IRC §4942.

Line 17: There is no expense recorded or planned for payments made to members of the Foundation's Board of Directors.

Line 22: Miscellaneous legal and accounting fees are anticipated to be approximately \$1,000 for the following taxable years: 02/29/04, 02/28/05, and 02/28/06.

Balance Sheet

The Foundation has not been funded at this time; therefore, it currently has no assets or liabilities.

# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

Richmond, May 28, 2003

This is to certify that the certificate of incorporation of \_\_\_\_\_

The CarMax Foundation

was this day issued and admitted to record in this office and that the said corporation is authorized to transact its business subject to all Virginia laws applicable to the corporation and its business.  
Effective date: May 28, 2003



State Corporation Commission

Attest:

Joel H. Beck  
Clerk of the Commission

**THE CARMAX FOUNDATION**  
**ARTICLES OF INCORPORATION**

**ARTICLE I**  
**NAME**

The name of the corporation is The CarMax Foundation (hereinafter referred to as the "Foundation").

**ARTICLE II**  
**PURPOSE**

The Foundation is organized and shall be operated exclusively for charitable, educational, scientific, religious, and literary purposes including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code.

**ARTICLE III**  
**DISTRIBUTIONS**

No part of the net earnings of the Foundation shall inure to the benefit of or be distributable to its incorporator, directors, officers, or other private persons except that the Foundation 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 II hereof. No substantial part of the activities of the Foundation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Foundation 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. Furthermore, the Foundation (i) shall distribute its income at such time and in such manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Internal Revenue

Code; (ii) shall not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code; (iii) shall not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code; (iv) shall not make any investment in such a manner as to subject it to tax under section 4944 of the Internal Revenue Code; and (v) shall not make any taxable expenditure as defined in section 4945(d) of the Internal Revenue Code.

#### **ARTICLE IV DISSOLUTION**

Upon the dissolution of the Foundation, and after all of its liabilities and obligations have been paid, satisfied, and discharged, or adequate provisions made therefor, all of the Foundation's remaining assets shall be distributed to one or more organizations that are organized and operated exclusively for charitable, educational, scientific, religious, or literary purposes within the meaning of sections 501(c)(3) and 170(c)(2)(B) of the Internal Revenue Code.

#### **ARTICLE V MEMBERS**

The Foundation shall have no members.

#### **ARTICLE VI DIRECTORS**

The number of directors of the Foundation shall be not less than five (5) and not more than ten (10). The directors of the Foundation shall be appointed annually by the Executive Committee of the Board of Directors of CarMax, Inc. to serve for a term of one year. Directors may serve unlimited consecutive terms. A vacancy on the Board of Directors, including a vacancy resulting from the removal of a director, shall be filled by the Executive Committee of

the Board of Directors of CarMax, Inc. No individual shall be appointed as a Director without his or her prior consent. The initial directors of the Foundation and their addresses are:

<u>Name</u>	<u>Address</u>
Joseph S. Kunkel	c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia 23060
Michael K. Dolan	c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia 23060
Scott A. Rivas	c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia 23060
Stuart A. Heaton	c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia 23060
Thomas W. Reedy, Jr.	c/o CarMax, Inc. 4900 Cox Road Glen Allen, Virginia 23060

**ARTICLE VII  
REGISTERED OFFICE AND REGISTERED AGENT**

The address of the initial registered office of the Foundation, which is located in the County of Henrico, Virginia, is 4701 Cox Road, Suite 301, Glen Allen, Virginia 23060. The initial registered agent of the Foundation is CT Corporation, a foreign stock corporation authorized to transact business in Virginia whose business office is identical with the initial registered office.

**ARTICLE VIII  
LIMIT ON LIABILITY AND INDEMNIFICATION**

8.1 Definitions. For purposes of this Article the following definitions shall apply:

(i) "Foundation" means this Foundation only and no predecessor entity or other legal entity;

(ii) "expenses" include counsel fees, expert witness fees, and costs of investigation, litigation, and appeal, as well as any amounts expended in asserting a claim for indemnification;

(iii) "liability" means the obligation to pay a judgment, settlement, penalty, fine, or other such obligation, including, without limitation, any excise tax assessed with respect to an employee benefit plan;

(iv) "legal entity" means a corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise;

(v) "predecessor entity" means a legal entity the existence of which ceased upon its acquisition by the Foundation in a merger or otherwise; and

(vi) "proceeding" means any threatened, pending, or completed action, suit, proceeding, or appeal whether civil, criminal, administrative, or investigative and whether formal or informal.

8.2 Limit on Liability. In every instance in which the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation, the directors and officers of the Foundation shall not be liable to the Foundation.

8.3 Indemnification of Directors and Officers. The Foundation shall indemnify any individual who is, was, or is threatened to be made a party to a proceeding (including a proceeding by or in the right of the Foundation) because such individual is or was a director or officer of the Foundation, or because such individual is or was serving the Foundation or any other legal entity in any capacity at the request of the Foundation while a director or officer of the Foundation, against all liabilities and reasonable expenses incurred in the proceeding except such liabilities and expenses as are incurred because of such individual's willful misconduct or knowing violation of the criminal law. Service as a director or officer of a legal entity controlled by the Foundation shall be deemed service at the request of the Foundation. The determination that indemnification under this Section 8.3 is permissible and the evaluation as to the reasonableness of expenses in a specific case shall be made, in the case of a director, as provided by law, and in the case of an officer, as provided in Section 8.4 of this Article; provided, however, that if a majority of the directors of the Foundation has changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Board of Directors and such person. Unless a determination has been made that indemnification is not permissible, the Foundation shall make advances and reimbursements for expenses incurred by a director or officer in a proceeding upon receipt of an undertaking from such director or officer to repay the same if it is ultimately determined that such director or officer is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured general obligation of the director or officer and shall be accepted without reference to such director's or officer's ability to make repayment. The termination of a proceeding by judgment,

order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not of itself create a presumption that a director or officer acted in such a manner as to make such director or officer ineligible for indemnification. The Foundation is authorized to contract in advance to indemnify and make advances and reimbursements for expenses to any of its directors or officers to the same extent provided in this Section 8.3.

8.4 Indemnification of Others. The Foundation may, to a lesser extent or to the same extent that it is required to provide indemnification and make advances and reimbursements for expenses to its directors and officers pursuant to Section 8.3, provide indemnification and make advances and reimbursements for expenses to its employees and agents, the directors, officers, employees, and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of the Foundation, and may contract in advance to do so. The determination that indemnification under this Section 8.4 is permissible, the authorization of such indemnification, and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Board of Directors, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law. No person's rights under Section 8.3 of this Article shall be limited by the provisions of this Section 8.4.

8.5 Miscellaneous.

(a) The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors, and administrators. Special legal counsel selected to make determinations under this Article may be counsel for the Foundation. Indemnification pursuant to this Article shall not be exclusive of any other right of

indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Foundation, and indemnification under policies of insurance purchased and maintained by the Foundation or others. However, no person shall be entitled to indemnification by the Foundation to the extent he or she is indemnified by another, including an insurer. The Foundation is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to the Foundation or any other legal entity at the request of the Foundation regardless of the Foundation's power to indemnify against such liability. The provisions of this Article shall not be deemed to preclude the Foundation from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above. If any provision of this Article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Article, and to this end the provisions of this Article are severable.

(b) Notwithstanding the foregoing provisions of this Article, during any period that the Foundation is classified as a private foundation under the Internal Revenue Code, the Foundation shall not indemnify any person otherwise entitled to indemnification pursuant to the provisions of this Article or purchase insurance to provide such indemnification if such indemnification or purchase of insurance is an act of self-dealing as defined in section 4941(d) of the Internal Revenue Code or a taxable expenditure as defined in section 4945(d) of the Internal Revenue Code.

8.6 Amendments. No amendment, modification, or repeal of this Article shall diminish the rights provided hereunder to any person arising from conduct or events occurring before the adoption of such amendment, modification, or repeal.

**ARTICLE IX  
INTERNAL REVENUE CODE**

Each reference in these Articles of Incorporation to a section of the Internal Revenue Code means such section of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any subsequent federal tax law.

Dated: May 28, 2003

By: Michele A.W. McKinnon  
Michele A.W. McKinnon, Incorporator

# THE CARMAX FOUNDATION

## BYLAWS

### ARTICLE I DIRECTORS

1.1 General Powers. The Foundation shall have a Board of Directors. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Foundation managed under the direction of, its Board of Directors, subject to any limitation set forth in the Articles of Incorporation.

1.2 Number. The number of directors of the Foundation shall be not less than five (5) and not more than ten (10). The number of directors may be increased or decreased from time to time by the Board of Directors.

1.3 Election and Term. Directors shall be appointed or elected in the manner and for the term set forth in the Articles of Incorporation.

1.4 Removal; Vacancies. The Executive Committee of the Board of Directors of CarMax, Inc. may remove any director, with or without cause, but only at a meeting called for that purpose, and the notice of the meeting must state that the purpose, or one of the purposes, of the meeting is the removal of the director. A vacancy on the Board of Directors, including a vacancy resulting from the removal of a director or an increase in the number of directors, may be filled by the Executive Committee of the Board of Directors of CarMax, Inc., and may, in the case of a resignation that will become effective at a later date, be filled before the vacancy occurs, but the new director may not take office until the vacancy occurs.

1.5 Meetings. The Board of Directors may hold regular or special meetings at such place, either within or without the Commonwealth of Virginia, as may be provided in the notice

of the meeting and approved by the President or the Board of Directors. If no such place is designated in the notice of a meeting, it shall be held at the principal office of the Foundation.

1.6 Notice of Meetings. Notice of meetings of the Board of Directors shall be given to each director not less than twenty-four (24) hours before the meeting, by delivering the same to the director in person or to the director's residence or business address (or such other place as the director may have directed in writing) by mail, electronic mail, messenger, telecopier, telegraph, or other means of written communication or by telephoning such notice to the director. Any such notice shall set forth the time and place of the meeting.

1.7 Waiver of Notice. A director may waive any notice required by law, the Articles of Incorporation, or these Bylaws before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such notice. Except as provided in the next paragraph of this section, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting or promptly upon arrival objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

1.8 Quorum; Voting. A majority of the number of directors fixed in these Bylaws shall constitute a quorum for the transaction of business at a meeting of the Board of Directors. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. A director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless the director (i) objects at the beginning of the meeting,

or promptly upon arrival, to holding it or transacting specified business at the meeting; or (ii) votes against, or abstains from, the action taken.

1.9 Telephonic Meetings. The Board of Directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

1.10 Action Without Meeting. Action required or permitted to be taken at a Board of Directors' meeting may be taken without a meeting if the action is taken by all members of the Board. The action shall be evidenced by one or more written consents stating the action taken, signed by each director either before or after the action is taken, and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this section shall be effective when the last director signs the consent unless the consent specifies a different effective date and states the date of execution by each director, in which event it shall be effective according to the terms of the consent.

## ARTICLE II COMMITTEES OF DIRECTORS

2.1 Committees. The Board of Directors may create one or more committees including an Executive Committee, and appoint members of the Board of Directors to serve on them. Each committee shall have two or more members who serve at the pleasure of the Board of Directors. The creation of a committee and appointment of members to it shall be approved by a majority of directors in office when the action is taken.

2.2 Authority of Committees. To the extent specified by the Board of Directors, each committee may exercise the authority of the Board of Directors, except that a committee may not (i) fill vacancies on the Board of Directors or on any of its committees; (ii) amend the Articles of Incorporation; (iii) adopt, amend, or repeal these Bylaws; (iv) approve a plan of merger or consolidation; (v) approve the sale, lease, or exchange, or the mortgage, pledge, or other disposition of all, or substantially all, of the property and assets of the Foundation; or (vi) approve revocation of voluntary dissolution proceedings.

2.3 Committee Meetings; Miscellaneous. The provisions of these Bylaws which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the Board of Directors shall apply to committees of directors and their members as well.

### ARTICLE III OFFICERS

3.1 Officers. The officers of the Foundation shall be a President, a Treasurer, and a Secretary, and in the discretion of the Board of Directors, one or more Vice Presidents and other officers and assistant officers as may be deemed necessary or advisable to carry on the business of the Foundation. Any two or more offices may be held by the same person.

3.2 Election; Term. Officers shall be elected by the Board of Directors. They shall hold office, unless removed, until their successors are elected. Any officer may resign at any time upon written notice to the Board of Directors, and no acceptance of a resignation shall be necessary to make it effective.

3.3 Removal of Officers. The Board of Directors may remove any officer or assistant officer at any time, with or without cause.

3.4 Duties of Officers. The President shall be the Chief Executive Officer of the Foundation. The President and the other officers of the Foundation shall have such powers and duties as generally pertain to their respective offices as well as such powers and duties as may be delegated to them from time to time by the Board of Directors.

**ARTICLE IV  
MISCELLANEOUS PROVISIONS**

4.1 Fiscal Year. The fiscal year of the Foundation shall be determined in the discretion of the Board of Directors, but in the absence of any such determination it shall be the year beginning March 1 and ending February 28 or February 29, as the case may be.

4.2 Interpretation. For the purpose of construing these Bylaws, unless the context indicates otherwise, words in the singular number shall be deemed to include words in the plural and vice versa, and words in one gender shall be deemed to include words in other genders.

4.3 Amendments. These Bylaws may be amended or repealed, and new Bylaws may be made at any meeting of the Board of Directors.

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# THE CARMAX FOUNDATION

## UNANIMOUS CONSENT OF DIRECTORS IN LIEU OF ORGANIZATIONAL MEETING

The undersigned directors, being all of the initial directors of The CarMax Foundation (the "Foundation"), acknowledge that they have consented to being named as initial directors and consent to the adoption of the following resolutions:

RESOLVED, that the persons named below are elected as officers of the Foundation, in the capacities indicated opposite their names, to serve until the first annual meeting of the Board or until their successors are elected.

President	Joseph S. Kunkel
Vice President	Michael K. Dolan
Vice President	Scott A. Rivas
Vice President, General Counsel & Secretary	Stuart A. Heaton
Vice President & Treasurer	Thomas W. Reedy, Jr.

RESOLVED, that the Secretary is directed to file in the Minute Book of the Foundation a copy of the Articles of Incorporation filed with the State Corporation Commission and the certificate of the Clerk of the Commission stating that the Certificate of Incorporation for the Foundation was issued and admitted to record on the 28th day of May, 2003.

RESOLVED, that the Bylaws in the form presented to this Board are adopted as the Bylaws of the Foundation and the Secretary is directed to file a copy of the Bylaws in the Minute Book.

RESOLVED, that the officers of the Foundation are authorized to execute on behalf of the Foundation, and to file with the Internal Revenue Service, Form 1023 (Application for Recognition of Exemption) to establish the tax-exempt status of the Foundation.

RESOLVED, that the officers of the Foundation are authorized on behalf of the Foundation to accept gifts and contributions.

RESOLVED, that, to the extent not inconsistent with the Articles of Incorporation or the Bylaws, the officers of the Foundation shall formulate such rules, standards, and guidelines as may be

determined necessary or desirable to carry out the charitable purposes of the Foundation.

This consent may be signed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

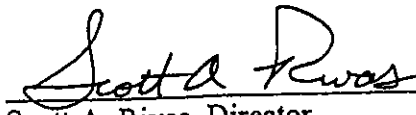
This consent shall be effective as of May 28, 2003, the date the Certificate of Incorporation became effective.

  
\_\_\_\_\_  
Joseph S. Kunkel, Director

Executed this 28<sup>th</sup> day of May, 2003

  
\_\_\_\_\_  
Michael K. Dolan, Director

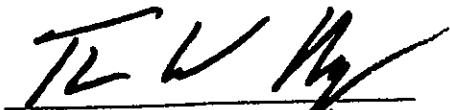
Executed this 28<sup>th</sup> day of May, 2003

  
\_\_\_\_\_  
Scott A. Rivas, Director

Executed this 28<sup>th</sup> day of May, 2003

  
\_\_\_\_\_  
Stuart A. Heaton, Director

Executed this 28<sup>th</sup> day of May, 2003

  
\_\_\_\_\_  
Thomas W. Reedy, Jr., Director

Executed this 29<sup>th</sup> day of May, 2003