

H02516

Florida Department of State
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MERGER OR SHARE EXCHANGE

KB Toys Retail, Inc.

Certificate of Status	0
Certified Copy	0
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RECEIVED
AUG 25 AM 8:00
DIVISION OF CORPORATIONS

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05 AUG 26 AM 9:00
SECRETARY OF STATE
TALLAHASSEE FLORIDA

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Mergen

ARTICLES OF MERGER (Profit Corporations)

The following articles of merger are submitted in accordance with the Florida Business Corporation Act pursuant to section 607.1105, F.S.

First: The name and jurisdiction of the surviving corporation:

Name	Jurisdiction	Document Number (If known/ applicable)
<u>KB Toys Retail, Inc.</u>	<u>Massachusetts</u>	

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Second: The name and jurisdiction of each merging corporation:

Name	Jurisdiction	Document Number (If known/ applicable)
<u>K B Toy of Florida, Inc.</u>	<u>Florida</u>	<u>H02516</u>

Third: ~~The Agreement and Plan of Merger is attached.~~ The Agreement and Plan of Merger is attached.

Fourth: The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State.

OR 8 / 28 / 05 at 2:00 PM EDT
(Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days in the future.)

Fifth: Adoption of Merger by surviving corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on August 25, 2005.

The Plan of Merger was adopted by the board of directors of the surviving corporation on _____ and shareholder approval was not required.

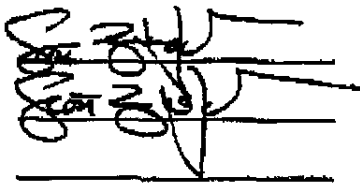
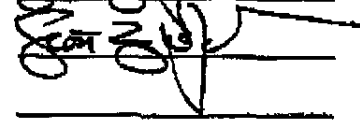
Sixth: Adoption of Merger by merging corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on August 25, 2005.

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on _____ and shareholder approval was not required.

(Attach additional sheets if necessary)

Seventh: SIGNATURES FOR EACH CORPORATION

<u>Name of Corporation</u>	<u>Signature</u>	<u>Typed or Printed Name of Individual & Title</u>
<u>KB Toys Retail, Inc.</u>		<u>Scott Z. Hochfelder, Secretary</u>
<u>KB Toy of Florida, Inc.</u>		<u>Scott Z. Hochfelder, Secretary</u>
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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is made and entered into as of August 25, 2005, by and among KB Toys Retail, Inc., a Massachusetts corporation ("KBTR"), and the other entities listed on the signature pages hereto (the "Merging Subsidiaries" and collectively with KBTR, the "Parties").

RECITALS

WHEREAS, KBTR, the Merging Subsidiaries and certain of their subsidiaries and affiliates are entering into several transactions (collectively, the "Reorganization") as part of a plan of reorganization implemented in order to effectuate the terms and provisions of that certain Debtors' First Amended Joint Plan of Reorganization Proposed by the Debtors and the Official Committee of Unsecured Creditors Under Chapter 11 of the Bankruptcy Code, dated July 14, 2005, as amended (the "Plan") and that certain Order Confirming Debtors' First Amended Joint Plan of Reorganization Proposed by the Debtors and the Official Committee of Unsecured Creditors Under Chapter 11 of the Bankruptcy Code, dated August 18, 2005 (the "Confirmation Order"), each docketed in Chapter 11 case no. 04-10120, jointly administered, pending before the United States Bankruptcy Court for the District of Delaware;

WHEREAS, KBTR and the Merging Subsidiaries each will be wholly-owned subsidiaries of K B Toy of Massachusetts, Inc., a Massachusetts corporation ("KBTOM") as of the Effective Time (defined below); and

WHEREAS, KBTOM, KBTR and each of the Merging Subsidiaries have deemed it advisable and in the best interests of the Parties to enter into this Agreement, in connection with the Reorganization, to provide for the merger of each of the Merging Subsidiaries with and into KBTR such that KBTR shall be the surviving corporation of each Merger subject to and in accordance with Section 11.02 of the Massachusetts General Laws and the applicable laws of the jurisdictions of each of the Merging Subsidiaries.

NOW, THEREFORE, in consideration of the premises, the mutual agreements and covenants made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

- The Merger.** At the Effective Time (defined below), in accordance with this Agreement, each of the Merging Subsidiaries shall be merged with and into KBTR, the separate corporate existence of each of the Merging Subsidiaries shall cease, and KBTR shall continue as the surviving entity (each a "Merger" and collectively, the "Mergers").
- Effect of the Mergers.** Upon the effectiveness of each Merger, all the property, rights, privileges, powers and franchises of each of the Merging Subsidiaries shall vest in KBTR, and all debts, liabilities and duties of each of the Merging Subsidiaries shall become the debts, liabilities and duties of KBTR.
- Effective Time.** Each merger shall be effective at the time specified on the Articles of Merger filed with the Secretary of State of the Commonwealth of Massachusetts.

which filing shall be made as soon as practicable. The time of such effectiveness shall herein be referred to as the "Effective Time."

4. **Securities.** Upon the Effective Time and by virtue of the Merger and without any action on the part of KBTR, the Merging Subsidiaries or any of their respective equity owners, all of the equity interests in each of the Merging Subsidiaries that were issued and outstanding prior to the effectiveness of the Merger shall be cancelled and they shall thereafter be void and have no further force or effect.

5. **Organizational Documents.** The Articles of Incorporation and the Bylaws of KBTR as in effect at the Effective Time shall continue to be the Articles of Organization and the Bylaws of KBTR as the surviving corporation until amended or restated in accordance with the provisions thereof and applicable law.

6. **Officers and Directors.** The members of the Board of Directors and the officers of KBTR as of the Effective Time shall continue in office until the expiration of their respective terms of office or until their successors are duly appointed.

7. **Tax Matters.** For federal income tax purposes, KBTR and each of the Merging Subsidiaries intend that each of the Mergers qualify as a tax-free "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder (the "Code"), that this Agreement constitute a "plan of reorganization" as defined under Treasury Regulation Section 1.368-2, and each of the Merging Subsidiaries and KBTR qualify as a "party to [the] reorganization" under Code Section 368(b).

8. **Further Actions.** Each of the Merging Subsidiaries and KBTR will take, and cause their affiliates to take, all such reasonable and lawful actions from time to time as may be necessary or appropriate in order to effectuate the Mergers contemplated hereby as promptly as possible.

9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule that would cause the application of laws of any jurisdiction other than those of the Commonwealth of Massachusetts.

10. **Abandonment.** This Agreement may be terminated and the Mergers may be abandoned by the Board of Directors of KBTR or the Board of Directors (or similar managing board) of any of the Merging Subsidiaries at any time prior to the Effective Time, notwithstanding approval of this Agreement by KBTR or the Merging Subsidiaries.

11. **Amendment.** This Agreement may be amended by the Boards of Directors of KBTR and the Board of Directors (or similar managing board) of any of the Merging Subsidiaries at any time prior to the Effective Time, provided that an amendment made subsequent to the approval of this Agreement by the equity holders of KBTR or the Merging Subsidiaries shall not alter or change any of the terms and conditions of this Agreement if such

alteration or change would adversely affect the holders of any class or series of equity of any Party.

12. Counterparts and Facsimile Signature. This Agreement may be executed 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 Agreement may be executed by facsimile signature.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement and Plan of Merger to be executed by their duly authorized representatives as of the day and year first above written.

KB TOYS RETAIL, INC.

By: _____
Name:
Title:

**KB TOY OF PENNSYLVANIA, INC.
ALA MOANA KAY-BEE TOY, INC.,
KB TOY OF ARIZONA, INC.
KB TOY OF ARKANSAS, INC.
KB TOY OF CALIFORNIA, INC.
KB TOY OF COLORADO, INC.
KB TOY OF CONNECTICUT, INC.
KB TOY OF FLORIDA, INC.
KB TOY OF HAWAII, INC.
KB TOY OF IDAHO, INC.
KB TOY OF MARYLAND, INC.
KB TOY OF NEBRASKA, INC.
KB TOY OF NEVADA, INC.
KB TOY OF NORTH CAROLINA, INC.
KB TOY OF OHIO, INC.
KB TOY OF TENNESSEE, INC.
KB TOY OF TEXAS, INC.
KB TOY OF UTAH, INC.
KB TOY OF VIRGINIA, INC.
KB TOY OF WASHINGTON, INC.
KB TOY OF WISCONSIN, INC.
PHEASANT KAY-BEE TOY, INC.**

By: _____
Name: Michael L. Glazer
Title: President