

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

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

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

(Zip Code)

**J. C. Penney Company, Inc.
2020 Equity Inducement Plan**

(Full title of the plan)

**Brandy L. Treadway, Esq.
Senior Vice President, General Counsel and Secretary
J. C. Penney Company, Inc.
6501 Legacy Drive
Plano, Texas 75024**

(Name and address of agent for service)

(972) 431-1000

(Telephone number, including area code, of agent for service)

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

Large accelerated filer

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

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered	Proposed maximum offering price per share	Proposed maximum aggregate offering price	Amount of registration fee
Common Stock of 50¢ par value (Common Stock) of J. C. Penney Company, Inc. (Company or Registrant)	7,000,000 Shares ⁽¹⁾	\$0.665 ⁽²⁾	\$4,655,000 ⁽²⁾	\$604.22 ⁽²⁾
Preferred Stock Purchase Rights ⁽³⁾				

(1) Number of shares that may be issued by Registrant pursuant to stock options or other stock awards available for future grant under the Company's 2020 Equity Inducement Plan (Plan). The Plan provides that the number of shares available under the Plan will be equitably adjusted in the event of a stock dividend, stock split, recapitalization or similar event. Accordingly, pursuant to Rule 416(a) under the Securities Act of 1933, as amended, this Registration Statement covers, in addition to the number of shares of Common Stock stated above, an indeterminate number of shares that by reason of such event may become available under the Plan.

(2) Estimated solely for the purpose of determining the amount of the registration fee in accordance with Rule 457(h) and based on the average of the high and low prices of the Common Stock as reported on the New York Stock Exchange on March 2, 2020.

(3) Represents the right (the Right) to purchase one one-thousandth of a share of preferred stock of the Registrant, which is attached to each issued and outstanding share of Common Stock, pursuant to the terms of the Registrant's Amended and Restated Rights Agreement, dated January 27, 2014, as amended. Until the occurrence of prescribed events, the rights are not exercisable, are evidenced by the certificates for the Common Stock and will be transferred with and only with such Common Stock. As long as the Rights are attached to the Common Stock, the Registrant will issue one Right with each new share of Common Stock so that each share of Common Stock will have a Right attached.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of the instructions to the Registration Statement on Form S-8 will be sent or given to participants in the J. C. Penney Company, Inc. 2020 Equity Inducement Plan as required by Rule 428(b)(1) of the rules promulgated under the Securities Act of 1933, as amended. These documents are not being filed with the Securities and Exchange Commission (the Commission) as a part of this registration statement in accordance with Rule 428(b) and the Note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents are incorporated by reference into this Registration Statement:

- (a) The Company's Annual Report on Form 10-K for the fiscal year ended February 2, 2019 (other than information contained therein deemed to have been furnished and not filed in accordance with Commission rules).
- (b) The Company's Quarterly Reports on Form 10-Q for the quarterly periods ended May 4, 2019, August 3, 2019 and November 2, 2019 (other than information contained therein deemed to have been furnished and not filed in accordance with Commission rules).
- (c) The Company's Current Reports on Form 8-K filed on March 18, 2019, March 26, 2019, April 18, 2019, May 24, 2019, July 10, 2019, July 30, 2019, August 8, 2019, December 2, 2019, January 24, 2020 and January 31, 2020 (other than information contained therein deemed to have been furnished and not filed in accordance with Commission rules).

All documents subsequently filed (other than the portions of those documents furnished or otherwise not deemed to be filed) by the Company with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment which indicates that all securities offered pursuant to this Registration Statement have been sold, or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents.

Set forth below is a description of the Company's common stock.

DESCRIPTION OF COMMON STOCK

As of March 2, 2020, the authorized capital stock of the Company consisted of 1,250,000,000 shares of Common Stock of 50¢ par value, of which 320,581,919 shares were issued and outstanding, and 25,000,000 shares of preferred stock, without par value, of which no shares were issued and outstanding. The authorized shares of any class of stock may be increased or decreased, as the case may be, by the affirmative vote of the holders of a majority of the outstanding shares of the stock entitled to vote thereon. The descriptions set forth below of the Common Stock and the Preferred Stock Purchase Rights (as hereinafter described) constitute brief summaries of certain provisions of the Company's Restated Certificate of Incorporation, as amended, referred to in this Registration Statement as its Charter, its Bylaws, as amended, referred to in this Registration Statement at its Bylaws, and the Amended and Restated Rights Agreement, dated January 27, 2014, between the Company and Computershare Inc., as amended by a First Amendment to Amended and Restated Rights Agreement, dated January 23, 2017, and a Second Amendment to Amended and Restated Rights Agreement, dated January 24, 2020, referred to in this Registration Statement as the Rights Agreement, and such summaries are qualified in their entirety by reference to the relevant provisions of such documents. You may request a free copy of these documents by contacting us at the following address and telephone number:

J. C. Penney Company, Inc.
6501 Legacy Drive
Plano, Texas 75024
Telephone: (972) 431-5500
Attention: Investor Relations

Common Stock

Holders of Common Stock are entitled to one vote per share with respect to each matter submitted to a vote of the stockholders of the Company, including the election of directors, subject to voting rights that may be established for shares of preferred stock. The Charter does not provide for cumulative voting nor are holders of Common Stock entitled to any preemptive rights to purchase or subscribe for any of the Company's securities. Shares of Common Stock are neither redeemable nor convertible, and there are no sinking fund provisions relating to these shares. Subject to the prior rights of any outstanding shares of preferred stock, holders of Common Stock are entitled to receive such dividends as may be lawfully declared from time to time by the Company's Board of Directors (Board). Upon any voluntary or involuntary liquidation, dissolution or winding up of the Company, holders of Common Stock will share equally in the assets remaining after the Company pays all of its creditors and satisfies all of its obligations to preferred stockholders.

The outstanding shares of Common Stock are fully paid and nonassessable. Additional shares of Common Stock may be issued, as authorized by the Board from time to time, without stockholder approval, except any stockholder approval required by the New York Stock Exchange.

Computershare Inc. is the transfer agent and registrar of the Common Stock.

Preferred Stock Purchase Rights

Preferred Stock Purchase Rights (the Rights) are attached to all shares of Common Stock outstanding. The Rights are issued under the Rights Agreement. Each Right entitles the registered holder to purchase one one-thousandth of a share of a series of preferred stock of the Company designated Series C Junior Participating Preferred Stock (the Series C Preferred Stock) under conditions described in the Rights Agreement. On January 24, 2020, the Company amended the Rights Agreement to extend the term of the Rights Agreement to January 25, 2023 (subject to earlier expiration as described in the Rights Agreement). The Company expects to submit the extension of the Rights Agreement to stockholders for approval at its 2020 annual meeting of stockholders. If the stockholders do not approve the extension of the Rights Agreement, the Rights Agreement will be terminated and the Rights will expire.

The purpose of the Rights Agreement is to diminish the risk that the Company's ability to use its net operating losses and certain other tax assets (the Tax Benefits) to reduce potential future federal income tax obligations would become subject to limitations by reason of the Company's experiencing an "ownership change," as defined in Section 382 of the Internal Revenue Code of 1986, as amended (the Code). A company generally experiences such an ownership change if the percentage of its stock owned by its "5-percent shareholders," as defined in Section 382 of the Code, increases by more than 50 percentage points over a rolling three-year period. The Rights Agreement is intended to reduce the likelihood of an ownership change under Section 382 of the Code by deterring any person or group from acquiring beneficial ownership of 4.9% or more of the outstanding Common Stock.

In general terms, the Rights restrict any person or group of affiliated or associated persons (other than the Company, its subsidiaries, or employee benefit plans of the Company or any of its subsidiaries) from acquiring beneficial ownership of 4.9% or more of the outstanding Common Stock, or, in the case of any person or group that owned 4.9% or more of the outstanding Common Stock on the date of announcement of the Company's entry into the Rights Agreement, any additional shares of Common Stock (subject to certain exceptions). An "acquiring person" is any person or group who acquires shares of Common Stock in violation of these limitations. An "acquiring person" does not include any person or group who becomes the owner of 4.9% or more of the outstanding Common Stock solely as a result of a reduction in the number of shares outstanding due to any repurchase of shares by the Company, any person or group who inadvertently or without knowledge of the terms of the Rights acquires beneficial ownership in excess of 4.899% of the outstanding Common Stock and thereafter reduces such ownership to less than 4.9% of the outstanding Common Stock upon request by the Company, and any person or group that the Board determines is not an acquiring person for so long as such person or group complies with any limitations or conditions required by the Board in making such determination.

The Rights initially trade with, and are inseparable from, the Common Stock. The Rights will not be evidenced by separate certificates until they become exercisable. Each Right allows its holder to purchase from the Company, once the Rights become exercisable, one one-thousandth of a share of Series C Preferred Stock for \$55.00, subject to adjustment in accordance with the terms of the Rights Agreement.

The Rights will separate from the Common Stock and become exercisable on the earlier of (1) the close of business on the 10th business day after public announcement that a person or group has become an acquiring person; or (2) the close of business on the 10th business day (or such later date as the Board may determine) after a third party makes a tender offer or exchange offer which, if consummated, would result in that person or group becoming an acquiring person.

If any person or group of affiliated or associated persons becomes an acquiring person, then each Right (other than Rights owned by an acquiring person, its affiliates, associates or certain transferees, which will become void) will entitle the holder to purchase, at the then current exercise price, Common Stock (or, in certain circumstances, a combination of Common Stock, other securities, cash or other property) having a value of twice the exercise price of the Right, in effect enabling a purchase at half-price. However, Rights are not exercisable following such event until such time as the Rights are no longer redeemable by the Company as described below.

If, at any time after a person or group of affiliated or associated persons becomes an acquiring person, the Company engages in a merger or other business combination transaction in which the Company is not the surviving corporation, the Common Stock of the Company is changed or exchanged, or fifty percent (50%) or more of the Company's assets, cash flow or earning power is sold, then each Right (except Rights which have previously been voided as set forth above) will entitle the holder to purchase, at the Right's then current exercise price, common stock of the acquiring person having a value of twice the Right's then current exercise price, in effect enabling a purchase at half-price.

After a person or group becomes an acquiring person, but before such person or group owns 50% or more of the outstanding Common Stock, the Board may, in lieu of allowing Rights to be exercised, cause each outstanding Right (except Rights which have previously been voided as set forth above) to be exchanged for one share of Common Stock, or one one-thousandth of a share of Series C Preferred Stock, in each case as adjusted to reflect stock splits or similar transactions.

The Board may redeem all, but not less than all, of the Rights for \$0.001 per Right at any time prior to the earlier of (1) the 10th business day after public announcement that a person or group has become an acquiring person and (2) the final expiration of the Rights. The redemption price may, at the option of the Company, be paid in cash or in shares of Common Stock or other consideration deemed appropriate by the Board. The redemption price will be adjusted in the event of a stock split, stock dividend or similar transaction with respect to the Common Stock.

The Board has the right to adjust, among other things, the exercise price, as well as the number of preferred shares issuable, and the number of outstanding Rights to prevent dilution that may occur from a stock dividend, a stock split or a reclassification of the preferred shares or Common Stock.

The terms of the Rights Agreement may be amended by the Board prior to the distribution date without the consent of the holders of the Rights. The Board may only amend the Rights Agreement after the distribution date for certain limited purposes, such as to cure ambiguity, correct or supplement any provision that is defective or inconsistent with any other provision, shorten or lengthen time periods in the Rights Agreement, or other changes that do not adversely affect the holders of the Rights.

If the extension of the Rights Agreement is approved by the Company's stockholders (as described above), the Rights will expire on the earliest of (1) the close of business on January 25, 2023 or such later date as may be established by the Board prior to the expiration of the Rights, (2) the time at which the Rights are redeemed or exchanged pursuant to the Rights Agreement, (3) the repeal of Section 382 of the Code or any successor statute if the Board determines that the Rights Agreement is no longer necessary or desirable for the preservation of the Tax Benefits or (4) the beginning of a taxable year of the Company to which the Board determines that the Tax Benefits may not be carried forward.

Certain Charter, Bylaw and Delaware Law Provisions

The Charter and Bylaws and the Delaware General Corporation Law contain several provisions that may make it more difficult to acquire or control the Company by means of a tender offer, open market purchases, proxy fight or otherwise.

Election of Directors; Removal of Directors; Action by Written Consent

The members of the Board are elected annually. In a non-contested election, each director must be elected by the affirmative vote of the majority of the votes cast with respect to that director's election. The Company's Bylaws provide that in a non-contested election, any nominee for director who is an incumbent director and does not receive a majority of the votes cast "For" his or her election must promptly tender his or her resignation, and the Board, excluding the director who tenders his or her resignation, must promptly decide whether to accept or reject the resignation. Absent a compelling reason for the director to remain on the Board, as determined by the other directors in the exercise of their business judgment, the Board shall accept the resignation. The

Company will promptly and publicly disclose the Board's decision, together with an explanation of how the decision was reached. In a contested election, directors are 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.

The Charter and Bylaws also provide that stockholders may only take action at an annual or special meeting of the stockholders and not by written consent of stockholders. The provisions regarding action by written consent require the 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 in order to remove or amend them.

These provisions may have the effect of discouraging anyone from attempting to acquire control of the Company and could deter open market purchases of the Common Stock.

Stockholder Proposals and Nominations

The Bylaws provide that any stockholder may present a nomination for director at an annual meeting of stockholders only if advance notice of such nomination has been delivered to the Company not less than 90 days prior to the meeting. If an election of directors is to be held at a special meeting of stockholders, notice by the stockholder must be received not later than seven days after the notice of such meeting was given to stockholders. Similarly, any stockholder may present a proposal at an annual meeting only if advance notice of the proposal has been delivered to the Company not less than 90 days prior to the meeting. The foregoing notices must describe the proposal to be brought at the meeting or the nominee for director, as applicable, as well as provide personal information regarding the stockholder giving the notice, the number of shares owned by the stockholder, his or her interest in such proposal and, with respect to nominations for director, such information with respect to the nominees as would be required to be included in a proxy statement filed by the Company with the Commission.

In addition to the director nomination provisions described above, the Bylaws contain a "proxy access" provision that provides that any stockholder or group of up to twenty stockholders who qualify as an eligible stockholder (as defined in the Bylaws) who have owned 3% or more of the Common Stock continuously for at least three years may nominate and include in the Company's proxy materials director candidates constituting up to 20% of the Board or two directors, whichever is greater, provided that the stockholders and the nominees satisfy the eligibility requirements specified in the Bylaws. A stockholder proposing to nominate a person for election to the Board through the proxy access provision must provide the Company's secretary with a notice requesting the inclusion of the director nominee in the Company's proxy materials, along with other required information, not less than 120 days nor more than 150 days prior to the first anniversary of the date the Company's definitive proxy statement was first sent to stockholders in connection with the preceding year's annual meeting of stockholders. The complete proxy access provision is set forth in the Bylaws.

In addition, the Bylaws provide that only the Board can call special meetings of stockholders and that the only business that may be brought before a special meeting is such business specified by the Board in the notice of such meeting.

These procedural requirements could have the effect of delaying or preventing the submission of matters proposed by any stockholder to a vote of the stockholders.

Delaware Law

Section 203 of the General Corporation Law of the State of Delaware applies to the Company. Under certain circumstances, Section 203 limits the ability of an interested stockholder to effect various business combinations with the Company for a three-year period following the time that such stockholder becomes an interested stockholder. For purposes of Section 203, a "business combination" is broadly defined to include mergers, asset sales and other transactions resulting in a financial benefit to the interested stockholder. An "interested stockholder" is a person who, together with affiliates and associates, owns, or within the immediately preceding three years did own, 15 percent or more of the Company's voting stock.

An interested stockholder may not engage in a business combination transaction with the Company within the three-year period unless:

- before the stockholder became an interested stockholder, the Board approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
 - upon consummation of the transaction in which the stockholder became an interested stockholder, the interested stockholder owned at least 85 percent of the Company's voting stock (excluding shares owned by officers, directors or certain employee stock purchase plans); or
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- at or subsequent to such time, the business combination is approved by the Board and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 ⅔ percent of the outstanding voting stock which is not owned by the interested stockholder.

Certain Effects of Authorized But Unissued Stock

Authorized but unissued shares of Common Stock and preferred stock may be issued without additional stockholder approval and may be utilized for a variety of corporate purposes, including future offerings to raise additional capital or to facilitate corporate acquisitions.

The issuance of preferred stock could have the effect of delaying or preventing a change in control of the Company. The issuance of preferred stock could decrease the amount available for distribution to holders of Common Stock or could adversely affect the rights and powers, including voting rights, of such holders. In certain circumstances, such issuance could have the effect of decreasing the market price of Common Stock.

One of the effects of the existence of unissued and unreserved Common Stock or preferred stock may be to enable the Board to issue shares to persons friendly to current management, which could render more difficult or discourage an attempt to obtain control of the Company by means of a merger, tender offer, proxy contest or otherwise, and thereby protect the continuity of management. Such additional shares also could be used to dilute the stock ownership of persons seeking to obtain control of the Company.

Limitations on Directors' Liability

The Charter eliminates the personal liability of a director to the Company and its stockholders for certain breaches of his or her fiduciary duty as a director. This provision does not, however, eliminate or limit the personal liability of a director:

- for any breach of such director's duty of loyalty to the Company or its stockholders;
- for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- under the Delaware statutory provision making directors personally liable, under a negligence standard, for unlawful dividends or unlawful stock repurchases or redemptions; or
- for any transaction from which the director derived an improper personal benefit.

This provision offers persons who serve on the Board protection against awards of monetary damages resulting from breaches of their fiduciary duty (except as indicated above), including grossly negligent business decisions made in connection with takeover proposals for the Company and limits the Company's ability or the ability of one of its stockholders to prosecute an action against a director for a breach of fiduciary duty. However, the provision does not affect the availability of equitable remedies such as an injunction or rescission. The Commission has taken the position that the provision will have no effect on claims arising under the federal securities laws.

The Bylaws provide that the Company may indemnify any of its officers or directors to the fullest extent permitted by the Delaware General Corporation Law.

Forum Selection

The Bylaws provide that, unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will be the sole and exclusive forum for:

- any derivative action or proceeding brought on behalf of the Company;
 - any action asserting a claim of breach of a fiduciary duty owed by any of the Company's directors, officers or other employees to the Company or its stockholders;
 - any action asserting a claim arising pursuant to the Delaware General Corporation Law or the Charter or Bylaws;
or
-

- any action asserting a claim governed by the internal affairs doctrine of the State of Delaware.

In the event that the Court of Chancery lacks jurisdiction over any such action or proceeding, the Bylaws provide that the sole and exclusive forum for such action or proceeding will be another state or federal court located within the State of Delaware. The Bylaws further provide that any person or entity purchasing or otherwise acquiring any interest in shares of the Company's capital stock is deemed to have notice of and consented to the foregoing provision.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

The legality of the shares of the Company's Common Stock being registered hereby has been passed upon by Brandy L. Treadway, Esq., Senior Vice President, General Counsel and Secretary of the Company. As of March 2, 2020, Ms. Treadway beneficially owned 63,838.28 shares of Common Stock, 40,604 shares of which may be acquired through the exercise of employee stock options.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law permits indemnification of the Company's directors and officers in a variety of circumstances which may include liabilities under the Securities Act of 1933, as amended.

Article X of the Company's bylaws provides in substance for indemnification by the Company of its directors and officers in accordance with the provisions of the Delaware General Corporation Law. The Company also is party to certain indemnification agreements with a number of current and former directors and officers which generally provide for indemnification by the Company except as prohibited by applicable law. The Company funded a trust to provide assurance of payment of amounts to which these certain current and former directors and officers may become entitled pursuant to the agreements. The Company no longer enters into such indemnification agreements.

In addition, the Company has purchased insurance coverage under policies which insure the Company for amounts which it may be required or permitted to pay as indemnification of its directors and officers, and which insure these directors and officers against liabilities which might be incurred and for which they are not entitled to indemnification by the Company.

It is the opinion of the Securities and Exchange Commission that indemnification of directors and officers for liabilities arising under the Securities Act is against public policy and is unenforceable pursuant to Section 14 of the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following exhibits are filed herewith unless otherwise indicated:

Exhibit Number	Description
4.1	Restated Certificate of Incorporation of the Company, as amended to May 20, 2011 (filed as Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q filed June 8, 2011, SEC File No. 001-15274, and incorporated herein by reference).
4.2	Bylaws of the Company, as amended to July 20, 2016 (filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed July 21, 2016, SEC File No. 001-15274, and incorporated herein by reference).
4.3	Certificate of Designation, Preferences and Rights of Series C Junior Participating Preferred Stock (filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed August 22, 2013, SEC File No. 001-15274, and incorporated herein by reference).
5*	Opinion of Brandy L. Treadway, Esq. regarding legality of securities being registered.
23.1*	Consent of KPMG LLP.
23.2*	Consent of Brandy L. Treadway, Esq. included in Exhibit 5.
24*	Power _____ of Attorney.
99.1*	J. C. Penney Company, Inc. 2020 Equity Inducement Plan.

*Filed herewith

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be

deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.



March 6, 2020

Board of Directors
J. C. Penney Company, Inc.
6501 Legacy Drive
Plano, TX 75024

Re: J. C. Penney Company, Inc.
2020 Equity Inducement Plan

Ladies and Gentlemen:

As Senior Vice President, General Counsel and Secretary of J. C. Penney Company, Inc., a Delaware corporation (“Company”), I am familiar with the Restated Certificate of Incorporation of the Company and its Bylaws, each as amended.

I am also familiar with the J. C. Penney Company, Inc. 2020 Equity Inducement Plan (the “Plan”) and the corporate proceedings taken to authorize the offer of shares of Common Stock of 50¢ par value (“Common Stock”) of the Company under the Plan. I have examined the Registration Statement on Form S-8 filed by the Company with the Securities and Exchange Commission on this date for the registration under the Securities Act of 1933, as amended, of 7,000,000 shares of Common Stock to be offered pursuant to the Plan. I have also examined such other documents and records as I have deemed appropriate for the purposes of this opinion.

Based on the foregoing, I am of the opinion that the shares of Common Stock to be offered pursuant to the Plan have been duly authorized and when issued, will have been legally issued, fully paid and non-assessable.

I hereby consent to the reference to me in the above-mentioned Registration Statement and to the filing of this opinion as an exhibit to said Registration Statement.

Very truly yours,

/s/ Brandy L. Treadway
Brandy L. Treadway
Senior Vice President,
General Counsel and Secretary

Consent of Independent Registered Public Accounting Firm

The Board of Directors
J. C. Penney Company, Inc.:

We consent to the use of our reports with respect to the consolidated financial statements and the effectiveness of internal control over financial reporting incorporated by reference herein. Our report on the consolidated financial statements refers to the adoption of Accounting Standard Codification Topic 606, *Revenue from Contracts with Customers*, and a change in accounting principle for merchandise inventories.

/s/ KPMG LLP
KPMG LLP

Dallas, Texas

March 6, 2020

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS THAT each of the undersigned directors and officers of J. C. PENNEY COMPANY, INC., a Delaware corporation (the "Company"), which will file with the Securities and Exchange Commission, Washington, D. C. (the "Commission"), under the provisions of the Securities Act of 1933, as amended, a Registration Statement on Form S-8 (or any appropriate form then in effect), for the registration of shares of Common Stock of 50¢ par value and Preferred Stock Purchase Rights of the Company for issuance pursuant to the J. C. Penney Company, Inc. 2020 Equity Inducement Plan, hereby constitutes and appoints Bill Wafford, Steve Whaley and Brandy Treadway, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power to each of them to act without the others, for him or her in his or her name, place and stead, in any and all capacities, to sign said Registration Statement, which is about to be filed, and any and all subsequent amendments thereto (including, without limitation, any and all post-effective amendments thereto) (the "Registration Statement") and to file said Registration Statement so signed, with all exhibits thereto, and any and all documents in connection therewith, and to appear before the Commission in connection with any matter relating to said Registration Statement, hereby granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform any and all acts and things requisite and necessary to be done in and about the premises as fully and to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned have executed this Power of Attorney as of the 6th day of March, 2020.

/s/ Ronald W. Tysoe

Ronald W. Tysoe
Chairman of the Board; Director

/s/ Jill Soltau

Jill Soltau
Chief Executive Officer; Director
(principal executive officer)

/s/ Bill Wafford

Bill Wafford
Executive Vice President, Chief Financial Officer
(principal financial officer)

/s/ Steve Whaley

Steve Whaley
Senior Vice President, Principal Accounting Officer
and Controller
(principal accounting officer)

/s/ Paul J. Brown

Paul J. Brown
Director

/s/ Amanda Ginsberg

Amanda Ginsberg
Director

/s/ W. Paul Jones

W. Paul Jones
Director

/s/ Wonya Y. Lucas

Wonya Y. Lucas
Director

/s/ B. Craig Owens

B. Craig Owens
Director

/s/ Lisa A. Payne

Lisa A. Payne
Director

/s/ Debora A. Plunkett

Debora A. Plunkett
Director

/s/ Leonard H. Roberts

Leonard H. Roberts
Director

/s/ Javier G. Teruel

Javier G. Teruel
Director

**J. C. PENNEY COMPANY, INC.
2020 EQUITY INDUCEMENT PLAN**

**ARTICLE I
PURPOSE OF PLAN**

The name of this plan is the J. C. Penney Company, Inc. 2020 Equity Inducement Plan (the “Plan”). The purposes of the Plan, through the granting of Awards, is to (a) help the Company secure and retain the services of eligible award recipients, (b) provide a material inducement for such individuals to enter into employment with the Company or a Subsidiary within the meaning of NYSE Listed Company Manual Section 303A.08, (c) provide incentives for such persons to exert maximum efforts for the success of the Company and its Subsidiaries, and (d) provide a means by which such individuals may benefit from increases in value of the Common Stock.

**ARTICLE II
DEFINITIONS**

“Associate” means any person providing services as an employee of the Company or a Subsidiary. However, service solely as a Director, or payment of a fee for such services, will not cause a Director to be considered an “Employee” for purposes of the Plan.

“Award” means an Equity Award or a Cash Incentive Award.

“Award Notice” means the notice of an Award to a Participant in such form and delivered by such means as the Committee or its designee may establish from time to time that sets out the terms of the grant of the Award, including any amendment thereto. Each Award Notice will be subject to the terms of the Plan.

“Beneficiary” means the beneficiary designated by a Participant, in a manner authorized by the Committee or its designee, to exercise the rights of the Participant in the event of the Participant’s death. In the absence of an effective designation by a Participant, the Beneficiary will be the Participant’s estate.

“Board” means the Board of Directors of the Company.

“Cash Incentive Award” means an annual or long-term Performance Award issued pursuant to the requirements of Article VIII of the Plan that is expressed in U. S. currency.

“Cause” means (i) “cause,” or “summary dismissal” as the case may be, as that term may be defined in any written agreement between a Participant and the Company or a Subsidiary that may at any time be in effect, (ii) in the absence of a definition in a then-effective agreement between a Participant and the Company or a Subsidiary (as determined by the Committee), “cause” as that term may be defined in any Award Notice under the Plan, or (iii) in the absence of a definition in a then-effective agreement between a Participant and the Company or a Subsidiary (as determined by the Committee), or any Award Notice under the Plan, termination of a Participant’s employment with the Company or a Subsidiary on the occurrence of one or more of the following events:

- (a) The Participant’s failure to substantially perform such Participant’s duties with the Company or any Subsidiary as determined by the Board or the Company;
 - (b) The Participant’s willful failure or refusal to perform specific directives of the Board, the Company, or any Subsidiary, which directives are consistent with the scope and nature of the Participant’s duties and responsibilities;
 - (c) The Participant’s conviction of a felony;
- or

- (d) A breach of the Participant's fiduciary duty to the Company or any Subsidiary or any act or omission of the Participant that (A) constitutes a violation of the Company's Statement of Business ethics, (B) results in the assessment of a criminal penalty against the Company, (C) is otherwise in violation of any federal, state, local or foreign law or regulation (other than traffic violations and other similar misdemeanors), (D) adversely affects or could reasonably be expected to adversely affect the business reputation of the Company, or (E) otherwise constitutes willful misconduct, gross negligence, or any act of dishonesty or disloyalty.

"Code" means the Internal Revenue Code of 1986, as amended, and rules and regulations thereunder, as now in force or as hereafter amended.

"Committee" means a committee of one (1) or more Directors to whom authority has been delegated by the Board in accordance with Section 4.2.

"Common Stock" means common stock, \$0.50 par value per share, of the Company, or any security issued in substitution, exchange or in lieu therefore.

"Company" means J. C. Penney Company, Inc., a Delaware corporation, and any successor thereof.

"Date of Grant" means the "date of grant" specified in the Award Notice with respect to an Equity Award, which will be a date not prior to the date on which the Committee takes all actions necessary to grant the Equity Award.

"Director" means a member of the Board.

"Disability" means for any Award subject to section 409A of the Code, "Disability" as defined in section 409A(a)(2)(C) of the Code. For any Award not subject to section 409A of the Code, "Disability" means disability as defined in any then effective long-term disability plan maintained by the Company that covers such person, or if such a plan does not exist at any relevant time, "Disability" means the permanent and total disability of a person within the meaning of section 22(e)(3) of the Code.

"Employer" means J. C. Penney Corporation, Inc., a Delaware corporation, and any successor thereof.

"Employment" means that the provision of services to the Company or a Subsidiary in any capacity as an Associate is not interrupted or terminated. Except as otherwise provided in a particular Award Notice, service will not be considered interrupted or terminated for this purpose in the case of (i) any approved leave of absence, (ii) transfers among the Company, any Subsidiary, or any successor, in any capacity as Associate, or (iii) any change in status as long as the individual remains in the service of the Company or any Subsidiary in any capacity as Associate. An approved leave of absence will include sick leave, military leave, or any other authorized personal leave.

"Equity Award" means a Stock Option, Stock Appreciation Right, or Stock Award.

"Exchange Act" means the Securities Exchange Act of 1934, as amended and in effect from time to time, and the regulations promulgated thereunder. Reference in the Plan to any section of the Exchange Act will be deemed to include any amendments or successor provisions to such section and any rules and regulations relating to such section.

"Fair Market Value" means, as of any date, the closing price on such date as reported in the composite transaction table covering transactions of NYSE listed securities, or if such Exchange is closed, or if the Common Stock does not trade on such date, the closing price reported in the composite transaction table on the last trading date immediately preceding such date, or such other amount as the Committee may ascertain reasonably to represent such fair market value; provided, however, that such determination will be in accordance with the requirements of Treasury Regulation section 1.409A-1(b)(5)(iv), or its successor.

“Non-Qualified Stock Option” means a Stock Option that is not intended to qualify as an Incentive Stock Option (including, without limitation, any Stock Option to purchase Common Stock originally designated as or intended to qualify as an Incentive Stock Option but which does not (for whatever reason) qualify as an Incentive Stock Option).

“NYSE” means the New York Stock Exchange.

“Participant” means an Associate or a Director who has been granted and holds an Award.

“Performance Award” means an Award granted under this Plan of Common Stock, rights based upon, payable in or otherwise related to shares of Common Stock (including Restricted Stock), Restricted Stock Units or cash, as the Committee may determine, at the end of a specified Performance Period based on the attainment of one or more Performance Goals.

“Performance Measure” means any of the following business criteria that may be used by the Company in establishing a Performance Goal:

- (a) Earnings Per Share;
- (b) Total Stockholder Return;
- (c) Operating Income;
- (d) Net Income;
- (e) Cash Flow;
- (f) Gross Profit;
- (g) Gross Profit Return on Investment;
- (h) Return on Equity;
- (i) Return on Capital;
- (j) Sales;
- (k) Revenues;
- (l) Gross Margin;
- (m) Gross Margin Return on Investment (or Inventory);
- (n) Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA);
- (o) Earnings Before Interest and Taxes (EBIT); or
- (p) Operating Profit.

“Performance Goal” means any goal established by the Committee or its designee that must be satisfied before a Performance Award will be payable, in whole or in part, to a recipient of the Award.

“Performance Period” means with respect to a Performance Award the period established by the Committee or its designee at the time the Award is granted, or at any time thereafter, during which the performance of the Company, a Subsidiary, or any Associate Participant is measured for the purpose of determining whether and to what extent the Performance Award’s Performance Goal has been achieved.

“Plan” means this J. C. Penney Company, Inc. 2020 Equity Inducement Plan as it may be amended from time to time.

“Restricted Stock” means any shares of Common Stock granted as an Equity Award that is subject to restrictions or a substantial risk of forfeiture.

“Restricted Stock Unit” means an Equity Award that represents an unsecured promise by the Company to issue a share of Common Stock, or, at the discretion of the Committee or its designee, cash equal to the value of a share of Common Stock, subject to restrictions or a substantial risk of forfeiture.

“Retirement” means, unless otherwise provided in a particular Award Notice or specified in Determinations adopted by the Committee, an Associate’s termination of Employment with the Company or any of its Subsidiaries other than for Cause on or after the date the employee attains age 55 with at least 15 years of service, or on or after the employee attains age 60 with at least 10 years of service.

“Rule 16b-3” means Rule 16b-3 of the Exchange Act or any successor rule promulgated by the SEC under the Exchange Act.

“SEC” means the Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended and in effect from time to time, and the regulations promulgated thereunder. Reference in the Plan to any section of the Securities Act will be deemed to include any amendments or successor provisions to such section and any rules and regulations relating to such section.

“Separation Pay Plan” means the J. C. Penney Corporation, Inc. Separation Pay Plan, as such plan may be amended from time to time, and any successor plan or program that replaces the plan.

“Stock Appreciation Right” means a right to receive, on exercise of that right, an amount, in shares of Common Stock, or, at the discretion of the Committee or its designee, cash equal to the value of such shares of Common Stock, equal to the difference between the Fair Market Value of a share of Common Stock as of the date of exercise of the Stock Appreciation Right and the Fair Market Value of a share of Common Stock as determined under Section 6.3(a).

“Stock Award” means an award of shares of Common Stock, Restricted Stock, or a Restricted Stock Unit.

“Stock Option” means a right to purchase from the Company at any time not more than ten years following the Date of Grant, one share of Common Stock for an exercise price not less than the Fair Market Value of a share of Common Stock on the Date of Grant, subject to such terms and conditions established under Section 6.1 hereof. Stock Options are Non-Qualified Stock Options.

“Subsidiary” means any corporation or other entity (other than the Company) in an unbroken chain of corporations or entities beginning with the Company, in which each of the corporations or entities other than the last corporation or other entity in the unbroken chain owns stock or other voting securities constituting fifty percent or more of the total combined voting power in one of the other corporations or entities in such chain as determined at the point in time when reference is made to such Subsidiary in this Plan.

“Trading Date” means a day on which the Company’s Common Stock trades on the NYSE.

ARTICLE III SHARES SUBJECT TO THE PLAN

3.1 Shares Available for Awards. Subject to the provisions of this Article III, and adjustment as provided in Section 11.7, the maximum number of shares of Common Stock upon which options to purchase shares of Common Stock (“Stock Option”), stock appreciation rights (“SARs”) or awards of Common Stock or share units (“Stock Awards”) (herein collectively called “Equity Awards”) that may be issued under the Plan is 7,000,000. In no event may more than 7,000,000 shares of Common Stock be issued as Stock Awards over the term of the Plan. The aggregate

number of shares of Common Stock available for Awards under the Plan will be reduced by one (1) share of Common Stock for each share subject to a Stock Option, Stock Appreciation Right, or Stock Award. The shares of Common Stock available for delivery under this Plan may consist of Common Stock held in treasury, authorized but unissued shares of Common Stock, or shares of Common Stock purchased or held by the Company or a Subsidiary for purposes of the Plan, or any combination thereof. Shares may be issued under the terms of this Plan in connection with a merger or acquisition as permitted by NYSE Listed Company Manual Section 303A.08 or other applicable rule, and such issuance will not reduce the number of shares available for issuance under the Plan.

3.2 Shares Again Available. If any shares of Common Stock subject to an Award are forfeited or cancelled, or any such Award terminates, lapses, or expires, or is settled without full delivery of the shares of Common Stock underlying the Award, then in each such case the shares of Common Stock subject to such Award will, to the extent of any such forfeiture, termination, lapse, cancellation, or expiration be added to the shares available for issuance under the Plan. In the event that withholding tax liabilities arising from an Award other than an Option or Stock Appreciation Right are satisfied by the tendering of shares (either actually or by attestation) or by the withholding of shares by the Company, the shares so tendered or withheld shall be added to the shares available for Awards under the Plan. Each share of Common Stock that again becomes available for an Award as provided in this Section 3.2 will increase the total number of shares of Common Stock available for Awards under Section 3.1 by one (1) share of Common Stock. Notwithstanding the foregoing, shares of Common Stock (a) tendered by a Participant or withheld by the Company in payment of the exercise price of an Option, (b) not issued on the net settlement or net exercise of Stock Appreciation Rights, (c) delivered by a Participant or withheld by the Company to pay withholding taxes related to Options or Stock Appreciation Rights, or (d) reacquired by the Company on the open market or otherwise using cash proceeds from the exercise of Options, will not again become available for issuance and will not be added to the shares authorized for grant under the Plan. For the avoidance of doubt, Option reloading is not permitted under the Plan.

Shares of Common stock issued in connection with Awards that are assumed, converted or substituted pursuant to an event described in Section 11.7 or assumed or issued in substitution of awards to employees of companies acquired by the Company will not reduce the maximum limitation specified in Section 3.1 (nor shall shares subject to a substitute award be added to the shares available for Awards under the Plan as provided above). Further, where the number of shares of Common stock subject to an Award is variable on the Date of Grant, the number of shares to be counted against the shares authorized under the Plan prior to earning the Award will be the maximum number of shares that could be received under the Award.

3.3 Individual Award Limitations on Equity Awards . Subject to the provisions of Sections 12.7 and 12.8, the following individual Award limits will apply:

- (a) During the term of the Plan, the maximum number of shares of Common Stock available for grant as Stock Options under the Plan will not exceed the maximum number of shares of Common Stock available for Awards under the Plan as provided in Section 3.1.
- (b) During any fiscal year no Participant will be granted Stock Option and Stock Appreciation Right Awards for collectively more than 4,000,000 shares of Common Stock, and Performance Awards with a payout, at maximum, of more than 3,000,000 shares of Common Stock.

ARTICLE IV ADMINISTRATION

4.1 Administration by the Board. The Board will administer the Plan. The Board may delegate administration of the Plan to a Committee or Committees, as provided below. Notwithstanding the foregoing or anything in the Plan to the contrary, the grant of Awards shall be approved by the Company's independent compensation committee or a majority of the Company's independent directors (who meet the applicable independence requirements of the NYSE) in order to comply with the exemption from the stockholder approval requirement for "inducement grants" provided under NYSE Listed Company Manual Section 303A.08.

4.2 Delegation to Committee. The Board may delegate some or all of the administration of the Plan to a Committee or Committees, provided, that the grant of Awards will be approved by the Company's independent compensation committee or a majority of the Company's independent directors (who meet the applicable independence requirements of the NYSE) in order to comply with the exemption from the stockholder approval requirement for "inducement grants" provided under NYSE Listed Company Manual Section 303A.08. If administration of the Plan is delegated to a Committee, the Committee will have, in connection with the administration of the Plan, the powers theretofore possessed by the Board that have been delegated to the Committee, including the power to delegate to a subcommittee of the Committee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board will thereafter be to the Committee or subcommittee). Any delegation of administrative powers will be reflected in resolutions, not inconsistent with the provisions of the Plan, adopted from time to time by the Board or Committee (as applicable). The Committee may, at any time, abolish the subcommittee and/or reconstitute the Committee any powers delegated to the subcommittee. The Board may retain the authority to concurrently administer the Plan with the Committee and may, at any time, reconstitute in the Board some or all of the powers previously delegated.

ARTICLE V ELIGIBILITY

5.1 Eligible Award Recipients . Awards under the Plan may only be granted to Associates who meet the requirements under the inducement award exception from the NYSE rules requiring stockholder approval for the issuance of equity-based compensation, which limits Awards to persons who, in connection with an offer of employment, are offered an Award as a material inducement to become Associates, and such persons: (a) have not previously served as employees or non-employee directors of the Company or any Subsidiary (including persons who become employees in connection with a merger or acquisition); or (b) have experienced a bona fide period of interruption of employment with the Company or any Subsidiary. For clarity, Awards may not be granted to (1) consultants or Directors, for service in such capacities, or (2) any individual who was previously an employee or Director of the Company, other than following a bona fide period of non-employment with the Company or a Subsidiary.

5.2 Approval Requirements. All Awards must be granted either by a majority of the Company's independent directors or by the Company's compensation committee comprised of independent directors who meet the applicable independence requirements of the NYSE.

ARTICLE VI STOCK OPTIONS AND

STOCK APPRECIATION RIGHTS

6.1 Terms and Conditions of Stock Options . The Committee may grant Stock Options alone or in addition to other Awards granted under this Plan to any Associate Participant. The Committee will determine the provisions, terms and conditions of each Stock Option, including, but not limited to, the vesting schedule, the number of shares of Common Stock subject to the Stock Option, the exercise price of the Stock Option, the period during which the Stock Option may be exercised, repurchase provisions, forfeiture provisions, methods for payment of the exercise price of the Stock Option, acceleration of vesting, if any, in connection with certain termination events, and all other terms and conditions of the Stock Option, subject to the following:

- (a) **Form of Stock Option Grant.** Each Stock Option granted under the Plan will be evidenced by an Award Notice (which need not be the same for each recipient of a Stock Option Award) that is not inconsistent with the Plan. The Award Notice evidencing the Stock Option grant will be delivered to the recipient with a copy of the Plan, and other relevant Stock Option documents, within a reasonable time after the Date of Grant.
- (b) **Exercise Period.** Unless a shorter period is otherwise provided in an Award Notice, each Stock Option will expire and all rights to purchase shares of Common Stock thereunder will cease ten years after the Date of Grant.

- (c) **Exercise Price and Terms.** The exercise price of a Stock Option will be not less than 100% of the Fair Market Value of a share of the Common Stock on the Date of Grant of the Stock Option and during its term the Stock Option will be exercisable only on the event or events determined by the Committee and set forth in the Award Notice.
- (e) **Dividend and Dividend Equivalents.** No grant of a Stock Option may provide for dividends, dividend equivalents, or other similar distributions to be paid in connection with the exercise of the Stock Option.
- (f) **Extension of the Term of a Stock Option .** Notwithstanding any other provision of this Plan to the contrary, if, by its terms, a Stock Option would expire when trading in shares of Common Stock is otherwise prohibited by law or by the Company's insider trading policy, as such may be amended from time to time, the term of the Stock Option will be automatically extended until the close of trading on the 30th Trading Date following the expiration of any such prohibition.
- (g) **Vesting Period.** The Committee will determine the types of Stock Options made and any terms and conditions relating to the Stock Options as it considers appropriate, including any vesting conditions necessary to comply with the laws of the State of Delaware. Notwithstanding the foregoing, no portion of a Stock Option may be scheduled to vest in less than one year from the date of grant, provided; however, that up to five percent (5%) of the shares available for award under Section 3.1 may be granted as Equity Awards that vest in whole in less than one year in connection with limited situations such as new hires, Retirements, and similar situations.

6.2 Exercise of Stock Options.

- (a) **Notice.** Stock Options may be exercised only by delivery to the Company, or its designee, of notice, in such form as is permitted by the Committee or its designee, stating the number of shares of Common Stock being purchased, the method of payment, and such other matters as may be considered appropriate by the Company in connection with the issuance of shares of Common Stock upon exercise of the Stock Option, together with payment in full of the exercise price for the number of shares of Common Stock being purchased. The effective date of exercise of a Stock Option (which in no event, may be beyond the expiration date of the Stock Option) will be, unless otherwise provided in Determinations adopted by the Committee:
 - (i) in connection with a sell order for the underlying stock that is a "Sell-to-Cover Order," a "Same-Day-Sale Exercise Order," a Limit Order, a "Good-til" Cancelled Order or the like, the date on which such sell order is actually executed.
 - (ii) in connection with an "Exercise and Hold" (cash exercise) transaction, the date the requisite funds are received by the Company at its home office in Plano, Texas or such other location as the Company may designate, or by a third-party duly designated by the Company at the offices of such third party, in the manner determined by the Chief Executive Officer or the Chief Talent Officer, or their respective successors by title or office.

Provided, however, that if the date of exercise, as otherwise determined pursuant to this Section 6.2(a), including any Determinations adopted by the Committee, is not a Trading Date, the date of exercise will be deemed to be the next Trading Date. Further, if an exercise instruction is received after the close of the NYSE on a particular day, it will be deemed received as of the opening of the next Trading Date. If a Stock Option is granted in tandem with any other Equity Award, there will be surrendered and cancelled from the related Equity Award at the time of exercise of the Stock Option, in lieu of exercise pursuant to the related Equity Award, that number of shares of Common Stock as equals the number of shares of Common Stock as to which the tandem Stock Option will have been exercised.

- (b) **Early Exercise.** An Award Notice may, but need not, include a provision that permits the Participant to elect at any time while an Associate, to exercise all or any part of the Stock Option before full vesting of the Stock Option, subject to the provisions of Section 6.1(g). Any unvested shares of Common Stock received pursuant to such exercise may be subject to a repurchase right in favor of the Company or a Subsidiary or to any other restriction the Committee determines to be appropriate.
- (c) **Payment.** Payment equal to the aggregate exercise price for the shares subject to a Stock Option and for which notice of exercise has been provided by an Associate Participant, including an Associate Participant that has terminated Employment, to the Company, along with any applicable withholding taxes as described in Section 11.11, will be tendered in full, with the notice of exercise, in cash (by check) or, unless otherwise prohibited in a specific Award Notice or by law or applicable regulation, by:
- (i) the actual or constructive transfer to the Company of nonforfeitable, non-restricted shares of Common Stock that have been owned by the Participant for more than six months, or such shorter time as may be permitted by applicable law, prior to the date of exercise;
 - (ii) using the net proceeds (after paying all selling fees) from the sale of some (the “Sell-to-Cover Exercise Method”) or all (the “Same-Day-Sale Exercise Method”), of the shares of Common Stock received on the exercise of the Stock Option, or from any arrangement pursuant to which an Associate Participant, including those Associate Participants who have terminated Employment, irrevocably instructs a broker-dealer to sell a sufficient portion of such shares to pay the exercise price and any withholding obligation, as described in Section 11.11, and related fees thereon and deliver the sale proceeds directly to the Company. The value of the shares of Common Stock used in payment of the exercise price under the Sell-to-Cover Exercise Method or the Same-Day-Sale Exercise Method will be the price at which the Common Stock was sold by the broker-dealer functioning under the Sell-to-Cover Exercise Method or the Same-Day-Sale Exercise Method on the effective date of exercise as described in Section 6.2(a). The amount of the proceeds to be delivered to the Company by the broker-dealer functioning under the Sell-to-Cover Exercise Method or the Same-Day-Sale Exercise Method will be credited to the Common Stock account of the Company as consideration for the shares of Common Stock to be issued in accordance with the Sell-to-Cover Exercise or the Same-Day-Sale Exercise Method;
 - (i) by surrender for cancellation of shares of Common Stock at the Fair Market Value per share at the time of exercise under a “net exercise” arrangement; provided, however, that use of a “net exercise” arrangement cannot result in the Stock Option being settled either in whole or in part for cash payable to the Associate Participant;
 - (ii) in accordance with such other procedures or in such other forms as the Committee will from time to time determine;
or
 - (vi) any combination of the above.

On payment of all amounts due from the Participant, the Company will cause certificates for the Common Stock then being purchased to be delivered as directed by the Associate Participant (or the person exercising the Associate Participant’s Stock Option in the event of his death) at its principal business office promptly after the Exercise Date. The obligation of the Company to deliver shares of Common Stock will, however, be subject to the condition that if at any time the Committee will determine in its discretion that the listing, registration or qualification of the Stock Option or the Common Stock upon any securities exchange or inter-dealer quotation system or under any state or federal law, or the consent or approval of any governmental regulatory body is necessary or desirable as a condition of, or in connection with, the Stock Option or the issuance or purchase of shares of Common Stock thereunder, the Stock Option may not be exercised in whole or in part unless such

listing, registration, qualification, consent or approval will have been effected or obtained free of any conditions not acceptable to the Committee.

6.3 Acquisitions and Other Transactions. The Committee may, from time to time, assume outstanding options or stock appreciation rights granted by another entity, whether in connection with an acquisition of such other entity or otherwise, by either (i) granting a Stock Option or Stock Appreciation Right, as applicable, under the Plan in replacement of or in substitution for the option or stock appreciation right assumed by the Company, or (ii) treating the assumed option or stock appreciation right as if it had been granted under the Plan if the terms of such assumed option could be applied to a Stock Option or Stock Appreciation Right, as applicable, granted under the Plan. Such assumption will be permissible if the holder of the assumed option would have been eligible to be granted a Stock Option or Stock Appreciation right, as applicable, hereunder if the other entity had applied the rules of this Plan to such grant. The Committee also may grant Stock Options or Stock Appreciation Rights under the Plan in settlement of or substitution for outstanding options or stock appreciation rights, or obligations to grant future options in connection with the Company's or a Subsidiary's acquiring another entity, an interest in another entity or an additional interest in a Subsidiary whether by merger, stock purchase, asset purchase or other form of transaction. Notwithstanding the foregoing provisions of Sections 6.1 or 6.4(c), in the case of a Stock Option or Stock Appreciation Right issued or assumed pursuant to this Section 6.1(e), the exercise price for the Stock Option or Stock Appreciation Right will be determined in accordance with the principles of Sections 424(a) and 409A of the Code, and the Treasury regulations promulgated thereunder.

Additionally, in the event that a company acquired by the Company or any Subsidiary or with which the Company or any Subsidiary combines has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the shares authorized for grant under the Plan (and shares subject to such Awards shall not be added to the shares available for Awards under the Plan); provided that Awards using such available shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not Associates or Directors prior to such acquisition or combination.

6.4 Terms and Conditions of Stock Appreciation Rights . The Committee may grant Stock Appreciation Rights alone or in tandem with other Awards granted under this Plan to any Associate. The Committee will determine the provisions, terms and conditions of each Stock Appreciation Right, including, but not limited to, the vesting schedule, the number of shares of Common Stock subject to the Stock Appreciation Right, the exercise price of the Stock Appreciation Right, the period during which the Stock Appreciation Right may be exercised, repurchase provisions, forfeiture provisions, acceleration of vesting, if any, in connection with certain termination events, and all other terms and conditions of the Stock Appreciation Right, subject to the following:

- (a) **Form of Stock Appreciation Right.** Each Stock Appreciation Right granted under the Plan will be evidenced by an Award Notice (which need not be the same for each recipient of a Stock Appreciation Right) that is not inconsistent with the Plan. The award Notice evidencing the Stock Appreciation Right grant will be delivered to the recipient with a copy of the Plan, and other relevant Stock Appreciation Right documents, within a reasonable time after the Date of Grant.
- (b) **Exercise Period.** Unless a shorter period is otherwise provided in an Award Notice, each Stock Appreciation Right will expire and all rights thereunder will cease ten years after the Date of Grant.
- (c) **Exercise Price and Terms.** The exercise price of a Stock Appreciation Right will be not less than 100% of the Fair Market Value of a share of the Common Stock on the Date of Grant of the Stock Appreciation Right and during its term the Stock Appreciation Right will be exercisable only on the events determined by the Committee and set forth in the Award Notice.

- (d) **Dividend and Dividend Equivalents.** No grant of a Stock Appreciation Right may provide for dividends, dividend equivalents, or other similar distributions to be paid in connection with the exercise of the Stock Appreciation Right.
- (e) **Exercise.** The grant of the Stock Appreciation Right will provide that the holder will be paid for the value of the Stock Appreciation Right in shares of Common Stock or, at the discretion of the Committee or its designee, cash. In the event of the exercise of a Stock Appreciation Right, the holder of the Stock Appreciation Right will receive that number of shares of Common Stock, or, at the discretion of the Committee or its designee, cash equal to the value of such shares of Common Stock having an aggregate Fair Market Value on the date of exercise equal to the value obtained by multiplying (i) either (A) in the case of a Stock Appreciation Right issued in tandem with a Stock Option, the difference between the Fair Market Value of a share of Common Stock on the date of exercise over the exercise price per share of the related Stock Option, or (B) in the case of a stand-alone Stock Appreciation Right, the difference between the Fair Market Value of a share of Common Stock on the date of exercise over the Fair Market Value of a share of Common Stock on the Date of Grant of the Stock Appreciation Right by (ii) the number of shares of Common Stock with respect to which the Stock Appreciation Right is exercised. Notwithstanding the foregoing, the Committee, in its sole discretion, may place a ceiling on the amount payable upon exercise of a Stock Appreciation Right, but any such limitation will be specified at the time that the Stock Appreciation Right is granted and stated in the Award Notice.
- (f) **Tandem Stock Appreciation Rights.** A Stock Appreciation Right granted in tandem with a Stock Option will be exercisable as provided by the Committee and will have such other terms and conditions as the Committee may determine. A Stock Appreciation Right may be transferred at, and only at, the times and to the extent the related Stock Option is transferable. If a Stock Appreciation Right is granted in tandem with any other Equity Award, there will be surrendered and cancelled from the related Equity Award at the time of exercise of the Stock Appreciation Right, in lieu of exercise pursuant to the related Equity Award, that number of shares of Common Stock as will equal the number of shares of Common Stock as to which the tandem Stock Appreciation Right will have been exercised.
- (g) **Certain Limitations on Non-Tandem Stock Appreciation Rights .** A stand-alone Stock Appreciation Right will be exercisable as provided by the Committee and will have such other terms and conditions as the Committee may determine at the time of grant and include in the Award Notice. A stand-alone Stock Appreciation Right is subject to such acceleration of vesting rights as the Committee may determine and is subject to provisions of Section 6.5 of this Plan with respect to any exercise rights an Associate Participant may have following a termination of Employment.
- (h) **Limited Stock Appreciation Rights .** The Committee may grant Stock Appreciation Rights which will become exercisable only upon the occurrence of such events as the Committee may designate at the time of grant and include in the Award Notice. Such a Stock Appreciation Right may be issued either as a stand-alone Stock Appreciation Right or in tandem with a Stock Option.
- (i) **Method of Exercise.** Subject to the conditions of this Section 6.3 and such administrative regulations as the Committee may from time to time adopt, a Stock Appreciation Right may be exercised only by delivery to the Company, or its designee, of notice, in such form as is permitted by the Committee or its designee, stating the number of shares of Common Stock with respect to which the Stock Appreciation Right is to be exercised. Unless otherwise provided in Determinations adopted by the Committee, the effective date of exercise of a Stock Appreciation Right will be the date of receipt of the written notice by the Company at its home office in Plano, Texas or such other location as the Company may designate, or by a third-party duly designated by the Company, in the manner determined by the Company or its designee. If the date of receipt of written notice of exercise is not a Trading Date, the date of exercise will be deemed to be the next Trading Date. Further, if notice of exercise is received after the close of the NYSE on a particular day it will be deemed received as of the opening of the next Trading Date.
- (j) **Extension of the Term of a Stock Appreciation Right.** Notwithstanding any other provision of this Plan to the contrary, if, by its terms, a Stock Appreciation Right would expire when trading in shares

of Common Stock is otherwise prohibited by law or by the Company's insider trading policy, as such may be amended from time to time, the term of the Stock Appreciation Right will be automatically extended until the close of trading on the 30th Trading Date following the expiration of any such prohibition.

- (k) **Award Vesting Limitations.** The Committee will determine the types of Stock Appreciation Rights made and any terms and conditions relating to the Stock Appreciation Rights as it considers appropriate, including any vesting conditions necessary to comply with the laws of the State of Delaware. Notwithstanding the foregoing, no portion of a Stock Appreciation Right may be scheduled to vest in less than one year from the date of grant, provided; however, that up to five percent (5%) of the shares available for award under Section 3.1 may be granted as Equity Awards that vest in whole in less than one year in connection with limited situations such as new hires, Retirements, and similar situations.

6.5 Exercise of a Stock Option or a Stock Appreciation Right Following Termination of Employment . Unless (i) otherwise modified pursuant to Determinations adopted by the Committee, or (ii) a more generous post-termination exercise period is otherwise provided with respect to a particular termination event listed in this Section 6.5 (A) in any written agreement between an Associate Participant and the Company or a Subsidiary that may at any time be in effect, or (B) in the absence of an agreement between an Associate Participant and the Company or a Subsidiary (as determined by the Committee, or its designee) that may at any time be in effect, in an Award Notice, a participant will have the right to exercise a Stock Option or a Stock Appreciation Right following a termination of Employment as follows:

- (a) **Termination of Employment with Cause.** If the Associate Participant's Employment with the Company is terminated for Cause, then, notwithstanding any other provision of this Section 6.4(a), all Stock Options or Stock Appreciation Rights granted to the Associate Participant, whether vested, exercisable or otherwise, will immediately expire, terminate, or be forfeited and cancelled as of the effective date of the Associate Participant's termination of Employment.
- (b) **Voluntary Termination of Employment and Termination of Employment Without Cause .** If an Associate Participant voluntarily terminates employment with the Company, or the Associate Participant's Employment with the Company is terminated involuntarily without Cause, and the termination of the Associate Participant's Employment would not otherwise qualify as a Retirement, any vested but unexercised Stock Options or Stock Appreciation Rights will continue to be exercisable as set forth in the applicable Award Notice. Any Stock Options or Stock Appreciation Rights that are not vested or exercisable on the effective date of the Associate Participant's termination of Employment other than for Cause, will immediately expire, terminate, or be forfeited and cancelled as of the effective date of the Associate Participant's termination of Employment.

Notwithstanding the foregoing, if an Associate Participant's employment terminates due to an involuntary termination of employment without cause and (i) the Associate Participant is a party to any form of executive termination pay agreement between the Associate and the Employer that does not provide for any period following a termination of employment in which the Associate Participant may exercise any vested but unexercised Stock Option, and (ii) the termination of the Associate Participant's Employment would not otherwise qualify as a Retirement, or a termination as a result of a unit closing, job restructuring, position elimination, reduction in force, or mutual consent as determined by the Committee, or its designee, and as defined in the Company's then existing and effective Separation Pay Plan, any vested but unexercised Stock Options or Stock Appreciation Rights will continue to be exercisable as set forth in the applicable Award Notice.

- (c) **Termination of Employment as a Result of Disability or Retirement .** If the Associate Participant's Employment with the Company is terminated as a result of the Associate Participant's Disability or Retirement, any vested, but unexercised Stock Options or Stock Appreciation Rights will continue to be exercisable through the earlier of (i) five (5) years following the effective date of such termination of the Associate Participant's Employment, and (ii) the Award's original expiration or termination date. Any Stock Options or Stock Appreciation Rights that are not vested or exercisable on the effective

date of the Associate Participant's termination of Employment as result of the Associate Participant's Disability or Retirement will immediately expire, terminate, or be forfeited and cancelled as of the effective date of the Associate Participant's termination of Employment.

- (d) **Termination of Employment as a Result of Death.** If the Associate Participant's Employment with the Company is terminated as a result of the Associate Participant's death, any vested, but unexercised Stock Options or Stock Appreciation Rights will continue to be exercisable by the Associate Participant's Beneficiary through the earlier of (i) five (5) years following the effective date of such termination of the Associate Participant's Employment, and (ii) the Award's original expiration or termination date. Any Stock Options or Stock Appreciation Rights that are not vested or exercisable on the effective date of the Associate Participant's termination of Employment as result of the Associate Participant's death will immediately expire, terminate, or be forfeited and cancelled as of the effective date of the Associate Participant's termination of Employment.
- (e) **Termination of Employment as a Result of a Unit Closing, Job Restructuring, Job Elimination, Reduction in Force, or Mutual Consent.** If the Associate Participant's Employment with the Company is terminated (i) as a result of unit closing, job restructuring, position elimination, reduction in force, or mutual consent as determined by the Committee, or its designee, and as defined in the Company's then existing and effective Separation Pay Plan, and (ii) the termination of the Associate Participant's Employment would not otherwise qualify as a Retirement, any vested but unexercised Stock Options or Stock Appreciation Rights will continue to be exercisable through the earlier of (x) twelve (12) months following the effective date of the termination of the Associate Participant's Employment, and (y) the Award's original expiration or termination date. Any Stock Options or Stock Appreciation Rights that are not vested or exercisable on the effective date of the Associate Participant's termination of Employment as result of a unit closing, job restructuring or reduction in force will immediately expire, terminate, or be forfeited and cancelled as of the effective date of the Associate Participant's termination of Employment.

6.6 Committee Discretion. Notwithstanding anything to the contrary contained in this Article VI, the Committee or its designee may, at or after the date of grant, accelerate or waive any conditions to the exercisability of any Stock Option or Stock Appreciation Right granted under the Plan, and may permit all or any portion of any Stock Option or Stock Appreciation Right to be exercised following a Participant's termination of employment for any reason on such terms and subject to such conditions as the Committee or its designee may determine for a period up to and including, but not beyond, the Award's original expiration or termination date.

ARTICLE VII RESTRICTED STOCK AND RESTRICTED STOCK UNITS

7.1 In General. The Committee may grant a Stock Award (including any associated dividend equivalent right or share unit equal in value to such Stock Award) to Associate Participants on such terms and conditions as the Committee may determine.

7.2 Terms and Conditions. The Committee will determine the types of Stock Awards made, the number of shares, share units, or dividend equivalent rights covered by such awards, and any other terms and conditions relating to the Stock Awards as it considers appropriate, including any vesting conditions necessary to comply with the laws of the State of Delaware. Notwithstanding the foregoing, no portion of a Stock Award may be scheduled to vest in less than one year from the date of grant, provided; however, that up to five percent (5%) of the shares available for award under Section 3.1 may be granted as Equity Awards that vest in whole in less than one year in connection with limited situations such as new hires, Retirement, and similar situations.

7.3 Restricted Stock Terms and Conditions. Restricted Stock will, at the Company's discretion, be represented (i) by a stock certificate registered in the name of the Associate Participant granted such Restricted Stock, or (ii) in

any acceptable uncertificated form via book entry. Such Associate Participant will have the right to enjoy all stockholder rights during the any applicable restriction period except that:

- (a) The Participant will not be entitled to delivery of the stock certificate until the Restriction Period will have expired.
- (b) The Company may either issue shares subject to such restrictive legends and/or stop-transfer instructions as it considers appropriate or provide for retention of custody of the Common Stock during the Restriction Period.
- (c) Subject to Section 11.10, the Participant may not sell, transfer, pledge, exchange, hypothecate or otherwise dispose of the Common Stock during the Restriction Period.
- (d) A breach of the terms and conditions established by the Committee with respect to the Restricted Stock will cause a forfeiture of the Restricted Stock.
- (e) Subject to Section 8.8, dividends payable in cash or in shares of stock or otherwise shall be withheld by the Company for the Participant's account. At the discretion of the Committee, interest may be paid on the amount of cash dividends withheld, including cash dividends on stock dividends, at a rate and subject to such terms as determined by the Committee. However, any such interest, dividends, or dividend equivalent payment shall only be made on vested awards.

Provided, however, in lieu of the foregoing, the Committee may provide that no shares of Common Stock be issued until the Restriction Period is over and further provide that the shares of Common Stock issued after the Restriction Period has been completed, be issued in escrow and/or be legended and that the Common Stock be subject to restrictions including the forfeiture of all or a part of the shares.

7.4 Payment for Restricted Stock. A Participant will not be required to make any payment for Restricted Stock unless the Committee so requires.

7.5 Forfeiture Provisions. Subject to Section 6.5, in the event a Participant terminates Employment during a Restriction Period for the Participant's Restricted Stock or Restricted Stock Units, such Awards to the extent not otherwise vested will be forfeited; provided, however, that the Committee may provide for proration or full payout in the event of (a) death, (b) Disability, or (c) Retirement. Any Restricted Stock Unit that is not, in all cases, due and payable not later than the 15th day of the third month following the calendar year, or if later, the Company's fiscal year, in which the Restricted Stock Unit ceases to be subject to a "substantial risk of forfeiture" within the meaning Section 409A of the Code, will be designed to comply with the requirements of section 409A of the Code.

ARTICLE VIII PERFORMANCE AWARDS

8.1 In General. An Award granted under the Plan may be in the form of a Performance Award.

8.2 Establishment of Performance Goals. Performance Goals applicable to a Performance Award will be established by the Committee on or before the Date of Grant and not more than a reasonable period of time after the beginning of the relevant Performance Period. Such Performance Goals may include or be based upon any one or more Performance Measures. Performance Goals may be based on the Company's consolidated results or the results of any segment or other subset of the Company's business, and may be calculated in accordance with generally accepted accounting principles or any other management accounting principle. The Committee, or its designee, may establish any special adjustments that will be applied in calculating whether the Performance Measure has been met, including, but not limited to, taking into consideration the effect of any restructurings, discontinued operations, extraordinary items, unusual, infrequently occurring, or non-recurring events, accounting changes, divestitures, or acquisitions, changes in tax or accounting principles, foreign exchange gains and losses, a change in the fiscal year of the Company, or any event either not directly related to the operations of the Company or any Subsidiary, division, business segment or business unit or not within the reasonable control of management. At any time prior to distribution of a Performance

Award, the Committee may modify the Performance Goals applicable to such Performance Award if it determines that unforeseen events have occurred which have had a substantial effect on the Performance Goals and such unforeseen events would otherwise make application of the original Performance Goals unfair.

8.3 Levels of Performance Required to Earn Performance Awards. At or about the same time that Performance Goals are established for a Performance Period applicable to a Performance Award, the Committee will in its absolute discretion establish the percentage of the Performance Award granted for such Performance Period which will be earned by the Associate Participant for various levels of performance measured in relation to achievement of Performance Goal for such Performance Period.

8.4 Other Restrictions. The Committee will determine any other terms and conditions applicable to any Performance Award, including any vesting conditions or restrictions on the delivery of Common Stock payable in connection with the Performance Award and restrictions that could result in the future forfeiture of all or part of any Common Stock earned. The Committee may provide that shares of Common Stock issued in connection with a Performance Award be held in escrow and/or legended. A Performance Award, other than a restricted Equity Award, may not vest, or be deemed to be earned, in less than one year from the date of grant. A Performance Award to be paid out as a restricted Equity Award may not have a vesting period of less than one year; provided, however, that up to five percent (5%) of the shares available for award under Section 3.1 may be granted as Equity Awards that vest in whole in less than one year in connection with limited situations such as new hires, Retirements, and similar situations.

8.5 Notification to Associate Participants. Promptly after the Committee has established or modified the Performance Goal with respect to a Performance Award, the Associate Participant will be provided with a written Award Notice that will include the terms of the Performance Award including the Performance Goal so established or modified.

8.6 Measurement of Performance Against Performance Goals. The Committee will, as soon as practicable after the close of a Performance Period, determine:

- (a) the extent to which the Performance Goals for such Performance Period have been achieved; and
- (b) the percentage of the Performance Awards earned as a result.

Notwithstanding the foregoing, if and to the extent the applicable Award Notice permits, the Committee may, in its sole discretion, reduce the percentage of any Performance Award otherwise determined for a Performance Period, and such reduced percentage will be the amount earned by the Associate Participant. All determinations of the Committee will be absolute and final as to the facts and conclusions therein made and are binding on all parties. As promptly as practicable after the Committee has made the foregoing determination, each Associate Participant who has earned Performance Award will be notified thereof. For all purposes of this Plan, notice will be deemed to have been given the date action is taken by the Committee making the determination. Subject to Section 11.10, an Associate Participant may not sell, transfer, pledge, exchange, hypothecate or otherwise dispose of all or any portion of a Performance Awards during the Performance Period.

8.7 Treatment of Performance Awards Earned. Upon the Committee's determination that a percentage of any Performance Award has been earned for a Performance Period, Associate Participants to whom such earned Performance Award has been granted and who have been (or were) in the employ of the Company or a Subsidiary thereof continuously from the Date of Grant, will be entitled, subject to the other conditions of this Plan, to payment in accordance with the terms and conditions of their Performance Awards as set forth the Award Notice. Such terms and conditions may permit or require the payment of any applicable withholding taxes pursuant to Section 11.11. Subject to Section 8.9, Performance Awards will under no circumstances become earned or have any value whatsoever for any Associate Participant who is not in the employ of the Company or its Subsidiaries continuously during the entire Performance Period for which such Performance Award was granted.

8.8 Distribution. Distributions payable pursuant to Section 8.7 will be made, subject to Section 11.15, as soon as practicable after the Committee determines the Performance Goal has been achieved, but in no event more than 2½

months after the end of the fiscal year in which the Performance Period applicable to the Performance Award ends. Any dividend equivalents credited in connection with a Performance Award will be subject to the same restrictions and risk of forfeiture as the Performance Award to which the dividend equivalents relate.

8.9 Non-Disqualifying Termination of Employment. The only exceptions to the requirement of continuous Employment during a Performance Period for distribution of an amount earned under a Performance Award are termination of an Associate Participant's Employment by reason of death (in which event the Performance Award may be transferable by will or the laws of descent and distribution only to such Participant's Beneficiary designated to receive the Performance Award or to the Participant's applicable legal representatives, heirs or legatees), Disability, Retirement, involuntary termination of Employment other than for Cause (including an involuntary termination of Employment as a result of a unit closing, job restructuring, position elimination or reduction in force as determined by the Committee or its designee and as defined in the Company's then existing and effective Separation Pay Plan), and such other events as may be specified in Determinations adopted by the Committee. In such instance, a distribution of the Performance Award will be made pursuant to the terms of the Performance Award and included in the Award Notice. For the avoidance of doubt, any Termination of Employment in connection with a Change in Control shall be subject to the terms of Article IX.

8.10 Cash Incentive Awards. Performance Awards granted by the Committee under this Article VIII may take the form of Cash Incentive Awards. Cash Incentive Awards may be granted by the Committee to Associate Participants on such terms and conditions as the Committee may determine, but in all instances in compliance with the requirements of this Article VIII and section 409A of the Code or any exemptions therefrom. A Participant may not be granted a Cash Incentive Award in any one calendar year the value of which exceeds the product of \$2,000,000 and the number of years in the applicable Performance Period.

ARTICLE IX CHANGE IN CONTROL

9.1 Definitions. For purposes of this Article IX the following definitions will apply:

- (a) **Change in Control.** "Change in Control" will, unless modified pursuant to Determinations adopted by the Committee, generally have the meaning specified in Section 409A of the Code, and any regulations and guidance promulgated thereunder and will, subject to any additional requirements of Treasury Regulation section 1.409A-(3)(i)(5)(v), mean:
 - (i) **Change of Ownership.** A Change of ownership occurs on the date that a person or persons acting as a group acquires ownership of stock of the Company that together with stock held by such person or group constitutes more than 50 percent of the total fair market value or total voting power of the stock of the Company.
 - (ii) **Change in Effective Control.** Notwithstanding whether the Company has undergone a change of ownership as described in Section 9.1(a)(i), a change of effective control occurs:
 - (A) when a person or persons acting as a group acquires within a 12-month period 30 percent or more of the total voting power of the stock of the Company, or
 - (B) a majority of the Board is replaced within a 12-month period by directors whose appointment or election is not approved by a majority of the members of the Board before such appointment or election.

A change in effective control also may occur in any transaction in which either of the two corporations involved in the transaction has a Change in Control event (i.e., multiple change in control events). For purposes of this Section 9.1(a)(ii), any acquisition by the Company of its own stock within a 12-month period, either through a transaction or series of transactions, that, immediately following such acquisition, results in the total voting power of a person or persons acting as a group to equal or exceed

30 percent of the total voting power of the stock of the Company will not constitute a change in effective control of the Company for purposes of this Section 9.1(a)(ii).

- (iii) **Change in Ownership of a Substantial Portion of the Company's Assets**. Change in ownership of a substantial portion of the Company's assets occurs when a person or persons acting as a group acquires assets that have a total gross fair market value equal to or more than 40 percent of the total gross fair market value of all assets of the Company immediately prior to the acquisition. A transfer of assets by the Company is not treated as a change in the ownership of such assets if the assets are transferred to -
- (A) A stockholder of the Company (immediately before the asset transfer) in exchange for or with respect to its stock;
 - (B) An entity, 50 percent or more of the total value or voting power of which is owned, directly or indirectly, by the Company;
 - (C) A person, or more than one person acting as a group, that owns, directly or indirectly, 50 percent or more of the total value or voting power of all the outstanding stock of the Company; or
 - (D) An entity, at least 50 percent of the total value or voting power of which is owned, directly or indirectly, by a person described in paragraph (iii).

Persons will not be considered to be acting as a group solely because they purchase assets of the Company at the same time, or as a result of the same public offering. Persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of assets, or similar business transaction with the Company.

- (b) **Employment Termination**. "Employment Termination" will be deemed to have occurred when an Associate Participant has a separation from service:
- (i) within two years following the effective date of a Change in Control because of an Involuntary Separation from Service other than for Cause; or
 - (ii) where the basis for the Participant Associate's Employment Termination is the occurrence of a Good Reason event described in Section 9.1(c), within two years of the initial existence of any condition that would constitute Good Reason and within two years following the effective date of a Change in Control.

An Employment Termination will not include a termination by reason of the Associate Participant's death, Disability, Retirement termination of Employment other than a separation from service for Good Reason.

- (c) **Good Reason**. "Good Reason" means a condition resulting from any of the actions listed below taken by the Company or a Subsidiary, without the consent of the Associate Participant, directed at an Associate Participant:
- (i) a material decrease in the Participant's salary or incentive compensation opportunity (the amount paid at target as a percentage of salary under the Management Incentive Compensation Program) as in effect immediately prior to the Change in Control, or
 - (ii) failure to pay the Participant a material portion of the Participant's current base salary, or incentive compensation within seven days of its due date, or

- (iii) a material adverse change in the Participant’s reporting responsibilities, duties, or authority as compared with pre-Change in Control responsibilities, duties, or authority, or
- (iv) a material diminution in the authority, duties, or responsibilities of the supervisor to whom the Participant is required to report, including a requirement that a Participant report to a corporate officer or employee instead of reporting directly to the Board, or
- (v) a material diminution in the budget over which the Participant retains authority as compared to the pre-Change in Control budget, or
- (vi) the Service Recipient’s requiring the Participant to change the principal location at which the Participant must perform services to a location that is more than 50 miles from the location where the Participant performed such services immediately prior to the Change in Control, or
- (vii) discontinuance of any material paid time off policy, fringe benefit, welfare benefit, incentive compensation, equity compensation, or retirement plan (without substantially equivalent compensating remuneration or a plan or policy providing substantially similar benefits) in which the Participant participates or any action that materially reduces such Participant’s benefits or payments under such plans, as in effect immediately before the Change in Control, provided, that in either case such discontinuance or other action results in a material decrease in the Participant’s overall compensation.

provided, however, that the Associate Participant must provide notice to the Employer of the existence of any condition described above within 90 days of the initial existence of the condition, upon the notice of which the Employer will have 30 days during which it or a Service Recipient may remedy the condition. Any separation from service as a result of a Good Reason condition must occur within two years of the initial existence of the condition and of the Change in Control in order for benefits to be due hereunder. A separation from service for Good Reason will be treated as an Involuntary Separation from Service for purposes of the Plan.

- (d) **Involuntary Separation from Service.** “Involuntary Separation from Service” means separation from service due to the independent exercise of the unilateral authority of the Company or a Subsidiary, as applicable, to terminate the Associate Participant’s services, other than due to the Associate Participant’s implicit or explicit request, where the Associate Participant was willing and able to continue performing services, within the meaning of Code Section 409A and Treasury Regulation section 1.409A-1(n)(1) or any successor thereto.

9.2 Effect on Awards. In the event of a Change in Control, the Committee may, but shall not be obligated to, provide for the issuance by the acquiring or successor entity of substitute Awards or the assumption or replacement of all or any portion of any Awards. On an Employment Termination as defined in Section 9.1(b) in connection with a Change in Control as defined in Section 9.1(a), unless otherwise provided for in the Award Notice and subject to Section 11.7, an Associate Participant will have the right to exercise any and all Stock Options and Stock Appreciation Rights held by the Associate Participant, and all Stock Awards held by the Associate Participant that are not subject to Performance Goals will immediately vest and be deemed to have been earned and any Stock Awards held by the Associate Participant that are subject to Performance Goals will be deemed satisfied as if target performance was achieved and shall be settled in full in cash, shares or a combination thereof as provided for in the applicable Award Notice within thirty (30) days following Employment Termination (except to the extent that settlement of the Award must be made pursuant to its original schedule in order to comply with Code Section 409A); notwithstanding that the applicable performance period, service period, or other restrictions and conditions have not been completed or satisfied; provided, that, the duration of any exercise period following Employment Termination for a Stock Option or Stock Appreciation Right may not exceed the original exercise period; provided, further, that any vested Stock Awards that are Restricted Stock Units or vested Cash Incentive Awards, will be distributed no later than the deadline for distribution specified in Sections 7.5 and 8.8 above.

**ARTICLE X
AMENDMENT AND TERMINATION**

No Award may be made under the Plan after May 31, 2025. The Board may terminate the Plan or make such amendments as it deems advisable, including, but not limited to, any amendments to conform to or reflect any change in any law, regulation, or ruling applicable to an Award or the Plan, provided, however, that the Board may not, without approval by affirmative vote of the holders of a majority of the outstanding stock of the Company having general voting power: (i) take any action which will increase the aggregate number of shares of Common Stock which may be issued under the Plan (except for adjustments pursuant to Section 3.2 and Section 11.7 of the Plan); (ii) decrease the grant or exercise price of any Award to less than fair market value of its underlying Common Stock on the date of grant; (iii) change the individual award limits found in Section 3.3 or any other maximum limit included in the Plan to comply with set forth in the Code; or (iv) change the class of Associate Participants eligible for Awards under Article V. Except as otherwise provided in or permitted by the Plan or by the terms, if any, of an Award under the Plan, no termination or amendment of the Plan or change in the terms of an outstanding Award may adversely affect the rights of the holder of any Award without the consent of the holder.

**ARTICLE XI
MISCELLANEOUS PROVISIONS**

11.1 Interpretive Matters. Whenever required by the context, pronouns and any variation thereof will be deemed to refer to the masculine the feminine or neuter, and the singular will include the plural, and vice versa. The term “include” or “including” does not denote or imply any limitation. The headings and captions herein are provided for reference and convenience only, will not be considered a part of this Plan, and will not be employed in the interpretation of this Plan.

11.2 Unfunded Plan. The Plan will be unfunded and the Company will not be required to segregate any assets that may at any time be represented by Awards under the Plan. Neither the Company, its Subsidiaries, the Committee, nor the Board will be deemed to be a trustee of any amounts to be paid under the Plan nor will anything contained in the Plan or any action taken pursuant to its provisions create or be construed to create a fiduciary relationship between the Company and/or its Subsidiaries, and a Participant. To the extent any person has or acquires a right to receive a payment in connection with an Award under the Plan, this right will be no greater than the right of an unsecured general creditor of the Company.

11.3 No Right to Continued Employment. Neither the Plan nor any Award under the Plan will confer on a Participant any right with respect to continuation of the Participant’s employment with the Company or any Subsidiary nor will the Plan or an Award interfere in any way with the right of the Company or a Subsidiary to terminate the employment of any of its employees at any time.

11.4 No Effect on Retirement and Other Benefit Plans. Except as may otherwise be specifically stated under any employee benefit plan, policy, or program, no amount payable in respect of any Award will be treated as compensation for purposes of calculating a Participant’s right under any such plan, policy, or program. The Plan is not a “welfare plan” or “pension plan” under the Employee Retirement Income Security Act of 1974, as amended.

11.5 Stockholder Rights. A Participant (including for purposes of this Section, a Participant’s legatee, distributee, guardian, legal representative, or other third party, as the Committee may determine) will have no stockholder rights with respect to any shares of Common Stock subject to an Equity Award until such shares of Common Stock are issued to the Participant. Shares of Common Stock will be deemed issued on the date on which they are issued in the Participant’s (as this term is defined in the preceding sentence) name.

11.6 Indemnification. Each person who is or will have been a member of the Board or of the Committee and any designee of the Board or Committee will be indemnified and held harmless by the Company against and from any loss, cost, liability, or expense that may be imposed on or reasonably incurred by him in connection with or resulting from any claim, action, suit, or proceeding to which he may be made party or in which he may be involved by reason of any determination, interpretation, action taken or failure to act under the Plan and against and from any and all

amounts paid by him in settlement thereof, with the Company's approval, or paid by him in satisfaction of any judgment in any such action, suit or proceeding against him, provided he will give the Company an opportunity, at its own expense, to handle and defend the same before he undertakes to handle and defend it on his own behalf. The foregoing right of indemnification will not be exclusive and will be independent of any other rights of indemnification to which such persons may be entitled under the Company's certificate of incorporation, bylaws, by contract, as a matter of law, or otherwise.

11.7 Adjustments in Capitalization. In the event of any change in the value or number of shares of Common Stock outstanding, or the assumption and conversion of outstanding Awards, by reason of any stock dividend, stock split, dividend or distribution, whether in cash, shares or other property (other than a normal cash dividend), recapitalization, reorganization, merger, consolidation, split-up, spin-off, combination or exchange of shares, the Committee or its designee will make changes to the Plan and Awards in an equitable and appropriate, manner including, but not limited to: (1) the exercise price under each unexercised Stock Option; (2) the exercise price under each unexercised Stock Appreciation Right; and (3) the number, type, character, and class of shares which may be issued on exercise of Stock Options and Stock Appreciation Rights granted and for Stock Awards, including restricted stock units, and any remaining shares reserved under the Plan. Any such adjustment with respect to each Stock Option or Stock Appreciation Right will be consistent with the requirements applicable to exempt stock rights under Treasury Regulations section 1.409A-1(b)(5) or its successor. Any adjustment will also include the limits under the Plan established for purposes of section 162(m) of the Code.

11.8 Prohibition on Repricing. Except in connection with a corporate transaction involving the Company (including, without limitation, any stock dividend, distribution (whether in the form of cash, Common Shares, other securities or other property), stock split, extraordinary cash dividend, recapitalization, change in control, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Common Shares or other securities, or similar transaction(s)), the Company may not (a) amend the terms of outstanding Stock Options or Stock Appreciation Rights to reduce the exercise price of such outstanding Stock Options or Stock Appreciation Rights; (b) cancel outstanding Stock Options or Stock Appreciation Rights in exchange for Stock Options or Stock Appreciation Rights with an exercise price that is less than the exercise price of the original Stock Options or Stock Appreciation Rights; (c) cancel outstanding Stock Options or Stock Appreciation Rights with an exercise price above the current stock price in exchange for cash or other Awards or securities; or (d) take any other action with respect to a Stock Option or Stock Appreciation Right that would be treated as a repricing under the rules and regulations of the principal national securities exchange on which the shares of Common Stock are listed without the prior approval of the Company's stockholders.

11.9 Compliance with Applicable Legal Requirements . The granting of Awards and the issuance of shares and/or cash under the Plan shall be subject to all applicable laws, rules, and regulations, and to such approvals by any governmental agencies or national securities exchanges as may be required. The Company shall be under no obligation to register pursuant to the Securities Act, any of the shares of Stock paid pursuant to the Plan. If the shares of Stock paid pursuant to the Plan may in certain circumstances be exempt from registration pursuant to the Securities Act, the Company may restrict the transfer of such shares in such manner as it deems advisable to ensure the availability of any such exemption. The Committee shall impose such restrictions on any Award as it may deem advisable, including, without limitation, restrictions under applicable federal securities law, under the requirements of the NYSE (or any other exchange upon which the Stock is then traded), and under any other blue sky or state securities law applicable to such Award.

11.10 Transferability. No unearned Stock Awards or vested or unvested Stock Options or Stock Appreciation Rights, and no shares of Common Stock that have not been issued or as to which any applicable restriction, performance or deferral period has not lapsed, may be sold, assigned, pledged, or transferred other than by will or the laws of descent and distribution and any attempt to do so will be void. No Stock Option or Stock Appreciation Right will be exercisable during an Associate Participant's lifetime except by the Associate Participant or the Associate Participant's guardian or legal representative. To the extent and under such terms and conditions as determined by the Committee, a Participant may assign or transfer an Award without consideration (i) to the Participant's spouse, children or grandchildren (including any adopted and step children or grandchildren), parents, grandparents or siblings, (ii) to a trust for the benefit of one or more of the Participant or the persons referred to in clause (i), (iii) to a partnership, limited liability company or corporation in which the Participant or the persons referred to in clause (i) are the only partners, members

or stockholders or (iv) for charitable donations; provided that any such assignee shall be bound by and subject to all of the terms and conditions of the Plan and the Award Agreement relating to the transferred Award and shall, to the extent necessary, execute an agreement satisfactory to the Company evidencing such obligations; and provided further that such Participant shall remain bound by the terms and conditions of the Plan. The Company shall cooperate with any assignee and the Company's transfer agent in effectuating any transfer permitted under this Section.

11.11 Withholding Taxes. All distributions under the Plan will be subject to any required withholding taxes and other withholdings and, all tax withholdings will be governed by the Code and any applicable state laws and any rules and regulations adopted thereunder and, in the case of Participants who are subject to Section 16 of the Exchange Act, any restrictions set forth in Section 16 of the Exchange Act. In case of distributions in Common Stock, the Participant or other recipient may, as a condition precedent to the delivery of Common Stock, be required to pay to his/her participating employer the excess, if any, of the total withholding obligation with respect to any federal, state, and local tax obligations, including FICA and Medicare over the actual amount withheld, which will be limited to the minimum statutory withholding or such other rate that will not cause adverse accounting consequences and is permitted under applicable Internal Revenue Service withholding rules, if any, from any distributions under the Plan. All or a portion of such payment may, in the discretion of the Committee or its designee and upon the election of the Participant, be made (a) in cash, (b) by withholding from shares of Common Stock that would otherwise be delivered to the Participant a number of shares of Common Stock sufficient to satisfy all or a portion of the minimum statutory tax withholding obligation, (c) by tendering (either actually or by attestation) owned and unencumbered shares of Common Stock acceptable to the Committee and having a Fair Market Value on the date of tender equal to or less than the remaining required tax withholding. Notwithstanding the foregoing, in the event the Company adopts International Financial Reporting Standards, the minimum statutory withholding obligation, or such other rate that will not cause adverse accounting consequences and is permitted under applicable Internal Revenue Service withholding rules, will not be satisfied by withholding shares of Common Stock if permitting the satisfaction of the minimum statutory withholding obligation via the withholding of shares of Common Stock would result in unfavorable accounting treatment for the Company.

11.12 No Limitations on Compensation. Neither the adoption of the Plan by the Board nor the submission of the Plan to stockholders of the Company for approval will be construed as creating any limitations on the power or authority of the Board to adopt such other or additional incentive or other compensation arrangements of whatever nature as the Board may deem necessary or desirable or preclude or limit the continuation of any other plan, practice or arrangement for the payment of compensation or fringe benefits to employees generally, or to any class or group of employees, which the Company or any Subsidiary now has lawfully put into effect, including, without limitation, any retirement, pension, savings, profit sharing or stock purchase plan, insurance, death and disability benefits, and executive short-term incentive plans.

11.13 Code Section 83(b) Elections. Neither the Company nor any of its Subsidiaries have any responsibility for a Participant's election, attempt to elect or failure to elect to include the value of an Award subject to section 83 of the Code in the Participant's gross income for the year of grant pursuant to section 83(b) of the Code. Any Participant who makes an election pursuant to section 83(b) of the Code will promptly provide the Committee or its designee with a copy of the election form.

11.14 Section 409A of the Code. The Plan is intended to be administered in a manner consistent with the requirements of section 409A of the Code, where applicable. Where reasonably possible and practicable, the Plan will be administered in a manner to avoid the imposition on participants of immediate tax recognition and additional taxes under section 409A of the Code. Unless specifically provided for in an Award Notice, no Equity Award will provide any feature for the deferral of compensation as defined by Treasury Regulation section 1.409A-1(b). Any deferral will be for such period and in accordance with the terms and conditions as the Committee may determine and must be in compliance with section 409A of the Code. The terms and conditions applicable to such deferral and the terms and conditions evidencing compliance with section 409A of the Code will be set forth in the Award Notice. The method of payment for, and type and character of, any Award may not be altered by any deferral permitted under this Section unless specifically permitted under section 409A of the Code and the Treasury regulations thereunder. Notwithstanding the foregoing, neither the Company nor the Committee will have any liability to any person in the event section 409A of

the Code is determined to apply to an Award in a manner that results in adverse tax consequences for the participant or any of his beneficiaries or transferees.

11.15 Effective Date. The Plan will become effective on May 22, 2020.

11.16 Governing Law. To the extent that federal laws do not otherwise control, this Plan and all determinations made and actions taken under this Plan will be governed by the internal laws of the State of Delaware, without regard to Delaware's conflict-of-laws principles and will be construed accordingly.

11.17 Severability. The Company intends all provisions of the Plan to be enforced to the fullest extent permitted by law. If any provision of this Plan will be held to be illegal, invalid, or unenforceable for any reason, under present or future law, the illegal, invalid, or unenforceable provision will be fully severable and severed, and will not affect the remaining parts of the Plan, and the Plan will be construed and enforced as if the illegal, invalid, or unenforceable provision had not been included in the Plan, and the remaining provisions of the Plan will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance.

11.18 Compensation Recoupment Policy. Awards may be made subject to any compensation recoupment policy adopted by the Board or the Committee at any time prior to or after the effective date of the Plan, and as such policy may be amended from time to time after its adoption. The compensation recoupment policy will be applied to any Award that constitutes the deferral of compensation subject to section 409A of the Code in a manner that complies with the requirements of section 409A of the Code.

11.19 No Issuance of Certificates. Notwithstanding any provisions of the Plan to the contrary, to the extent the Plan provides for issuance of stock certificates to reflect the issuance of shares of Common Stock in connection with an Award, the issuance may be effected on a non-certificate basis, to the extent not prohibited by applicable law or the applicable rules of any stock exchange on which the Common Stock is traded.

11.20 Section 16. It is the intent of the Company that the Plan satisfy, and be interpreted in a manner that satisfies, the applicable requirements of Rule 16b-3 as promulgated under Section 16 of the Exchange Act so that Participants will be entitled to the benefit of Rule 16b-3, or any other rule promulgated under Section 16 of the Exchange Act, and will not be subject to short-swing liability under Section 16 of the Exchange Act. Accordingly, if the operation of any provision of the Plan would conflict with the intent expressed in this section 11.20, such provision to the extent possible shall be interpreted and/or deemed amended so as to avoid such conflict.

11.21 Beneficiary Designation. Each Participant under the Plan may from time to time name any beneficiary or beneficiaries by whom any right under the Plan is to be exercised in case of such Participant's death. Each designation will revoke all prior designations by the same Participant, shall be in a form reasonably prescribed by the Committee and shall be effective only when filed by the Participant in writing with the Company during the Participant's lifetime.

11.22 Non-Uniform Treatment. The Committee's determinations under the Plan need not be uniform and may be made by it selectively among persons who are eligible to receive, or actually receive, Awards. Without limiting the generality of the foregoing, the Committee shall be entitled to make non-uniform and selective determinations, amendments and adjustments, and to enter into non-uniform and selective Award Agreements.