

Filing Fee: See Instructions

ID Number: 155518

## STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Office of the Secretary of State  
Division of Business Services  
148 W. River Street  
Providence, Rhode Island 02804-2815

RECEIVED  
SECRETARY OF STATE  
CORPORATIONS DIV  
2018 MAR -8 PM 1:47

## ARTICLES OF MERGER OR CONSOLIDATION INTO

Burlington Coat Factory Warehouse Corporation

(Insert full name of surviving or new entity on this line.)

## SECTION I: TO BE COMPLETED BY ALL MERGING OR CONSOLIDATING ENTITIES

Pursuant to the applicable provisions of the General Laws of Rhode Island, 1956, as amended, the undersigned entities submit the following Articles of ☒ Merger or ☐ Consolidation (check one box only) for the purpose of merging or consolidating them into one entity.

- a. The name and type (for example, business corporation, non-profit corporation, limited liability company, limited partnership, etc.) of each of the merging or consolidating entities and the state under which each is organized are:

Name of entity	Type of entity	State under which entity is organized
Burlington Coat Factory of Rhode Island, LLC	<u>#155518</u> Limited Liability Company	Rhode Island
Burlington Coat Factory Warehouse Corporation	<u>#160143</u> Corporation	Delaware

- b. The laws of the state under which each entity is organized permit such merger or consolidation.

- c. The full name of the surviving or new entity is Burlington Coat Factory Warehouse Corporation  
which is to be governed by the laws of the state of Delaware

- d. The attached Plan of Merger or Consolidation was duly authorized, approved, and executed by each entity in the manner prescribed by the laws of the state under which each entity is organized. (Attach Plan of Merger or Consolidation)

- e. If the surviving entity's name has been amended via the merger, please state the new name:

- f. If the surviving or new entity is to be governed by the laws of a state other than the State of Rhode Island, and such surviving or new entity is not qualified to conduct business in the state of Rhode Island, the entity agrees that it: (i) may be served with process in Rhode Island in any proceeding for the enforcement of any obligation of any domestic entity which is a party to the merger or consolidation; (ii) irrevocably appoints the Secretary of State as its agent to accept service of process in any action, suit, or proceeding; and (iii) the address to which a copy of such process of service shall be mailed to it by the Secretary of State is:

- g. These Articles of Merger or Consolidation shall be effective upon filing unless a specified date is provided which shall be no later than the 90<sup>th</sup> day after the date of this filing

SECTION II: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A BUSINESS CORPORATION PURSUANT TO TITLE 7, CHAPTER 1.2 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.

- a. If the surviving or new entity is to be governed by the laws of a state other than the State of Rhode Island, such surviving or new entity hereby agrees that it will promptly pay to the dissenting shareholders of any domestic corporation the amount, if any, to which they shall be entitled under the provisions of Title 7, Chapter 1.2 of the General Laws of Rhode Island, 1956, as amended, with respect to dissenting shareholders.

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b. Complete the following subparagraphs i and ii only if the merging business corporation is a subsidiary corporation of the surviving corporation.

- i) The name of the subsidiary corporation is \_\_\_\_\_
- ii) A copy of the plan of merger was mailed to shareholders of the subsidiary corporation (such date shall not be less than 30 days from the date of filing) \_\_\_\_\_

c. As required by Section 7-1.2-1003 of the General Laws, the corporation has paid all fees and franchise taxes.

.....

**SECTION III: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A NON-PROFIT CORPORATION PURSUANT TO TITLE 7, CHAPTER 6 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED.**

- a. If the members of any merging or consolidating non-profit corporation are entitled to vote thereon, attach a statement for each such non-profit corporation which sets forth the date of the meeting of members at which the Plan of Merger or Consolidation was adopted, that a quorum was present at the meeting, and that the plan received at least a majority of the votes which members present at the meeting or represented by proxy were entitled to cast; OR attach a statement for each such non-profit corporation which states that the plan was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- b. If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such non-profit corporation attach a statement which states the date of the meeting of the board of directors at which the plan was adopted, and a statement of the fact that the plan received the vote of a majority of the directors in office.

.....

**SECTION IV: TO BE COMPLETED ONLY IF ONE OR MORE OF THE MERGING OR CONSOLIDATING ENTITIES IS A LIMITED PARTNERSHIP PURSUANT TO TITLE 7, CHAPTER 13 OF THE RHODE ISLAND GENERAL LAWS, AS AMENDED**

- a. The agreement of merger or consolidation is on file at the place of business of the surviving or resulting domestic limited partnership or other business entity and the address thereof is: \_\_\_\_\_
- b. A copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited partnership or other business entity, on request and without cost, to any partner of any domestic limited partnership or any person holding an interest in any other business entity which is to merge or consolidate.


.....

**SECTION V: TO BE COMPLETED BY ALL MERGING OR CONSOLIDATING ENTITIES**

Under penalty of perjury, we declare and affirm that we have examined these Articles of Merger or Consolidation, including any accompanying attachments, and that all statements contained herein are true and correct.

Burlington Coat Factory of Rhode Island, LLC

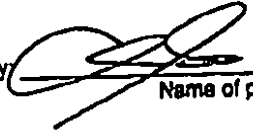
Print Entity Name

By:  Christopher Schaub, VP, Asst. Sec & Authorized Person  
Name of person signing Title of person signing

By: \_\_\_\_\_  
Name of person signing Title of person signing

Burlington Coat Factory Warehouse Corporation

Print Entity Name

By:  Christopher Schaub, VP & Assistant Secretary  
Name of person signing Title of person signing

By: \_\_\_\_\_  
Name of person signing Title of person signing

## AGREEMENT AND PLAN OF MERGER

This **AGREEMENT AND PLAN OF MERGER** ("**Agreement**"), dated as of December 19, 2016, is entered into by and between Burlington Coat Factory Warehouse Corporation, a Delaware corporation ("**Acquiror**"), and the subsidiary corporations and limited liability companies listed on Exhibits A and B hereto, respectively (each, a "**Subsidiary**" and, collectively, the "**Subsidiaries**"). In this Agreement, Acquiror and Subsidiaries are sometimes collectively referred to as the "**Parties**," and individually as a "**Party**."

**WHEREAS**, the board of directors of the Acquiror and the boards of directors or the sole member of each of the Subsidiaries, as the case may be, have each approved and adopted this Agreement and the transactions contemplated by this Agreement, in each case after making a determination that this Agreement and such transactions are advisable and fair to, and in the best interests of, such entity and its stockholders or members, as applicable;

**WHEREAS**, pursuant to the transactions contemplated by this Agreement and on the terms and subject to the conditions set forth herein, each Subsidiary, in accordance with the Delaware General Corporation Law ("**DGCL**") and the applicable laws of the jurisdiction in which each Subsidiary is incorporated or formed, as applicable, will merge with and into the Acquiror, with the Acquiror as the surviving corporation (the "**Merger**"); and

**WHEREAS**, for US federal income tax purposes, the parties intend that the Merger qualify as a tax-free reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Merger**. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with Sections 251, 252, 253 and 264 of the DGCL and the applicable laws of the jurisdiction in which each Subsidiary is formed, each of the Subsidiaries shall be merged with and into the Acquiror at the Effective Date (as hereinafter defined). Following the Effective Date, the separate existence of the Subsidiaries shall cease, and the Acquiror shall continue as the surviving corporation (the "**Surviving Corporation**"). The effects and consequences of the Merger shall be as set forth in this Agreement, the DGCL, and the applicable laws of the jurisdiction in which each Subsidiary is incorporated or formed, as applicable.

2. **Effective Date**.

(a) Subject to the provisions of this Agreement, on the date hereof, the parties shall duly prepare, execute and file certificates of merger (collectively, the "**Certificates of Merger**") with the Secretaries of State of each state in which each of the Acquiror and the Subsidiaries is incorporated or formed, as the case may be, and such filing is required. The Merger shall become effective upon December 31, 2016 as set forth in the Certificates of Merger (the "**Effective Date**").

(b) The Merger shall have the effects set forth in the DGCL and the applicable laws of the jurisdiction in which each Subsidiary is incorporated or formed, as applicable, including without limitation, Section 259 of the DGCL. Without limiting the generality of the foregoing, from the Effective Date, (i) all the properties, rights, privileges, immunities, powers and franchises of each of

the Subsidiaries shall vest in the Acquiror, as the Surviving Corporation, and (ii) all debts, liabilities, obligations and duties of each of the Subsidiaries shall become the debts, liabilities, obligations and duties of the Acquiror, as the Surviving Corporation.

3. Organizational Documents. The by-laws of the Acquiror in effect at the Effective Date shall be the by-laws of the Surviving Corporation until thereafter amended as provided therein or by the DGCL, and the certificate of incorporation of the Acquiror in effect at the Effective Date, as amended pursuant to the Certificate of Merger, shall be the certificate of incorporation of the Surviving Corporation until thereafter amended as provided therein or by the DGCL.

4. Directors and Officers. The directors and officers of the Acquiror immediately prior to the Effective Date shall be the directors of the Surviving Corporation from and after the Effective Date and shall hold office until the earlier of their respective death, resignation or removal or their respective successors are duly elected or appointed and qualified in the manner provided for in the certificate of incorporation and by-laws of the Surviving Corporation or as otherwise provided by the DGCL.

5. Cancellation of Securities. At the Effective Date, by virtue of the Merger and without any action on the part of the Acquiror, the Subsidiaries, or the holders of shares of capital stock or the limited liability company membership interests, as the case may be, of the Subsidiaries:

(a) each share of common stock ("**Subsidiary Common Stock**") and each limited liability company membership interest ("**Subsidiary LLC Interests**"), as the case may be, of each Subsidiary, issued and outstanding immediately prior to the Effective Date that is owned by the Acquiror or a Subsidiary (as treasury stock or otherwise) will automatically be canceled and retired and will cease to exist, and no consideration will be delivered in exchange therefor; and

(b) each share of capital stock of Acquiror issued and outstanding immediately prior to the Effective Date shall remain outstanding following the consummation of the Merger.

6. Stock Certificates. Upon surrender of the certificate or certificates (the "**Certificates**") that immediately prior to the Effective Date evidenced outstanding shares of Subsidiary Common Stock or the Subsidiary LLC Interests to Acquiror for cancellation, each such Certificate shall forthwith be canceled.

7. Submission to Service of Process. The Surviving Corporation agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of any constituent entity of Delaware, as well as the enforcement of any obligation of the Surviving Corporation arising from this Merger and irrevocably appoints the Secretary of State of Delaware as its agent to accept services of process in any such suit or proceeding. The Secretary of State shall mail a copy of any such process to the Surviving Corporation at Corporation Service Company, 2711 Centerville Rd., Suite 400, Wilmington, DE 19808.

8. Entire Agreement. This Agreement together with the Certificates of Merger constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, representations and warranties and agreements, both written and oral, with respect to such subject matter.

9. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

10. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

11. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

12. Amendment and Modification; Waiver. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

13. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14. Governing Law; Submission to Jurisdiction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Delaware.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

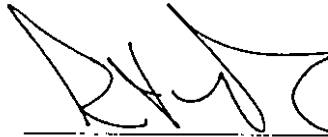
BURLINGTON COAT FACTORY  
WAREHOUSE CORPORATION



By: Robert LaPenta, Jr.

Title: Vice President, Treasurer

SUBSIDIARY CORPORATIONS



By: Robert LaPenta, Jr.

Title: Vice President, Treasurer of each Subsidiary  
corporation set forth on Exhibit A hereto

SUBSIDIARY LIMITED LIABILITY  
COMPANIES



By: Burlington Coat Factory Warehouse  
Corporation, as sole member of each Subsidiary  
limited liability company set forth on Exhibit B  
hereto

By: Robert LaPenta, Jr.

Title: Vice President, Treasurer

## **EXHIBIT A**

### **Subsidiary Corporations**

#### **Alaska**

Burlington Coat Factory Warehouse of Anchorage, Inc.

#### **Delaware**

Burlington Shell 1, Inc.

#### **New Jersey**

MJM Designer Shoes of Moorestown, Inc.

#### **Pennsylvania**

Burlington Coat Factory Warehouse of Cheltenham, Inc.

#### **South Carolina**

Burlington Coat Factory Warehouse of Charleston, Inc.

#### **Tennessee**

Burlington Coat Factory Warehouse of Memphis, Inc.

Burlington Coat Factory Warehouse of Shelby, Inc.

Burlington Coat Factory Warehouse of Hickory Commons, Inc.

## **EXHIBIT B**

### **Subsidiary Limited Liability Companies**

#### **Alabama**

Burlington Coat Factory of Alabama, LLC

#### **Arkansas**

Burlington Coat Factory of Arkansas, LLC

#### **Colorado**

Burlington Coat Factory of Colorado, LLC

#### **Connecticut**

Burlington Coat Factory of Connecticut, LLC

Cohoes Fashions of Connecticut, LLC

#### **Delaware**

Burlington Coat Factory of Delaware, LLC

MJM Designer Shoes of Delaware, LLC

#### **Florida**

Burlington Coat Factory of Florida, LLC

MJM Designer Shoes of Florida, LLC

#### **Georgia**

Burlington Coat Factory of Georgia, LLC

#### **Hawaii**

Burlington Coat Factory of Hawaii, LLC

#### **Idaho**

Burlington Coat Factory of Idaho, LLC

#### **Indiana**

Burlington Coat Factory of Indiana, LLC

#### **Iowa**

Burlington Coat Factory of Iowa, LLC

#### **Kansas**

Burlington Coat Factory of Kansas, LLC

#### **Louisiana**

Burlington Coat Factory of Louisiana, LLC

#### **Maine**

Burlington Coat Factory of Maine, LLC



**Maryland**

Burlington Coat Factory of Maryland, LLC

**Minnesota**

Burlington Coat Factory of Minnesota, LLC

**Mississippi**

Burlington Coat Factory of Mississippi, LLC

**Missouri**

Burlington Coat Factory of Missouri, LLC

**Montana**

Burlington Coat Factory of Montana, LLC

**Nebraska**

Burlington Coat Factory of Nebraska, LLC

**Nevada**

Burlington Coat Factory of Nevada, LLC

**New Hampshire**

Burlington Coat Factory of New Hampshire, LLC

**New Jersey**

Cohoes Fashion of New Jersey, LLC

MJM Designer Shoes of New Jersey, LLC

**New Mexico**

Burlington Coat Factory of New Mexico, LLC

**North Carolina**

Burlington Coat Factory of North Carolina, LLC

**North Dakota**

Burlington Coat Factory of North Dakota, LLC

**Oklahoma**

Burlington Coat Factory of Oklahoma, LLC

**Oregon**

Burlington Coat Factory of Oregon, LLC

**Pennsylvania**

Burlington Coat Factory of Bristol, LLC

Burlington Coat Factory of Pennsylvania, LLC

MJM Designer Shoes of Pennsylvania, LLC

**Rhode Island**

Burlington Coat Factory of Rhode Island, LLC

**South Carolina**

Burlington Coat Factory of South Carolina, LLC

**South Dakota**

Burlington Coat Factory of South Dakota, LLC

**Utah**

Burlington Coat Factory of Utah, LLC

**Vermont**

Burlington Coat Factory of Vermont, LLC

**Virginia**

Burlington Coat Factory of Virginia, LLC

**Washington**

Burlington Coat Factory of Washington, LLC

**West Virginia**

Burlington Coat Factory of West Virginia, LLC

**Wisconsin**

Burlington Coat Factory of Wisconsin, LLC



STATE OF RHODE ISLAND AND  
PROVIDENCE PLANTATIONS  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF TAXATION  
ONE CAPITOL HILL  
PROVIDENCE, RI 02908

CT CORPORATION SYSTEM  
450 VETERANS MEMORIAL PKWY STE 7A  
EAST PROVIDENCE, RI 02914-5300

#155518

## LETTER OF GOOD STANDING

It appears from our records that **BURLINGTON COAT FACTORY OF RHODE ISLAND, LLC** has filed all the required returns due for this letter of good standing and paid all known tax liabilities as of this date. **BURLINGTON COAT FACTORY OF RHODE ISLAND, LLC** is in good standing with the Rhode Island Division of Taxation as of **02/16/2018**. This letter of good standing is expressly conditional and may be based upon unaudited returns, subject to future audit.

This Letter of Good Standing does not cover any violation of chapter 20 of Title 44 that has occurred within the last thirty (30) days and any resulting assessments and/or license suspension which have not yet issued from the Division for such violation(s). Any subsequent application for a license or permit may be denied in accordance with R.I. Gen. Laws § 44-20-4.1.

This letter is issued pursuant to the request of the above named corporation for the purpose of:

### MERGER OF CORPORATIONS RI NON-SURVIVOR

This letter of good standing is valid only for the specific reason listed above, and is not valid for any other reason(s).

Very truly yours,

Neena Savage  
Tax Administrator

Christine Girard  
Supervising Revenue Officer  
Compliance and Collections

204771799:12632520  
DLN: 10002121546



State of Rhode Island and Providence Plantations  
**Department of State | Office of the Secretary of State**  
**Nellie M. Gorbea**, *Secretary of State*

I, NELLIE M. GORBEA, Secretary of State of the State of Rhode Island  
and Providence Plantations, hereby certify that this document, duly executed in  
accordance with the provisions of Title 7 of the General Laws of Rhode Island, as  
amended, has been filed in this office on this day:

March 08, 2018 01:47 PM

The signature is written in a cursive, flowing style in blue ink. It appears to read "Nellie M. Gorbea".

Nellie M. Gorbea  
*Secretary of State*

