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The Outlet Mall Network Inc.

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DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA
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12/9
Jory Amend
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**AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
THE OUTLET MALL NETWORK, INC.**

FILED

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

1. The name of the Corporation is THE OUTLET MALL NETWORK, INC. (the "Corporation").
2. All of the existing classes of the Corporation's stock are reduced on a basis of one share for 2.9 shares currently outstanding on the date this Amendment to the Articles of Incorporation are filed with the Florida Secretary of State ("Reverse Split"). The effect of this Reverse Split shall be to automatically reduce the number of issued and outstanding shares so that there will be one share outstanding following the Reverse Split for each 2.9 shares outstanding immediately before the Reverse Split. Additionally, the Reverse Split shall have the effect of: (i) reducing the number of shares which can be purchased under outstanding options, warrants or conversion rights so that each 2.9 shares which could have been acquired before the Reverse Split will be reduced to one share; and (ii) increasing the exercise price of outstanding options and warrants and the conversion price of outstanding conversion rights on a basis of 2.9 for one. All Amendments to the Articles of Incorporation of the Corporation set forth below are post Reverse Split and accordingly, are not altered or further adjusted by the Reverse Split.
3. The first paragraph of Article II of the Articles of Incorporation of the Corporation is amended to read as follows:

"The number of shares of all classes of stock which the Corporation has authority to issue is twenty million six hundred eighty-nine thousand six hundred and fifty-five (20,689,655) shares, which shall be divided into three classes as follows: 5,000,000 shares of Preferred Stock, \$4.35 par value per share ("Preferred Stock") with a designation of 1,839,080 authorized shares of Class A Preferred Stock, Series 1995 in Article II.A.5.; 689,655 shares of Class A Common Stock with \$0.0435 par value ("Class A Common Stock"); and 15,000,000 shares of Class B Common Stock with \$0.0435 par value ("Class B Common Stock"). The designations, voting powers, preferences, privileges, limitations and relative rights of the above classes of stock and other general provisions relating thereto shall be as follows:"

4. The title to Article II.A. of the Articles of Incorporation of the Corporation is amended to read as follows:

"A. Preferred Stock"
5. Article II.A.1. of the Articles of Incorporation of the Corporation is amended to read as follows:

"1. Shares of Preferred Stock may be issued in one or more series at such time or times and for such consideration or considerations (not less than \$4.35 per

- share) as the Board of Directors may determine. All shares of any one series shall be of equal rank and identical in all respects except the dates from which dividends accrue or accumulate with respect thereto may vary.”
6. The first paragraph of Article II.A.2. of the Articles of Incorporation of the Corporation is amended to read as follows (without altering Article II.A.2.a. through i.):
- “2. The Board of Directors is expressly authorized at any time, and from time to time, to provide for the issuance of shares of Preferred Stock in one or more series, with such voting powers and with such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the resolution or resolutions providing for the issuance thereof adopted by the Board of Directors, and as are stated and expressed in these Articles of Incorporation, or any Amendment thereto, including (but without limiting the generality of the foregoing) the following:”
7. Article II.A.3. of the Articles of Incorporation of the Corporation is amended to read as follows:
- “3. No dividends shall be paid or declared or set apart on any particular series of Preferred Stock in respect of any period unless accumulated dividends shall be or shall have been paid, or declared and set apart for payment, pro rata on all shares of Preferred Stock at the time outstanding of each other series, so that the amount of dividends declared on such particular series shall bear the same ratio to the amount declared on each such other series as the dividend rate of such particular series shall bear to the dividend rate of such other series.”
8. Article II.A.4. of the Articles of Incorporation of the Corporation is amended to read as follows:
- “4. Shares of Preferred Stock called, redeemed, converted, exchanged, purchased, retired or surrendered to the Corporation, or which have been issued and reacquired in any manner, shall, upon compliance with any applicable provisions of the *Florida Business Corporation Act*, have the status of authorized and unissued shares of Preferred Stock and may be reissued by the Board of Directors as part of the series of which they were originally a part or may be reclassified into and reissued as part of a new series or as a part of any other series, all subject to the protective conditions or restrictions of any outstanding series of Preferred Stock.”
9. The first paragraph of Article II.A.5. of the Articles of Incorporation of the Corporation is amended to read as follows (without altering Article II.A.5.a. through k. except as otherwise expressly provided in this Amendment to the Articles of Incorporation of the Corporation):
- “5. Class A Preferred Stock, Series 1995. There are designated hereby, and the Corporation shall be authorized to issue, one million eight hundred thirty-nine thousand eighty (1,839,080) shares of Class A Preferred Stock, Series 1995

("Series 1995 Shares") having \$4.35 par value and possessing the following powers, designations, preferences, privileges, limitations and relative rights."

10. Article II.A.5.c.(ii) of the Articles of Incorporation of the Corporation is amended to read as follows:

"(ii) **Mandatory Conversion.** In the event the Corporation completes an underwritten initial public offering ("IPO") on or before January 1, 2001, at an offering price of no less than \$5.00 per share, then each share of the Series 1995 Shares shall be automatically converted into one share of the Corporation's Class B Common Stock. All shares of the Series 1995 Shares, received by the Corporation from the holders' conversion into Class B Common Stock will be retired."

11. Article II.A.5.d. of the Articles of Incorporation of the Corporation is amended to read as follows:

"d. **Preference on Liquidation.** In the event of the voluntary or involuntary liquidation, dissolution or winding up of the Corporation, the holders of the Series 1995 Shares shall be entitled, before any payment or distribution of the assets of the Corporation shall be made or set apart from the holders of Class A Common Stock, Class B Common Stock, or any capital stock of the Corporation which is by its terms expressly made junior as to liquidation preferences to the Series 1995 Shares, to receive from the net assets of the Corporation available for distribution to stockholders, cash in an amount equal to \$4.35 per Series 1995 Shares (the "Liquidation Value"), together with any accrued or unpaid dividends and other amounts which may be payable with respect to such shares to the date of final distribution to the holders of the Series 1995 Shares. In the event the net proceeds of a voluntary or involuntary liquidation, dissolution or winding up of the Corporation are insufficient to retire the entire remaining Liquidation Value of all Series 1995 Shares, and any other Preferred Stock ranking, as to liquidation, dissolution or winding up, on a parity with the Series 1995 Shares, the Corporation shall redeem the shares pro rata among the holders of the Series 1995 Shares, and such other capital stock of the Corporation ranking on a parity with the Series 1995 Shares. The holders of the Series 1995 Shares shall be entitled to no further participation in any assets of the Corporation. Neither the consolidation or merger of the Corporation with or into any other Corporation, nor the merger or consolidation of any other Corporation into or with the Corporation, nor the sale, lease, exchange or conveyance of all or any part of the assets of the Corporation, shall be deemed to be a dissolution, liquidation or winding up of the Corporation for the purposes of this Section d."

12. Article II.A.5.e. of the Articles of Incorporation of the Corporation is amended to read as follows:

"e. **Right of Redemption.** In the event the Company does not have an IPO, the holders of the Series 1995 Shares shall have the right to require the Corporation to redeem all or any portion of the Series 1995 Shares then outstanding at a price per share equal to \$5.00 per share on January 1, 2001. A holder of the Series

1995 Shares shall give written notice of such redemption to the Corporation by prepaid certified or registered mail on or before December 1, 1999. In the event that the Corporation fails to timely make any payment in connection with a properly requested redemption, dividends (and interest thereon, if any) shall continue to be payable on the Series 1995 Shares and the holders of the Series 1995 Shares shall be entitled to elect as a class that number of directors which shall then constitute fifty-one percent (51.0%) of the directors of the Corporation's Board of Directors with the holders of the Class B Common Stock."

13. Article II.B.3. of the Articles of Incorporation of the Corporation is amended to read as follows:

"3. Subject to the preferential dividend rights applicable to shares of Preferred Stock and to applicable requirements, if any, with respect to the setting aside of sums for purchase, retirement or sinking funds for the Preferred Stock, the holders of Class A Common Stock shall be entitled to receive, to the extent permitted by law, such dividends as may be declared from time to time by the Board of Directors.

14. Article II.B.4. of the Articles of Incorporation of the Corporation is amended to read as follows:

"4. In the event of the voluntary or involuntary liquidation dissolution, distribution of assets or winding up of the Corporation, after distribution in full of the preferential amounts, if any, to be disbursed to the holders of shares of Preferred Stock, holders of all classes of common stock shall be entitled to receive all of the remaining assets of the Corporation of whatever kind available for distribution to stockholders ratably in proportion to the aggregate number of shares of Class A Common Stock and Class B Common Stock held by them respectively. The Board of Directors may distribute in kind to the holders of Class A Common Stock and Class B Common Stock such remaining assets of the Corporation or may sell, transfer or otherwise dispose of all or any part of such remaining assets to any other person, corporation, trust or other entity and receive payment therefor in cash, stock or obligations of such other corporation, trust or entity, or any combination thereof, and may sell all or any part of the consideration so received and distribute any balance thereof in kind to holders of Class A Common Stock and Class B Common Stock. Neither the merger or consolidation of the Corporation into or with any other corporation, nor the merger of any other corporation into it nor any purchase or redemption of shares of stock of the Corporation of any class, shall be deemed to be a dissolution, liquidation or winding up of the Corporation for the purposes of this paragraph."

15. Article II.B. of the Articles of Incorporation of the Corporation is further amended to add a paragraph Article II.B.7. to read as follows:

"7. In the event the Corporation completes an IPO on or before January 1, 1999, at an offering price of no less than \$5.00 per share, then each share of Class A Common Stock shall be automatically converted into one share of the

Corporation's Class B Common Stock. All shares of Class A Common Stock received by the Corporation from the holders' conversion into Class B Common Stock will be retired."

16. Article II.C of the Articles of Incorporation of the Corporation is amended to read as follows:

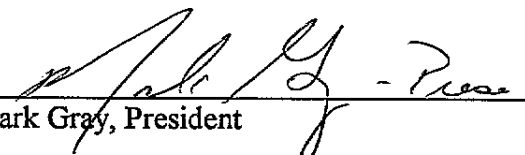
"C. Class B Common Stock. Shares of Class B Common Stock may be issued at such times and for such consideration or considerations as the Corporation's Board of Directors may deem advisable subject to such limitations as may be set forth in the laws of the State of Florida or these Articles of Incorporation or Bylaws of the Corporation. Shares of the Corporation's Class B Common Stock shall have the same rights and preferences as the Corporation's Class A Common Stock provided, however, that the holders of the Class B Common Stock shall have the right to vote separately as a class with the holders of the Series 1995 Shares with respect to the election of that number of directors which shall then constitute forty-nine percent (49%) of the directors on the Corporation's Board of Directors, or as required by law or these Articles of Incorporation. Upon completion of the Mandatory Conversion of the Series 1995 Shares into Class B Common Stock pursuant to Article II.A.5.c.(ii) and the Class A Common Stock into Class B Common Stock pursuant to Article II.B.7. added by this Amendment to the Articles of Incorporation: (i) Class B Common Stock shall be referred to as "Common Stock" and (ii) voting rights previously granted to Series 1995 Shares and Class A Common Stock shall vest in Class B Common Stock."

17. This Amendment was adopted and approved on November 7, 1997 by the holders of the Corporation's: (i) Class A Preferred Stock, Series 1995; (ii) Class A Common Stock; and (iii) Class B Common Stock, voting as a single group and the number of votes cast by the shareholders in favor of the Amendment was sufficient for approval. Each of the Company's three classes of stock was entitled to vote separately on the Amendment. The number of votes cast by the holders of Class A Preferred Stock, Series 1995 was sufficient for approval by that voting group voting separately as a class. The number of votes cast by the holders of Class A Common Stock was sufficient for approval by that voting group voting separately as a class. The number of votes cast by the holders of Class B Common Stock was sufficient for approval by that voting group voting separately as a class. The aforescribed three groups are the only three groups of the Corporation's shareholders entitled to vote on the Amendment.

IN WITNESS WHEREOF, The Outlet Mall Network has caused these Articles of Amendment to be executed on this 24 day of November, 1997.

THE OUTLET MALL NETWORK, INC.

By:


Mark Gray, President