

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

In re:	)	
	)	Chapter 11
J. C. PENNEY COMPANY, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 20-20182 (DRJ)
	)	
Debtors.	)	(Jointly Administered)
	)	

**NOTICE OF HEARING TO CONSIDER  
(I) THE ADEQUACY OF THE DISCLOSURE STATEMENT AND  
(II) CONFIRMATION OF THE JOINT CHAPTER 11 PLAN FILED BY THE DEBTORS**

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**PLEASE TAKE NOTICE THAT** on October 26, 2020, the United States Bankruptcy Court for the Southern District of Texas (the “Court”) entered an order [Docket No. 1655] (the “Disclosure Statement Order”): (a) authorizing J. C. Penney Company, Inc. and its affiliated debtors and debtors in possession (collectively, the “Debtors”), to solicit acceptances for the *Joint Chapter 11 Plan of Reorganization of J. C. Penney Company, Inc. and Its Debtor Affiliates* (as modified, amended, or supplemented from time to time, the “Plan”);<sup>2</sup> (b) conditionally approving the *Disclosure Statement for the Debtors’ Joint Chapter 11 Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (the “Disclosure Statement”) as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code on an interim basis; (c) approving the solicitation materials and documents to be included in the solicitation packages (the “Solicitation Packages”); and (d) approving procedures for soliciting, receiving, and tabulating votes on the Plan and for filing objections to the Plan (the “Solicitation Procedures”).

**PLEASE TAKE FURTHER NOTICE THAT** the hearing at which the Court will consider the adequacy of the Disclosure Statement on a final basis and the Confirmation of the Plan (the “Confirmation Hearing”) will commence on **November 24, 2020, at 9:00 a.m.** prevailing Central Time, before the Honorable David R. Jones, in the United States Bankruptcy Court for the Southern District of Texas, located at Courtroom 400, 4th Floor, 515 Rusk Avenue, Houston, TX 77002.

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<sup>1</sup> A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ Claims and Noticing Agent at <http://cases.primeclerk.com/JCPenney>. The location of Debtor J. C. Penney Company, Inc.’s principal place of business and the Debtors’ service address in these chapter 11 cases is 6501 Legacy Drive, Plano, Texas 75024.

<sup>2</sup> Capitalized terms not otherwise defined herein have the same meanings as set forth in the Plan.

**PLEASE BE ADVISED:** THE CONFIRMATION HEARING MAY BE CONTINUED FROM TIME TO TIME BY THE COURT OR THE DEBTORS **WITHOUT FURTHER NOTICE** OTHER THAN BY SUCH ADJOURNMENT BEING ANNOUNCED IN OPEN COURT OR BY A NOTICE OF ADJOURNMENT FILED WITH THE COURT AND SERVED ON ALL PARTIES ENTITLED TO NOTICE.

**CRITICAL INFORMATION REGARDING VOTING ON THE PLAN**

**Voting Record Date.** The voting record date is **October 19, 2020**, which is the date for determining which Holders of Claims in Class 4 (First Lien Claims), Class 6 (Second Lien Notes Claims), Class 7 (Unsecured Notes Claims), Class 8A (General Unsecured Claims), and Class 8B (Key Go Forward Supplier Claims) are entitled to vote on the Plan.

**Voting Deadline.** The deadline for voting on the Plan is on **November 17, 2020, at 4:00 p.m.**, prevailing Central Time (the “Voting Deadline”). If you received a Solicitation Package, including a Ballot and intend to vote on the Plan you ***must***: (a) follow the instructions carefully; (b) complete ***all*** of the required information on the ballot; and (c) execute and return your completed Ballot according to and as set forth in detail in the voting instructions so that it is ***actually received*** by the Debtors’ Claims and Noticing Agent, Prime Clerk LLC (the “Claims and Noticing Agent”) on or before the Voting Deadline. ***Failure to follow such instructions may disqualify your vote.***

**Opt-Out Deadline.** The Debtors request that Holders of Claims and Interests in Non-Voting Classes submit Opt-Out Forms by **November 17, 2020, at 4:00 p.m.**, prevailing Central Time (the “Opt-Out Deadline”). However, Opt-Out Forms actually received by the Claims and Noticing Agent within 90 days of the Opt-Out Deadline will still be deemed effective.

**CRITICAL INFORMATION REGARDING OBJECTING TO THE PLAN**

**Plan Objection Deadline.** The deadline for filing objections to the Plan is **November 21, 2020, at 12:00 p.m.**, prevailing Central Time (the “Plan Objection Deadline”). All objections to the relief sought at the Confirmation Hearing ***must***: (a) be in writing; (b) conform to the Bankruptcy Rules, the Local Bankruptcy Rules, and any orders of the Court; (c) state, with particularity, the legal and factual basis for the objection and, if practicable, a proposed modification to the Plan (or related materials) that would resolve such objection; ***and*** (d) be filed with the Court (contemporaneously with a proof of service).

**ARTICLE X OF THE PLAN CONTAINS RELEASE, EXCULPATION, AND INJUNCTION PROVISIONS, AND ARTICLE X.D CONTAINS A THIRD-PARTY RELEASE. THUS, YOU ARE ADVISED TO REVIEW AND CONSIDER THE PLAN CAREFULLY BECAUSE YOUR RIGHTS MIGHT BE AFFECTED THEREUNDER.**

**Article X.D of the Plan contains the following Third-Party Release:**

**NOTWITHSTANDING ANYTHING CONTAINED IN THIS PLAN TO THE CONTRARY, EFFECTIVE AS OF THE EFFECTIVE DATE, IN EXCHANGE FOR**

**GOOD AND VALUABLE CONSIDERATION, INCLUDING THE OBLIGATIONS OF THE DEBTORS UNDER THE PLAN AND THE CONTRIBUTIONS OF THE RELEASED PARTIES IN FACILITATING THE EXPEDITIOUS REORGANIZATION OF THE DEBTORS AND THE IMPLEMENTATION OF THE RESTRUCTURING CONTEMPLATED BY THE PLAN, TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, AS SUCH LAW MAY BE EXTENDED OR INTEGRATED AFTER THE EFFECTIVE DATE, ON AND AFTER THE EFFECTIVE DATE EACH OF THE RELEASING PARTIES, IN EACH CASE ON BEHALF OF ITSELF AND ITS RESPECTIVE SUCCESSORS, ASSIGNS, AND REPRESENTATIVES, AND ANY AND ALL OTHER ENTITIES WHO MAY PURPORT TO ASSERT ANY CAUSE OF ACTION, DIRECTLY OR DERIVATIVELY, BY, THROUGH, OR BECAUSE OF THE FOREGOING ENTITIES, SHALL BE DEEMED TO HAVE CONCLUSIVELY, ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY, AND FOREVER, RELEASED AND DISCHARGED EACH RELEASED PARTY FROM ANY AND ALL CLAIMS, INTERESTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES, AND LIABILITIES WHATSOEVER, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, EXISTING OR HEREINAFTER ARISING, IN LAW, EQUITY, OR OTHERWISE, INCLUDING ANY DERIVATIVE CLAIMS, ASSERTED OR ASSERTABLE ON BEHALF OF ANY OF THE DEBTORS OR THEIR ESTATES, THAT SUCH ENTITY WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT (WHETHER INDIVIDUALLY OR COLLECTIVELY), BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM, IN WHOLE OR IN PART, THE DEBTORS OR THE WIND-DOWN DEBTORS (INCLUDING THE MANAGEMENT, OWNERSHIP OR OPERATION THEREOF), THE PURCHASE, SALE, OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTORS, THE SUBJECT MATTER OF, OR THE TRANSACTIONS OR EVENTS GIVING RISE TO, ANY CLAIM OR INTEREST THAT IS TREATED IN THE PLAN, THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN ANY DEBTOR AND ANY RELEASED PARTY, THE DEBTORS' OR THE WIND-DOWN DEBTORS' IN- OR OUT-OF-COURT RESTRUCTURING EFFORTS, INTERCOMPANY TRANSACTIONS, THE ABL DOCUMENTS, THE FIRST LIEN DEBT DOCUMENTS, THE RESTRUCTURING TRANSACTIONS, THE SALE TRANSACTION, ENTRY INTO THE ASSET PURCHASE AGREEMENT, THE CHAPTER 11 CASES, THE FORMULATION, PREPARATION, DISSEMINATION, NEGOTIATION, FILING, OR CONSUMMATION OF THE RSA, THE DISCLOSURE STATEMENT, THE DIP FACILITY, THE SALE TRANSACTION, THE ASSET PURCHASE AGREEMENT, THE PLAN, THE PLAN SUPPLEMENT, OTHER DEFINITIVE DOCUMENTS, THE EXIT FACILITIES, THE NEW TAKEBACK DEBT, OR ANY RESTRUCTURING TRANSACTION, CONTRACT, INSTRUMENT, RELEASE, OR OTHER AGREEMENT OR DOCUMENT CREATED OR ENTERED INTO IN CONNECTION WITH THE RSA, THE DISCLOSURE STATEMENT, THE DIP FACILITY, THE EXIT FACILITIES, OR THE PLAN, THE FILING OF THE CHAPTER 11 CASES, THE PURSUIT OF CONFIRMATION, THE PURSUIT OF CONSUMMATION, THE PURSUIT OF THE SALE TRANSACTION, THE ADMINISTRATION AND IMPLEMENTATION OF THE PLAN, INCLUDING THE ISSUANCE OR DISTRIBUTION OF SECURITIES PURSUANT TO THE PLAN, OR THE DISTRIBUTION OF PROPERTY UNDER THE**

**PLAN OR ANY OTHER RELATED AGREEMENT (INCLUDING, FOR THE AVOIDANCE OF DOUBT, PROVIDING ANY LEGAL OPINION REQUESTED BY ANY ENTITY REGARDING ANY TRANSACTION, CONTRACT, INSTRUMENT, DOCUMENT, OR OTHER AGREEMENT CONTEMPLATED BY THE PLAN OR THE RELIANCE BY ANY RELEASING PARTY ON THE PLAN OR THE CONFIRMATION ORDER IN LIEU OF SUCH LEGAL OPINION), OR UPON ANY OTHER RELATED ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE THE EFFECTIVE DATE, OTHER THAN CLAIMS OR LIABILITIES ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION OF A RELEASED PARTY THAT CONSTITUTES ACTUAL FRAUD, WILLFUL MISCONDUCT, OR GROSS NEGLIGENCE, EACH SOLELY TO THE EXTENT AS DETERMINED BY A FINAL ORDER OF A COURT OF COMPETENT JURISDICTION. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, THE RELEASES SET FORTH ABOVE DO NOT RELEASE (1) ANY LIABILITIES OR OBLIGATIONS OF ANY ENTITY TO THE PURCHASER GROUP RELATING TO THE ASSET PURCHASE AGREEMENT, (2) ANY POST-EFFECTIVE DATE OBLIGATIONS OF ANY PARTY OR ENTITY UNDER THE PLAN (OR PRESERVED BY THE PLAN), ANY RESTRUCTURING TRANSACTION, OR ANY DOCUMENT, INSTRUMENT, OR AGREEMENT (INCLUDING THE ASSET PURCHASE AGREEMENT AND ANY DOCUMENTS SET FORTH IN THE PLAN SUPPLEMENT, EACH AS APPLICABLE) EXECUTED TO IMPLEMENT THE PLAN, OR (3) ANY CLAIMS BY ANY OF THE DEBTORS ARISING OUT OF ANY ORDINARY COURSE DEALINGS BETWEEN SUCH PARTIES.**

**ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019, OF THE THIRD-PARTY RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE RELATED PROVISIONS AND DEFINITIONS CONTAINED IN THIS PLAN, AND FURTHER, SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT EACH THIRD-PARTY RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY THE RELEASED PARTIES, (2) A GOOD-FAITH SETTLEMENT AND COMPROMISE OF SUCH CLAIMS; (3) IN THE BEST INTERESTS OF THE DEBTORS AND THEIR ESTATES; (4) FAIR, EQUITABLE, AND REASONABLE; (5) GIVEN AND MADE AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING; AND (6) A BAR TO ANY OF THE RELEASING PARTIES ASSERTING ANY CLAIM OR CAUSE OF ACTION RELEASED PURSUANT TO THE THIRD-PARTY RELEASE.**

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**UNDER THE PLAN, "*RELEASED PARTY*" MEANS EACH OF THE FOLLOWING, SOLELY IN ITS CAPACITY AS SUCH: (A) THE DEBTORS, THE WIND-DOWN DEBTORS AND THE PLAN ADMINISTRATOR; (B) THE ABL AGENT; (C) THE ABL LENDERS; (D) THE TERM LOAN ADMINISTRATIVE AGENT; (E) THE TERM LOAN LENDERS; (F) THE FIRST LIEN NOTES TRUSTEE; (G) THE FIRST LIEN NOTEHOLDERS; (H) THE UNSECURED NOTES TRUSTEE; (I) THE UNSECURED NOTEHOLDERS; (J) THE PURCHASER GROUP; (K) THE DIP AGENT;**

**(L) THE DIP LENDERS; (M) THE CONSENTING FIRST LIEN LENDERS; (N) THE PROPCO TRUSTEE; (O) WITH RESPECT TO EACH OF THE FOREGOING PARTIES IN CLAUSES (A) THROUGH (N), EACH OF SUCH PARTY’S CURRENT AND FORMER PREDECESSORS, SUCCESSORS, AFFILIATES (REGARDLESS OF WHETHER SUCH INTERESTS ARE HELD DIRECTLY OR INDIRECTLY), ASSIGNS, SUBSIDIARIES, DIRECT AND INDIRECT EQUITY HOLDERS, FUNDS, PORTFOLIO COMPANIES, AND MANAGEMENT COMPANIES; AND (P) WITH RESPECT TO EACH OF THE FOREGOING PARTIES IN CLAUSES (A) THROUGH (O) (AND GROUPS CONSISTING OF SUCH PARTIES), EACH OF SUCH PARTY’S RELATED PARTIES AND (Q) ALL HOLDERS OF CLAIMS OR INTERESTS; *PROVIDED* THAT ANY HOLDER OF A CLAIM OR INTEREST THAT (X) VALIDLY OPTS OUT OF THE RELEASES CONTAINED IN THE PLAN, (Y) FILES AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN, OR (Z) VOTES TO REJECT THE PLAN SHALL NOT BE A “RELEASED PARTY.”**

**UNDER THE PLAN, “*RELEASING PARTY*” MEANS EACH OF THE FOLLOWING, SOLELY IN ITS CAPACITY AS SUCH: (A) THE DEBTORS, THE WIND-DOWN DEBTORS AND THE PLAN ADMINISTRATOR; (B) THE ABL AGENT; (C) THE ABL LENDERS; (D) THE TERM LOAN ADMINISTRATIVE AGENT; (E) THE TERM LOAN LENDERS; (F) THE FIRST LIEN NOTES TRUSTEE; (G) THE FIRST LIEN NOTEHOLDERS; (H) THE UNSECURED NOTES TRUSTEE; (I) THE UNSECURED NOTEHOLDERS; (J) THE PURCHASER GROUP; (K) THE DIP AGENT; (L) THE DIP LENDERS; (M) THE CONSENTING FIRST LIEN LENDERS; (N) THE CREDITORS’ COMMITTEE; (O) THE U.S. TRUSTEE; (P) THE PROPCO TRUSTEE; (Q) WITH RESPECT TO EACH OF THE FOREGOING PARTIES IN CLAUSES (A) THROUGH (P), EACH OF SUCH PARTY’S CURRENT AND FORMER PREDECESSORS, SUCCESSORS, AFFILIATES (REGARDLESS OF WHETHER SUCH INTERESTS ARE HELD DIRECTLY OR INDIRECTLY), ASSIGNS, SUBSIDIARIES, DIRECT AND INDIRECT EQUITY HOLDERS, FUNDS, PORTFOLIO COMPANIES, AND MANAGEMENT COMPANIES; AND (R) WITH RESPECT TO EACH OF THE FOREGOING PARTIES IN CLAUSES (A) THROUGH (Q), EACH OF SUCH PARTY’S CURRENT AND FORMER PREDECESSORS, SUCCESSORS, AFFILIATES (REGARDLESS OF WHETHER SUCH INTERESTS ARE HELD DIRECTLY OR INDIRECTLY), ASSIGNS, SUBSIDIARIES, DIRECT AND INDIRECT EQUITY HOLDERS, FUNDS, PORTFOLIO COMPANIES, AND MANAGEMENT COMPANIES; (S) WITH RESPECT TO EACH OF THE FOREGOING PARTIES IN CLAUSES (A) THROUGH (R) (AND GROUPS CONSISTING OF SUCH PARTIES), EACH OF SUCH PARTY’S RELATED PARTIES AND (T) ALL HOLDERS OF CLAIMS OR INTERESTS; *PROVIDED* THAT ANY HOLDER OF A CLAIM OR INTEREST THAT (X) VALIDLY OPTS OUT OF THE RELEASES CONTAINED IN THE PLAN, (Y) FILES AN OBJECTION TO THE RELEASES CONTAINED IN THE PLAN, OR (Z) VOTES TO REJECT THE PLAN SHALL NOT BE A “RELEASING PARTY.”**

**NOTWITHSTANDING THE FOREGOING, AN ENTITY SHALL BE NEITHER A RELEASING PARTY NOR A RELEASED PARTY IF IT: (X) VALIDLY OPTS OUT OF THE RELEASES CONTAINED IN THE PLAN; (Y) TIMELY FILES WITH THE BANKRUPTCY COURT ON THE DOCKET OF THE CHAPTER 11 CASES AN**

**OBJECTION TO THE RELEASES CONTAINED IN THE PLAN THAT IS NOT RESOLVED BEFORE CONFIRMATION; OR (Z) VOTES TO REJECT THE PLAN.**

**AS A “RELEASING PARTY” UNDER THE PLAN, YOU ARE DEEMED TO PROVIDE THE RELEASES CONTAINED IN ARTICLE X.D OF THE PLAN, AS SET FORTH ABOVE. YOU MAY ELECT NOT TO GRANT THE RELEASES CONTAINED IN ARTICLE X.D OF THE PLAN ONLY IF YOU (A) CHECK THE BOX BELOW; (B) TIMELY FILE WITH THE BANKRUPTCY COURT ON THE DOCKET OF THE CHAPTER 11 CASES AN OBJECTION TO THE RELEASES CONTAINED IN ARTICLE X OF THE PLAN THAT IS NOT RESOLVED BEFORE CONFIRMATION; OR (C) VOTE TO REJECT THE PLAN. THE ELECTION TO WITHHOLD CONSENT TO GRANT SUCH RELEASE IS AT YOUR OPTION. BY OPTING OUT OF THE RELEASES SET FORTH IN ARTICLE X.D OF THE PLAN, YOU WILL FOREGO THE BENEFIT OF OBTAINING THE RELEASES SET FORTH IN ARTICLE X OF THE PLAN IF YOU ARE A RELEASED PARTY IN CONNECTION THEREWITH.**

**Article X.E of the Plan contains the following Exculpation Provision:**

**Effective as of the Effective Date, to the fullest extent permissible under applicable law and without affecting or limiting either the Debtor Release or the Third-Party Release, and except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur, and each Exculpated Party is hereby exculpated from, any Cause of Action for any Claim related to any act or omission based on the formulation, preparation, dissemination, negotiation, entry into, filing, execution, and implementation of any transactions approved by the Bankruptcy Court in the Chapter 11 Cases, including the RSA, the Asset Purchase Agreement, the Disclosure Statement, the Plan, the Plan Supplement, other Definitive Documents, the Confirmation Order, or any Restructuring Transaction, contract, instrument, release, or other agreement or document contemplated by the Plan or the reliance by any Exculpated Party on the Plan or the Confirmation Order, or created or entered into in connection with the RSA, the Asset Purchase Agreement, the Disclosure Statement, or the Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the pursuit of the Sale Transaction, the administration and implementation of the Plan, including the issuance of any securities pursuant to the Plan or the distribution of property under the Plan or any other related agreement, and the implementation of the Sale Transaction and the Restructuring Transactions contemplated by the Plan (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Exculpated Party on the Plan or the Confirmation Order in lieu of such legal opinion), or any other postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors or the Wind-Down Debtors, except for Claims related to any act or omission that is determined by Final Order to have constituted actual fraud, willful misconduct, or gross negligence, each solely to the extent as determined by a Final Order of a court of competent jurisdiction, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the**

**solicitation of votes on, and distribution of consideration pursuant to, the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding the foregoing, the exculpation shall not release (1) any obligation or liability of any Entity relating to the Asset Purchase Agreement, (2) for any post-Effective Date obligation under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan, or (3) any Claims by any of the Debtors arising out of any ordinary course dealings between such parties.**

### **ADDITIONAL INFORMATION**

**Assumption and Rejection of Executory Contracts and Unexpired Leases.** Subject to the Sale Order (including the Assignment Procedures (as defined in the Sale Order)), on the Effective Date, except as otherwise provided herein, each Executory Contract or Unexpired Lease not previously assumed, assumed and assigned, or rejected shall be deemed automatically rejected by the applicable Debtor in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than those that: (1) are identified on the Schedule of Assumed Executory Contracts and Unexpired Leases or the Potentially Assigned Contracts Lists (as defined in the Sale Order); (2) have been previously assumed or rejected by the Debtors pursuant to the Assignment Procedures or any other Bankruptcy Court order; (3) are the subject of a Filed motion to assume, assume and assign, or reject such Executory Contract or Unexpired Lease (or of a Filed objection with respect to the proposed assumption and assignment of such contract) that is pending on the Effective Date; or (4) are a contract, release, or other agreement or document entered into in connection with the Plan.

Entry of the Confirmation Order shall constitute an order of the Bankruptcy Court approving, subject to and upon the occurrence of the Effective Date, the assumptions, assignments, or rejections of the Executory Contracts and Unexpired Leases as set forth in the Plan, pursuant to sections 365(a) and 1123 of the Bankruptcy Code, except as otherwise provided in the Plan, the Confirmation Order or the Sale Order. Any Filed motions, Executory Contracts and Unexpired Leases noticed for assumption and assignment with a pending objection that has not yet been resolved, to assume, assume and assign, or reject any Executory Contracts or Unexpired Leases that are pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order but may be withdrawn, settled, or otherwise prosecuted by the Plan Administrator, with any such disposition to be deemed to effect an assumption, assumption and assignment, or rejection, as applicable, as of the Effective Date.

Subject to the Sale Order and the Asset Purchase Agreement, each Executory Contract and Unexpired Lease assumed pursuant to the Plan or by any order of the Bankruptcy Court, which has not been assigned to a third party on or prior to the Effective Date, shall revert in the Debtors and be fully enforceable by the Plan Administrator in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal Law.

Subject to the Sale Order, to the maximum extent permitted by law, to the extent any provision in any Executory Contract or Unexpired Lease assumed or assumed and assigned pursuant to the Plan restricts or prevents, or purports to restrict or prevent, or is breached or deemed breached by, the assumption or assumption and assignment of such Executory Contract or Unexpired Lease (including any “change of control” provision), then such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto. Notwithstanding anything to the contrary in the Plan, the Debtors or the Plan Administrator, as applicable, reserve the right to alter, amend, modify, or supplement (i) the Schedule of Rejected Executory Contracts and Unexpired Leases (a) with respect to OpCo Available Contracts (as defined in the Asset Purchase Agreement), with the consent of the OpCo Purchaser, at any time up to the earlier of (x) 90 days following the OpCo Closing, (y) February 28, 2021, and (z) solely with respect to unexpired Leases for nonresidential real property, the deadline set forth in section 365(d)(4) of the Bankruptcy Code, consistent with the Asset Purchase Agreement and (b) with respect to PropCo Available Contracts (as defined in the Asset Purchase Agreement), with the consent of the PropCo Purchaser, at any time up to the earlier of (a) the Effective Date, (b) PropCo Closing, and (c) solely with respect to unexpired Leases for nonresidential real property, the deadline set forth in section 365(d)(4) of the Bankruptcy Code (the “PropCo Designation Rights Period”), or (ii) the Schedule of Assumed Executory Contracts and Unexpired Leases, with the consent of the PropCo Purchaser, at any time up to the expiration of the PropCo Designation Rights Period, consistent with the Asset Purchase Agreement.

**The Plan Supplement.** The Debtors will file with the Court the Plan Supplement (as defined in the Plan) at least **five (5) days prior to the Voting Deadline**.

**Obtaining Solicitation Materials or Plan Supplement.** The materials in the Solicitation Package are intended to be self-explanatory. If you should have any questions or if you would like to obtain additional solicitation materials (or paper copies, a CD-ROM, or flash drive of solicitation materials available on the Debtors’ restructuring website) or a copy of the Plan Supplement, please feel free to contact the Claims and Noticing Agent, by: (a) calling the Debtors’ restructuring hotline at (877) 720-6576 (Domestic) or (646) 979-4417 (International); (b) visiting the Debtors’ restructuring website at: <https://cases.primeclerk.com/JCPenney>; (c) writing to J. C. Penney Company, Inc. Ballot Processing, c/o Prime Clerk LLC, One Grand Central Place, 60 East 42nd Street, Suite 1440, New York, NY 10165; or (d) emailing [JCPenneyinfo@primeclerk.com](mailto:JCPenneyinfo@primeclerk.com). You may also obtain copies of any pleadings filed in the Chapter 11 Cases for a fee via PACER at: <https://ecf.txsb.uscourts.gov/>. Please be advised that the Claims and Noticing Agent is authorized to answer questions about, and provide additional copies of, solicitation materials, but may *not* advise you as to whether you should vote to accept or reject the Plan.



**BINDING NATURE OF THE PLAN:**

**IF CONFIRMED, THE PLAN SHALL BIND ALL HOLDERS OF CLAIMS AND INTERESTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHETHER OR NOT SUCH HOLDER WILL RECEIVE OR RETAIN ANY PROPERTY OR INTEREST IN PROPERTY UNDER THE PLAN, HAS FILED A PROOF OF CLAIM IN THE CHAPTER 11 CASES, OR FAILED TO VOTE TO ACCEPT OR REJECT THE PLAN OR VOTED TO REJECT THE PLAN.**

Respectfully Submitted,  
October 26, 2020

*/s/ Matthew D. Cavanaugh*

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