

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended April 30, 2011

or

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 1-15274



**J. C. PENNEY COMPANY, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of incorporation or organization)

**26-0037077**  
(I.R.S. Employer Identification No.)

**6501 Legacy Drive, Plano, Texas**  
(Address of principal executive offices)

**75024 - 3698**  
(Zip Code)

(Registrant's telephone number, including area code) **(972) 431-1000**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.  
213,209,237 shares of Common Stock of 50 cents par value, as of June 6, 2011

J. C. PENNEY COMPANY, INC.

FORM 10-Q

For the Quarterly Period Ended April 30, 2011

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**Part I. Financial Information**

**Item 1. Unaudited Financial Statements**

**J. C. PENNEY COMPANY, INC.**

**CONSOLIDATED STATEMENTS of OPERATIONS**  
**(Unaudited)**

*(\$ in millions, except per share data)*

	<b>Three Months Ended</b>	
	<b>April 30, 2011</b>	<b>May 1, 2010</b>
<b>Total net sales</b>	\$ 3,943	\$ 3,929
Cost of goods sold	2,348	2,299
Gross margin	1,595	1,630
Operating expenses:		
Selling, general and administrative (SG&A)	1,281	1,292
Pension	29	64
Depreciation and amortization	128	125
Real estate and other, net	(4)	(6)
Total operating expenses	1,434	1,475
Operating income	161	155
Net interest expense	58	59
Income before income taxes	103	96
Income tax expense	39	36
<b>Net income</b>	<b>\$ 64</b>	<b>\$ 60</b>
<b>Earnings per share:</b>		
Basic	\$ 0.28	\$ 0.25
Diluted	\$ 0.28	\$ 0.25

*The accompanying notes are an integral part of these unaudited Interim Consolidated Financial Statements.*

**J. C. PENNEY COMPANY, INC.****CONSOLIDATED BALANCE SHEETS***(\$ in millions, except per share data)*

	<u>April 30,</u> <u>2011</u>	<u>May 1,</u> <u>2010</u>	<u>Jan. 29,</u> <u>2011</u>
	(Unaudited)	(Unaudited)	
<b>Assets</b>			
<b>Current assets</b>			
Cash in banks and in transit	\$ 246	\$ 220	\$ 169
Cash short-term investments	1,521	2,158	2,453
Cash and cash equivalents	1,767	2,378	2,622
Merchandise inventory	3,408	3,214	3,213
Income taxes receivable	269	357	334
Prepaid expenses and other	189	199	201
<b>Total current assets</b>	<b>5,633</b>	<b>6,148</b>	<b>6,370</b>
Property and equipment (net of accumulated depreciation of \$2,963, \$2,806 and \$2,854)	5,226	5,307	5,231
Prepaid pension	776	-	763
Other assets	739	626	678
<b>Total Assets</b>	<b>\$ 12,374</b>	<b>\$ 12,081</b>	<b>\$ 13,042</b>
<b>Liabilities and Stockholders' Equity</b>			
<b>Current liabilities</b>			
Merchandise accounts payable	\$ 1,274	\$ 1,303	\$ 1,133
Other accounts payable and accrued expenses	1,396	1,350	1,514
<b>Total current liabilities</b>	<b>2,670</b>	<b>2,653</b>	<b>2,647</b>
Long-term debt	3,099	2,999	3,099
Deferred taxes	1,208	833	1,192
Other liabilities	646	726	644
<b>Total Liabilities</b>	<b>7,623</b>	<b>7,211</b>	<b>7,582</b>
<b>Stockholders' Equity</b>			
Common stock <sup>(1)</sup>	108	118	118
Additional paid-in capital	3,587	3,881	3,925
Reinvested earnings	1,819	2,036	2,222
Accumulated other comprehensive (loss)	(763)	(1,165)	(805)
<b>Total Stockholders' Equity</b>	<b>4,751</b>	<b>4,870</b>	<b>5,460</b>
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$ 12,374</b>	<b>\$ 12,081</b>	<b>\$ 13,042</b>

(1) 1,250 million shares of common stock are authorized with a par value of \$0.50 per share. The total shares issued and outstanding were 216 million, 236 million and 237 million as of April 30, 2011, May 1, 2010 and January 29, 2011, respectively.

*The accompanying notes are an integral part of these unaudited Interim Consolidated Financial Statements.*

## J. C. PENNEY COMPANY, INC.

CONSOLIDATED STATEMENTS of CASH FLOWS  
(Unaudited)

(\$ in millions)

	Three Months Ended	
	April 30, 2011	May 1, 2010
<b>Cash flows from operating activities:</b>		
Net income	\$ 64	\$ 60
Adjustments to reconcile net income to net cash provided by/(used in) operating activities:		
Restructuring and other charges	10	3
Depreciation and amortization	128	125
Benefit plans expense	14	50
Stock-based compensation	20	14
Deferred taxes	(24)	(3)
Change in cash from:		
Inventory	(195)	(190)
Prepaid expenses and other assets	9	23
Merchandise accounts payable	141	77
Current income taxes payable	55	17
Accrued expenses and other	(170)	(261)
<b>Net cash provided by/(used in) operating activities</b>	<b>52</b>	<b>(85)</b>
<b>Cash flows from investing activities:</b>		
Capital expenditures	(117)	(116)
Proceeds from sale of assets	-	4
<b>Net cash (used in) investing activities</b>	<b>(117)</b>	<b>(112)</b>
<b>Cash flows from financing activities:</b>		
Payments of long-term debt	-	(393)
Financing costs	(15)	-
Dividends paid, common	(47)	(47)
Stock repurchase program	(733)	-
Proceeds from stock options exercised	8	4
Excess tax benefits from stock-based compensation	3	1
Tax withholding payments reimbursed by restricted stock	(6)	(1)
<b>Net cash (used in) financing activities</b>	<b>(790)</b>	<b>(436)</b>
Net (decrease) in cash and cash equivalents	(855)	(633)
Cash and cash equivalents at beginning of year	2,622	3,011
<b>Cash and cash equivalents at end of period</b>	<b>\$ 1,767</b>	<b>\$ 2,378</b>
<b>Supplemental cash flow information:</b>		
Income taxes (received)/paid	(1)	20
Interest paid	92	117
Interest received	1	2

The accompanying notes are an integral part of these unaudited Interim Consolidated Financial Statements.

**J. C. PENNEY COMPANY, INC.**

**NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS**  
*(Unaudited)*

**Note 1 – Basis of Presentation and Consolidation**

***Basis of Presentation***

J. C. Penney Company, Inc. is a holding company whose principal operating subsidiary is J. C. Penney Corporation, Inc. (JCP). JCP was incorporated in Delaware in 1924, and J. C. Penney Company, Inc. was incorporated in Delaware in 2002, when the holding company structure was implemented. The holding company has no independent assets or operations, and no direct subsidiaries other than JCP. The holding company and its consolidated subsidiaries, including JCP, are collectively referred to in this quarterly report as “we,” “us,” “our,” “ourselves” or the “Company,” unless otherwise indicated.

J. C. Penney Company, Inc. is a co-obligor (or guarantor, as appropriate) regarding the payment of principal and interest on JCP’s outstanding debt securities. The guarantee of certain of JCP’s outstanding debt securities by J. C. Penney Company, Inc. is full and unconditional.

These Interim Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) for interim financial information and in accordance with the rules and regulations of the Securities and Exchange Commission (SEC). The accompanying Interim Consolidated Financial Statements are unaudited but, in our opinion, include all material adjustments necessary for a fair presentation and should be read in conjunction with the Consolidated Financial Statements and notes thereto in our Annual Report on Form 10-K for the fiscal year ended January 29, 2011 (2010 Form 10-K). We follow substantially the same accounting policies to prepare quarterly financial statements as are followed in preparing annual financial statements. A description of such significant accounting policies is included in the 2010 Form 10-K. The January 29, 2011 financial information was derived from the audited Consolidated Financial Statements, with related footnotes, included in the 2010 Form 10-K. Because of the seasonal nature of the retail business, operating results for interim periods are not necessarily indicative of the results that may be expected for the full year.

***Fiscal Year***

Our fiscal year ends on the Saturday nearest to January 31. As used herein, “three months ended April 30, 2011” and “three months ended May 1, 2010” refer to the 13-week periods ended April 30, 2011 and May 1, 2010, respectively.

***Basis of Consolidation***

All significant intercompany transactions and balances have been eliminated in consolidation. Certain reclassifications were made to prior year amounts to conform to the current period presentation. None of the reclassifications affected our net income in any period.

**J. C. PENNEY COMPANY, INC.****NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
*(Unaudited)***Note 2 – Earnings per Share**

Net income and shares used to compute basic and diluted earnings per share (EPS) are reconciled below:

*(in millions, except per share data)*

	Three Months Ended	
	April 30, 2011	May 1, 2010
<b>Earnings:</b>		
Net income, basic and diluted	\$ 64	\$ 60
<b>Shares:</b>		
Average common shares outstanding (basic shares)	229	236
Adjustment for assumed dilution:		
Stock options and restricted stock awards	3	2
Average shares assuming dilution (diluted shares)	232	238
<b>EPS:</b>		
Basic	\$ 0.28	\$ 0.25
Diluted	\$ 0.28	\$ 0.25

For the three months ended April 30, 2011 and May 1, 2010, eight million and 10 million average potential shares of common stock, respectively, were excluded from the EPS calculation because their effect would have been anti-dilutive.

**Note 3 – Credit Facility**

On April 29, 2011, J. C. Penney Company, Inc., JCP and J. C. Penney Purchasing Corporation entered into an amended and restated five-year, \$1,250 million revolving credit agreement (2011 Credit Facility) with a syndicate of lenders with JPMorgan Chase Bank, N.A., as administrative agent. The facility is secured by our inventory, which security interest can be released upon attainment of certain credit rating levels. The 2011 Credit Facility is available for general corporate purposes, including the issuance of letters of credit. Pricing under the 2011 Credit Facility is tiered based on JCP's senior unsecured long-term credit ratings issued by Moody's Investors Service, Inc. and Standard & Poor's Ratings Services. JCP's obligations under the 2011 Credit Facility are guaranteed by J. C. Penney Company, Inc.

The 2011 Credit Facility requires that we maintain certain financial covenants, which include a leverage ratio, a fixed charge coverage ratio and an asset coverage ratio (each as defined in the 2011 Credit Facility). Under the terms of the 2011 Credit Facility, non-cash charges or credits related to retirement plans are not included in the calculation of EBITDA (consolidated earnings before interest, income taxes, depreciation and amortization), which is used in the leverage ratio and fixed charge coverage ratio.

The leverage ratio, which is calculated as of the last day of the quarter and measured on a trailing four-quarter basis, cannot exceed 3.0 to 1. The fixed charge coverage ratio, which is calculated as of the last day of the quarter and measured on a trailing four-quarter basis, cannot be less than 2.5 to 1 through October 29, 2011; and 3.0 to 1 thereafter. The asset coverage ratio cannot be less than 3.0 to 1.

As of April 30, 2011, we were in compliance with these requirements with a leverage ratio of 2.0 to 1, a fixed charge coverage ratio of 3.8 to 1 and an asset coverage ratio of 17 to 1. No borrowings, other than the issuance of standby and import letters of credit totaling \$197 million as of the end of the first quarter of 2011, have been made under the 2011 Credit Facility.

J. C. PENNEY COMPANY, INC.

NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)  
(Unaudited)

**Note 4 – Long-Term Debt**

During the first quarter of 2011, there were no scheduled debt maturities and no issuances of debt.

During the first quarter of 2010, we repaid at maturity the remaining \$393 million outstanding principal amount of JCP's 8.0% Notes due 2010.

**Note 5 – Fair Value Disclosures**

We determined the fair value of our real estate investment trusts (REITs) using quoted market prices. Primarily, the market value of our investments in public REITs are accounted for as available-for-sale securities. As of April 30, 2011, May 1, 2010 and January 29, 2011, the cost basis of these investments was \$80 million. Our REIT assets measured at fair value on a recurring basis were as follows:

(\$ in millions)

	REIT Assets at Fair Value		
	Quoted Prices in Active Markets of Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
April 30, 2011	\$ 289	\$ -	\$ -
May 1, 2010	225	-	-
January 29, 2011	253	-	-

**Other Financial Instruments**

Our financial instruments include cash and cash equivalents and long-term debt. The carrying amount of our cash and cash equivalents approximates fair value because of the short maturity of these instruments. The fair value of long-term debt is estimated by obtaining quotes from brokers or is based on current rates offered for similar debt. At April 30, 2011 and January 29, 2011, long-term debt had a carrying value and fair value of \$3.1 billion.

J. C. PENNEY COMPANY, INC.

NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)  
(Unaudited)

**Note 6 – Stockholders' Equity**

The following table shows the change in the components of stockholders' equity for the first three months of 2011:

<i>(in millions)</i>	Number of Common Shares	Common Stock	Additional Paid-in Capital	Reinvested Earnings	Accumulated Other Comprehensive (Loss)/Income	Total Stockholders' Equity
January 29, 2011	237	\$ 118	\$ 3,925	\$ 2,222	\$ (805) <sup>(1)</sup>	\$ 5,460
Net income	-	-	-	64	-	64
Other comprehensive income	-	-	-	-	42	42
Dividends declared, common	-	-	-	(45	-	(45)
Common stock repurchased and retired	(21)	(10)	(355)	(422)	-	(787)
Stock-based compensation	-	-	17	-	-	17
<b>April 30, 2011</b>	<b>216</b>	<b>\$ 108</b>	<b>\$ 3,587</b>	<b>\$ 1,819</b>	<b>\$ (763)<sup>(2)</sup></b>	<b>\$ 4,751</b>

(1) Includes an unrealized gain in REITs of \$112 million (shown net of a \$62 million deferred tax liability) and actuarial (loss) and prior service (cost) for the pension and postretirement plans of \$(917) million (shown net of a \$585 million deferred tax asset).

(2) Includes an unrealized gain in REITs of \$135 million (shown net of a deferred tax liability of \$75 million) and actuarial (loss) and prior service (cost) for the pension and postretirement plans of \$(898) million (shown net of a \$573 million deferred tax asset).

**Comprehensive Income**

<i>(\$ in millions)</i>	Three Months Ended	
	April 30, 2011	May 1, 2010
Net income	\$ 64	\$ 60
Other comprehensive income – net of tax:		
Amortization of net actuarial loss and prior service cost	19	35
Unrealized gain in REITs	23	30
Total other comprehensive income	42	65
Total comprehensive income	\$ 106	\$ 125

**Common Stock Repurchase Program**

In February 2011, our Board of Directors authorized a program to repurchase up to \$900 million of Company common stock using existing cash and cash equivalents. In the first quarter of 2011, we repurchased through open market transactions approximately 21 million shares for \$787 million. Subsequent to the end of the quarter, we purchased an additional three million shares for \$113 million and completed the program on May 6, 2011. As a result of this repurchase program, 24.4 million total shares were purchased for a total of \$900 million at an average share price of \$36.98 per share, including commission. Repurchased shares were retired on the date of purchase, and the excess of the purchase price over par value was allocated between reinvested earnings and additional paid-in capital.

## J. C. PENNEY COMPANY, INC.

NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)  
(Unaudited)**Note 7 – Stock-Based Compensation**

We grant stock-based compensation to employees (associates) and non-employee directors under our 2009 Long-Term Incentive Plan (2009 Plan). As of April 30, 2011, there were approximately eight million shares of stock available for future grant under the 2009 Plan.

The following table presents total stock-based compensation costs and related income tax benefits:

(\$ in millions)

	Three Months Ended	
	April 30, 2011	May 1, 2010
Stock awards (shares and units)	\$ 6	\$ 4
Stock options	7	8
Total stock-based compensation	<u>\$ 13</u>	<u>\$ 12</u>
Total related income tax benefits	<u>\$ 5</u>	<u>\$ 5</u>

**Stock Options**

On March 15, 2011, we made an annual grant of stock options covering approximately 2.4 million shares to associates at an option price of \$36.58, with a fair value of \$11.40 per option.

The following table summarizes stock options outstanding as of April 30, 2011, as well as activity during the three months then ended:

(options in thousands)

	Stock Options	Weighted-Average Exercise Price
Outstanding at January 29, 2011	15,013	\$ 36
Granted	2,392	37
Exercised	(425)	20
Forfeited or expired	(253)	37
Outstanding at April 30, 2011	<u>16,727</u>	<u>36</u>
Exercisable at April 30, 2011	<u>10,636</u>	<u>41</u>

As of April 30, 2011, there was \$48 million of unrecognized compensation expense, net of estimated forfeitures, for unvested stock options, which will be recognized over the remaining weighted-average vesting period of approximately one year.

## J. C. PENNEY COMPANY, INC.

NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)  
(Unaudited)**Stock Awards**

On March 15, 2011, we made a grant of approximately 822,000 restricted stock unit awards to associates, representing the annual grant under the 2009 Plan. These awards consisted of approximately 367,000 time-based restricted stock units and approximately 455,000 performance-based stock units. The time-based restricted stock units vest one-third on each of the first three anniversaries of the grant date provided that

the associate remains continuously employed with the Company during that time. The performance-based unit grant is a target award with a payout matrix ranging from 0% to 200% based on 2011 EPS (defined as per common share income from continuing operations, excluding any unusual and/or extraordinary items as determined by the Human Resources and Compensation Committee of the Board). A payment of 100% of the target award would be achieved at EPS of \$2.17. In addition to the performance requirement, this award also includes a time-based vesting requirement, which is the same as the requirement for the time-based restricted stock unit award. Upon vesting, both the time-based restricted stock units and the performance-based restricted stock units will be paid out in shares of Company common stock.

In addition to the annual associate grant, the Company granted approximately 36,000 restricted stock units consisting of ad-hoc awards to associates and dividend equivalents on outstanding awards during the first quarter of 2011.

Stock awards vested during the first quarter of 2011 included the final one-third, or approximately 106,000, of our March 2008 annual grant of time-based restricted stock unit awards and one-third, or approximately 379,000, of our March 2010 restricted stock unit awards (time-based and performance-based), as well as the vesting of 51,000 individual restricted stock unit awards.

The following table summarizes the non-vested stock awards (shares and units) as of April 30, 2011 and activity during the three months then ended:

<i>(awards in thousands)</i>	<b>Non-Vested Stock Awards</b>	<b>Weighted- Average Grant Date Fair Value</b>
Non-vested at January 29, 2011	2,028	\$ 27
Granted	858	36
Vested	(536)	34
Forfeited	(30)	32
Non-vested at April 30, 2011	<u>2,320</u>	<u>29</u>

As of April 30, 2011, there was \$52 million of unrecognized compensation expense related to unearned associate stock awards, which will be recognized over the remaining weighted-average vesting period of approximately one year.

## J. C. PENNEY COMPANY, INC.

NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)  
(Unaudited)**Note 8 – Retirement Benefit Plans**

The components of net periodic benefit costs for our non-contributory qualified defined benefit pension plan (primary plan) and non-contributory supplemental pension plans for the three months ended April 30, 2011 and May 1, 2010 were as follows:

<i>(\$ in millions)</i>	<b>Pension Plans</b>					
	<b>Primary Plan</b>		<b>Supplemental</b>		<b>Total</b>	
	<b>Three Months Ended</b>		<b>Three Months Ended</b>		<b>Three Months Ended</b>	
	April 30, 2011	May 1, 2010	April 30, 2011	May 1, 2010	April 30, 2011	May 1, 2010
Service cost	\$ 22	\$ 22	\$ 1	\$ 1	\$ 23	\$ 23
Interest cost	62	62	3	4	65	66
Expected return on plan assets	(96)	(88)	-	-	(96)	(88)
Net amortization	34	59	3	4	37	63
Net periodic benefit expense	<u>\$ 22</u>	<u>\$ 55</u>	<u>\$ 7</u>	<u>\$ 9</u>	<u>\$ 29</u>	<u>\$ 64</u>

The components of the net periodic benefit of our contributory postretirement health and welfare plan were predominantly included in SG&A expenses on the Consolidated Statements of Operations and were as follows:

<i>(\$ in millions)</i>	<b>Postretirement Health and Welfare Plan</b>	
	<b>Three Months Ended</b>	
	April 30, 2011	May 1, 2010
Service cost	\$ -	\$ -
Interest cost	-	-
Expected return on plan assets	-	-
Net amortization	(6)	(6)
Net periodic (income)	<u>\$ (6)</u>	<u>\$ (6)</u>

**Defined Contribution Plans**

Our defined contribution plans include a qualified Savings, Profit-Sharing and Stock Ownership Plan (401(k) plan), which includes a non-contributory retirement account, and a non-qualified contributory unfunded mirror savings plan offered to certain management associates. Total expense for our defined contribution plans for the first quarters of 2011 and 2010 was \$16 million and \$14 million, respectively, and was predominantly included in SG&A expenses on the Consolidated Statements of Operations.

**J. C. PENNEY COMPANY, INC.****NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
*(Unaudited)***Note 9 – Real Estate and Other, Net**

(\$ in millions)	Three Months Ended	
	April 30, 2011	May 1, 2010
Real estate activities	\$ (15)	\$ (8)
Restructuring charges	9	-
Other	2	2
Total (income)	\$ (4)	\$ (6)

Real estate and other consists of ongoing operating income from our real estate subsidiaries whose primary investments are in REITs, as well as investments in 13 joint ventures that own regional mall properties. Real estate and other also includes net gains from the sale of facilities and equipment that are no longer used in operations, other non-operating charges and credits, as well as asset impairments and restructuring related charges.

Real estate and other income totaled \$4 million for the first quarter of 2011 and \$6 million for the first quarter of 2010. Real estate activities for the first quarter of 2011 improved \$7 million as a result of certain joint venture transactions. The first quarter of 2011 included \$9 million of restructuring charges related to the previously announced streamlining of our supply chain and custom decorating operations as well as the exit from the catalog business.

**Note 10 – Income Taxes**

The total amount for unrecognized tax benefits as of April 30, 2011 was \$145 million compared to \$162 million as of January 29, 2011. The decrease included \$20 million for settlements reached with tax authorities partially offset by an increase of \$3 million based on additional amounts related to prior period tax positions. As of the end of the first quarter of 2011, the uncertain tax position balance included \$63 million that, if recognized, would lower the effective tax rate and would be reduced upon settlement by \$22 million related to the federal tax deduction of state taxes. The remaining amounts reflect tax positions for which the ultimate deductibility is highly certain, but for which there is uncertainty about the timing. Due to deferred tax accounting, other than any interest or penalties incurred, the disallowance of the shorter deductibility period would not impact the effective tax rate, but would accelerate payment to the taxing authority.

Over the next 12 months, it is reasonably possible that the amount of unrecognized tax benefits could be reduced by approximately \$41 million (\$1 million of which would impact the effective tax rate) if our tax position is sustained upon audit, the controlling statute of limitations expires or we agree to a disallowance.

We recognize accrued interest and penalties related to unrecognized tax benefits in income tax expense. Our accrued interest was \$4 million as of April 30, 2011 and \$3 million as of January 29, 2011. We did not have any penalties accrued as of either date.

**J. C. PENNEY COMPANY, INC.**

**NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS—(Continued)**  
*(Unaudited)*

**Note 11 – Litigation, Other Contingencies and Guarantees**

We are subject to various legal and governmental proceedings involving routine litigation incidental to our business. Reserves have been established based on our best estimates of our potential liability in certain of these matters. These estimates have been developed in consultation with in-house and outside counsel. While no assurance can be given as to the ultimate outcome of these matters, management currently believes that the final resolution of these actions, individually or in the aggregate, will not have a material adverse effect on our results of operations, financial position, liquidity or capital resources.

As of April 30, 2011, we estimated our total potential environmental liabilities to range from \$35 million to \$42 million and recorded our best estimate of \$36 million in other liabilities in the Consolidated Balance Sheet as of that date. This estimate covered potential liabilities primarily related to underground storage tanks, remediation of environmental conditions involving our former drugstore locations and asbestos removal in connection with approved plans to renovate or dispose of our facilities. We continue to assess required remediation and the adequacy of environmental reserves as new information becomes available and known conditions are further delineated. If we were to incur losses at the upper end of the estimated range, we do not believe that such losses would have a material effect on our financial condition, results of operations or liquidity.

As of April 30, 2011, we had a guarantee totaling \$20 million for the maximum exposure on insurance reserves established by a former subsidiary included in the sale of our Direct Marketing Services business.

In addition, we had a short-term maximum exposure of \$13 million relating to our guarantee program that authorized participating third parties to receive advance bank funding for merchandise production.

**Note 12 – Effect of New Accounting Standards**

In May 2011, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update 2011-04, “Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U. S. GAAP and IFRS,” which amends the current fair value measurement and disclosure guidance to include increased transparency around valuation inputs and investment categorization. This guidance will be effective for interim and annual periods beginning after December 15, 2011. We do not expect the adoption to have a material impact on our consolidated net earnings, cash flows and financial position.

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

### **General**

J. C. Penney Company, Inc. is a holding company whose principal operating subsidiary is J. C. Penney Corporation, Inc. (JCP). JCP was incorporated in Delaware in 1924, and J. C. Penney Company, Inc. was incorporated in Delaware in 2002, when the holding company structure was implemented. The holding company has no independent assets or operations and no direct subsidiaries other than JCP. The holding company and its consolidated subsidiaries, including JCP, are collectively referred to in this quarterly report as "we," "us," "our," "ourselves" or the "Company," unless otherwise indicated.

The holding company is a co-obligor (or guarantor, as appropriate) regarding the payment of principal and interest on JCP's outstanding debt securities. The guarantee of certain of JCP's outstanding debt securities by the holding company is full and unconditional.

This discussion is intended to provide information that will assist the reader in understanding our financial statements, the changes in certain key items in those financial statements from period to period, and the primary factors that accounted for those changes, how operating results affect the financial condition and results of operations of our Company as a whole, as well as how certain accounting principles affect the financial statements. It should be read in conjunction with our consolidated financial statements as of January 29, 2011, and for the year then ended, and related Notes and Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A), all contained in the Annual Report on Form 10-K for the fiscal year ended January 29, 2011 (2010 Form 10-K). Unless otherwise indicated, all references to earnings per share (EPS) are on a diluted basis and all references to years relate to fiscal years rather than to calendar years.

### **First Quarter Highlights**

- Earnings per share were \$0.28 compared to \$0.25 in last year's first quarter.
- Comparable store sales increased 3.8% over last year driven by our merchandising initiatives.
- Gross margin declined compared to the same period last year primarily as a result of the discontinuation of our catalog business.
- Selling, general and administrative expenses (SG&A) were 32.5% of sales, an improvement of 40 basis points compared to last year's first quarter.
- We opened 23 Sephora inside jcpenny locations, bringing our total to 254 locations and expanded MNG by Mango® and Call It Spring® by the ALDO Group® to 292 and 100 locations, respectively. We also opened two new jcpenny department stores and six new The Foundry Big & Tall Supply Co.™ stores.
- We repurchased 21 million shares of common stock during the quarter, which benefitted EPS \$0.01 per share due to lower average shares outstanding.
- We renewed our revolving credit facility ahead of its maturity and increased capacity from \$750 million to \$1,250 million.
- Our non-cash primary pension plan expense was \$33 million lower than last year as a result of the positive impact on plan assets in 2010 from the market recovery and our May 2010 voluntary cash contribution of \$392 million.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Results of Operations**

For the first quarter of 2011, net income was \$64 million, or \$0.28 per share, compared to \$60 million, or \$0.25 per share in last year's first quarter. Our merchandising initiatives delivered 3.8% comparable store sales growth. Gross margin declined \$35 million, primarily due to the elimination of the catalog Big Book and the addition of certain non-comparable free shipping promotions on jcp.com. SG&A expenses declined \$11 million, primarily as a result of lower marketing expense, resulting from the elimination of catalog books, and benefits from cost-savings initiatives. During the quarter, we repurchased 21 million shares of Company common stock, which benefitted EPS \$0.01 per share from fewer average outstanding shares. Our non-cash primary pension plan expense declined \$33 million compared to last year as a result of positive market returns reflected in plan assets at the 2010 year-end measurement date. Excluding the non-cash impact of our primary pension plan, adjusted net income (non-GAAP) was \$0.33 per share this year compared to \$0.40 per share in last year's first quarter.

(\$ in millions, except EPS)

	<b>Three Months Ended</b>	
	<b>April 30, 2011</b>	<b>May 1, 2010</b>
Total net sales	<b>\$ 3,943</b>	<b>\$ 3,929</b>
<i>Percent increase from prior year</i>	<b>0.4%</b>	<b>1.2%</b>
Comparable store sales increase <sup>(1)</sup>	<b>3.8%</b>	<b>1.6%</b>
Gross margin	<b>1,595</b>	<b>1,630</b>
Operating expenses:		
SG&A <sup>(2)</sup>	<b>1,281</b>	<b>1,292</b>
Primary pension plan	<b>22</b>	<b>55</b>
Supplemental pension plans	<b>7</b>	<b>9</b>
Total pension	<b>29</b>	<b>64</b>
Depreciation and amortization	<b>128</b>	<b>125</b>
Real estate and other, net	<b>(4)</b>	<b>(6)</b>
Total operating expenses	<b>1,434</b>	<b>1,475</b>
Operating income	<b>161</b>	<b>155</b>
<i>Adjusted operating income (non-GAAP)<sup>(3)</sup></i>	<b>183</b>	<b>210</b>
Net interest expense	<b>58</b>	<b>59</b>
Income before income taxes	<b>103</b>	<b>96</b>
Income tax expense	<b>39</b>	<b>36</b>
Net income	<b>\$ 64</b>	<b>\$ 60</b>
<i>Adjusted net income (non-GAAP)<sup>(3)</sup></i>	<b>\$ 77</b>	<b>\$ 94</b>
Diluted EPS	<b>\$ 0.28</b>	<b>\$ 0.25</b>
<i>Adjusted diluted EPS (non-GAAP)<sup>(3)</sup></i>	<b>\$ 0.33</b>	<b>\$ 0.40</b>
Ratios as a percent of sales:		
Gross margin	<b>40.5%</b>	<b>41.4%</b>
SG&A <sup>(2)</sup>	<b>32.5%</b>	<b>32.9%</b>
Total operating expenses	<b>36.4%</b>	<b>37.5%</b>
Operating income	<b>4.1%</b>	<b>3.9%</b>
<i>Adjusted operating income (non-GAAP)<sup>(3)</sup></i>	<b>4.6%</b>	<b>5.3%</b>

(1) Comparable store sales are presented on a 52-week basis and include sales from new and relocated stores that have been opened for 12 consecutive full fiscal months and Internet sales through jcp.com. Stores closed for an extended period are not included in comparable store sales calculations, while stores remodeled and minor expansions not requiring store closures remain in the calculations.

(2) Beginning in 2011, pre-opening expenses, previously reported as a separate operating expense line, are included in SG&A due to the immaterial nature of such expense in recent years. The impact to the SG&A ratio for the three months ended May 1, 2010 was an increase of 10 basis points.

(3) See "Non-GAAP Financial Measures" on the following page for a discussion of this non-GAAP measure and reconciliation to its most directly comparable GAAP financial measure and further information on its uses and limitations.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Non-GAAP Financial Measures**

We report our financial information in accordance with generally accepted accounting principles in the United States (GAAP). However, we present certain financial measures and ratios identified as non-GAAP under the rules of the Securities and Exchange Commission (SEC) to assess our results. We believe the presentation of these non-GAAP financial measures and ratios is useful in order to better understand our financial performance as well as to facilitate the comparison of our results to the results of our peer companies. It is important to view non-GAAP financial measures in addition to, rather than as a substitute for, those measures and ratios prepared in accordance with GAAP. We have provided reconciliations of the most directly comparable GAAP measures to our non-GAAP financial measures presented.

The following non-GAAP financial measures are adjusted to exclude, or adjust for, the impact of our non-cash primary pension plan expense. Unlike other operating expenses, primary pension plan expense is determined using numerous complex assumptions about changes in pension assets and liabilities that are subject to factors beyond our control, such as market volatility. We believe it is useful for investors to understand the impact of the non-cash primary pension plan expense on our financial results and therefore are presenting the following non-GAAP financial measures: (1) adjusted operating income; (2) adjusted net income; and (3) adjusted diluted EPS.

Adjusted Operating Income. The following table reconciles operating income, the most directly comparable GAAP financial measure, to adjusted operating income, a non-GAAP financial measure:

	<b>Three Months Ended</b>	
	<b>April 30, 2011</b>	<b>May 1, 2010</b>
<i>(\$ in millions)</i>		
Operating income (GAAP)	\$ 161	\$ 155
<i>As a percent of sales</i>	4.1%	3.9%
Add: primary pension plan expense	22	55
Adjusted operating income (non-GAAP)	<u>\$ 183</u>	<u>\$ 210</u>
<i>As a percent of sales</i>	4.6%	5.3%

Adjusted Net Income and Diluted EPS. The following table reconciles net income and diluted EPS, the most directly comparable GAAP financial measures, to adjusted net income and adjusted diluted EPS, non-GAAP financial measures:

	<b>Three Months Ended</b>	
	<b>April 30, 2011</b>	<b>May 1, 2010</b>
<i>(\$ in millions, except per share data)</i>		
Net income (GAAP)	\$ 64	\$ 60
Diluted EPS (GAAP)	\$ 0.28	\$ 0.25
Add: primary pension plan expense, net of income tax of \$9 and \$21	13	34
Adjusted net income (non-GAAP)	<u>\$ 77</u>	<u>\$ 94</u>
Adjusted diluted EPS (non-GAAP)	\$ 0.33	\$ 0.40

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Total Net Sales***(\$ in millions)*

	Three Months Ended	
	April 30, 2011	May 1, 2010
Total net sales	<u>\$ 3,943</u>	<u>\$ 3,929</u>
Sales percent increase:		
Total net sales	0.4%	1.2%
Comparable store sales	3.8%	1.6%

Total net sales increased \$14 million in the first quarter of 2011 compared to the first quarter of 2010. The following table provides the components of the net sales increase:

	Three Months Ended	
	April 30, 2011	April 30, 2010
<i>(\$ in millions)</i>		
Comparable store sales increase	<u>\$ 142</u>	<u>142</u>
Sales of new stores, net		7
Sales decline through catalog print media and outlet stores		(135)
Total net sales increase	<u>\$ 14</u>	<u>14</u>

In the first quarter of 2011, comparable store sales increased 3.8% driven by customer response to our merchandising initiatives. Comparable store sales in last year's first quarter increased 1.6%. Internet sales, through jcp.com, which are included in comparable store sales, increased 6.6%, to \$376 million. The modest increase for sales of new stores, net reflects the opening of two new stores in the first quarter of this year, net of three stores closed subsequent to last year's first quarter. Catalog print media and outlet store sales declined as expected in the quarter reflecting our exit from the catalog business. Total net sales increased 0.4% to \$3,943 million compared with \$3,929 million in last year's first quarter.

Traffic in mall and off-mall stores increased in the first quarter compared to first quarter last year. Both the number of store transactions and the number of units sold increased in the quarter, while the number of units per transaction declined. Our average unit retail for the first quarter of 2011 declined slightly driven by lower average unit retail on a higher number of clearance units. Private brands, including exclusive brands found only at jcpenny, comprised approximately 56% of total merchandise sales for the first quarter of 2011, compared to 54% in last year's first quarter.

**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations—(Continued)**

The increase in sales for the quarter reflected positive customer response to merchandise initiatives relating to our exclusive and private brands such as Liz Claiborne®, Worthington® and St. John’s Bay® as well as ongoing growth of our Sephora inside jcpenny, MNG by Mango and Call It Spring by the ALDO Group shop within a shop concepts and the successful introduction of our Modern Bride® assortment of bridal jewelry. Our best performing divisions were women’s apparel and accessories and children’s apparel. The home division experienced the weakest performance for the first quarter. Geographically, the best performance was in the southwest region of the country, and the weakest was in the northwest region.

**Merchandise Initiatives**

In the first quarter of 2011, we focused on the following merchandise initiatives:

- We opened 23 Sephora inside jcpenny locations, bringing our total to 254 locations compared to 193 locations at the end of the first quarter 2010. We plan to open an additional 54 Sephora inside jcpenny locations during the remainder of 2011.
- We expanded MNG by Mango to 292 locations and Call It Spring by the ALDO Group to 100 locations as of the end of the first quarter.
- In February, we launched the Modern Bride concept in our fine jewelry department, in time for Valentine’s Day, offering an expanded assortment of bridal jewelry including engagement rings and wedding bands.
- In April, as part of our new Growth Brands Division, we launched The Foundry Big & Tall Supply Co. catering to the men’s big and tall customer with the opening of six new specialty stores and an ecommerce website. We opened four additional The Foundry Big & Tall Supply Co. stores in May 2011.
- As part of our investment in the digital platform, we rolled out our findmore® smart fixtures to over 120 select stores. In conjunction with the launch of Modern Bride, we also rolled out the findmore experience using the iPad to 50 fine jewelry departments.
- We opened two new jcpenny department stores bringing our total to 1,108 at the end of the first quarter.

**Store Growth**

The following table compares the number of stores and gross selling space for the first quarter of 2011 and 2010.

	Three Months Ended	
	April 30, 2011	May 1, 2010
<b>jcpenny department stores</b>		
Beginning of period	1,106	1,108
Stores opened	2	2
Closed stores	-	(1)
End of period <sup>(1)</sup>	<u>1,108</u>	<u>1,109</u>
<b>The Foundry Big &amp; Tall Supply Co.</b> <sup>(2)</sup>	6	-

(1) Gross selling space was 112 million square feet as of the end of each period.

(2) Gross selling space was 30 thousand square feet as of the end of the first quarter.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Gross Margin**

Gross margin for the first quarter decreased \$35 million to \$1,595 million as compared to \$1,630 million in last year's first quarter. The decline was due to the elimination of catalog, in particular the Big Book, which was still active in the first quarter of 2010. Gross margins were further negatively impacted by certain non-comparable free shipping promotions for jcp.com. As a percent of sales, the gross margin rate decreased 90 basis points to 40.5% compared to 41.4% for the comparable prior year period.

**SG&A Expenses**

SG&A expenses for the quarter decreased \$11 million to \$1,281 million compared to \$1,292 million in last year's first quarter. The reduction was mainly driven by lower marketing expenses due to the elimination of catalog print media as well as lower home office expenses realized from cost saving initiatives. SG&A expense reductions were partially offset by continued investment in our growth initiatives, such as Sephora inside jcpenny and the rollout of MNG by Mango and Call it Spring, and the initial setup and launch of new businesses under our recently created Growth Brands Division, including The Foundry Big & Tall Supply Co. and our new digital ventures, CLAD™ and Gifting Grace™, which are expected to launch in the third quarter of this year. As a percent of sales, SG&A expenses decreased 40 basis points to 32.5% compared to 32.9% in the first quarter of 2010.

**Pension Expense**

*(\$ in millions)*

	Three Months Ended	
	April 30, 2011	May 1, 2010
Primary pension plan	\$ 22	\$ 55
Supplemental pension plans	7	9
Total pension expense	<u>\$ 29</u>	<u>\$ 64</u>

Total pension expense consists of non-cash primary pension plan expense and supplemental pension plans expense. The primary pension plan expense for the period decreased \$33 million, to \$22 million, compared with \$55 million for first quarter of 2010. The decrease was primarily a result of higher returns on our pension plan assets as of the 2010 year-end measurement date due to positive market returns, and combined with our May 2010 voluntary cash contribution of \$392 million. For the first quarter of 2011, the supplemental pension plan expense of \$7 million decreased \$2 million compared to the first quarter of 2010.

**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations—(Continued)**

***Depreciation and Amortization Expenses***

As expected with our investments in store renewals and updates, depreciation and amortization expenses in the first quarter of 2011 increased \$3 million to \$128 million from \$125 million last year.

***Real Estate and Other, Net***

(\$ in millions)

	<b>Three Months Ended</b>	
	<b>April 30, 2011</b>	<b>May 1, 2010</b>
Real estate activities	\$ (15)	\$ (8)
Restructuring charges	9	-
Other	2	2
Total income	<u>\$ 4</u>	<u>\$ 6</u>

Real estate and other income totaled \$4 million for the first quarter of 2011 and \$6 million for the first quarter of 2010. Real estate activities for the first quarter of 2011 improved \$7 million as a result of certain joint venture transactions. The first quarter of 2011 included \$9 million of restructuring charges related to the previously announced streamlining of our supply chain and custom decorating operations as well as the exit from the catalog business.

Real estate and other consists of ongoing operating income from our real estate subsidiaries whose primary investments are in REITs, as well as investments in 13 joint ventures that own regional mall properties. Real estate and other also includes net gains from the sale of facilities and equipment that are no longer used in operations, other non-operating charges and credits, as well as asset impairments and restructuring related charges.

***Operating Income***

For the first quarter of 2011, operating income increased 20 basis points as a percent of sales to 4.1%, or \$161 million, compared to 3.9% or \$155 million in the first quarter of last year. Excluding the impact of non-cash primary pension plan expense, adjusted operating income (non-GAAP) decreased 70 basis points as a percent of sales to 4.6% in the first quarter of 2011 versus 5.3% in the same 2010 period.

***Net Interest Expense***

Net interest expense for the first quarter of 2011 was \$58 million compared to \$59 million in the first quarter of 2010. The decline was mainly due to lower average debt levels and interest rates in 2011 compared to 2010.

***Income Taxes***

The effective income tax rate was 37.9% and 37.5% for the first quarters of 2011 and 2010, respectively. In determining the quarterly provision for income taxes, we use an estimated annual effective tax rate, which is based on our expected annual income, statutory tax rates and tax planning opportunities available in the various jurisdictions in which we operate. Subsequent recognition, de-recognition and measurement of a tax position taken in a previous period are separately recognized in the quarter in which they occur.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Liquidity and Capital Resources****Overview**

As of the end of the first quarter of 2011, our cash and cash equivalents balance was \$1.8 billion, which reflects \$733 million of cash used during the quarter for the Company's stock repurchase program. The program was completed in early May 2011 for a total of 24.4 million shares and \$900 million. Additionally, during the quarter, we entered into an amended and restated revolving credit facility, which increased our borrowing capacity by \$500 million to \$1,250 million.

**Financial Condition and Liquidity Position**

The foundation of our strong liquidity position is our cash and cash equivalents balance and our \$1,250 million revolving credit facility entered into in April 2011.

The following table provides a summary of our key components and ratios of financial condition and liquidity:

(\$ in millions)	Three Months Ended	
	April 30, 2011	May 1, 2010
Cash and cash equivalents	\$ 1,767	\$ 2,378
Merchandise inventory	3,408	3,214
Property and equipment, net	5,226	5,307
Long-term debt	3,099	2,999
Stockholders' equity	4,751	4,870
Total capital	7,850	7,869
Additional amounts available under our credit agreement	1,250	750
Cash flow from operating activities	52	(85)
Free cash flow (non-GAAP) <sup>(1)</sup>	(112)	(244)
Capital expenditures	117	116
Dividends paid	47	47
Ratios:		
Debt-to-total capital <sup>(2)</sup>	39.5%	38.1%
Cash-to-debt <sup>(3)</sup>	57.0%	79.3%

(1) See "Free Cash Flow" on the following page for a reconciliation of this non-GAAP financial measure to its most directly comparable GAAP financial measure and further information on its uses and limitations.

(2) Long-term debt divided by total capitalization.

(3) Cash and cash equivalents divided by long-term debt.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Cash and Cash Equivalents**

We ended the first quarter of 2011 with approximately \$1.8 billion in cash and cash equivalents, which represented 57% of our \$3.1 billion of outstanding long-term debt. During the first quarter of 2011, there were no scheduled debt maturities and no issuances of debt. In the first quarter of 2010, we used \$393 million of cash for the scheduled payment of debt at maturity.

**Free Cash Flow (Non-GAAP)**

We define free cash flow as net cash provided by operating activities less capital expenditures and dividends paid, plus proceeds from the sale of assets. Free cash flow is considered a non-GAAP financial measure under the rules of the Securities and Exchange Commission. We use free cash flow to assess our financial condition and operations. We believe that free cash flow is a relevant indicator of our ability to repay maturing debt, revise our dividend policy or fund other uses of capital that will enhance stockholder value. Free cash flow is limited and does not represent remaining cash flows available for discretionary expenditures due to the fact that the measure does not deduct the payments required for debt maturities and other obligations or payments made for business acquisitions. Therefore, we believe it is important to view free cash flow in addition to, rather than as a substitute for, our entire statement of cash flows and those measures prepared in accordance with GAAP.

The following table reconciles net cash provided by/(used in) operating activities, the most directly comparable GAAP financial measure, to free cash flow, a non-GAAP financial measure:

(\$ in millions)

	Three Months Ended	
	April 30, 2011	May 1, 2010
Net cash provided by/(used in) operating activities (GAAP)	\$ 52	\$ (85)
Less:		
Capital expenditures	(117)	(116)
Dividends paid, common	(47)	(47)
Plus:		
Proceeds from sale of assets	-	4
Free cash flow (non-GAAP)	<u>\$ (112)</u>	<u>\$ (244)</u>

Free cash flow for the first quarter of 2011 increased \$132 million to \$(112) million compared to \$(244) million in the same period last year. The increase was mainly attributed to a lower payout of incentive compensation compared to last year combined with higher merchandise accounts payable.

**Operating Activities**

Our operations are seasonal in nature, with the business depending to a great extent on the last quarter of the year when a significant portion of our sales, profits and operating cash flows are realized.

Cash flow from operating activities for the first quarter increased \$137 million to \$52 million compared to \$(85) million last year primarily due to a lower payment of incentive compensation compared to last year as well as the increase in merchandise accounts payable.

Merchandise inventory increased \$194 million to \$3,408 million at the end of the 2011 first quarter compared to first quarter last year.

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[Table of Contents](#)**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)****Investing Activities**

(\$ in millions)

	Three Months Ended	
	April 30, 2011	May 1, 2010
<b>Net cash (used in)/provided by investing activities:</b>		
Capital expenditures	\$ (117)	\$ (116)
Proceeds from sale of assets	-	4
Investing activities	<u>\$ (117)</u>	<u>\$ (112)</u>

Capital expenditures were \$117 million for the first quarter of 2011, essentially flat compared to the first quarter of 2010. Capital spending was principally for renewals and modernizations that included new Sephora inside jcpenny locations and new stores. During the first quarter of 2011, we opened 23 Sephora inside jcpenny locations, bringing the total to 254 locations, and two new department stores. Our plans call for opening an additional 54 Sephora inside jcpenny locations in 2011. Consistent with the first quarter, capital expenditures for the remainder of 2011 are expected to be funded with cash flow from operations and existing cash and cash equivalent balances. We continue to anticipate full year 2011 capital expenditures to be approximately \$650 million.

During the first quarter of 2010, we opened 38 Sephora inside jcpenny locations and two new stores.

**Financing Activities**

(\$ in millions)

	Three Months Ended	
	April 30, 2011	May 1, 2010
<b>Net cash (used in):</b>		
Financing activities	<u>\$ (790)</u>	<u>\$ (436)</u>

In February 2011, our Board of Directors authorized a program to repurchase up to \$900 million shares of Company common stock using existing cash and cash equivalents. In the first quarter of 2011, through open market transactions, we repurchased approximately 21 million shares at a cost of \$787 million, of which, based on standard settlement terms, \$54 million was paid early in the second quarter. Accordingly, \$733 million of cash was used during the first quarter for the repurchase program. This program was completed in early May 2011 with 24.4 million shares repurchased.

On March 1, 2010, we repaid at maturity \$393 million principal amount of 8.0% Notes due 2010.

As authorized by the Board, we paid quarterly dividends during the first quarter of 2011 and 2010 as follows:

	2011		2010	
	Per Share	Total (in millions)	Per Share	Total (in millions)
February 1	\$ 0.20	\$ 47	\$ 0.20	\$ 47

During the first quarter of 2011, we paid \$15 million of fees related to the renewal of our credit facility.

**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations—(Continued)**

***Long-Range Plan Update***

We are positioned to deliver on our Long Range Plan by 2014, with initiatives focused on sales productivity improvement and operational effectiveness. We expect to drive top-line sales growth in department stores and jcp.com through our merchandise initiatives, including Liz Claiborne, Sephora inside jcpenny, MNG by Mango and Call it Spring. Our new Growth Brands Division will also contribute to sales growth. We plan to improve operational effectiveness through cost reduction initiatives in our stores, home office and supply chain. Initiatives include the elimination of the catalog business and streamlining of the custom decorating business and the most recently announced restructuring of supply chain operations. These initiatives should allow us to achieve our targeted EPS even with fewer new store openings than originally expected in the latter years of our Long Range Plan given the challenging commercial real estate markets and other economic factors.

***Cash Flow Outlook***

For the remainder of 2011, we believe that our cash flow generated from operations, combined with our existing cash and cash equivalents will be adequate to fund capital expenditures, working capital and dividend payments. In the second quarter, we completed the stock repurchase program and purchased and retired an additional three million shares at a cost of \$113 million. In addition, \$54 million was paid to settle first quarter trades. We believe that our financial position continues to provide the financial flexibility to support our Long Range Plan initiatives.

Our cash flows may be impacted by many factors, including the effects of the economic environment and consumer confidence and competitive conditions in the retail industry. Based on the nature of our business, we consider these factors to be normal business risks.

**2011 Credit Facility**

On April 29, 2011, J. C. Penney Company, Inc., JCP and J. C. Penney Purchasing Corporation entered into an amended and restated five-year, \$1,250 million revolving credit agreement (2011 Credit Facility) with a syndicate of lenders with JPMorgan Chase Bank, N.A., as administrative agent. The credit facility, which matures in April 2016, may be used for general corporate purposes and the issuance of letters of credit.

The 2011 Credit Facility is secured by our merchandise inventory, which security interest can be released upon attainment of certain credit rating levels. Pricing under the 2011 Credit Facility is tiered based on JCP’s senior unsecured long-term credit ratings issued by Moody’s Investors Service, Inc. and Standard & Poor’s Ratings Services. JCP’s obligations under the 2011 Credit Facility are guaranteed by J. C. Penney Company, Inc. As of April 30, 2011, we were in compliance with our required financial covenants. As of such date, our leverage ratio was 2.0 to 1, our fixed charge coverage ratio was 3.8 to 1 and our asset coverage ratio was 17 to 1.

**Credit Ratings**

As of the filing date of this document, our credit ratings were as follows:

	<u>Long-Term Debt</u>	<u>Outlook</u>
Moody’s Investors Service, Inc.	Ba1	Stable
Standard & Poor’s Ratings Services	BB+	Stable
Fitch Ratings	BBB-	Stable

Rating agencies consider, among other things, changes in operating performance, comparable store sales, the economic environment, conditions in the retail industry, financial leverage and changes in our business strategy in their rating decisions.

**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations—(Continued)**

**Contractual Obligations and Commitments**

Aggregate information about our obligations and commitments to make future payments under contractual or contingent arrangements was disclosed in the 2010 Form 10-K. Consistent with planned sales, purchase order obligations at the end of the 2011 first quarter were approximately 10% higher than at the end of the first quarter of 2010.

**Common Stock**

As of the end of the first quarter of 2011, the number of outstanding shares of common stock was 216 million compared to 236 million as of May 1, 2010 and 237 million as of January 29, 2011. The decrease in 2011 was due to our stock repurchase program that resulted in the purchase and retirement of 21 million shares of common stock during the quarter.

**Inflation**

Inflation did not significantly impact our results of operations during the quarter. While the retail industry expects inflationary cost increases in 2011, particularly in the latter part of the year, we have programs in place to partially mitigate the effects of inflation that include adjusting our product mix, leveraging our sourcing capabilities, and where appropriate, based on price elasticity studies, increasing prices. Our direct sourcing operation enables us to leverage our more than 50 years of relationships with major overseas suppliers, which allows us to source merchandise more cost effectively than some of our competitors.

**Critical Accounting Policies**

Management's discussion and analysis of our financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America. The preparation of these financial statements requires us to make estimates and use judgments that affect reported amounts of assets, liabilities, revenues and expenses and related disclosures of contingent assets and liabilities. We base our estimates on historical experience and on other assumptions that are believed to be reasonable under the circumstances. On an ongoing basis, we evaluate estimates used, including those related to inventory valuation under the retail method; valuation of long-lived assets; estimation of reserves and valuation allowances specifically related to closed stores, insurance, income taxes, litigation and environmental contingencies and pension accounting. Actual results may differ from these estimates under different assumptions or conditions.

There were no changes to our critical accounting policies during the first quarter of 2011.

For a further discussion of the judgments we make in applying our accounting policies, see Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations, in our 2010 Form 10-K.

**Recently Issued Accounting Pronouncements**

Recently issued accounting pronouncements are discussed in Note 12 to the unaudited Interim Consolidated Financial Statements.

**Pre-Approval of Auditor Services**

During the first quarter of 2011, the Audit Committee of the Board approved estimated fees for the remainder of 2011 related to the performance of both audit, including Sarbanes-Oxley Section 404 attestation work, as well as permitted non-audit services by our external auditors, KPMG LLP.

**Seasonality**

The results of operations and cash flows for the three months ended April 30, 2011 are not necessarily indicative of the results for the entire year. Our annual earnings depend to a great extent on the results of operations for the last quarter of our fiscal year when a significant portion of our sales and profits are recorded.

**Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations—(Continued)**

**Cautionary Statement Regarding Forward-Looking Statements**

This report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, which reflect our current view of future events and financial performance. The words expect, plan, anticipate, believe, intend, should, will and similar expressions identify forward-looking statements. Any such forward-looking statements are subject to known and unknown risks and uncertainties that may cause our actual results to be materially different from planned or expected results.

Those risks and uncertainties include, but are not limited to, general economic conditions, including inflation, recession, unemployment levels, consumer spending patterns, credit availability and debt levels, changes in store traffic trends, the cost of goods, trade restrictions, changes in tariff, freight and shipping rates, changes in the cost of fuel and other energy and transportation costs, increases in wage and benefit costs, competition and retail industry consolidations, interest rate fluctuations, dollar and other currency valuations, the impact of weather conditions, risks associated with war, an act of terrorism or pandemic, and a systems failure and/or security breach that results in the theft, transfer or unauthorized disclosure of customer, employee or Company information. Furthermore, the Company typically earns a disproportionate share of its operating income in the fourth quarter due to holiday buying patterns, and such buying patterns are difficult to forecast with certainty. While we believe that our assumptions are reasonable, we caution that it is impossible to predict the degree to which any such factors could cause actual results to differ materially from predicted results.

For additional discussion on risks and uncertainties, see Item 1A, Risk Factors, in our 2010 Form 10-K and subsequent filings. We intend the forward-looking statements in this Quarterly Report on Form 10-Q to speak only as of the date of this report and do not undertake to update or revise these projections as more information becomes available.

**Item 3. Quantitative and Qualitative Disclosures About Market Risk.**

We are exposed to market risks in the normal course of business due to changes in interest rates. Our market risks related to interest rates at April 30, 2011 are similar to those disclosed in the 2010 Form 10-K.

**Item 4. Controls and Procedures.**

Based on their evaluation of our disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Securities Exchange Act of 1934 (the Exchange Act)) as of the end of the period covered by this Quarterly Report on Form 10-Q, our principal executive officer and principal financial officer concluded our disclosure controls and procedures are effective to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms and is accumulated and communicated to management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure. There were no changes in our internal control over financial reporting during the first quarter ended April 30, 2011, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Part II. Other Information****Item 1A. Risk Factors.**

There have been no material changes to the risk factors set forth under Part I, Item 1A of the 2010 Form 10-K.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.****(c) Issuer Purchases of Equity Securities**

The table below sets forth information with respect to purchases made by or on behalf of the Company of the Company's common stock during the quarter ended April 30, 2011:

<b>Period</b>	<b>Total Number of Shares Purchased</b>	<b>Average Price Paid Per Share</b>	<b>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs<sup>(1)</sup></b>	<b>Maximum Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs (in millions)</b>
January 30, 2011 through March 5, 2011	1,026,916	\$ 34.05	1,026,916	\$ 865
March 6, 2011 through April 2, 2011	11,442,562	\$ 36.27	11,442,562	\$ 450
April 3, 2011 through April 30, 2011	<u>8,932,318</u>	\$ 37.73	<u>8,932,318</u>	\$ 113
Total	<u><u>21,401,796</u></u>		<u><u>21,401,796</u></u>	

(1) *In February 2011, the Board of Directors approved a common stock repurchase program of up to \$900 million. This program, which did not have an expiration date, was completed on May 6, 2011.*

**Part II. Other Information--(Continued)****Item 6. Exhibits.****Exhibit Index**

<b>Exhibit No.</b>	<b>Exhibit Description</b>	<b>Incorporated by Reference</b>			<b>Filed (†) or Furnished (‡) Herewith (as indicated)</b>
		<b>Form</b>	<b>SEC File No.</b>	<b>Exhibit</b>	
3.1	Restated Certificate of Incorporation of J. C. Penney Company, Inc., as amended to May 20, 2011				†
3.2	J. C. Penney Company, Inc. Bylaws, as amended to May 20, 2011				†
10.1	Stockholders Agreement, dated February 24, 2011, between the Company and Pershing Square Capital Management, L.P	8-K		10.1	2/25/2011
10.2	Stockholders Agreement, dated February 24, 2011, between the Company and Vornado Realty Trust	8-K		10.2	2/25/2011
10.3	Amended and Restated Credit Agreement dated as of April 29, 2011 among J. C. Penney Company, Inc., J. C. Penney Corporation, Inc., J. C. Penney Purchasing Corporation, the Lenders party thereto, JPMorgan Chase Bank, N.A., as Administrative Agent and Wells Fargo Bank, National Association, as LC Agent	8-K		10.3	5/5/2011
10.4	Guarantee and Collateral Agreement dated as of April 29, 2011 among J. C. Penney Company, Inc., J. C. Penney Corporation, Inc., J. C. Penney Purchasing Corporation, the Subsidiaries of J. C. Penney Company, Inc. identified therein, and JPMorgan Chase Bank, N.A., as Administrative Agent	8-K		10.4	5/5/2011
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				†
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				†
32.1	Certification of Chief Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				†

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<b>Exhibit No.</b>	<b>Exhibit Description</b>	<b>Incorporated by Reference</b>				<b>Filed (†) or Furnished (‡) Herewith (as indicated)</b>
		<b>Form</b>	<b>SEC File No.</b>	<b>Exhibit</b>	<b>Filing Date</b>	
32.2	Certification of Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002					†
101.INS	XBRL Instance Document					‡
101.SCH	XBRL Taxonomy Extension Schema Document					‡
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document					‡
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document					‡
101.LAB	XBRL Taxonomy Extension Label Linkbase Document					‡
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document					‡

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

J. C. PENNEY COMPANY, INC.

By /s/ Dennis P. Miller

Dennis P. Miller

Senior Vice President and Controller

(Principal Accounting Officer)

Date: June 8, 2011

**SECOND CERTIFICATE OF AMENDMENT**  
**OF**  
**RESTATED CERTIFICATE OF INCORPORATION**

J. C. Penney Company, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (herein referred to as the Company), does hereby certify:

First: That at a meeting of the Board of Directors of the Company held on February 23, 2011, resolutions were duly adopted setting forth proposed amendments to the Restated Certificate of Incorporation, as amended, of the Company declaring said amendments to be advisable and directing that said amendments be submitted for consideration by stockholders at the Annual Meeting of Stockholders of the Company to be held on May 20, 2011. The resolutions setting forth the proposed amendments are as follows:

RESOLVED that the Board of Directors adopts and declares advisable, amendments to Articles Sixth, Seventh, Eighth and Ninth of the Company's Restated Certificate of Incorporation, as amended, in the form submitted to the meeting:

Subsection (d) of Article Sixth shall be amended to read in its entirety as follows:

(d) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, any director may be removed from office, with or without cause, but only by the affirmative vote of at least a majority of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Sixth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation).

Article Seventh shall be amended to read in its entirety as follows:

Seventh: Intentionally Omitted.

Article Eighth shall be amended to read in its entirety as follows:

Eighth: Any action required or permitted to be taken by the holders of the Voting Stock must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders. Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least a majority of the combined voting power of the then-outstanding shares of Voting Stock, voting together as a single class (it being understood that for the purposes of this Article Eighth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation), shall be required to alter, amend, or repeal, or adopt any provisions inconsistent with, this Article Eighth.

Article Ninth shall be amended to read in its entirety as follows:

Ninth: The Board of Directors shall have the power to make, alter, amend, or repeal, or adopt any provision inconsistent with, the Bylaws (except insofar as the Bylaws adopted by the stockholders shall otherwise provide). Any Bylaws made by the directors under the powers conferred hereby may be altered, amended, or repealed, and any provisions inconsistent therewith may be adopted, by the directors or by the affirmative vote of at least a majority of the combined voting power of the then-outstanding shares of Voting Stock, voting together as a single class (it being understood that for the purposes of this Article Ninth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation). Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least a majority of the Voting Stock, voting together as a single class, shall be required to alter, amend, or repeal, or adopt any provision inconsistent with, this Article Ninth.

Second: That the amendments were duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Company has caused this Certificate of Amendment to be executed this 20th day of May 2011.

J. C. Penney Company, Inc.

/s/ Janet Dhillon

By: Janet Dhillon  
Executive Vice President,  
General Counsel and Secretary

CERTIFICATE OF AMENDMENT  
OF  
RESTATED CERTIFICATE OF INCORPORATION

J. C. Penney Company, Inc., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (herein referred to as the Company), does hereby certify:

First: That at a meeting of the Board of Directors of the Company held on March 21, 2006, resolutions were duly adopted setting forth proposed amendments to the Restated Certificate of Incorporation of the Company, declaring said amendments to be advisable and directing that said amendments be submitted for consideration by stockholders at the Annual Meeting of Stockholders of the Company to be held on May 19, 2006. The resolutions setting forth the proposed amendments are as follows:

RESOLVED that the Board of Directors adopts and declares advisable, amendments to Articles Sixth and Ninth of the Company's Restated Certificate of Incorporation ("Charter Amendments"), in the form submitted to the meeting:

Article Sixth shall be amended to read in its entirety as follows:

Sixth: (a) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, the number of directors of the Company shall be fixed from time to time by or pursuant to the Bylaws of the Company. Subject to the provisions of this Article Sixth below, until the 2009 annual meeting of stockholders when the following classification shall cease, the directors, other than those who may be elected pursuant to the aforesaid provisions of said Article Fourth, shall be classified, with respect to the time for which they severally hold office, into three classes, as nearly equal in number as possible, as shall be provided in the manner specified in the Bylaws of the Company, the first such class to be originally elected for a term expiring at the annual meeting of stockholders to be held in 1986, the second such class to be originally elected for a term expiring at the annual meeting of stockholders to be held in 1987, and the third such class to be originally elected for a term expiring at the annual meeting of stockholders to be held in 1988, with each director in each class to hold office until his or her successor is elected and qualified. At each annual meeting of stockholders until the 2007 annual meeting of stockholders, the successors of the class of directors whose term expires at that meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders to be held in the third year following the year of their election, with each director in each such

class to hold office until his or her successor is elected and qualified. Directors elected at and after the 2007 annual meeting of stockholders shall hold office until the first annual meeting of stockholders following their election and until a successor shall have been elected and qualified or until the director's prior death, resignation or removal.

(b) Advance notice of stockholder nominations for the election of directors shall be given in the manner provided by the Bylaws of the Company at the time in effect.

(c) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, newly-created directorships resulting from any increase in the number of directors and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal, or other cause shall be filled only by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors. Any director elected in accordance with the preceding sentence shall hold office until the next succeeding annual meeting of stockholders following such director's election and until such director's successor shall have been elected and qualified, including in circumstances where such director's predecessor was elected to a longer term. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(d) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, any director may be removed from office, with or without cause, but only by the affirmative vote of at least 80% of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Sixth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation).

(e) Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least a majority of the combined voting power of the Voting Stock, voting together as a single class, shall be required to alter, amend, or repeal, or adopt any provision inconsistent with, this Article Sixth.

Article Ninth shall be amended to read in its entirety as follows:

Ninth: The Board of Directors shall have the power to make, alter, amend, or repeal, or adopt any provision inconsistent with, the Bylaws (except insofar as the Bylaws adopted by the stockholders shall otherwise provide). Any Bylaws made by the directors under the powers conferred hereby may be altered, amended, or repealed, and any provisions inconsistent therewith may be adopted, by the directors or by the stockholders. Notwithstanding the foregoing and anything contained in this Certificate of Incorporation to the contrary, Section 2 of Article II, and Sections 12 and 15 of Article III of the Bylaws, all as in effect simultaneously with the effectiveness of this Article, shall not be altered, amended, or repealed, and no provision inconsistent therewith shall be adopted, without the affirmative vote of at least 80% of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Ninth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation). Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least 80% of the Voting Stock, voting together as a single class, shall be required to alter, amend, or repeal, or adopt any provision inconsistent with, this Article Ninth.

Second: That thereafter, pursuant to resolution of its Board of Directors, at the Annual Meeting of Stockholders of the Company duly called and held on May 19, 2006, upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware, the necessary number of shares as required by statute and the Company's Restated Certificate of Incorporation were voted in favor of the amendments.

Third: That the amendments were duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, the Company has caused this Certificate of Amendment to be executed this 19<sup>th</sup> day of May 2006.

J. C. Penney Company, Inc.

/s/ Joanne L. Bober

By: Joanne L. Bober  
Executive Vice President,  
General Counsel and Secretary

RESTATED CERTIFICATE OF INCORPORATION  
OF  
J. C. PENNEY COMPANY, INC.

\* \* \* \* \*

The present name of the company is J. C. Penney Company, Inc. The company was incorporated under the name "J. C. Penney Holdings, Inc." by the filing of its original Certificate of Incorporation with the Secretary of State of the State of Delaware on January 22, 2002. This Restated Certificate of Incorporation of the company only restates and integrates and does not further amend the provisions of the company's Restated Certificate of Incorporation and there is no discrepancy between the provisions of the company's Restated Certificate of Incorporation and the provisions of this Restated Certificate of Incorporation. This Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Section 245 of the General Corporation Law of the State of Delaware. The Restated Certificate of Incorporation of the company is hereby restated to read in its entirety as follows:

First: The name of the corporation (which is herein referred to as the Company) shall be J. C. Penney Company, Inc.

Second: The address of the Company's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle Delaware 19801. The name of the Company's registered agent at such address is The Corporation Trust Company.

Third: The purpose of the Company is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

Fourth: The total number of shares of all classes of stock which the Company shall have authority to issue is 1,275,000,000 shares, of which 25,000,000 shares shall be shares of Preferred Stock without par value (hereinafter called Preferred Stock) and 1,250,000,000 shares shall be shares of Common Stock of 50¢ par value (hereinafter called Common Stock).

Authority is hereby expressly granted to the Board of Directors from time to time to issue the Preferred Stock as Preferred Stock of one or more series and in connection with the creation of any such series to fix by the resolution or resolutions providing for the issue of shares thereof the designation, powers, preferences, and relative, participating, optional, or other special rights of such series, and the qualifications, limitations, or restrictions thereof. Such authority of the Board of Directors with respect to each such series shall include, but not be limited to, the determination of the following:

(a) the distinctive designation of, and the number of shares comprising, such series, which number may be increased (except where otherwise provided by the Board of Directors in creating such series) or decreased (but not below the

number of shares thereof then outstanding) from time to time by like action of the Board of Directors;

(b) the dividend rate or amount for such series, the conditions and dates upon which such dividends shall be payable, the relation which such dividends shall bear to the dividends payable on any other class or classes or any other series of any class or classes of stock, and whether such dividends shall be cumulative, and if so, from which date or dates for such series;

(c) whether or not the shares of such series shall be subject to redemption by the Company and the times, prices, and other terms and conditions of such redemption;

(d) whether or not the shares of such series shall be subject to the operation of a sinking fund or purchase fund to be applied to the purchase or redemption of such shares and if such a fund be established, the amount thereof and the terms and provisions relative to the application thereof;

(e) whether or not the shares of such series shall be convertible into or exchangeable for shares of any other class or classes, or of any other series of any class or classes, of stock of the Company and if provision be made for conversion or exchange, the times, prices, rates, adjustments, and other terms and conditions of such conversion or exchange;

(f) whether or not the shares of such series shall have voting rights, in addition to the voting rights provided by law, and if they are to have such additional voting rights, the extent thereof;

(g) the rights of the shares of such series in the event of any liquidation, dissolution, or winding up of the Company or upon any distribution of its assets; and

(h) any other powers, preferences, and relative, participating, optional, or other special rights of the shares of such series, and qualifications, limitations, or restrictions thereof, to the full extent now or hereafter permitted by law and not inconsistent with the provisions hereof.

All shares of any one series of Preferred Stock shall be identical in all respects except as to the dates from which dividends thereon shall be cumulative. All series of the Preferred Stock shall rank equally and be identical in all respects except as otherwise provided in the resolution or resolutions providing for the issue of any series of Preferred Stock.

Whenever dividends upon the Preferred Stock at the time outstanding, to the extent of the preference to which such stock is entitled, shall have been paid in full or declared and set apart for payment for all past dividend periods, and after the provisions for any sinking or purchase fund or funds for any series of Preferred Stock shall have been complied with, the

Board of Directors may declare and pay dividends on the Common Stock, payable in cash, stock, or otherwise, and the holders of shares of Preferred Stock shall not be entitled to share therein, subject to the provisions of the resolution or resolutions creating any series of Preferred Stock.

In the event of any liquidation, dissolution, or winding up of the Company or upon the distribution of the assets of the Company, all assets and funds of the Company remaining, after the payment to the holders of the Preferred Stock of the full preferential amounts to which they shall be entitled as provided in the resolution or resolutions creating any series thereof, shall be divided and distributed among the holders of the Common Stock ratably, except as may otherwise be provided in any such resolution or resolutions. Neither the merger or consolidation of the Company with another corporation nor the sale or lease of all or substantially all the assets of the Company shall be deemed to be a liquidation, dissolution, or winding up of the Company or a distribution of its assets.

Except as otherwise required by law or provided by a resolution or resolutions of the Board of Directors creating any series of Preferred Stock, the holders of Common Stock shall have the exclusive power to vote and shall have one vote in respect of each share of such stock held and the holders of Preferred Stock shall have no voting power whatsoever. Except as otherwise provided in such a resolution or resolutions, the authorized shares of any class or classes may be increased or decreased by the affirmative vote of the holders of a majority of the outstanding shares of stock of the Company entitled to vote.

Pursuant to the authority conferred by this Article Fourth upon the Board of Directors of the Company, the Board of Directors created a series of 1,600,000 shares of Preferred Stock designated as Series A Junior Participating Preferred Stock by filing a Certificate of Designations of the Company with the Secretary of State of the State of Delaware (the "Secretary of State") and the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Company's Series A Junior Participating Preferred Stock are set forth in Exhibit A hereto and are incorporated herein by reference.

Pursuant to the authority conferred by this Article Fourth upon the Board of Directors of the Company, the Board of Directors created a series of 1,400,000 shares of Preferred Stock designated as Series B ESOP Convertible Preferred Stock by filing a Certificate of Designations of the Company with the Secretary of State and the voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Company's Series B ESOP Convertible Preferred Stock are set forth in Exhibit B hereto and are incorporated herein by reference.

Fifth: In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized and empowered:

(a) to make, alter, and repeal the Bylaws of the Company, subject to the power of the stockholders of the Company to alter or repeal any Bylaw made by the Board of Directors;

(b) subject to the laws of the State of Delaware, from time to time to sell, lease, or otherwise dispose of any part or parts of the properties of the Company and to cease to conduct the business connected therewith or again to resume the same, as it may deem best; and

(c) in addition to the powers and authorities hereinbefore and by the laws of the State of Delaware conferred upon the Board of Directors, to exercise all such powers and to do all such acts and things as may be exercised or done by the Company; subject, nevertheless, to the provisions of said laws, of the Certificate of Incorporation as from time to time amended of the Company, and of its Bylaws.

Sixth: (a) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, the number of directors of the Company shall be fixed from time to time by or pursuant to the Bylaws of the Company. The directors, other than those who may be elected pursuant to the aforesaid provisions of said Article Fourth, shall be classified, with respect to the time for which they severally hold office, into three classes, as nearly equal in number as possible, as shall be provided in the manner specified in the Bylaws of the Company, the first such class to be originally elected for a term expiring at the annual meeting of stockholders to be held in 1986, the second such class to be originally elected for a term expiring at the annual meeting of stockholders to be held in 1987, and the third such class to be originally elected for a term expiring at the annual meeting of stockholders to be held in 1988, with each director in each class to hold office until his or her successor is elected and qualified. At each annual meeting of stockholders beginning with the annual meeting of stockholders to be held in 1986, the successors of the class of directors whose term expires at that meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders to be held in the third year following the year of their election, with each director in each such class to hold office until his or her successor is elected and qualified.

(b) Advance notice of stockholder nominations for the election of directors shall be given in the manner provided by the Bylaws of the Company at the time in effect.

(c) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, newly-created directorships resulting from any increase in the number of directors and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal, or other cause shall be filled only by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(d) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of this Certificate of Incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, any director may be removed from office, with or without cause, but only by the affirmative vote of at least 80% of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Sixth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation).

(e) Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least 80% of the combined voting power of the Voting Stock, voting together as a single class, shall be required to alter, amend, or repeal, or adopt any provision inconsistent with, this Article Sixth.

Seventh: Section 1. The vote of stockholders of the Company required to approve any Business Combination shall be as set forth in this Article Seventh. The term "Business Combination", as well as other capitalized terms used in this Article Seventh, shall have the respective meanings ascribed to them in Section 3 of this Article Seventh.

Irrespective of any affirmative vote required by law or by this Certificate of Incorporation, and except as otherwise expressly provided in Section 2 of this Article Seventh:

(i) any merger or consolidation of the Company or any Subsidiary with (a) any Interested Stockholder or (b) any other Person (whether or not itself an Interested Stockholder or an Affiliate of an Interested Stockholder) which is, or after such merger or consolidation would be, an Interested Stockholder or an Affiliate of an Interested Stockholder,

(ii) any sale, lease, exchange, mortgage, pledge, transfer, or other disposition (in one transaction or a series of transactions) to or with any Interested Stockholder or any Affiliate of any Interested Stockholder of any assets of the Company or any Subsidiary having an aggregate Fair Market Value of \$100 million or more,

(iii) any sale, lease, exchange, mortgage, pledge, transfer, or other disposition (in one transaction or a series of transactions) to the Company or any Subsidiary of any assets of any Interested Stockholder or any Affiliate of any Interested Stockholder having an aggregate Fair Market Value of \$100 million or more,

(iv) any issuance or transfer by the Company or any Subsidiary (in one transaction or a series of transactions) of any securities of the Company or any Subsidiary to any Interested Stockholder or any Affiliate of any Interested

Stockholder in exchange for cash, securities, or other property (or a combination thereof) having an aggregate Fair Market Value of \$100 million or more,

(v) the adoption of any plan or proposal for the liquidation or dissolution of the Company proposed by or on behalf of any Interested Stockholder or any Affiliate of any Interested Stockholder, or

(vi) any reclassification of securities (including any reverse stock split), or recapitalization of the Company, or any merger or consolidation of the Company with any of its Subsidiaries or any other transaction (whether or not with or into or otherwise involving an Interested Stockholder), which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class of equity, or securities convertible into any equity, securities of the Company or any Subsidiary, as the case may be, which is, directly or indirectly, owned by any Interested Stockholder or any Affiliate of any Interested Stockholder,

shall require the affirmative vote of at least 80% of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Seventh, each share of Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation). Such affirmative vote shall be required notwithstanding the fact that no vote may be required, or that a lesser percentage may otherwise be applicable, by law or in any agreement with any national securities exchange or otherwise.

Section 2. Any Business Combination which meets all the conditions specified in either paragraph A or paragraph B below shall not be subject to the provisions of Section 1 of this Article Seventh and shall require only such affirmative vote as is required by law and any other provision of this Certificate of Incorporation:

A. the Business Combination shall have been approved by a majority of the Disinterested Directors;

- or -

B. all the following conditions with respect to such Business Combination shall have been met:

(i) the aggregate amount of cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of Common Stock in such Business Combination, shall be at least equal in value to the higher of the following:

(a) if applicable, the highest per share price (including any brokerage commissions, transfer taxes, soliciting dealers' fees, and option costs) paid by the Interested Stockholder (before or after becoming an Interested Stockholder), or any

Affiliate or Associate thereof, in acquiring Beneficial Ownership of any shares of Common Stock (1) within the two-year period immediately prior to the first public announcement of the proposal of the Business Combination ("Announcement Date") or (2) in the transaction in which it became an Interested Stockholder, whichever is higher; or

(b) the Fair Market Value per share of Common Stock of the Company (1) on the Announcement Date, or (2) on the date on which the Interested Stockholder became an Interested Stockholder ("Determination Date"), whichever is higher;

(ii) the aggregate amount of cash and the Fair Market Value as of the date of the consummation of the Business Combination of consideration other than cash to be received per share by holders of shares of any class or series of outstanding Voting Stock other than Common Stock shall be at least equal to the highest of the following (it being intended that the requirements of this paragraph B(ii) of this Section 2 of Article Seventh shall be required to be met with respect to every class or series, as the case may be, of outstanding Voting Stock, whether or not the Interested Stockholder has previously acquired any shares of such class or series of Voting Stock):

(a) if applicable, the highest per share price (including any brokerage commissions, transfer taxes, soliciting dealers' fees, and option costs) paid by the Interested Stockholder (before or after becoming an Interested Stockholder) for any shares of such class or series of Voting Stock acquired by it (1) within the two-year period immediately prior to the Announcement Date or (2) in the transaction in which it became an Interested Stockholder, whichever is higher;

(b) if applicable, the highest preferential amount per share to which the holders of shares of such class or series, as the case may be, of Voting Stock are entitled in the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company; or

(c) the Fair Market Value per share of such class or series, as the case may be, of Voting Stock on the Announcement Date or on the Determination Date, whichever is higher;

(iii) the price determined in accordance with paragraphs B(i) and B(ii) of this Section 2 of Article Seventh shall be subject to appropriate adjustment in the event of any stock dividend, stock split, combination of shares, or similar event;

(iv) the consideration to be received by the holders of a specified class or series of outstanding Voting Stock (including Common Stock) shall be in cash or in the same form as that which the Interested Stockholder has previously paid for shares of such class or series of Voting Stock; if the Interested Stockholder had paid for shares of any class or series of Voting Stock with varying forms of consideration, the form of consideration for such class or series of Voting Stock shall, at the option of the Interested Stockholder, be either cash or

the form used to acquire the largest number of shares of such class or series of Voting Stock previously acquired by it;

(v) after such Interested Stockholder has become an Interested Stockholder and prior to the consummation of such Business Combination: (a) except as approved by a majority of the Disinterested Directors, there shall have been no failure to declare and pay at the regular date therefor any full quarterly dividends (whether or not cumulative) on the outstanding Preferred Stock; (b) there shall have been (i) no reduction in the annual rate of dividends payable or last paid, as the case may be, on the Common Stock (except as necessary to reflect any subdivision of such Common Stock) except as approved by a majority of the Disinterested Directors and (ii) an increase in the annual rate of dividends last paid on the Common Stock, as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization, or any similar transaction which has the effect of reducing the number of outstanding shares of such Common Stock, unless the failure so to increase such annual rate shall have been approved by a majority of the Disinterested Directors; and (c) such Interested Stockholder shall not have acquired Beneficial Ownership of any additional shares of Voting Stock, except as part of the transaction which resulted in such Interested Stockholder becoming an Interested Stockholder;

(vi) after such Interested Stockholder has become an Interested Stockholder, such Interested Stockholder shall not have received the benefit, directly or indirectly (except proportionately as a stockholder), of any loans, advances, guarantees, pledges, or other financial assistance or any tax credits or other tax advantages provided by, or as a result of its equity position in, the Company, whether in anticipation of or in connection with such Business Combination or otherwise; and

(vii) a proxy statement or information statement describing the proposed Business Combination (and including the views of the Disinterested Directors, if requested by the Disinterested Directors, and of an independent investment banker, if any, selected by such Disinterested Directors with respect to the proposed Business Combination) and complying with the disclosure and other requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder (or any subsequent provisions replacing such requirements of such Act, rules, or regulations) shall be mailed at least 30 days prior to the consummation of such Business Combination (whether or not such proxy statement or information statement is required to be mailed pursuant to such Act or subsequent provisions) to stockholders of the Company.

Section 3. For purposes of this Article Seventh:

A. An "Affiliate" of, or a Person "Affiliated" with, a specified Person, shall mean a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person specified.

B. "Announcement Date" shall have the meaning set forth in paragraph B(i)(a) of Section 2 of this Article Seventh.

C. The term "Associate" used to indicate a relationship with any Person shall mean (1) any corporation or organization (other than the Company or any Subsidiary), of which such Person is an officer or partner or is, directly or indirectly, the Beneficial Owner of 10% or more of any class of equity securities, (2) any trust or other estate in which such Person has a substantial beneficial interest or as to which such Person serves as a trustee or in a similar fiduciary capacity, and (3) any relative or spouse of such Person, or any relative of such spouse, who has the same home as such Person or who is a director or officer of the Company or any Subsidiary.

D. A Person shall be a "Beneficial Owner" of any Voting Stock:

(i) which such Person or any of its Affiliates or Associates owns, directly or indirectly;

(ii) which such Person or any of its Affiliates or Associates has (a) the right to acquire (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement, or understanding or upon the exercise of conversion rights, exchange rights, warrants, or options, or otherwise, or (b) the right to vote (whether or not irrevocable) pursuant to any agreement, arrangement, or understanding; or

(iii) which is Beneficially Owned, directly or indirectly, by another Person with which such Person or any of its Affiliates or Associates has any agreement, arrangement, or understanding for the purpose of acquiring, holding, voting, or disposing of any shares of Voting Stock,

and any Voting Stock of which a Person shall be the Beneficial Owner shall be "Beneficially Owned" by, or be under the "Beneficial Ownership" of, such Person.

E. "Business Combination" shall mean any transaction which is referred to in any one or more of clauses (i) through (vi) of Section 1 of this Article Seventh.

F. In the event of any Business Combination in which the Company survives, the phrase "consideration other than cash to be received" as used in paragraphs B(i) and (ii) of Section 2 of this Article Seventh shall include shares of Common Stock and shares of any other class or series of outstanding Voting Stock retained by the holders of such shares, or both.

G. "Determination Date" shall have the meaning set forth in paragraph B(i)(b) of Section 2 of this Article Seventh.

H. "Disinterested Director" shall mean any member of the Board of Directors who is not an Affiliate, an Associate, or a nominee of the Interested Stockholder and who was a member of the Board of Directors prior to the time that the Interested Stockholder became an Interested Stockholder, and any successor of a Disinterested Director who is not an Affiliate or Associate of the Interested Stockholder and is recommended to succeed a Disinterested Director by a majority of Disinterested Directors then on the Board of Directors.

I. "Fair Market Value" shall mean: (i) in the case of stock, the highest closing sale price of a share of such stock during the 30 calendar day period immediately preceding the date in question on the Composite Tape for New York Stock Exchange-Listed Stocks, or, if such stock is not quoted on such Composite Tape, on the New York Stock Exchange, or, if such stock is not listed on such Exchange, on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing bid quotation with respect to a share of such stock during the 30 calendar day period immediately preceding the date in question on the National Association of Securities Dealers, Inc. Automated Quotations System or any system then in use, or if no such quotations are available, the fair market value on the date in question of a share of such stock as determined by a majority of the Disinterested Directors; and (ii) in the case of property other than cash or stock, the fair market value of such property on the date in question as determined by a majority of the Disinterested Directors.

J. "Interested Stockholder" shall mean any Person (other than the Company, any Subsidiary, or any employee benefit plan of the Company or any Subsidiary) who or which:

(i) is the Beneficial Owner, directly or indirectly, of at least 10% of the Voting Stock;

(ii) is an Affiliate of the Company and at any time within the two-year period immediately prior to the date in question was the Beneficial Owner, directly or indirectly, of at least 10% of the Voting Stock; or

(iii) is an assignee of or has otherwise succeeded to any shares of Voting Stock which were at any time within the two-year period immediately prior to the date in question Beneficially Owned by any Interested Stockholder, if such assignment or succession shall have occurred in the course of a transaction or series of transactions not involving a public offering within the meaning of the Securities Act of 1933, as amended.

For purposes of determining whether a person is an Interested Stockholder, the number of shares of Voting Stock deemed to be outstanding shall include shares deemed owned through application of paragraph D of this Section 3, but shall not include any other shares of Voting Stock which may be issuable pursuant to any agreement, arrangement, or understanding or upon exercise of conversion rights, warrants, or options, or otherwise.

K. "Person" shall mean any individual, firm, trust, partnership, association, corporation, or other entity.

L. "Subsidiary" shall mean any corporation of which a majority of any class of equity security is owned, directly or indirectly, by the Company.

M. "Voting Stock" shall have the meaning set forth in Section 1 of this Article Seventh.

Section 4. A majority of the Disinterested Directors shall have the power and duty to determine for the purposes of this Article Seventh, on the basis of information known to them after reasonable inquiry, (A) whether a person is an Interested Stockholder, (B) the number of shares of Voting Stock beneficially owned by any person, (C) whether a Person is an Affiliate or Associate of another, and (D) whether the assets which are the subject of any Business Combination have, or the consideration to be received for the issuance or transfer of securities by the Company or any Subsidiary in any Business Combination has, an aggregate Fair Market Value of \$100 million or more. A majority of the Disinterested Directors shall have the further power to interpret all the terms and provisions of this Article Seventh.

Section 5. Nothing contained in this Article Seventh shall be construed to relieve any interested Stockholder from any fiduciary obligation imposed by law.

Section 6. Notwithstanding any other provisions of this Certificate of Incorporation or the Bylaws (and notwithstanding the fact that a lesser percentage may otherwise be specified by law, this Certificate of Incorporation, or the Bylaws), the affirmative vote of at least 80% of the Voting Stock, voting together as a single class (it being understood that for the purposes of this Article Seventh, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation), shall be required to alter, amend, or repeal, or adopt any provisions inconsistent with, this Article Seventh.

Eighth: Any action required or permitted to be taken by the holders of the Voting Stock must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders. Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least 80% of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Eighth, each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation), shall be required to alter, amend, or repeal, or adopt any provisions inconsistent with, this Article Eighth.

Ninth: The Board of Directors shall have the power to make, alter, amend, or repeal, or adopt any provision inconsistent with, the Bylaws (except insofar as the Bylaws adopted by the stockholders shall otherwise provide). Any Bylaws made by the directors under the powers conferred hereby may be altered, amended, or repealed, and any provisions inconsistent therewith may be adopted, by the directors or by the stockholders. Notwithstanding the foregoing and anything contained in this Certificate of Incorporation to the contrary, Section 2 of Article II, and Sections 3, 12, 13, and 15 of Article III of the Bylaws, all as in effect simultaneously with the effectiveness of this Article, shall not be altered, amended, or repealed, and no provision inconsistent therewith shall be adopted, without the affirmative vote of at least 80% of the combined voting power of the then-outstanding shares of all classes and series of stock of the Company entitled to vote generally in the election of directors ("Voting Stock"), voting together as a single class (it being understood that for the purposes of this Article Ninth,

each share of the Voting Stock shall have the number of votes granted to it in accordance with Article Fourth of this Certificate of Incorporation). Notwithstanding anything contained in this Certificate of Incorporation to the contrary, the affirmative vote of at least 80% of the Voting Stock, voting together as a single class, shall be required to alter, amend, or repeal, or adopt any provision inconsistent with, this Article Ninth.

Tenth: A director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Company or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit. If the Delaware General Corporation Law is hereafter amended to permit further limitation on or elimination of the personal liability of the Company's directors for breach of fiduciary duty, then a director of the Company shall be exempt from such liability for any such breach to the full extent permitted by the Delaware General Corporation Law as so amended from time to time. Any repeal or modification of the foregoing provisions of this Article Tenth, or the adoption of any provision inconsistent herewith, shall not adversely affect any right or protection of a director of the Company hereunder in respect of any act or omission of such director occurring prior to such repeal, modification, or adoption of an inconsistent provision.

IN WITNESS WHEREOF, the undersigned has executed this Restated Certificate of Incorporation this 20th day of February, 2002.

J. C. PENNEY COMPANY, INC.

By: /s/ Charles R. Lotter  
Charles R. Lotter  
Executive Vice President,  
Secretary and  
General Counsel

EXHIBIT A

CERTIFICATE OF DESIGNATIONS  
OF  
SERIES A JUNIOR PARTICIPATING PREFERRED STOCK  
OF  
J. C. PENNEY COMPANY, INC.  
Pursuant to Section 151 of the Delaware  
General Corporation Law

J. C. Penney Company, Inc. (f/k/a J. C. Penney Holdings, Inc.), a company organized and existing under the laws of the State of Delaware (the "Company"), DOES HEREBY CERTIFY that pursuant to authority conferred on the Board of Directors of the Company by its Certificate of Incorporation and the provisions of Section 151(g) of the General Corporation Law of the State of Delaware, the Board of Directors on January 22, 2002 adopted the following resolution:

RESOLVED, that pursuant to the authority vested in the Board of Directors of the Company in accordance with the provisions of its Certificate of Incorporation, a series of Preferred Stock of the Company be, and hereby is, created and that the designation and amount thereof and the voting powers, preferences and relative, participating, optional or other special rights of the shares of such series, and the qualifications, limitations or restrictions thereof are as follows:

Section 1. Designation and Amount. The shares of such series shall be designated "Series A Junior Participating Preferred Stock" (the "Series A Preferred Stock") and the number of shares constituting such series shall be 1,600,000.

Section 2. Dividends and Distributions.

(A) Subject to the provisions for adjustment hereinafter set forth, the holders of shares of Series A Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available for the purpose, (i) cash dividends in an amount per share (rounded to the nearest cent) equal to 1,000 times the aggregate per share amount of all cash dividends declared or paid on the Common Stock, 50¢ par value per share, of the Company (the "Common Stock") and (ii) a preferential cash dividend ("Preferential Dividend"), if any, on the first day of February, May, August and November of each year (each a "Quarterly Dividend Payment Date"), commencing on the first Quarterly Dividend Payment Date after the first issuance of a share or fraction of a share of Series A Preferred Stock, in an amount equal to \$50.00 per share of Series A Preferred Stock less the per share amount of all cash dividends declared on the Series A Preferred Stock pursuant to clause (i) of this sentence since the immediately preceding Quarterly Dividend Payment Date or, with respect to the first Quarterly Dividend Payment Date, since the first issuance of any share or fraction of a share of Series A Preferred Stock. In the event the Company shall, at any time after the issuance of any share or fraction of a share of Series A Preferred Stock, make any distribution on the shares of Common Stock of the Company, whether by way of a dividend or a reclassification of stock, a

recapitalization, reorganization or partial liquidation of the Company or otherwise, which is payable in cash or any debt security, debt instrument, real or personal property or any other property (other than cash dividends subject to the immediately preceding sentence and other than a distribution of shares of Common Stock or other capital stock of the Company and other than a distribution of rights or warrants to acquire any such share, including any debt security convertible into or exchangeable for any such share), at a price less than the Current Market Price of such share, then, and in each such event the Company shall simultaneously pay on each then outstanding share of Series A Preferred Stock of the Company a distribution, in like kind, of 1,000 times such distribution paid on a share of Common Stock (subject to the provisions for adjustment hereinafter set forth). The dividends and distributions on the Series A Preferred Stock to which holders thereof are entitled pursuant to clause (i) of the first sentence of this paragraph and the second sentence of this paragraph are hereinafter referred to as "Participating Dividends," and the multiple of such cash and noncash dividends on the Common Stock applicable to the determination of the Participating Dividends, which shall be 1,000 initially but shall be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Dividend Multiple". In the event the Company shall at any time after March 26, 1999 (the "Effective Date") declare or pay any dividend or make any distribution on Common Stock payable in shares of Common Stock, or effect a subdivision or split or a combination, consolidation or reverse split of the outstanding shares of Common Stock into a greater or lesser number of shares of Common Stock, or issue any of its capital stock in a reclassification of the Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), then in each such case the Dividend Multiple thereafter applicable to the determination of the amount of Participating Dividends which holders of shares of Series A Preferred Stock shall be entitled to receive shall be the Dividend Multiple applicable immediately prior to such event multiplied by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of the Certificate of Incorporation of the Company relating to the rights of holders of any class or series of stock having a preference over the Common Stock as to dividends, the Company shall declare each Participating Dividend at the same time it declares any cash or noncash dividend or distribution on the Common Stock in respect of which a Participating Dividend is required to be paid. No cash or noncash dividend or distribution on the Common Stock in respect of which a Participating Dividend is required shall be paid or set aside for payment on the Common Stock unless a Participating Dividend in respect of such dividend or distribution on the Common Stock shall be simultaneously paid or set aside for payment on the Series A Preferred Stock.

(C) Preferential Dividends shall begin to accumulate on outstanding shares of Series A Preferred Stock from the Quarterly Dividend Payment Date next preceding the date of issuance of any shares of Series A Preferred Stock. Accumulated but unpaid Preferential Dividends shall cumulate but shall not bear interest. Preferential Dividends paid on the shares of Series A Preferred Stock in an amount less than the total amount of such dividends at the time

accumulated and payable on such shares shall be allocated pro rata on a share-by-share basis among all such shares at the time outstanding.

Section 3. Voting Rights. The holders of shares of Series A Preferred Stock shall have the following voting rights:

(A) Subject to the provisions for adjustment hereinafter set forth, each share of Series A Preferred Stock shall entitle the holder thereof to 1,000 votes on all matters submitted to a vote of the stockholders of the Company. The number of votes which a holder of Series A Preferred Stock is entitled to cast, as the same may be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Vote Multiple." In the event the Company shall at any time after the Effective Date declare or pay any dividend on Common Stock payable in shares of Common Stock, or effect a subdivision or split or a combination, consolidation or reverse split of the outstanding shares of Common Stock into a greater or lesser number of shares of Common Stock, or issue any of its capital stock in a reclassification of the Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), then in each such case the Vote Multiple thereafter applicable to the determination of the number of votes per share to which holders of shares of Series A Preferred Stock shall be entitled after such event shall be the Vote Multiple immediately prior to such event multiplied by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

(B) Except as otherwise provided herein, in the Certificate of Incorporation, in any resolution or resolutions of the Board of Directors of the Company providing for the issue of any other series of Preferred Stock or by law, the holders of shares of Series A Preferred Stock, the holders of shares of Common Stock and the holders of shares of any other class or series of capital stock of the Company entitled to vote generally for the election of directors shall vote together as one class on all matters submitted to a vote of stockholders of the Company.

(C) In the event that the Preferential Dividends accrued on the Series A Preferred Stock for four or more consecutive quarterly periods shall not have been declared and paid or set apart for payment, the holders of record of the Series A Preferred Stock, voting together with the holders of record of any other series of Preferred Stock of the Company which shall then have the right, expressly granted by the Certificate of Incorporation of the Company or in any resolution or resolutions of the Board of Directors of the Company providing for the issue of such shares of Preferred Stock, to elect directors upon such a default in the payment of dividends by the Company shall have the right, at the next meeting of stockholders called for the election of directors, voting together as a class, to elect two members to the Board of Directors, which directors shall be in addition to the number provided for pursuant to the Company's Bylaws prior to such event, to serve until the next Annual Meeting and until their successors are elected and qualified or their earlier resignation, removal or incapacity or until such earlier time as all accrued and unpaid Preferential Dividends upon the outstanding shares of Series A Preferred Stock shall have been paid (or set aside for payment) in full. The holders of shares of Series A Preferred Stock shall continue to have the right to elect directors as provided by the

immediately preceding sentence until all accrued and unpaid Preferential Dividends upon the outstanding shares of Series A Preferred Stock shall have been paid (or set aside for payment) in full. Such directors may be removed and replaced by such stockholders, and vacancies in such directorships may be filled only by such stockholders (or by the remaining director elected by such stockholders, if there be one) in the manner permitted by law. Subject to the foregoing, any directors elected pursuant to this paragraph 3(C) shall be elected annually and shall not constitute members of any Class of directors as contemplated by Article Sixth of the Company's Certificate of Incorporation.

(D) Except as otherwise required by law or set forth herein, holders of Series A Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote as set forth herein) for the taking of any corporate action.

Section 4. Certain Restrictions.

(A) Whenever Preferential Dividends or Participating Dividends are in arrears or the Company shall be in default in payment thereof, thereafter and until all accrued and unpaid Preferential Dividends and Participating Dividends, whether or not declared, on shares of Series A Preferred Stock outstanding shall have been paid or set aside for payment in full, and in addition to any and all other rights which any holder of shares of Series A Preferred Stock may have in such circumstances, the Company shall not

(i) declare or pay dividends on, make any other distributions on, or redeem or purchase or otherwise acquire for consideration, any shares of stock ranking junior (either as to dividends or upon liquidation, dissolution or winding up) to the Series A Preferred Stock;

(ii) declare or pay dividends or make any other distributions on any shares of stock ranking on a parity as to dividends with the Series A Preferred Stock, unless dividends are paid ratably on the Series A Preferred Stock and all such parity stock on which dividends are payable or in arrears in proportion to the total amounts to which the holders of all such shares are then entitled;

(iii) except as permitted by subparagraph (iv) of this paragraph (A), redeem or purchase or otherwise acquire for consideration shares of any stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the Series A Preferred Stock, provided that the Company may at any time redeem, purchase or otherwise acquire shares of any such parity stock in exchange for shares of any stock of the Company ranking junior (both as to dividends and upon liquidation, dissolution or winding up) to the Series A Preferred Stock; or

(iv) purchase or otherwise acquire for consideration any shares of Series A Preferred Stock, or any shares of stock ranking on a parity with the Series A Preferred Stock (either as to dividends or upon liquidation, dissolution or winding up), except in accordance with a purchase offer made in writing or by publication (as determined by the Board of Directors) to all holders of such shares upon such terms as the Board of Directors, after consideration of the respective annual dividend rates and other relative rights and preferences of the respective series and classes, shall determine in good faith will result in fair and equitable treatment among the respective series or classes.

(B) The Company shall not permit any subsidiary of the Company to purchase or otherwise acquire for consideration any shares of stock of the Company ranking junior to the Series A Preferred Stock unless the Company could, under paragraph (A) of this Section 4, purchase or otherwise acquire such shares at such time and in such manner.

(C) The Company shall not issue any shares of Series A Preferred Stock except upon exercise of Rights issued pursuant to that certain Rights Agreement between the Company and the Rights Agent, a copy of which is on file with the Secretary of the Company at the principal executive office of the Company and shall be made available to holders of record of Common Stock or Series A Preferred Stock without charge upon written request therefor addressed to the Secretary of the Company. Notwithstanding the foregoing sentence, nothing contained in the provisions hereof shall prohibit or restrict the Company from issuing for any purpose any series of Preferred Stock with rights and privileges similar to, different from, or greater than, those of the Series A Preferred Stock.

Section 5. Reacquired Shares. Any shares of Series A Preferred Stock purchased or otherwise acquired by the Company in any manner whatsoever shall be retired and cancelled promptly after the acquisition thereof. All such shares upon their retirement and cancellation shall become authorized but unissued shares of Preferred Stock, without designation as to series, and such shares may be reissued as part of a new series of Preferred Stock to be created by resolution or resolutions of the Board of Directors.

Section 6. Liquidation, Dissolution or Winding Up. Upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, no distribution shall be made (i) to the holders of shares of stock ranking junior to the Series A Preferred Stock (either as to dividends or upon liquidation, dissolution or winding up) unless the holders of shares of Series A Preferred Stock shall have received, subject to adjustment as hereinafter provided, the greater of (A) \$1,000 (\$1.00 per one one-thousandth of a share) plus an amount equal to all accumulated and unpaid dividends and distributions thereon, whether or not declared, to the date of such payment, and (B) the amount equal to 1,000 times the aggregate amount to be distributed per share to holders of Common Stock, as the same may be adjusted as hereinafter provided, or (ii) to the holders of stock ranking on a parity upon liquidation, dissolution or winding up with the Series A Preferred Stock, unless simultaneously therewith distributions are made ratably on the Series A Preferred Stock and all other shares of such parity stock in proportion to the total amounts to which the holders of shares of Series A Preferred Stock are entitled under clause (i)(A) of this sentence and to which the holders of such parity shares are entitled, in each case upon such liquidation, dissolution or winding up. The amount to which holders of Series A Preferred Stock shall be entitled upon liquidation, dissolution or winding up of the Company pursuant to clause (i)(B) of the foregoing sentence is hereinafter referred to as the "Participating Liquidation Amount," and the multiple of the amount to be distributed to holders of shares of Common Stock upon the liquidation, dissolution or winding up of the Company applicable pursuant to said clause to the determination of the Participating Liquidation Amount, which shall be 1,000 but may be adjusted from time to time as hereinafter provided, is hereinafter referred to as the "Liquidation Multiple." In this event the Company shall at any time after the Effective Date declare or pay any dividend on Common Stock payable in shares of Common Stock, or

effect a subdivision or split or a combination, consolidation or reverse split of the outstanding shares of Common Stock into a greater or lesser number of shares of Common Stock, or issue any of its capital stock in a reclassification of the Common Stock (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing or surviving corporation), then in each such case the Liquidation Multiple thereafter applicable to the determination of the Participating Liquidation Amount to which holders of Series A Preferred Stock shall be entitled after such event shall be the Liquidation Multiple applicable immediately prior to such event multiplied by a fraction the numerator of which is the number of shares of Common Stock outstanding immediately after such event and the denominator of which is the number of shares of Common Stock that were outstanding immediately prior to such event.

Section 7. Certain Reclassifications and Other Events.

(A) In the event that holders of shares of Common Stock receive after the Effective Date, in respect of their shares of Common Stock any share of capital stock of the Company (other than any share of Common Stock of the Company), whether by way of reclassification, recapitalization, reorganization, dividend or other distribution or otherwise (“Transaction”), then in each such event the dividend rights, voting rights and rights upon the liquidation, dissolution or winding up of the Company of the shares of Series A Preferred Stock shall be adjusted so that after such event the holders of Series A Preferred Stock shall be entitled, in respect of each share of Series A Preferred Stock held, in addition to such rights in respect thereof to which such holder was entitled immediately prior to such adjustment, to (i) such additional dividends as equal the Dividend Multiple in effect immediately prior to such Transaction multiplied by the additional dividends which the holder of a share of Common Stock shall be entitled to receive by virtue of the receipt in the Transaction of such capital stock, (ii) such additional voting rights as equal the Vote Multiple in effect immediately prior to such Transaction multiplied by the additional voting rights which the holder of a share of Common Stock shall be entitled to receive by virtue of the receipt in the Transaction of such capital stock and (iii) such additional distributions upon liquidation, dissolution or winding up of the Company as equal the Liquidation Multiple in effect immediately prior to such Transaction multiplied by the additional amount which the holder of a share of Common Stock shall be entitled to receive upon liquidation, dissolution or winding up of the Company by virtue of the receipt in the Transaction of such capital stock, as the case may be, all as provided by the terms of such capital stock.

(B) In the event that holders of shares of Common Stock receive after the Effective Date, in respect of their shares of Common Stock any right or warrant to purchase Common Stock (including as such a right, for all purposes of this paragraph, any security convertible into or exchangeable for Common Stock) at a purchase price per share less than the Current Market Price (as hereinafter defined) of a share of Common Stock on the date of issuance of such right or warrant, then in each such event the dividend rights, voting rights and rights upon the liquidation, dissolution or winding up of the Company of the shares of Series A Preferred Stock shall each be adjusted so that after such event the Dividend Multiple, the Vote Multiple and the Liquidation Multiple shall each be the product of the Dividend Multiple, the Vote Multiple and the Liquidation Multiple, as the case may be, in effect immediately prior to

such event multiplied by a fraction the numerator of which shall be the number of shares of Common Stock outstanding immediately before such issuance of rights or warrants plus the maximum number of shares of Common Stock which could be acquired upon exercise in full of all such rights or warrants and the denominator of which shall be the number of shares of Common Stock outstanding immediately before such issuance of rights or warrants plus the number of shares of Common Stock which could be purchased, at the Current Market Price of the Common Stock at the time of such issuance, by the maximum aggregate consideration payable upon exercise in full of all such rights or warrants.

(C) In the event that holders of shares of Common Stock receive after the Effective Date in respect of their shares of Common Stock any right or warrant to purchase capital stock of the Company (other than shares of Common Stock), including as such a right, for all purposes of this paragraph, any security convertible into or exchangeable for capital stock of the Company, (other than Common Stock), at a purchase price per share less than the Fair Market Value of such shares of capital stock on the date of issuance of such right or warrant, then in each such event the dividend rights, voting rights and rights upon liquidation, dissolution or winding up of the Company of the shares of Series A Preferred Stock shall each be adjusted so that after such event each holder of a share of Series A Preferred Stock shall be entitled, in respect of each share of Series A Preferred Stock held, in addition to such rights in respect thereof to which such holder was entitled immediately prior to such event, to receive (i) such additional dividends as equal the Dividend Multiple in effect immediately prior to such event multiplied, first, by the additional dividends to which the holder of a share of Common Stock shall be entitled upon exercise of such right or warrant by virtue of the capital stock which could be acquired upon such exercise and multiplied again by the Discount Fraction (as hereinafter defined), (ii) such additional voting rights as equal the Vote Multiple in effect immediately prior to such event multiplied, first, by the additional voting rights to which the holder of a share of Common Stock shall be entitled upon exercise of such right or warrant by virtue of the capital stock which could be acquired upon such exercise and multiplied again by the Discount Fraction and (iii) such additional distribution upon liquidation, dissolution or winding up of the Company as equal the Liquidation Multiple in effect immediately prior to such event multiplied, first, by the additional amount which the holder of a share of Common Stock shall be entitled to receive upon liquidation, dissolution or winding up of the Company upon exercise of such right or warrant by virtue of the capital stock which could be acquired upon such exercise and multiplied again by the Discount Fraction. For purposes of this paragraph, the "Discount Fraction" shall be a fraction the numerator of which shall be the difference between the Current Market Price of a share of the capital stock subject to a right or warrant distributed to holders of shares of Common Stock as contemplated by this paragraph immediately after the distribution thereof and the purchase price per share for such share of capital stock pursuant to such right or warrant and the denominator of which shall be the Current Market Price of a share of such capital stock immediately after the distribution of such right or warrant.

(D) For purposes of this Certificate of Designations, the "Current Market Price" of a share of capital stock of the Company (including a share of Common Stock) on any date shall be deemed to be the average of the daily closing price per share thereof over the 30 consecutive Trading Days (as such term is hereinafter defined) immediately prior to such date; provided, however, that, in the event that such Current Market Price of any such share of capital

stock is determined during a period which includes any date that is within 30 Trading Days after (i) the ex-dividend date for a dividend or distribution on stock payable in shares of such stock or securities convertible into shares of such stock, or (ii) the effective date of any subdivision, split, combination, consolidation, reverse stock split or reclassification of such stock, then and in each such event, the Current Market Price shall be appropriately adjusted by the Board of Directors to reflect the Current Market Price of such stock to take into account ex-dividend or post-effective date trading. The closing price for any day shall be the last sale price, regular way, or, in case, no such sale takes place on such day, the average of the closing bid and asked prices, regular way (in either case, as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the New York Stock Exchange), or, if the shares are not listed or admitted to trading on the New York Stock Exchange, as reported in the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the shares are listed or admitted to trading or, if the shares are not listed or admitted to trading on any national securities exchange, the last quoted price or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotation System (“NASDAQ”) or such other system then in use, or if on any such date the shares are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in the shares selected by the Board of Directors. The term “Trading Day” shall mean a day on which the principal national securities exchange on which the shares are listed or admitted to trading is open for the transaction of business or, if the shares are not listed or admitted to trading on any national securities exchange, on which the New York Stock Exchange or such other national securities exchange as may be selected by the Board of Directors is open. If the shares are not publicly held or not so listed or traded on any day within the period of 30 Trading Days applicable to the determination of Current Market Price thereof as aforesaid, “Current Market Price” shall mean the fair market value thereof per share as determined in good faith by the Board of Directors. In either case referred to in the foregoing sentence, the determination of Current Market Price shall be described in a statement filed with the Secretary of the Company.

Section 8. Consolidation, Merger, etc. In the event that the Company shall enter into any consolidation, merger, combination or other transaction in which shares of Common Stock are exchanged for or changed into other stock or securities, cash and/or any other property, then in any such event each outstanding share of Series A Preferred Stock shall at the same time be similarly exchanged for or changed into the aggregate amount of stock, securities, cash and other property (payable in like kind), as the case may be, for which or into which each share of Common Stock is changed or exchanged multiplied by the highest of the Dividend Multiple, the Vote Multiple or the Liquidation Multiple in effect immediately prior to such event.

Section 9. Effective Time of Adjustments.

(A) Adjustments to the Series A Preferred Stock required by the provisions hereof shall be effective as of the time at which the event requiring such adjustments occurs.

(B) The Company shall give prompt written notice to each holder of a share of Series A Preferred Stock of the effect on any shares of any adjustment to the dividend rights,

voting rights or rights upon liquidation, dissolution or winding up of the Company required by the provisions hereof. Notwithstanding the foregoing sentence, the failure of the Company to give such notice shall not affect the validity of or the force or effect of or the requirement for such adjustment.

Section 10. No Redemption. The shares of Series A Preferred Stock shall not be redeemable at the option of the Company or any holder thereof. Notwithstanding the foregoing sentence of this Section, the Company may acquire shares of Series A Preferred Stock in any other manner permitted by law, the provisions of the Certificate of Designations setting forth the rights, powers and preferences of the Series A Preferred Stock and the Certificate of Incorporation of the Company.

Section 11. Ranking. Unless otherwise provided in the Certificate of Incorporation or a certificate of designations relating to a subsequent series of Preferred Stock of the Company, the Series A Preferred Stock shall rank junior to all other series of the Company's Preferred Stock as to the payment of dividends and the distribution of assets on liquidation, dissolution or winding up, and senior to the Common Stock.

Section 12. Amendment. After the Distribution Date (as defined in the Rights Agreement), the provisions of the Certificate of Designations setting forth the rights, powers and preferences of the Series A Preferred Stock and the Certificate of Incorporation shall not be amended in any manner which would materially affect the rights, privileges or powers of the Series A Preferred Stock without, in addition to any other vote of stockholders required by law, the affirmative vote of the holders of 66 2/3% of more of the outstanding shares of Series A Preferred Stock, voting together as a single class.

EXHIBIT B

CERTIFICATE OF DESIGNATIONS  
OF  
SERIES B ESOP CONVERTIBLE PREFERRED STOCK  
OF  
J. C. PENNEY COMPANY, INC.

Pursuant to Section 151 of the  
Delaware General Corporation Law

J. C. Penney Company, Inc. (f/k/a J. C. Penney Holdings, Inc.), a corporation organized and existing under the Laws of the State of Delaware (the "Company"), DOES HEREBY CERTIFY that, pursuant to the authority conferred upon the Board of Directors by its Certificate of Incorporation and the provisions of Section 151(g) of the General Corporation Law of the State of Delaware, the Board of Directors adopted the following resolution:

RESOLVED that, pursuant to the authority vested in the Board of Directors of the Company in accordance with the provisions of its Certificate of Incorporation, a series of Preferred Stock of the Company be, and it hereby is, created, and that the designation and amount thereof and the voting powers, preferences and relative, participating, optional or other special rights of the shares of such series, and the qualifications, limitations or restrictions thereof are as follows:

Section 1. Designation and Amount; Special Purpose Restricted Transfer Issue.

(A) The shares of this series of Preferred Stock shall be designated as Series B ESOP Convertible Preferred Stock ("Series B Preferred Stock") and the number of shares constituting such series shall be 1,400,000.

(B) Shares of Series B Preferred Stock shall be issued only to a trustee acting on behalf of an employee stock ownership plan or other employee benefit plan of the Company. In the event of any transfer of shares of Series B Preferred Stock to any person other than any such plan trustee, the shares of Series B Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder, shall be automatically converted into shares of Common Stock on the terms otherwise provided for the conversion of shares of Series B Preferred Stock into shares of Common Stock pursuant to Section 5 hereof and no such transferee shall have any of the voting powers, preferences and relative, participating, optional or special rights ascribed to shares of Series B Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of Series B Preferred Stock shall be so converted. Certificates representing shares of Series B Preferred Stock shall be legended to reflect such restrictions on transfer. Notwithstanding the foregoing provisions of this paragraph (B) of Section 1, shares of Series B Preferred Stock (i) may be converted into shares of Common Stock as provided by Section 5 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be

redeemable by the Company upon the terms and conditions provided by Sections 6, 7 and 8 hereof.

Section 2. Dividends and Distributions.

(A) Subject to the provisions for adjustment hereinafter set forth, the holders of shares of Series B Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors out of funds legally available therefor, cash dividends ("Preferred Dividends") in an amount per share equal to \$47.40 per share per annum, and no more, payable semi-annually, one-half on the first day of January and one-half on the first day of July of each year (each a "Dividend Payment Date") commencing on January 1, 1989, to holders of record at the start of business on such Dividend Payment Date. Preferred Dividends shall begin to accrue on outstanding shares of Series B Preferred Stock from the date of issuance of such shares of Series B Preferred Stock. Preferred Dividends shall accrue on a daily basis whether or not the Company shall have earnings or surplus at the time, but Preferred Dividends accrued after January 1, 1989 on the shares of Series B Preferred Stock for any period less than a full semi-annual period between Dividend Payment Dates shall be computed on the basis of a 360-day year of 30-day months. A fully semi-annual dividend payment of \$23.70 per share shall accrue for the period from the date of issuance until June 30, 2002. Accumulated but unpaid Preferred Dividends shall cumulate as of the Dividend Payment Date on which they first become payable, but no interest shall accrue on accumulated but unpaid Preferred Dividends.

(B) So long as any Series B Preferred Stock shall be outstanding, no dividend shall be declared or paid or set apart for payment on any other series of stock ranking on a parity with the Series B Preferred Stock as to dividends, unless there shall also be or have been declared and paid or set apart for payment on the Series B Preferred Stock, like dividends for all dividend payment periods of the Series B Preferred Stock ending on or before the dividend payment date of such parity stock, ratably in proportion to the respective amounts of dividends accumulated and unpaid through such dividend payment period on the Series B Preferred Stock and accumulated and unpaid or payable on such parity stock through the dividend payment period on such parity stock next preceding such dividend payment date. In the event that full cumulative dividends on the Series B Preferred Stock have not been declared and paid or set apart for payment when due, the Company shall not declare or pay or set apart for payment any dividends or make any other distributions on, or make any payment on account of the purchase, redemption or other retirement of any other class of stock or series thereof of the Company ranking, as to dividends or as to distributions in the event of a liquidation, dissolution or winding-up of the Company, junior to the Series B Preferred Stock until full cumulative dividends on the Series B Preferred Stock shall have been paid or declared and provided for; provided, however, that the foregoing shall not apply to (i) any dividend payable solely in any shares of any stock ranking, as to dividends or as to distributions in the event of a liquidation, dissolution or winding-up of the Company, junior to the Series B Preferred Stock, or (ii) the acquisition of shares of any stock ranking, as to dividends or as to distributions in the event of a liquidation, dissolution or winding up of the Company, junior to the Series B Preferred Stock either (A) pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Company or any

subsidiary of the Company heretofore or hereafter adopted or (B) in exchange solely for shares of any other stock ranking junior to the Series B Preferred Stock.

Section 3. Voting Rights. The holders of shares of Series B Preferred Stock shall have the following voting rights:

(A) The holders of Series B Preferred Stock shall be entitled to vote on all matters submitted to a vote of the holders of Common Stock of the Company, voting together with the holders of Common Stock as one class. Each share of the Series B Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such share of Series B Preferred Stock could be converted on the record date for determining the stockholders entitled to vote, rounded to the nearest one-tenth of a vote; it being understood that whenever the "Conversion Price" (as defined in Section 5 hereof) is adjusted as provided in Section 9 hereof, the voting rights of the Series B Preferred Stock shall also be similarly adjusted.

(B) Except as otherwise required by law or set forth herein, holders of Series B Preferred Stock shall have no special voting rights and their consent shall not be required (except to the extent they are entitled to vote with holders of Common Stock as set forth herein) for the taking of any corporate action; provided, however, that the vote of at least 66-2/3% of the outstanding shares of Series B Preferred Stock, voting separately as a series, shall be necessary to adopt any alteration, amendment or repeal of any provision of the Restated Certificate of Incorporation of the Company, as amended, or this Resolution (including any such alteration, amendment or repeal effected by any merger or consolidation in which the Company is the surviving or resulting corporation) if such amendment, alteration or repeal would alter or change the powers, preferences or special rights of the shares of Series B Preferred Stock so as to affect them adversely.

Section 4. Liquidation, Dissolution or Winding Up.

(A) Upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, the holders of Series B Preferred Stock shall be entitled to receive out of assets of the Company which remain after satisfaction in full of all valid claims of creditors of the Company and which are available for payment to stockholders and subject to the rights of the holders of any stock of the Company ranking senior to or on a parity with the Series B Preferred Stock in respect of distributions upon liquidation, dissolution or winding up of the Company, before any amount shall be paid or distributed among the holders of Common Stock or any other shares ranking junior to the Series B Preferred Stock in respect of distributions upon liquidation, dissolution or winding up of the Company, liquidating distributions in the amount of \$600.00 per share, plus an amount equal to all accumulated and unpaid dividends thereon to the date fixed for distribution, and no more. If upon any liquidation, dissolution or winding up of the Company, the amounts payable with respect to the Series B Preferred Stock and any other stock ranking as to any such distribution on a parity with the Series B Preferred Stock are not paid in full, the holders of the Series B Preferred Stock and such other stock shall share ratably in any distribution of assets in proportion to the full respective preferential amounts to which they are entitled. After payment of the full amount to which they are entitled as provided by the foregoing

provisions of this paragraph 4(A), the holders of shares of Series B Preferred Stock shall not be entitled to any further right or claim to any of the remaining assets of the Company.

(B) Neither the merger or consolidation of the Company with or into any other corporation, nor the merger or consolidation of any other corporation with or into the Company, nor the sale, transfer or lease of all or any portion of the assets of the Company, shall be deemed to be a dissolution, liquidation or winding up of the affairs of the Company for purposes of this Section 4, but the holders of Series B Preferred Stock shall nevertheless be entitled in the event of any such merger or consolidation to the rights provided by Section 8 hereof.

(C) Written notice of any voluntary or involuntary liquidation, dissolution or winding up of the Company, stating the payment date or dates when, and the place or places where, the amounts distributable to holders of Series B Preferred Stock in such circumstances shall be payable, shall be given by first-class mail, postage prepaid, mailed not less than twenty (20) days prior to any payment date stated therein, to the holders of Series B Preferred Stock, at the address shown on the books of the Company or any transfer agent for the Series B Preferred Stock.

#### Section 5. Conversion into Common Stock.

(A) A holder of shares of Series B Preferred Stock shall be entitled, at any time prior to the close of business on the date fixed for redemption of such shares pursuant to Section 6, 7 or 8 hereof, to cause any or all of such shares to be converted into shares of Common Stock, initially at a conversion rate equal to the ratio of \$600.00 to the amount which initially shall be \$60.00 and which shall be adjusted as hereinafter provided (and, as so adjusted, is hereinafter sometimes referred to as the "Conversion Price") (that is, a conversion rate initially equivalent to ten shares of Common Stock for each share of Series B Preferred Stock so converted but that is subject to adjustment as the Conversion Price is adjusted as hereinafter provided).

(B) Any holder of shares of Series B Preferred Stock desiring to convert such shares into shares of Common Stock shall surrender the certificate or certificates representing the shares of Series B Preferred Stock being converted, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto), at the principal executive office of the Company or the offices of the transfer agent for the Series B Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the Series B Preferred Stock by the Company or the transfer agent for the Series B Preferred Stock, accompanied by written notice of conversion. Such notice of conversion shall specify (i) the number of shares of Series B Preferred Stock to be converted and the name or names in which such holder wishes the certificate or certificates for Common Stock and for any shares of Series B Preferred Stock not to be so converted to be issued, and (ii) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion.

(C) Upon surrender of a certificate representing a share or shares of Series B Preferred Stock for conversion, the Company shall issue and send by hand delivery (with receipt to be acknowledged) or by first-class mail, postage prepaid, to the holder thereof or to such

holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. In the event that there shall have been surrendered a certificate or certificates representing shares of Series B Preferred Stock, only part of which are to be converted, the Company shall issue and deliver to such holder or such holder's designee a new certificate or certificates representing the number of shares of Series B Preferred Stock which shall not have been converted.

(D) The issuance by the Company of shares of Common Stock upon a conversion of shares of Series B Preferred Stock into shares of Common Stock made at the option of the holder thereof shall be effective as of the earlier of (i) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (ii) the commencement of business on the second business day after the surrender of the certificate or certificates for the shares of Series B Preferred Stock to be converted, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) as provided by this Resolution. On and after the effective day of conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have been declared and shall be payable to holders of shares of Series B Preferred Stock on a Dividend Payment Date if such Dividend Payment Date for such dividend shall coincide with or be on or subsequent to the effective date of conversion of such shares.

(E) The Company shall not be obligated to deliver to holders of Series B Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of Series B Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(F) Whenever the Company shall issue shares of Common Stock upon conversion of shares of Series B Preferred Stock as contemplated by this Section 5, the Company shall issue together with each such share of Common Stock one right to purchase Series A Preferred Stock of the Company (or other securities in lieu thereof) pursuant to the Rights Agreement between the Company and the Rights Agent, as such agreement may from time to time be amended, or any rights issued to holders of Common Stock of the Company in addition thereto or in replacement therefor, whether or not such rights shall be exercisable at such time, but only if such rights are issued and outstanding and held by other holders of Common Stock of the Company at such time and have not expired.

(G) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of Series B Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Series B Preferred Stock then outstanding. The Company shall prepare and shall use its best efforts to obtain and keep in force such governmental or regulatory permits or other authorizations as may be required by law, and shall comply with all requirements as to

registration or qualification of the Common Stock, in order to enable the Company lawfully to issue and deliver to each holder of record of Series B Preferred Stock such number of shares of its Common Stock as shall from time to time be sufficient to effect the conversion of all shares of Series B Preferred Stock then outstanding and convertible into shares of Common Stock.

During the Twelve  
Month Period  
Beginning July 2

Price Per  
Share

1988 .....	\$647.40
1989 .....	\$642.66
1990 .....	\$637.92
1991 .....	\$633.18
1992 .....	\$628.44
1993 .....	\$623.70
1994 .....	\$618.96
1995 .....	\$614.22
1996 .....	\$609.48
1997 .....	\$604.74

Section 6. Redemption At the Option of the Company.

(A) The Series B Preferred Stock shall be redeemable, in whole or in part, at the option of the Company at any time after July 1, 1991 or on or before July 1991 if permitted by paragraph (C) or (D) of this Section 6, at the following redemption prices: \$600.00 per share, plus, in each case, an amount equal to all accumulated and unpaid dividends thereon to the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (E) of this Section 6. From and after the date fixed for redemption, dividends on shares of Series B Preferred Stock called for redemption will cease to accrue, such shares will no longer be deemed to be outstanding and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. If less than all of the outstanding shares of Series B Preferred Stock are to be redeemed, the Company shall either redeem a portion of the shares of each holder determined pro rata based on the number of shares held by each holder or shall select the shares to be redeemed by lot, as may be determined by the Board of Directors of the Company.

(B) Unless otherwise required by law, notice of redemption will be sent to the holders of Series B Preferred Stock at the address shown on the books of the Company or any transfer agent for the Series B Preferred Stock by first class mail, postage prepaid, mailed not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the Series B Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (v) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vi) the conversion rights of the shares to be redeemed, the period within

which conversion rights may be exercised, and the Conversion Price and number of shares of Common Stock issuable upon conversion of a share of Series B Preferred Stock at the time. Upon surrender of the certificates for any shares so called for redemption and not previously converted (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state), such shares shall be redeemed by the Company at the date fixed for redemption and at the redemption price set forth in this Section 6.

(C) In the event of a change in the federal tax law of the United States of America which has the effect of precluding the Company from claiming any of the tax deductions for dividends paid on the Series B Preferred Stock when such dividends are used as provided under Section 404(k)(2) of the Internal Revenue Code of 1986, as amended and in effect on the date shares of Series B Preferred Stock are initially issued, the Company may, in its sole discretion and notwithstanding anything to the contrary in paragraph (A) of this Section 6, elect to redeem such shares for the amount payable in respect of the shares upon liquidation of the Company pursuant to Section 4 hereof.

(D) Notwithstanding anything to the contrary in paragraph (A) of this Section 6, the Company may elect to redeem any or all of the shares of Series B Preferred Stock at any time on or prior to July 1, 1991 on the terms and conditions set forth in paragraphs (A) and (B) of this Section 6, if the last reported sales price, regular way, of a share of Common Stock, as reported on the New York Stock Exchange Composite Tape or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which such stock is listed or admitted to trading or, if the Common Stock is not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotation System ("NASDAQ") or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices in over-the-counter market as reported by NASDAQ, for at least twenty (20) trading days within a period of thirty (30) consecutive trading days ending within five (5) days of the notice of redemption equals or exceeds one hundred fifty percent (150%) of the Conversion Price (giving effect equitably in making such calculation to any adjustments required by Section 9 hereof).

(E) The Company, at its option, may make payment of the redemption price required upon redemption of shares of Series B Preferred Stock in cash or in shares of Common Stock, or in a combination of such shares and cash, any such shares to be valued for such purpose at their Fair Market Value (as defined in paragraph (G) of Section 9 hereof, provided, however, that in calculating their Fair Market Value the Adjustment Period shall be deemed to be the five (5) consecutive trading days preceding, and including, the date of redemption).

#### Section 7. Other Redemption Rights.

Shares of Series B Preferred Stock shall be redeemed by the Company for cash or, if the Company so elects, in shares of Common Stock, or a combination of such shares and cash, any such shares of Common Stock to be valued for such purpose as provided by paragraph (E) of Section 6, at a redemption price of \$600.00 per share plus accumulated and unpaid dividends thereon to the date fixed for redemption, at the option of the holder, at any time and from time to

time upon notice to the Company given not less than five (5) business days prior to the date fixed by the holder in such notice for such redemption, when and to the extent necessary (i) for such holder to provide for distributions required to be made under, or to satisfy an Investment election provided to participants in accordance with, the J. C. Penney Company, Inc. Savings, Profit-Sharing and Stock Ownership Plan, dated and effective as of August 22, 1988, as the same may be amended, or any successor plan (the "plan") to participants in the Plan or (ii) for such holder to make payment of principal, interest or premium due and payable (whether as scheduled or upon acceleration) on the 8.17% ESOP Notes Due July 1, 1998 of the trust under the Plan or any indebtedness incurred by the holder for the benefit of the Plan.

Section 8. Consolidation, Merger, etc.

(A) In the event that the Company shall consummate any consolidation or merger or similar transaction, however named, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting company (including the Company) that constitutes "qualifying employer securities" with respect to a holder of Series B Preferred Stock within the meaning of Section 409(l) of the Internal Revenue Code of 1986, as amended, and Section 407(c)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of Series B Preferred Stock of such holder shall be assumed by and shall become preferred stock of such successor or resulting company, having in respect of such company insofar as possible the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 6, 7 and 8 hereof), and the qualifications, limitations or restrictions thereon, that the Series B Preferred Stock had immediately prior to such transaction, except that after such transaction each share of the Series B Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 5 hereof, into the qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election to receive any kind or amount of stock, securities, cash or other property (other than such qualifying employer securities and a cash payment, if applicable, in lieu of fractional shares) receivable upon such transaction (provided that, if the kind or amount of qualifying employer securities receivable upon such transaction is not the same for each non-electing share, then the kind and amount of qualifying employer securities receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares). The rights of the Series B Preferred Stock as preferred stock of such successor or resulting company shall successively be subject to adjustments pursuant to Section 9 hereof after any such transaction as nearly equivalent to the adjustments provided for by such section prior to such transaction. The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of the Series B Preferred Stock shall be assumed and authorized by the successor or resulting company as aforesaid.

(B) In the event that the Company shall consummate any consolidation or merger or similar transaction, however named, pursuant to which the outstanding shares of Common

Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (A) of this Section 8) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of Series B Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (C) of this Section 8), be deemed converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted at such time and each share of Series B Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of Series B Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction (provided that, if the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares).

(C) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar transaction described in paragraph (B) of this Section 8, then the Company shall as soon as practicable thereafter (and in any event at least ten (10) business days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of Series B Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such Series B Preferred Stock, a cash payment equal to the amount payable in respect of shares of Series B Preferred Stock upon liquidation of the Company pursuant to Section 4 hereof. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the fifth business day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the fifth business day prior to consummation of such transaction.

#### Section 9. Anti-dilution Adjustment.

(A) In the event the Company shall, at any time or from time to time while any of the shares of the Series B Preferred Stock are outstanding, (i) pay a dividend or make a distribution in respect of the Common Stock in shares of Common Stock, (ii) subdivide the outstanding shares of Common Stock, or (iii) combine the outstanding shares of Common Stock into a smaller number of shares, in each case whether by reclassification of shares, recapitalization of the Company (including a recapitalization effected by a merger or consolidation to which Section 8 hereof does not apply) or otherwise, the Conversion Price in

effect immediately prior to such action shall be adjusted by multiplying such Conversion Price by the fraction the numerator of which is the number of shares of Common Stock outstanding immediately before such event and the denominator of which is the number of shares of Common Stock outstanding immediately after such event. An adjustment made pursuant to this paragraph 9(A) shall be given effect, upon payment of such a dividend or distribution, as of the record date for the determination of shareholders entitled to receive such dividend or distribution (on a retroactive basis) and in the case of a subdivision or combination shall become effective immediately as of the effective date thereof.

(B) In the event that the Company shall, at any time or from time to time while any of the shares of Series B Preferred Stock are outstanding, issue to holders of shares of Common Stock as a dividend or distribution, including by way of a reclassification of shares or a recapitalization of the Company, any right or warrant to purchase shares of Common Stock (but not including as such a right or warrant any security convertible into or exchangeable for shares of Common Stock) at a purchase price per share less than the Fair Market Value (as hereinafter defined) of a share of Common Stock on the date of issuance of such right or warrant, then, subject to the provisions of paragraphs (E) and (F) of this Section 9, the Conversion Price shall be adjusted by multiplying such Conversion Price by the fraction the numerator of which shall be the number of shares of Common Stock outstanding immediately before such issuance of rights or warrants plus the number of shares of Common Stock which could be purchased at the Fair Market Value of a share of Common Stock at the time of such issuance for the maximum aggregate consideration payable upon exercise in full of all such rights or warrants and the denominator of which shall be the number of shares of Common Stock outstanding immediately before such issuance of rights or warrants plus the maximum number of shares of Common Stock that could be acquired upon exercise in full of all such rights and warrants.

(C) In the event the Company shall, at any time or from time to time while any of the shares of Series B Preferred Stock are outstanding, issue, sell or exchange shares of Common Stock (other than pursuant to any right or warrant to purchase or acquire shares of Common Stock (including as such a right or warrant any security convertible into or exchangeable for shares of Common Stock) and other than pursuant to any employee or director incentive or benefit plan or arrangement, including any employment, severance or consulting agreement, of the Company or any subsidiary of the Company heretofore or hereafter adopted) for a consideration having a Fair Market Value on the date of such issuance, sale or exchange less than the Fair Market Value of such shares on the date of such issuance, sale or exchange, then, subject to the provisions of paragraphs (E) and (F) of this Section 9, the Conversion Price shall be adjusted by multiplying such Conversion Price by the fraction the numerator of which shall be the sum of (i) the Fair Market Value of all the shares of Common Stock outstanding on the day immediately preceding the first public announcement of such issuance, sale or exchange plus (ii) the Fair Market Value of the consideration received by the Company in respect of such issuance, sale or exchange of shares of Common Stock, and the denominator of which shall be the product of (i) the Fair Market Value of a share of Common Stock on the day immediately preceding the first public announcement of such issuance, sale or exchange multiplied by (ii) the sum of the number of shares of Common Stock outstanding on such day plus the number of shares of Common Stock so issued, sold or exchanged by the Company. In the event the Company shall, at any time or from time to time while any shares of Series B Preferred Stock are

outstanding, issue, sell or, exchange any right or warrant to purchase or acquire shares of Common Stock (including as such a right or warrant any security convertible into or exchangeable for shares of Common Stock), other than any such issuance to holders of shares of Common Stock as a dividend or distribution (including by way of a reclassification of shares or a recapitalization of the Company) and other than pursuant to any employee or director incentive or benefit plan or arrangement (including any employment, severance or consulting agreement) of the Company or any subsidiary of the Company heretofore or hereafter adopted, for a consideration having a Fair Market Value on the date of such Issuance, sale or exchange less than the Non-Dilutive Amount (as hereinafter defined), then, subject to the provisions of paragraphs (E) and (F) of this Section 9, the Conversion Price shall be adjusted by multiplying such Conversion Price by a fraction the numerator of which shall be the sum of (i) the Fair Market Value of all the shares of Common Stock outstanding on the day immediately preceding the first public announcement of such issuance, sale or exchange plus (ii) the Fair Market Value of the consideration received by the Company in respect of such issuance, sale or exchange of such right or warrant plus (iii) the Fair Market Value at the time of such issuance of the consideration which the Company would receive upon exercise in full of all such rights or warrants, and the denominator of which shall be the product of (i) the Fair Market Value of a share of Common Stock on the day immediately preceding the first public announcement of such issuance, sale or exchange multiplied by (ii) the sum of the number of shares of Common Stock outstanding on such day plus the maximum number of shares of Common Stock which could be acquired pursuant to such right or warrant at the time of the issuance, sale or exchange of such right or warrant (assuming shares of Common Stock could be acquired pursuant to such right or warrant at such time).

(D) In the event the Company shall, at any time or from time to time while any of the shares of Series B Preferred Stock are outstanding, make an Extraordinary Distribution (as hereinafter defined) in respect of the Common Stock, whether by dividend, distribution, reclassification of shares or recapitalization of the Company (including a recapitalization or reclassification effected by a merger or consolidation to which Section 8 hereof does not apply) or effect a Pro Rate Repurchase (as hereinafter defined) of Common Stock, the Conversion Price in effect immediately prior to such Extraordinary Distribution or Pro Rata Repurchase shall, subject to paragraphs (E) and (F) of this Section 9, be adjusted by multiplying such Conversion Price by the fraction the numerator of which is (i) the product of (x) the number of shares of Common Stock outstanding immediately before such Extraordinary Distribution or Pro Rate Repurchase multiplied by (y) the Fair Market Value (as herein defined) of a share of Common Stock on the record date with respect to an Extraordinary Distribution, or on the applicable expiration date (including all extensions thereof) of any tender offer which is a Pro Rata Repurchase, or on the date of purchase with respect to any Pro Rata Repurchase which is not a tender offer, as the case may be, minus (ii) the Fair Market Value of the Extraordinary Distribution or the aggregate purchase price of the Pro Rata Repurchase, as the case may be, and the denominator of which shall be the product of (A) the number of shares of Common Stock outstanding immediately before such Extraordinary Dividend or Pro Rata Repurchase minus, in the case of a Pro Rata Repurchase, the number of shares of Common Stock repurchased by the Company multiplied by (B) the Fair Market Value of a share of Common Stock on the record date with respect to an Extraordinary Distribution or on the applicable expiration date (including all extensions thereof) of any tender offer which is a Pro Rata Repurchase or on the date of

purchase with respect to any Pro Rata Repurchase which is not a tender offer, as the case may be. The Company shall send each holder of Series B Preferred Stock (i) notice of its intent to make any dividend or distribution and (ii) notice of any offer by the Company to make a Pro Rata Repurchase, in each case at the same time as, or as soon as practicable after, such offer is first communicated (including by announcement of a record date in accordance with the rules of any stock exchange on which the Common Stock is listed or admitted to trading) to holders of Common Stock. Such notice shall indicate the intended record date and the amount and nature of such dividend or distribution, or the number of shares subject to such offer for a Pro Rata Repurchase and the purchase price payable by the Company pursuant to such offer, as well as the Conversion Price and the number of shares of Common Stock into which a share of Series B Preferred Stock may be converted at such time.

(E) Notwithstanding any other provisions of this Section 9, the Company shall not be required to make any adjustment of the Conversion Price unless such adjustment would require an increase or decrease of at least one percent (1%) in the Conversion Price. Any lesser adjustment shall be carried forward and shall be made no later than the time of, and together with, the next subsequent adjustment which, together with any adjustment or adjustments so carried forward, shall amount to an increase or decrease of at least one percent (1%) in the Conversion Price.

(F) If the Company shall make any dividend or distribution on the Common Stock or issue any Common Stock, other capital stock or other security of the Company or any rights or warrants to purchase or acquire any such security, which transaction does not result in an adjustment to the Conversion Price pursuant to the foregoing provisions of this Section 9, the Board of Directors of the Company shall consider whether such action is of such a nature that an adjustment to the Conversion Price should equitably be made in respect of such transaction. If in such case the Board of Directors of the Company determines that an adjustment to the Conversion Price should be made, an adjustment shall be made effective as of such date, as determined by the Board of Directors of the Company. The determination of the Board of Directors of the Company as to whether an adjustment to the Conversion Price should be made pursuant to the foregoing provisions of this paragraph 9(F), and, if so, as to what adjustment should be made and when, shall be final and binding on the Company and all stockholders of the Company. The Company shall be entitled to make such additional adjustments in the Conversion Price, in addition to those required by the foregoing provisions of this Section 9, as shall be necessary in order that any dividend or distribution in shares of capital stock of the Company, subdivision, reclassification or combination of shares of stock of the Company or any recapitalization of the Company shall not be taxable to holders of the Common Stock.

(G) For purposes of this Resolution, the following definitions shall apply:

"Extraordinary Distribution" shall mean any dividend or other distribution (effected while any of the shares of Series B Preferred Stock are outstanding) (i) of cash, where the aggregate amount of such cash dividend or distribution together with the amount of all cash dividends and distributions made during the preceding period of 12 months, when combined with the aggregate amount of all Pro Rata Repurchases (for this purpose, including only that portion of the aggregate purchase price of such Pro Rata Repurchase which is in excess of the Fair

Market Value of the Common Stock repurchased as determined on the applicable expiration date (including all extensions thereof) of any tender offer or exchange offer which is a Pro Rata Repurchase, or the date of purchase with respect to any other Pro Rata Repurchase which is not a tender offer or exchange offer made during such period), exceeds twelve and one-half percent (12-1/2%) of the aggregate Fair Market Value of all shares of Common Stock outstanding on the record date for determining the shareholders entitled to receive such Extraordinary Distribution and (ii) any shares of capital stock of the Company (other than shares of Common Stock), other securities of the Company (other than securities of the type referred to in paragraph (B) of this Section 9), evidences of indebtedness of the Company or any other person or any other property (including shares of any subsidiary of the Company), or any combination thereof. The Fair Market Value of an Extraordinary Distribution for purposes of paragraph (D) of this Section 9 shall be the sum of the Fair Market Value of such Extraordinary Distribution plus the amount of any cash dividends which are not Extraordinary Distributions made during such twelve month period and not previously included in the calculation of an adjustment pursuant to paragraph (D) of this Section 9.

"Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issuer which are publicly traded, the average of the Current Market Prices (as hereinafter defined) of such shares or securities for each day of the Adjustment Period (as hereinafter defined). "Current Market Price" of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for a day shall mean the last reported sales price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange Composite Tape or, if such security is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which such security is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the NASDAQ National Market System or, if such security is not quoted on such National Market System, the average of the closing bid and asked prices on each such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for such security on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in such security selected for such purpose by the Board of Directors of the Company or a committee thereof on each trading day during the Adjustment Period. "Adjustment Period" shall mean the period of five (5) consecutive trading days, selected by the Board of Directors of the Company or a committee thereof, during the 20 trading days preceding, and including, the date as of which the Fair Market Value of a security is to be determined. The "Fair Market Value" of any security which is not publicly traded or of any other property shall mean the fair value thereof as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board of Directors of the Company or a committee thereof, or, if no such investment banking or appraisal firm is in the good faith judgment of the Board of Directors or such committee available to make such determination, as determined in good faith by the Board of Directors of the Company or such committee.

"Non-Dilutive Amount" in respect of an issuance, sale or exchange by the Company of any right or warrant to purchase or acquire shares of Common Stock (including any

security convertible into or exchangeable for shares of Common Stock) shall mean the remainder of (i) the product of the Fair Market Value of a share of Common Stock on the day preceding the first public announcement of such issuance, sale or exchange multiplied by the maximum number of shares of Common Stock which could be acquired on such date upon the exercise in full of such rights and warrants (including upon the conversion or exchange of all such convertible or exchangeable securities), whether or not exercisable (or convertible or exchangeable) at such date, minus (ii) the aggregate amount payable pursuant to such right or warrant to purchase or acquire such maximum number of shares of Common Stock; provided, however, that in no event shall the Non-Dilutive Amount be less than zero. For purposes of the foregoing sentence, in the case of a security convertible into or exchangeable for shares of Common Stock, the amount payable pursuant to a right or warrant to purchase or acquire shares of Common Stock shall be the Fair Market Value of such security on the date of the issuance, sale or exchange of such security by the Company.

"Pro Rata Repurchase" shall mean any purchase of shares of Common Stock by the Company or any subsidiary thereof, whether for cash, shares of capital stock of the Company, other securities of the Company, evidences of indebtedness of the Company or any other person or any other property (including shares of a subsidiary of the Company), or any combination thereof, effected while any of the shares of Series B Preferred Stock are outstanding, pursuant to any tender offer or exchange offer subject to Section 13(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or any successor provision of law, or pursuant to any other offer available to substantially all holders of Common Stock; provided, however, that no purchase of shares by the Company or any subsidiary thereof made in open market transactions shall be deemed a Pro Rata Repurchase. For purposes of this paragraph 9(G), shares shall be deemed to have been purchased by the Company or any subsidiary thereof "in open market transactions" if they have been purchased substantially in accordance with the requirements of Rule 10b-18 as in effect under the Exchange Act, on the date shares of Series B Preferred Stock are initially issued by the Company or on such other terms and conditions as the Board of Directors of the Company or a committee thereof shall have determined are reasonably designed to prevent such purchases from having a material effect on the trading market for the Common Stock.

(H) Whenever an adjustment to the Conversion Price and the related voting rights of the Series B Preferred Stock is required pursuant to this Resolution, the Company shall forthwith place on file with the transfer agent for the Common Stock and the Series B Preferred Stock if there be one, and with the Secretary of the Company, a statement signed by two officers of the Company stating the adjusted Conversion Price determined as provided herein and the resulting conversion ratio, and the voting rights (as appropriately adjusted), of the Series B Preferred Stock. Such statement shall set forth in reasonable detail such facts as shall be necessary to show the reason and the manner of computing such adjustment, including any determination of Fair Market Value involved in such computation. Promptly after each adjustment to the Conversion Price and the related voting rights of the Series B Preferred Stock, the Company shall mail a notice thereof and of the then prevailing conversion ratio to each holder of shares of the Series B Preferred Stock.

Section 10. Ranking Attributable Capital and Adequacy of Surplus; Retirement of Shares.

(A) The Series B Preferred Stock shall rank senior to the Series A Preferred Stock and the Common Stock as to the payment of dividends and the distribution of assets on liquidation, dissolution and winding up of the Company, and, unless otherwise provided in the Restated Certificate of Incorporation of the Company, as amended, or a Certificate of Designations relating to a subsequent series of Preferred Stock, without par value, of the Company, the Series B Preferred Stock shall rank junior to all other series of the Company's Preferred Stock, without par value, as to the payment of dividends and the distribution of assets on liquidation, dissolution or winding up.

(B) The capital of the Company allocable to the Series B Preferred Stock for purposes of the Delaware General Corporation Law (the "Corporation Law") shall be \$600.00 per share. In addition to any vote of stockholders required by law, the vote of the holders of a majority of the outstanding shares of Series B Preferred Stock shall be required to increase the par value of the Common Stock or otherwise increase the capital of the Company allocable to the Common Stock for the purpose of the Corporation Law if, as a result thereof, the surplus of the Company for purposes of the Corporation Law would be less than the amount of Preferred Dividends that would accrue on the then outstanding shares of Series B Preferred Stock during the following three years.

(C) Any shares of Series B Preferred Stock acquired by the Company by reason of the conversion or redemption of such shares as provided by this Resolution, or otherwise so acquired, shall be retired as shares of Series B Preferred Stock and restored to the status of authorized but unissued shares of preferred stock, without par value, of the Company, undesignated as to series, and may thereafter be reissued as part of a new series of such preferred stock as permitted by law.

Section 11. Miscellaneous.

(A) All notices referred to herein shall be in writing, and all notices hereunder shall be deemed to have been given upon the earlier of receipt thereof or three (3) business days after the mailing thereof if sent by registered mail (unless first-class mail shall be specifically permitted for such notice under the terms of this Resolution) with postage prepaid, addressed: (i) if to the Company, to its office at 14841 North Dallas Parkway, Dallas Texas 75240 (Attention: Secretary) or to the transfer agent for the Series B Preferred Stock, or other agent of the Company designated as permitted by this Resolution or (ii) if to any holder of the Series B Preferred Stock or Common Stock, as the case may be, to such holder at the address of such holder as listed in the stock record books of the Company (which may include the records of any transfer agent for the Series B Preferred Stock or Common Stock, as the case may be) or (iii) to such other address as the Company or any such holder, as the case may be, shall have designated by notice similarly given.

(B) The term "Common Stock" as used in this Resolution means the Company's Common Stock of 50¢ par value, as the same exists at the date of filing of a Certificate of

Designations relating to Series B Preferred Stock or any other class of stock resulting from successive changes or reclassification of such Common Stock consisting solely of changes in par value, or from par value to no par value, or from no par value to par value. In the event that, at any time as a result of an adjustment made pursuant to Section 9 of this Resolution, the holder of any share of the Series B Preferred Stock upon thereafter surrendering such shares for conversion shall become entitled to receive any shares or other securities of the Company other than shares of Common Stock, the Conversion Price in respect of such other shares or securities so receivable upon conversion of shares of Series B Preferred Stock shall thereafter be adjusted, and shall be subject to further adjustment from time to time, in a manner and on terms as nearly equivalent as practicable to the provisions with respect to Common Stock contained in Section 9 hereof, and the provisions of Sections 1 through 8 and 10 and 11 of this Resolution with respect to the Common Stock shall apply on like or similar terms to any such other shares or securities.

(C) The Company shall pay any and all stock transfer and documentary stamp taxes that may be payable in respect of any issuance or delivery of shares of Series B Preferred Stock or shares of Common Stock or other securities issued on account of Series B Preferred Stock pursuant hereto or certificates representing such shares or securities. The Company shall not, however, be required to pay any such tax which may be payable in respect of any transfer involved in the issuance or delivery of shares of Series B Preferred Stock or Common Stock or other securities in a name other than that in which the shares of Series B Preferred Stock with respect to which such shares or other securities are issued or delivered were registered, or in respect of any payment to any person with respect to any such shares or securities other than a payment to the registered holder thereof, and shall not be required to make any such issuance, delivery or payment unless and until the person otherwise entitled to such issuance, delivery or payment has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid or is not payable.

(D) In the event that a holder of shares of Series B Preferred Stock shall not by written notice designate the name in which shares of Common Stock to be issued upon conversion of such shares should be registered or to whom payment upon redemption of shares of Series B Preferred Stock should be made or the address to which the certificate or certificates representing such shares, or such payment, should be sent, the Company shall be entitled to register such shares, and make such payment, in the name of the holder of such Series B Preferred Stock as shown on the records of the Company and to send the certificate or certificates representing such shares, or such payment, to the address of such holder shown on the records of the Company.

(E) Unless otherwise provided in the Restated Certificate of Incorporation, as amended, of the Company, all payments in the form of dividends, distributions on voluntary or involuntary dissolution, liquidation or winding-up or otherwise made upon the shares of Series B Preferred Stock and any other stock ranking on a parity with the Series B Preferred Stock with respect to such dividend or distribution shall be made pro rata, so that amounts paid per share on the Series B Preferred Stock and such other stock shall in all cases bear to each other the same ratio that the required dividends, distributions or payments, as the case may be, then payable per share on the shares of the Series B Preferred Stock and such other stock bear to each other.

(F) The Company may appoint, and from time to time discharge and change, a transfer agent for the Series B Preferred Stock. Upon any such appointment or discharge of a transfer agent, the Company shall send notice thereof by first-class mail, postage prepaid, to each holder of record of Series B Preferred Stock.

J. C. PENNEY COMPANY, INC.

(A Delaware Corporation)

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BYLAWS

As amended to May 20, 2011

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J. C. PENNEY COMPANY, INC.

(A Delaware Corporation)

BYLAWS

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ARTICLE I

OFFICES

SECTION 1. Registered Office. The registered office of J. C. Penney Company, Inc. (hereinafter called the Company) in the State of Delaware shall be at 1209 Orange Street, City of Wilmington, County of New Castle. The name of the registered agent in charge thereof is The Corporation Trust Company.

SECTION 2. Other Offices. The Company may also have an office or offices at such other place or places either within or without the State of Delaware as from time to time the Board of Directors may determine or the business of the Company may require.

ARTICLE II  
MEETINGS OF STOCKHOLDERS

SECTION 1. Annual Meetings. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may come before the meeting shall be held at such place and time as shall be fixed by the Board of Directors and specified in the notice of the meeting, on the third Tuesday in May in each year, or on such other day as shall be fixed by the Board of Directors and specified in the notice of the meeting. If the election of directors shall not be held on the day designated herein or the day fixed by the Board, as the case may be, for any annual meeting, or on the day of any adjourned session thereof, the Board of Directors shall cause the election to be held at a special meeting as soon thereafter as convenient. At such special meeting, the stockholders may elect the directors and transact other business with the same force and effect as at an annual meeting duly called and held.

SECTION 2. Special Meetings. Any action required or permitted to be taken by the holders of the Common Stock of the Company must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders. A special meeting of stockholders for any purpose or purposes, unless otherwise prescribed by the laws of the State of Delaware or by the certificate of incorporation, may be called at any time only by the Board of Directors pursuant to a resolution approved by a majority of the Board of Directors. Special meetings of stockholders may be held at such place, on

such date, and at such time as shall be designated by resolution of the Board of Directors.

SECTION 3. Notice of Meetings. Except as otherwise required by the laws of the State of Delaware or the certificate of incorporation, notice of each annual or special meeting of stockholders shall be given not less than 10 nor more than 60 days before the day on which the meeting is to be held to each stockholder of record entitled to vote at the meeting by delivering a written notice thereof to him or her personally, or by depositing a copy of the notice in the United States mail, postage prepaid, directed to him or her at his or her address as it appears on the records of the Company, or by transmitting the notice thereof to him or her at such address by telegram, cable, radiogram, telephone facsimile, or other appropriate written communication. Except when expressly required by the laws of the State of Delaware, no publication of any notice of a meeting of stockholders shall be required. Every such notice shall state the place, date, and time of the meeting, and in the case of a special meeting, the purpose or purposes thereof. Notice of any adjourned session of a meeting of stockholders shall not be required to be given if the place, date, and time thereof are announced at the meeting at which the adjournment is taken. If, however, the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

SECTION 4. List of Stockholders. It shall be the duty of the officer who shall have charge of the stock ledger of the Company to prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least 10 days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected, for any purpose germane to the meeting, by any stockholder who is present. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine such list or to vote in person or by proxy at the meeting.

SECTION 5. Quorum. At each meeting of stockholders, the holders of a majority of the issued and outstanding shares of stock of the Company entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum for the transaction of business. In the absence of a quorum at any meeting, or any adjourned session thereof, the stockholders of the Company present in person or represented by proxy and entitled to vote, by majority vote, or in the absence of all the stockholders,

any officer entitled to preside or act as secretary at the meeting, may adjourn the meeting from time to time until a quorum shall be present. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called.

SECTION 6. Organization and Conduct of Meeting. At each meeting of stockholders, the Chairman of the Board or in his or her absence a Vice Chairman of the Board or in his or her absence a chairman chosen by the vote of a majority in interest of the stockholders present in person or represented by proxy and entitled to vote thereat, shall act as chairman. The Secretary or in his or her absence an Assistant Secretary or in the absence of the Secretary and all Assistant Secretaries a person whom the chairman of the meeting shall appoint shall act as secretary of the meeting and keep a record of the proceedings thereof. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the person presiding over the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem necessary, appropriate, or convenient. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairman of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations, and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate, or

convenient for the proper conduct of the meeting. Such rules, regulations, or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting, (ii) rules and procedures for maintaining order at the meeting and the safety of those present, (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Company, their duly authorized and constituted proxies, or such other persons as the chairman of the meeting shall determine, (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof, and (v) limitations on the time allotted to questions or comments by participants. Unless, and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

SECTION 7. Notification of Stockholder Business. At a meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before a meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) in the case of an annual meeting of stockholders, otherwise properly requested to be brought before the meeting by a stockholder of record entitled to vote at the meeting and otherwise a proper subject to be brought before such

meeting. For business to be properly requested to be brought before an annual meeting of stockholders, any stockholder who desires to bring any matter (other than the election of directors, which is provided for in Section 15 of Article III of these Bylaws) before such meeting and who is entitled to vote on such matter must give timely written notice of such stockholder's desire to bring such matter before the meeting, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Company not later than 90 days in advance of such meeting. A stockholder's notice to the Secretary in this regard shall set forth: (1) the name and address of the stockholder proposing such business, (2) a representation that such stockholder is a record owner of stock of the Company entitled to vote at the meeting and intends to appear in person at the meeting to present the described business, (3) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting, and (4) any material interest of the stockholder in such business. Notwithstanding anything in these Bylaws to the contrary, no business may be conducted at a meeting except in accordance with the procedures set forth in this Article II of these Bylaws. The chairman of a meeting may, if the facts warrant, or if not in accordance with applicable law, determine and declare to the meeting that business proposed to be brought before a meeting was not a proper subject therefor or was not properly brought before the meeting in accordance with the provisions of this Section 7, and if he should so determine, he may so declare to the meeting, and any such

business not a proper subject matter or not properly brought before the meeting shall not be transacted.

SECTION 8. Voting; Proxies; Ballots. Except as otherwise provided in the laws of the State of Delaware or the certificate of incorporation, at every meeting of stockholders, each stockholder of the Company shall be entitled to one vote at the meeting in person or by proxy for each share of stock having voting rights registered in his or her name on the books of the Company on the date fixed pursuant to Section 3 of Article VII of these Bylaws as the record date for the determination of stockholders entitled to vote at the meeting. Shares of its own stock belonging to the Company shall not be voted directly or indirectly (except for shares of stock held by the Company in a fiduciary capacity). The vote of any stockholder entitled thereto may be cast in person or by his or her proxy appointed by an instrument in writing, or by other means of electronic transmission, to the full extent permitted by the laws of the State of Delaware; provided, however, that no proxy shall be voted after three years from its date, unless the proxy provides for a longer period. At all meetings of stockholders, each question (except as otherwise provided by the certificate of incorporation, these Bylaws or the rules and regulations of any stock exchange applicable to the Company, or pursuant to any regulation applicable to the Company and its securities) shall be decided by the vote of the holders of shares of stock having a majority of the votes which could be cast by the holders of all shares of stock outstanding and entitled to vote thereon. In any non-

contested election of directors, each director shall be elected by the affirmative vote of the majority of the votes cast with respect to that director's election. Any director nominee who is an incumbent director and is not re-elected shall, promptly following the receipt of the final report from the independent inspectors of election, tender his or her resignation, and the Board of Directors (excluding the director who tenders his or her resignation pursuant to this Section 8) shall decide whether to accept or refuse the resignation promptly. Absent a compelling reason as determined by the other directors in the exercise of their business judgment for the director to remain on the Board of Directors, the Board of Directors shall accept the resignation. In a contested election (as defined in Section II.H of the Company's Corporate Governance Guidelines), directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the stockholder meeting and entitled to vote on the election of directors and shall not be required to tender any such resignation. If the Board of Directors accepts a director's resignation pursuant to this Section 8, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board of Directors may fill the resulting vacancy pursuant to the provisions of Section 13 of Article III of these Bylaws, or may decrease the size of the Board of Directors pursuant to and in accordance with the provisions of Section 3 of Article III of these Bylaws. All elections of directors and all votes on matters set forth in the notice of meeting shall be by written

ballot stating the number of shares voted, but except as otherwise provided in the laws of the State of Delaware, the vote on any other matter need not be by ballot unless directed by the chairman of the meeting. On a vote by ballot, each ballot shall be signed by the stockholder voting, or by his or her proxy, if there be such proxy, and shall state the number of shares voted.

SECTION 9. Inspectors of Election. The Company shall, in advance of any meeting of stockholders, appoint one or more inspectors of election, who may be employees of the Company, to act at the meeting or any adjournment thereof and to make a written report thereof. The Company may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of his or her ability.

The inspector or inspectors so appointed or designated shall (i) ascertain the number of shares of stock of the Company outstanding and the voting power of each such share, (ii) determine the shares of stock of the Company represented at the meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their

determination of the number of shares of stock of the Company represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders of the Company, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for an office at an election may serve as an inspector at such election.

ARTICLE III  
BOARD OF DIRECTORS

SECTION 1. General Powers. The business, property, and affairs of the Company shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities expressly conferred upon the Board of Directors by the certificate of incorporation and these Bylaws, the Board of Directors may exercise all such powers of the Company and do all such lawful acts and things as are not by the laws of the State of Delaware, the certificate of incorporation, or these Bylaws directed or required to be exercised or done by the stockholders.

SECTION 2. Eligibility and Retirement. Notwithstanding the expiration of a director's term as set forth in Section 3 of this Article III, no person shall be qualified or may continue to serve as a director after attaining age 74; provided, however, that the Board of Directors may waive such mandatory retirement

age with respect to a director if it deems such waiver to be in the best interests of the Company and its stockholders.

SECTION 3. Number and Classification of Directors. Except as otherwise provided for or fixed by or pursuant to the provisions of Article Fourth of the certificate of incorporation relating to the rights of the holders of any class or series of stock having a preference over the Common Stock as to dividends or upon liquidation to elect additional directors under specified circumstances, the number of directors of the Company which shall constitute the whole Board of Directors shall be such number, not less than three, as from time to time shall be fixed by the Board of Directors. Subject to the provisions of this Section 3 below, until the 2009 annual meeting of stockholders, when the following classification shall cease, the directors, other than those who may be elected pursuant to the aforesaid provisions of said Article Fourth, shall be classified by the Board of Directors, with respect to the duration of the term for which they severally hold office, into three classes as nearly equal in number as possible. Such classes shall originally consist of a first class of four directors who shall be elected at the annual meeting of stockholders held in 1985 for a term expiring at the annual meeting of stockholders to be held in 1986, and election and qualification of their respective successors; a second class of five directors who shall be elected at the annual meeting of stockholders held in 1985 for a term expiring at the annual meeting of stockholders to be held in 1987, and election and qualification of their respective successors; and a third class of

five directors who shall be elected at the annual meeting of stockholders held in 1985 for a term expiring at the annual meeting of stockholders to be held in 1988, and election and qualification of their respective successors. At each annual meeting of stockholders, until the 2007 annual meeting of stockholders, the successors of the class of directors whose term expires at that meeting shall be elected for a term expiring at the annual meeting of stockholders held in the third year following the year of election of such directors and election and qualification of their respective successors. Subject to the provisions of this Section 3 below, until the 2009 annual meeting of stockholders, when the classification of the Board of Directors shall cease, the Board of Directors shall increase or decrease the number of directors in one or more classes as may be appropriate whenever it increases or decreases the number of directors pursuant to this Section 3, in order to ensure that the three classes shall be as nearly equal in number as possible. Directors elected at or after the annual meeting of stockholders to be held in 2007 shall hold office until the first annual meeting of stockholders following their election and until his or her successor shall have been duly elected and qualified or until the director's prior death, resignation or removal.

SECTION 4. Quorum and Manner of Acting.

- (a) A majority of the directors at the time in office shall constitute a quorum for the transaction of business at any meeting, which in no case shall be less than one third of

the total number of directors. Except as otherwise provided in the laws of the State of Delaware, the certificate of incorporation, or these Bylaws, the affirmative vote of a majority of the directors present at any meeting at which a quorum is present shall be required for the taking of any action by the Board of Directors. In the absence of a quorum at any meeting of the Board, the meeting need not be held, or a majority of the directors present thereat or if no director be present, the Secretary, may adjourn the meeting from time to time until a quorum shall be present. Notice of any adjourned meeting need not be given. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called. Members of the Board of Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting by such means shall constitute presence in person at the meeting.

- (b) (i) Notwithstanding anything in these Bylaws to the contrary, the amendment of any Stockholder Rights Plan which has the effect of extending the term of the Stockholder Rights Plan or any rights or options provided thereunder shall require the approval of two-thirds of the independent members of the Board of Directors, and any Stockholder

Rights Plan adopted after the effective date of this Section 4(b) shall expire if not so amended no later than one year following the later of the date of its adoption and the date of its last such amendment.

(ii) Paragraph (i) of this Section 4(b) shall not apply to any Stockholder Rights Plan ratified by the stockholders.

(iii) “Stockholder Rights Plan” refers in this Section 4(b) to any stockholder rights plan, rights agreement or any other form of “poison pill” which is designed to or has the effect of making an acquisition of large holdings of the Company’s shares of stock more difficult or expensive.

( iv) Nothing in this Bylaw should be construed to permit or validate any decision by the Board of Directors to adopt or amend a Stockholder Rights Plan that would be otherwise prohibited or invalid.

SECTION 5. Offices; Places of Meetings. The Board of Directors may hold meetings and have an office or offices at such place or places within or without the State of Delaware as the Board may from time to time determine, and in the case of meetings, as shall be specified or fixed in the respective notices or waivers of notice thereof, except where other provision is made in the laws of the State of Delaware, the certificate of incorporation, or these Bylaws.

SECTION 6. Annual Meeting. The Board of Directors shall meet for the purpose of organization, the election of officers, and the transaction of other business, at the time of each annual election of directors. Such meeting may be held prior to the stockholders' meeting, if deemed necessary and appropriate, and if so held, would be held subject to the election of directors at the upcoming stockholders' meeting; provided, however, that no individual not then a director may act as a director prior to his or her election at the upcoming stockholders' meeting. Such meeting shall be called and held at the place and time specified in the notice or waiver and held at the place and time specified in the notice or waiver of notice thereof as in the case of a special meeting of the Board of Directors.

SECTION 7. Regular Meetings. Regular meetings of the Board of Directors shall be held as the Board of Directors shall determine, at such times and places as shall from time to time be determined by the Board, except that in May, the regular meeting shall be held immediately following the adjournment of the annual meeting of the Board. Notice of regular meetings need not be given.

SECTION 8. Special Meetings; Notice. Special meetings of the Board of Directors shall be held whenever called by the Chairman of the Board or a Vice Chairman of the Board or by any two of the directors. Notice of each such meeting shall be mailed to each director, addressed to such director at his or her residence or usual place of business, at least two days before the day on which

the meeting is to be held, or shall be sent to such director at his or her residence or such place of business by telegram, cable, radiogram, telephone facsimile, or other appropriate written communication, or delivered personally or by telephone, not later than the day before the day on which the meeting is to be held. Each such notice shall state the time and place of the meeting but need not state the purposes thereof except as otherwise herein expressly provided.

SECTION 9. Organization. At each meeting of the Board of Directors, the Chairman of the Board or in his or her absence, a Vice Chairman of the Board or in his or her absence, a director chosen by a majority of the directors present, shall act as chairman. The Secretary or in his or her absence, an Assistant Secretary or in the absence of the Secretary and all Assistant Secretaries, a person whom the chairman of the meeting shall appoint, shall act as secretary of the meeting and keep a record of the proceedings thereof.

SECTION 10. Order of Business. At all meetings of the Board of Directors, business shall be transacted in the order determined by the Board.

SECTION 11. Resignation. Any director may resign at any time by giving written notice of his or her resignation to the Board of Directors or to the Chairman of the Board, a Vice Chairman of the Board, or the Secretary. Such resignation shall take effect at the date of receipt of the notice or at any later time specified

therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 12. Intentionally Omitted.

SECTION 13. Vacancies. Any vacancy in the Board of Directors caused by death, resignation, removal, disqualification, increase in the number of directors, or any other cause, shall be filled by a majority vote of the remaining directors, even though less than a quorum, or by the stockholders at a special meeting duly called and held for the purpose or at an annual meeting, and each director so elected shall hold office until the next succeeding annual meeting of stockholders following such director's election and until such director's successor shall have been elected and qualified, including in circumstances where such director's predecessor was elected to a longer term.

SECTION 14. Remuneration. Directors and members of any committee may receive such fixed sum per meeting attended, or such annual sum or sums, and such reimbursement for expenses of attendance at meetings, as may be determined from time to time by resolution of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the Company in any other capacity and receiving proper compensation therefor.

SECTION 15. Notification of Nominations. Nominations for the election of directors may be made by the Board of Directors or by any stockholder entitled to vote for the election of directors. Any stockholder entitled to vote for the election of directors at a meeting may nominate persons for election as directors only if written notice of such stockholder's intent to make such nomination is given, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Company, not later than (i) with respect to an election to be held at an annual meeting of stockholders, 90 days in advance of such meeting, and (ii) with respect to an election to be held at a special meeting of stockholders for the election of directors, the close of business on the seventh day following the date on which notice of such meeting is first given to stockholders. Each such notice shall set forth: (a) the name and address of the stockholder who intends to make the nomination and of the person or persons to be nominated, (b) a representation that such stockholder is a holder of record of stock of the Company entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice, (c) a description of all arrangements or understandings between such stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by such stockholder, (d) such other information regarding each nominee proposed by such stockholder as would have been required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange

Commission had each nominee been nominated, or intended to be nominated by the Board of Directors, and (e) the consent of each nominee to serve as a director of the Company if so elected. The chairman of the meeting may refuse to acknowledge the nomination of any person not made in compliance with the foregoing procedures.

SECTION 16. Action of the Board of Directors by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board or of such committee, as the case may be, consent thereto in writing and the writing or writings are filed with the minutes of proceedings of the Board or such committee.

ARTICLE IV  
COMMITTEES

SECTION 1. Executive Committee. The Board of Directors may, by resolution passed by a majority of the whole Board, designate directors of the Company, in such number as the Board shall see fit, but not less than two, as an Executive Committee which shall have and may exercise, during intervals between meetings of the Board, the powers and authority of the Board of Directors in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers which may require it; but the Executive Committee shall not have the power or authority in reference to filling vacancies in its membership, amending the certificate of incorporation (except that the Executive Committee (or any committee designated pursuant to Section 6 of this Article IV) may, to the full extent permitted by the laws of the State of Delaware, make determinations with respect to the issuance of stock of the Company), adopting an agreement of merger or consolidation, recommending to the stockholders the sale, lease, or exchange of all or substantially all the Company's property and assets, recommending to the stockholders a dissolution of the Company or a revocation of a dissolution, amending these Bylaws, or declaring a dividend. The Executive Committee (or any committee designated pursuant to Section 6 of this Article IV) shall have the power or authority to authorize the issuance of stock of the Company. The Board of Directors shall designate one of the members of the Executive Committee to be the Chairman of the Committee. Each member of the

Executive Committee shall continue to act as such only so long as he or she shall be a director of the Company and only during the pleasure of a majority of the whole Board of Directors.

SECTION 2. Meetings. Regular meetings of the Executive Committee, of which no notice shall be necessary, shall be held on such days and at such places, within or without the State of Delaware, as shall be fixed by resolution adopted by a majority of, and communicated to all, the members of the Executive Committee. Special meetings of the Committee may be called at the request of any member. Notice of each special meeting of the Committee shall be mailed to each member thereof, addressed to such member at his or her residence or usual place of business, at least two days before the day on which the meeting is to be held, or shall be sent to such member at his or her residence or such place of business by telegram, cable, radiogram, telephone facsimile, or other appropriate written communication, or delivered personally or by telephone, not later than the day before the day on which the meeting is to be held. Each such notice shall state the time and place of the meeting but need not state the purposes thereof except as otherwise herein expressly provided. Subject to the provisions of this Article IV, the Executive Committee, by resolution of a majority of all its members, shall fix its own rules of procedure. The Executive Committee shall keep a record of its proceedings and report them to the Board of Directors at the next regular meeting thereof after such proceedings shall have been taken.

SECTION 3. Quorum and Manner of Acting. Not less than a majority of the members of the Executive Committee then in office shall constitute a quorum for the transaction of business, and the act of a majority of those present at a meeting thereof at which a quorum is present shall be the act of the Executive Committee. The directors comprising the Committee shall act only as a committee, and such directors, individually, shall have no power as such. Members of the Executive Committee, or any committee designated by the Board of Directors, may participate in a meeting of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in the meeting by such means shall constitute presence in person at the meeting.

SECTION 4. Vacancies. The Board of Directors, by vote of a majority of the whole Board, shall have power to fill any vacancy in the Executive Committee due to death, resignation, removal, disqualification, or any other cause.

SECTION 5. Resignation. Any director may resign from the Executive Committee at any time by giving written notice of his or her resignation to the Board of Directors or to the Chairman of the Board, the Chairman of the Executive Committee, a Vice Chairman of the Board, or the Secretary. Such resignation shall take effect at the date of receipt of the notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Other Committees. The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board, designate one or more other committees, each such committee to consist of one or more directors of the Company, which shall have and may exercise such powers and authority (subject to the limitations specified in Section 1 of this Article IV) as the Board of Directors may determine and specify in such resolution or resolutions, such committee or committees to have such name or names as may be determined from time to time by the Board of Directors. A majority of all the members of any such committee may fix its rules of procedure, determine its actions, and fix the time and place (whether within or without the State of Delaware) of its meetings and specify what notice thereof, if any, shall be given, unless the Board of Directors shall otherwise by resolution provide. The Board of Directors shall have the power, either with or without cause, at any time, to change the members of any such committee, to fill vacancies, and to discharge any such committee.

## ARTICLE V

### OFFICERS

SECTION 1. Principal Officers. The principal offices of the Company shall be a Chairman of the Board, who shall be a member of the Board of Directors, and such officers as the Board shall elect in accordance with these Bylaws. The principal officers of the Company shall exercise such powers and perform such duties as may be provided by these Bylaws or determined from time to time by the Board. In addition, there may be such other officers, agents,

and employees of the Company as may be appointed in accordance with Section 3 of this Article V. Any two or more offices may be held by the same person.

SECTION 2. Election and Term of Office. The officers of the Company, except such officers as may be appointed in accordance with the provisions of Section 3 of this Article V, shall be elected annually by the Board of Directors. Each officer, except such officers as may be appointed in accordance with the provisions of Section 3 of this Article V, shall hold office until his or her successor shall have been duly elected and qualified, or until his or her earlier death, resignation, removal, or disqualification.

SECTION 3. Appointed Officers. In addition to the principal officers enumerated in Section 1 of this Article V, the Company may have such other officers, agents, and employees as the Board of Directors may deem necessary, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors, the Chairman of the Board, or a Vice Chairman of the Board may from time to time determine. The Board of Directors may delegate to any principal officer the power to appoint or remove any such other officers, agents, or employees.

SECTION 4. Removal. Any officer may be removed, either with or without cause, by the vote of a majority of the whole Board of Directors at a special meeting called for the purpose or except in

case of any officer elected by the Board of Directors, by any officer upon whom the power of removal may be conferred by the Board of Directors.

SECTION 5. Resignation. Any officer may resign at any time by giving written notice of his or her resignation to the Board of Directors or to the Chairman of the Board, a Vice Chairman of the Board, or the Secretary. Such resignation shall take effect at the date of receipt of the notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled for the unexpired portion of the term in the manner prescribed in these Bylaws for regular election or appointment to such office.

SECTION 7. Chairman of the Board. The Chairman of the Board may be the chief executive officer of the Company. The Chairman of the Board shall preside at all meetings of the Board of Directors and of the stockholders at which he or she is present. The Chairman of the Board shall have the general supervision of the affairs of the Company, and perform all such duties as are incident to the office or as are properly required of him or her by the Board of Directors. The Chairman of the Board shall have authority to enter into any contract or execute and deliver any instrument in the name and on behalf of the Company, when authorized by the Board of Directors, except in cases where the

signing and execution thereof shall be expressly delegated by the Board of Directors or these Bylaws to some other officer, agent, or employee of the Company.

SECTION 8. Vice Chairmen of the Board. The Board of Directors may establish the office of Vice Chairman of the Board. In the absence or disability of the Chairman of the Board, a Vice Chairman of the Board shall perform the duties and exercise the powers of the Chairman of the Board. A Vice Chairman of the Board shall have authority to enter into any contract or execute and deliver any instrument in the name and on behalf of the Company, when authorized by the Board of Directors, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or these Bylaws to some other officer, agent, or employee of the Company. In addition, a Vice Chairman of the Board shall have such further powers and perform such further duties as may, from time to time, be assigned to him or her by the Board of Directors or the Chairman of the Board or as may be prescribed by these Bylaws.

SECTION 9. Presidents. The Board of Directors may establish the office of President of a division, region, or other unit, function, or activity of the Company. A President shall have such powers and perform such duties as may, from time to time, be assigned to him or her by the Board of Directors, the Chairman of the Board, or a Vice Chairman of the Board.

SECTION 10. Vice Presidents. The Board of Directors may establish several classifications of Vice Presidents, such as

Executive Vice Presidents, Senior Vice Presidents, Regional Vice Presidents, and Divisional Vice Presidents. Each Vice President shall have such powers and perform such duties as shall, from time to time, be assigned to him or her by the Board of Directors, the Chairman of the Board, or a Vice Chairman of the Board.

SECTION 11. The Treasurer. The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Company, and shall deposit or cause to be deposited all such funds in the name of the Company in such banks, trust companies, and other depositories as shall be selected in accordance with the provisions of these Bylaws; shall render to the Board of Directors, whenever the Board may require him or her so to do, a report of all his or her transactions as Treasurer; and in general, shall perform all duties as may, from time to time, be assigned to him or her by the Board of Directors, the Chairman of the Board, or a Vice Chairman of the Board.

SECTION 12. The Secretary. The Secretary shall record or cause to be recorded in books kept for the purpose the proceedings of the meetings of the stockholders, the Board of Directors, and all committees, if any; shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law; shall be custodian of the seal of the Company; and in general, shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned to him or her by the Board of Directors, the Chairman of the Board, or a Vice Chairman of the Board.

SECTION 13. The Controller. The Controller shall have charge of the books and records of account of the Company; shall keep or cause to be kept, and shall be responsible for the keeping of, correct and adequate records of the assets, liabilities, business, and transactions of the Company; shall at all reasonable times exhibit his or her books and records of account to any director of the Company upon application at the office of the Company where such books and records are kept; shall be responsible for the preparation and filing of all reports and returns relating to or based upon the books and records of the Company kept by him or her or under his or her direction; and in general, shall perform all duties incident to the office of Controller and such other duties as may, from time to time, be assigned to him or her by the Board of Directors, the Chairman of the Board, or a Vice Chairman of the Board.

## ARTICLE VI

### CONTRACTS, LOANS, CHECKS, DRAFTS, BANK ACCOUNTS, ETC.

SECTION 1. Execution of Contracts. The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officers or other person or persons to enter into any contract or execute and deliver any instrument in the name and on behalf of the Company, and such authority may be general or confined to specific instances, and unless so authorized by the Board of Directors or by the provisions of these Bylaws, no officer or other person shall have any power or authority to bind the Company by any contract or engagement or to pledge its credit or to render it liable peculiarly for any purpose or to any amount.

SECTION 2. Loans. No loan shall be contracted on behalf of the Company, and no negotiable papers shall be issued in its name, except by such officer or officers or other person or persons as may be designated by the Board of Directors from time to time. If and to the extent authorized by the Board of Directors, the power to contract loans or issue negotiable papers may be delegated by any such officer or officers or other person or persons.

SECTION 3. Checks, Drafts, etc. All checks, drafts, bills of exchange, and other orders for the payment of money, letters of credit, acceptances, obligations, notes, and other evidences of indebtedness, bills of lading, warehouse receipts, and insurance certificates of the Company shall be signed or endorsed by such officer or officers or other person or persons as may be designated by the Board of Directors from time to time. If and to the extent authorized by the Board of Directors, the power to sign or endorse any such instrument may be delegated by any such officer or officers or other person or persons.

SECTION 4. Bank Accounts. The Board of Directors may from time to time authorize the opening and maintenance of general and special bank and custodial accounts with such banks, trust companies, and other depositories as it may select. Rules, regulations, and agreements applicable to such accounts may be made, and changed from time to time, by the Board of Directors, including, but without limitation, rules, regulations, and agreements with respect to the use of facsimile and printed signatures. Any of such powers of the Board of Directors with

respect to bank and custodial accounts may be delegated by the Board of Directors to any officer or officers or other person or persons as may be designated by the Board of Directors, and if and to the extent authorized by the Board of Directors, any such power may be further delegated by any such officer or officers or other person or persons.

ARTICLE VII  
BOOKS AND RECORDS

SECTION 1. Location. The books and records of the Company may be kept at such place or places within or without the State of Delaware as the Board of Directors or the respective officers in charge thereof may from time to time determine. The stock record books shall be kept by such officer or agent as shall be designated by the Board of Directors.

SECTION 2. Addresses of Stockholders. Notices of meetings and all other corporate notices may be delivered personally or mailed to each stockholder at his or her address as it appears on the records of the Company.

SECTION 3. Fixing Date for Determination of Stockholders of Record. In order that the Company may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any other change, conversion, or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a

record date, which shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

## ARTICLE VIII

### SHARES OF STOCK AND THEIR TRANSFER

SECTION 1. Certificates of Stock. The shares of the Company may be represented by certificates or may be uncertificated, as provided under the Delaware General Corporation Law. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Company by, the Chairman of the Board, a Vice Chairman of the Board, a President, or a Vice President and the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed, or whose facsimile signature has been placed upon, a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, the certificate may, nevertheless, be issued by the Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

SECTION 2. Record, etc. A record shall be kept of the name of the person, firm, or corporation owning the stock represented by each certificate of stock of the Company issued, the number of shares represented by each such certificate, and the date thereof, and in the case of cancellation, the date of cancellation. The person in whose name shares of stock stand on the books of the Company shall be deemed the owner of record thereof for all purposes as regards the Company.

SECTION 3. Transfer of Stock. Transfers of shares of the stock of the Company shall be made only on the books of the Company by the owner of record thereof, or by his or her attorney thereunto authorized by power of attorney duly executed and filed with such officer or agent as shall be designated by the Board of Directors or with the transfer agent of the Company, and if certificated, on the surrender of the certificate or certificates for such share properly endorsed and the payment of all taxes thereon, or if uncertificated, in accordance with applicable law.

## ARTICLE IX DIVIDENDS AND RESERVES

The Board of Directors may, from time to time, determine whether any, and if any, what part, of the net profits of the Company or of its surplus, available therefor pursuant to law and to the certificate of incorporation, shall be declared as dividends on the stock of the Company. The Board of Directors may, in its discretion, set apart out of any of such net profits or surplus a reserve or reserves for any proper purpose and may abolish any such reserve.

## ARTICLE X

## INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

The Company may indemnify, in accordance with and to the full extent permitted by the laws of the State of Delaware as in effect at the time of the adoption of this Article X or as such laws may be amended from time to time, and shall so indemnify to the full extent required by such laws, any person (and the heirs and legal representatives of such person) made or threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a director, officer, employee, or agent of the Company or any constituent corporation absorbed in a consolidation or merger, or serves or served as such with another corporation, partnership, joint venture, trust, or other enterprise at the request of the Company or any such constituent corporation. Notwithstanding any other provision of this Article X or the laws of the State of Delaware to the contrary, no such person shall be entitled to indemnification or the advancement of expenses pursuant to this Article X with respect to any action, suit, or proceeding, or part thereof, brought or made by such person against the Company, unless such indemnification or advancement of expenses (i) is due to such person pursuant to the specific provisions of any agreement in writing between such person and the Company approved by the Company's Board of Directors or (ii) has been approved in writing in advance of the commencement of such action, suit, or proceeding, or part thereof, by or at the direction of the

Company's Board of Directors. Any indemnification or advancement of expenses pursuant to this Article X shall only be made in the specific case by a separate determination made (i) by a majority vote of the directors who are not parties to such action, suit, or proceeding, even though less than a quorum, or (ii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (iii) by the Company's stockholders, as to entitlement to advancement of expenses and/or indemnification, as the case may be.

## ARTICLE XI RATIFICATION

Any transaction, questioned in any stockholders' derivative suit on the ground of lack of authority, defective or irregular execution, adverse interest of director, officer, or stockholder, non-disclosure, miscomputation, or the application of improper principles or practices of accounting, may be ratified, before or after judgment, by the Board of Directors or by the stockholders in case less than a quorum of directors are qualified, and if so ratified, shall have the same force and effect as if the questioned transaction had been originally duly authorized. Such ratification shall be binding upon the Company and its stockholders and shall constitute a bar to any claim or execution of any judgment in respect of such questioned transaction.

## ARTICLE XII

## SEAL

The Board of Directors shall provide a corporate seal, which shall be in the form of a circle and shall bear the name of the Company and the words and figures "Corporate Seal 1924 Delaware".

## ARTICLE XIII

## FISCAL YEAR

The fiscal year of the Company shall end at the close of business on the Saturday closest to January 31 and shall, in each case, begin at the opening of business on the day next succeeding the last day of the preceding fiscal year.

## ARTICLE XIV

## WAIVER OF NOTICE

Whenever notice is required to be given under any provision of these Bylaws, the certificate of incorporation, or the laws of the State of Delaware, a written waiver thereof, whether in the form of a writing signed by, or a telegram, cable, radiogram, telephone facsimile, or other appropriate written communication from, the person entitled to notice and whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of the meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to

the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the stockholders or directors or a committee of directors need be specified in any written waiver of notice.

ARTICLE XV  
EMERGENCY BYLAWS

SECTION 1. General. Notwithstanding any other provisions of the certificate of incorporation and these Bylaws, the emergency bylaws (hereinafter called Emergency Bylaws) provided in this Article XV shall be operative during any emergency resulting from an attack on the United States or on any locality in which the Company conducts its business or customarily holds meetings of its Board of Directors or its stockholders, or during any nuclear or atomic disaster, or during the existence of any catastrophe, or other similar emergency condition (any such condition being hereinafter called an Emergency), as a result of which a quorum of the Board of Directors or the Executive Committee cannot readily be convened for action. To the extent not inconsistent with these Emergency Bylaws, the Bylaws of the Company shall remain in effect during any Emergency. Upon termination of the Emergency, these Emergency Bylaws shall cease to be operative unless and until another Emergency shall occur.

SECTION 2. Meetings and Notice of Meetings. During any Emergency any meeting of the Board of Directors or of the Executive Committee may be called by any director or officer of the Company. Notice of the meeting shall be given by the person calling the meeting, shall state the time and place of the meeting, and shall be required to be given only to such of the directors or members of the Executive Committee, as the case may be, and the persons referred to in Section 3 of this Article XV as it may be feasible to reach at the time and by any means as may then be feasible at the time.

SECTION 3. Quorum, Emergency Directors, and Manner of Acting. The directors and members of the Executive Committee, as the case may be, in attendance at a meeting pursuant to Section 2 of this Article XV, which in no case shall be less than two, shall constitute a quorum of the Board of Directors or the Executive Committee, as the case may be, and they may take any action at the meeting, by majority vote, as they shall, in their sole discretion, deem to be in the best interests of the Company. Notwithstanding the foregoing, if the number of directors or members of the Executive Committee, as the case may be, available to constitute a quorum at any such meeting, shall be less than two, additional directors, or additional members of the Executive Committee, as the case may be, in whatever number shall be necessary to constitute a Board or Executive Committee, as the case may be, of at least two members, shall be deemed selected automatically from the officers or other persons designated on a list approved by the Board of Directors before the Emergency, all

in such order of priority and subject to such conditions and for such period or periods as may be provided in the resolution approving the list. The Board of Directors or Executive Committee, as the case may be, as so constituted shall continue until the termination of the Emergency. The Board of Directors, either before or during any Emergency, may provide, and from time to time modify, lines of succession in the event that during such Emergency any or all officers of the Company shall for any reason be rendered incapable of discharging their duties. Any additional director or additional member of the Executive Committee, as the case may be, may be removed, either with or without cause, by a majority vote of the remaining directors or members of the Executive Committee, as the case may be, then in office.

SECTION 4. Offices; Places of Meeting. The Board of Directors, either before or during any Emergency, may, effective during the Emergency, change the head office of the Company or designate several alternative head offices or regional offices of the Company or authorize the officers to do so.

SECTION 5. Liability during an Emergency. No officer, director, or employee shall be personally liable for acting in accordance with these Emergency Bylaws, except for willful misconduct.

#### ARTICLE XVI

#### AMENDMENTS

Subject to the provisions of the certificate of incorporation, all Bylaws of the Company shall be subject to alteration,

amendment, or repeal, in whole or in part, and new bylaws not inconsistent with the laws of the State of Delaware or any provision of the certificate of incorporation may be made, either by the affirmative vote of a majority of the whole Board of Directors at any regular or special meeting of the Board, or by the affirmative vote of the holders of record of a majority of the issued and outstanding stock of the Company entitled to vote in respect thereof, given at an annual meeting or at any special meeting at which a quorum shall be present, provided that in each case notice of the proposed alteration, amendment, or repeal or the proposed new bylaws be included in the notice of the meeting of the Board or the stockholders, or the form of consent thereof, as the case may be.

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**CERTIFICATION**

I, Myron E. Ullman, III, certify that:

1. I have reviewed this quarterly report on Form 10-Q of J. C. Penney Company, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 8, 2011.

/s/ Myron E. Ullman, III  
Myron E. Ullman, III  
Chairman and Chief Executive Officer

**CERTIFICATION**

I, Michael P. Dastugue, certify that:

1. I have reviewed this quarterly report on Form 10-Q of J. C. Penney Company, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 8, 2011.

/s/ Michael P. Dastugue  
Michael P. Dastugue  
Executive Vice President and  
Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of J. C. Penney Company, Inc. (the "Company") on Form 10-Q for the period ended April 30, 2011 (the "Report"), I, Myron E. Ullman, III, Chairman and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

DATED this 8th day of June 2011.

/s/ Myron E. Ullman, III  
Myron E. Ullman, III  
Chairman and Chief Executive Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of J. C. Penney Company, Inc. (the "Company") on Form 10-Q for the period ended April 30, 2011 (the "Report"), I, Michael P. Dastugue, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

DATED this 8th day of June 2011.

/s/ Michael P. Dastugue  
Michael P. Dastugue  
Executive Vice President and  
Chief Financial Officer