

# TYSON FOODS INC

## FORM 10-K (Annual Report)

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Address	2200 DON TYSON PARKWAY SPRINGDALE, AR 72762-6999
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Fiscal Year	09/30

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-K**

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the fiscal year ended **October 1, 2011**

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

**Commission File No. 001-14704**

**TYSON FOODS, INC.**  
(Exact Name of Registrant as specified in its Charter)

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

**71-0225165**  
(I.R.S. Employer Identification No.)

**2200 Don Tyson Parkway, Springdale, Arkansas**  
(Address of principal executive offices)

**72762-6999**  
(Zip Code)

**Registrant's telephone number, including area code:**

**(479) 290-4000**

Securities Registered Pursuant to Section 12(b) of the Act:

**Title of Each Class**  
Class A Common Stock, Par Value \$0.10

**Name of Each Exchange on Which Registered**  
New York Stock Exchange

Securities Registered Pursuant to Section 12(g) of the Act: Not Applicable

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.  
Large accelerated filer  Accelerated filer   
Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company

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

On April 2, 2011, the aggregate market value of the registrant's Class A Common Stock, \$0.10 par value (Class A stock), and Class B Common Stock, \$0.10 par value (Class B stock), held by non-affiliates of the registrant was \$5,872,066,221 and \$408,715, respectively. Class B stock is not publicly listed for trade on any exchange or market system. However, Class B stock is convertible into Class A stock on a share-for-share basis, so the market value was calculated based on the market price of Class A stock.

On October 29, 2011, there were 299,769,152 shares of Class A stock and 70,020,855 shares of Class B stock outstanding.

**INCORPORATION BY REFERENCE**

Portions of the registrant's definitive Proxy Statement for the registrant's Annual Meeting of Shareholders to be held February 3, 2012, are incorporated by reference into Part III of this Annual Report on Form 10-K.

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### PART I

#### ITEM 1. BUSINESS

##### GENERAL

Founded in 1935, Tyson Foods, Inc. and its subsidiaries (collectively, “Company,” “we,” “us” or “our”) are one of the world’s largest meat protein companies and the second-largest food production company in the *Fortune* 500 with one of the most recognized brand names in the food industry. We produce, distribute and market chicken, beef, pork, prepared foods and related allied products. Our operations are conducted in four segments: Chicken, Beef, Pork and Prepared Foods. Some of the key factors influencing our business are customer demand for our products; the ability to maintain and grow relationships with customers and introduce new and innovative products to the marketplace; accessibility of international markets; market prices for our products; the cost of live cattle and hogs, raw materials, grain and feed ingredients; and operating efficiencies of our facilities.

We operate a fully vertically integrated poultry production process. Our integrated operations consist of breeding stock, contract growers, feed production, processing, further-processing, marketing and transportation of chicken and related allied products, including animal and pet food ingredients. Through our wholly-owned subsidiary, Cobb-Vantress, Inc. (Cobb), we are one of the leading poultry breeding stock suppliers in the world. Investing in breeding stock research and development allows us to breed into our flocks the characteristics found to be most desirable.

We also process live fed cattle and hogs and fabricate dressed beef and pork carcasses into primal and sub-primal meat cuts, case ready beef and pork and fully-cooked meats. In addition, we derive value from allied products such as hides and variety meats sold to further processors and others.

We produce a wide range of fresh, value-added, frozen and refrigerated food products. Our products are marketed and sold primarily by our sales staff to grocery retailers, grocery wholesalers, meat distributors, warehouse club stores, military commissaries, industrial food processing companies, chain restaurants or their distributors, international export companies and domestic distributors who serve restaurants, foodservice operations such as plant and school cafeterias, convenience stores, hospitals and other vendors. Additionally, sales to the military and a portion of sales to international markets are made through independent brokers and trading companies.

We have been exploring ways to commercialize our supply of poultry litter and animal fats. In June 2007, we announced a 50/50 joint venture with Syntroleum Corporation, called Dynamic Fuels LLC (Dynamic Fuels). Dynamic Fuels produces renewable synthetic fuels targeting the renewable diesel and jet fuel markets. Construction of production facilities was completed in late fiscal 2010, and initial production began in October 2010.

##### FINANCIAL INFORMATION OF SEGMENTS

We operate in four segments: Chicken, Beef, Pork and Prepared Foods. The contribution of each segment to net sales and operating income (loss), and the identifiable assets attributable to each segment, are set forth in Note 16: Segment Reporting of the Notes to Consolidated Financial Statements.

##### DESCRIPTION OF SEGMENTS

**Chicken:** Chicken operations include breeding and raising chickens, as well as processing live chickens into fresh, frozen and value-added chicken products and logistics operations to move products through the supply chain. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets. It also includes sales from allied products and our chicken breeding stock subsidiary.

**Beef:** Beef operations include processing live fed cattle and fabricating dressed beef carcasses into primal and sub-primal meat cuts and case-ready products. This segment also includes sales from allied products such as hides and variety meats, as well as logistics operations to move products through the supply chain. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets. Allied products are marketed to manufacturers of pharmaceuticals and technical products.

**Pork:** Pork operations include processing live market hogs and fabricating pork carcasses into primal and sub-primal cuts and case-ready products. This segment also includes our live swine group, related allied product processing activities and logistics operations to move products through the supply chain. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets. We sell allied products to pharmaceutical and technical products manufacturers, as well as a limited number of live swine to pork processors.

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**Prepared Foods:** Prepared Foods operations include manufacturing and marketing frozen and refrigerated food products and logistics operations to move products through the supply chain. Products include pepperoni, bacon, beef and pork pizza toppings, pizza crusts, flour and corn tortilla products, appetizers, prepared meals, ethnic foods, soups, sauces, side dishes, meat dishes and processed meats. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets.

The results from Dynamic Fuels are included in Other.

### RAW MATERIALS AND SOURCES OF SUPPLY

**Chicken:** The primary raw materials used in our chicken operations are corn and soybean meal used as feed and live chickens raised primarily by independent contract growers. Our vertically-integrated chicken process begins with the grandparent breeder flocks and ends with broilers for processing. Breeder flocks (i.e., grandparents) are raised to maturity in grandparent growing and laying farms where fertile eggs are produced. Fertile eggs are incubated at the grandparent hatchery and produce pullets (i.e., parents). Pullets are sent to breeder houses, and the resulting eggs are sent to our hatcheries. Once chicks have hatched, they are sent to broiler farms. There, contract growers care for and raise the chicks according to our standards, with advice from our technical service personnel, until the broilers reach the desired processing weight. Adult chickens are transported to processing plants, which are slaughtered and converted into finished products, then sent to distribution centers and delivered to customers.

We operate our own feed mills to produce scientifically-formulated feeds. In fiscal 2011, corn, soybean meal and other feed ingredients were major production costs, representing roughly 69% of our cost of growing a live chicken. In addition to feed ingredients to grow the chickens, we use cooking ingredients, packaging materials and cryogenic agents. We believe our sources of supply for these materials are adequate for our present needs, and we do not anticipate any difficulty in acquiring these materials in the future. While we produce nearly all our inventory of breeder chickens and live broilers, we also purchase live, ice-packed or deboned chicken to meet production and sales requirements.

**Beef:** The primary raw materials used in our beef operations are live cattle. We do not have facilities of our own to raise cattle but employ cattle buyers located throughout cattle producing areas who visit independent feed yards and public auctions and buy live cattle on the open spot market. These buyers are trained to select high quality animals, and we continually measure their performance. We also enter into various risk-sharing and procurement arrangements with producers to secure a supply of livestock for our facilities. We believe the sources of supply of live cattle are adequate for our present needs.

**Pork:** The primary raw materials used in our pork operations are live hogs. The majority of our live hog supply is obtained through various procurement relationships with independent producers. We employ buyers who make purchase agreements of various time durations as well as purchase hogs on a daily basis, generally a few days before the animals are processed. These buyers are trained to select high quality animals, and we continually measure their performance. We believe the sources of supply of live hogs are adequate for our present needs. Additionally, we raise a number of weanling swine to sell to independent finishers and supply a minimal amount of live swine for our own processing needs.

**Prepared Foods:** The primary raw materials used in our prepared foods operations are commodity based raw materials, including chicken, beef, pork, corn, flour and vegetables. Some of these raw materials are provided by our other segments, while others may be purchased from numerous suppliers and manufacturers. We believe the sources of supply of raw materials are adequate for our present needs.

### SEASONAL DEMAND

Demand for chicken and beef products generally increases during the spring and summer months and generally decreases during the winter months. Pork and prepared foods products generally experience increased demand during the winter months, primarily due to the holiday season, while demand decreases during the spring and summer months.

### CUSTOMERS

Wal-Mart Stores, Inc. accounted for 13.3% of our fiscal 2011 consolidated sales. Sales to Wal-Mart Stores, Inc. were included in the Chicken, Beef, Pork and Prepared Foods segments. Any extended discontinuance of sales to this customer could, if not replaced, have a material impact on our operations. No other single customer or customer group represented more than 10% of fiscal 2011 consolidated sales.

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### COMPETITION

Our food products compete with those of other food producers and processors and certain prepared food manufacturers. Additionally, our food products compete in markets around the world.

We seek to achieve a leading market position for our products via our principal marketing and competitive strategy, which includes:

- identifying target markets for value-added products;
- concentrating production, sales and marketing efforts to appeal to and enhance demand from those markets; and
- utilizing our national distribution systems and customer support services.

Past efforts indicate customer demand can be increased and sustained through application of our marketing strategy, as supported by our distribution systems. The principal competitive elements are price, product safety and quality, brand identification, breadth and depth of product offerings, availability of products, customer service and credit terms.

### INTERNATIONAL

We sold products to more than 130 countries in fiscal 2011. Major sales markets include Canada, Central America, China, the European Union, Japan, Mexico, the Middle East, Russia, South Korea, Taiwan and Vietnam.

We have the following international operations:

- Tyson de Mexico, a Mexican subsidiary, is a vertically-integrated poultry production company;
- Cobb-Vantress, a chicken breeding stock subsidiary, has business interests in Argentina, Brazil, the Dominican Republic, India, Ireland, Japan, the Netherlands, Peru, the Philippines, Russia, Spain, Sri Lanka, the United Kingdom and Venezuela;
- Tyson do Brazil, a Brazilian subsidiary, is a vertically-integrated poultry production company;
- Shandong Tyson Xinchang Foods, a Chinese subsidiary, is a vertically-integrated poultry production company;
- Tyson Dalong, a joint venture in China in which we have a majority interest, is a chicken further processing facility;
- Jiangsu-Tyson, a Chinese poultry breeding subsidiary, is building a vertically-integrated poultry operation with production expected to begin in fiscal 2012;
- Godrej Tyson Foods, a joint venture in India in which we have a majority interest, is a poultry processing business; and
- Cactus Argentina, a minority interest in a vertically-integrated beef operation joint venture in Argentina; however, we do not consolidate the entity due to the lack of controlling interest.

We continue to evaluate growth opportunities in foreign countries. Additional information regarding export sales, long-lived assets located in foreign countries and income (loss) from foreign operations is set forth in Note 16: Segment Reporting of the Notes to Consolidated Financial Statements.

### RESEARCH AND DEVELOPMENT

We conduct continuous research and development activities to improve product development, to automate manual processes in our processing plants and growout operations, and to improve chicken breeding stock. In 2007, we opened the Discovery Center, which includes 19 research kitchens and a USDA-inspected pilot plant. The Discovery Center brings new market-leading retail and foodservice products to the customer faster and more effectively. Research and development costs totaled \$42 million, \$38 million and \$33 million in fiscal 2011, 2010 and 2009, respectively.

### ENVIRONMENTAL REGULATION AND FOOD SAFETY

Our facilities for processing chicken, beef, pork and prepared foods, milling feed and housing live chickens and swine are subject to a variety of federal, state and local environmental laws and regulations, which include provisions relating to the discharge of materials into the environment and generally provide for protection of the environment. We believe we are in substantial compliance with such applicable laws and regulations and are not aware of any violations of such laws and regulations likely to result in material penalties or material increases in compliance costs. The cost of compliance with such laws and regulations has not had a material adverse effect on our capital expenditures, earnings or competitive position, and except as described below, is not anticipated to have a material adverse effect in the future.

Congress and the United States Environmental Protection Agency are considering various options to control greenhouse gas emissions. It is unclear at this time when or if such options will be finalized, or what the final form may be. Due to the uncertainty surrounding this issue, it is premature to speculate on the specific nature of impacts that imposition of greenhouse gas emission controls would have on us, and whether such impacts would have a material adverse effect.

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We work to ensure our products meet high standards of food safety and quality. In addition to our own internal Food Safety and Quality Assurance oversight and review, our chicken, beef, pork and prepared foods products are subject to inspection prior to distribution, primarily by the United States Department of Agriculture (USDA) and the United States Food and Drug Administration (FDA). We are also participants in the United States Hazard Analysis Critical Control Point (HACCP) program and are subject to the Sanitation Standard Operating Procedures and the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

### **EMPLOYEES AND LABOR RELATIONS**

As of October 1, 2011, we employed approximately 115,000 employees. Approximately 97,000 employees were employed in the United States and 18,000 employees were in foreign countries, primarily China, Mexico and Brazil. Approximately 29,000 employees in the United States were subject to collective bargaining agreements with various labor unions, with approximately 40% of those employees included under agreements expiring in fiscal 2012. The remaining agreements expire over the next several years. Approximately 7,000 employees in foreign countries were subject to collective bargaining agreements. We believe our overall relations with our workforce are good.

### **MARKETING AND DISTRIBUTION**

Our principal marketing objective is to be the primary provider of chicken, beef, pork and prepared foods products for our customers and consumers. As such, we utilize our national distribution system and customer support services to achieve the leading market position for our products. On an ongoing basis, we identify distinct markets and business opportunities through continuous consumer and market research. In addition to supporting strong regional brands across multiple protein lines, we build the Tyson brand and Tyson owned brands primarily through well-defined product-specific advertising and public relations efforts focused toward key consumer targets with specific needs. These efforts are designed to present key Tyson products as everyday solutions to relevant consumer problems thereby becoming part of regular eating routines.

We have the ability to produce and ship fresh, frozen and refrigerated products worldwide. Domestically, our distribution system extends to a broad network of food distributors and is supported by our owned or leased cold storage warehouses, public cold storage facilities and our transportation system. Our distribution centers accumulate fresh and frozen products so we can fill and consolidate less-than-truckload orders into full truckloads, thereby decreasing shipping costs while increasing customer service. In addition, we provide our customers a wide selection of products that do not require large volume orders. Our distribution system enables us to supply large or small quantities of products to meet customer requirements anywhere in the continental United States. Internationally, we utilize both rail and truck refrigerated transportation to domestic ports, where consolidations take place to transport to foreign destinations.

### **PATENTS AND TRADEMARKS**

We have filed a number of patents and trademarks relating to our processes and products that either have been approved or are in the process of application. Because we do a significant amount of brand name and product line advertising to promote our products, we consider the protection of our trademarks to be important to our marketing efforts. We also have developed non-public proprietary information regarding our production processes and other product-related matters. We utilize internal procedures and safeguards to protect the confidentiality of such information and, where appropriate, seek patent and/or trademark protection for the technology we utilize.

### **INDUSTRY PRACTICES**

Our agreements with customers are generally short-term, primarily due to the nature of our products, industry practices and fluctuations in supply, demand and price for such products. In certain instances where we are selling further processed products to large customers, we may enter into written agreements whereby we will act as the exclusive or preferred supplier to the customer, with pricing terms that are either fixed or variable.

### **AVAILABILITY OF SEC FILINGS AND CORPORATE GOVERNANCE DOCUMENTS ON INTERNET WEBSITE**

We maintain an internet website for investors at <http://ir.tyson.com>. On this website, we make available, free of charge, annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and all amendments to any of those reports, as soon as reasonably practicable after we electronically file such reports with, or furnish to, the Securities and Exchange Commission. Also available on the website for investors are the Corporate Governance Principles, Audit Committee charter, Compensation Committee charter, Governance Committee charter, Nominating Committee charter, Code of Conduct and Whistleblower Policy. Our corporate governance documents are available in print, free of charge to any shareholder who requests them.

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### CAUTIONARY STATEMENTS RELEVANT TO FORWARD-LOOKING INFORMATION FOR THE PURPOSE OF “SAFE HARBOR” PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Certain information in this report constitutes forward-looking statements. Such forward-looking statements include, but are not limited to, current views and estimates of our outlook for fiscal 2012, other future economic circumstances, industry conditions in domestic and international markets, our performance and financial results (e.g., debt levels, return on invested capital, value-added product growth, capital expenditures, tax rates, access to foreign markets and dividend policy). These forward-looking statements are subject to a number of factors and uncertainties that could cause our actual results and experiences to differ materially from anticipated results and expectations expressed in such forward-looking statements. We wish to caution readers not to place undue reliance on any forward-looking statements, which speak only as of the date made. We undertake no obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise.

Among the factors that may cause actual results and experiences to differ from anticipated results and expectations expressed in such forward-looking statements are the following: (i) the effect of, or changes in, general economic conditions; (ii) fluctuations in the cost and availability of inputs and raw materials, such as live cattle, live swine, feed grains (including corn and soybean meal) and energy; (iii) market conditions for finished products, including competition from other global and domestic food processors, supply and pricing of competing products and alternative proteins and demand for alternative proteins; (iv) successful rationalization of existing facilities and operating efficiencies of the facilities; (v) risks associated with our commodity purchasing activities; (vi) access to foreign markets together with foreign economic conditions, including currency fluctuations, import/export restrictions and foreign politics; (vii) outbreak of a livestock disease (such as avian influenza (AI) or bovine spongiform encephalopathy (BSE)), which could have an adverse effect on livestock we own, the availability of livestock we purchase, consumer perception of certain protein products or our ability to access certain domestic and foreign markets; (viii) changes in availability and relative costs of labor and contract growers and our ability to maintain good relationships with employees, labor unions, contract growers and independent producers providing us livestock; (ix) issues related to food safety, including costs resulting from product recalls, regulatory compliance and any related claims or litigation; (x) changes in consumer preference and diets and our ability to identify and react to consumer trends; (xi) significant marketing plan changes by large customers or loss of one or more large customers; (xii) adverse results from litigation; (xiii) risks associated with leverage, including cost increases due to rising interest rates or changes in debt ratings or outlook; (xiv) compliance with and changes to regulations and laws (both domestic and foreign), including changes in accounting standards, tax laws, environmental laws, agricultural laws and occupational, health and safety laws; (xv) our ability to make effective acquisitions or joint ventures and successfully integrate newly acquired businesses into existing operations; (xvi) effectiveness of advertising and marketing programs; and (xvii) those factors listed under Item 1A. “Risk Factors.”

#### ITEM 1A. RISK FACTORS

These risks, which should be considered carefully with the information provided elsewhere in this report, could materially adversely affect our business, financial condition or results of operations. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or results of operations.

#### **Fluctuations in commodity prices and in the availability of raw materials, especially feed grains, live cattle, live swine and other inputs could negatively impact our earnings.**

Our results of operations and financial condition are dependent upon the cost and supply of raw materials such as feed grains, live cattle, live swine, energy and ingredients, as well as the selling prices for our products, many of which are determined by constantly changing market forces of supply and demand over which we have limited or no control. Corn, soybean meal and other feed ingredients are major production costs for vertically-integrated poultry processors such as us, representing roughly 69% of our cost of growing a live chicken in fiscal 2011. As a result, fluctuations in prices for these feed ingredients, which include competing demand for corn and soybean meal for use in the manufacture of renewable energy, can adversely affect our earnings. Production of feed ingredients is affected by, among other things, weather patterns throughout the world, the global level of supply inventories and demand for grains and other feed ingredients, as well as agricultural and energy policies of domestic and foreign governments.

We have cattle under contract at feed yards owned by third parties; however, most of the cattle we process are purchased from independent producers. We have cattle buyers located throughout cattle producing areas who visit feed yards and buy live cattle on the open spot market. We also enter into various risk-sharing and procurement arrangements with producers who help secure a supply of livestock for daily start-up operations at our facilities. The majority of our live swine supply is obtained through procurement arrangements with independent producers. We also employ buyers who purchase hogs on a daily basis, generally a few days before the animals are required for processing. In addition, we raise live swine and sell feeder pigs to independent producers for feeding to processing weight and have contract growers feed a minimal amount of company-owned live swine for our own processing needs. Any decrease in the supply of cattle or swine on the spot market could increase the price of these raw materials and further increase per head cost of production due to lower capacity utilization, which could adversely affect our financial results.

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### **Market supply and demand and the prices we receive for our products may fluctuate due to competition from other food producers and processors.**

We face competition from other food producers and processors. Some of the factors on which we compete and which may drive demand for our products include:

- price;
- product safety and quality;
- brand identification;
- breadth and depth of product offerings;
- availability of our products and competing products;
- customer service; and
- credit terms.

Demand for our products also is affected by competitors' promotional spending, the effectiveness of our advertising and marketing programs, and the availability or price of competing proteins.

We attempt to obtain prices for our products that reflect, in part, the price we must pay for the raw materials that go into our products. If we are not able to obtain higher prices for our products when the price we pay for raw materials increases, we may be unable to maintain positive margins.

### **Outbreaks of livestock diseases can adversely impact our ability to conduct our operations and demand for our products.**

Demand for our products can be adversely impacted by outbreaks of livestock diseases, which can have a significant impact on our financial results. Efforts are taken to control disease risks by adherence to good production practices and extensive precautionary measures designed to ensure the health of livestock. However, outbreaks of disease and other events, which may be beyond our control, either in our own livestock or cattle and hogs owned by independent producers who sell livestock to us, could significantly affect demand for our products, consumer perceptions of certain protein products, the availability of livestock for purchase by us and our ability to conduct our operations. Moreover, the outbreak of livestock diseases, particularly in our Chicken segment, could have a significant effect on the livestock we own by requiring us to, among other things, destroy any affected livestock. Furthermore, an outbreak of disease could result in governmental restrictions on the import and export of our products to or from our suppliers, facilities or customers. This could also result in negative publicity that may have an adverse effect on our ability to market our products successfully and on our financial results.

### **We are subject to risks associated with our international operations, which could negatively affect our sales to customers in foreign countries, as well as our operations and assets in such countries.**

In fiscal 2011, we sold products to more than 130 countries. Major sales markets include Canada, Central America, China, the European Union, Japan, Mexico, the Middle East, Russia, South Korea, Taiwan and Vietnam. Our sales to customers in foreign countries for fiscal 2011 totaled \$5.5 billion, of which \$4.1 billion related to export sales from the United States. In addition, we had approximately \$539 million of long-lived assets located in foreign countries, primarily Brazil, China, Mexico and India, at the end of fiscal 2011.

As a result, we are subject to various risks and uncertainties relating to international sales and operations, including:

- imposition of tariffs, quotas, trade barriers and other trade protection measures imposed by foreign countries regarding the importation of poultry, beef and pork products, in addition to import or export licensing requirements imposed by various foreign countries;
- closing of borders by foreign countries to the import of poultry, beef and pork products due to animal disease or other perceived health or safety issues;
- impact of currency exchange rate fluctuations between the U.S. dollar and foreign currencies, particularly the Brazilian real, the British pound sterling, the Canadian dollar, the Chinese renminbi, the European euro, and the Mexican peso;
- political and economic conditions;
- difficulties and costs associated in complying with, and enforcement of remedies under, a wide variety of complex domestic and international laws, treaties and regulations, including, without limitation, the United States' Foreign Corrupt Practices Act and economic and trade sanctions enforced by the United States Department of the Treasury's Office of Foreign Assets Control;
- different regulatory structures and unexpected changes in regulatory environments;
- tax rates that may exceed those in the United States and earnings that may be subject to withholding requirements and incremental taxes upon repatriation;
- potentially negative consequences from changes in tax laws; and
- distribution costs, disruptions in shipping or reduced availability of freight transportation.

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Negative consequences relating to these risks and uncertainties could jeopardize or limit our ability to transact business in one or more of those markets where we operate or in other developing markets and could adversely affect our financial results.

### **We depend on the availability of, and good relations with, our employees.**

We have approximately 115,000 employees, approximately 36,000 of whom are covered by collective bargaining agreements or are members of labor unions. Our operations depend on the availability and relative costs of labor and maintaining good relations with employees and the labor unions. If we fail to maintain good relations with our employees or with the labor unions, we may experience labor strikes or work stoppages, which could adversely affect our financial results.

### **We depend on contract growers and independent producers to supply us with livestock.**

We contract primarily with independent contract growers to raise the live chickens processed in our poultry operations. A majority of our cattle and hogs are purchased from independent producers who sell livestock to us under marketing contracts or on the open market. If we do not attract and maintain contracts with growers or maintain marketing and purchasing relationships with independent producers, our production operations could be negatively affected.

### **If our products become contaminated, we may be subject to product liability claims and product recalls.**

Our products may be subject to contamination by disease-producing organisms or pathogens, such as *Listeria monocytogenes*, *Salmonella* and *E. coli*. These organisms and pathogens are found generally in the environment; therefore, there is a risk that one or more, as a result of food processing, could be present in our products. These organisms and pathogens also can be introduced to our products as a result of improper handling at the further processing, foodservice or consumer level. These risks may be controlled, but may not be eliminated, by adherence to good manufacturing practices and finished product testing. We have little, if any, control over handling procedures once our products have been shipped for distribution. Even an inadvertent shipment of contaminated products may be a violation of law and may lead to increased risk of exposure to product liability claims, product recalls (which may not entirely mitigate the risk of product liability claims), increased scrutiny and penalties, including injunctive relief and plant closings, by federal and state regulatory agencies, and adverse publicity, which could exacerbate the associated negative consumer reaction. Any of these occurrences may have an adverse effect on our financial results.

### **Our operations are subject to general risks of litigation.**

We are involved on an on-going basis in litigation arising in the ordinary course of business or otherwise. Trends in litigation may include class actions involving consumers, shareholders, employees or injured persons, and claims relating to commercial, labor, employment, antitrust, securities or environmental matters. Litigation trends and the outcome of litigation cannot be predicted with certainty and adverse litigation trends and outcomes could adversely affect our financial results.

### **Our level of indebtedness and the terms of our indebtedness could negatively impact our business and liquidity position.**

Our indebtedness, including borrowings under our revolving credit facility, may increase from time to time for various reasons, including fluctuations in operating results, working capital needs, capital expenditures and possible acquisitions, joint ventures or other significant initiatives. Our consolidated indebtedness level could adversely affect our business because:

- it may limit or impair our ability to obtain financing in the future;
- our credit rating could restrict or impede our ability to access capital markets at desired interest rates and increase our borrowing costs;
- it may reduce our flexibility to respond to changing business and economic conditions or to take advantage of business opportunities that may arise;
- a portion of our cash flow from operations must be dedicated to interest payments on our indebtedness and is not available for other purposes; and
- it may restrict our ability to pay dividends.

Our revolving credit facility contains affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens and encumbrances; incur debt; merge, dissolve, liquidate or consolidate; make acquisitions and investments; dispose of or transfer assets; pay dividends or make other payments in respect of our capital stock; amend material documents; change the nature of our business; make certain payments of debt; engage in certain transactions with affiliates; and enter into sale/leaseback or hedging transactions, in each case, subject to certain qualifications and exceptions. In addition, we are required to maintain minimum interest expense coverage and maximum leverage ratios.

Our 10.50% Senior notes due March 2014 also contain affirmative and negative covenants that, among other things, may limit or restrict our ability to: incur additional debt and issue preferred stock; make certain investments and restricted payments; create liens; create restrictions on distributions from subsidiaries; engage in specified sales of assets and subsidiary stock; enter into transactions with affiliates; enter new lines of business; engage in consolidation, mergers and acquisitions; and engage in certain sale/leaseback transactions.

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### **An impairment in the carrying value of goodwill could negatively impact our consolidated results of operations and net worth.**

Goodwill is initially recorded at fair value and is not amortized, but is reviewed for impairment at least annually or more frequently if impairment indicators are present. In assessing the carrying value of goodwill, we make estimates and assumptions about sales, operating margins, growth rates and discount rates based on budgets, business plans, economic projections, anticipated future cash flows and marketplace data. There are inherent uncertainties related to these factors and management's judgment in applying these factors. Goodwill valuations have been calculated using an income approach based on the present value of future cash flows of each reporting unit and are believed to reflect market participant views which would exist in an exit transaction. Under the income approach, we are required to make various judgmental assumptions about appropriate discount rates. Disruptions in global credit and other financial markets and deterioration of economic conditions, could, among other things, cause us to increase the discount rate used in the goodwill valuations. We could be required to evaluate the recoverability of goodwill prior to the annual assessment if we experience disruptions to the business, unexpected significant declines in operating results, divestiture of a significant component of our business or sustained market capitalization declines. These types of events and the resulting analyses could result in goodwill impairment charges in the future, which could be substantial. As of October 1, 2011, we had \$1.9 billion of goodwill, which represented approximately 17.1% of total assets.

### **Domestic and international government regulations could impose material costs.**

Our operations are subject to extensive federal, state and foreign laws and regulations by authorities that oversee food safety standards and processing, packaging, storage, distribution, advertising, labeling and export of our products. Our facilities for processing chicken, beef, pork, prepared foods and milling feed and for housing live chickens and swine are subject to a variety of international, federal, state and local laws relating to the protection of the environment, including provisions relating to the discharge of materials into the environment, and to the health and safety of our employees. Our chicken, beef and pork processing facilities are participants in the HACCP program and are subject to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. In addition, our products are subject to inspection prior to distribution, primarily by the USDA and the FDA. Also, our livestock procurement and poultry growout activities are regulated by the Grain Inspection, Packers and Stockyards Administration, which is part of USDA's Marketing and Regulatory Programs. Loss of or failure to obtain necessary permits and registrations could delay or prevent us from meeting current product demand, introducing new products, building new facilities or acquiring new businesses and could adversely affect operating results. Additionally, we are routinely subject to new or modified laws, regulations and accounting standards. If we are found to be out of compliance with applicable laws and regulations in these or other areas, we could be subject to civil remedies, including fines, injunctions, recalls or asset seizures, as well as potential criminal sanctions, any of which could have an adverse effect on our financial results.

### **A material acquisition, joint venture or other significant initiative could affect our operations and financial condition.**

We periodically evaluate potential acquisitions, joint ventures and other initiatives (collectively, "transactions"), and we may seek to expand our business through the acquisition of companies, processing plants, technologies, products and services, which could include material transactions. A material transaction may involve a number of risks, including:

- failure to realize the anticipated benefits of the transaction;
- difficulty integrating acquired businesses, technologies, operations and personnel with our existing business;
- diversion of management attention in connection with negotiating transactions and integrating the businesses acquired;
- exposure to unforeseen or undisclosed liabilities of acquired companies; and
- the need to obtain additional debt or equity financing for any transaction.

We may not be able to address these risks and successfully develop these acquired companies or businesses into profitable units. If we are unable to do this, such expansion could adversely affect our financial results.

### **Market fluctuations could negatively impact our operating results as we hedge certain transactions.**

Our business is exposed to fluctuating market conditions. We use derivative financial instruments to reduce our exposure to various market risks including changes in commodity prices, interest rates and foreign exchange rates. We hold certain positions, primarily in grain and livestock futures, that do not qualify as hedges for financial reporting purposes. These positions are marked to fair value, and the unrealized gains and losses are reported in earnings at each reporting date. Therefore, losses on these contracts will adversely affect our reported operating results. While these contracts reduce our exposure to changes in prices for commodity products, the use of such instruments may ultimately limit our ability to benefit from favorable commodity prices.

### **Deterioration of economic conditions could negatively impact our business.**

Our business may be adversely affected by changes in economic conditions, including inflation, interest rates, access to capital markets, consumer spending rates, energy availability and costs (including fuel surcharges) and the effects of governmental initiatives to manage economic conditions. Any such changes could adversely affect the demand for our products, or the cost and availability of our needed raw materials, cooking ingredients and packaging materials, thereby negatively affecting our financial results.

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Disruptions in global credit and other financial markets and deterioration of economic conditions, could, among other things:

- make it more difficult or costly for us to obtain financing for our operations or investments or to refinance our debt in the future;
- cause our lenders to depart from prior credit industry practice and make more difficult or expensive the granting of any amendment of, or waivers under, our credit agreement to the extent we may seek them in the future;
- impair the financial condition of some of our customers and suppliers thereby increasing customer bad debts or non-performance by suppliers;
- negatively impact global demand for protein products, which could result in a reduction of sales, operating income and cash flows;
- decrease the value of our investments in equity and debt securities, including our marketable debt securities, company-owned life insurance and pension and other postretirement plan assets;
- negatively impact our commodity purchasing activities if we are required to record losses related to derivative financial instruments; or
- impair the financial viability of our insurers.

### **Changes in consumer preference could negatively impact our business.**

The food industry in general is subject to changing consumer trends, demands and preferences. Trends within the food industry change often, and failure to identify and react to changes in these trends could lead to, among other things, reduced demand and price reductions for our products, and could have an adverse effect on our financial results.

### **The loss of one or more of our largest customers could negatively impact our business.**

Our business could suffer significant setbacks in sales and operating income if our customers' plans and/or markets change significantly or if we lost one or more of our largest customers, including, for example, Wal-Mart Stores, Inc., which accounted for 13.3% of our sales in fiscal 2011. Many of our agreements with our customers are short-term, primarily due to the nature of our products, industry practice and the fluctuation in demand and price for our products.

### **The consolidation of customers could negatively impact our business.**

Our customers, such as supermarkets, warehouse clubs and food distributors, have consolidated in recent years, and consolidation is expected to continue throughout the United States and in other major markets. These consolidations have produced large, sophisticated customers with increased buying power who are more capable of operating with reduced inventories, opposing price increases, and demanding lower pricing, increased promotional programs and specifically tailored products. These customers also may use shelf space currently used for our products for their own private label products. Because of these trends, our volume growth could slow or we may need to lower prices or increase promotional spending for our products, any of which would adversely affect our financial results.

### **Extreme factors or forces beyond our control could negatively impact our business.**

Natural disasters, fire, bioterrorism, pandemic or extreme weather, including droughts, floods, excessive cold or heat, hurricanes or other storms, could impair the health or growth of livestock or interfere with our operations due to power outages, fuel shortages, damage to our production and processing facilities or disruption of transportation channels, among other things. Any of these factors, as well as disruptions in our information systems, could have an adverse effect on our financial results.

### **Our renewable energy ventures and other initiatives might not be successful.**

We have been exploring ways to convert animal fats and other by-products from our operations into value-added products. For example, in fiscal 2007, we announced the formation of Dynamic Fuels, a joint venture with Syntroleum Corporation. We will continue to explore other ways to commercialize opportunities outside our core business, such as renewable energy and other technologically-advanced platforms. These initiatives might not be as financially successful as we initially announced or might expect due to factors that include, but are not limited to, possible discontinuance of tax credits, competing energy prices, failure to operate at the volumes anticipated, abilities of our joint venture partners and our limited experience in some of these new areas.

### **Tyson Limited Partnership can exercise significant control.**

As of October 1, 2011, Tyson Limited Partnership (the TLP) owns 99.97% of the outstanding shares of Class B Common Stock, \$0.10 par value (Class B stock) and the TLP and members of the Tyson family own, in the aggregate, 2.45% of the outstanding shares of Class A Common Stock, \$0.10 par value (Class A stock), giving them, collectively, control of approximately 70.74% of the total voting power of the outstanding voting stock. At this time, the TLP does not have a managing general partner, and, as such, the management rights of the managing general partner may be exercised by a majority of the percentage interests of the general partners. As of October 1, 2011, Mr. John Tyson, Chairman of the Board of Directors, has 33.33% of the general partner percentage interests, and Ms. Barbara Tyson, a director of the Company, has 11.115% general partner percentage interests (the remaining general partnership interests are held by the Tyson Partnership Interest Trust (44.44%) and Harry C. Erwin, III (11.115%)). As a result of these holdings, positions and directorships, the partners in the TLP have the ability to exert substantial influence or actual control over our management and affairs and over substantially all matters requiring action by our stockholders, including amendments to our restated

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certificate of incorporation and by-laws, the election and removal of directors, any proposed merger, consolidation or sale of all or substantially all of our assets and other corporate transactions. This concentration of ownership may also delay or prevent a change in control otherwise favored by our other stockholders and could depress our stock price. Additionally, as a result of the Tyson family's significant ownership of our outstanding voting stock, we rely on the "controlled company" exemption from certain corporate governance requirements of the New York Stock Exchange.

### ITEM 1B. UNRESOLVED STAFF COMMENTS

None

### ITEM 2. PROPERTIES

We have production and distribution operations in the following states: Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington and Wisconsin. We also have sales offices throughout the United States. Additionally, we, either directly or through our subsidiaries, have sales offices, facilities or participate in joint venture operations in Argentina, Brazil, China, the Dominican Republic, Hong Kong, India, Ireland, Japan, Mexico, the Netherlands, Peru, the Philippines, Russia, South Korea, Spain, Sri Lanka, Taiwan, Thailand, the United Arab Emirates, the United Kingdom and Venezuela.

	Number of Facilities		
	Owned	Leased	Total
Chicken Segment:			
Processing plants	60	1	61
Rendering plants	15	-	15
Blending mills	2	-	2
Feed mills	41	2	43
Broiler hatcheries	62	10	72
Breeder houses	508	783	1,291
Broiler farm houses	809	926	1,735
Beef Segment Production Facilities	12	-	12
Pork Segment Production Facilities	9	-	9
Prepared Foods Segment Processing Plants	22	1	23
Distribution Centers	11	5	16
Cold Storage Facilities	65	12	77

	Capacity(1) per week at October 1, 2011	Fiscal 2011 Average Capacity Utilization
Chicken Processing Plants	46 million head	92%
Beef Production Facilities	175,000 head	81%
Pork Production Facilities	448,000 head	89%
Prepared Foods Processing Plants	45 million pounds	85%

(1) Capacity based on a five day week for Chicken and Prepared Foods, while Beef and Pork are based on a six day week.

**Chicken:** Chicken processing plants include various phases of slaughtering, dressing, cutting, packaging, deboning and further-processing. We also have 17 pet food operations, which are part of the Chicken processing plants. The blending mills, feed mills and broiler hatcheries have sufficient capacity to meet the needs of the chicken growout operations.

**Beef:** Beef plants include various phases of slaughtering live cattle and fabricating beef products. Some also treat and tan hides. The Beef segment includes three case-ready operations that share facilities with the Pork segment. One of the beef facilities contains a tallow refinery. Carcass facilities reduce live cattle to dressed carcass form. Processing facilities conduct fabricating operations to produce boxed beef and allied products.

**Pork:** Pork plants include various phases of slaughtering live hogs and fabricating pork products and allied products. The Pork segment includes three case-ready operations that share facilities with the Beef segment.

**Prepared Foods:** Prepared Foods plants process fresh and frozen chicken, beef, pork and other raw materials into pizza toppings, branded and processed meats, appetizers, prepared meals, ethnic foods, soups, sauces, side dishes, pizza crusts, flour and corn tortilla products and meat dishes.

Our Dynamic Fuels joint venture produces renewable synthetic fuels targeting the renewable diesel and jet fuel markets. Construction of production facilities was completed in late fiscal 2010, and initial production began in October 2010. Dynamic Fuels operates one plant with designed annual capacity of 75 million gallons.

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We believe our present facilities are generally adequate and suitable for our current purposes; however, seasonal fluctuations in inventories and production may occur as a reaction to market demands for certain products. We regularly engage in construction and other capital improvement projects intended to expand capacity and improve the efficiency of our processing and support facilities. We also consider the efficiencies of our operations and may from time to time consider changing the number or type of plants we operate to align with our capacity needs.

### ITEM 3. LEGAL PROCEEDINGS

Refer to the description of certain legal proceedings pending against us under Part II, Item 8, Notes to Consolidated Financial Statements, Note 19: Commitments and Contingencies, which discussion is incorporated herein by reference. Listed below are certain additional legal proceedings involving the Company and/or its subsidiaries.

On October 23, 2001, a putative class action lawsuit styled R. Lynn Thompson, et al. vs. Tyson Foods, Inc. was filed in the District Court for Mayes County, Oklahoma by three property owners on behalf of all owners of lakefront property on Grand Lake O' the Cherokees. Simmons Foods, Inc. and Peterson Farms, Inc. also are defendants. The plaintiffs allege the defendants' operations diminished the water quality in the lake thereby interfering with the plaintiffs' use and enjoyment of their properties. The plaintiffs sought injunctive relief and an unspecified amount of compensatory damages, punitive damages, attorneys' fees and costs. While the District Court certified a class, on October 4, 2005, the Court of Civil Appeals of the State of Oklahoma reversed, holding the plaintiffs' claims were not suitable for disposition as a class action. This decision was upheld by the Oklahoma Supreme Court and the case was remanded to the District Court with instructions that the matter proceed only on behalf of the three named plaintiffs. Plaintiffs seek injunctive relief, restitution and compensatory and punitive damages in an unspecified amount in excess of \$10,000. We and the other defendants have denied liability and asserted various defenses. The defendants have requested a trial date, but the court has not yet scheduled the matter for trial.

Since 2003, nine lawsuits have been brought against us and several other poultry companies by approximately 150 plaintiffs in Washington County, Arkansas Circuit Court (Green v. Tyson Foods, Inc., et al., Bible v. Tyson Foods, Inc., Beal v. Tyson Foods, Inc., et al., McWhorter v. Tyson Foods, Inc., et al., McConnell v. Tyson Foods, Inc., et al., Carroll v. Tyson Foods, Inc., et al., Belew v. Tyson Foods, Inc., et al., Gonzalez v. Tyson Foods, Inc., et al., and Rasco v. Tyson Foods, Inc., et al.) alleging that the land application of poultry litter caused arsenic and pathogenic mold and fungi contamination of the air, soil and water in and around Prairie Grove, Arkansas and seeking recovery for several types of personal injuries, including several forms of cancer. On August 2, 2006, the Court granted summary judgment in favor of Tyson and the other poultry company defendants in the first case to go to trial, which the plaintiffs appealed, and the trial court stayed the remaining eight lawsuits pending the appeal. On May 8, 2008, the Arkansas Supreme Court reversed the summary judgment and remanded for a new trial. The remanded trial was held and the jury returned a verdict in our favor. The plaintiffs appealed this verdict to the Arkansas Supreme Court, which affirmed the verdict and denied the plaintiffs' petition for rehearing. The trial court has scheduled the second trial for October 22, 2012.

In 2010 our Mexican subsidiary, Tyson de Mexico (TdM), provided the National Water Commission (CONAGUA), an agency of the Mexican government's Ministry of the Environment and Natural Resources, with information on TdM's water usage for 2008 and 2009 at certain water wells that are part of TdM's poultry production operations. In February 2011, the regional CONAGUA office informed TdM that it was the regional CONAGUA office's opinion that TdM's permits for water usage from certain wells lapsed between the period of January 1, 2009 through May 5, 2009, and it estimated TdM owed approximately 6.5 million pesos (approximately \$560,000) for water usage during this period. TdM has had ongoing discussions with the regional CONAGUA office on this matter and is awaiting the regional office's final determination.

In late 2010, the United States Environmental Protection Agency (EPA) Region 7 began a Clean Air Act investigation of the company related to operation and maintenance of ammonia refrigeration equipment at multiple facilities. The EPA subsequently referred the matter, which involves allegations of potential non-compliance with the Clean Air Act's Risk Management Plan requirements at 15 Tyson facilities in Kansas, Missouri, Iowa and Nebraska, to the United States Department of Justice (DOJ). The EPA and DOJ have indicated they will seek monetary penalties (but the EPA and DOJ have not yet indicated an amount) and injunctive relief requiring equipment and infrastructure changes at several facilities.

**Other Matters:** We currently have approximately 115,000 employees and, at any time, have various employment practices matters outstanding. In the aggregate, these matters are significant to the Company, and we devote significant resources to managing employment issues. Additionally, we are subject to other lawsuits, investigations and claims (some of which involve substantial amounts) arising out of the conduct of our business. While the ultimate results of these matters cannot be determined, they are not expected to have a material adverse effect on our consolidated results of operations or financial position.

### ITEM 4. REMOVED AND RESERVED

Not applicable.

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### EXECUTIVE OFFICERS OF THE COMPANY

Our officers serve one year terms from the date of their election, or until their successors are appointed and qualified. No family relationships exist among these officers. The name, title, age and year of initial election to executive office of our executive officers are listed below:

Name	Title	Age	Year Elected Executive Officer
Craig J. Hart	Senior Vice President, Controller and Chief Accounting Officer	55	2004
Kenneth J. Kimbro	Senior Vice President, Chief Human Resources Officer	58	2009
Donnie King	Senior Group Vice President, Poultry and Prepared Foods	49	2009
Dennis Leatherby	Executive Vice President and Chief Financial Officer	51	1994
James V. Lochner	Chief Operating Officer	59	2005
Donnie Smith	President and Chief Executive Officer	52	2008
John Tyson	Chairman of the Board of Directors	58	2011(1)
David L. Van Bebber	Executive Vice President and General Counsel	55	2008
Noel White	Senior Group Vice President, Fresh Meats	53	2009

(1) Mr. Tyson was first elected an executive officer in 1989. In 2007, the Company's Board determined that the Chairman of the Board would no longer be considered an executive officer. On November 17, 2011, as part of its annual determination of executive officers, the Board designated Mr. Tyson in his capacity as Chairman of the Board as an executive officer.

Craig J. Hart was appointed Senior Vice President, Controller and Chief Accounting Officer in 2004. Mr. Hart was initially employed by IBP, inc. in 1978.

Kenneth J. Kimbro was appointed Senior Vice President, Chief Human Resources Officer in 2007, after serving as Senior Vice President, Human Resources since 2001. Mr. Kimbro was initially employed by IBP, inc. in 1995.

Donnie King was appointed Senior Group Vice President, Poultry and Prepared Foods in December 2009, after serving as Group Vice President, Refrigerated and Deli since 2008, Group Vice President, Operations since 2007, Senior Vice President, Consumer Products Operations since 2006 and Senior Vice President, Poultry Operations since 2003. Mr. King was initially employed by Valmac Industries, Inc. in 1982. Valmac Industries, Inc. was acquired by the Company in 1984.

Dennis Leatherby was appointed Executive Vice President and Chief Financial Officer in 2008 after serving as Senior Vice President, Finance and Treasurer since 1998. He also served as Interim Chief Financial Officer from 2004 to 2006. Mr. Leatherby was initially employed by the Company in 1990.

James V. Lochner was appointed Chief Operating Officer in November 2009, after serving as Senior Group Vice President, Fresh Meats since 2007, Senior Group Vice President, Fresh Meats and Margin Optimization since 2006 and Senior Group Vice President, Margin Optimization, Purchasing and Logistics since 2005. Mr. Lochner was initially employed by IBP, inc. in 1983.

Donnie Smith was appointed President and Chief Executive Officer in November 2009, after serving as Senior Group Vice President, Poultry and Prepared Foods since January 2009, Group Vice President of Consumer Products since 2008, Group Vice President of Logistics and Operations Services since 2007, Group Vice President Information Systems, Purchasing and Distribution since 2006 and Senior Vice President and Chief Information Officer since 2005. Mr. Smith was initially employed by the Company in 1980.

John Tyson has served as Chairman of the Board of Directors since 1998 and was previously Chief Executive Officer of the Company from 2001 until 2006.

David L. Van Bebber was appointed Executive Vice President and General Counsel in 2008, after serving as Senior Vice President and Deputy General Counsel since 2004. Mr. Van Bebber was initially employed by Lane Processing in 1982. Lane Processing was acquired by the Company in 1986.

Noel White was appointed Senior Group Vice President, Fresh Meats in December 2009, after serving as Senior Vice President, Pork Margin Management since 2007 and Group Vice President, Fresh Meats Operations/Commodity Sales since 2005. Mr. White was initially employed by IBP, inc. in 1983.

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### PART II

#### ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

We have issued and outstanding two classes of capital stock, Class A stock and Class B stock. Holders of Class B stock may convert such stock into Class A stock on a share-for-share basis. Holders of Class B stock are entitled to 10 votes per share while holders of Class A stock are entitled to one vote per share on matters submitted to shareholders for approval. As of October 29, 2011, there were approximately 29,000 holders of record of our Class A stock and 9 holders of record of our Class B stock, excluding holders in the security position listings held by nominees.

#### DIVIDENDS

Cash dividends cannot be paid to holders of Class B stock unless they are simultaneously paid to holders of Class A stock. The per share amount of the cash dividend paid to holders of Class B stock cannot exceed 90% of the cash dividend simultaneously paid to holders of Class A stock. We have paid uninterrupted quarterly dividends on common stock each year since 1977 and expect to continue our cash dividend policy during fiscal 2012. In both fiscal 2011 and 2010, the annual dividend rate for Class A stock was \$0.16 per share and the annual dividend rate for Class B stock was \$0.144 per share.

#### MARKET INFORMATION

Our Class A stock is traded on the New York Stock Exchange under the symbol "TSN." No public trading market currently exists for our Class B stock. The high and low closing sales prices of our Class A stock for each quarter of fiscal 2011 and 2010 are represented in the table below.

	Fiscal 2011		Fiscal 2010	
	High	Low	High	Low
First Quarter	\$17.74	\$14.84	\$13.19	\$12.02
Second Quarter	19.82	16.25	19.50	12.24
Third Quarter	19.92	17.12	20.40	16.25
Fourth Quarter	19.24	15.68	18.06	15.22

#### ISSUER PURCHASES OF EQUITY SECURITIES

The table below provides information regarding our purchases of Class A stock during the periods indicated.

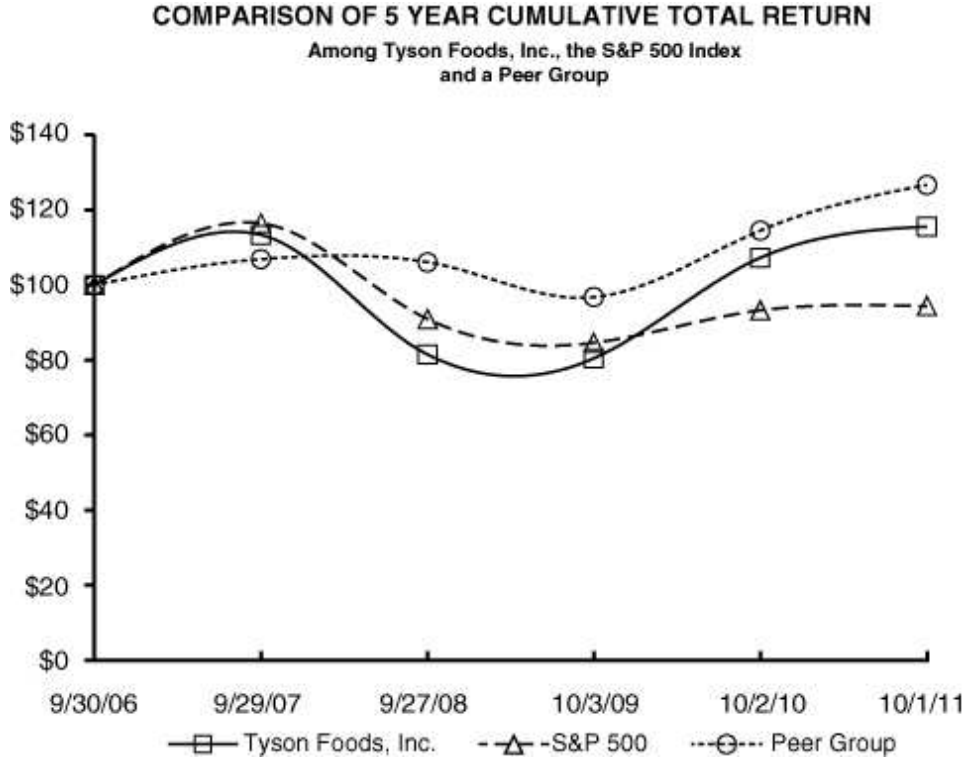
Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs (1)
July 3 to July 30, 2011	191,102	\$ 18.98	-	18,071,095
July 31 to Sept. 3, 2011	2,919,607	16.97	2,807,479	15,263,616
Sept. 4 to Oct. 1, 2011	2,524,152	17.16	2,469,800	12,793,816
Total	(2) 5,634,861	\$ 17.12	(3) 5,277,279	12,793,816

- (1) On February 7, 2003, we announced our Board of Directors approved a plan to repurchase up to 25 million shares of Class A common stock from time to time in open market or privately negotiated transactions. The plan has no fixed or scheduled termination date. On May 11, 2011, the Board of Directors reactivated the program, effective immediately, to repurchase up to the remaining 22.5 million shares of the Company's Class A common stock.
- (2) We purchased 357,582 shares during the period that were not made pursuant to our previously announced stock repurchase plan, but were purchased to fund certain Company obligations under our equity compensation plans. These transactions included 325,835 shares purchased in open market transactions and 31,747 shares withheld to cover required tax withholdings on the vesting of restricted stock.
- (3) We purchased 5,277,279 shares during the period pursuant to our previously announced stock repurchase plan of approximately 25 million shares.

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**PERFORMANCE GRAPH**

The following graph shows a five-year comparison of cumulative total returns for our Class A stock, the Standard & Poor's (S&P) 500 Index and a group of peer companies described below.



	Years Ending					
	Base Period 9/30/06	9/29/07	9/27/08	10/3/09	10/2/10	10/1/11
Tyson Foods, Inc.	100	113.35	81.41	80.40	107.22	115.51
S&P 500 Index	100	116.44	90.85	84.58	93.17	94.24
Peer Group	100	106.89	106.09	96.68	114.50	126.61

The total cumulative return on investment (change in the year-end stock price plus reinvested dividends), which is based on the stock price or composite index at the end of fiscal 2006, is presented for each of the periods for the Company, the S&P 500 Index and a peer group. The peer group includes: Campbell Soup Company, ConAgra Foods, Inc., General Mills, Inc., H.J. Heinz Co., Hershey Foods Corp., Hormel Foods Corp., Kellogg Co., McCormick & Co., Pilgrim's Pride Corporation, Sara Lee Corp. and Smithfield Foods, Inc. The graph compares the performance of the Company with that of the S&P 500 Index and peer group, with the investment weighted on market capitalization.

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### ITEM 6. SELECTED FINANCIAL DATA

#### FIVE-YEAR FINANCIAL SUMMARY

	in millions, except per share and ratio data				
	2011	2010	2009	2008	2007
<b>Summary of Operations</b>					
Sales	\$32,266	\$28,430	\$26,704	\$26,862	\$25,729
Goodwill impairment	-	29	560	-	-
Operating income (loss)	1,285	1,556	(215)	331	613
Net interest expense	231	333	310	206	224
Income (loss) from continuing operations	733	765	(550)	86	268
Loss from discontinued operation	-	-	(1)	-	-
Net income (loss)	733	765	(551)	86	268
Net income (loss) attributable to Tyson	750	780	(547)	86	268
Diluted net income (loss) per share attributable to Tyson:					
Income (loss) from continuing operations	1.97	2.06	(1.47)	0.24	0.75
Loss from discontinued operation	-	-	-	-	-
Net income (loss)	1.97	2.06	(1.47)	0.24	0.75
Dividends per share:					
Class A	0.160	0.160	0.160	0.160	0.160
Class B	0.144	0.144	0.144	0.144	0.144
<b>Balance Sheet Data</b>					
Cash and cash equivalents	\$ 716	\$ 978	\$ 1,004	\$ 250	\$ 42
Total assets	11,071	10,752	10,595	10,850	10,227
Total debt	2,182	2,536	3,477	2,804	2,779
Shareholders' equity	5,685	5,201	4,431	5,099	4,735
<b>Other Key Financial Measures</b>					
Depreciation and amortization	\$ 506	\$ 497	\$ 513	\$ 493	\$ 514
Capital expenditures	643	550	368	425	285
Return on invested capital	18.5%	22.8%	(3.0)%	4.4%	7.7%
Effective tax rate	31.8%	36.4%	(1.5)%	44.6%	34.6%
Total debt to capitalization	27.7%	32.8%	44.0%	35.5%	37.0%
Book value per share	\$ 15.38	\$ 13.78	\$ 11.77	\$ 13.51	\$ 13.32
Closing stock price high	19.92	20.40	13.88	19.44	24.08
Closing stock price low	14.84	12.02	4.40	12.14	14.20

#### Notes to Five-Year Financial Summary

- Fiscal 2011 included an \$11 million non-operating gain related to the sale of interest in an equity method investment and a \$21 million reduction to income tax expense related to a reversal of reserves for foreign uncertain tax positions.
- Fiscal 2010 included \$61 million of interest expense related to losses on notes repurchased/redeemed during fiscal 2010, a \$29 million non-tax deductible charge related to a full goodwill impairment related to an immaterial Chicken segment reporting unit and a \$12 million non-operating charge related to the partial impairment of an equity method investment. Additionally, fiscal 2010 included insurance proceeds received of \$38 million related to Hurricane Katrina.
- Fiscal 2009 was a 53-week year, while the other years presented were 52-week years.
- Fiscal 2009 included a \$560 million non-tax deductible charge related to Beef segment goodwill impairment and a \$15 million pretax charge related to closing a prepared foods plant.
- Fiscal 2008 included \$76 million of pretax charges related to: restructuring a beef operation; closing a poultry plant; asset impairments for packaging equipment, intangible assets, unimproved real property and software; flood damage; and severance charges. Additionally, fiscal 2008 included an \$18 million non-operating gain related to the sale of an investment.
- Fiscal 2007 included tax expense of \$17 million related to a fixed asset tax cost correction, primarily related to a fixed asset system conversion in 1999.
- Return on invested capital is calculated by dividing operating income (loss) by the sum of the average of beginning and ending total debt and shareholders' equity less cash and cash equivalents.
- For the total debt to capitalization calculation, capitalization is defined as total debt plus total shareholders' equity.
- In March 2009, we completed the sale of the beef processing, cattle feed yard and fertilizer assets of three of our Alberta, Canada subsidiaries (collectively, Lakeside). Lakeside was reported as a discontinued operation for all periods presented.

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### ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

#### DESCRIPTION OF THE COMPANY

We are one of the world's largest meat protein companies and the second-largest food production company in the *Fortune* 500 with one of the most recognized brand names in the food industry. We produce, distribute and market chicken, beef, pork, prepared foods and related allied products. Our operations are conducted in four segments: Chicken, Beef, Pork and Prepared Foods. Some of the key factors influencing our business are customer demand for our products; the ability to maintain and grow relationships with customers and introduce new and innovative products to the marketplace; accessibility of international markets; market prices for our products; the cost of live cattle and hogs, raw materials, grain and feed ingredients; and operating efficiencies of our facilities.

#### OVERVIEW

- General – As a result of improved internal performance, strong exports and favorable market conditions in our Beef and Pork segments, our operating results remained strong in fiscal 2011 despite a \$3.7 billion increase in input costs. The following are a few of the key drivers:
  - We continued to focus on maximizing our margins through margin management and operational efficiency improvements. Margin management improvements occurred in the areas of mix, export sales, price optimization and value-added products initiatives. The operational efficiencies occurred in the areas of yields, cost reduction, labor management and logistics cost optimization.
  - Strong demand and exports in the Beef and Pork segments created a favorable pricing environment. While our Chicken segment remained profitable in fiscal 2011, we were challenged by \$675 million in increased grain and other feed ingredients costs, as well as excess industry supplies, which made it difficult to pass along the increased input costs. As a result of balancing our supply with customer demand, we cut production after customer demand fell short of expectations. Recent USDA data indicates decreased egg sets, broiler chick placements and slaughter pounds. However, the impact of these production cuts, and the associated impact on market prices, did not begin to materialize until late fourth quarter and into fiscal 2012.
- With an operating margin of 4.0% in fiscal 2011, we have achieved operating margins of 4.0% or better in consecutive years for the first time since the acquisition of IBP, inc. in 2001. The following is a summary of operating margins by segment:
  - Chicken – 1.5%
  - Beef – 3.5%
  - Pork – 10.3%
  - Prepared Foods – 3.6%
- Debt and Liquidity – During fiscal 2011, we generated \$1.0 billion of operating cash flows. Total debt declined \$350 million in fiscal 2011 to \$2.2 billion, the lowest level since the acquisition of IBP, inc. Additionally, we repurchased, as part of our previously announced share repurchase program, 9.7 million shares of our stock for \$170 million in fiscal 2011. At October 1, 2011, we had \$1.6 billion of liquidity, which includes the availability under our credit facility and \$716 million of cash and cash equivalents.
- Our accounting cycle resulted in a 52-week year for both fiscal 2011 and 2010 and a 53-week year for fiscal 2009.

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	in millions, except per share data		
	2011	2010	2009
Net income (loss) attributable to Tyson	\$ 750	\$ 780	\$ (547)
Net income (loss) attributable to Tyson – per diluted share	1.97	2.06	(1.47)

**2011** – Net income included the following items:

- \$11 million gain related to a sale of interests in an equity method investment; and
- \$21 million reduction to income tax expense related to a reversal of reserves for foreign uncertain tax positions.

**2010** – Net income included the following items:

- \$61 million in charges related to losses on notes repurchased during fiscal 2010;
- \$29 million non-cash, non-tax deductible charge related to a full goodwill impairment in an immaterial Chicken segment reporting unit;
- \$12 million non-cash, non-tax deductible charge related to the impairment of an equity method investment; and
- \$38 million gain from insurance proceeds.

**2009** – Net loss included the following items:

- \$560 million non-cash, non-tax deductible charge related to a goodwill impairment in our Beef segment; and
- \$15 million charge related to the closing of our Ponca City, Oklahoma, processed meats plant.

### FISCAL 2012 OUTLOOK

USDA data indicates overall domestic protein (chicken, beef, pork and turkey) production is expected to decrease in fiscal 2012. Because exports are likely to remain strong, we forecast total domestic availability of protein to be down 2-3% compared to fiscal 2011, which should continue to support improved pricing. The following is a summary of the fiscal 2012 outlook for each of our segments, as well as an outlook on sales, capital expenditures, net interest expense, debt and liquidity and share repurchases:

- **Chicken** – For fiscal 2012, we expect industry production will decrease approximately 4% from fiscal 2011, which should gradually improve market pricing conditions. Current futures prices indicate higher grain costs in fiscal 2012 compared to fiscal 2011. We expect to offset the increased grain costs with operational, pricing and mix improvements. Our Chicken segment is currently profitable and we expect it to strengthen throughout the year.
- **Beef** – We expect to see a gradual reduction in fed cattle supplies of 1-2% in fiscal 2012 as well as exports to remain strong as compared to fiscal 2011. Despite reduced domestic availability, we expect adequate supplies in the regions we operate our plants. Although current weak industry fundamentals are challenging our Beef business, we expect it to be profitable in the first quarter. We anticipate the fundamentals will strengthen throughout the year and our Beef segment will be in our normalized range for fiscal 2012.
- **Pork** – We expect hog supplies in fiscal 2012 to be comparable to fiscal 2011 and to be adequate in the regions in which we operate. Additionally, we expect pork exports to remain strong in fiscal 2012. Based on these factors, we expect strong fundamentals in our Pork business to continue in fiscal 2012.
- **Prepared Foods** – We expect operational improvements and increased pricing to offset an anticipated increase in raw material costs. Because many of our sales contracts are formula based or shorter-term in nature, we are typically able to offset rising input costs through increased pricing. However, there is a lag time for price increases to take effect. We expect improved Prepared Foods profitability for fiscal 2012 primarily due to improvements in our lunchmeats business.
- **Sales** – We expect 2012 sales to exceed \$34 billion mostly resulting from price increases related to decreases in domestic availability of protein and rising raw material costs.
- **Capital Expenditures** – Our preliminary capital expenditures plan for fiscal 2012 is approximately \$800-\$850 million. We will continue to make significant investments in our production facilities for high return operational efficiencies, other profit improvement projects and development of our foreign operations.
- **Net Interest Expense** – We expect fiscal 2012 net interest expense will be approximately \$185 million, down \$46 million compared to fiscal 2011.
- **Debt and Liquidity** – We do not have any significant maturities of debt coming due over the next two fiscal years and will continue to use our available cash to repurchase notes when available at attractive rates. We plan to maintain total liquidity in excess of \$1.2 billion.
- **Share Repurchases** – We expect to continue repurchasing shares under our previously announced share repurchase plan. In fiscal 2011, we repurchased 9.7 million shares for approximately \$170 million. As of October 1, 2011, 12.8 million shares remain authorized for repurchases. The timing and extent to which we repurchase shares will depend upon, among other things, market conditions, liquidity targets, our debt obligations and regulatory requirements.

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### SUMMARY OF RESULTS – CONTINUING OPERATIONS

Sales	in millions		
	2011	2010	2009
Sales	\$32,266	\$28,430	\$26,704
Change in sales volume	1.7%	(0.6)%	
Change in average sales price	11.8%	7.1%	
Sales growth	13.5%	6.5%	

#### 2011 vs. 2010 –

- Average Sales Price – The increase in sales was largely due to an increase in average sales prices, which accounted for an increase of approximately \$3.4 billion. While all segments had an increase in average sales prices mostly due to price increases associated with rising raw material costs, the majority of the increase was driven by the Beef and Pork segments.
- Sales Volume – Sales were positively impacted by an increase in sales volume, which accounted for an increase of \$484 million. This was primarily due to increases in the Chicken and Pork segments, partially offset by decreases in the Beef and Prepared Foods segments.

#### 2010 vs. 2009 –

- Average Sales Price – The increase in sales was largely due to an increase in average sales prices, which accounted for an increase of approximately \$1.9 billion. While all segments had an increase in average sales prices, the majority of the increase was driven by the Beef and Pork segments.
- Sales Volume – Sales were negatively impacted by a decrease in sales volume, which accounted for a decrease of \$150 million. This was primarily due to an extra week in fiscal 2009 and the decrease in Pork segment sales volume, partially offset by an increase from a fiscal 2009 acquisition in the Chicken segment.

Cost of Sales	in millions		
	2011	2010	2009
Cost of sales	\$30,067	\$25,916	\$25,501
Gross profit	\$ 2,199	\$ 2,514	\$ 1,203
Cost of sales as a percentage of sales	93.2%	91.2%	95.5%

#### 2011 vs. 2010 –

- Cost of sales increased by approximately \$4.1 billion. Higher input cost per pound increased cost of sales by approximately \$3.7 billion, while higher sales volume increased cost of sales \$445 million.
  - The \$3.7 billion impact of higher input costs per pound was primarily driven by:
    - Increase in average live cattle and hog costs of approximately \$2.4 billion.
    - Increase in grain and feed ingredients of \$675 million and increase in other growout operating costs of \$74 million in our Chicken segment, which were partially offset by approximately \$200 million of operational improvements.
    - Increase in raw material costs of \$273 million in our Prepared Foods segment.
  - The \$0.4 billion impact of higher sales volumes was primarily driven by:
    - Increases in sales volume in our Chicken and Pork segments partially offset by decreases in our Beef and Prepared Foods segments.
    - Increase of \$145 million of costs of sales associated with Dynamic Fuels, which commenced production activities in fiscal 2011.

#### 2010 vs. 2009 –

- Cost of sales increased \$415 million. Higher cost per pound increased cost of sales by \$558 million, partially offset by lower sales volume which decreased cost of sales by \$143 million.
  - Increase in average live cattle and hog costs of approximately \$1.0 billion.
  - Increase due to net losses of \$78 million in fiscal 2010, as compared to net gains of \$191 million in fiscal 2009, from our commodity risk management activities related to forward futures contracts for live cattle and hogs, and excludes the impact from related physical purchase transactions which impact current and future period operating results.
  - Increase in raw material costs of approximately \$218 million in our Prepared Foods segment.
  - Increase in incentive-based compensation of approximately \$97 million.
  - Decrease due to net losses of \$6 million in fiscal 2010, as compared to net losses of \$257 million in fiscal 2009, from our commodity risk management activities related to grain and energy purchases, and excludes the impact from related physical purchase transactions which impact current and future period operating results.
  - Decrease in grain costs in the Chicken segment of approximately \$158 million.
  - Decrease in the Chicken segment costs resulting from operational improvements.

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### Selling, General and Administrative

	in millions		
	2011	2010	2009
Selling, general and administrative	\$ 914	\$ 929	\$ 841
As a percentage of sales	2.8%	3.3%	3.1%

#### 2011 vs. 2010 –

— Decrease of \$13 million related to incentive-based compensation.

#### 2010 vs. 2009 –

— Increase of \$118 million related to incentive-based compensation.

— Reductions include decreases resulting from one less week in fiscal 2010 compared to fiscal 2009, as well as a \$16 million reduction in professional fees, advertising and sales promotions.

### Goodwill Impairment

	in millions		
	2011	2010	2009
	\$ 0	\$ 29	\$560

We perform our annual goodwill impairment test on the first day of the fourth quarter. We estimate the fair value of our reporting units using a discounted cash flow analysis. As further discussed in Critical Accounting Estimates, this analysis requires us to make various judgmental estimates and assumptions about sales, operating margins, growth rates and discount factors.

**2010** – Includes the full impairment of an immaterial Chicken segment reporting unit.

**2009** – Includes the partial impairment of our Beef segment reporting unit.

### Other Charges

	in millions		
	2011	2010	2009
	\$ 0	\$ 0	\$ 17

**2009** – Included \$15 million charge related to closing our Ponca City, Oklahoma, processed meats plant.

### Interest Income

	in millions		
	2011	2010	2009
	\$ 11	\$ 14	\$ 17

**2011/2010/2009** – Declines in interest income are primarily due to declines in cash balances and interest rates. The declines in cash balances are primarily due to repurchases, retirement and redemption of senior notes, repurchases of Class A common stock under the reactivated share repurchase program and additions to property, plant and equipment.

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Interest Expense	in millions		
	2011	2010	2009
Cash interest expense	\$195	\$245	\$270
Losses on notes repurchased	7	61	3
Non-cash interest expense	40	41	54
<b>Total Interest Expense</b>	<b>\$242</b>	<b>\$347</b>	<b>\$327</b>

### 2011 vs. 2010 –

- Cash interest expense included interest expense related to the coupon rates for senior notes and commitment/letter of credit fees incurred on our revolving credit facilities. The decrease is due primarily to lower average weekly indebtedness of approximately 15%.
- Losses on notes repurchased during fiscal 2011 and 2010 included the amount paid exceeding the carrying value of the notes repurchased, which primarily included the repurchases of the 8.25% Notes due October 2011 (2011 Notes) and the 6.85% Senior notes due April 2016 (2016 Notes).
- Non-cash interest expense primarily included interest related to the amortization of debt issuance costs and discounts/premiums on note issuances. This included debt issuance costs incurred on our revolving credit facility, the 10.50% Senior Notes due 2014 (2014 Notes) issued in March 2009, as well as the accretion of the debt discount on the 3.25% Convertible Senior Notes due 2013 (2013 Notes) and 2014 Notes.

### 2010 vs. 2009 –

- Cash interest expense included interest expense related to the coupon rates for senior notes and commitment/letter of credit fees incurred on our revolving credit facilities. The decrease is due to lower average weekly indebtedness of approximately 11%, partially offset by an increase in the overall average borrowing rates.
- Losses on notes repurchased during fiscal 2010 included the amount paid exceeding the carrying value of the notes repurchased, which primarily included the repurchases of the 2011 Notes and the 2016 Notes.
- Non-cash interest expense primarily included interest related to the amortization of debt issuance costs and discounts/premiums on note issuances. This included debt issuance costs incurred on our revolving credit facility, the 2014 Notes, as well as the accretion of the debt discount on the 2013 Notes and 2014 Notes. Fiscal 2009 also includes expenses related to amendment fees paid in December 2008 on our then existing credit agreements.

Other (Income) Expense, net	in millions		
	2011	2010	2009
	\$(20)	\$ 20	\$ 18

**2011** – Included \$11 million gain related to a sale of interests in an equity method investment.

**2010** – Included \$12 million charge related to the impairment of an equity method investment.

**2009** – Included \$24 million in foreign currency exchange loss.

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### Effective Tax Rate

	2011	2010	2009
	31.8%	36.4%	(1.5)%

The effective tax rate on continuing operations was impacted by a number of items which result in a difference between our effective tax rate and the U.S. statutory rate of 35%. The table below reflects significant items impacting the rate as indicated.

#### 2011 –

- Domestic production activity deduction reduced the rate 2.3%.
- Net decrease in unrecognized tax benefits reduced the rate 1.7%.
- State income taxes increased the rate 1.6%.
- General business credits decreased the rate 0.9%

#### 2010 –

- Domestic production activity deduction reduced the rate 2.0%.
- Decrease in unrecognized tax benefits reduced the rate 1.4%.
- Decrease in state valuation allowances reduced the rate 1.0%.
- State income taxes increased the rate 3.4%.

#### 2009 –

- Impairment of goodwill, which is not deductible for income tax purposes, reduced the rate 36.1%.
- Increase in foreign valuation allowances reduced the rate 3.8%.
- General business credits increased the rate 2.2%.
- Tax planning in foreign jurisdictions increased the rate 1.7%.

### SEGMENT RESULTS

We operate in four segments: Chicken, Beef, Pork and Prepared Foods. The following table is a summary of sales and operating income (loss), which is how we measure segment income (loss). Segment results exclude the results of our discontinued operation, Lakeside.

	in millions					
	Sales			Operating Income (Loss)		
	2011	2010	2009	2011	2010	2009
Chicken	\$ 11,017	\$ 10,062	\$ 9,660	\$ 164	\$ 519	\$ (157)
Beef	13,549	11,707	10,937	468	542	(346)
Pork	5,460	4,552	3,875	560	381	160
Prepared Foods	3,215	2,999	2,836	117	124	133
Other	127	0	0	(24)	(10)	(5)
Intersegment Sales	(1,102)	(890)	(604)	0	0	0
Total	\$ 32,266	\$ 28,430	\$ 26,704	\$ 1,285	\$ 1,556	\$ (215)

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### Chicken Segment Results

			Change 2011		in millions Change 2010	
	2011	2010	vs. 2010	2009	vs. 2009	
Sales	\$11,017	\$10,062	\$ 955	\$ 9,660	\$ 402	
Sales Volume Change			4.6%		2.0%	
Average Sales Price Change			4.7%		2.1%	
Operating Income (Loss)	\$ 164	\$ 519	\$ (355)	\$ (157)	\$ 676	
Operating Margin	1.5%	5.2%		(1.6)%		

**2010** – Operating income included a \$38 million gain from insurance proceeds and a \$29 million non-cash, non-tax deductible charge related to a full goodwill impairment of an immaterial Chicken segment reporting unit.

#### 2011 vs. 2010 –

- **Sales Volume** – A 2.1% increase in slaughter pounds that mostly occurred in the first three quarters of fiscal 2011 and a reduction of volumes in ending inventory in fiscal 2011 as compared to fiscal 2010, primarily drove the 4.6% increase in sales volume for fiscal 2011.
- **Average Sales Price** – The increase in average sales prices is primarily due to mix changes and price increases associated with increased input costs.
- **Operating Income** –
  - Grain, Feed Ingredients and Growout Costs – Operating results were negatively impacted in fiscal 2011 by an increase in grain and feed ingredients costs of \$675 million and an increase in other growout operating costs of \$74 million.
  - Operational Improvements – Operating results were positively impacted by approximately \$200 million of operational improvements, primarily attributed to improvements in yield, mix and processing optimization. These operational improvements were partially offset by an increase in operating costs, mostly from cooking ingredients and employee related costs.
  - Derivative Activities – Operating results included the following amounts for commodity risk management activities related to grain and energy purchases. These amounts exclude the impact from related physical purchase transactions, which impact current and future period operating results.

Income/(Loss) – in millions	
2011	\$ 41
2010	(6)
Improvement in operating results	\$ 47

#### 2010 vs. 2009 –

- **Sales Volume** – The increase in sales volume for fiscal 2010 was due to sales volume related to a fiscal 2009 acquisition, partially offset by a decrease due to the extra week in fiscal 2009.
- **Average Sales Price** – The increase in average sales prices is primarily due to sales mix changes associated with the reduced sales volume of lower price per pound rendered products.
- **Operating Income (Loss)** –
  - Operational Improvements – Operating results were positively impacted by operational improvements, which included: yield, mix and live production performance improvements; additional processing flexibility; and reduced interplant product movement.
  - Derivative Activities – Operating results included the following amounts for commodity risk management activities related to grain and energy purchases. These amounts exclude the impact from related physical purchase transactions, which impact current and future period operating results.

Income/(Loss) – in millions	
2010	\$ (6)
2009	(257)
Improvement in operating results	\$ 251

- Grain Costs – Operating results were positively impacted in fiscal 2010 by a decrease in grain costs of \$158 million.
- Operating results included an increase in incentive-based compensation.

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Beef Segment Results	in millions				
			Change 2011	Change 2010	
	2011	2010	vs. 2010	2009	vs. 2009
Sales	\$13,549	\$11,707	\$ 1,842	\$10,937	\$ 770
Sales Volume Change			(1.0)%		(1.9)%
Average Sales Price Change			16.9%		9.1%
Operating Income (Loss)	\$ 468	\$ 542	\$ (74)	\$ (346)	\$ 888
Operating Margin	3.5%	4.6%		(3.2)%	

2009 – Operating loss included a \$560 million non-cash charge related to the partial impairment of goodwill.

### 2011 vs. 2010 –

#### — Sales and Operating Income –

- Average sales price increased due to price increases associated with increased livestock costs. We have maintained strong operating income by maximizing our revenues relative to the rising live cattle markets, partially attributable to strong export sales. This was offset by an increase in operating costs, primarily attributable to employee related costs.
- Derivative Activities – Operating results included the following amounts for commodity risk management activities related to forward futures contracts for live cattle. These amounts exclude the impact from related physical sale and purchase transactions, which impact current and future period operating results.

Income/(Loss) – in millions	
2011	\$ (41)
2010	<u>(15)</u>
Decline in operating results	\$ (26)

### 2010 vs. 2009 –

#### — Sales and Operating Income (Loss) –

- We increased our operating margins by maximizing our revenues relative to the rising live cattle markets, as well as improved our operating costs. In addition, we had an improvement in our export sales. Operating results included an increase in incentive-based compensation.
- Derivative Activities – Operating results included the following amounts for commodity risk management activities related to forward futures contracts for live cattle. These amounts exclude the impact from related physical sale and purchase transactions, which impact current and future period operating results.

Income/(Loss) – in millions	
2010	\$ (15)
2009	<u>102</u>
Decline in operating results	\$ (117)

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Pork Segment Results	in millions				
			Change 2011	Change 2010	
	2011	2010	vs. 2010	2009	vs. 2009
Sales	\$ 5,460	\$4,552	\$ 908	\$3,875	\$ 677
Sales Volume Change			4.1%		(3.3)%
Average Sales Price Change			15.2%		21.4%
Operating Income	\$ 560	\$ 381	\$ 179	\$ 160	\$ 221
Operating Margin	10.3%	8.4%		4.1%	

### 2011 vs. 2010 –

#### — Sales and Operating Income –

- Average sales price increased due to price increases associated with increased livestock costs. We have maintained strong operating income by maximizing our revenues relative to the rising live hog markets, partially attributable to strong export sales and operational and mix performance.
- Derivative Activities – Operating results included the following amounts for commodity risk management activities related to forward futures contracts for live hogs. These amounts exclude the impact from related physical sale and purchase transactions, which impact current and future period operating results.

Income/(Loss) – in millions	
2011	\$ (32)
2010	<u>(36)</u>
Improvement in operating results	\$ 4

### 2010 vs. 2009 –

#### — Sales and Operating Income –

- We increased our operating margins by maximizing our revenues relative to the rising live hog markets. In addition, we had an improvement in our export sales. Operating results included an increase in incentive-based compensation.
- Derivative Activities – Operating results included the following amounts for commodity risk management activities related to forward futures contracts for live hogs. These amounts exclude the impact from related physical sale and purchase transactions, which impact current and future period operating results.

Income/(Loss) – in millions	
2010	\$ (36)
2009	<u>55</u>
Decline in operating results	\$ (91)

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Prepared Foods Segment Results	in millions				
	2011	2010	Change 2011 vs. 2010	2009	Change 2010 vs. 2009
Sales	\$3,215	\$2,999	\$ 216	\$2,836	\$ 163
Sales Volume Change			(2.2)%		0.3%
Average Sales Price Change			9.6%		5.5%
Operating Income	\$ 117	\$ 124	\$ (7)	\$ 133	\$ (9)
Operating Margin	3.6%	4.1%		4.7%	

**2009** – Operating income included a \$15 million charge related to closing our Ponca City, Oklahoma, processed meats plant.

### 2011 vs. 2010 –

— **Sales and Operating Income** – Despite the increase in average sales prices, operating income remained flat, excluding \$8 million in insurance proceeds in fiscal 2010 related to flood damage at our Jefferson, Wisconsin plant. The increase in average sales prices were offset by lower volumes, increased raw material costs of \$273 million and increased operational costs of \$50 million, primarily attributable to employee related costs and plant variances mostly due to lower volumes.

### 2010 vs. 2009 –

— **Sales and Operating Income** – Despite the increase in average sales prices and sales volume, operating income declined in fiscal 2010 as compared to fiscal 2009 due to an increase in raw material costs. However, we made several operational improvements in late fiscal 2009 that allow us to run our plants more efficiently. Operating results included an increase in incentive-based compensation.

## LIQUIDITY AND CAPITAL RESOURCES

Our cash needs for working capital, capital expenditures, growth opportunities, the repurchases of senior notes and share repurchases are expected to be met with current cash on hand, cash flows provided by operating activities, or short-term borrowings. Based on our current expectations, we believe our liquidity and capital resources will be sufficient to operate our business. However, we may take advantage of opportunities to generate additional liquidity or refinance existing debt through capital market transactions. The amount, nature and timing of any capital market transactions will depend on: our operating performance and other circumstances; our then-current commitments and obligations; the amount, nature and timing of our capital requirements; any limitations imposed by our current credit arrangements; and overall market conditions.

### Cash Flows from Operating Activities

	in millions		
	2011	2010	2009
Net income (loss)	\$ 733	\$ 765	\$(551)
Non-cash items in net income (loss):			
Depreciation and amortization	506	497	513
Deferred income taxes	86	18	(33)
Impairment of goodwill	0	29	560
Impairment of assets	18	36	32
Other, net	49	76	72
Net changes in working capital	(346)	11	367
Net cash provided by operating activities	\$1,046	\$1,432	\$ 960

Cash flows associated with changes in working capital:

- **2011** – Decreased due to the increase in inventory and accounts receivable balances, partially offset by the increase in accounts payable. The higher inventory and accounts receivable balances were driven by significant increases in input costs and price increases associated with the increased input costs.
- **2010** – Increased due to the increase in accrued salaries, wages and benefits and accounts payable balances, almost entirely offset by the increase in inventory and accounts receivable balances. The increase in accrued salaries, wages and benefits is primarily due to the accruals for incentive-based compensation.
- **2009** – Increased primarily due to a reduction in inventory and accounts receivable balances, partially offset by a reduction in accounts payable. The lower inventory balance was primarily due to the reduction of inventory volumes, as well as a decrease in raw material costs.

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Cash Flows from Investing Activities	in millions		
	2011	2010	2009
Additions to property, plant and equipment	\$(643)	\$(550)	\$ (368)
Proceeds from sale (purchases) of marketable securities, net	(80)	(4)	19
Proceeds from notes receivable	51	0	0
Proceeds from sale of discontinued operation	0	0	75
Change in restricted cash to be used for investing activities	0	43	(43)
Acquisitions, net of cash acquired	0	0	(93)
Other, net	28	11	(17)
Net cash used for investing activities	\$(644)	\$(500)	\$ (427)

- Additions to property, plant and equipment include acquiring new equipment and upgrading our facilities to maintain competitive standing and position us for future opportunities. In fiscal 2011, our capital spending was primarily for production efficiencies in our operations and for ongoing development of foreign operations. In fiscal 2010, our capital spending was primarily related to production efficiencies in our operations, construction of Dynamic Fuels' facility and development of our foreign operations. In fiscal 2009, our capital spending was for improvements made in our prepared foods operations to increase efficiencies, construction of Dynamic Fuels' facility and development of our foreign operations.
- Capital spending for fiscal 2012 is expected to be approximately \$800-\$850 million, and includes spending on our operations for production and labor efficiencies, yield improvements and sales channel flexibility, as well as expansion of our foreign operations.
- Purchases of marketable securities included funding for our deferred compensation plans.
- Proceeds from notes receivable totaling \$51 million in fiscal 2011 related to the collection of notes receivable received in conjunction with the sale of a business operation in fiscal 2009.
- Change in restricted cash – In fiscal 2009, Dynamic Fuels received \$100 million in proceeds from the sale of Gulf Opportunity Zone tax-exempt bonds made available by the federal government to the regions affected by Hurricanes Katrina and Rita in 2005. The cash received from these bonds was restricted and could only be used towards the construction of the Dynamic Fuels' facility.
- Acquisitions – In fiscal 2009, we acquired three vertically integrated poultry companies in southern Brazil. The aggregate purchase price was \$67 million. In addition, we had \$15 million of contingent purchase price based on production volumes. The joint ventures in China called Shandong Tyson Xinchang Foods received the necessary government approvals during fiscal 2009. The aggregate purchase price for our 60% equity interest was \$21 million, which excludes \$93 million of cash transferred to the joint venture for future capital needs.

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Cash Flows from Financing Activities	in millions		
	2011	2010	2009
Net borrowings (payments) on revolving credit facilities	\$ 0	\$ 0	\$ 15
Payments on debt	(500)	(1,034)	(380)
Net proceeds from borrowings	115	0	852
Debt issuance costs	(9)	0	(59)
Purchase of redeemable noncontrolling interest	(66)	0	0
Purchases of Tyson Class A common stock	(207)	(48)	(19)
Dividends	(59)	(59)	(60)
Change in restricted cash to be used for financing activities	0	140	(140)
Other, net	68	42	6
Net cash provided by (used for) financing activities	\$(658)	\$ (959)	\$ 215

- Net borrowings (payments) on revolving credit facilities primarily include activity related to the accounts receivable securitization facility. With the entry into a new revolving credit facility and issuance of the 2014 Notes in March 2009, we repaid all outstanding borrowings under our accounts receivable securitization facility and terminated the facility.
- Payments on debt include –
  - 2011 – \$315 million of 2011 Notes; \$63 million of 2016 Notes; \$2 million of 7.0% Notes due May 2018; and \$103 million related to borrowings at our foreign operations.
  - 2010 – \$524 million of 2011 Notes; \$222 million of 2016 Notes; \$140 million of 7.95% Notes due February 2010 (2010 Notes) (using the restricted cash held in a blocked cash collateral account for the retirement of these notes); \$52 million of 7.0% Notes due May 2018; and \$61 million related to the premiums on notes repurchased during the year.
  - 2009 – \$161 million of 2011 Notes; \$94 million of 2010 Notes (using the restricted cash held in a blocked cash collateral account for the repurchase of these notes); and \$38 million of 2016 Notes.
- Net proceeds from borrowings include –
  - In fiscal 2011, our foreign operations received proceeds of \$106 million from borrowings. Total debt related to our foreign operations was \$98 million at October 1, 2011 (\$58 million current, \$40 million long-term). Additionally, Dynamic Fuels received \$9 million in proceeds from short term notes in fiscal 2011.
  - In fiscal 2009, we issued \$810 million of 2014 Notes. After the original issue discount of \$59 million, based on an issue price of 92.756% of face value, we received net proceeds of \$751 million. We used the net proceeds towards the repayment of our borrowings under our accounts receivable securitization facility and for other general corporate purposes.
  - In fiscal 2009, Dynamic Fuels received \$100 million in proceeds from the sale of Gulf Opportunity Zone tax-exempt bonds made available by the Federal government to the regions affected by Hurricanes Katrina and Rita in 2005. These floating rate bonds are due October 1, 2033.
- In conjunction with the entry into our credit facility and the issuance of the 2014 Notes during fiscal 2009, we paid \$48 million for debt issuance costs.
- In fiscal 2011, the minority interest partner in our 60%-owned Shandong Tyson Xinchang Foods joint ventures in China exercised put options requiring us to purchase its entire 40% equity interest. The transaction closed in fiscal 2011 for cash consideration totaling \$66 million.
- In fiscal 2011, we announced our Board of Directors reactivated a share repurchase program, which had no activity since fiscal 2005, to repurchase up to the remaining available 22.5 million shares of Class A common stock under the program. The share repurchase program has no fixed or scheduled termination date. During fiscal 2011, we repurchased 9.7 million shares for approximately \$170 million under this plan. As of October 1, 2011, 12.8 million shares remain authorized for repurchase. The timing and extent to which we repurchase shares will depend upon, among other things, market conditions, liquidity targets, limitations under our debt obligations and regulatory requirements. In addition to the share repurchase program, we purchase shares on the open market to fund certain obligations under our equity compensation plans. These repurchases totaled \$37 million, \$48 million and \$19 million in fiscal 2011, 2010 and 2009, respectively.

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Liquidity	in millions				
	Commitments Expiration Date	Facility Amount	Outstanding Letters of Credit under Revolving Credit Facility (no draw downs)	Amount Borrowed	Amount Available
Cash and cash equivalents					\$ 716
Revolving credit facility	February 2016	\$ 1,000	\$ 158	\$ 0	\$ 842
Total liquidity					\$ 1,558

- The revolving credit facility supports our short-term funding needs and letters of credit. Letters of credit are issued primarily in support of workers' compensation insurance programs, derivative activities and Dynamic Fuels' Gulf Opportunity Zone tax-exempt bonds.
- Our 2013 Notes may be converted early during any fiscal quarter in the event our Class A stock trades at or above \$21.96 for at least 20 trading days during a period of 30 consecutive trading days ending on the last trading day of the preceding fiscal quarter. In this event, the note holders may require us to pay outstanding principal in cash, which totaled \$458 million at October 1, 2011. Any conversion premium would be paid in shares of Class A stock. The conditions for early conversion were not met in our fourth fiscal quarter of fiscal 2011, and thus, the notes may not be converted in our first quarter of fiscal 2012. Should the conditions for early conversion be satisfied in future quarters, and should the holders exercise their early conversion option, we would use current cash on hand and cash flow from operations for principal payments.
- We do not have any significant maturities of debt coming due over the next two fiscal years.
- Our current ratio was 2.01 to 1 and 1.81 to 1 at October 1, 2011, and October 2, 2010, respectively.

## Capital Resources

### Credit Facility

Cash flows from operating activities and current cash on hand are our primary source of liquidity for funding debt service, capital expenditures, dividends and share repurchases. We also have a revolving credit facility, with a committed maximum capacity of \$1.0 billion, to provide additional liquidity for working capital needs, letters of credit and a source of financing for growth opportunities. As of October 1, 2011, we had outstanding letters of credit totaling \$158 million, none of which were drawn upon, which left \$842 million available for borrowing. Our revolving credit facility is funded by a syndicate of 38 banks, with commitments ranging from \$3 million to \$90 million per bank. The syndicate includes bank holding companies that are required to be adequately capitalized under federal bank regulatory agency requirements.

### Capitalization

To monitor our credit ratings and our capacity for long-term financing, we consider various qualitative and quantitative factors. We monitor the ratio of our debt to our total capitalization as support for our long-term financing decisions. At October 1, 2011 and October 2, 2010, the ratio of our debt-to-total capitalization was 27.7% and 32.8%, respectively. For the purpose of this calculation, debt is defined as the sum of current and long-term debt. Total capitalization is defined as debt plus Total Shareholders' Equity. Our ratio of debt to our total capitalization decreased in fiscal 2011 primarily resulting from reduced debt balances and increased retained earnings associated with strong earnings in fiscal 2011.

### Credit Ratings

#### 2016 Notes

On September 4, 2008, Standard & Poor's (S&P) downgraded the credit rating from "BBB-" to "BB." This downgrade increased the interest rate on the 2016 Notes from 6.85% to 7.35%, effective beginning with the six-month interest payment due October 1, 2008.

On November 13, 2008, Moody's Investors Services, Inc. (Moody's) downgraded the credit rating from "Ba1" to "Ba3." This downgrade increased the interest rate on the 2016 Notes from 7.35% to 7.85%, effective beginning with the six-month interest payment due April 1, 2009.

On August 19, 2010, S&P upgraded the credit rating from "BB" to "BB+." On September 2, 2010, Moody's upgraded the credit rating from "Ba3" to "Ba2." These upgrades decreased the interest rate on the 2016 Notes from 7.85% to 7.35%, effective beginning with the six-month interest payment due October 1, 2010.

On February 24, 2011, S&P upgraded the credit rating of these notes from "BB+" to "BBB-." On March 29, 2011, Moody's upgraded our credit rating from "Ba2" to "Ba1". These upgrades decreased the interest rate on the 2016 Notes from 7.35% to 6.85%, effective beginning with the six-month interest payment due April 1, 2011.

A further one-notch upgrade by Moody's would decrease the interest rates on the 2016 Notes by 0.25%, while a one-notch downgrade by either ratings agency would increase the interest rates on the 2016 Notes by 0.25%.

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### Revolving Credit Facility

S&P's corporate credit rating for Tyson Foods, Inc. is "BBB-." Moody's corporate credit rating for Tyson Foods, Inc. is "Ba1." If Moody's were to upgrade our credit rating to "Baa2" or higher while our S&P credit rating remained at "BBB-", or S&P were to upgrade our credit rating to "BBB" or higher while Moody's upgraded our credit rating to "Baa3" or higher, our letter of credit fees would decrease by 0.25% and fees paid on the unused portion of the facility would decrease by 0.075%.

If S&P were to downgrade our corporate credit rating to "BB+" or Moody's were to downgrade our corporate credit rating to "Ba2", our letter of credit fees would increase by 0.25% and fees paid on the unused portion of the facility would increase by 0.025%.

### Debt Covenants

Our revolving credit facility contains affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens and encumbrances; incur debt; merge, dissolve, liquidate or consolidate; make acquisitions and investments; dispose of or transfer assets; pay dividends or make other payments in respect of our capital stock; amend material documents; change the nature of our business; make certain payments of debt; engage in certain transactions with affiliates; and enter into sale/leaseback or hedging transactions, in each case, subject to certain qualifications and exceptions. In addition, we are required to maintain minimum interest expense coverage and maximum leverage ratios.

Our 2014 Notes also contain affirmative and negative covenants that, among other things, may limit or restrict our ability to: incur additional debt and issue preferred stock; make certain investments and restricted payments; create liens; create restrictions on distributions from subsidiaries; engage in specified sales of assets and subsidiary stock; enter into transactions with affiliates; enter new lines of business; engage in consolidation, mergers and acquisitions; and engage in certain sale/leaseback transactions.

We were in compliance with all debt covenants at October 1, 2011.

### OFF-BALANCE SHEET ARRANGEMENTS

We do not have any off-balance sheet arrangements material to our financial position or results of operations. The off-balance sheet arrangements we have are guarantees of debt of outside third parties, including a lease and grower loans, and residual value guarantees covering certain operating leases for various types of equipment. See Note 19: Commitments and Contingencies of the Notes to Consolidated Financial Statements for further discussion.

### CONTRACTUAL OBLIGATIONS

The following table summarizes our contractual obligations as of October 1, 2011:

	in millions				
	Payments Due by Period				
	2012	2013-2014	2015-2016	2017 and thereafter	Total
Debt and capital lease obligations:					
Principal payments (1)	\$ 70	\$ 1,296	\$ 650	\$ 242	\$ 2,258
Interest payments (2)	165	272	116	46	599
Guarantees (3)	26	61	22	17	126
Operating lease obligations (4)	95	102	31	54	282
Purchase obligations (5)	886	81	31	61	1,059
Capital expenditures (6)	412	15	0	0	427
Other long-term liabilities (7)	12	5	4	29	50
Total contractual commitments	\$1,666	\$ 1,832	\$ 854	\$ 449	\$ 4,801

- (1) In the event of a default on payment, acceleration of the principal payments could occur.
- (2) Interest payments include interest on all outstanding debt. Payments are estimated for variable rate and variable term debt based on effective rates at October 1, 2011, and expected payment dates.
- (3) Amounts include guarantees of debt of outside third parties, which consist of a lease and grower loans, all of which are substantially collateralized by the underlying assets, as well as residual value guarantees covering certain operating leases for various types of equipment. The amounts included are the maximum potential amount of future payments.
- (4) Amounts include minimum lease payments under lease agreements.
- (5) Amounts include agreements to purchase goods or services that are enforceable and legally binding and specify all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction. The purchase obligations amount included items, such as future purchase commitments for grains, livestock contracts and fixed grower fees that provide terms that meet the above criteria. We have excluded future purchase commitments for contracts that do not meet these criteria. Purchase orders have not been included in the table, as a purchase order is an authorization to purchase and may not be considered an enforceable and legally binding contract. Contracts for goods or services that contain termination clauses without penalty have also been excluded.
- (6) Amounts include estimated amounts to complete buildings and equipment under construction as of October 1, 2011.
- (7) Amounts include items that meet the definition of a purchase obligation and are recorded in the Consolidated Balance Sheets.

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In addition to the amounts shown above in the table, we have unrecognized tax benefits of \$174 million and related interest and penalties of \$58 million at October 1, 2011, recorded as liabilities. During fiscal 2012, tax audit resolutions could potentially reduce these amounts by approximately \$10 million, either because tax positions are sustained on audit or because we agree to their disallowance.

The maximum contractual obligation associated with our cash flow assistance programs at October 1, 2011, based on the estimated fair values of the livestock supplier's net tangible assets on that date, aggregated to approximately \$220 million, or approximately \$192 million remaining maximum commitment after netting the cash flow assistance related receivables.

### **RECENTLY ISSUED/ADOPTED ACCOUNTING PRONOUNCEMENTS**

Refer to the discussion under Part II, Item 8, Notes to Consolidated Financial Statements, Note 1: Business and Summary of Significant Accounting Policies for recently issued accounting pronouncements and Note 2: Change in Accounting Principles for recently adopted accounting pronouncements.

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### CRITICAL ACCOUNTING ESTIMATES

The preparation of consolidated financial statements requires us to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The following is a summary of certain accounting estimates we consider critical.

Description	Judgments and Uncertainties	Effect if Actual Results Differ From Assumptions
<b>Contingent liabilities</b> We are subject to lawsuits, investigations and other claims related to wage and hour/labor, environmental, product, taxing authorities and other matters, and are required to assess the likelihood of any adverse judgments or outcomes to these matters, as well as potential ranges of probable losses.  A determination of the amount of reserves and disclosures required, if any, for these contingencies are made after considerable analysis of each individual issue. We accrue for contingent liabilities when an assessment of the risk of loss is probable and can be reasonably estimated. We disclose contingent liabilities when the risk of loss is reasonably possible or probable.	Our contingent liabilities contain uncertainties because the eventual outcome will result from future events, and determination of current reserves requires estimates and judgments related to future changes in facts and circumstances, differing interpretations of the law and assessments of the amount of damages, and the effectiveness of strategies or other factors beyond our control.	We have not made any material changes in the accounting methodology used to establish our contingent liabilities during the past three fiscal years.  We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate our contingent liabilities. However, if actual results are not consistent with our estimates or assumptions, we may be exposed to gains or losses that could be material.
<b>Marketing and advertising costs</b> We incur advertising, retailer incentive and consumer incentive costs to promote products through marketing programs. These programs include cooperative advertising, volume discounts, in-store display incentives, coupons and other programs.  Marketing and advertising costs are charged in the period incurred. We accrue costs based on the estimated performance, historical utilization and redemption of each program.  Cash consideration given to customers is considered a reduction in the price of our products, thus recorded as a reduction to sales. The remainder of marketing and advertising costs is recorded as a selling, general and administrative expense.	Recognition of the costs related to these programs contains uncertainties due to judgment required in estimating the potential performance and redemption of each program.  These estimates are based on many factors, including experience of similar promotional programs.	We have not made any material changes in the accounting methodology used to establish our marketing accruals during the past three fiscal years.  We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate our marketing accruals. However, if actual results are not consistent with our estimates or assumptions, we may be exposed to gains or losses that could be material.  A 10% change in our marketing accruals at October 1, 2011, would impact pretax earnings by approximately \$15 million.

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Description	Judgments and Uncertainties	Effect if Actual Results Differ From Assumptions
<p><b>Accrued self insurance</b></p> <p>We are self insured for certain losses related to health and welfare, workers' compensation, auto liability and general liability claims.</p> <p>We use an independent third-party actuary to assist in determining our self-insurance liability. We and the actuary consider a number of factors when estimating our self-insurance liability, including claims experience, demographic factors, severity factors and other actuarial assumptions.</p> <p>We periodically review our estimates and assumptions with our third-party actuary to assist us in determining the adequacy of our self-insurance liability. Our policy is to maintain an accrual within the central to high point of the actuarial range.</p>	<p>Our self-insurance liability contains uncertainties due to assumptions required and judgment used.</p> <p>Costs to settle our obligations, including legal and healthcare costs, could increase or decrease causing estimates of our self-insurance liability to change.</p> <p>Incident rates, including frequency and severity, could increase or decrease causing estimates in our self-insurance liability to change.</p>	<p>We have not made any material changes in the accounting methodology used to establish our self-insurance liability during the past three fiscal years.</p> <p>We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate our self-insurance liability. However, if actual results are not consistent with our estimates or assumptions, we may be exposed to gains or losses that could be material.</p> <p>A 10% increase in the actuarial estimate at October 1, 2011, would not result in a material change in the amount we recorded for our self-insurance liability. A 10% decrease in the actuarial estimate at October 1, 2011, would result in a decrease in the amount we recorded for our self-insurance liability of approximately \$23 million.</p>
<p><b>Impairment of long-lived assets</b></p> <p>Long-lived assets are evaluated for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. Examples include a significant adverse change in the extent or manner in which we use a long-lived asset or a change in its physical condition.</p> <p>When evaluating long-lived assets for impairment, we compare the carrying value of the asset to the asset's estimated undiscounted future cash flows. An impairment is indicated if the estimated future cash flows are less than the carrying value of the asset. The impairment is the excess of the carrying value over the fair value of the long-lived asset.</p> <p>We recorded impairment charges related to long-lived assets of \$15 million, \$19 million and \$25 million, respectively, in fiscal 2011, 2010 and 2009.</p>	<p>Our impairment analysis contains uncertainties due to judgment in assumptions and estimates surrounding undiscounted future cash flows of the long-lived asset, including forecasting useful lives of assets and selecting the discount rate that reflects the risk inherent in future cash flows to determine fair value.</p>	<p>We have not made any material changes in the accounting methodology used to evaluate the impairment of long-lived assets during the last three fiscal years.</p> <p>We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate impairments of long-lived assets. However, if actual results are not consistent with our estimates and assumptions used to calculate estimated future cash flows, we may be exposed to impairment losses that could be material. Additionally, we continue to evaluate our future international business strategies, which may expose us to future impairment losses.</p>

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Description	Judgments and Uncertainties	Effect if Actual Results Differ From Assumptions
<b>Income taxes</b>		
We estimate total income tax expense based on statutory tax rates and tax planning opportunities available to us in various jurisdictions in which we earn income.	Changes in tax laws and rates could affect recorded deferred tax assets and liabilities in the future.	We do not believe there is a reasonable likelihood there will be a material change in the tax related balances or valuation allowances. However, due to the complexity of some of these uncertainties, the ultimate resolution may result in a payment that is materially different from the current estimate of the tax liabilities.
Federal income tax includes an estimate for taxes on earnings of foreign subsidiaries expected to be remitted to the United States and be taxable, but not for earnings considered indefinitely invested in the foreign subsidiary.	Changes in projected future earnings could affect the recorded valuation allowances in the future.	
Deferred income taxes are recognized for the future tax effects of temporary differences between financial and income tax reporting using tax rates in effect for the years in which the differences are expected to reverse.	Our calculations related to income taxes contain uncertainties due to judgment used to calculate tax liabilities in the application of complex tax regulations across the tax jurisdictions where we operate.	To the extent we prevail in matters for which unrecognized tax benefit liabilities have been established, or are required to pay amounts in excess of our recorded unrecognized tax benefit liabilities, our effective tax rate in a given financial statement period could be materially affected. An unfavorable tax settlement would require use of our cash and generally result in an increase in our effective tax rate in the period of resolution. A favorable tax settlement would generally be recognized as a reduction in our effective tax rate in the period of resolution.
Valuation allowances are recorded when it is likely a tax benefit will not be realized for a deferred tax asset.	Our analysis of unrecognized tax benefits contains uncertainties based on judgment used to apply the more likely than not recognition and measurement thresholds.	
We record unrecognized tax benefit liabilities for known or anticipated tax issues based on our analysis of whether, and the extent to which, additional taxes will be due.		

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### Impairment of goodwill and other intangible assets

**Description:** Goodwill impairment is determined using a two-step process. The first step is to identify if a potential impairment exists by comparing the fair value of a reporting unit with its carrying amount, including goodwill. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to have a potential impairment and the second step of the impairment test is not necessary. However, if the carrying amount of a reporting unit exceeds its fair value, the second step is performed to determine if goodwill is impaired and to measure the amount of impairment loss to recognize, if any.

The second step compares the implied fair value of goodwill with the carrying amount of goodwill. If the implied fair value of goodwill exceeds the carrying amount, then goodwill is not considered impaired. However, if the carrying amount of goodwill exceeds the implied fair value, an impairment loss is recognized in an amount equal to that excess.

The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination (i.e., the fair value of the reporting unit is allocated to all the assets and liabilities, including any unrecognized intangible assets, as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was determined as the exit price a market participant would pay for the same business).

For other indefinite life intangible assets, if the carrying value of the intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess.

We have elected to make the first day of the fourth quarter the annual impairment assessment date for goodwill and other indefinite life intangible assets. However, we could be required to evaluate the recoverability of goodwill and other indefinite life intangible assets prior to the required annual assessment if, among other things, we experience disruptions to the business, unexpected significant declines in operating results, divestiture of a significant component of the business or a sustained decline in market capitalization.

**Judgments and Uncertainties:** We estimate the fair value of our reporting units, generally our operating segments, using various valuation techniques, with the primary technique being a discounted cash flow analysis, which uses significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy. A discounted cash flow analysis requires us to make various judgmental assumptions about sales, operating margins, growth rates and discount rates.

We include assumptions about sales, operating margins and growth rates which consider our budgets, business plans and economic projections, and are believed to reflect market participant views which would exist in an exit transaction. Assumptions are also made for varying perpetual growth rates for periods beyond the long-term business plan period. Generally, we utilize normalized operating margin assumptions based on future expectations and operating margins historically realized in the reporting units' industries. For the fiscal 2011 impairment test of material reporting units, only our Domestic Chicken reporting unit utilized operating margins in future years in excess of the operating margin realized in the most recent year.

Our Domestic Chicken reporting unit had goodwill at October 1, 2011, totaling \$900 million or 95% of our Chicken segment's goodwill. We assumed operating margins in future years would return to our normalized range of 5.0% to 7.0%, as we believe this is consistent with market participant views in an exit transaction. Had we assumed future operating margins consistent with those realized in the current fiscal year, we would have failed the first step of the annual impairment test, which would have required the second step to be performed and may have resulted in a material goodwill impairment loss. The current year Domestic Chicken reporting unit results were not indicative of future market participant expectations in an exit transaction. In assessing the appropriate operating margins to be utilized in estimating the fair value of the Domestic Chicken segment, we considered many factors, including the following:

- The Domestic Chicken segment has realized significant operational improvements, including yield, mix, live production, processing flexibility, and interplant product movements, over the past three years as compared to both historical results and the industry.
- The operational improvements were offset in the current year due to historically high grain and feed ingredient costs coupled with excess supplies, which made it difficult to pass along the increased input costs.
- Recent USDA data indicates eggs sets, broiler chick placements and slaughter pounds are down significantly, which are all strong indicators that supply relative to demand should return to more normalized levels by the end of fiscal 2012, allowing financial results to return to normalized ranges.

Other indefinite life intangible asset fair values have been calculated for trademarks using a royalty rate method. Assumptions about royalty rates are based on the rates at which similar brands and trademarks are licensed in the marketplace.

Our impairment analysis contains uncertainties due to uncontrollable events that could positively or negatively impact the anticipated future economic and operating conditions.

**Effect if Actual Results Differ From Assumptions:** We have not made any material changes in the accounting methodology used to evaluate impairment of goodwill and other intangible assets during the last three years.

The discount rate used in our annual goodwill impairment test increased to an average of 8.8% in fiscal 2011 from 8.4% in fiscal 2010. There were no significant changes in the other key estimates and assumptions.

Other than the Beef reporting unit in 2009, no material reporting units failed the first step of the annual goodwill impairment analysis in fiscal

2011, 2010 or 2009 and therefore, the second step was not necessary. In fiscal 2009, we recorded a \$560 million partial impairment of our Beef reporting unit's goodwill, which was driven by an increase in our discount rate used in the 2009 annual goodwill impairment analysis as a result of disruptions in global credit and other financial markets and deterioration of economic conditions. In fiscal 2010, we recorded a \$29 million full impairment of an immaterial Chicken segment reporting unit's goodwill.

Some of the inherent estimates and assumptions used in determining fair value of the reporting units are outside the control of management, including interest rates, cost of capital, tax rates, and our credit ratings. While we believe we have made reasonable estimates and assumptions to calculate the fair value of the reporting units and other indefinite life intangible assets, it is possible a material change could occur. If our actual results are not consistent with our estimates and assumptions used to calculate fair value, we may be required to perform the second step, which could result in additional material impairments of our goodwill.

If the Domestic Chicken reporting unit experienced a 15% or more decline in fair value at July 1, 2011, it would have caused the carrying value of the reporting unit to be in excess of fair value, which would have required the second step to be performed. Additionally, valuing the Domestic Chicken reporting unit utilizing projected operating margins averaging less than 4.0%, or a 0.9% increase in the discount rate used in fiscal 2011, would have caused the carrying value of the Domestic Chicken reporting unit to be in excess of fair value, which would have required the second step to be performed. The second step may have resulted in a material goodwill impairment loss. All other material reporting units' estimated fair value exceeded their carrying value by more than 20%. Consequently, we do not consider any of our other material reporting units at significant risk of failing the first step of the annual goodwill impairment test.

Our fiscal 2011 other indefinite life intangible asset impairment analysis did not result in a material impairment charge. A hypothetical 20% decrease in the fair value of intangible assets would not result in a material impairment.

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### ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

#### MARKET RISK

Market risk relating to our operations results primarily from changes in commodity prices, interest rates and foreign exchange rates, as well as credit risk concentrations. To address certain of these risks, we enter into various derivative transactions as described below. If a derivative instrument is accounted for as a hedge, depending on the nature of the hedge, changes in the fair value of the instrument either will be offset against the change in fair value of the hedged assets, liabilities or firm commitments through earnings, or be recognized in other comprehensive income (loss) until the hedged item is recognized in earnings. The ineffective portion of an instrument's change in fair value is recognized immediately. Additionally, we hold certain positions, primarily in grain and livestock futures that either do not meet the criteria for hedge accounting or are not designated as hedges. With the exception of normal purchases and normal sales that are expected to result in physical delivery, we record these positions at fair value, and the unrealized gains and losses are reported in earnings at each reporting date. Changes in market value of derivatives used in our risk management activities relating to forward sales contracts are recorded in sales. Changes in market value of derivatives used in our risk management activities surrounding inventories on hand or anticipated purchases of inventories are recorded in cost of sales.

The sensitivity analyses presented below are the measures of potential losses of fair value resulting from hypothetical changes in market prices related to commodities. Sensitivity analyses do not consider the actions we may take to mitigate our exposure to changes, nor do they consider the effects such hypothetical adverse changes may have on overall economic activity. Actual changes in market prices may differ from hypothetical changes.

**Commodities Risk:** We purchase certain commodities, such as grains and livestock, in the course of normal operations. As part of our commodity risk management activities, we use derivative financial instruments, primarily futures and options, to reduce the effect of changing prices and as a mechanism to procure the underlying commodity. However, as the commodities underlying our derivative financial instruments can experience significant price fluctuations, any requirement to mark-to-market the positions that have not been designated or do not qualify as hedges could result in volatility in our results of operations. Contract terms of a hedge instrument closely mirror those of the hedged item providing a high degree of risk reduction and correlation. Contracts designated and highly effective at meeting this risk reduction and correlation criteria are recorded using hedge accounting. The following table presents a sensitivity analysis resulting from a hypothetical change of 10% in market prices as of October 1, 2011, and October 2, 2010, on the fair value of open positions. The fair value of such positions is a summation of the fair values calculated for each commodity by valuing each net position at quoted futures prices. The market risk exposure analysis includes hedge and non-hedge derivative financial instruments.

Effect of 10% change in fair value	in millions	
	2011	2010
Livestock:		
Cattle	\$ 34	\$ 39
Hogs	57	42
Grain	11	10

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**Interest Rate Risk:** At October 1, 2011, we had variable rate debt of \$211 million with a weighted average interest rate of 4.1%. A hypothetical 10% increase in interest rates effective at October 1, 2011, and October 2, 2010, would have a minimal effect on interest expense.

Additionally, changes in interest rates impact the fair value of our fixed-rate debt. At October 1, 2011, we had fixed-rate debt of \$2.0 billion with a weighted average interest rate of 9.2%. Market risk for fixed-rate debt is estimated as the potential increase in fair value, resulting from a hypothetical 10% decrease in interest rates. A hypothetical 10% decrease in interest rates would have increased the fair value of our fixed-rate debt by approximately \$5 million at October 1, 2011, and \$9 million at October 2, 2010. The fair values of our debt were estimated based on quoted market prices and/or published interest rates.

**Foreign Currency Risk:** We have foreign exchange gain/loss exposure from fluctuations in foreign currency exchange rates primarily as a result of certain receivable and payable balances. The primary currency exchanges we have exposure to are the Brazilian real, the British pound sterling, the Canadian dollar, the Chinese renminbi, the European euro, and the Mexican peso. We periodically enter into foreign exchange forward and option contracts to hedge some portion of our foreign currency exposure. A hypothetical 10% change in foreign exchange rates effective at October 1, 2011, and October 2, 2010, related to the foreign exchange forward and option contracts would have an \$18 million and \$17 million impact, respectively, on pretax income. In the future, we may enter into more foreign exchange forward and option contracts as a result of our international growth strategy.

**Concentrations of Credit Risk:** Our financial instruments exposed to concentrations of credit risk consist primarily of cash equivalents and trade receivables. Our cash equivalents are in high quality securities placed with major banks and financial institutions. Concentrations of credit risk with respect to receivables are limited due to our large number of customers and their dispersion across geographic areas. We perform periodic credit evaluations of our customers' financial condition and generally do not require collateral. At October 1, 2011, and October 2, 2010, 16.5% and 15.3%, respectively, of our net accounts receivable balance was due from Wal-Mart Stores, Inc. No other single customer or customer group represented greater than 10% of net accounts receivable.

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**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

**TYSON FOODS, INC.  
CONSOLIDATED STATEMENTS OF INCOME**

Three years ended October 1, 2011  
in millions, except per share data

	2011	2010	2009
Sales	\$ 32,266	\$ 28,430	\$ 26,704
Cost of Sales	30,067	25,916	25,501
Gross Profit	2,199	2,514	1,203
Operating Expenses:			
Selling, general and administrative	914	929	841
Goodwill impairment	0	29	560
Other charges	0	0	17
Operating Income (Loss)	1,285	1,556	(215)
Other (Income) Expense:			
Interest income	(11)	(14)	(17)
Interest expense	242	347	327
Other, net	(20)	20	18
Total Other (Income) Expense	211	353	328
Income (Loss) from Continuing Operations before Income Taxes	1,074	1,203	(543)
Income Tax Expense	341	438	7
Income (Loss) from Continuing Operations	733	765	(550)
Loss from Discontinued Operation, Net of Tax	0	0	(1)
Net Income (Loss)	733	765	(551)
Less: Net Loss Attributable to Noncontrolling Interest	(17)	(15)	(4)
Net Income (Loss) Attributable to Tyson	\$ 750	\$ 780	\$ (547)
Weighted Average Shares Outstanding:			
Class A Basic	303	303	302
Class B Basic	70	70	70
Diluted	380	379	372
Net Income (Loss) Per Share from Continuing Operations Attributable to Tyson:			
Class A Basic	\$ 2.04	\$ 2.13	\$ (1.49)
Class B Basic	\$ 1.84	\$ 1.91	\$ (1.35)
Diluted	\$ 1.97	\$ 2.06	\$ (1.47)
Net Income (Loss) Per Share from Discontinued Operation Attributable to Tyson:			
Class A Basic	\$ 0.00	\$ 0.00	\$ 0.00
Class B Basic	\$ 0.00	\$ 0.00	\$ 0.00
Diluted	\$ 0.00	\$ 0.00	\$ 0.00
Net Income (Loss) per Share Attributable to Tyson:			
Class A Basic	\$ 2.04	\$ 2.13	\$ (1.49)
Class B Basic	\$ 1.84	\$ 1.91	\$ (1.35)
Diluted	\$ 1.97	\$ 2.06	\$ (1.47)

See accompanying notes.

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**TYSON FOODS, INC.  
CONSOLIDATED BALANCE SHEETS**

October 1, 2011, and October 2, 2010  
in millions, except share and per share data

	2011	2010
<b>Assets</b>		
Current Assets:		
Cash and cash equivalents	\$ 716	\$ 978
Accounts receivable, net	1,321	1,198
Inventories	2,587	2,274
Other current assets	156	168
<b>Total Current Assets</b>	<b>4,780</b>	<b>4,618</b>
Net Property, Plant and Equipment	3,823	3,674
Goodwill	1,892	1,893
Intangible Assets	149	166
<b>Other Assets</b>	<b>427</b>	<b>401</b>
<b>Total Assets</b>	<b>\$11,071</b>	<b>\$10,752</b>
<b>Liabilities and Shareholders' Equity</b>		
Current Liabilities:		
Current debt	\$ 70	\$ 401
Accounts payable	1,264	1,110
Other current liabilities	1,040	1,034
<b>Total Current Liabilities</b>	<b>2,374</b>	<b>2,545</b>
Long-Term Debt	2,112	2,135
Deferred Income Taxes	424	321
Other Liabilities	476	486
Redeemable Noncontrolling Interest	0	64
Shareholders' Equity:		
Common stock (\$0.10 par value):		
Class A-authorized 900 million shares:		
issued 322 million shares in both 2011 and 2010	32	32
Convertible Class B-authorized 900 million shares:		
issued 70 million shares in both 2011 and 2010	7	7
Capital in excess of par value	2,261	2,243
Retained earnings	3,801	3,113
Accumulated other comprehensive income (loss)	(79)	0
Treasury stock, at cost –		
22 million shares in 2011 and 15 million shares in 2010	(365)	(229)
<b>Total Tyson Shareholders' Equity</b>	<b>5,657</b>	<b>5,166</b>
Noncontrolling Interest	28	35
<b>Total Shareholders' Equity</b>	<b>5,685</b>	<b>5,201</b>
<b>Total Liabilities and Shareholders' Equity</b>	<b>\$11,071</b>	<b>\$10,752</b>

See accompanying notes.

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**TYSON FOODS, INC.  
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**

Three years ended October 1, 2011  
in millions

	October 1, 2011		October 2, 2010		October 3, 2009	
	Shares	Amount	Shares	Amount	Shares	Amount
Common Stock at beginning and end of year:						
Class A	322	\$ 32	322	\$ 32	322	\$ 32
Class B	70	7	70	7	70	7
Capital in Excess of Par Value:						
Balance at beginning of year		2,243		2,236		2,217
Stock-based compensation		18		7		19
Balance at end of year		2,261		2,243		2,236
Retained Earnings:						
Balance at beginning of year		3,113		2,399		3,006
Net income (loss) attributable to Tyson		750		780		(547)
Dividends paid		(59)		(59)		(60)
Redeemable noncontrolling interest accretion		(3)		(7)		0
Balance at end of year		3,801		3,113		2,399
Accumulated Other Comprehensive Income (Loss), Net of Tax:						
Balance at beginning of year		0		(34)		41
Hedge accounting		(17)		12		6
Investment accounting		(8)		0		10
Currency translation adjustments		(41)		27		(81)
Net change in postretirement liabilities		(13)		(5)		(10)
Balance at end of year		(79)		0		(34)
Treasury Stock:						
Balance at beginning of year	15	(229)	16	(242)	15	(233)
Purchase of Tyson Class A common stock	11	(206)	3	(48)	2	(19)
Stock-based compensation	(4)	70	(4)	61	(1)	10
Balance at end of year	22	(365)	15	(229)	16	(242)
Total Shareholders' Equity Attributable to Tyson		\$ 5,657		\$ 5,166		\$ 4,398
Equity Attributable to Noncontrolling Interests						
Balance at beginning of year		\$ 35		\$ 33		\$ 29
Net loss attributable to noncontrolling interests (1)		(13)		(6)		(4)
Contributions by (distributions to) noncontrolling interest		8		10		9
Net foreign currency translation adjustment and other		(2)		(2)		(1)
Total Equity Attributable to Noncontrolling Interests		\$ 28		\$ 35		\$ 33
Total Shareholders' Equity		\$ 5,685		\$ 5,201		\$ 4,431
Comprehensive Income (Loss):						
Net income (loss)		\$ 733		\$ 765		\$ (551)
Other comprehensive income (loss), net of tax		(79)		34		(75)
Total Comprehensive Income (Loss)		654		799		(626)
Less: Comprehensive Loss attributable to						

noncontrolling interest	(13)	(6)	(4)
Total Comprehensive Income (Loss) attributable to Tyson	\$ 667	\$ 805	\$ (622)

See accompanying notes.

- (1) Excludes net income (loss) related to redeemable noncontrolling interest of \$(4) million, \$(9) million and \$0, for fiscal 2011, 2010 and 2009, respectively.

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**TYSON FOODS, INC.  
CONSOLIDATED STATEMENTS OF CASH FLOWS**

Three years ended October 1, 2011  
in millions

	2011	2010	2009
<b>Cash Flows From Operating Activities:</b>			
Net income (loss)	\$ 733	\$ 765	\$ (551)
Adjustments to reconcile net income (loss) to cash provided by operating activities:			
Depreciation	433	416	445
Amortization	73	81	68
Deferred income taxes	86	18	(33)
Impairment of goodwill	0	29	560
Impairment of assets	18	36	32
Other, net	49	76	72
(Increase) decrease in accounts receivable	(114)	(79)	137
(Increase) decrease in inventories	(299)	(239)	493
Increase (decrease) in accounts payable	152	101	(216)
Increase (decrease) in income taxes payable/receivable	(73)	(53)	33
Increase (decrease) in interest payable	19	(4)	(60)
Net change in other current assets and liabilities	(31)	285	(20)
<b>Cash Provided by Operating Activities</b>	<b>1,046</b>	<b>1,432</b>	<b>960</b>
<b>Cash Flows From Investing Activities:</b>			
Additions to property, plant and equipment	(643)	(550)	(368)
Purchases of marketable securities	(146)	(53)	(37)
Proceeds from sale of marketable securities	66	49	56
Proceeds from notes receivable	51	0	0
Proceeds from sale of discontinued operation	0	0	75
Change in restricted cash to be used for investing activities	0	43	(43)
Acquisitions, net of cash acquired	0	0	(93)
Other, net	28	11	(17)
<b>Cash Used for Investing Activities</b>	<b>(644)</b>	<b>(500)</b>	<b>(427)</b>
<b>Cash Flows From Financing Activities:</b>			
Net borrowings (payments) on revolving credit facilities	0	0	15
Payments of debt	(500)	(1,034)	(380)
Net proceeds from borrowings	115	0	852
Debt issuance costs	(9)	0	(59)
Purchase of redeemable noncontrolling interest	(66)	0	0
Purchases of Tyson Class A common stock	(207)	(48)	(19)
Dividends	(59)	(59)	(60)
Change in restricted cash to be used for financing activities	0	140	(140)
Other, net	68	42	6
<b>Cash Provided by (Used for) Financing Activities</b>	<b>(658)</b>	<b>(959)</b>	<b>215</b>
Effect of Exchange Rate Change on Cash	(6)	1	6
<b>Increase (Decrease) in Cash and Cash Equivalents</b>	<b>(262)</b>	<b>(26)</b>	<b>754</b>
Cash and Cash Equivalents at Beginning of Year	978	1,004	250
<b>Cash and Cash Equivalents at End of Year</b>	<b>\$ 716</b>	<b>\$ 978</b>	<b>\$ 1,004</b>

See accompanying notes.

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### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS TYSON FOODS, INC.

#### NOTE 1: BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Description of Business:** Tyson Foods, Inc. (collectively, “Company,” “we,” “us” or “our”), founded in 1935 with world headquarters in Springdale, Arkansas, is one of the world’s largest meat protein companies and the second-largest food production company in the *Fortune* 500. We produce a wide variety of brand name protein-based and prepared food products marketed in the United States and approximately 130 countries around the world.

**Consolidation:** The consolidated financial statements include the accounts of all majority-owned subsidiaries over which we exercise control and, when applicable, entities for which we have a controlling financial interest or are the primary beneficiary. All significant intercompany accounts and transactions have been eliminated in consolidation.

We have an investment in a joint venture, Dynamic Fuels LLC (Dynamic Fuels), in which we have a 50 percent ownership interest. Dynamic Fuels qualifies as a variable interest entity. We consolidate Dynamic Fuels since we are the primary beneficiary. At October 1, 2011, Dynamic Fuels had \$170 million of total assets, of which \$144 million was property, plant and equipment, and \$116 million of total liabilities, of which \$100 million was long-term debt. At October 2, 2010, Dynamic Fuels had \$154 million of total assets, of which \$145 million was property, plant and equipment, and \$107 million of total liabilities, of which \$100 million was long-term debt.

**Fiscal Year:** We utilize a 52- or 53-week accounting period ending on the Saturday closest to September 30. The Company’s accounting cycle resulted in a 52-week year for fiscal years 2011 and 2010 and a 53-week year for fiscal year 2009.

**Discontinued Operation:** On March 13, 2009, we completed the sale of the beef processing, cattle feed yard and fertilizer assets of three of our Alberta, Canada subsidiaries (collectively, Lakeside), which were part of our Beef segment, and related inventories. The financial statements report Lakeside as a discontinued operation. See Note 3: Acquisitions and Discontinued Operation in the Notes to Consolidated Financial Statements for further information.

**Cash and Cash Equivalents:** Cash equivalents consist of investments in short-term, highly liquid securities having original maturities of three months or less, which are made as part of our cash management activity. The carrying values of these assets approximate their fair values. We primarily utilize a cash management system with a series of separate accounts consisting of lockbox accounts for receiving cash, concentration accounts where funds are moved to, and several zero-balance disbursement accounts for funding payroll, accounts payable, livestock procurement, grower payments, etc. As a result of our cash management system, checks issued, but not presented to the banks for payment, may result in negative book cash balances. These negative book cash balances are included in accounts payable and other current liabilities. At October 1, 2011, and October 2, 2010, checks outstanding in excess of related book cash balances totaled approximately \$281 million and \$267 million, respectively.

**Accounts Receivable:** We record accounts receivable at net realizable value. This value includes an appropriate allowance for estimated uncollectible accounts to reflect any loss anticipated on the accounts receivable balances and charged to the provision for doubtful accounts. We calculate this allowance based on our history of write-offs, level of past due accounts and relationships with and economic status of our customers. At October 1, 2011, and October 2, 2010, our allowance for uncollectible accounts was \$31 million and \$32 million, respectively. We generally do not have collateral for our receivables, but we do periodically evaluate the credit worthiness of our customers.

**Inventories:** Processed products, livestock and supplies and other are valued at the lower of cost or market. Cost includes purchased raw materials, live purchase costs, growout costs (primarily feed, contract grower pay and catch and haul costs), labor and manufacturing and production overhead, which are related to the purchase and production of inventories.

	in millions	
	2011	2010
Processed products:		
Weighted-average method – chicken and prepared foods	\$ 715	\$ 721
First-in, first-out method – beef and pork	581	462
Livestock – first-in, first-out method	928	759
Supplies and other – weighted-average method	363	332
Total inventory	\$2,587	\$ 2,274

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**Property, Plant and Equipment:** Property, plant and equipment are stated at cost and depreciated on a straight-line method, using estimated lives for buildings and leasehold improvements of 10 to 33 years, machinery and equipment of three to 12 years and land improvements and other of three to 20 years. Major repairs and maintenance costs that significantly extend the useful life of the related assets are capitalized. Normal repairs and maintenance costs are charged to operations.

We review the carrying value of long-lived assets at each balance sheet date if indication of impairment exists. Recoverability is assessed using undiscounted cash flows based on historical results and current projections of earnings before interest and taxes. We measure impairment as the excess of carrying cost over the fair value of an asset. The fair value of an asset is measured using discounted cash flows including market participant assumptions of future operating results and discount rates.

**Goodwill and Other Intangible Assets:** Goodwill and indefinite life intangible assets are initially recorded at fair value and not amortized, but are reviewed for impairment at least annually or more frequently if impairment indicators arise. Our goodwill is allocated by reporting unit, and we follow a two-step process to evaluate if a potential impairment exists. The first step is to identify if a potential impairment exists by comparing the fair value of a reporting unit with its carrying amount, including goodwill. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to have a potential impairment and the second step of the impairment test is not necessary. However, if the carrying amount of a reporting unit exceeds its fair value, the second step is performed to determine if goodwill is impaired and to measure the amount of impairment loss to recognize, if any. The second step compares the implied fair value of goodwill with the carrying amount of goodwill. If the implied fair value of goodwill exceeds the carrying amount, then goodwill is not considered impaired. However, if the carrying amount of goodwill exceeds the implied fair value, an impairment loss is recognized in an amount equal to that excess. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination (i.e., the fair value of the reporting unit is allocated to all the assets and liabilities, including any unrecognized intangible assets, as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was determined as the exit price a market participant would pay for the same business). We have elected to make the first day of the fourth quarter the annual impairment assessment date for goodwill and other indefinite life intangible assets.

We have estimated the fair value of our reporting units using a discounted cash flow analysis, which uses significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy. This analysis requires us to make various judgmental estimates and assumptions about sales, operating margins, growth rates and discount factors and is believed to reflect market participant views which would exist in an exit transaction. Generally, we utilize normalized operating margin assumptions based on future expectations and operating margins historically realized in the reporting units' industries. For the fiscal 2011 impairment test of material reporting units, only our Domestic Chicken reporting unit, which had goodwill at October 1, 2011 totaling \$900 million, utilized operating margins in future years in excess of the operating margins realized in the most recent year. The current year Domestic Chicken reporting unit results were not indicative of future market participant expectations in an exit transaction. We assumed operating margins in future years would return to our normalized range, as we believe this is consistent with market participant views in an exit transaction. Some of the inherent estimates and assumptions used in determining fair value of the reporting units are outside the control of management, including interest rates, cost of capital, tax rates, and credit ratings. While we believe we have made reasonable estimates and assumptions to calculate the fair value of the reporting units, it is possible a material change could occur. If our actual results are not consistent with our estimates and assumptions used to calculate fair value, we may be required to perform the second step in future years, which could result in material impairments of our goodwill.

During fiscal 2011, 2010 and 2009, all of our reporting units passed the first step of the goodwill impairment analysis, with the exception of an immaterial Chicken segment reporting unit in fiscal 2010 and the Beef reporting unit in fiscal 2009. In fiscal 2010, we recorded a \$29 million full impairment of an immaterial Chicken segment reporting unit's goodwill. In fiscal 2009, we recorded a \$560 million partial impairment of our Beef reporting unit's goodwill, which was driven by an increase in our discount rate used in the 2009 annual goodwill impairment analysis as a result of disruptions in global credit and other financial markets and deterioration of economic conditions.

For our other indefinite life intangible assets, if the carrying value of the intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess. The fair value of trademarks is determined using a royalty rate method based on expected revenues by trademark.

**Investments:** We have investments in joint ventures and other entities. We use the cost method of accounting when our voting interests are less than 20 percent. We use the equity method of accounting when our voting interests are in excess of 20 percent and we do not have a controlling interest or a variable interest in which we are the primary beneficiary. Investments in joint ventures and other entities are reported in the Consolidated Balance Sheets in Other Assets.

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We also have investments in marketable debt securities. We have determined all of our marketable debt securities are available-for-sale investments. These investments are reported at fair value based on quoted market prices as of the balance sheet date, with unrealized gains and losses, net of tax, recorded in other comprehensive income. The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization is recorded in interest income. The cost of securities sold is based on the specific identification method. Realized gains and losses on the sale of debt securities and declines in value judged to be other than temporary are recorded on a net basis in other income. Interest and dividends on securities classified as available-for-sale are recorded in interest income.

**Accrued Self Insurance:** We use a combination of insurance and self-insurance mechanisms in an effort to mitigate the potential liabilities for health and welfare, workers' compensation, auto liability and general liability risks. Liabilities associated with our risks retained are estimated, in part, by considering claims experience, demographic factors, severity factors and other actuarial assumptions.

**Capital Stock:** We have two classes of capital stock, Class A Common Stock, \$0.10 par value (Class A stock) and Class B Common Stock, \$0.10 par value (Class B stock). Holders of Class B stock may convert such stock into Class A stock on a share-for-share basis. Holders of Class B stock are entitled to 10 votes per share, while holders of Class A stock are entitled to one vote per share on matters submitted to shareholders for approval. As of October 1, 2011, Tyson Limited Partnership (the TLP) owned 99.97% of the outstanding shares of Class B stock and the TLP and members of the Tyson family owned, in the aggregate, 2.45% of the outstanding shares of Class A stock, giving them, collectively, control of approximately 70.74% of the total voting power of the outstanding voting stock. Cash dividends cannot be paid to holders of Class B stock unless they are simultaneously paid to holders of Class A stock. The per share amount of the cash dividend paid to holders of Class B stock cannot exceed 90% of the cash dividend simultaneously paid to holders of Class A stock. We pay quarterly cash dividends to Class A and Class B shareholders. We paid Class A dividends per share of \$0.16 and Class B dividends per share of \$0.144 in each of fiscal years 2011, 2010 and 2009.

The Class B stock is considered a participating security requiring the use of the two-class method for the computation of basic earnings per share. The two-class computation method for each period reflects the cash dividends paid for each class of stock, plus the amount of allocated undistributed earnings (losses) computed using the participation percentage, which reflects the dividend rights of each class of stock. Basic earnings per share were computed using the two-class method for all periods presented. The shares of Class B stock are considered to be participating convertible securities since the shares of Class B stock are convertible on a share-for-share basis into shares of Class A stock. Diluted earnings per share were computed assuming the conversion of the Class B shares into Class A shares as of the beginning of each period.

On May 11, 2011, we announced our Board of Directors reactivated a share repurchase program, which had no activity since fiscal 2005, to repurchase up to the remaining available 22.5 million shares of Class A common stock under the program. The share repurchase program has no fixed or scheduled termination date. During fiscal 2011, we repurchased 9.7 million shares for approximately \$170 million under this plan. As of October 1, 2011, 12.8 million shares remain authorized for repurchase. The timing and extent to which we repurchase shares will depend upon, among other things, market conditions, liquidity targets, limitations under our debt obligations and regulatory requirements. In addition to the share repurchase program, we purchase shares on the open market to fund certain obligations under our equity compensation plans. These repurchases totaled \$37 million and \$48 million during fiscal 2011 and 2010, respectively.

**Financial Instruments:** We purchase certain commodities, such as grains and livestock in the course of normal operations. As part of our commodity risk management activities, we use derivative financial instruments, primarily futures and options, to reduce our exposure to various market risks related to these purchases, as well as to changes in foreign currency exchange rates. Contract terms of a financial instrument qualifying as a hedge instrument closely mirror those of the hedged item, providing a high degree of risk reduction and correlation. Contracts designated and highly effective at meeting risk reduction and correlation criteria are recorded using hedge accounting. If a derivative instrument is accounted for as a hedge, changes in the fair value of the instrument will be offset either against the change in fair value of the hedged assets, liabilities or firm commitments through earnings or recognized in other comprehensive income (loss) until the hedged item is recognized in earnings. The ineffective portion of an instrument's change in fair value is immediately recognized in earnings as a component of cost of sales. Instruments we hold as part of our risk management activities that do not meet the criteria for hedge accounting are marked to fair value with unrealized gains or losses reported currently in earnings. Changes in market value of derivatives used in our risk management activities relating to forward sales contracts are recorded in sales, while changes surrounding inventories on hand or anticipated purchases of inventories or supplies are recorded in cost of sales. We generally do not hedge anticipated transactions beyond 18 months.

**Revenue Recognition:** We recognize revenue when title and risk of loss are transferred to customers, which is generally on delivery based on terms of sale. Revenue is recognized as the net amount estimated to be received after deducting estimated amounts for discounts, trade allowances and product terms.

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**Litigation Reserves:** There are a variety of legal proceedings pending or threatened against us. Accruals are recorded when it is probable a liability has been incurred and the amount of the liability can be reasonably estimated based on current law, progress of each case, opinions and views of legal counsel and other advisers, our experience in similar matters and intended response to the litigation. These amounts, which are not discounted and are exclusive of claims against third parties, are adjusted periodically as assessment efforts progress or additional information becomes available. We expense amounts for administering or litigating claims as incurred. Accruals for legal proceedings are included in Other current liabilities in the Consolidated Balance Sheets.

**Freight Expense:** Freight expense associated with products shipped to customers is recognized in cost of sales.

**Advertising and Promotion Expenses:** Advertising and promotion expenses are charged to operations in the period incurred. Customer incentive and trade promotion activities are recorded as a reduction to sales based on amounts estimated as being due to customers, based primarily on historical utilization and redemption rates, while other advertising and promotional activities are recorded as selling, general and administrative expenses. Advertising and promotion expenses for fiscal years 2011, 2010 and 2009 were \$552 million, \$505 million and \$491 million, respectively.

**Research and Development:** Research and development costs are expensed as incurred. Research and development costs totaled \$42 million, \$38 million and \$33 million in fiscal 2011, 2010 and 2009, respectively.

**Use of Estimates:** The consolidated financial statements are prepared in conformity with accounting principles generally accepted in the United States, which require us to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates.

**Recently Issued Accounting Pronouncements:** In May 2011, the Financial Accounting Standards Board (FASB) clarified the guidance around fair value measurements and disclosures. This guidance is effective for interim and annual periods beginning after December 15, 2011. We will adopt this guidance in the second quarter of fiscal year 2012. We do not expect the adoption will have a significant impact on our consolidated financial statements.

In June 2011, the FASB issued guidance regarding the presentation of comprehensive income. This guidance is effective for annual periods, and interim periods within those years, beginning after December 15, 2011. We anticipate we will adopt this guidance in the first quarter of fiscal year 2013. Upon adoption, we will be required to present comprehensive income as part of our consolidated statements of income, or in a separate financial statement. Currently, we present such information in our notes to the consolidated financial statements. Other than changing the presentation of comprehensive income, we do not expect the adoption will have a significant impact on our consolidated financial statements.

In September 2011, the FASB issued guidance amending the way companies test for goodwill impairment. This guidance is effective for interim and annual periods beginning after December 15, 2011, with early adoption permitted. We do not expect the adoption will have a significant impact on our consolidated financial statements.

### NOTE 2: CHANGES IN ACCOUNTING PRINCIPLES

In December 2007, the FASB issued guidance to establish accounting and reporting standards for a noncontrolling interest in a subsidiary and for the deconsolidation of a subsidiary. This guidance clarifies that a noncontrolling interest in a subsidiary is an ownership interest in the consolidated entity and may be reported as equity in the consolidated financial statements, rather than in the liability or mezzanine section between liabilities and equity. This guidance also requires consolidated net income be reported at amounts that include the net income attributable to both Tyson (the parent) and the noncontrolling interest. We adopted the presentation and disclosure requirements retrospectively at the beginning of fiscal 2010. Accordingly, "attributable to Tyson" refers to operating results exclusive of any noncontrolling interest. In conjunction with this adoption, we also adopted guidance applicable for all noncontrolling interests in which we are or may be required to repurchase an interest in a consolidated subsidiary from the noncontrolling interest holder under a put option or other contractual redemption requirement. Because we had certain redeemable noncontrolling interests, noncontrolling interests were presented in both the equity section and the mezzanine section of the balance sheet between liabilities and equity.

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In May 2008, the FASB issued guidance which specifies issuers of convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) should separately account for the liability and equity components in a manner that will reflect the entity's nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. The amount allocated to the equity component represents a discount to the debt, which is amortized into interest expense using the effective interest method over the life of the debt. We adopted this guidance in the first quarter of fiscal 2010 and applied it retrospectively. Upon retrospective adoption, our effective interest rate on our 3.25% Convertible Senior Notes due 2013 issued in September 2008 was determined to be 8.26%, which resulted in the recognition of a \$92 million discount to these notes with the offsetting after tax amount of \$56 million recorded to capital in excess of par value. This discount is being accreted over the five-year term of the convertible notes at the effective interest rate.

The following table presents the effects of the retrospective application of new accounting guidance on our consolidated financial statements (in millions, except per share data):

	Previously Reported	Adjustments: Convertible Debt	Adjustments: Noncontrolling Interest	As Adjusted
<b>October 3, 2009 – Income Statement:</b>				
Interest Expense	\$ 310	\$ 17	\$ 0	\$ 327
Income (Loss) from Continuing Operations before Income Taxes	(526)	(17)	0	(543)
Income Tax Expense	14	(7)	0	7
Income (Loss) from Continuing Operations	(540)	(10)	0	(550)
Minority Interest	(4)	0	4	0
Net Income (Loss)	(537)	(10)	(4)	(551)
Less: Net Loss Attributable to Noncontrolling Interest	0	0	(4)	(4)
Net Income (Loss) Attributable to Tyson	0	0	0	(547)
Net Income (Loss) Per Share from Continuing Operations Attributable to Tyson:				
Class A Basic	\$ (1.47)	\$ (0.02)	\$ 0.00	\$ (1.49)
Class B Basic	\$ (1.32)	\$ (0.03)	\$ 0.00	\$ (1.35)
Diluted	\$ (1.44)	\$ (0.03)	\$ 0.00	\$ (1.47)
Net Income (Loss) Per Share Attributable to Tyson:				
Class A Basic	\$ (1.47)	\$ (0.02)	\$ 0.00	\$ (1.49)
Class B Basic	\$ (1.32)	\$ (0.03)	\$ 0.00	\$ (1.35)
Diluted	\$ (1.44)	\$ (0.03)	\$ 0.00	\$ (1.47)

In December 2008, the FASB issued guidance requiring additional disclosures about assets held in an employer's defined benefit pension or other postretirement plan. This guidance is effective for fiscal years ending after December 15, 2009, with early adoption permitted. We adopted the disclosure requirements in fiscal 2010. See Note 14: Pensions and Other Postretirement Benefits for required disclosures.

In June 2009, the FASB issued guidance removing the concept of a qualifying special-purpose entity. This guidance also clarifies the requirements for isolation and limitations on portions of financial assets eligible for sale accounting. This guidance is effective for fiscal years beginning after November 15, 2009. We adopted this guidance at the beginning of fiscal year 2011. The adoption did not have a significant impact on our consolidated financial statements.

In June 2009 and December 2009, the FASB issued guidance requiring an analysis to determine whether a variable interest gives the entity a controlling financial interest in a variable interest entity. This guidance requires an ongoing assessment and eliminates the quantitative approach previously required for determining whether an entity is the primary beneficiary. This guidance is effective for fiscal years beginning after November 15, 2009. We adopted this guidance at the beginning of fiscal year 2011. The adoption did not have a significant impact on our consolidated financial statements.

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### NOTE 3: ACQUISITIONS AND DISCONTINUED OPERATION

#### Acquisitions

In August 2009, we completed the establishment of related joint ventures in China referred to as Shandong Tyson Xinchang Foods. The aggregate purchase price for our 60% equity interest was \$21 million, which excludes \$93 million of cash transferred to the joint venture for future capital needs. The purchase price included \$29 million allocated to Intangible Assets and \$19 million allocated to Goodwill, as well as the assumption of \$76 million of Current and Long-Term Debt.

In May 2011, the minority partner exercised put options requiring us to purchase its entire 40% equity interest. In August 2011, the transaction closed for \$66 million.

In October 2008, we acquired three vertically integrated poultry companies in southern Brazil: Macedo Agroindustrial, Avicola Itaiopolis and Frangobras. The aggregate purchase price was \$67 million. In addition, we had \$15 million of contingent purchase price based on production volumes. The purchase price included \$23 million allocated to Goodwill and \$19 million allocated to Intangible Assets. Through fiscal 2011, we have paid \$11 million of the contingent purchase price.

#### Discontinued Operation

On March 13, 2009, we completed the sale of the beef processing, cattle feed yard and fertilizer assets of three of our Alberta, Canada subsidiaries (collectively, Lakeside), which were part of our Beef segment, and related inventories for total consideration of \$145 million, based on exchange rates then in effect. This included (a) cash received at closing of \$43 million, (b) \$78 million of collateralized notes receivable from either XL Foods or an affiliated entity to be collected throughout the two years following closing, and (c) \$24 million of XL Foods Preferred Stock to be redeemed over five years.

We recorded a pretax loss on sale of Lakeside of \$10 million in fiscal 2009, which included an allocation of beef reporting unit goodwill of \$59 million and cumulative currency translation adjustment gains of \$41 million.

The following is a summary of Lakeside's operating results prior to its disposition (in millions):

	2009
Sales	\$ 461
Pretax income from discontinued operation	\$ 20
Loss on sale of discontinued operation	(10)
Income tax expense	11
Loss from discontinued operation	\$ (1)

### NOTE 4: PROPERTY, PLANT AND EQUIPMENT

Major categories of property, plant and equipment and accumulated depreciation at October 1, 2011, and October 2, 2010:

	in millions	
	2011	2010
Land	\$ 95	\$ 97
Building and leasehold improvements	2,698	2,617
Machinery and equipment	4,897	4,694
Land improvements and other	386	232
Buildings and equipment under construction	446	513
	8,522	8,153
Less accumulated depreciation	4,699	4,479
Net property, plant and equipment	\$3,823	\$3,674

Approximately \$427 million will be required to complete buildings and equipment under construction at October 1, 2011.

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### NOTE 5: GOODWILL AND OTHER INTANGIBLE ASSETS

The following table reflects goodwill activity for fiscal years 2011 and 2010:

	in millions				
	Prepared				
	Chicken	Beef	Pork	Foods	Consolidated
<b>Balances at October 3, 2009:</b>					
Goodwill	\$ 973	\$ 1,123	\$ 317	\$ 64	\$ 2,477
Accumulated impairment losses	0	(560)	0	0	(560)
	973	563	317	64	1,917
Fiscal 2010 Activity:					
Impairment losses	(29)	0	0	0	(29)
Currency translation and other	6	0	0	(1)	5
<b>Balances at October 2, 2010:</b>					
Goodwill	\$ 979	\$ 1,123	\$ 317	\$ 63	\$ 2,482
Accumulated impairment losses	(29)	(560)	0	0	(589)
	\$ 950	\$ 563	\$ 317	\$ 63	\$ 1,893
Fiscal 2011 Activity:					
Impairment losses	0	0	0	0	0
Currency translation and other	(1)	0	0	0	(1)
<b>Balances at October 1, 2011:</b>					
Goodwill	978	1,123	317	63	2,481
Accumulated impairment losses	(29)	(560)	0	0	(589)
	\$ 949	\$ 563	\$ 317	\$ 63	\$ 1,892

Other intangible assets by type at October 1, 2011, and October 2, 2010:

	in millions	
	2011	2010
Gross Carrying Value:		
Trademarks	\$ 56	\$ 56
Patents, intellectual property and other	143	144
Land use rights	25	23
Less Accumulated Amortization	75	57
Total Intangible Assets	\$ 149	\$ 166

Beginning with the date benefits are realized, other intangible assets are amortized using the straight-line method over their estimated period of benefit of three to 30 years. Amortization expense of \$18 million, \$19 million and \$10 million was recognized during fiscal 2011, 2010 and 2009, respectively. We estimate amortization expense on intangible assets for the next five fiscal years subsequent to October 1, 2011 will be: 2012 - \$16 million; 2013 - \$16 million; 2014 - \$15 million; 2015 - \$15 million; 2016 - \$14 million.

### NOTE 6: OTHER CURRENT LIABILITIES

Other current liabilities at October 1, 2011, and October 2, 2010, include:

	in millions	
	2011	2010
Accrued salaries, wages and benefits	\$ 407	\$ 444
Self-insurance reserves	298	256
Other	335	334
Total other current liabilities	\$ 1,040	\$ 1,034

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### NOTE 7: DEBT

The major components of debt are as follows (in millions):

	2011	2010
Revolving credit facility	\$ 0	\$ 0
Senior notes:		
8.25% Notes due October 2011 (2011 Notes)	0	315
3.25% Convertible senior notes due October 2013 (2013 Notes)	458	458
10.50% Senior notes due March 2014 (2014 Notes)	810	810
6.85% Senior notes due April 2016 (2016 Notes)	638	701
7.00% Notes due May 2018	120	122
7.00% Notes due January 2028	18	18
Discount on senior notes	(76)	(105)
GO Zone tax-exempt bonds due October 2033 (0.14% at 10/1/2011)	100	100
Other	114	117
Total debt	2,182	2,536
Less current debt	70	401
Total long-term debt	\$ 2,112	\$ 2,135

Annual maturities of debt for the five fiscal years subsequent to October 1, 2011, are: 2012 - \$70 million; 2013 - \$17 million; 2014 - \$1,279 million; 2015 - \$7 million; 2016 - \$643 million.

#### Revolving Credit Facility

In February 2011, we amended and extended our \$1.0 billion revolving credit facility that supports short-term funding needs and letters of credit. The facility will mature and the commitments thereunder will terminate in February 2016, provided that (a) at any time during the six-month period ending November 29, 2013, we have corporate credit ratings not lower than BBB- and Baa3 from Standard & Poor's (S&P) and Moody's Investor Services, Inc. (Moody's), respectively, in each case with stable outlook or better, (b) on or prior to November 29, 2013, we have refinanced, purchased, or defeased the 2014 Notes, or (c) we have irrevocably deposited cash in an amount not less than the aggregate principal amount of the outstanding 2014 Notes on or prior to November 29, 2013, in a blocked cash collateral account. In the event none of the foregoing events have occurred, the loans made under this facility will mature and the commitments thereunder will terminate on November 29, 2013. As of October 1, 2011, none of the foregoing events have occurred.

After reducing the amount available by outstanding letters of credit issued under this facility, the amount available for borrowing under this facility at October 1, 2011, was \$842 million. At October 1, 2011, we had outstanding letters of credit issued under this facility totaling \$158 million, none of which were drawn upon. Our letters of credit are issued primarily in support of workers' compensation insurance programs, derivative activities and Dynamic Fuels' Gulf Opportunity Zone tax-exempt bonds. We had an additional \$50 million of bilateral letters of credit not issued under this facility, none of which were drawn upon.

This facility is fully and unconditionally guaranteed by substantially all of our domestic subsidiaries. The guarantors' cash, accounts receivable, inventory and proceeds received related to these items previously secured our obligations under this facility. Because we satisfied certain credit rating requirements provided for in the facility, we requested the release of the liens securing the facility. As of October 1, 2011, all liens securing our obligations under this facility were released, while the facility remains fully and unconditionally guaranteed by substantially all of our domestic subsidiaries.

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### 2013 Notes

In September 2008, we issued \$458 million principal amount 3.25% convertible senior unsecured notes due October 15, 2013, with interest payable semi-annually in arrears on April 15 and October 15. The conversion rate initially is 59.1935 shares of Class A stock per \$1,000 principal amount of notes, which is equivalent to an initial conversion price of \$16.89 per share of Class A stock. The 2013 Notes may be converted before the close of business on July 12, 2013, only under the following circumstances:

- during any fiscal quarter after December 27, 2008, if the last reported sale price of our Class A stock for at least 20 trading days during a period of 30 consecutive trading days ending on the last trading day of the preceding fiscal quarter is at least 130% of the applicable conversion price on each applicable trading day (which would currently require our shares to trade at or above \$21.96); or
- during the five business days after any 10 consecutive trading days (measurement period) in which the trading price per \$1,000 principal amount of notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of our Class A stock and the applicable conversion rate on each such day; or
- upon the occurrence of specified corporate events as defined in the supplemental indenture.

On and after July 15, 2013, until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their notes at any time, regardless of the foregoing circumstances. Upon conversion, we will deliver cash up to the aggregate principal amount of the 2013 Notes to be converted and shares of our Class A stock in respect of the remainder, if any, of our conversion obligation in excess of the aggregate principal amount of the 2013 Notes being converted. As of October 1, 2011, none of the conditions permitting conversion of the 2013 Notes had been satisfied.

The 2013 Notes were originally accounted for as a combined instrument because the conversion feature did not meet the requirements to be accounted for separately as a derivative financial instrument. However, we adopted new accounting guidance in the first quarter of fiscal 2010 and applied it retrospectively to all periods presented. This new accounting guidance required us to separately account for the liability and equity conversion features. Upon retrospective adoption, our effective interest rate on the 2013 Notes was determined to be 8.26%, which resulted in the recognition of a \$92 million discount to these notes with the offsetting after tax amount of \$56 million recorded to capital in excess of par value. This discount is being accreted over the five-year term of the convertible notes at the effective interest rate.

In connection with the issuance of the 2013 Notes, we entered into separate convertible note hedge transactions with respect to our Class A stock to minimize the potential economic dilution upon conversion of the 2013 Notes. We also entered into separate warrant transactions. We recorded the purchase of the note hedge transactions as a reduction to capital in excess of par value, net of \$36 million pertaining to the related deferred tax asset, and we recorded the proceeds of the warrant transactions as an increase to capital in excess of par value. Subsequent changes in fair value of these instruments are not recognized in the financial statements as long as the instruments continue to meet the criteria for equity classification.

We purchased call options in private transactions for \$94 million that permit us to acquire up to approximately 27 million shares of our Class A stock at an initial strike price of \$16.89 per share, subject to adjustment. The call options allow us to acquire a number of shares of our Class A stock initially equal to the number of shares of Class A stock issuable to the holders of the 2013 Notes upon conversion. These call options will terminate upon the maturity of the 2013 Notes.

We sold warrants in private transactions for total proceeds of \$44 million. The warrants permit the purchasers to acquire up to approximately 27 million shares of our Class A stock at an initial exercise price of \$22.31 per share, subject to adjustment. The warrants are exercisable on various dates from January 2014 through March 2014.

The maximum amount of shares that may be issued to satisfy the conversion of the 2013 Notes is limited to 35.9 million shares. However, the convertible note hedge and warrant transactions, in effect, increase the initial conversion price of the 2013 Notes from \$16.89 per share to \$22.31 per share, thus reducing the potential future economic dilution associated with conversion of the 2013 Notes. If our share price is below \$22.31 upon conversion of the 2013 Notes, there is no economic net share impact. Upon conversion, a 10% increase in our share price above the \$22.31 conversion price would result in the issuance of 2.5 million incremental shares. The 2013 Notes and the warrants could have a dilutive effect on our earnings per share to the extent the price of our Class A stock during a given measurement period exceeds the respective exercise prices of those instruments. The call options are excluded from the calculation of diluted earnings per share as their impact is anti-dilutive.

### 2014 Notes

In March 2009, we issued \$810 million of senior unsecured notes, which will mature in March 2014. The 2014 Notes carry a 10.50% interest rate, with interest payments due semi-annually on March 1 and September 1. These were issued at an original issue discount of \$59 million, based on an issue price of 92.756% of face value. The 2014 Notes are fully and unconditionally guaranteed by substantially all of our domestic subsidiaries.

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### 2016 Notes

The 2016 Notes carried an interest rate at issuance of 6.60%, with an interest step up feature dependent on their credit rating. On November 13, 2008, Moody's downgraded the credit rating from "Ba1" to "Ba3." This downgrade increased the interest rate from 7.35% to 7.85%, effective beginning with the six-month interest payment due April 1, 2009.

On August 19, 2010, S&P upgraded the credit rating of these notes from "BB" to "BB+." On September 2, 2010, Moody's upgraded our credit rating from "Ba3" to "Ba2." These upgrades decreased the interest rate on the 2016 Notes from 7.85% to 7.35%, effective beginning with the six-month interest payment due October 1, 2010.

On February 24, 2011, S&P upgraded the credit rating of these notes from "BB+" to "BBB-." On March 29, 2011, Moody's upgraded our credit rating from "Ba2" to "Ba1". These upgrades decreased the interest rate on the 2016 Notes from 7.35% to 6.85%, effective beginning with the six-month interest payment due April 1, 2011.

### GO Zone Tax-Exempt Bonds

In October 2008, Dynamic Fuels received \$100 million in proceeds from the sale of Gulf Opportunity Zone tax-exempt bonds made available by the federal government to the regions affected by Hurricanes Katrina and Rita in 2005. These floating rate bonds are due October 1, 2033. In November 2008, we entered into an interest rate swap related to these bonds to mitigate our interest rate risk on a portion of the bonds for five years. We also issued a letter of credit as a guarantee for the entire bond issuance.

### Debt Covenants

Our revolving credit facility contains affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens and encumbrances; incur debt; merge, dissolve, liquidate or consolidate; make acquisitions and investments; dispose of or transfer assets; pay dividends or make other payments in respect of our capital stock; amend material documents; change the nature of our business; make certain payments of debt; engage in certain transactions with affiliates; and enter into sale/leaseback or hedging transactions, in each case, subject to certain qualifications and exceptions. In addition, we are required to maintain minimum interest expense coverage and maximum leverage ratios.

Our 2014 Notes also contain affirmative and negative covenants that, among other things, may limit or restrict our ability to: incur additional debt and issue preferred stock; make certain investments and restricted payments; create liens; create restrictions on distributions from subsidiaries; engage in specified sales of assets and subsidiary stock; enter into transactions with affiliates; enter new lines of business; engage in consolidation, mergers and acquisitions; and engage in certain sale/leaseback transactions.

We were in compliance with all debt covenants at October 1, 2011.

## NOTE 8: INCOME TAXES

Detail of the provision for income taxes from continuing operations consists of the following:

	in millions		
	2011	2010	2009
Federal	\$ 320	\$ 374	\$ 7
State	21	44	(4)
Foreign	0	20	4
	\$ 341	\$ 438	\$ 7
Current	\$ 255	\$ 420	\$ 40
Deferred	86	18	(33)
	\$ 341	\$ 438	\$ 7

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The reasons for the difference between the statutory federal income tax rate and our effective income tax rate from continuing operations are as follows:

	2011	2010	2009
Federal income tax rate	35.0%	35.0%	35.0%
State income taxes	1.6	2.4	0.1
Unrecognized tax benefits, net	(1.7)	(1.4)	(0.3)
Goodwill impairment	0.0	0.9	(36.1)
General business credits	(0.9)	(0.7)	2.2
Domestic production deduction	(2.3)	(2.0)	0.5
Change in foreign valuation allowance	0.3	0.8	(3.8)
Tax planning in foreign jurisdictions	0.0	0.0	1.7
Other	(0.2)	1.4	(0.8)
	31.8%	36.4%	(1.5)%

During fiscal 2011, tax expense was impacted by the domestic production deduction, adjustments to reserves for uncertain tax positions due to domestic and foreign tax audit activities, and estimated general business credits, which decreased tax expense by \$25 million, \$19 million, and \$9 million, respectively.

During fiscal 2010, tax expense was impacted by the domestic production deduction and reductions in unrecognized tax benefits, which decreased tax expense by \$24 million and \$16 million, respectively.

The fiscal 2009 goodwill impairment is not deductible for income tax purposes and negatively impacted our effective income tax rate by 36.1%. During fiscal 2009, our tax expense was impacted by an increase in foreign valuation allowance which increased tax expense by \$21 million, estimated general business credits, which decreased tax expense by \$12 million, and tax planning in foreign jurisdictions which decreased tax expense by \$9 million.

We recognize deferred income taxes for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

The tax effects of major items recorded as deferred tax assets and liabilities are as follows:

	in millions			
	2011		2010	
	Deferred Tax		Deferred Tax	
	Assets	Liabilities	Assets	Liabilities
Property, plant and equipment	\$ 0	\$ 401	\$ 0	\$ 347
Suspended taxes from conversion to accrual method	0	81	0	86
Intangible assets	0	35	0	34
Inventory	9	113	9	85
Accrued expenses	196	0	202	0
Net operating loss and other carryforwards	97	0	97	0
Insurance reserves	23	0	20	0
Other	80	68	108	90
	\$ 405	\$ 698	\$ 436	\$ 642
Valuation allowance	\$ (92)		\$ (96)	
Net deferred tax liability		\$ 385		\$ 302

We record deferred tax amounts in Other Current Assets and in Deferred Income Taxes on the Consolidated Balance Sheets.

The deferred tax liability for suspended taxes from conversion to accrual method represents the 1987 change from the cash to accrual method of accounting and will be recognized by 2027.

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At October 1, 2011, our gross state tax net operating loss carryforwards approximated \$635 million and expire in fiscal years 2012 through 2029. Gross foreign net operating loss carryforwards approximated \$160 million, of which \$63 million expire in fiscal years 2012 through 2020, and the remainder has no expiration. We also have tax credit carryforwards of approximately \$19 million that expire in fiscal years 2012 through 2025.

We have accumulated undistributed earnings of foreign subsidiaries aggregating approximately \$339 million and \$260 million at October 1, 2011, and October 2, 2010, respectively. These earnings are expected to be indefinitely reinvested outside of the United States. If those earnings were distributed in the form of dividends or otherwise, we would be subject to federal income taxes (subject to an adjustment for foreign tax credits), state income taxes and withholding taxes payable to the various foreign countries. It is not currently practicable to estimate the tax liability that might be payable on the repatriation of these foreign earnings.

The following table summarizes the activity related to our gross unrecognized tax benefits at October 1, 2011, October 2, 2010, and October 3, 2009:

	in millions		
	2011	2010	2009
Balance as of the beginning of the year	\$ 184	\$ 233	\$ 220
Increases related to current year tax positions	4	4	7
Increases related to prior year tax positions	21	11	60
Reductions related to prior year tax positions	(24)	(35)	(21)
Reductions related to settlements	(9)	(25)	(25)
Reductions related to expirations of statute of limitations	(2)	(4)	(8)
Balance as of the end of the year	\$ 174	\$ 184	\$ 233

The amount of unrecognized tax benefits, if recognized, that would impact our effective tax rate was \$155 million and \$150 million at October 1, 2011, and October 2, 2010, respectively. We classify interest and penalties on unrecognized tax benefits as income tax expense. At October 1, 2011, and October 2, 2010, before tax benefits, we had \$58 million and \$64 million, respectively, of accrued interest and penalties on unrecognized tax benefits.

As of October 1, 2011, we are subject to income tax examinations for U.S. federal income taxes for fiscal years 2003 through 2010. We are also subject to income tax examinations for state and foreign income taxes for fiscal years 2001 through 2010. During fiscal 2012, tax audit resolutions could potentially reduce our unrecognized tax benefits by approximately \$10 million, either because tax positions are sustained on audit or because we agree to their disallowance.

### NOTE 9: OTHER INCOME AND CHARGES

During fiscal 2011, we recorded an \$11 million gain related to a sale of interests in an equity method investment. This gain was recorded in the Consolidated Statements of Income in Other, net.

During fiscal 2010, we recognized \$38 million of insurance proceeds received related to losses incurred from Hurricane Katrina in 2005. These proceeds are reflected in the Chicken segment's Operating Income and included in the Consolidated Statements of Income in Cost of Sales. Also in fiscal 2010, we recorded a \$12 million impairment charge related to an equity method investment. This charge is included in the Consolidated Statements of Income in Other, net.

On March 27, 2009, we announced the decision to close our Ponca City, Oklahoma, processed meats plant. The plant ceased operation in August 2009. The closing resulted in the elimination of approximately 600 jobs. During fiscal 2009, we recorded charges of \$15 million, which included \$14 million for estimated impairment charges and \$1 million of employee termination benefits. The charges are reflected in the Prepared Foods segment's Operating Income and included in the Consolidated Statements of Income in Other Charges.

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### NOTE 10: EARNINGS (LOSS) PER SHARE

The earnings and weighted average common shares used in the computation of basic and diluted earnings (loss) per share are as follows:

	in millions, except per share data		
	2011	2010	2009
<b>Numerator:</b>			
Income (loss) from continuing operations	\$ 733	\$ 765	\$ (550)
Less: Net loss attributable to noncontrolling interest	(17)	(15)	(4)
Income (loss) from continuing operations attributable to Tyson	750	780	(546)
Less Dividends:			
Class A (\$0.16/share)	49	49	50
Class B (\$0.144/share)	10	10	10
Undistributed earnings (losses)	\$ 691	\$ 721	\$ (606)
Class A undistributed earnings (losses)	\$ 572	\$ 597	\$ (501)
Class B undistributed earnings (losses)	119	124	(105)
Total undistributed earnings (losses)	\$ 691	\$ 721	\$ (606)
<b>Denominator:</b>			
Denominator for basic earnings (loss) per share:			
Class A weighted average shares	303	303	302
Class B weighted average shares, and shares under if-converted method for diluted earnings per share	70	70	70
Effect of dilutive securities:			
Stock options and restricted stock	6	6	0
Convertible 2013 Notes	1	0	0
Denominator for diluted earnings (loss) per share – adjusted weighted average shares and assumed conversions	380	379	372
<b>Net Income (Loss) Per Share from Continuing Operations Attributable to Tyson:</b>			
Class A Basic	\$ 2.04	\$ 2.13	\$ (1.49)
Class B Basic	\$ 1.84	\$ 1.91	\$ (1.35)
Diluted	\$ 1.97	\$ 2.06	\$ (1.47)
<b>Net Income (Loss) Per Share Attributable to Tyson:</b>			
Class A Basic	\$ 2.04	\$ 2.13	\$ (1.49)
Class B Basic	\$ 1.84	\$ 1.91	\$ (1.35)
Diluted	\$ 1.97	\$ 2.06	\$ (1.47)

Approximately 4 million, 5 million and 24 million in fiscal years 2011, 2010 and 2009, respectively, of our stock-based compensation shares were antidilutive and were not included in the dilutive earnings per share calculation.

We have two classes of capital stock, Class A stock and Class B stock. Cash dividends cannot be paid to holders of Class B stock unless they are simultaneously paid to holders of Class A stock. The per share amount of cash dividends paid to holders of Class B stock cannot exceed 90% of the cash dividends paid to holders of Class A stock.

We allocate undistributed earnings (losses) based upon a 1 to 0.9 ratio per share to Class A stock and Class B stock, respectively. We allocate undistributed earnings (losses) based on this ratio due to historical dividend patterns, voting control of Class B shareholders and contractual limitations of dividends to Class B stock.

**NOTE 11: DERIVATIVE FINANCIAL INSTRUMENTS**

Our business operations give rise to certain market risk exposures mostly due to changes in commodity prices, foreign currency exchange rates and interest rates. We manage a portion of these risks through the use of derivative financial instruments, primarily futures and options, to reduce our exposure to commodity price risk, foreign currency risk and interest rate risk. Forward contracts on various commodities, including grains, livestock and energy, are primarily entered into to manage the price risk associated with forecasted purchases of these inputs used in our production processes. Foreign exchange forward contracts are entered into to manage the fluctuations in foreign currency exchange rates, primarily as a result of certain receivable and payable balances. We also periodically utilize interest rate swaps to manage interest rate risk associated with our variable-rate borrowings.

Our risk management programs are periodically reviewed by our Board of Directors' Audit Committee. These programs are monitored by senior management and may be revised as market conditions dictate. Our current risk management programs utilize industry-standard models that take into account the implicit cost of hedging. Risks associated with our market risks and those created by derivative instruments and the fair values are strictly monitored at all times, using Value-at-Risk and stress tests. Credit risks associated with our derivative contracts are not significant as we minimize counterparty concentrations, utilize margin accounts or letters of credit, and deal with credit-worthy counterparties. Additionally, our derivative contracts are mostly short-term in duration and we generally do not make use of credit-risk-related contingent features. No significant concentrations of credit risk existed at October 1, 2011.

We recognize all derivative instruments as either assets or liabilities at fair value in the Consolidated Balance Sheets, with the exception of normal purchases and normal sales expected to result in physical delivery. The accounting for changes in the fair value (i.e., gains or losses) of a derivative instrument depends on whether it has been designated and qualifies as part of a hedging relationship and the type of hedging relationship. For those derivative instruments that are designated and qualify as hedging instruments, we designate the hedging instrument based upon the exposure being hedged (i.e., fair value hedge, cash flow hedge, or hedge of a net investment in a foreign operation). We qualify, or designate, a derivative financial instrument as a hedge when contract terms closely mirror those of the hedged item, providing a high degree of risk reduction and correlation. If a derivative instrument is accounted for as a hedge, depending on the nature of the hedge, changes in the fair value of the instrument either will be offset against the change in fair value of the hedged assets, liabilities or firm commitments through earnings, or be recognized in other comprehensive income (loss) (OCI) until the hedged item is recognized in earnings. The ineffective portion of an instrument's change in fair value is recognized in earnings immediately. We designate certain forward contracts as follows:

- Cash Flow Hedges – include certain commodity forward and option contracts of forecasted purchases (i.e., grains) and certain foreign exchange forward contracts.
- Fair Value Hedges – include certain commodity forward contracts of forecasted purchases (i.e., livestock).
- Net Investment Hedges – include certain foreign currency forward contracts of permanently invested capital in certain foreign subsidiaries.

Cash flow hedges

Derivative instruments, such as futures and options, are designated as hedges against changes in the amount of future cash flows related to procurement of certain commodities utilized in our production processes. We do not purchase forward and option commodity contracts in excess of our physical consumption requirements and generally do not hedge forecasted transactions beyond 18 months. The objective of these hedges is to reduce the variability of cash flows associated with the forecasted purchase of those commodities. For the derivative instruments we designate and qualify as a cash flow hedge, the effective portion of the gain or loss on the derivative is reported as a component of OCI and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. Gains and losses representing hedge ineffectiveness are recognized in earnings in the current period. Ineffectiveness related to our cash flow hedges was not significant during fiscal 2011, 2010 and 2009.

We had the following aggregated notionals of outstanding forward and option contracts accounted for as cash flow hedges:

	Metric	October 1, 2011	October 2, 2010
Commodity:			
Corn	Bushels	6 million	16 million
Soy Meal	Tons	82,300	101,500
Foreign Currency	United States dollar	\$ 75 million	\$ 0

As of October 1, 2011, the net amounts expected to be reclassified into earnings within the next 12 months are pretax losses of \$21 million related to grain and pretax gains of \$9 million related to foreign currency. During fiscal 2011, 2010 and 2009, we did not reclassify significant pretax gains/losses into earnings as a result of the discontinuance of cash flow hedges due to the probability the original forecasted transaction would not occur by the end of the originally specified time period or within the additional period of time allowed by generally accepted accounting principles.

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The following table sets forth the pretax impact of cash flow hedge derivative instruments on the Consolidated Statements of Income (in millions):

	Gain/(Loss) Recognized in OCI on Derivatives			Consolidated Statements of Income Classification	Gain/(Loss) Reclassified from OCI to Earnings		
	2011	2010	2009		2011	2010	2009
Cash Flow Hedge – Derivatives designated as hedging instruments:							
Commodity contracts	\$ (5)	\$ 6	\$ (61)	Cost of Sales	\$ 25	\$ (6)	\$(67)
Foreign exchange contracts	9	1	8	Other Income/Expense	0	1	6
Total	\$ 4	\$ 7	\$(53)		\$ 25	\$ (5)	\$(61)

### Fair value hedges

We designate certain futures contracts as fair value hedges of firm commitments to purchase livestock for slaughter. Our objective of these hedges is to minimize the risk of changes in fair value created by fluctuations in commodity prices associated with fixed price livestock firm commitments. We had the following aggregated notional of outstanding forward contracts entered into to hedge forecasted commodity purchases which are accounted for as a fair value hedge:

	Metric	October 1, 2011	October 2, 2010
Commodity:			
Live Cattle	Pounds	318 million	361 million
Lean Hogs	Pounds	601 million	508 million

For these derivative instruments we designate and qualify as a fair value hedge, the gain or loss on the derivative, as well as the offsetting gain or loss on the hedged item attributable to the hedged risk, are recognized in earnings in the same period. We include the gain or loss on the hedged items (i.e., livestock purchase firm commitments) in the same line item, Cost of Sales, as the offsetting gain or loss on the related livestock forward position.

in millions				
	Consolidated Statements of Income	2011	2010	2009
	Classification			
Gain/(Loss) on forwards	Cost of Sales	\$(78)	\$(58)	\$ 152
Gain/(Loss) on purchase contract	Cost of Sales	78	58	(152)

Ineffectiveness related to our fair value hedges was not significant during fiscal 2011, 2010 and 2009.

### Foreign net investment hedges

We utilize forward foreign exchange contracts to protect the value of our net investments in certain foreign subsidiaries. For derivative instruments that are designated and qualify as a hedge of a net investment in a foreign currency, the gain or loss is reported in OCI as part of the cumulative translation adjustment to the extent it is effective, with the related amounts due to or from counterparties included in other liabilities or other assets. We utilize the forward-rate method of assessing hedge effectiveness. Any ineffective portions of net investment hedges are recognized in the Consolidated Statements of Income during the period of change. Ineffectiveness related to our foreign net investment hedges was not significant during fiscal 2011, 2010 and 2009. At October 1, 2011, and October 2, 2010, we had \$35 million and \$49 million aggregate outstanding notionals related to our forward foreign currency contracts accounted for as foreign net investment hedges.

The following table sets forth the pretax impact of these derivative instruments on the Consolidated Statements of Income (in millions):

	Gain/(Loss) Recognized in OCI on Derivatives			Consolidated Statements of Income Classification	Gain/(Loss) Reclassified from OCI to Earnings		
	2011	2010	2009		2011	2010	2009
Net Investment Hedge – Derivatives designated as hedging instruments:							
Foreign exchange contracts	\$ (2)	\$ (1)	\$ (5)	Other Income/Expense	\$ 0	\$ 0	\$ (2)

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### Undesignated positions

In addition to our designated positions, we also hold forward and option contracts for which we do not apply hedge accounting. These include certain derivative instruments related to commodities price risk, including grains, livestock and energy, foreign currency risk and interest rate risk. We mark these positions to fair value through earnings at each reporting date. We generally do not enter into undesignated positions beyond 18 months.

The objective of our undesignated grains, energy and livestock commodity positions is to reduce the variability of cash flows associated with the forecasted purchase of certain grains, energy and livestock inputs to our production processes. We also enter into certain forward sales of boxed beef and boxed pork and forward purchases of cattle and hogs at fixed prices. The fixed price sales contracts lock in the proceeds from a sale in the future and the fixed cattle and hog purchases lock in the cost. However, the cost of the livestock and the related boxed beef and boxed pork market prices at the time of the sale or purchase could vary from this fixed price. As we enter into fixed forward sales of boxed beef and boxed pork and forward purchases of cattle and hogs, we also enter into the appropriate number of livestock futures positions to mitigate a portion of this risk. Changes in market value of the open livestock futures positions are marked to market and reported in earnings at each reporting date, even though the economic impact of our fixed prices being above or below the market price is only realized at the time of sale or purchase. These positions generally do not qualify for hedge treatment due to location basis differences between the commodity exchanges and the actual locations when we purchase the commodities.

We have a foreign currency cash flow hedging program to hedge portions of forecasted transactions denominated in foreign currencies, primarily with forward and option contracts, to protect against the reduction in value of forecasted foreign currency cash flows. Our undesignated foreign currency positions generally would qualify for cash flow hedge accounting. However, to reduce earnings volatility, we normally will not elect hedge accounting treatment when the position provides an offset to the underlying related transaction that currently impacts earnings.

The objective of our undesignated interest rate swap is to manage interest rate risk exposure on a floating-rate bond. Our interest rate swap agreement effectively modifies our exposure to interest rate risk by converting a portion of the floating-rate bond to a fixed rate basis for the first five years, thus reducing the impact of the interest-rate changes on future interest expense. This interest rate swap does not qualify for hedge treatment due to differences in the underlying bond and swap contract interest-rate indices.

We had the following aggregate outstanding notionals related to our undesignated positions:

	Metric	October 1, 2011	October 2, 2010
Commodity:			
Corn	Bushels	17 million	38 million
Soy Meal	Tons	174,600	367,000
Soy Oil	Pounds	13 million	2 million
Live Cattle	Pounds	72 million	73 million
Lean Hogs	Pounds	19 million	134 million
Natural Gas	British thermal units	0	450 billion
Foreign Currency	United States dollars	\$ 110 million	\$ 146 million
Interest Rate	Average monthly notional debt	\$ 39 million	\$ 53 million

The following table sets forth the pretax impact of the undesignated derivative instruments on the Consolidated Statements of Income (in millions):

	Consolidated Statements of Income Classification	2011	2010	Gain/(Loss) Recognized in Earnings 2009
Derivatives not designated as hedging instruments:				
Commodity contracts	Sales	\$ 20	\$ 27	\$ (34)
Commodity contracts	Cost of Sales	(2)	(20)	(151)
Foreign exchange contracts	Other Income/Expense	(3)	(5)	0
Interest rate contracts	Interest Expense	0	1	(4)
Total		\$ 15	\$ 3	\$(189)

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The following table sets forth the fair value of all derivative instruments outstanding in the Consolidated Balance Sheets (in millions):

	Fair Value	
	2011	2010
<b>Derivative Assets:</b>		
Derivatives designated as hedging instruments:		
Commodity contracts	\$ 3	\$ 20
Foreign exchange contracts	12	0
Total derivative assets – designated	15	20
Derivatives not designated as hedging instruments:		
Commodity contracts	21	10
Foreign exchange contracts	5	1
Total derivative assets – not designated	26	11
Total derivative assets	\$ 41	\$ 31
<b>Derivative Liabilities:</b>		
Derivatives designated as hedging instruments:		
Commodity contracts	\$ 41	\$ 16
Derivatives not designated as hedging instruments:		
Commodity contracts	121	34
Foreign exchange contracts	1	6
Interest rate contracts	2	3
Total derivative liabilities – not designated	124	43
Total derivative liabilities	\$ 165	\$ 59

Our derivative assets and liabilities are presented in our Consolidated Balance Sheets on a net basis. We net derivative assets and liabilities, including cash collateral when a legally enforceable master netting arrangement exists between the counterparty to a derivative contract and us. See Note 12: Fair Value Measurements for a reconciliation to amounts reported in the Consolidated Balance Sheets in Other current assets and Other current liabilities.

### NOTE 12: FAIR VALUE MEASUREMENTS

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The fair value hierarchy contains three levels as follows:

*Level 1* — Unadjusted quoted prices available in active markets for the identical assets or liabilities at the measurement date.

*Level 2* — Other observable inputs available at the measurement date, other than quoted prices included in Level 1, either directly or indirectly, including:

- Quoted prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets in non-active markets;
- Inputs other than quoted prices that are observable for the asset or liability; and
- Inputs derived principally from or corroborated by other observable market data.

*Level 3* — Unobservable inputs that cannot be corroborated by observable market data and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management's estimates of market participant assumptions.

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### Assets and Liabilities Measured at Fair Value on a Recurring Basis

The fair value hierarchy requires the use of observable market data when available. In instances where the inputs used to measure fair value fall into different levels of the fair value hierarchy, the fair value measurement has been determined based on the lowest level input significant to the fair value measurement in its entirety. Our assessment of the significance of a particular item to the fair value measurement in its entirety requires judgment, including the consideration of inputs specific to the asset or liability. The following tables set forth by level within the fair value hierarchy our financial assets and liabilities accounted for at fair value on a recurring basis according to the valuation techniques we used to determine their fair values (in millions):

October 1, 2011	Level 1	Level 2	Level 3	Netting (a)	Total
Assets:					
Commodity Derivatives	\$ 0	\$ 24	\$ 0	\$ (21)	\$ 3
Foreign Exchange Forward Contracts	0	17	0	(2)	15
Available for Sale Securities:					
Debt securities	0	34	83	0	117
Equity securities	7	0	0	0	7
Deferred Compensation Assets	28	122	0	0	150
<b>Total Assets</b>	<b>\$ 35</b>	<b>\$ 197</b>	<b>\$ 83</b>	<b>\$ (23)</b>	<b>\$ 292</b>

Liabilities:					
Commodity Derivatives	\$ 0	\$ 162	\$ 0	\$ (135)	\$ 27
Foreign Exchange Forward Contracts	0	1	0	(1)	0
Interest Rate Swap	0	2	0	0	2
<b>Total Liabilities</b>	<b>\$ 0</b>	<b>\$ 165</b>	<b>\$ 0</b>	<b>\$ (136)</b>	<b>\$ 29</b>

October 2, 2010	Level 1	Level 2	Level 3	Netting (a)	Total
Assets:					
Commodity Derivatives	\$ 0	\$ 30	\$ 0	\$ (18)	\$ 12
Foreign Exchange Forward Contracts	0	1	0	(1)	0
Available for Sale Securities:					
Debt securities	0	42	73	0	115
Equity securities	15	3	0	0	18
Deferred Compensation Assets	0	86	0	0	86
<b>Total Assets</b>	<b>\$ 15</b>	<b>\$ 162</b>	<b>\$ 73</b>	<b>\$ (19)</b>	<b>\$ 231</b>

Liabilities:					
Commodity Derivatives	\$ 0	\$ 50	\$ 0	\$ (50)	\$ 0
Foreign Exchange Forward Contracts	0	6	0	(1)	5
Interest Rate Swap	0	3	0	(1)	2
<b>Total Liabilities</b>	<b>\$ 0</b>	<b>\$ 59</b>	<b>\$ 0</b>	<b>\$ (52)</b>	<b>\$ 7</b>

- (a) Our derivative assets and liabilities are presented in our Consolidated Balance Sheets on a net basis. We net derivative assets and liabilities, including cash collateral, when a legally enforceable master netting arrangement exists between the counterparty to a derivative contract and us. At October 1, 2011, and October 2, 2010, we had posted \$113 million and \$35 million of cash collateral and held \$0 and \$3 million cash collateral with various counterparties, respectively.

The following table provides a reconciliation between the beginning and ending balance of debt securities measured at fair value on a recurring basis in the table above that used significant unobservable inputs (Level 3) (in millions):

	October 1, 2011	October 2, 2010
Balance at beginning of year	\$ 73	\$ 72
Total realized and unrealized gains (losses):		
Included in earnings	0	1
Included in other comprehensive income (loss)	(1)	1
Purchases, issuances and settlements, net	11	(1)
<b>Balance at end of year</b>	<b>\$ 83</b>	<b>\$ 73</b>
Total gains (losses) for the periods included in earnings attributable to the change in unrealized gains (losses) relating to assets and liabilities still held at end of year	\$ 0	\$ 0

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The following methods and assumptions were used to estimate the fair value of each class of financial instrument:

**Derivative Assets and Liabilities:** Our derivatives, including commodities, foreign exchange forward contracts and an interest rate swap, primarily include exchange-traded and over-the-counter contracts which are further described in Note 11: Derivative Financial Instruments. We record our commodity derivatives at fair value using quoted market prices adjusted for credit and non-performance risk and internal models that use as their basis readily observable market inputs including current and forward commodity market prices. Our foreign exchange forward contracts are recorded at fair value based on quoted prices and spot and forward currency prices adjusted for credit and non-performance risk. Our interest rate swap is recorded at fair value based on quoted LIBOR swap rates adjusted for credit and non-performance risk. We classify these instruments in Level 2 when quoted market prices can be corroborated utilizing observable current and forward commodity market prices on active exchanges, observable market transactions of spot currency rates and forward currency prices or observable benchmark market rates at commonly quoted intervals.

**Available for Sale Securities:** Our investments in marketable debt securities are classified as available-for-sale and are included in Other Assets in the Consolidated Balance Sheets. These investments, which are generally long-term in nature with maturities ranging up to 45 years, are reported at fair value based on pricing models and quoted market prices adjusted for credit and non-performance risk. We classify our investments in U.S. government and agency debt securities as Level 2 as fair value is generally estimated using discounted cash flow models that are primarily industry-standard models that consider various assumptions, including time value and yield curve as well as other readily available relevant economic measures. We classify certain corporate, asset-backed and other debt securities as Level 3 as there is limited activity or less observable inputs into proprietary valuation models, including estimated prepayment, default and recovery rates on the underlying portfolio or structured investment vehicle.

Additionally, we have eight million shares of Syntroleum Corporation common stock and 4.25 million warrants, which expire in early fiscal 2014, to purchase an equivalent amount of Syntroleum Corporation common stock at an average price of \$2.87. We record the shares and warrants in Other Assets in the Consolidated Balance Sheets at fair value based on quoted market prices. We classify the shares as Level 1 as the fair value is based on unadjusted quoted prices available in active markets. We classify the warrants as Level 2 as fair value can be corroborated based on observable market data.

(in millions)	October 1, 2011			October 2, 2010		
	Amortized Cost Basis	Fair Value	Unrealized Gain/(Loss)	Amortized Cost Basis	Fair Value	Unrealized Gain
Available for Sale Securities:						
Debt Securities:						
U.S. Treasury and Agency	\$ 33	\$ 34	\$ 1	\$ 41	\$ 42	\$ 1
Corporate and Asset-Backed (a)	54	56	2	43	46	3
Redeemable Preferred Stock	27	27	0	27	27	0
Equity Securities:						
Common Stock	9	7	(2)	9	15	6
Stock Warrants	0	0	0	0	3	3

(a) At October 1, 2011, and October 2, 2010, the amortized cost basis for Corporate and Asset-Backed debt securities had been reduced by accumulated other than temporary impairments of \$3 million and \$3 million, respectively.

Unrealized holding gains (losses), net of tax, are excluded from earnings and reported in OCI until the security is settled or sold. On a quarterly basis, we evaluate whether losses related to our available-for-sale securities are temporary in nature. Losses on equity securities are recognized in earnings if the decline in value is judged to be other than temporary. If losses related to our debt securities are determined to be other than temporary, the loss would be recognized in earnings if we intend, or more likely than not will be required, to sell the security prior to recovery. For debt securities in which we have the intent and ability to hold until maturity, losses determined to be other than temporary would remain in OCI, other than expected credit losses which are recognized in earnings. We consider many factors in determining whether a loss is temporary, including the length of time and extent to which the fair value has been below cost, the financial condition and near-term prospects of the issuer and our ability and intent to hold the investment for a period of time sufficient to allow for any anticipated recovery. During fiscal 2011 and 2010, we recognized no other than temporary impairments in earnings, while we recognized \$4 million of other than temporary impairments during fiscal 2009. No other than temporary losses were deferred in OCI as of October 1, 2011, and October 2, 2010.

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**Deferred Compensation Assets:** We maintain non-qualified deferred compensation plans for certain executives and other highly compensated employees. Investments are maintained within a trust and include money market funds, mutual funds and life insurance policies. The cash surrender value of the life insurance policies is invested primarily in mutual funds. The investments are recorded at fair value based on quoted market prices and are included in Other Assets in the Consolidated Balance Sheets. We classify the investments which have observable market prices in active markets in Level 1 as these are generally publicly-traded mutual funds. The remaining deferred compensation assets are classified in Level 2, as fair value can be corroborated based on observable market data. Realized and unrealized gains (losses) on deferred compensation are included in earnings.

### Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

In addition to assets and liabilities that are recorded at fair value on a recurring basis, we record assets and liabilities at fair value on a nonrecurring basis. Generally, assets are recorded at fair value on a nonrecurring basis as a result of impairment charges. During fiscal 2010, we recorded a \$29 million charge to fully impair an immaterial Chicken segment reporting unit's goodwill. We utilized a discounted cash flow analysis that incorporated unobservable Level 3 inputs. We did not have any other significant measurements of assets or liabilities at fair value on a nonrecurring basis subsequent to their initial recognition.

### Other Financial Instruments

Fair values for debt are based on quoted market prices or published forward interest rate curves. Fair value and carrying value for our debt were as follows (in millions):

	October 1, 2011		October 2, 2010	
	Fair Value	Carrying Value	Fair Value	Carrying Value
Total Debt	\$ 2,334	\$ 2,182	\$ 2,770	\$ 2,536

For all of our other financial instruments, the estimated fair value approximated the carrying value at October 1, 2011, and October 2, 2010. The carrying value of our other financial instruments, not otherwise disclosed herein, included notes receivable, which approximated fair value at October 1, 2011, and October 2, 2010. Notes receivable were recorded in Other Current Assets in the Consolidated Balance Sheets and totaled \$0 and \$49 million at October 1, 2011, and October 2, 2010, respectively. The fair values were determined using pricing models for which the assumptions utilize management's estimates of market participant assumptions.

### Concentrations of Credit Risk

Our financial instruments exposed to concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. Our cash equivalents are in high quality securities placed with major banks and financial institutions. Concentrations of credit risk with respect to receivables are limited due to the large number of customers and their dispersion across geographic areas. We perform periodic credit evaluations of our customers' financial condition and generally do not require collateral. At October 1, 2011, and October 2, 2010, 16.5% and 15.3%, respectively, of our net accounts receivable balance was due from Wal-Mart Stores, Inc. No other single customer or customer group represented greater than 10% of net accounts receivable.

## **NOTE 13: STOCK-BASED COMPENSATION**

We issue shares under our stock-based compensation plans by issuing Class A stock from treasury. The total number of shares available for future grant under the Tyson Foods, Inc. 2000 Stock Incentive Plan (Incentive Plan) was 15,102,409 at October 1, 2011.

### Stock Options

Shareholders approved the Incentive Plan in January 2001. The Incentive Plan is administered by the Compensation Committee of the Board of Directors (Compensation Committee). The Incentive Plan includes provisions for granting incentive stock options for shares of Class A stock at a price not less than the fair value at the date of grant. Nonqualified stock options may be granted at a price equal to, less than or more than the fair value of Class A stock on the date the option is granted. Stock options under the Incentive Plan generally become exercisable ratably over two to five years from the date of grant and must be exercised within 10 years from the date of grant. Our policy is to recognize compensation expense on a straight-line basis over the requisite service period for the entire award.

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	Shares Under Option	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (in millions)
Outstanding, October 2, 2010	19,373,912	\$ 12.69		
Exercised	(4,127,763)	12.26		
Canceled	(498,920)	12.78		
Granted	3,507,992	16.19		
Outstanding, October 1, 2011	18,255,221	13.46	6.1	\$ 246
Exercisable, October 1, 2011	9,465,184	\$ 13.93	4.3	\$ 132

We generally grant stock options once a year; however, we granted stock options twice during fiscal 2010. The weighted average grant-date fair value of options granted in fiscal 2011, 2010 and 2009 was \$6.19, \$4.76 and \$1.29, respectively. The fair value of each option grant is established on the date of grant using a binomial lattice method. We use historical volatility for a period of time comparable to the expected life of the option to determine volatility assumptions. Expected life is calculated based on the contractual term of each grant and takes into account the historical exercise and termination behavior of participants. Risk-free interest rates are based on the five-year Treasury bond rate. Assumptions as of the grant date used in the fair value calculation of each year's grants are outlined in the following table.

	2011	2010	2009
Expected life	6.7 years	6.5 years	5.3 years
Risk-free interest rate	1.5%	1.2%	2.3%
Expected volatility	38.8%	40.4%	34.6%
Expected dividend yield	1.0%	1.3%	3.3%

We recognized stock-based compensation expense related to stock options, net of income taxes, of \$12 million, \$11 million and \$9 million, respectively, during fiscal years 2011, 2010 and 2009, with a \$7 million, \$7 million and \$6 million related tax benefit. We had 6.8 million, 2.2 million and 2.4 million options vest in fiscal years 2011, 2010 and 2009, respectively, with a grant date fair value of \$16 million, \$13 million and \$15 million, respectively.

In fiscal years 2011, 2010 and 2009, we received cash of \$51 million, \$31 million and \$1 million, respectively, for the exercise of stock options. Shares are issued from treasury for stock option exercises. The related tax benefit realized from stock options exercised during fiscal years 2011, 2010 and 2009, was \$10 million, \$5 million and \$0, respectively. The total intrinsic value of options exercised in fiscal years 2011, 2010 and 2009, was \$26 million, \$12 million and \$0, respectively. Cash flows resulting from tax deductions in excess of the compensation cost of those options (excess tax deductions) are classified as financing cash flows. We realized \$5 million, \$3 million and \$0, respectively, in excess tax deductions during fiscal years 2011, 2010 and 2009, respectively. As of October 1, 2011, we had \$26 million of total unrecognized compensation cost related to stock option plans that will be recognized over a weighted average period of 1.4 years.

### Restricted Stock

We issue restricted stock at the market value as of the date of grant, with restrictions expiring over periods through 2014. Unearned compensation is recognized over the vesting period for the particular grant using a straight-line method.

	Number of Shares	Weighted Average Grant- Date Fair Value Per Share	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (in millions)
Nonvested, October 2, 2010	3,601,614	\$ 14.55		
Granted	377,423	17.38		
Dividends	28,000	17.92		
Vested	(913,954)	15.12		
Forfeited	(122,781)	14.74		
Nonvested, October 1, 2011	2,970,302	\$ 14.70	1.2	\$ 52

As of October 1, 2011, we had \$14 million of total unrecognized compensation cost related to restricted stock awards that will be recognized over a weighted average period of 1.2 years.

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We recognized stock-based compensation expense related to restricted stock, net of income taxes, of \$7 million, \$8 million and \$10 million for years 2011, 2010 and 2009, respectively. The related tax benefit for fiscal years 2011, 2010 and 2009 was \$5 million, \$5 million and \$7 million, respectively. We had 0.9 million, 1.8 million and 0.7 million, respectively, restricted stock awards vest in fiscal years 2011, 2010 and 2009, with a grant date fair value of \$14 million, \$30 million and \$11 million.

### Performance-Based Shares

In July 2003, our Compensation Committee began authorizing us to award performance-based shares of our Class A stock to certain senior executives. These awards are typically granted on the first business day of our fiscal year. The vesting of the performance-based shares is generally over three years and each award is subject to the attainment of goals determined by the Compensation Committee prior to the date of the award. We review progress toward the attainment of goals each quarter during the vesting period. However, the attainment of goals can be determined only at the end of the vesting period. If the shares vest, the ultimate cost will be equal to the Class A stock price on the date the shares vest multiplied by the number of shares awarded for all performance grants with other than market criteria. For grants with market performance criteria, the ultimate expense will be the fair value of the probable shares to vest regardless if the shares actually vest. Total expense recorded related to performance-based shares was not material for fiscal 2011, 2010 and 2009.

### NOTE 14: PENSIONS AND OTHER POSTRETIREMENT BENEFITS

At October 1, 2011, we had four noncontributory defined benefit pension plans consisting of three funded qualified plans and one unfunded non-qualified plan. All three of our qualified plans are frozen and provide benefits based on a formula using years of service and a specified benefit rate. Effective January 1, 2004, we implemented a non-qualified defined benefit plan for certain contracted officers that uses a formula based on years of service and final average salary. We also have other postretirement benefit plans for which substantially all of our employees may receive benefits if they satisfy applicable eligibility criteria. The postretirement healthcare plans are contributory with participants' contributions adjusted when deemed necessary.

We have defined contribution retirement and incentive benefit programs for various groups of employees. We recognized expenses of \$45 million, \$48 million and \$49 million in fiscal 2011, 2010 and 2009, respectively.

We use a fiscal year end measurement date for our defined benefit plans and other postretirement plans. We generally recognize the effect of actuarial gains and losses into earnings immediately for other postretirement plans rather than amortizing the effect over future periods.

Other postretirement benefits include postretirement medical costs and life insurance.

### Benefit Obligations And Funded Status

The following table provides a reconciliation of the changes in the plans' benefit obligations, assets and funded status at October 1, 2011, and October 2, 2010:

	in millions					
	Pension Benefits				Other Postretirement	
	Qualified		Non-Qualified		Benefits	
	2011	2010	2011	2010	2011	2010
Change in benefit obligation						
Benefit obligation at beginning of year	\$ 97	\$ 89	\$ 42	\$ 38	\$ 45	\$ 46
Service cost	0	0	3	3	0	1
Interest cost	5	5	2	2	2	2
Plan participants' contributions	0	0	0	0	1	1
Actuarial loss	3	9	17	0	4	1
Benefits paid	(6)	(6)	(2)	(1)	(8)	(6)
Benefit obligation at end of year	99	97	62	42	44	45
Change in plan assets						
Fair value of plan assets at beginning of year	74	68	0	0	0	0
Actual return on plan assets	1	9	0	0	0	0
Employer contributions	5	3	2	1	7	5
Plan participants' contributions	0	0	0	0	1	1
Benefits paid	(6)	(6)	(2)	(1)	(8)	(6)
Fair value of plan assets at end of year	74	74	0	0	0	0
Funded status	\$(25)	\$(23)	\$(62)	\$(42)	\$ (44)	\$ (45)

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Amounts recognized in the Consolidated Balance Sheets consist of:

	in millions					
	Pension Benefits				Other Postretirement Benefits	
	Qualified		Non-Qualified		2011	2010
	2011	2010	2011	2010	2011	2010
Accrued benefit liability	\$ (25)	\$ (23)	\$ (62)	\$ (42)	\$ (44)	\$ (45)
Accumulated other comprehensive (income)/loss:						
Unrecognized actuarial loss	45	40	17	1	0	0
Unrecognized prior service (cost)/credit	0	0	2	3	(5)	(6)
Net amount recognized	\$ 20	\$ 17	\$ (43)	\$ (38)	\$ (49)	\$ (51)

At October 1, 2011, and October 2, 2010, all pension plans had an accumulated benefit obligation in excess of plan assets. The accumulated benefit obligation for all qualified pension plans was \$99 million and \$97 million at October 1, 2011, and October 2, 2010, respectively. Plans with accumulated benefit obligations in excess of plan assets are as follows:

	in millions			
	Pension Benefits			
	Qualified		Non-Qualified	
	2011	2010	2011	2010
Projected benefit obligation	\$ 99	\$ 97	\$ 62	\$ 42
Accumulated benefit obligation	99	97	55	41
Fair value of plan assets	74	74	0	0

### Net Periodic Benefit Cost

Components of net periodic benefit cost for pension and postretirement benefit plans recognized in the Consolidated Statements of Income are as follows:

	in millions								
	Pension Benefits						Other Postretirement Benefits		
	Qualified			Non-Qualified			2011	2010	2009
	2011	2010	2009	2011	2010	2009	2011	2010	2009
Service cost	\$ 0	\$ 0	\$ 0	\$ 3	\$ 3	\$ 4	\$ 0	\$ 1	\$ 0
Interest cost	5	5	6	2	2	2	2	2	3
Expected return on plan assets	(6)	(6)	(7)	0	0	0	0	0	0
Amortization of prior service cost	0	0	0	1	1	1	(1)	(1)	0
Recognized actuarial loss, net	3	1	1	0	0	0	1	0	1
Net periodic benefit cost	\$ 2	\$ 0	\$ 0	\$ 6	\$ 6	\$ 7	\$ 2	\$ 2	\$ 4

### Assumptions

Weighted average assumptions are as follows:

	Pension Benefits						Other Postretirement Benefits		
	Qualified			Non-Qualified			2011	2010	2009
	2011	2010	2009	2011	2010	2009	2011	2010	2009
Discount rate to determine net periodic benefit cost	5.06%	6.00%	6.33%	5.50%	6.00%	6.50%	4.50%	5.71%	6.50%
Discount rate to determine benefit obligations	4.53%	5.06%	6.00%	4.75%	5.50%	6.00%	4.09%	4.50%	5.71%
Rate of compensation increase	N/A	N/A	N/A	3.50%	3.50%	3.50%	N/A	N/A	N/A
Expected return on plan assets	7.79%	7.80%	8.00%	N/A	N/A	N/A	N/A	N/A	N/A

To determine the rate-of-return on assets assumption, we first examined historical rates of return for the various asset classes. We then determined a long-term projected rate-of-return based on expected returns over the next five to 10 years.

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Our discount rate assumptions used to account for pension and other postretirement benefit plans reflect the rates at which the benefit obligations could be effectively settled. These were determined using a cash flow matching technique whereby the rates of a yield curve, developed from high-quality debt securities, were applied to the benefit obligations to determine the appropriate discount rate.

We have three postretirement health plans. Two of these consist of fixed, annual payments and account for \$28 million of the postretirement medical obligation at October 1, 2011. A healthcare cost trend is not required to determine this obligation. The remaining plan accounts for \$16 million of the postretirement medical obligation at October 1, 2011. The plan covers retirees who do not yet qualify for Medicare and uses a healthcare cost trend of 6% in the current year. A one-percentage point change in assumed healthcare cost trend rate would have an immaterial impact on the postretirement benefit obligation and total service and interest cost.

### Plan Assets

The fair value of plan assets for domestic pension benefit plans was \$59 million as of October 1, 2011, and October 2, 2010. The following table sets forth the actual and target asset allocation for pension plan assets:

	2011	2010	Target Asset Allocation
Cash	1.9 %	0.3 %	1.0 %
Fixed income securities	24.2	18.5	19.0
US Stock Funds	41.4	44.6	45.0
International Stock Funds	17.7	19.9	20.0
Real Estate	4.7	5.0	5.0
Alternatives	10.1	11.7	10.0
Total	100.0 %	100.0 %	100.0 %

A foreign subsidiary pension plan had \$15 million in plan assets at October 1, 2011 and October 2, 2010. All of this plan's assets are held in an insurance contract consistent with its target asset allocation.

The Plan Trustees have established a set of investment objectives related to the assets of the pension plans and regularly monitor the performance of the funds and portfolio managers. Objectives for the pension assets are (1) to provide growth of capital and income, (2) to achieve a target weighted average annual rate of return competitive with other funds with similar investment objectives and (3) to diversify to reduce risk. The investment objectives and target asset allocation were adopted in January 2004 and amended in November 2008. Alternative investments may include, but not limited to, hedge funds, private equity funds and fixed income funds.

The following table shows the categories of pension plan assets and the level under which fair values were determined in the fair value hierarchy, which is described in Note 12: Fair Value Measurements.

	in millions			
	October 1, 2011			Total
	Level 1	Level 2	Level 3	
Cash and cash equivalents	\$ 1	\$ 0	\$ 0	\$ 1
Fixed Income Securities Bond Fund (a)	14	0	0	14
Equity Securities:				
U.S. stock funds (a)	25	0	0	25
International stock funds (a)	10	0	0	10
Global real estate funds (a)	3	0	0	3
Total equity securities	38	0	0	38
Other Investments - Alternatives (b)	0	0	6	6
Total fair value	53	0	6	59
Insurance Contract at Contract Value	0	0	15	15
Total plan assets	\$ 53	\$ 0	\$ 21	\$ 74

(a) Valued using quoted market prices in active markets.

(b) Valued using plan's own assumptions about the assumptions market participants would use in pricing the assets based on the best information available, such as investment manager pricing.

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A reconciliation of the change in the fair value measurement of the defined benefit plans' consolidated assets using significant unobservable inputs (Level 3) is as follows (in millions):

	Alternative funds	Insurance contract	Total
Balance at October 2, 2010	\$ 7	\$ 15	\$ 22
Actual return on plan assets:			
Assets still held at reporting date	(1)	0	(1)
Assets sold during the period	0	0	0
Purchases, sales and settlements, net	0	0	0
Transfers in and/or out of Level 3	0	0	0
Balance at October 1, 2011	\$ 6	\$ 15	\$ 21

We believe there are no significant concentrations of risk within our plan assets as of October 1, 2011.

### Contributions

Our policy is to fund at least the minimum contribution required to meet applicable federal employee benefit and local tax laws. In our sole discretion, we may from time to time fund additional amounts. Expected contributions to pension plans for fiscal 2012 are approximately \$7 million. For fiscal 2011, 2010 and 2009, we funded \$7 million, \$4 million and \$2 million, respectively, to defined benefit plans.

### Estimated Future Benefit Payments

The following benefit payments are expected to be paid:

	Pension Benefits		Other Postretirement
	Qualified	Non-Qualified	Benefits
2012	\$ 8	\$ 2	\$ 7
2013	7	2	4
2014	7	2	4
2015	7	3	4
2016	6	3	4
2017-2021	29	18	17

The above benefit payments for other postretirement benefit plans are not expected to be offset by Medicare Part D subsidies in 2011 or thereafter.

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### NOTE 15: COMPREHENSIVE INCOME (LOSS)

The components of accumulated other comprehensive income (loss) are as follows:

	in millions	
	2011	2010
Accumulated other comprehensive income (loss):		
Unrealized net hedging gains (losses), net of taxes	\$ (7)	\$ 10
Unrealized net gain on investments, net of taxes	1	9
Currency translation adjustment	(35)	6
Postretirement benefits reserve adjustments	(38)	(25)
<b>Total accumulated other comprehensive income (loss)</b>	<b>\$ (79)</b>	<b>\$ 0</b>

The components of other comprehensive income (loss) are as follows:

	in millions		
	Before Tax	Income Tax	After Tax
Fiscal 2011:			
Net hedging gain reclassified to earnings	\$ (25)	\$ 10	\$ (15)
Net hedging unrealized gain (loss)	4	(6)	(2)
Unrealized loss on investments	(12)	4	(8)
Currency translation adjustment	(42)	1	(41)
Net change in postretirement liabilities	(21)	8	(13)
<b>Other comprehensive income (loss) – 2011</b>	<b>\$ (96)</b>	<b>\$ 17</b>	<b>\$ (79)</b>
Fiscal 2010:			
Net hedging loss reclassified to earnings	\$ 7	\$ (1)	\$ 6
Net hedging unrealized gain	7	(1)	6
Currency translation adjustment	27	0	27
Net change in postretirement liabilities	(6)	1	(5)
<b>Other comprehensive income (loss) – 2010</b>	<b>\$ 35</b>	<b>\$ (1)</b>	<b>\$ 34</b>
Fiscal 2009:			
Net hedging loss reclassified to earnings	\$ 61	\$ (25)	\$ 36
Net hedging unrealized loss	(53)	23	(30)
Loss on investments reclassified to other income	4	(1)	3
Unrealized gain on investments	12	(5)	7
Currency translation adjustment gain reclassified to loss from discontinued operation	(41)	0	(41)
Currency translation adjustment	(43)	3	(40)
Net change in postretirement liabilities	(11)	1	(10)
<b>Other comprehensive income (loss) – 2009</b>	<b>\$ (71)</b>	<b>\$ (4)</b>	<b>\$ (75)</b>

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### NOTE 16: SEGMENT REPORTING

We operate in four segments: Chicken, Beef, Pork and Prepared Foods. We measure segment profit as operating income (loss).

**Chicken:** Chicken operations include breeding and raising chickens, as well as processing live chickens into fresh, frozen and value-added chicken products and logistics operations to move products through the supply chain. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets. It also includes sales from allied products and our chicken breeding stock subsidiary.

**Beef:** Beef operations include processing live fed cattle and fabricating dressed beef carcasses into primal and sub-primal meat cuts and case-ready products. This segment also includes sales from allied products such as hides and variety meats, as well as logistics operations to move products through the supply chain. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets. Allied products are marketed to manufacturers of pharmaceuticals and technical products.

**Pork:** Pork operations include processing live market hogs and fabricating pork carcasses into primal and sub-primal cuts and case-ready products. This segment also includes our live swine group, related allied product processing activities and logistics operations to move products through the supply chain. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets. We sell allied products to pharmaceutical and technical products manufacturers, as well as a limited number of live swine to pork processors.

**Prepared Foods:** Prepared Foods operations include manufacturing and marketing frozen and refrigerated food products and logistics operations to move products through the supply chain. Products include pepperoni, bacon, beef and pork pizza toppings, pizza crusts, flour and corn tortilla products, appetizers, prepared meals, ethnic foods, soups, sauces, side dishes, meat dishes and processed meats. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international markets.

The results from Dynamic Fuels are included in Other.

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						in millions	
	Prepared					Intersegment	
	Chicken	Beef	Pork	Foods	Other	Sales	Consolidated
<b>Fiscal year ended October 1, 2011</b>							
Sales	\$ 11,017	\$ 13,549	\$ 5,460	\$ 3,215	\$ 127	\$ (1,102)	\$ 32,266
Operating Income (Loss)	164	468	560	117	(24)		1,285
Total Other (Income) Expense							211
Income (Loss) from Continuing Operations before Income Taxes							1,074
Depreciation	259	84	28	58	4		433
Total Assets	5,412	2,610	960	943	1,146		11,071
Additions to property, plant and equipment	464	88	27	58	6		643
<b>Fiscal year ended October 2, 2010</b>							
Sales	\$ 10,062	\$ 11,707	\$ 4,552	\$ 2,999	\$ 0	\$ (890)	\$ 28,430
Operating Income (Loss)	519	542	381	124	(10)		1,556
Total Other (Income) Expense							353
Income (Loss) from Continuing Operations before Income Taxes							1,203
Depreciation	251	82	27	56	0		416
Total Assets	5,031	2,468	845	940	1,468		10,752
Additions to property, plant and equipment	320	61	27	42	100		550
<b>Fiscal year ended October 3, 2009</b>							
Sales	\$ 9,660	\$ 10,937	\$ 3,875	\$ 2,836	\$ 0	\$ (604)	\$ 26,704
Operating Income (Loss)	(157)	(346)	160	133	(5)		(215)
Total Other (Income) Expense							328
Income (Loss) from Continuing Operations before Income Taxes							(543)
Depreciation	252	103	36	54	0		445
Total Assets	4,927	2,277	840	905	1,646		10,595
Additions to property, plant and equipment	174	39	18	58	79		368

We allocate expenses related to corporate activities to the segments, while the related assets and additions to property, plant and equipment remain in Other.

The Pork segment had sales of \$816 million, \$718 million and \$449 million for fiscal 2011, 2010 and 2009, respectively, from transactions with other operating segments. The Beef segment had sales of \$286 million, \$172 million and \$155 million for fiscal 2011, 2010 and 2009, respectively, from transactions with other operating segments.

Our largest customer, Wal-Mart Stores, Inc., accounted for 13.3%, 13.4% and 13.8% of consolidated sales in fiscal 2011, 2010 and 2009, respectively. Sales to Wal-Mart Stores, Inc. were included in the Chicken, Beef, Pork and Prepared Foods segments. Any extended discontinuance of sales to this customer could, if not replaced, have a material impact on our operations.

The majority of our operations are domiciled in the United States. Approximately 96%, 96% and 97% of sales to external customers for fiscal 2011, 2010 and 2009, respectively, were sourced from the United States. Approximately \$5.8 billion and \$5.6 billion, respectively, of long-lived assets were located in the United States at October 1, 2011, and October 2, 2010. Approximately \$539 million and \$511 million of long-lived assets were located in foreign countries, primarily Brazil, China, Mexico and India, at fiscal years ended 2011 and 2010, respectively.

We sell certain products in foreign markets, primarily Canada, Central America, China, the European Union, Japan, Mexico, the Middle East, Russia, South Korea, Taiwan and Vietnam. Our export sales from the United States totaled \$4.1 billion, \$3.2 billion and \$2.7 billion for fiscal 2011, 2010 and 2009, respectively. Substantially all of our export sales are facilitated through unaffiliated brokers, marketing associations and foreign sales staffs. Sales of products produced in a country other than the United States were less than 10% of consolidated sales for each of fiscal 2011, 2010 and 2009. Approximately \$57 million of income, \$11 million of loss and \$14 million of loss from continuing operations before income taxes for fiscal 2011, 2010 and 2009, respectively, was from operations based in a country other than the United States, all of which was included in the Chicken segment.

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### NOTE 17: SUPPLEMENTAL CASH FLOW INFORMATION

The following table summarizes cash payments for interest and income taxes:

	in millions		
	2011	2010	2009
Interest	\$192	\$302	\$ 333
Income taxes, net of refunds	311	470	35

### NOTE 18: TRANSACTIONS WITH RELATED PARTIES

We have operating leases for farms, equipment and other facilities with the estate of Don Tyson, a former director of the Company, John Tyson, Chairman of the Company, certain members of their families and the Randal W. Tyson Testamentary Trust. Total payments of \$2 million in fiscal 2011, \$2 million in fiscal 2010 and \$3 million in fiscal 2009, were paid to entities in which these parties had an ownership interest.

### NOTE 19: COMMITMENTS AND CONTINGENCIES

#### Commitments

We lease equipment, properties and certain farms for which total rentals approximated \$183 million, \$188 million and \$175 million, respectively, in fiscal 2011, 2010 and 2009. Most leases have initial terms up to seven years, some with varying renewal periods. The most significant obligations assumed under the terms of the leases are the upkeep of the facilities and payments of insurance and property taxes.

Minimum lease commitments under non-cancelable leases at October 1, 2011, were:

	in millions
2012	\$ 95
2013	63
2014	39
2015	19
2016	12
2017 and beyond	54
Total	\$ 282

We guarantee obligations of certain outside third parties, which consists of a lease and grower loans, all of which are substantially collateralized by the underlying assets. Terms of the underlying debt cover periods up to ten years, and the maximum potential amount of future payments as of October 1, 2011, was \$76 million. We also maintain operating leases for various types of equipment, some of which contain residual value guarantees for the market value of the underlying leased assets at the end of the term of the lease. The remaining terms of the lease maturities cover periods over the next seven years. The maximum potential amount of the residual value guarantees is \$50 million, of which \$43 million would be recoverable through various recourse provisions and an additional undeterminable recoverable amount based on the fair value of the underlying leased assets. The likelihood of material payments under these guarantees is not considered probable. At October 1, 2011, and October 2, 2010, no material liabilities for guarantees were recorded.

We have cash flow assistance programs in which certain livestock suppliers participate. Under these programs, we pay an amount for livestock equivalent to a standard cost to grow such livestock during periods of low market sales prices. The amounts of such payments that are in excess of the market sales price are recorded as receivables and accrue interest. Participating suppliers are obligated to repay these receivables balances when market sales prices exceed this standard cost, or upon termination of the agreement. Our maximum obligation associated with these programs is limited to the fair value of each participating livestock supplier's net tangible assets. The potential maximum obligation as of October 1, 2011, was approximately \$220 million. The total receivables under these programs were \$28 million and \$51 million at October 1, 2011, and October 2, 2010, respectively, and are included, net of allowance for uncollectible amounts, in Other Assets in our Consolidated Balance Sheets. Even though these programs are limited to the net tangible assets of the participating livestock suppliers, we also manage a portion of our credit risk associated with these programs by obtaining security interests in livestock suppliers' assets. After analyzing residual credit risks and general market conditions, we have recorded an allowance for these programs' estimated uncollectible receivables of \$10 million and \$15 million at October 1, 2011, and October 2, 2010, respectively.

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Additionally, we enter into future purchase commitments for various items, such as grains, livestock contracts and fixed grower fees. At October 1, 2011, these commitments totaled:

	in millions
2012	\$ 886
2013	63
2014	18
2015	16
2016	15
2017 and beyond	61
Total	\$ 1,059

### Contingencies

We are involved in various claims and legal proceedings. We routinely assess the likelihood of adverse judgments or outcomes to those matters, as well as ranges of probable losses, to the extent losses are reasonably estimable. We record accruals for such matters to the extent that we conclude a loss is probable and the financial impact, should an adverse outcome occur, is reasonably estimable. Such accruals are reflected in the Company's Consolidated Financial Statements. In our opinion, we have made appropriate and adequate accruals for these matters and believe the probability of a material loss beyond the amounts accrued to be remote; however, the ultimate liability for these matters is uncertain, and if accruals are not adequate, an adverse outcome could have a material effect on the consolidated financial condition or results of operations. Listed below are certain claims made against the Company and/or our subsidiaries for which the potential exposure is considered material to the Company's Consolidated Financial Statements. We believe we have substantial defenses to the claims made and intend to vigorously defend these matters.

Several private lawsuits are pending against us alleging that we failed to compensate poultry plant employees for all hours worked, including overtime compensation, in violation of the Federal Labor Standards Act (FLSA). These lawsuits include *DeAsencio v. Tyson Foods, Inc.* (*DeAsencio*), filed on August 22, 2000, in the U.S. District Court for the Eastern District of Pennsylvania. This matter involves similar allegations that employees should be paid for the time it takes to engage in pre- and post-shift activities such as changing into and out of protective and sanitary clothing, obtaining clothing and walking to and from the changing area, work areas and break areas. They seek back wages, liquidated damages, pre- and post-judgment interest, and attorneys' fees. Plaintiffs appealed a jury verdict and final judgment entered in our favor on June 22, 2006, in the U.S. District Court for the Eastern District of Pennsylvania. On September 7, 2007, the U.S. Court of Appeals for the Third Circuit reversed the jury verdict and remanded the case to the District Court for further proceedings. We sought rehearing en banc, which was denied by the Court of Appeals on October 5, 2007. The United States Supreme Court denied our petition for a writ of certiorari on June 9, 2008. The new trial date has not been set.

The other private lawsuits referred to above are *Sheila Ackles, et al. v. Tyson Foods, Inc.* (N. Dist. Alabama, October 23, 2006); *McCluster, et al. v. Tyson Foods, Inc.* (M. Dist. Georgia, December 11, 2006); *Dobbins, et al. v. Tyson Chicken, Inc., et al.* (N.D. Alabama, December 21, 2006); *Buchanan, et al. v. Tyson Chicken, Inc., et al. and Potter, et al. v. Tyson Chicken, Inc., et al.* (N.D. Alabama, December 22, 2006); *Jones, et al. v. Tyson Foods, Inc., et al., Walton, et al. v. Tyson Foods, Inc., et al. and Williams, et al. v. Tyson Foods, Inc., et al.* (S.D. Mississippi, February 9, 2007); *Balch, et al. v. Tyson Foods, Inc.* (E.D. Oklahoma, March 1, 2007); *Adams, et al. v. Tyson Foods, Inc.* (W.D. Arkansas, March 2, 2007); *Atkins, et al. v. Tyson Foods, Inc.* (M.D. Georgia, March 5, 2007); *Laney, et al. v. Tyson Foods, Inc. and Williams, et al. v. Tyson Foods, Inc.* (M.D. Georgia, May 23, 2007) (the *Williams Case*). Similar to *DeAsencio*, each of these matters involves allegations that employees should be paid for the time it takes to engage in pre- and post-shift activities such as changing into and out of protective and sanitary clothing, obtaining clothing and walking to and from the changing area, work areas and break areas. The plaintiffs in each of these lawsuits seek or have sought to act as class representatives on behalf of all current and former employees who were allegedly not paid for time worked and seek back wages, liquidated damages, pre- and post-judgment interest, and attorneys' fees. On April 6, 2007, we filed a motion for transfer of the above named actions for coordinated pretrial proceedings before the Judicial Panel on Multidistrict Litigation, which was granted on August 17, 2007. These cases and five other cases subsequently filed involving the same allegations (i.e., *Armstrong, et al. v. Tyson Foods, Inc.* (W.D. Tennessee, January 30, 2008); *Maldonado, et al. v. Tyson Foods, Inc.* (E.D. Tennessee, January 31, 2008); *White, et al. v. Tyson Foods, Inc.* (E.D. Texas, February 1, 2008); *Meyer, et al. v. Tyson Foods, Inc.* (W.D. Missouri, February 2, 2008); and *Leak, et al. v. Tyson Foods, Inc.* (W.D. North Carolina, February 6, 2008)), were transferred to the U.S. District Court in the Middle District of Georgia, *In re: Tyson Foods, Inc., Fair Labor Standards Act Litigation (MDL Proceedings)*. On September 2, 2011, the parties executed a settlement agreement and filed a joint motion with the court seeking its approval of the settlement. The court approved the settlement on September 15, 2011, and Tyson will pay at least \$12.25 million but no more than \$17.5 million in back pay and damages to eligible class members. The settlement agreement provides a process for identifying and certifying eligible class members, which includes a 75-day notice period for certain class members to become eligible for payment under the settlement. In addition, the settlement agreement provides that plaintiffs' attorneys must file an application for fees with the court but that no more than \$14.5 million in attorneys' fees and costs will be paid. Plaintiffs' attorneys filed their fee application on October 11, 2011.

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We have pending twelve separate wage and hour actions involving Tyson Fresh Meats Inc.'s plants located in Lexington, Nebraska (Lopez, et al. v. Tyson Foods, Inc., D. Nebraska, June 30, 2006), Garden City and Emporia, Kansas (Garcia, et al. v. Tyson Foods, Inc., Tyson Fresh Meats, Inc., D. Kansas, May 15, 2006), Storm Lake, Iowa (Bouaphakeo (f/k/a Sharp), et al. v. Tyson Foods, Inc., N.D. Iowa, February 6, 2007), Columbus Junction, Iowa (Guyton (f/k/a Robinson), et al. v. Tyson Foods, Inc., d.b.a Tyson Fresh Meats, Inc., S.D. Iowa, September 12, 2007), Joslin, Illinois (Murray, et al. v. Tyson Foods, Inc., C.D. Illinois, January 2, 2008; and DeVoss v. Tyson Foods, Inc. d.b.a. Tyson Fresh Meats, C.D. Illinois, March 2, 2011), Dakota City, Nebraska (Gomez, et al. v. Tyson Foods, Inc., D. Nebraska, January 16, 2008), Madison, Nebraska (Acosta, et al. v Tyson Foods, Inc. d.b.a Tyson Fresh Meats, Inc., D. Nebraska, February 29, 2008), Perry and Waterloo, Iowa (Edwards, et al. v. Tyson Foods, Inc. d.b.a Tyson Fresh Meats, Inc., S.D. Iowa, March 20, 2008); Council Bluffs, Iowa (Maxwell (f/k/a Salazar), et al. v. Tyson Foods, Inc. d.b.a. Tyson Fresh Meats, Inc., S.D. Iowa, April 29, 2008); Logansport, Indiana (Carter, et al. v. Tyson Foods, Inc. and Tyson Fresh Meats, Inc., N.D. Indiana, April 29, 2008); and Goodlettsville, Tennessee (Abadeer v. Tyson Foods, Inc., and Tyson Fresh Meats, Inc., M.D. Tennessee, February 6, 2009). The actions allege we failed to pay employees for all hours worked, including overtime compensation for the time it takes to change into protective work uniforms, safety equipment and other sanitary and protective clothing worn by employees, and for walking to and from the changing area, work areas and break areas in violation of the FLSA and analogous state laws. The plaintiffs seek back wages, liquidated damages, pre- and post-judgment interest, attorneys' fees and costs. Each case is proceeding in its jurisdiction.

- After a trial in the Garcia case, a jury verdict in favor of the plaintiffs was entered on March 17, 2011, with respect to the Garden City, Kansas facility. Exclusive of pre- and post-judgment interest, attorneys' fees and costs, the jury found violations of federal and state laws for pre- and post-shift work activities and awarded damages in the amount of \$503,011, respectively. Plaintiffs' counsel has filed an application for attorneys' fees and expenses in the amount of \$3,475,422. We contested the application and are currently evaluating our appeal options.
- A jury trial was held in the Lopez case, which involved the Lexington, NE beef plant, and resulted in a jury verdict in favor of Tyson. Judgment was entered and the complaint was dismissed with prejudice, on May 26, 2011. Plaintiffs filed an appeal with the Eighth Circuit Court of Appeals on June 16, 2011.
- A jury trial was held in the Bouaphakeo case, which involved the Storm Lake, Iowa pork plant and resulted in a jury verdict in favor of the plaintiffs on September 26, 2011. Exclusive of pre- and post-judgment interest, attorneys' fees and costs, the jury found violations of federal and state laws for pre- and post-shift work activities and awarded damages in the amount of \$2,892,379. On October 24, 2011, we renewed our motion for judgment as a matter of law due to a failure of class-wide proof and, in the alternative, for a new trial on damages.
- The Guyton, Gomez and Acosta cases are scheduled for trials on April 9, 2012, October 15, 2012, and November 13, 2012, respectively.

We have pending one wage and hour action involving our Tyson Prepared Foods plant located in Jefferson, Wisconsin (Weissman, et al. v. Tyson Prepared Foods, Inc., Jefferson County (Wisconsin) Circuit Court, October 20, 2010). The plaintiffs allege that employees should be paid for the time it takes to engage in pre- and post-shift activities such as changing into and out of protective and sanitary clothing and the associated time it takes to walk to and from their workstations post-donning and pre-doffing of protective and sanitary clothing. Six named plaintiffs seek to act as state law class representatives on behalf of all current and former employees who were allegedly not paid for time worked and seek back wages, liquidated damages, pre- and post-judgment interest, and attorneys' fees and costs. On May 16, 2011, Plaintiffs filed a motion to certify a state law class of all hourly employees who have worked at the Jefferson plant from October 20, 2008, to the present. We have filed motions for summary judgment seeking dismissal of the claims, or, in the alternative, to limit the claims made for non-compensable clothes changing activities.

On June 19, 2005, the Attorney General and the Secretary of the Environment of the State of Oklahoma filed a complaint in the U.S. District Court for the Northern District of Oklahoma against us, three of our subsidiaries and six other poultry integrators. This complaint was subsequently amended. As amended, the complaint asserts a number of state and federal causes of action including, but not limited to, counts under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), and state-law public nuisance theories. The amended complaint asserts that defendants and certain contract growers who are not named in the amended complaint polluted the surface waters, groundwater and associated drinking water supplies of the Illinois River Watershed (IRW) through the land application of poultry litter. Oklahoma asserts that this alleged pollution has also caused extensive injury to the environment (including soils and sediments) of the IRW and that the defendants have been unjustly enriched. Oklahoma's claims cover the entire IRW, which encompasses more than one million acres of land and the natural resources (including lakes and waterways) contained therein. Oklahoma seeks wide-ranging relief, including injunctive relief, compensatory damages in excess of \$800 million, an unspecified amount in punitive damages and attorneys' fees.

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We and the other defendants have denied liability, asserted various defenses, and filed a third-party complaint that asserts claims against other persons and entities whose activities may have contributed to the pollution alleged in the amended complaint. The district court has stayed proceedings on the third party complaint pending resolution of Oklahoma's claims against the defendants. On October 31, 2008, the defendants filed a motion to dismiss for failure to join the Cherokee Nation as a required party or, in the alternative, for judgment as a matter of law based on the plaintiffs' lack of standing. This motion was granted in part and denied in part on July 22, 2009. In its ruling, the district court dismissed Oklahoma's claims for cost recovery and for natural resources damages under CERCLA and for unjust enrichment under Oklahoma common law. This ruling also narrowed the scope of Oklahoma's remaining claims by dismissing all damage claims under its causes of action for Oklahoma common law nuisance, federal common law nuisance, and Oklahoma common law trespass, leaving only its claims for injunctive relief for trial. On August 18, 2009, the Court granted partial summary judgment in favor of the defendants on Oklahoma's claims for violations of the Oklahoma Registered Poultry Feeding Operations Act. Oklahoma later voluntarily dismissed the remainder of this claim. On September 2, 2009, the Cherokee Nation filed a motion to intervene in the lawsuit. Its motion to intervene was denied on September 15, 2009, and the Cherokee Nation filed a notice of appeal of that ruling in the Tenth Circuit Court of Appeals on September 17, 2009. A non-jury trial of the case began on September 24, 2009. At the close of Oklahoma's case-in-chief, the Court granted the defendants' motions to dismiss claims based on RCRA, nuisance per se, and health risks related to bacteria. The defense rested its case on January 13, 2010, and closing arguments were held on February 11, 2010. On September 21, 2010, the Court of Appeals affirmed the district court's denial of the Cherokee Nation's motion to intervene. On October 6, 2010 the Cherokee Nation and the State of Oklahoma filed a petition for rehearing or *en banc* review seeking reconsideration of this ruling. The Court of Appeals denied this petition.

On May 8, 2008, a lawsuit was filed against the Company and two of our employees in the District Court of McCurtain County, Oklahoma styled *Armstrong, et al. v. Tyson Foods, Inc., et al.* (the *Armstrong Case*). The lawsuit was brought by a group of 52 poultry growers who allege that certain of our live production practices in Oklahoma constitute fraudulent inducement, fraud, unjust enrichment, negligence, gross negligence, unconscionability, violations of the Oklahoma Business Sales Act, Deceptive Trade Practice violations, violations of the Consumer Protection Act, and conversion, as well as other theories of recovery. The plaintiffs sought damages in an unspecified amount. On October 30, 2009, 20 additional growers represented by the same attorney filed a lawsuit against us in the same court asserting the same or similar claims, which is styled *Clardy, et al. v. Tyson Foods, Inc., et al.* (the *Clardy Case*). In both of these cases we have denied all allegations of wrongdoing. In June 2009, the plaintiffs in the *Armstrong* case requested an expedited trial date for a smaller group of plaintiffs they claimed were facing imminent financial peril. The Court ultimately severed a group of 10 plaintiffs from the *Armstrong Case*, and a trial began on March 15, 2010. There were numerous irregularities and rulings during the trial which we believe to have been legally erroneous and highly prejudicial to our right to a fair trial. On April 1, 2010, the jury returned a verdict against us and one of our employees, and on April 2, 2010, the jury returned a punitive damages verdict against us. After a dispute caused by inconsistencies between the multiple verdict forms completed by the jury and apparent confusion by the jury as to how to complete those verdict forms, the Court entered a final judgment in the amount of \$8,655,735. Subsequent to the trial, the presiding judge disqualified from the cases and the Oklahoma Supreme Court appointed a new judge to the cases. The Company filed post-trial motions challenging the verdict. Those motions were denied. The Company has appealed the verdict to the Oklahoma Supreme Court. We filed a motion with the trial court to change venue from McCurtain County on the grounds that the numerous irregularities that occurred during the trial, coupled with the attendant publicity, resulted in community bias which would prevent the Company from receiving a fair trial in McCurtain County. The trial court granted this motion and the case will be transferred to Choctaw County, Oklahoma. We filed another motion, which the trial court also granted, to stay all future trials of the claims of the plaintiffs in the *Armstrong Case* and the *Clardy Case* pending the outcome of the appeal of the first trial. We also filed a motion to sever all of the plaintiffs' claims into individual cases, which was heard on January 25, 2010. This motion was denied, but the Court took under advisement the sizes and groupings of plaintiffs in future trials. We believe numerous and substantial legal errors were made by the Court during the trial and that a review of and guidance on these issues by the appellate court could have a substantial impact on the outcome of future trials in the *Armstrong Case* and the *Clardy Case*.

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### NOTE 20: QUARTERLY FINANCIAL DATA (UNAUDITED)

	in millions, except per share data			
	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
<b>2011</b>				
Sales	\$ 7,615	\$ 8,000	\$ 8,247	\$ 8,404
Gross profit	744	533	531	391
Operating income	498	303	312	172
Net income	294	156	188	95
Net income attributable to Tyson	298	159	196	97
Net income per share attributable to Tyson:				
Class A Basic	\$ 0.81	\$ 0.43	\$ 0.53	\$ 0.27
Class B Basic	\$ 0.73	\$ 0.39	\$ 0.48	\$ 0.24
Diluted	\$ 0.78	\$ 0.42	\$ 0.51	\$ 0.26
<b>2010</b>				
Sales	\$ 6,635	\$ 6,916	\$ 7,438	\$ 7,441
Gross profit	529	564	752	669
Operating income	314	344	507	391
Net income	159	156	242	208
Net income attributable to Tyson	160	159	248	213
Net income per share attributable to Tyson:				
Class A Basic	\$ 0.44	\$ 0.43	\$ 0.68	\$ 0.58
Class B Basic	\$ 0.39	\$ 0.39	\$ 0.61	\$ 0.52
Diluted	\$ 0.42	\$ 0.42	\$ 0.65	\$ 0.57

First quarter fiscal 2011 net income included \$11 million gain related to a sale of interests in an equity method investment. Third quarter fiscal 2011 net income included \$21 million reduction to income tax expense related to a reversal of reserves for foreign uncertain tax positions.

Second quarter fiscal 2010 net income included \$24 million of pretax charges related to losses on notes repurchased during the quarter. Third quarter fiscal 2010 operating income included \$38 million of insurance proceeds received during the quarter and net income included \$34 million of pretax charges related to losses on notes repurchased during the quarter and a \$12 million charge related to an equity method investment impairment. Fourth quarter fiscal 2010 operating income included a \$29 million non-cash charge related to the full impairment of an immaterial Chicken segment reporting unit's goodwill.

### NOTE 21: CONDENSED CONSOLIDATING FINANCIAL STATEMENTS

Tyson Fresh Meats, Inc. (TFM Parent), our wholly-owned subsidiary, has fully and unconditionally guaranteed the 2016 Notes. TFM Parent and substantially all of our wholly-owned domestic subsidiaries have fully and unconditionally guaranteed the 2014 Notes. The following financial information presents condensed consolidating financial statements, which include Tyson Foods, Inc. (TFI Parent); TFM Parent; the other 2014 Notes' guarantor subsidiaries (Guarantors) on a combined basis; the elimination entries necessary to reflect TFM Parent and the Guarantors, which collectively represent the 2014 Notes' total guarantor subsidiaries (2014 Guarantors), on a combined basis; the 2014 Notes' non-guarantor subsidiaries (Non-Guarantors) on a combined basis; the elimination entries necessary to consolidate TFI Parent, the 2014 Guarantors and the Non-Guarantors; and Tyson Foods, Inc. on a consolidated basis, and is provided as an alternative to providing separate financial statements for the guarantor(s).

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Condensed Consolidating Statement of Income for the year ended October 1, 2011									in millions
	2014 Guarantors								
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal	Non-Guarantors	Eliminations	Total	
Sales	\$ 157	\$ 18,636	\$ 13,159	\$ (1,227)	\$ 30,568	\$ 1,542	\$ (1)	\$ 32,266	
Cost of Sales	29	17,461	12,364	(1,226)	28,599	1,440	(1)	30,067	
Gross Profit (Loss)	128	1,175	795	(1)	1,969	102	0	2,199	
Operating Expenses:									
Selling, general and administrative	52	215	561	(1)	775	87	0	914	
Goodwill impairment	0	0	0	0	0	0	0	0	
Other charges	0	0	0	0	0	0	0	0	
Operating Income	76	960	234	0	1,194	15	0	1,285	
Other (Income) Expense:									
Interest expense, net	(26)	148	117	0	265	(8)	0	231	
Other, net	(9)	0	(12)	0	(12)	1	0	(20)	
Equity in net earnings of subsidiaries	(673)	(115)	(59)	102	(72)	(13)	758	0	
Total Other (Income) Expense	(708)	33	46	102	181	(20)	758	211	
Income (Loss) from Continuing Operations before Income Taxes	784	927	188	(102)	1,013	35	(758)	1,074	
Income Tax Expense (Benefit)	34	272	38	0	310	(3)	0	341	
Income (Loss) from Continuing Operations	750	655	150	(102)	703	38	(758)	733	
Loss from Discontinued Operation, net of tax	0	0	0	0	0	0	0	0	
Net Income (Loss)	750	655	150	(102)	703	38	(758)	733	
Less: Net Loss Attributable to Noncontrolling Interest	0	0	0	0	0	(17)	0	(17)	
Net Income (Loss) Attributable to Tyson	\$ 750	\$ 655	\$ 150	\$ (102)	\$ 703	\$ 55	\$ (758)	\$ 750	

Condensed Consolidating Statement of Income for the year ended October 2, 2010									in millions
	2014 Guarantors								
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal	Non-Guarantors	Eliminations	Total	
Sales	\$ 454	\$ 15,950	\$ 12,248	\$ (966)	\$ 27,232	\$ 1,167	\$ (423)	\$ 28,430	
Cost of Sales	16	14,867	11,343	(966)	25,244	1,079	(423)	25,916	
Gross Profit	438	1,083	905	0	1,988	88	0	2,514	
Operating Expenses:									
Selling, general and administrative	93	199	550	0	749	87	0	929	
Goodwill impairment	0	0	0	0	0	29	0	29	
Other charges	0	0	0	0	0	0	0	0	
Operating Income (Loss)	345	884	355	0	1,239	(28)	0	1,556	
Other (Income) Expense:									
Interest expense, net	328	2	17	0	19	(14)	0	333	
Other, net	25	1	(7)	0	(6)	1	0	20	
Equity in net earnings of subsidiaries	(782)	(51)	25	37	11	(14)	785	0	
Total Other (Income) Expense	(429)	(48)	35	37	24	(27)	785	353	
Income (Loss) from Continuing Operations before Income Taxes	774	932	320	(37)	1,215	(1)	(785)	1,203	
Income Tax Expense (Benefit)	(6)	304	116	0	420	24	0	438	
Income (Loss) from Continuing Operations	780	628	204	(37)	795	(25)	(785)	765	
Loss from Discontinued Operation, net of tax	0	0	0	0	0	0	0	0	
Net Income (Loss)	780	628	204	(37)	795	(25)	(785)	765	
Less: Net Loss Attributable to Noncontrolling Interest	0	0	0	0	0	(15)	0	(15)	
Net Income (Loss) Attributable to Tyson	\$ 780	\$ 628	\$ 204	\$ (37)	\$ 795	\$ (10)	\$ (785)	\$ 780	

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Condensed Consolidating Statement of Income for the year ended October 3, 2009

in millions

	2014 Guarantors					Non-Guarantors	Eliminations	Total
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal			
Sales	\$ 11	\$ 14,504	\$ 12,245	\$ (725)	\$ 26,024	\$ 709	\$ (40)	\$ 26,704
Cost of Sales	132	13,970	11,526	(725)	24,771	638	(40)	25,501
Gross Profit (Loss)	(121)	534	719	0	1,253	71	0	1,203
Operating Expenses:								
Selling, general and administrative	132	187	450	0	637	72	0	841
Goodwill impairment	0	560	0	0	560	0	0	560
Other charges	0	0	17	0	17	0	0	17
Operating Income (Loss)	(253)	(213)	252	0	39	(1)	0	(215)
Other (Income) Expense:								
Interest expense, net	285	13	20	0	33	(8)	0	310
Other, net	11	(3)	(6)	0	(9)	16	0	18
Equity in net earnings of subsidiaries	157	(32)	44	13	25	(17)	(165)	0
Total Other (Income) Expense	453	(22)	58	13	49	(9)	(165)	328
Income (Loss) from Continuing Operations before Income Taxes	(706)	(191)	194	(13)	(10)	8	165	(543)
Income Tax Expense (Benefit)	(138)	111	34	0	145	0	0	7
Income (Loss) from Continuing Operations	(568)	(302)	160	(13)	(155)	8	165	(550)
Income (Loss) from Discontinued Operation, net of tax	21	5	0	0	5	(27)	0	(1)
Net Income (Loss)	(547)	(297)	160	(13)	(150)	(19)	165	(551)
Less: Net Loss Attributable to Noncontrolling Interest	0	0	0	0	0	(4)	0	(4)
Net Income (Loss) Attributable to Tyson	\$ (547)	\$ (297)	\$ 160	\$ (13)	\$ (150)	\$ (15)	\$ 165	\$ (547)

Condensed Consolidating Balance Sheet as of October 1, 2011

in millions

	2014 Guarantors					Non-Guarantors	Eliminations	Total
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal			
<b>Assets</b>								
Current Assets:								
Cash and cash equivalents	\$ 1	\$ 1	\$ 414	\$ 0	\$ 415	\$ 300	\$ 0	\$ 716
Accounts receivable, net	1	506	656	0	1,162	157	1	1,321
Inventories	2	926	1,440	0	2,366	219	0	2,587
Other current assets	62	95	102	(133)	64	54	(24)	156
Total Current Assets	66	1,528	2,612	(133)	4,007	730	(23)	4,780
Net Property, Plant and Equipment	37	875	2,369	0	3,244	542	0	3,823
Goodwill	0	881	966	0	1,847	45	0	1,892
Intangible Assets	0	31	49	0	80	69	0	149
Other Assets	2,179	180	147	(15)	312	296	(2,360)	427
Investment in Subsidiaries	11,396	1,923	769	(1,760)	932	319	(12,647)	0
Total Assets	\$13,678	\$ 5,418	\$ 6,912	\$ (1,908)	\$ 10,422	\$ 2,001	\$ (15,030)	\$ 11,071
<b>Liabilities and Shareholders' Equity</b>								
Current Liabilities:								
Current debt	\$ 2	\$ 0	\$ 0	\$ 0	\$ 0	\$ 68	\$ 0	\$ 70
Accounts payable	8	525	648	0	1,173	83	0	1,264
Other current liabilities	5,808	144	442	(133)	453	474	(5,695)	1,040
Total Current Liabilities	5,818	669	1,090	(133)	1,626	625	(5,695)	2,374
Long-Term Debt	1,972	1,198	916	0	2,114	269	(2,243)	2,112
Deferred Income Taxes	0	120	310	(15)	415	9	0	424
Other Liabilities	231	142	191	0	333	29	(117)	476
Redeemable Noncontrolling Interest	0	0	0	0	0	0	0	0
Total Tyson Shareholders' Equity	5,657	3,289	4,405	(1,760)	5,934	1,041	(6,975)	5,657
Noncontrolling Interest	0	0	0	0	0	28	0	28
Total Shareholders' Equity	5,657	3,289	4,405	(1,760)	5,934	1,069	(6,975)	5,685
Total Liabilities and Shareholders' Equity	\$13,678	\$ 5,418	\$ 6,912	\$ (1,908)	\$ 10,422	\$ 2,001	\$ (15,030)	\$ 11,071

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Condensed Consolidating Balance Sheet as of October 2, 2010

in millions

	2014 Guarantors					Non-Guarantors	Eliminations	Total
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal			
<b>Assets</b>								
Current Assets:								
Cash and cash equivalents	\$ 2	\$ 2	\$ 731	\$ 0	\$ 733	\$ 243	\$ 0	\$ 978
Accounts receivable, net	0	2,389	4,670	0	7,059	132	(5,993)	1,198
Inventories	0	734	1,361	0	2,095	179	0	2,274
Other current assets	43	49	27	(9)	67	95	(37)	168
<b>Total Current Assets</b>	<b>45</b>	<b>3,174</b>	<b>6,789</b>	<b>(9)</b>	<b>9,954</b>	<b>649</b>	<b>(6,030)</b>	<b>4,618</b>
Net Property, Plant and Equipment	39	870	2,257	0	3,127	508	0	3,674
Goodwill	0	880	967	0	1,847	46	0	1,893
Intangible Assets	0	37	53	0	90	76	0	166
Other Assets	2,804	101	61	0	162	295	(2,860)	401
Investment in Subsidiaries	10,776	1,785	631	(1,607)	809	307	(11,892)	0
<b>Total Assets</b>	<b>\$13,664</b>	<b>\$ 6,847</b>	<b>\$10,758</b>	<b>\$(1,616)</b>	<b>\$ 15,989</b>	<b>\$ 1,881</b>	<b>\$(20,782)</b>	<b>\$10,752</b>
<b>Liabilities and Shareholders' Equity</b>								
Current Liabilities:								
Current debt	\$ 317	\$ 0	\$ 0	\$ 0	\$ 0	\$ 84	\$ 0	\$ 401
Accounts payable	16	421	608	0	1,029	65	0	1,110
Other current liabilities	6,044	168	335	(9)	494	526	(6,030)	1,034
<b>Total Current Liabilities</b>	<b>6,377</b>	<b>589</b>	<b>943</b>	<b>(9)</b>	<b>1,523</b>	<b>675</b>	<b>(6,030)</b>	<b>2,545</b>
Long-Term Debt	2,011	1,638	1,228	0	2,866	118	(2,860)	2,135
Deferred Income Taxes	0	105	204	0	309	12	0	321
Other Liabilities	110	148	179	0	327	49	0	486
Redeemable Noncontrolling Interest	0	0	0	0	0	64	0	64
<b>Total Tyson Shareholders' Equity</b>	<b>5,166</b>	<b>4,367</b>	<b>8,204</b>	<b>(1,607)</b>	<b>10,964</b>	<b>928</b>	<b>(11,892)</b>	<b>5,166</b>
Noncontrolling Interest	0	0	0	0	0	35	0	35
<b>Total Shareholders' Equity</b>	<b>5,166</b>	<b>4,367</b>	<b>8,204</b>	<b>(1,607)</b>	<b>10,964</b>	<b>963</b>	<b>(11,892)</b>	<b>5,201</b>
<b>Total Liabilities and Shareholders' Equity</b>	<b>\$13,664</b>	<b>\$ 6,847</b>	<b>\$10,758</b>	<b>\$(1,616)</b>	<b>\$ 15,989</b>	<b>\$ 1,881</b>	<b>\$(20,782)</b>	<b>\$10,752</b>

Condensed Consolidating Statement of Cash Flows for the year ended October 1, 2011

in millions

	2014 Guarantors					Non-Guarantors	Eliminations	Total
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal			
<b>Cash Provided by (Used for) Operating Activities</b>	<b>\$ 31</b>	<b>\$ 564</b>	<b>\$ 468</b>	<b>\$ 0</b>	<b>\$ 1,032</b>	<b>\$ 3</b>	<b>\$ (20)</b>	<b>\$ 1,046</b>
Cash Flows From Investing Activities:								
Additions to property, plant and equipment	(1)	(107)	(443)	0	(550)	(92)	0	(643)
Purchases of marketable securities, net	0	(57)	(21)	0	(78)	(2)	0	(80)
Proceeds from notes receivable	0	0	0	0	0	51	0	51
Proceeds from sale of discontinued operation	0	0	0	0	0	0	0	0
Change in restricted cash-investing	0	0	0	0	0	0	0	0
Acquisitions, net of cash acquired	0	0	0	0	0	0	0	0
Other, net	23	0	8	0	8	(3)	0	28
<b>Cash Provided by (Used for) Investing Activities</b>	<b>22</b>	<b>(164)</b>	<b>(456)</b>	<b>0</b>	<b>(620)</b>	<b>(46)</b>	<b>0</b>	<b>(644)</b>
Cash Flows from Financing Activities:								
Net change in debt	(391)	(6)	0	0	(6)	12	0	(385)
Debt issuance costs	(9)	0	0	0	0	0	0	(9)
Purchase of redeemable noncontrolling interest	0	0	0	0	0	(66)	0	(66)
Purchases of Tyson Class A common stock	(207)	0	0	0	0	0	0	(207)
Dividends	(59)	0	0	0	0	(20)	20	(59)
Change in restricted cash-financing	0	0	0	0	0	0	0	0
Other, net	58	0	0	0	0	10	0	68
Net change in intercompany balances	554	(395)	(329)	0	(724)	170	0	0
<b>Cash Provided by (Used for) Financing Activities</b>	<b>(54)</b>	<b>(401)</b>	<b>(329)</b>	<b>0</b>	<b>(730)</b>	<b>106</b>	<b>20</b>	<b>(658)</b>
Effect of Exchange Rate Change on Cash	0	0	0	0	0	(6)	0	(6)
Increase (Decrease) in Cash and Cash Equivalents	(1)	(1)	(317)	0	(318)	57	0	(262)
Cash and Cash Equivalents at Beginning of Year	2	2	731	0	733	243	0	978
<b>Cash and Cash Equivalents at End of Year</b>	<b>\$ 1</b>	<b>\$ 1</b>	<b>\$ 414</b>	<b>\$ 0</b>	<b>\$ 415</b>	<b>\$ 300</b>	<b>\$ 0</b>	<b>\$ 716</b>

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Condensed Consolidating Statement of Cash Flows for the year ended October 2, 2010

in millions

	2014 Guarantors					Non-Guarantors	Eliminations	Total
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal			
Cash Provided by Operating Activities	\$ 386	\$ 499	\$ 462	\$ 0	\$ 961	\$ 85	\$ 0	\$ 1,432
Cash Flows From Investing Activities:								
Additions to property, plant and equipment	(3)	(85)	(323)	0	(408)	(139)	0	(550)
Purchases of marketable securities, net	0	0	0	0	0	(4)	0	(4)
Proceeds from notes receivable	0	0	0	0	0	0	0	0
Proceeds from sale of discontinued operation	0	0	0	0	0	0	0	0
Change in restricted cash-investing	0	0	0	0	0	43	0	43
Acquisitions, net of cash acquired	0	0	0	0	0	0	0	0
Other, net	(1)	(1)	15	0	14	(2)	0	11
Cash Used for Investing Activities	(4)	(86)	(308)	0	(394)	(102)	0	(500)
Cash Flows from Financing Activities:								
Net change in debt	(874)	(149)	0	0	(149)	(11)	0	(1,034)
Debt issuance costs	0	0	0	0	0	0	0	0
Purchase of redeemable noncontrolling interest	0	0	0	0	0	0	0	0
Purchases of Tyson Class A common stock	(48)	0	0	0	0	0	0	(48)
Dividends	(59)	0	0	0	0	0	0	(59)
Change in restricted cash-financing	0	0	140	0	140	0	0	140
Other, net	32	0	0	0	0	10	0	42
Net change in intercompany balances	569	(262)	(351)	0	(613)	44	0	0
Cash Provided by (Used for) Financing Activities	(380)	(411)	(211)	0	(622)	43	0	(959)
Effect of Exchange Rate Change on Cash	0	0	0	0	0	1	0	1
Increase (Decrease) in Cash and Cash Equivalents	2	2	(57)	0	(55)	27	0	(26)
Cash and Cash Equivalents at Beginning of Year	0	0	788	0	788	216	0	1,004
Cash and Cash Equivalents at End of Year	\$ 2	\$ 2	\$ 731	\$ 0	\$ 733	\$ 243	\$ 0	\$ 978

Condensed Consolidating Statement of Cash Flows for the year ended October 3, 2009

in millions

	2014 Guarantors					Non-Guarantors	Eliminations	Total
	TFI Parent	TFM Parent	Guarantors	Eliminations	Subtotal			
Cash Provided by (Used for) Operating Activities	\$ (617)	\$ 507	\$ 982	\$ 0	\$ 1,489	\$ 113	\$ (25)	\$ 960
Cash Flows From Investing Activities:								
Additions to property, plant and equipment	0	(56)	(211)	0	(267)	(101)	0	(368)
Proceeds from sale of marketable securities, net	0	0	0	0	0	19	0	19
Proceeds from notes receivable	0	0	0	0	0	0	0	0
Proceeds from sale of discontinued operation	0	0	0	0	0	75	0	75
Change in restricted cash-investing	0	0	0	0	0	(43)	0	(43)
Acquisitions, net of cash acquired	0	0	(13)	0	(13)	(80)	0	(93)
Other, net	(37)	1	12	0	13	7	0	(17)
Cash Used for Investing Activities	(37)	(55)	(212)	0	(267)	(123)	0	(427)
Cash Flows from Financing Activities:								
Net change in debt	545	(94)	0	0	(94)	36	0	487
Debt issuance costs	(58)	0	0	0	0	(1)	0	(59)
Purchase of redeemable noncontrolling interest	0	0	0	0	0	0	0	0
Purchases of Tyson Class A common stock	(19)	0	0	0	0	0	0	(19)
Dividends	(60)	0	0	0	0	(25)	25	(60)
Change in restricted cash-financing	0	0	(140)	0	(140)	0	0	(140)
Other, net	0	0	0	0	0	6	0	6
Net change in intercompany balances	106	(358)	123	0	(235)	129	0	0
Cash Provided by (Used for) Financing Activities	514	(452)	(17)	0	(469)	145	25	215
Effect of Exchange Rate Change on Cash	0	0	0	0	0	6	0	6
Increase (Decrease) in Cash and Cash Equivalents	(140)	0	753	0	753	141	0	754
Cash and Cash Equivalents at Beginning of Year	140	0	35	0	35	75	0	250
Cash and Cash Equivalents at End of Year	\$ 0	\$ 0	\$ 788	\$ 0	\$ 788	\$ 216	\$ 0	\$ 1,004

**Report of Independent Registered Public Accounting Firm**

To the Board of Directors and Shareholders of  
Tyson Foods, Inc.

In our opinion, the accompanying consolidated balance sheets as of October 1, 2011 and October 2, 2010 and the related consolidated statements of income, shareholders' equity and cash flows for the fiscal years then ended present fairly, in all material respects, the financial position of Tyson Foods, Inc. and its subsidiaries at October 1, 2011 and October 2, 2010, and the results of their operations and their cash flows for each of the two years in the period ended October 1, 2011 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedules for the fiscal years ended October 1, 2011 and October 2, 2010 listed in the index appearing under Item 15(a) present fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of October 1, 2011, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements and financial statement schedules, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Annual Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on these financial statements, on the financial statement schedules, and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers LLP

Fayetteville, AR  
November 21, 2011

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**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Shareholders of  
Tyson Foods, Inc.

We have audited the accompanying consolidated statements of income, shareholders' equity, and cash flows of Tyson Foods, Inc. for the year ended October 3, 2009. Our audit also included the financial statement schedule for the year ended October 3, 2009 listed in the Index at Item 15 (a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the results of operations of Tyson Foods, Inc. and its cash flows for the year ended October 3, 2009, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule for the year ended October 3, 2009, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As described in Note 2 to the consolidated financial statements, the Company adopted guidance establishing accounting and reporting standards for a noncontrolling interest in a subsidiary and for convertible debt instruments in 2010.

/s/ Ernst & Young LLP

Rogers, Arkansas  
November 23, 2009, except for those matters  
described in Note 2 "Change in Accounting  
Principles" as it relates to the retrospective  
application of accounting principles adopted in  
2010, as to which the date is November 22, 2010

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### ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

Not applicable.

### ITEM 9A. CONTROLS AND PROCEDURES

#### Evaluation of Disclosure Controls and Procedures

An evaluation was performed, under the supervision and with the participation of management, including the Chief Executive Officer (CEO) and the Chief Financial Officer (CFO), of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the 1934 Act)). Based on that evaluation, management, including the CEO and CFO, has concluded that, as of October 1, 2011, our disclosure controls and procedures were effective.

#### Changes in Internal Control Over Financial Reporting

In the quarter ended October 1, 2011, there have been no changes in the Company's internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

#### Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rule 13a-15(f) of the Securities Exchange Act of 1934. Our internal control over financial reporting was designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate.

Management conducted an evaluation of the effectiveness of our internal control over financial reporting as of October 1, 2011. In making this assessment, we used criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control – Integrated Framework*.

Based on this evaluation under the framework in *Internal Control – Integrated Framework* issued by COSO, Management concluded the Company's internal control over financial reporting was effective as of October 1, 2011.

The Company's independent registered public accounting firm, PricewaterhouseCoopers LLP, who has audited the fiscal 2011 financial statements included in this Form 10-K has also audited the Company's internal control over financial reporting. Their report appears in Part II, Item 8.

### ITEM 9B. OTHER INFORMATION

Not applicable.

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### PART III

#### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

See information set forth under the captions “Election of Directors” and “Section 16(a) Beneficial Ownership Reporting Compliance” in the Company’s definitive Proxy Statement for the Company’s Annual Meeting of Shareholders to be held February 3, 2012 (the “Proxy Statement”), which information is incorporated herein by reference. Pursuant to general instruction G(3) of Annual Report on Form 10-K, certain information concerning our executive officers is included under the caption “Executive Officers of the Company” in Part I of this Report.

We have a code of ethics as defined in Item 406 of Regulation S-K, which code applies to all of our directors and employees, including our principal executive officers, principal financial officer, principal accounting officer or controller, and persons performing similar functions. This code of ethics, titled “Tyson Foods, Inc. Code of Conduct,” is available, free of charge on our website at <http://ir.tyson.com>.

#### ITEM 11. EXECUTIVE COMPENSATION

See the information set forth under the captions “Executive Compensation,” “Director Compensation For Fiscal 2011,” “Compensation Discussion and Analysis,” “Report of the Compensation Committee,” and “Compensation Committee Interlocks and Insider Participation” in the Proxy Statement, which information is incorporated herein by reference. However, pursuant to instructions to Item 407(e)(5) of the Securities and Exchange Commission Regulation S-K, the material appearing under the sub-heading “Report of the Compensation Committee” shall not be deemed to be “filed” with the Commission, other than as provided in this Item 11.

#### ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

See the information included under the captions “Security Ownership of Certain Beneficial Owners” and “Security Ownership of Management” in the Proxy Statement, which information is incorporated herein by reference.

##### Securities Authorized for Issuance Under Equity Compensation Plans

The following information reflects certain information about our equity compensation plans as of October 1, 2011:

	Equity Compensation Plan Information		
	(a)	(b)	(c)
	Number of Securities to be issued upon exercise of outstanding options	Weighted average exercise price of outstanding options	Number of Securities remaining available for future issuance under equity compensation plans (excluding Securities reflected in column (a))
Equity compensation plans approved by security holders	18,255,221	\$ 13.46	28,259,095
Equity compensation plans not approved by security holders	-	-	-
Total	18,255,221	\$ 13.46	28,259,095

- a) Outstanding options granted by the Company
- b) Weighted average price of outstanding options
- c) Shares available for future issuance as of October 1, 2011, under the Stock Incentive Plan (15,102,409), the Employee Stock Purchase Plan (5,509,078) and the Retirement Savings Plan (7,647,608)

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### **ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

See the information included under the captions “Election of Directors” and “Certain Transactions” in the Proxy Statement, which information is incorporated herein by reference.

### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

See the information included under the captions “Audit Fees,” “Audit-Related Fees,” “Tax Fees,” “All Other Fees,” and “Audit Committee Pre-Approval Policy” in the Proxy Statement, which information is incorporated herein by reference.

## **PART IV**

### **ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) The following documents are filed as a part of this report:

- Consolidated Statements of Income  
for the three years ended October 1, 2011
- Consolidated Balance Sheets at  
October 1, 2011, and October 2, 2010
- Consolidated Statements of Shareholders’ Equity  
for the three years ended October 1, 2011
- Consolidated Statements of Cash Flows  
for the three years ended October 1, 2011
- Notes to Consolidated Financial Statements
- Reports of Independent Registered Public Accounting Firms
  
- Financial Statement Schedule - Schedule II Valuation and Qualifying  
Accounts for the three years ended October 1, 2011

All other schedules are omitted because they are neither applicable nor required.

The exhibits filed with this report are listed in the Exhibit Index at the end of Item 15.

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### EXHIBIT INDEX

#### Exhibit No.

- 3.1 Restated Certificate of Incorporation of the Company (previously filed as Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 1998, Commission File No. 001-14704, and incorporated herein by reference).
- 3.2 Fourth Amended and Restated By-laws of the Company (previously filed as Exhibit 3.2 to the Company's Current Report on Form 8-K filed September 28, 2007, Commission File No. 001-14704, and incorporated herein by reference).
- 4.1 Indenture dated June 1, 1995 between the Company and The Chase Manhattan Bank, N.A., as Trustee (the "Company Indenture") (previously filed as Exhibit 4 to Registration Statement on Form S-3, filed with the Commission on December 18, 1997, Registration No. 333-42525, and incorporated herein by reference).
- 4.2 Form of 7.0% Note due January 15, 2028 issued under the Company Indenture (previously filed as Exhibit 4.2 to the Company's Quarterly Report on Form 10-Q for the period ended December 27, 1997, Commission File No. 001-14704, and incorporated herein by reference).
- 4.3 Form of 7.0% Note due May 1, 2018 issued under the Company Indenture (previously filed as Exhibit 4.1 to the Company's Quarterly Report on Form 10-Q for the period ended March 28, 1998, Commission File No. 001-14704, and incorporated herein by reference).
- 4.4 Form of 6.60% Senior Notes due April 1, 2016 issued under the Company Indenture (previously filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed March 22, 2006, Commission File No. 001-14704, and incorporated herein by reference).
- 4.5 Supplemental Indenture among the Company, Tyson Fresh Meats, Inc. and JPMorgan Chase Bank, National Association, dated as of September 18, 2006, supplementing the Company Indenture (previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed September 19, 2006, Commission File No. 001-14704, and incorporated herein by reference).
- 4.6 Supplemental Indenture dated as of September 15, 2008, between the Company and The Bank of New York Mellon Trust Company, National Association (as successor to JPMorgan Chase Bank, N.A. (formerly The Chase Manhattan Bank, N.A.)), as Trustee (including the form of 3.25% Convertible Senior Notes due 2013), supplementing the Company Indenture (previously filed as Exhibit 4.2 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 4.7 Indenture, dated March 9, 2009, among the Company, the Subsidiary Guarantors (as defined therein) and The Bank of New York Mellon Trust Company, N.A., as Trustee (previously filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed March 10, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 4.8 Form of 10.50% Senior Note due 2014 (previously filed as Exhibit 4.2 and included in Exhibit 4.1 to the Company's Current Report on Form 8-K filed March 10, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.1 Amended and Restated Credit Agreement, dated as of March 9, 2009, as amended and restated as of February 23, 2011, among the Company, JPMorgan Chase Bank, N.A., as the Administrative Agent, and certain other lenders party thereto (previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K/A filed February 28, 2011, Commission File No. 001-14704, and incorporated herein by reference).
- 10.2 Convertible note hedge transaction confirmation, dated as of September 9, 2008, by and between JPMorgan Chase Bank, National Association and the Company (previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.3 Warrant transaction confirmation, dated as of September 9, 2008, by and between JPMorgan Chase Bank, National Association and the Company (previously filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).

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- 10.4 Letter Agreement, dated as of September 9, 2008, by and between JPMorgan Chase Bank, National Association and the Company (previously filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.5 Convertible note hedge transaction confirmation, dated as of September 9, 2008, by and between Merrill Lynch Financial Markets, Inc. and the Company (previously filed as Exhibit 10.4 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.6 Warrant transaction confirmation, dated as of September 9, 2008, by and between Merrill Lynch Financial Markets, Inc. and the Company (previously filed as Exhibit 10.5 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.7 Letter Agreement, dated as September 9, 2008, by and between Merrill Lynch Financial Markets, Inc. and the Company (previously filed as Exhibit 10.6 to the Company's Current Report on Form 8-K filed September 15, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.8 Employment Agreement, dated October 5, 2009, by and between the Company and Craig J. Hart (previously filed as Exhibit 10.14 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.9 Senior Advisor Agreement, dated July 30, 2004, by and between Don Tyson and the Company (previously filed as Exhibit 10.43 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2004, Commission File No. 001-14704, and incorporated herein by reference).
- 10.10 First Amendment, dated October 3, 2010, to the Senior Advisor Agreement, dated July 30, 2004, by and between Don Tyson and the Company (previously filed as Exhibit 10.12 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.11 Employment Agreement, dated December 16, 2009, by and between the Company and Donnie Smith (previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed December 18, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.12 Employment Agreement, dated December 16, 2009, by and between the Company and James V. Lochner (previously filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed December 18, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.13 Executive Employment Agreement, dated May 21, 2008, by and between the Company and David L. Van Bebber (previously filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended June 28, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.14 Executive Employment Agreement, dated June 6, 2008, by and between the Company and Dennis Leatherby (previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed June 11, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.15 Employment Agreement, dated October 5, 2009, by and between the Company and Kenneth J. Kimbro (previously filed as Exhibit 10.22 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.16 Employment Agreement, dated December 9, 2009, by and between the Company and Donnie King (previously filed as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.17 Employment Agreement, dated December 21, 2009, by and between the Company and Noel White (previously filed as Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.18 Agreement, dated as of October 3, 2010, between the Company and John Tyson (previously filed as Exhibit 10.22 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).

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- 10.19 Indemnity Agreement, dated as of September 28, 2007, between the Company and John Tyson (previously filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed September 28, 2007, Commission File No. 001-14704, and incorporated herein by reference).
- 10.20 Form of Indemnity Agreement between Tyson Foods, Inc. and its directors and certain executive officers (previously filed as Exhibit 10(t) to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 1995, Commission File No. 0-3400, and incorporated herein by reference).
- 10.21 Tyson Foods, Inc. Annual Incentive Compensation Plan for Senior Executives adopted February 4, 2005, and reapproved February 5, 2010 (previously filed as Exhibit 10.34 to the Company's Annual Report on Form 10-K for the fiscal year ended October 1, 2005, Commission File No. 001-14704, and incorporated herein by reference).
- 10.22 Amended and Restated Tyson Foods, Inc. Employee Stock Purchase Plan, effective as of October 1, 2008 (previously filed as Exhibit 10.41 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.23 First Amendment to the Tyson Foods, Inc. Employee Stock Purchase Plan, effective December 27, 2009 (previously filed as Exhibit 10.30 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.24 Restated Executive Savings Plan of Tyson Foods, Inc. effective January 1, 2009 (previously filed as Exhibit 10.42 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.25 First Amendment to Executive Savings Plan of Tyson Foods, Inc. effective January 1, 2009 (previously filed as Exhibit 10.32 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.26 Second Amendment to Executive Savings Plan of Tyson Foods, Inc. effective May 1, 2010 (previously filed as Exhibit 10.31 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.27 Third Amendment to the Executive Savings Plan of Tyson Foods, Inc. effective December 21, 2010.
- 10.28 Amended and Restated Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 19, 2004, First Amendment to the Amended and Restated Tyson Foods, Inc. 2000 Stock Incentive Plan effective February 2, 2007, and Second Amendment to the Amended and Restated Tyson Foods, Inc. 2000 Stock Incentive Plan effective August 13, 2007 (previously filed as Exhibit 10.43 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.29 Third Amendment to the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2009 (previously filed as Exhibit 10.34 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.30 Amended and Restated Retirement Income Plan of IBP, inc. effective August 1, 2000, and Amendment to Freeze the Retirement Income Plan of IBP, inc. effective December 31, 2002 (previously filed as Exhibit 10.46 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.31 Amended and Restated Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective March 1, 2007, First Amendment to the Amended and Restated Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective September 24, 2007, and Second Amendment to the Amended and Restated Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective January 1, 2008 (previously filed as Exhibit 10.47 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, Commission File No. 001-14704, and incorporated herein by reference).
- 10.32 Third Amendment to the Amended and Restated Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective November 17, 2011.
- 10.33 Retirement Savings Plan of Tyson Foods, Inc. effective January 1, 2011.

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- 10.34 Form of Restricted Stock Agreement pursuant to which restricted stock awards were granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan prior to July 31, 2009 (previously filed as Exhibit 10.48 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2004, Commission File No. 001-14704, and incorporated herein by reference).
- 10.35 Form of Restricted Stock Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective July 31, 2009 (previously filed as Exhibit 10.41 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.36 Form of Restricted Stock Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective January 1, 2010 (previously filed as Exhibit 10.41 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.37 Form of Stock Option Grant Agreement pursuant to which stock option awards were granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan prior to July 31, 2009 (previously filed as Exhibit 10.49 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2004, Commission File No. 001-14704, and incorporated herein by reference).
- 10.38 Form of Stock Option Grant Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective July 31, 2009 through February 3, 2010 (previously filed as Exhibit 10.43 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.39 Form of Stock Option Grant Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective February 4, 2010 (previously filed as Exhibit 10.44 to the Company's Annual Report on Form 10-K for the fiscal year ended October 2, 2010, Commission File No. 001-14704, and incorporated herein by reference).
- 10.40 Form of Stock Option Grant Agreement with non-contracted employees pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 29, 2010.
- 10.41 Form of Stock Option Grant Agreement with contracted employees at band level 1-5 pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 29, 2010.
- 10.42 Form of Stock Option Grant Agreement with key employees and contracted employees at band level 6-9 pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 29, 2010.
- 10.43 Form of Performance Stock Award Agreement pursuant to which performance stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective September 29, 2009 (previously filed as Exhibit 10.44 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 10.44 Form of Performance Stock Award Agreement pursuant to which performance stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective October 4, 2010.
- 12.1 Calculation of Ratio of Earnings to Fixed Charges
- 14.1 Code of Conduct of the Company
- 16.1 Letter of Ernst & Young LLP dated November 23, 2009 (previously filed as Exhibit 16.1 to the Company's Current Report on Form 8-K/A filed November 23, 2009, Commission File No. 001-14704, and incorporated herein by reference).
- 21 Subsidiaries of the Company
- 23.1 Consent of PricewaterhouseCoopers, LLP
- 23.2 Consent of Ernst & Young, LLP

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- 31.1 Certification of Chief Executive Officer pursuant to SEC Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certification of Chief Financial Officer pursuant to SEC Rule 13a-14(a)/15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 101 The following financial information from our Annual Report on Form 10-K for the year ended October 1, 2011, formatted in XBRL (eXtensible Business Reporting Language): (i) Consolidated Statements of Income, (ii) Consolidated Balance Sheets, (iii) Consolidated Statements of Shareholders' Equity, (iv) Consolidated Statements of Cash Flows, (v) the Notes to Consolidated Financial Statements, and (vi) Financial Statement Schedule.

**SIGNATURES**

Pursuant to requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**TYSON FOODS, INC.**

By: /s/ Dennis Leatherby  
Dennis Leatherby  
Executive Vice President and Chief  
Financial Officer

November 21, 2011

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Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the date indicated.

<u>/s/ Kathleen M. Bader</u> Kathleen M. Bader	Director	November 21, 2011
<u>Gaurdie E. Banister Jr.</u>	Director	
<u>/s/ Craig J. Hart</u> Craig J. Hart	Senior Vice President, Controller and Chief Accounting Officer	November 21, 2011
<u>/s/ Jim Keever</u> Jim Keever	Director	November 21, 2011
<u>/s/ Dennis Leatherby</u> Dennis Leatherby	Executive Vice President and Chief Financial Officer	November 21, 2011
<u>/s/ Kevin M. McNamara</u> Kevin M. McNamara	Director	November 21, 2011
<u>/s/ Brad T. Sauer</u> Brad T. Sauer	Director	November 21, 2011
<u>/s/ Donnie Smith</u> Donnie Smith	President and Chief Executive Officer	November 21, 2011
<u>/s/ Robert C. Thurber</u> Robert C. Thurber	Director	November 21, 2011
<u>/s/ Barbara A. Tyson</u> Barbara A. Tyson	Director	November 21, 2011
<u>/s/ John Tyson</u> John Tyson	Chairman of the Board of Directors	November 21, 2011
<u>/s/ Albert C. Zapanta</u> Albert C. Zapanta	Director	November 21, 2011

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**FINANCIAL STATEMENT SCHEDULE  
 TYSON FOODS, INC.  
 SCHEDULE II  
 VALUATION AND QUALIFYING ACCOUNTS**

Three Years Ended October 1, 2011

in millions

	Balance at Beginning of Period	Additions			Balance at End of Period
		Charged to Costs and Expenses	Charged to Other Accounts	(Deductions)	
Allowance for Doubtful Accounts:					
2011	\$ 32	\$ 3	\$ 0	\$ (4)	\$ 31
2010	33	0	0	(1)	32
2009	12	22	0	(1)	33
Inventory Lower of Cost or Market Allowance:					
2011	\$ 2	\$ 12	\$ 0	\$ (8)	\$ 6
2010	22	7	0	(27)	2
2009	13	57	0	(48)	22

**THIRD AMENDMENT TO THE EXECUTIVE SAVINGS PLAN  
OF TYSON FOODS, INC.**

**(AS AMENDED AND RESTATED AS OF JANUARY 1, 2009)**

THIS THIRD AMENDMENT is made on this 21<sup>st</sup> day of December, 2010 by Tyson Foods, Inc., a corporation duly organized and existing under the laws of the State of Delaware (the "Employer").

**INTRODUCTION:**

WHEREAS, the Employer maintains the Executive Savings Plan of Tyson Foods, Inc. (the "Plan"), which was last amended and restated by an indenture effective as of January 1, 2009;

WHEREAS, the Employer now desires to amend the Plan to revise those provisions addressing the cash-out of small accounts; and

WHEREAS, the Executive Committee of the Board of Directors of the Employer has authorized and approved the amendments provided herein.

NOW, THEREFORE, the Employer does hereby amend the Plan, effective immediately in accordance with IRS Notice 2010-6, as follows:

1. By deleting existing Section 7.1 in its entirety and by substituting therefor the following:

"7.1 Death Prior to Commencement of Payment. If a Member dies before distributions have commenced, the Member's Beneficiary shall be entitled to receive the full value of the Member's Post-2004 Accounts. The Member's Beneficiary shall be paid by default in annual installments over five (5) years with the first installment to be paid in the first January following the calendar year of death; provided, however, if the value of the Member's aggregate Post-2004 Accounts (and all similar plans (within the meaning of Treasury Regulations Section 1.409A-1(c)(2)) and the resulting distribution is less than the then applicable dollar limit under Section 402(g)(1)(B) of the Code, the Member's Beneficiary will be paid in a lump sum in the January following the calendar year of death."

2. By deleting existing Section 8.1(d)(iii) in its entirety and by substituting therefor the following:

“(iii) Lump Sum Rule for Small Accounts . Notwithstanding anything to the contrary in this Article 8 (other than Section 8.1(d)(v)), if the aggregate value of the Member’s Post-2004 Accounts (and all similar plans (within the meaning of Treasury Regulations Section 1.409A-1(c)(2)) and the resulting distribution is less than the then applicable dollar limit under Section 402(g)(1)(B) of the Code, the distribution of the Accounts shall be made in a lump sum in January of the calendar year following the calendar year in which the Member’s Separation from Service occurs.”

3. By deleting existing Section 8.1(d)(iv) in its entirety and by substituting therefor the following:

“(iv) De Minimis Distributions . The Committee, in its discretion, may initiate a distribution in a lump sum of a Member’s Post-2004 Accounts if the aggregate amount credited thereto and the resulting distribution does not exceed, and has not exceeded for the immediately preceding two (2)-year period, the then applicable dollar limit under Section 402(g)(1)(B) of the Code and the distribution effects a termination and liquidation of the entirety of the Member’s interest in the Member’s Post-2004 Accounts and all similar plans (within the meaning of Treasury Regulations Section 1.409A-1(c)(2)), provided that the Committee’s action is documented in writing no later than the date such distribution is made.”

Except as specifically amended hereby, the Plan shall remain in full force and effect as prior to this Third Amendment.

IN WITNESS WHEREOF, the Employer has caused this Third Amendment to be executed on the day and year first above written.

**TYSON FOODS, INC.**

By: /s/ Dennis Leatherby  
Title: Exec. Vice President and Chief Financial Officer

ATTEST:  
By: /s/ R. Read Hudson  
Title: Vice President, Assoc. General Counsel and Secretary

[CORPORATE SEAL]

**THIRD AMENDMENT TO THE  
TYSON FOODS, INC.  
SUPPLEMENTAL EXECUTIVE RETIREMENT  
AND LIFE INSURANCE PREMIUM PLAN**

THIS THIRD AMENDMENT is made on this 17th day of November, 2011, by TYSON FOODS, INC., a Delaware corporation (the "Company").

**WITNESSETH:**

WHEREAS, the Company maintains the Tyson Foods, Inc Supplemental Executive Retirement and Life Insurance Premium Plan (the "Plan") originally effective as of March 12, 2004 and as most recently amended and restated as of March 1, 2007;

WHEREAS, the Company desires to amend the Plan prospectively to adjust the method for calculating the amount due to a participant to assist with the payment of taxes owed by the participant under the Federal Insurance Contributions Act when his or her retirement benefit first becomes nonforfeitable; and

WHEREAS, this Third Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

NOW, THEREFORE, the Company does hereby amend the Plan, effective for participants whose retirement benefits first become nonforfeitable for purposes of Section 4.5 of the Plan on or after January 1, 2011, by deleting Section 4.5 in its entirety and by substituting therefor the following:

"4.5 FICA Payments. If and when a Participant's SERP retirement benefits first become Nonforfeitable pursuant to Section 4.1, the Participant shall be paid a cash amount, determined by the Plan Administrator, equal to the sum of (a) the additional taxes under Section 3101 of the Code arising as a result of the vesting event, plus (b) the additional amount that would be necessary to provide the amount determined under the foregoing Clause (a) net of all income and payroll taxes, including the income and payroll taxes payable with respect to the additional amount determined pursuant to this Clause (b). In its sole discretion, the Plan Administrator may apply all or any portion of the cash payment provided for under this Section 4.5 to the Participant's tax withholding obligations. Any cash payment that becomes due pursuant to this Section 4.5 shall be made by March 15<sup>th</sup> of the calendar year following the calendar year the SERP retirement benefits first become Nonforfeitable."

Except as specifically amended hereby, the Plan shall remain in full force and effect prior to this Third Amendment.

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IN WITNESS WHEREOF, the Company has caused this Third Amendment to be executed on the day and year first above written

TYSON FOODS, INC.

By: /s/ Dennis Leatherby

Title: Executive Vice President and CFO

**RETIREMENT SAVINGS PLAN  
OF  
TYSON FOODS, INC.**

THIS INDENTURE is made this 20<sup>th</sup> day of January, 2011, by TYSON FOODS, INC, a corporation duly organized and existing under the laws of the State of Delaware.

**WITNESSETH:**

WHEREAS, the Primary Sponsor established by indenture originally effective as of October 1, 1987, the Retirement Savings Plan of Tyson Foods, Inc. (the "Plan"), which was last amended and restated by an indenture dated November 3, 2008 (the "Prior Restatement") primarily to consolidate amendments made subsequent to the last amendment and restatement of the Plan; to comply with and make other changes permitted by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"); to reflect final regulations issued under Section 415 of the Code and other regulatory developments; to make certain changes required or permitted by the Pension Protection Act of 2006 ("PPA"); and to make certain other miscellaneous changes; and

WHEREAS, the Primary Sponsor previously amended the Prior Restatement by a First Amendment thereto generally effective as of January 1, 2008 to update the Plan for final Treasury Regulations issued under Section 415 of the Code, to update the Plan for certain law changes required by the Pension Protection Act of 2006, to update the Plan for the Heroes Earnings Assistance and Relief Tax Act of 2008, and to update the Plan for the Worker, Retiree, and Employer Recovery Act of 2008; and

WHEREAS, the Plan is intended to be a profit sharing plan within the meaning of Treasury Regulations Section 1.401-1(b)(1)(ii) and also contains a cash or deferred arrangement as described in Section 401(k) of the Internal Revenue Code of 1986; and

WHEREAS, the Plan is intended to satisfy the safe harbor requirements of Code Section 401(k)(12) and Code Section 401(m)(11); and

WHEREAS, the provisions of the Plan, as amended and restated herein, shall apply to Plan Years beginning on and after January 1, 2011, except to the extent the provisions are required to apply at an earlier date or to any other participants to comply with applicable law;

NOW, THEREFORE, the Primary Sponsor does hereby amend and restate the Plan in its entirety, generally effective as of January 1, 2011, except as otherwise provided herein, to read as follows:

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**RETIREMENT SAVINGS PLAN  
OF  
TYSON FOODS, INC.**

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**SECTION 1**  
**DEFINITIONS**

Wherever used herein, the masculine pronoun shall be deemed to include the feminine, and the singular to include the plural, unless the context clearly indicates otherwise and the following words and phrases shall, when used herein, have the meanings set forth below:

1.1 “Account” means, effective January 1, 2008, a Participant’s aggregate balance in the following accounts, as adjusted pursuant to the Plan as of any given date:

(a) “Salary Deferral Contribution Account” which shall reflect a Participant’s interest in contributions made by a Plan Sponsor under Plan Section 3.1.

(b) “Employer Contribution Account” which shall reflect a Participant’s interest in matching contributions made by a Plan Sponsor under Plan Section 3.2.

(c) “Stock Match Account” which shall reflect a Participant’s interest in contributions made by a Plan Sponsor under former Plan Section 3.3 respecting pay periods beginning prior to December 27, 2009. As soon as administratively practicable after January 1, 2011, the Stock Match Account shall be merged with and into the Employer Contribution Account.

(d) “After-Tax Contribution Account” which shall reflect a Participant’s interest in after-tax contributions previously made by a Participant to the Fund or transferred to the Plan in a trust-to-trust transfer.

(e) “Rollover Account” which shall reflect a Participant’s interest in Rollover Amounts. Notwithstanding the foregoing, if the Plan accepts any Rollover Amounts that are not includable in the gross income of the Participant (determined without regard to the rollover) and are transferred to the Plan in a direct trustee-to-trustee transfer, it shall separately account for such amounts and earnings and losses thereon.

The Plan Administrator shall also maintain such additional subaccounts as it determines necessary or desirable to reflect trust-to-trust transfers (other than Rollover Amounts), including, but not limited to, the mergers of other tax-qualified retirement plans with and into the Plan. In addition, the Plan Administrator may allocate the interest of a Participant in any funds transferred to the Plan in any trust-to-trust transfer (other than Rollover Amounts) among the above accounts as the Plan Administrator determines best reflects the interest of the Participant.

1.2 “Affiliate” means (a) any corporation which is a member of the same controlled group of corporations (within the meaning of Code Section 414(b)) as is a Plan Sponsor, (b) any other trade or business (whether or not incorporated) under common control (within the meaning of Code Section 414(c)) with a Plan Sponsor, (c) any other corporation, partnership or other organization which is a member of an affiliated service group (within the meaning of Code Section 414(m)) with a Plan Sponsor, and (d) any other entity required to be aggregated with a Plan Sponsor pursuant to regulations under Code Section 414(o). Notwithstanding the foregoing, for purposes of applying the limitations set forth in Appendix A and for purposes of determining Annual Compensation under Appendix A, the references to Code Sections 414(b) and (c) above shall be as modified by Code Section 415(h).

1.3 “Annual Compensation” means wages within the meaning of Code Section 3401(a) (for purposes of income tax withholding at the source) and all other payments of compensation to an Employee by a Plan Sponsor and Affiliates (in the course of the entity’s trade or business) during a Plan Year for which the Plan Sponsor or Affiliate, as applicable, is required to furnish the Employee a written statement as required to be reported under Code Sections 6041(d), 6051(a)(3) and 6052 (but without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in Code Section 3401(a)(2)). Annual Compensation in excess of the Annual Compensation Limit shall be disregarded for all purposes under the Plan except for purposes of determining who are Highly Compensated Employees. Notwithstanding the above, Annual Compensation shall be determined as follows:

(a) (1) for purposes of determining, with respect to each Plan Sponsor, the amount of contributions made by or on behalf of an Employee under Plan Section 3 and allocations under Plan Section 4, and

(2) for purposes of applying the provisions of Appendix C hereto for such Plan Years as the Secretary of the Treasury may allow,

Annual Compensation shall only include amounts received for the portion of the Plan Year during which the Employee was a Participant;

(b) for all purposes under the Plan, Annual Compensation shall not include reimbursements or other expense allowances, cash and noncash fringe benefits, moving expense allowances, deferred compensation, welfare benefits, and amounts realized from the exercise of non-qualified stock options or when restricted stock (or property) held by an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(c) in determining the amount of contributions under Plan Section 3 and allocations under Plan Section 4 made by or on behalf of an Employee, Annual Compensation shall not include (1) bonus compensation, except annual bonus compensation of only those Participants who are not eligible to participate in the Executive Savings Plan of Tyson Foods, Inc. (or any successor plan) and other regularly scheduled bonus payments, (2) special non-recurring forms of remuneration including, but not limited to, travel incentives; and (3) employer contributions under the Tyson Foods, Inc. Employee Stock Purchase Plan;

(d) for all purposes under the Plan, Annual Compensation shall include any amount which would have been paid during a Plan Year, but was contributed by a Plan Sponsor on behalf of an Employee pursuant to a salary reduction agreement which is not includable in the gross income of the Employee under Section 125, 132(f)(4), 402(e)(3), 402(g)(3), 402(h)(1)(B), 414(h), 403(b) or 457 of the Code;

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(e) for purposes of applying the annual addition limits in Appendix A, Annual Compensation:

(1) shall be measured by the limitation year;

(2) shall include compensation paid following a severance from employment if such compensation is for services during or outside the Employee's regular working hours, commissions, bonuses, or other similar payments and the compensation would have been paid to the Employee prior to severance from employment if the Employee had continued in employment with the Plan Sponsor or an Affiliate, in accordance with Treasury Regulations Section 1.415(c)-2(e)(3)(ii);

(3) shall include payments for unused accrued bona fide sick, vacation, or other leave, but only if the employee would have been able to use the leave if employment had continued;

(4) shall include compensation received by an Employee pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Employee at the same time if the Employee had continued in employment with a Plan Sponsor and only to the extent that the payment is includable in the Employee's gross income;

(5) shall not include any other post-severance from employment compensation;

(6) shall include payments to an individual who does not currently perform services for a Plan Sponsor by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for a Plan Sponsor rather than entering qualified military service; and

(7) shall include compensation paid to a Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)); and

(f) effective January 1, 2009, in accordance with Code Section 414(u)(12), Annual Compensation shall include any differential wage payment (within the meaning of Code Section 3401(h)(2)) made by a Plan Sponsor to an individual who does not currently perform services for the Plan Sponsor by reason of qualified military service (within the meaning of Code Section 414(u)(5)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Plan Sponsor.

1.4 “ Annual Compensation Limit ” means \$245,000 (for the 2011 Plan Year), which amount may be adjusted in subsequent Plan Years based on changes in the cost of living as announced by the Secretary of the Treasury. If a determination period consists of fewer than twelve months, the Annual Compensation Limit shall be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is twelve.

1.5 “ Appeals Fiduciary ” means an individual or group of individuals appointed to review appeals of claims for benefits payable due to a Participant’s Disability made pursuant to Plan Section 12.4.

1.6 “ Beneficiary ” means the person or trust that a Participant designated most recently in a manner acceptable to the Plan Administrator; provided, however, that if the Participant has failed to make a designation, no person designated is alive, no trust has been established, or no successor Beneficiary has been designated who is alive, the term “Beneficiary” means (a) the Participant’s spouse or (b) if no spouse is alive, the deceased Participant’s estate. Notwithstanding the preceding sentence, the spouse of a married Participant shall be his Beneficiary unless that spouse has consented in writing to the designation by the Participant of some other person or trust and the spouse’s consent acknowledges the effect of the designation and is witnessed by a notary public or a Plan representative. A Participant may change his designation at any time. However, a Participant may not change his designation without further consent of his spouse under the terms of the preceding sentence unless the spouse’s consent permits designation of another person or trust without further spousal consent and acknowledges that the spouse has the right to limit consent to a specific beneficiary and that the spouse voluntarily relinquishes this right. Notwithstanding the above, the spouse’s consent shall not be required if the Participant establishes to the satisfaction of the Plan Administrator that the spouse cannot be located, if the Participant has a court order indicating that he is legally separated or has been abandoned (within the meaning of local law) unless a “qualified domestic relations order” (as defined in Code Section 414(p)) provides otherwise, or if there are other circumstances as the Secretary of the Treasury prescribes. If the spouse is legally incompetent to give consent, consent by the spouse’s legal guardian shall be deemed to be consent by the spouse. If, subsequent to the death of a Participant, the Participant’s Beneficiary dies while entitled to receive benefits under the Plan, the successor Beneficiary, if any, or the Beneficiary listed under Subsection (a) or, if no spouse is alive, Subsection (b) shall be the Beneficiary.

1.7 “ Board of Directors ” means the Board of Directors or other governing body of the Primary Sponsor.

1.8 “ Break in Service ” means the failure of an Employee, in connection with a termination of employment, to complete a twelve-consecutive-month period beginning on a Severance Date or anniversary thereof during which the Employee fails to perform an Hour of Service. Notwithstanding the foregoing, the absence from employment at anytime during a Plan Year by reason of service in the armed forces of the United States shall not cause a Break in Service during a Plan Year if such Employee is reemployed by the Plan Sponsor within four months after his discharge or release from such service in the armed forces.

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1.9 “ Code ” means the Internal Revenue Code of 1986, as amended, and all applicable rules and regulations promulgated thereunder.

1.10 “ Deferral Amount ” means a contribution of a Plan Sponsor on behalf of a Participant pursuant to Plan Section 3.1.

1.11 “ Direct Rollover ” means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

1.12 “ Disability ” means a disability of a Participant which, in the opinion of the Plan Administrator, causes a Participant to be totally and permanently disabled due to sickness or injury so as to be completely unable to perform any and every duty pertaining to his occupation from a cause other than as specified below:

- (a) excessive and habitual use by the Participant of drugs, intoxicants or narcotics;
- (b) injury or disease sustained by the Participant while willfully and illegally participating in fights, riots, civil insurrections or while committing a felony;
- (c) injury or disease sustained by the Participant while serving in any armed forces;
- (d) injury or disease sustained by the Participant diagnosed or discovered subsequent to the date of his termination of employment;
- (e) injury or disease sustained by the Participant while working for anyone other than the Plan Sponsor or any Affiliate and arising out of such employment; and
- (f) injury or disease sustained by the Participant as a result of an act of war, whether or not such act arises from a formally declared state of war.

The determination of whether or not a Disability exists shall be determined by the Plan Administrator and shall be substantiated by competent medical evidence.

1.13 “ Distributee ” means an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order (as defined in Code Section 414(p)), are Distributees with regard to the interest of the spouse or former spouse. Effective for distributions made on and after January 1, 2008, a non-spouse Beneficiary of a deceased Participant who is either an individual or an irrevocable trust, where the beneficiaries of such trust are identifiable and the trustee provides the Plan Administrator with a final list of trust beneficiaries or a copy of the trust document by October 31 of the year following the Participant’s death, shall be a Distributee with regard to the interest of the deceased Participant, but only if the Eligible Rollover Distribution is transferred in a direct trustee-to-trustee transfer to an Eligible Retirement Plan which is an individual retirement account described in Code Section 408(a) or an individual retirement account described in Code Section 408(b) (other than an endowment contract).

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1.14 “ Elective Deferrals ” means, with respect to any taxable year of the Participant, the sum of:

- (a) any Deferral Amounts;
- (b) any contributions made by or on behalf of a Participant under any other qualified cash or deferred arrangement as defined in Code Section 401(k), whether or not maintained by a Plan Sponsor, to the extent such contributions are not or would not, but for Code Section 402(g)(1), be included in the Participant’s gross income for the taxable year; and
- (c) any other contributions made by or on behalf of a Participant pursuant to Code Section 402(g)(3).

1.15 “ Eligibility Service ” means the completion of a twelve-consecutive-month period beginning on the date on which the Employee first performs an Hour of Service upon his employment or reemployment or any anniversary thereof without reaching a Severance Date; provided, however, if an Employee quits, retires or is discharged and then performs an Hour of Service within twelve months of his Severance Date, then such period of severance shall be taken into account in calculating Eligibility Service.

1.16 “ Eligible Employee ” means any Employee of a Plan Sponsor other than an Employee who is (a) covered by a collective bargaining agreement between a union and a Plan Sponsor, provided that retirement benefits were the subject of good faith bargaining, unless the collective bargaining agreement provides for participation in the Plan, (b) a leased employee within the meaning of Code Section 414(n)(2), (c) deemed to be an Employee of a Plan Sponsor pursuant to regulations under Code Section 414(o), or (d) a non-resident alien who received no earned income from a Plan Sponsor which constitutes income from services within the United States. In addition, no person who is initially classified by a Plan Sponsor as an independent contractor for federal income tax purposes shall be regarded as an Eligible Employee for that period, regardless of any subsequent determination that any such person should have been characterized as a common law employee of the Plan Sponsor for the period in question. For purposes of this Section 1.16 and Section 1.19 below, an Employee shall be deemed to be a “leased employee within the meaning of Code Section 414(n)(2)” if the individual is a person (other than an Employee of the recipient) who, pursuant to an agreement between the recipient and any other person, has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)), on a substantially full-time basis for a period of at least one year, and such services are performed under the primary direction or control of the service recipient.

1.17 “ Eligible Retirement Plan ” means any of the following that will accept a Distributee’s Eligible Rollover Distribution:

- (a) an individual retirement account described in Code Section 408(a);

- 
- (b) an individual retirement annuity described in Code Section 408(b) (other than an endowment contract);
  - (c) an annuity plan described in Code Section 403(a) or an annuity contract described in Code Section 403(b), unless the Distributee is a non-spouse Beneficiary of a deceased Participant;
  - (d) a qualified trust described in Code Section 401(a), unless the Distributee is a non-spouse Beneficiary of a deceased Participant; or
  - (e) an eligible plan under Code Section 457(b) which is maintained by a state or political subdivision of a state, or any agency or instrumentality of a state or political subdivision and which agrees to separately account for amounts transferred into such plan from this Plan, unless the Distributee is a non-spouse Beneficiary of a deceased Participant.

Effective for distributions after December 31, 2005, if any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a designated Roth account (as defined in Code Section 402A), an Eligible Retirement Plan with respect to such portion shall include only another designated Roth account and a Roth IRA.

1.18 “Eligible Rollover Distribution” means any distribution of all or any portion of the Distributee’s Account:

(a) including any portion of the distribution that is not includable in gross income provided such amount is distributed directly to one of the following:

(1) an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract); or

(2) a qualified trust as described in Code Section 401(a) or an annuity contract described in Code Section 403(b) but only to the extent that

(A) the distribution is made in a direct trustee-to-trustee transfer; and

(B) the transferee plan or contract agrees to separately account for amounts transferred (and earnings thereon), including a separate accounting for the portion of the distribution which is includable in income and the portion which is not includable in income; and

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(b) excluding:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten (10) years or more;

(2) any distribution to the extent such distribution is required under Code Section 401(a)(9);

(3) except as otherwise provided in this Section, the portion of any distribution that is not includable in gross income (determined without regard to the exclusions for net unrealized appreciation with respect to employer securities);

(4) a distribution due to the hardship of an Employee, his spouse, his dependent, or his Beneficiary; or

(5) if the Distributee is a non-spouse Beneficiary of a deceased Participant, any distribution other than a direct trustee-to-trustee transfer to an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract).

1.19 "Employee" means any person who is (a) a common law employee of a Plan Sponsor or an Affiliate, (b) a leased employee within the meaning of Code Section 414(n)(2) with respect to a Plan Sponsor, or (c) deemed to be an employee of a Plan Sponsor pursuant to regulations under Code Section 414(o).

1.20 "Entry Date" means the first day of each payroll period.

1.21 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and all rules and regulations promulgated thereunder.

1.22 "Fiduciary" means each Named Fiduciary and any other person who exercises or has any discretionary authority or control regarding management or administration of the Plan, any other person who renders investment advice for a fee or has any authority or responsibility to do so with respect to any assets of the Plan, or any other person who exercises or has any authority or control respecting management or disposition of assets of the Plan.

1.23 "Fund" means the amount at any given time of cash and other property held by the Trustee pursuant to the Plan.

1.24 "Highly Compensated Employee" means, with respect to a Plan Year, each Employee who:

(a) was at any time during the Plan Year or the immediately preceding Plan Year an owner of more than five percent (5%) of the outstanding stock of a Plan Sponsor or Affiliate or more than five percent (5%) of the total combined voting power of all stock of a Plan Sponsor or Affiliate;

(b) received Annual Compensation in excess of \$110,000 (which amount may be adjusted in subsequent Plan Years based on changes in the cost of living as announced by the Secretary of the Treasury) during the immediately preceding Plan Year; or

(c) is a former Employee who met the requirements of Subsection (a)(1) or (a)(2) at the time the former Employee separated from service with the Plan Sponsor or an Affiliate or at any time after the former Employee attained age 55. The determination of who is a former Highly Compensated Employee is based on the rules applicable to determining Highly Compensated Employee status as in effect for that determination year in accordance with Treasury Regulation Section 1.414(q)-1T, Q&A-4 and Notice 97-45 or later guidance under the Code.

1.25 “Hour of Service” means:

(a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for a Plan Sponsor or any Affiliate during the applicable computation period, and such hours shall be credited to the computation period in which the duties are performed;

(b) Each hour for which an Employee is paid, or entitled to payment, by a Plan Sponsor or any Affiliate on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence;

(c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by a Plan Sponsor or any Affiliate, and such hours shall be credited to the computation period or periods to which the award or agreement for back pay pertains rather than to the computation period in which the award, agreement or payment is made; provided, that the crediting of Hours of Service for back pay awarded or agreed to with respect to periods described in Subsection (b) of this Section shall be subject to the limitations set forth in Subsection (f);

(d) Solely for purposes of determining whether a Break in Service has occurred, each hour during any period that the Employee is absent from work (1) by reason of the pregnancy of the Employee, (2) by reason of the birth of a child of the Employee, (3) by reason of the placement of a child with the Employee in connection with the adoption of the child by the Employee, or (4) for purposes of caring for such child for a period immediately following its birth or placement. The hours described in this Subsection (d) shall be credited (A) only in the computation period in which the absence from work begins, if the Employee would be prevented from incurring a Break in Service in that year solely because of that credit, or (B), in any other case, in the next following computation period;

(e) Without duplication of the Hours of Service counted pursuant to Subsection (d) hereof and solely for such purposes as required pursuant to the Family and Medical Leave Act of 1993 and the regulations thereunder (the "Act"), each hour (as determined pursuant to the Act) for which an Employee is granted leave under the Act (1) for the birth of a child, (2) for placement with the Employee of a child for adoption or foster care, (3) to care for the Employee's spouse, child or parent with a serious health condition, or (4) for a serious health condition that makes the Employee unable to perform the functions of the Employee's job;

(f) The Plan Administrator shall credit Hours of Service in accordance with the provisions of Section 2530.200b-2(b) and (c) of the U.S. Department of Labor Regulations or such other federal regulations as may from time to time be applicable and determine Hours of Service from the employment records of a Plan Sponsor or in any other manner consistent with regulations promulgated by the Secretary of Labor, and shall construe any ambiguities in favor of crediting Employees with Hours of Service. Notwithstanding any other provision of this Section, in no event shall an Employee be credited with more than 501 Hours of Service during any single continuous period during which he performs no duties for the Plan Sponsor or Affiliate; and

(g) In the event that a Plan Sponsor or an Affiliate acquires substantially all of the assets of another corporation or entity or a controlling interest of the stock of another corporation or merges with another corporation or entity and is the surviving entity, then service of an Employee who was employed by the prior corporation or entity and who is employed by the Plan Sponsor or an Affiliate at the time of the acquisition or merger shall be counted in the manner provided, with the consent of the Primary Sponsor, in resolutions adopted by the Plan Sponsor which authorizes the counting of such service.

(h) Notwithstanding any other provision in the Plan, Hours of Service will be provided in accordance with Code Section 414(u) with respect to qualified military service to the extent required.

1.26 "Individual Fund" means individual subfunds of the Fund as may be established by the Plan Administrator from time to time for the investment of the Fund.

1.27 "Investment Committee" means a committee, which may be established to direct the Trustee with respect to investments of the Fund.

1.28 "Investment Manager" means a Fiduciary, other than the Trustee, the Plan Administrator, or a Plan Sponsor, who may be appointed by the Primary Sponsor:

(a) who has the power to manage, acquire, or dispose of any assets of the Fund or a portion thereof; and

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(b) who

(1) is registered as an investment adviser under the Investment Advisers Act of 1940;

(2) is not registered as an investment adviser under such Act by reason of Paragraph (1) of Section 203A(a) of such Act, is registered as an investment adviser under the laws of the State (referred to in such Paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary's registration under the laws of such State, also filed a copy of such form with the Secretary;

(3) is a bank as defined in such Act; or

(4) is an insurance company qualified to perform services described in Subsection (a) above under the laws of more than one state; and

(c) who has acknowledged in writing that he is a Fiduciary with respect to the Plan.

1.29 “Named Fiduciary” means only the following:

(a) the Plan Administrator;

(b) the Trustee;

(c) the Investment Committee;

(d) the Investment Manager; and

(e) the Appeals Fiduciary.

1.30 “Normal Retirement Age” means age 65.

1.31 “Participant” means any Employee or former Employee who has become a participant in the Plan for so long as his Account has not been fully distributed pursuant to the Plan.

1.32 “Plan Administrator” means the organization or person designated to administer the Plan by the Primary Sponsor and, in lieu of any such designation, means the Primary Sponsor.

1.33 “Plan Sponsor” means individually the Primary Sponsor and any Affiliate or other entity which has adopted the Plan and Trust; provided, however, if the Plan is adopted on behalf of Employees of one or more, but less than all, divisions or facilities of any Affiliate, then the term “Plan Sponsor”, as applied to that Affiliate, shall only apply to the divisions or facilities on behalf of whose Employees the Plan has been adopted.

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1.34 “Plan Year” means the calendar year.

1.35 “Primary Sponsor” means Tyson Foods, Inc. and each successor thereto.

1.36 “Retirement Date” means the date on which the Participant experiences a termination of employment on or after (a) attaining Normal Retirement Age, or (b) becoming subject to a Disability.

1.37 “Rollover Amount” means any amount transferred to the Fund by a Participant, which amount qualifies as an Eligible Rollover Distribution under Code Sections 401(a)(31), 402(c)(4), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), and any regulations issued thereunder.

1.38 “Severance Date” means the earlier of (a) the date on which an Employee quits, is discharged, retires or dies, and (b) the first anniversary of the first date of a period in which an Employee remains absent from work (with or without pay) with the Plan Sponsor or any Affiliate for any reason. Notwithstanding the foregoing, the Severance Date of an Employee who is absent from work beyond the first anniversary of the first date of absence (1) by reason of the pregnancy of the Employee, (2) by reason of the birth of a child of the Employee, (3) by reason of the placement of a child with the Employee, or (4) for purposes of caring for the child for a period immediately following its birth or placement, means the second anniversary of the first date of absence from work. The Plan Administrator may require an Employee to provide to it timely information to establish the reason for any such absence hereunder and the number of days for which there was such an absence.

1.39 “Termination Completion Date” means the last day of the fifth consecutive Break in Service computation period, determined under the Section which defines Break in Service, in which a Participant completes a Break in Service.

1.40 “Termination of Employment” means a severance from employment (within the meaning of Code Section 401(k)(2)(B)(i)(I)) of an Employee from all Plan Sponsors and Affiliates for any reason other than death, Disability, or attainment of a Retirement Date. Any absence from active employment of the Plan Sponsor and Affiliates by reason of an approved leave of absence shall not be deemed for any purpose under the Plan to be a Termination of Employment. Transfer of an Employee from one Plan Sponsor to another Plan Sponsor or to an Affiliate shall not be deemed for any purpose under the Plan to be a Termination of Employment. In addition, transfer of an Employee to another employer (other than a Plan Sponsor or an Affiliate) in connection with a corporate transaction involving a sale of assets, merger, or sale of stock, shall not be deemed to be a Termination of Employment, for purposes of the timing of distributions under Section 7.1 or 7.2, if the employer to which such Employee is transferred agrees with the Plan Sponsor to accept a transfer of assets from the Plan to its tax-qualified plan in a trust-to-trust transfer meeting the requirements of Code Section 414(l).

1.41 “Trust” means the trust established under an agreement between the Primary Sponsor and the Trustee to hold the Fund or any successor agreement.

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1.42 “ Trustee ” means the trustee under the Trust.

1.43 “ Valuation Date ” means each regular business day.

## **SECTION 2** **ELIGIBILITY**

2.1 Existing Participants . Each individual who was a Participant on the date immediately preceding the effective date of this amendment and restatement shall continue to be a Participant as of the effective date of this amendment and restatement.

2.2 Eligible Employees . Each Eligible Employee shall become a Participant as of the Entry Date coinciding with or next following the date he completes his Eligibility Service.

2.3 Former Participants . Except as provided in Section 2.5, each former Participant who is reemployed by a Plan Sponsor shall become a Participant as of the date of his reemployment as an Eligible Employee.

2.4 Former Employees Who Completed Their Eligibility Service . Except as provided in Section 2.5, each former Employee who completes his Eligibility Service but terminates employment with a Plan Sponsor before becoming a Participant shall become a Participant as of the latest of the date he (a) is reemployed, (b) would have become a Participant if he had not incurred a termination of employment, or (c) becomes an Eligible Employee.

2.5 Former Employees Who Incur a Break in Service . If a former Employee incurs a Break in Service, he shall become a Participant as of the Entry Date coinciding with or next following the date he completes a period of Eligibility Service following the date of his reemployment, regardless of whether the former Employee previously was a Participant.

2.6 Eligible Employees Who Have Not Completed Their Eligibility Service . Solely for the purpose of contributing Deferral Amounts to the Plan, an Eligible Employee who has not yet completed his Eligibility Service may become a Participant as of the first day of the month following the completion of three full calendar months of service. Notwithstanding the foregoing, any Participant who is a Highly Compensated Employee who has not attained at least age 21 and has not completed his Eligibility Service shall not be permitted to contribute Deferral Amounts to the Plan following the Plan Year in which such a Participant is first eligible to contribute such Deferral Amounts until the Participant has attained at least age 21 and completed his Eligibility Service.

2.7 Eligibility to Contribute Rollover Amounts . Solely for the purpose of contributing a Rollover Amount to the Plan, an Eligible Employee who has not yet become a Participant pursuant to any other provision of this Section 2 shall become a Participant as of the date on which the Rollover Amount is contributed to the Plan only with respect to that Rollover Amount.

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**SECTION 3**  
**CONTRIBUTIONS**

3.1 (a) Deferral Amounts . The Plan Sponsor shall make a contribution to the Fund on behalf of each Participant who is an Eligible Employee and has elected to defer a portion of his Annual Compensation otherwise payable to him for the Plan Year and to have such portion contributed to the Fund. Except to the extent permitted under Section 3.1(c) and Code Section 414(v), the contribution made by a Plan Sponsor on behalf of a Participant under this Section 3.1(a) shall be in an amount equal to the amount specified in the Participant's deferral election, but not greater than sixty percent (60%), but not less than two percent (2%) of the Participant's Annual Compensation (net of authorized or required payroll deductions) payable during any payroll period. Pursuant to Section 4 of Appendix C, the Plan Administrator may restrict the amount which Highly Compensated Employees may defer under this Section 3.1(a).

(b) Limit on Deferral Amounts . Except to the extent permitted under Section 3.1(c) and Code Section 414(v), Elective Deferrals shall in no event exceed the limit set forth in Code Section 402(g) in any one taxable year of the Participant. In the event the amount of Elective Deferrals exceeds Code Section 402(g) limit, in any one taxable year then,

(1) not later than the immediately following March 1, the Participant may designate to the Plan the portion of the Participant's Deferral Amounts which consist of excess Elective Deferrals,

(2) not later than the immediately following April 15, the Plan may distribute the amount designated to it under Paragraph (1) above, as adjusted in accordance with Code Section 402(g) and applicable Treasury Regulations to reflect income, gain, or loss attributable to it, and reduced by any 'Excess Deferral Amounts,' as defined in Appendix C hereto, previously distributed or recharacterized with respect to the Participant for the Plan Year beginning with or within that taxable year; and

(3) that portion of the contributions allocated to the Participant pursuant to Section 3.2 on account of the Deferral Amounts attributable to excess Elective Deferrals shall be forfeited.

The payment of the excess Elective Deferrals, as adjusted and reduced, from the Plan shall be made to the Participant without regard to any other provision in the Plan. In the event that a Participant's Elective Deferrals exceed the Code Section 402(g) limit, as adjusted, in any one taxable year under the Plan and other plans of the Plan Sponsor and its Affiliates, the Participant shall be deemed to have designated for distribution under the Plan the amount of excess Elective Deferrals, as adjusted and reduced, by taking into account only Elective Deferral amounts under the Plan and other plans of the Plan Sponsor and its Affiliates.

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(c) Catch-Up Contributions.

(1) A Participant who is eligible to contribute Deferral Amounts to the Plan and who has attained or will attain age 50 on or before the last day of the Plan Year shall be eligible to elect to defer a portion of his Annual Compensation otherwise payable to him for the Plan Year and have such portion contributed to the Fund on his behalf as catch-up contributions (“Catch-Up Contributions”) in excess of the limits on Deferral Amounts set forth in Section 3.1(a) or 3.1(b) or any limit otherwise established by the Plan Administrator with respect to Highly Compensated Employees under Section 3.1(a). In addition, amounts contributed pursuant to Section 3.1(a) or this Section 3.1(c) may be treated as Catch-Up Contributions to the extent such amounts exceed any limit on Deferral Amounts that may be determined pursuant to Section 3 of Appendix C hereto (this limit and the limits in the preceding sentence being collectively referred to as the “Applicable Deferral Limits”).

(2) Any election under this Section 3.1(c) must be made before the portion of Annual Compensation that the Participant desires to defer is payable and may only be made or be deemed to have been made in such manner and subject to such rules and limitations as the Plan Administrator may prescribe and shall specify the amount of Annual Compensation that the Participant desires to defer and to have contributed to the Fund. Catch-Up Contributions made pursuant to this Section 3.1(c) by a Participant shall be in an amount equal to the amount specified in the Participant’s deferral agreement and may be made on a payroll period basis or an annual basis in accordance with the administrative procedures provided by the Plan Administrator, but shall in no event shall the contributions exceed the limit on Catch-Up Contributions under Code Section 414(v) in any calendar year (\$5,500 for 2011), as adjusted in future years by the Secretary of the Treasury (the “Code Section 414(v) limit”).

(3) Contributions made pursuant to this Section 3.1(c) shall not be taken into account for purposes of implementing the limitations set forth in Section 3.1(a), 3.1(b) and Appendix A hereto. The Plan shall not be treated as failing to satisfy the provisions of Appendix B, Appendix C or Code Section 410(b), as applicable, by reason of the making of the Catch-Up Contributions as described in this Section 3.1(c).

(4) The portion of the contribution made by a Plan Sponsor under this Section 3.1(c) that will be treated as Catch-Up Contributions will be determined as of the last day of the Plan Year. Amounts contributed by a Plan Sponsor pursuant to this Section 3.1(c) or recharacterized pursuant to Section 3 of Appendix C that do not exceed the Applicable Deferral Limits will not be treated as Catch-Up Contributions but will be treated as Deferral Amounts. Amounts contributed by a Plan Sponsor pursuant to this Section 3.1(c) or recharacterized pursuant to Section 3 of Appendix C that exceed the Applicable Deferral Limits will be treated as Contributions; provided, however, that the contribution under

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this Section 3.1(c) or any amounts recharacterized under Section 3 of Appendix C for any Participant shall not be treated as a Catch-Up Contributions to the extent that those amounts and all other Elective Deferrals of the Participant under the Plan and other plans of the Plan Sponsor and its Affiliates for the taxable year exceed the Participant's Annual Compensation.

(5) The excess of the amounts treated as Catch-Up Contributions for a Participant under the Plan and other plans of the Plan Sponsor and its Affiliates over the Code Section 414(v) limit and amounts that are not treated as Catch-Up Contributions solely because they exceed the Participant's Annual Compensation, will be distributed to the Participant in the same manner as Deferral Amounts are distributed pursuant to Section 3.1(b).

(d) Deferral Elections. The elections under this Section 3.1 must be made before the Annual Compensation is payable and may only be made in such manner and subject to such rules and limitations as the Plan Administrator may prescribe and shall specify the percentage or, if permitted, dollar amount of Annual Compensation that the Participant desires to defer pursuant to Section 3.1(a) and/or 3.1(c) and to have contributed to the Fund. Once a Participant has made an election for a Plan Year, the Participant may revoke or modify his election to increase or reduce the rate of future deferrals, as provided in the administrative procedures established by the Plan Administrator.

3.2 Matching Contributions. The Plan Sponsor shall make contributions to the Fund with respect to each pay period during the Plan Year on behalf of each Participant who is an Eligible Employee and who has completed his Eligibility Service in an amount equal to (a) one hundred percent (100%) of the Participant's Annual Compensation deferred by the Participant pursuant to Section 3.1 for the pay period, to the extent the contribution under Section 3.1 does not exceed three percent (3%) of his Annual Compensation for the pay period, and (b) fifty percent (50%) of the Participant's Annual Compensation deferred by the Participant pursuant to Section 3.1 for the pay period, to the extent the contribution under Section 3.1 exceeds three percent (3%) of his Annual Compensation for the pay period but does not exceed five percent (5%) of such Annual Compensation. Contributions made pursuant to this Section 3.2 shall be determined without regard to the timing of when a Participant exceeds the limitation under Code 402(g), subject to the non-discrimination provisions of Code Section 401(a)(4).

3.3 Rollover Contributions. Any Eligible Employee may, with the consent of the Plan Administrator and subject to such rules and conditions as the Plan Administrator may prescribe, transfer a Rollover Amount to the Fund (which may include without limitation prohibitions against transferring certain categories of Rollover Amounts to the Plan); provided, however, that the Plan Administrator shall not administer this provision in a manner which is discriminatory in favor of Highly Compensated Employees.

3.4 Forfeitures. Forfeitures contemplated by Section 13.4 or received in a plan-to-plan transfer of funds contemplated by Section 16.5 may be used at the discretion of the Plan Administrator to reduce Plan expenses, to reduce Plan Sponsor contribution obligations or to apply towards the restoration of the forfeited portion of a reemployed Participant's Account and shall not be used to increase benefits.

3.5 Deduction Limit. Contributions may be made only in cash or other property which is acceptable to the Trustee. In no event will the sum of contributions under Sections 3.1 and 3.2 and Appendix C exceed the deductible limits under Code Section 404.

3.6 Contributions Related to Military Service. Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code to the extent required.

#### **SECTION 4**

##### **ALLOCATIONS AND INVESTMENT OF TRUST ASSETS**

4.1 Allocation of Contributions. As soon as reasonably practicable following the date of withholding by the Plan Sponsor, if applicable, and receipt by the Trustee, Plan Sponsor contributions made on behalf of each Participant under Sections 3.1 and 3.2, and Rollover Amounts contributed by the Participant, shall be allocated to the Salary Deferral Contribution Account, Employer Contribution Account and Rollover Account, respectively, of the Participant on behalf of whom the contributions were made.

4.2 Allocation of Income or Loss. As of each Valuation Date, the Trustee shall allocate the net income or net loss of each Individual Fund to each Account in the proportion that the value of the Account as of the Valuation Date bears to the value of all Accounts invested in that Individual Fund as of the Valuation Date.

4.3 Loan Fund. A Loan Fund shall be established by the Trustee on behalf of each Participant for whom a loan is made pursuant to Article 5. The Loan Fund shall be credited with the amount of any loan made by the Plan to the Participant and shall be debited with all principal and interest repayments of any such loans. Under rules established by the Plan Administrator, a Participant's Account shall be debited by the amount credited to the Participant's Loan Fund. All principal and interest repayments debited to the Loan Fund shall be invested as contributions to the Participant's Account pursuant to this Section 4. Each Loan Fund shall be invested in a note or notes made by the Participant evidencing the promised repayment of monies loaned to the Participant from the Fund.

4.4 Participant Direction of Contributions. Subject to a determination by the Plan Administrator that investment options and direction will be given to Participants and Beneficiaries, each Participant and each Beneficiary of a deceased Participant may direct the Plan Administrator to invest contributions to the Participant's Account in one or more Individual Funds as the Participant shall designate by providing notice to the Plan Administrator according to the procedures and rules established by the Plan Administrator for that purpose.

(a) All investment directions, or changes in investment directions, of contributions shall be made in accordance with the procedures established by the Plan Administrator, subject to administrative practicalities. New investment directions shall be effective as of the date that such directions are processed by the Plan Administrator in accordance with the procedures established for such purpose and subject to administrative practicalities.

(b) An investment direction, once given, shall be deemed to be a continuing direction until changed as otherwise provided herein. If no direction is effective for the date a contribution is to be made, all contributions which are to be made for such date shall be invested in such Individual Fund as the Plan Administrator, the Investment Manager, the Investment Committee, or the Trustee, as applicable, may determine, which may include the “qualified default investment alternative” (as described in Section 4.6). To the extent permissible by law, no Fiduciary shall be liable for any loss, which results from a Participant’s exercise or failure to exercise the Participant’s investment election.

4.5 Participant Directions to Transfer Between Individual Funds . A Participant may elect according to the procedures and rules established by the Plan Administrator, to transfer the investment of the Participant’s Account among Individual Funds. An election under this Section shall be effective as of the date that such directions are processed by the Plan Administrator in accordance with the procedures established for such purpose, subject to administrative practicalities.

4.6 Qualified Default Investment Alternative . The Plan Administrator may establish a qualified default investment alternative. A “qualified default investment alternative” shall mean a qualified default investment alternative as defined in regulations issued by the Department of Labor pursuant to ERISA Section 404(c)(5), or any successor thereto, that is designated by the Plan Administrator. If all or a portion of the Account of a Participant or Beneficiary who fails to make an affirmative investment election as to such portion of the Participant’s Account is to be invested in the qualified default investment alternative, the Plan Administrator shall provide to such Participant or Beneficiary a notice explaining the Participant’s or Beneficiary’s right to designate how contributions and earnings will be invested and explaining how, in the absence of any investment election, such contributions will be invested and give the Participant or Beneficiary a reasonable period of time after receipt of such notice to make such designation, all in accordance with regulations issued by the U.S. Department of Labor pursuant to ERISA Section 404(c)(5) and shall provide such other information to the Participant or Beneficiary as may be required by such regulations.

## **SECTION 5**

### **PLAN LOANS**

5.1 Eligible Individuals . Subject to the provisions of the Plan and the Trust, each Participant who is an Employee shall have the right, subject to prior approval by the Plan Administrator, to borrow from the Fund. In addition, each “party in interest,” as defined in ERISA Section 3 (14), who is (a) a Participant but no longer an Employee, (b) the Beneficiary of a deceased Participant, or (c) an alternate payee of a Participant pursuant to the provisions of a “qualified domestic relations order,” as defined in Code Section 414(p), shall also have the right, subject to prior approval by the Plan Administrator, to borrow from the Fund; provided, however, that loans to such parties in interest may not discriminate in favor of Highly Compensated Employees.

5.2 Application. In order to apply for a loan, a borrower must complete and submit to the Plan Administrator documents or information required by the Plan Administrator for this purpose and must pay all application fees and associated loan processing fees, if any.

5.3 Equivalent Basis. Loans shall be available to all eligible borrowers on a reasonably equivalent basis which may take into account the borrower's creditworthiness, ability to repay and ability to provide adequate security. Loans shall not be made available to Highly Compensated Employees, officers or shareholders of a Plan Sponsor in an amount greater than the amount made available to other borrowers. This provision shall be deemed to be satisfied if all borrowers have the right to borrow the same percentage of their interest in their vested Accounts, notwithstanding that the dollar amount of such loans may differ as a result of differing values of Participants' vested Accounts. The Plan Administrator may limit Participants' rights to borrow from one or more categories of subaccounts which, taken together, comprise the Accounts of Participants.

5.4 Interest Rate. Each loan shall bear a "reasonable rate of interest" and provide that the loan be amortized in substantially level payments, made no less frequently than quarterly, over a specified period of time. A "reasonable rate of interest" shall be that rate that provides the Plan with a return commensurate with the interest rates charged by persons in the business of lending money for loans which would be made under similar circumstances; provided, however, that in setting such interest rate, the Plan Administrator may take into account the provisions of the Servicemembers Civil Relief Act of 2003 which requires that the rate of interest for such a loan subject to the provisions of such Act shall not exceed six percent (6%) per annum.

5.5 Security. Each loan shall be adequately secured, with the security for the outstanding balance of all loans to the borrower to consist of one-half ( $1/2$ ) of the borrower's interest in the Participant's vested Account, or such other security as the Plan Administrator deems acceptable. No portion of the Participant's Salary Deferral Contribution Account shall be used as security for any loan hereunder unless and until such time as the loan amount exceeds the value of the borrower's interest in the Participant's vested amounts in all other Accounts.

5.6 Loan Limit. Each loan, when added to the outstanding balance of all other loans to the borrower from all retirement plans of the Plan Sponsor and its Affiliates which are qualified under Section 401 of the Code, shall not exceed the lesser of:

(a) \$50,000, reduced by the excess, if any, of

(1) the highest outstanding balance of loans made to the borrower from all retirement plans qualified under Code Section 401 of the Plan Sponsor and its Affiliates during the one (1) year period immediately preceding the day prior to the date on which such loan was made, over

(2) the outstanding balance of loans made to the borrower from all retirement plans qualified under Code Section 401 of the Plan Sponsor and its Affiliates on the date on which such loan was made, or

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(b) one-half (  $1/2$  ) of the value of the borrower's interest in the vested Account attributable to the Participant's Account.

For purposes of this Section, the value of the vested Account attributable to a Participant's Account shall be established as of the latest preceding Valuation Date, or any later date on which an available valuation was made, and shall be adjusted for any distributions or contributions made through the date of the origination of the loan.

5.7 Loan Term. Each loan, by its terms, shall be repaid within five (5) years. The Plan Sponsor may require Employees to repay loans through payroll deductions and prepayments will be allowed to the extent allowed under the note.

5.8 Loan Minimum. Each loan shall be made in an amount of no less than \$1,000.

5.9 Maximum Number of Loans. A borrower is permitted to have only two loans existing under this Plan at any one time.

5.10 Default. The entire unpaid principal sum and accrued interest shall, at the option of the Plan Administrator, become due and payable if (a) a borrower fails to make any loan payment when due (including the expiration of any applicable grace period), (b) a borrower ceases to be a "party in interest", as defined in ERISA Section 3(14), (c) the vested Account held as security under the Plan for the borrower will, as a result of an impending distribution or withdrawal, be reduced to an amount less than the amount of all unpaid principal and accrued interest then outstanding under the loan, or (d) a borrower makes any untrue representations or warranties in connection with the obtaining of the loan. In that event, the Plan Administrator may take such steps as it deems necessary to preserve the assets of the Plan, including, but not limited to, the following: (1) direct the Trustee to deduct the unpaid principal sum, accrued interest, and any other applicable charge under the note evidencing the loan from any benefits that may become payable out of the Plan to the borrower, (2) direct the Plan Sponsor to deduct and transfer to the Trustee the unpaid principal balance, accrued interest, and any other applicable charge under the note evidencing the loan from any amounts owed by the Plan Sponsor to the borrower, or (3) liquidate the security given by the borrower, other than amounts attributable to a Participant's Salary Deferral Contribution Account, and deduct from the proceeds the unpaid principal balance, accrued interest, and any other applicable charge under the note evidencing the loan. To the extent that such distribution of an offset amount in the case of Subsection (a) would violate the requirements of Section 401(a) or 401(k) (because for example, the deduction would have to be made from the Participant's Salary Deferral Contribution Account while the Participant is an Employee), the entire outstanding balance of the loan (including accrued interest) shall be a deemed distribution as provided in Treasury Regulations under Code Section 72(p), and thereafter a distribution of an offset amount may be made at the earliest date legally permissible or deferred, at the Plan Administrator's discretion applied on a basis not discriminatory in favor of Highly Compensated Employees, until the borrower receives another distribution from the Plan. If any part of the indebtedness under the note evidencing the loan is collected by law or through an attorney, the borrower shall be liable for attorneys' fees in an amount equal to ten percent of the amount then due and all costs of

collection. Notwithstanding the foregoing, a loan may be satisfied upon a Participant's termination of employment by distributing the note evidencing the debt as part of an Eligible Rollover Distribution; provided, however, that the trustee, custodian or administrator for the Eligible Retirement Plan indicates its willingness to accept such property.

5.11 Plan Loan Policy and Regulations. Each loan shall be made only in accordance with a separate loan policy which may be established by the Plan Administrator and regulations and rulings of the Internal Revenue Service and the Department of Labor. The Plan Administrator shall be authorized to administer the loan program of this Section and shall act in his sole discretion to ascertain whether the requirements of such regulations and rulings and this Section have been met. Any loan shall be funded from a Participant's Account pursuant to uniform procedures prescribed by the Plan Administrator.

## **SECTION 6**

### **IN-SERVICE WITHDRAWALS**

#### 6.1 Hardship Distributions.

(a) The Trustee shall, upon the direction of the Plan Administrator, withdraw all or a portion of a Participant's Salary Deferral Contribution Account consisting of Deferral Amounts (but not earnings thereon), including Catch-Up Contributions made pursuant to Section 3.1(c), prior to the time such account is otherwise distributable in accordance with the other provisions of the Plan; provided, however, that any such withdrawal shall be made only if the Participant is an Employee and demonstrates that he is suffering from "hardship" as determined herein. For purposes of this Section, a withdrawal will be deemed to be an account of hardship if the withdrawal is on account of:

- (1) expenses for (or necessary to obtain) medical care that would be deductible by the Participant under Code Section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);
- (2) purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) payment of tuition, related educational fees, and room and board expenses, for up to the next 12 months of post-secondary education for the Participant, or for his spouse, children or dependents (as defined in Code Section 152 and, for taxable years beginning or after January 1, 2005, without regard to Code Sections 152(b)(1), (b)(2) and (d)(1)(B));
- (4) payments necessary to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on the Participant's principal residence;

(5) payments for burial or funeral expenses for the Participant's deceased parent, spouse, children or dependents (as defined in Code Section 152 and, for taxable years beginning or after January 1, 2005, without regard to Code Section 152(d)(1)(B));

(6) expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code Section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income); or

(7) if permitted by the Plan Administrator, any other contingency determined by the Internal Revenue Service to constitute an "immediate and heavy financial need" within the meaning of Treasury Regulations Section 1.401(k)-1(d).

(b) In addition to the requirements set forth in Subsection 6.1(a) above, any withdrawal pursuant to Section 6.1 shall not be in excess of the amount necessary to satisfy the need determined under Section 6.1 and shall also be subject to the requirements of this Subsection (b).

(1) The Participant shall first obtain all withdrawals, other than hardship withdrawals, and all nontaxable loans currently available under all plans maintained by the Plan Sponsor; and

(2) the Plan Sponsor shall not permit Elective Deferrals, including catch-up contributions as described in Code Section 414(v), or after-tax employee contributions to be made to the Plan or any other plan maintained by the Plan Sponsor, for a period of six (6) months after the Participant receives the withdrawal pursuant to this Section.

Any determination of the existence of hardship and the amount to be withdrawn on account thereof shall be made by the Plan Administrator (or such other person as may be required to make such decisions) in accordance with the foregoing rules as applied in a uniform and nondiscriminatory manner; provided that, unless the Participant requests otherwise, any such withdrawal shall include the amount necessary to pay any federal, state and local income taxes and penalties reasonably anticipated to result from the withdrawal.

(c) Effective January 1, 2009, to the extent provided in regulations issued by the Secretary of the Treasury, if an event would constitute "hardship" under Subsections (a) and (b) if such event occurred with respect to a Participant's spouse or dependent (as defined in Code Section 152), such event shall constitute "hardship" if it occurs with respect to a person who is a designated, primary Beneficiary with respect to the Participant.

6.2 Age 59 1/2. A Participant who has attained at least age 59 1/2 may elect to receive a distribution of all or any portion of his Account.

6.3 After-Tax and Rollover Amounts. A Participant may elect to receive a distribution of all or any portion of his After-Tax Contribution Account or Rollover Account.

6.4 Disability. A Participant who becomes subject to a Disability may elect to receive a distribution of all or any portion of his Account.

6.5 General In-Service Distribution Rules. Any withdrawal under this Section 6 shall be made in a lump sum and all such withdrawals shall be made only in accordance with such other rules, policies, procedures, restrictions and conditions as the Plan Administrator may from time to time adopt.

6.6 Special Rule for Distributions During Uniformed Services. Effective January 1, 2009, a Participant who is performing services in the uniformed services (as defined in Chapter 43 of Title 38 of the United States Code) while on active duty for a period of more than thirty (30) days shall be treated as having been severed from employment during such period for purposes of Code Section 401(k)(2)(B)(i)(I) and may elect to receive a distribution of all or a portion of his Salary Deferral Contribution Account, including Catch-Up Contributions. Any request for a distribution under this Section must be made in the manner prescribed by the Plan Administrator and in accordance with rules and conditions as the Plan Administrator may from time to time adopt. If a Participant elects a distribution pursuant to this Section, the Participant may not make Elective Deferrals, including Catch-Up Contributions, to the Plan or any other tax-qualified plan maintained by the Plan Sponsor during the six-month period beginning on the date of the distribution.

## **SECTION 7**

### **PAYMENT OF BENEFITS ON TERMINATION OF EMPLOYMENT**

#### **7.1 General Rules**

(a) In the event of Termination of Employment, a Participant whose vested Account exceeds \$1,000 may request that payment of his vested Account be made. Payment of a Participant's Account shall be in the form elected by such Participant under Section 7.1(b). All payments will be made (or commence) as soon as administratively feasible following a Participant's request. No distribution of the Participant's Account will be made without his request prior to the first to occur of the following: (1) April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2, or (2) becoming subject to a Disability.

(b) Payment of a Participant's Account may be made in the form of:

(1) a lump sum payment in cash of the entire Account;

(2) if the value of the vested Account exceeds \$5,000, a Participant or Beneficiary may also select annual or monthly payments, with or without a stated dollar amount (subject to a minimum dollar amount as may be specified by the Plan Administrator from time to time), but no time period may exceed the life expectancy of the Participant or the joint lives of the Participant and his Beneficiary;

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(3) to the extent otherwise permitted, any combination of the foregoing; or

(4) solely with respect to a Participant a portion of whose account consists of an amount attributable to a plan listed in Appendix D, such additional forms of distribution with respect to certain portions of the Participant's account in the manner, and to the extent, provided in Appendix D.

(c) If a Participant who has a Termination of Employment has not previously received a distribution of his Account under Subsection (a) or (b), payment of his Account will be made (or commence) in any event as of April 1 of the calendar year following the calendar year in which the Participant attains age 70 <sup>1</sup>/<sub>2</sub>.

7.2 Small Accounts. In the event of Termination of Employment, a Participant whose vested Account is \$1,000 or less shall be paid in a lump sum payment in cash as soon as administratively feasible after the Participant's Termination of Employment.

7.3 Vesting. A Participant shall be fully vested in all portions of his Account at all times.

7.4 Change in Vesting Schedule. If a Plan amendment (including this amendment and restatement) directly or indirectly changes the vesting schedule, the vesting percentage for each Participant in the Participant's Account accumulated to the date when the amendment is adopted shall not be reduced as a result of the amendment. In addition, any Participant with at least three (3) years of vesting service may irrevocably elect to remain under the pre-amendment vesting schedule with respect to all of the Participant's benefits accrued both before and after the amendment, unless after the amendment, any such Participant's nonforfeitable percentage at any time cannot be less than such Participant's nonforfeitable percentage determined without regard to such amendment. A Participant's election under this Section 7.4 must be made during the period beginning with the date the amendment is adopted or deemed to be made and ending on the latest of:

- (a) sixty (60) days after the amendment is adopted;
- (b) sixty (60) days after the amendment becomes effective; or
- (c) sixty (60) days after the Participant is issued written notice of the amendment by the Primary Sponsor.

### 7.5 Cash-out/Buyback.

(a) If and to the extent the Plan accepts the transfer, by merger or otherwise, of funds attributable to a Participant who, prior to such transaction, experienced a Termination of Employment prior to becoming fully vested in the pre-transaction portion of his Account, the nonvested portion of the Account shall be treated in accordance with this Section. The nonvested portion of the Account of a Participant shall be forfeited as of the earlier of the date the Participant receives a distribution of the vested portion of his Account or the Participant's Termination Completion Date. For such purposes, a Participant who has had a Termination of Employment and who is not vested in any portion of his Account, the Participant shall be deemed to have received a distribution of his Account.

(b) If a Participant who has received (or has been deemed to have received) a distribution of the vested portion of his Account is reemployed by a Plan Sponsor or an Affiliate prior to his Termination Completion Date and (1) if the Participant's Account was partially vested, and the Participant repays to the Fund no later than the fifth anniversary of the Participant's reemployment by the Plan Sponsor or an Affiliate all of that portion of his vested Account which was paid to him or (2) if the Participant's Account was not vested upon his Termination of Employment, then any portion of his Account which was forfeited shall be restored effective on the Valuation Date coinciding with or next following the repayment or the Participant's reemployment, respectively. The restoration on any Valuation Date of the forfeited portion of the Account of a Participant pursuant to the preceding sentence shall be made first from forfeitures available for allocation on that Valuation Date, to the extent available, and secondly from contributions by the Plan Sponsor.

## **SECTION 8**

### **PAYMENT OF BENEFITS ON RETIREMENT**

8.1 Commencement of Benefits on Retirement. A retired Participant whose Account exceeds \$1,000 shall be paid (or payment shall commence), with the consent of the Participant, as soon as administratively feasible following the Participant's Retirement Date. If a Participant who has retired has not previously received a distribution of his Account under this Section, payment of his Account will be made (or commence) in any event as of April 1 of the calendar year following the calendar year in which the Participant attains age 70 <sup>1</sup>/<sub>2</sub>.

8.2 Form of Distribution on Retirement. Payment of a Participant's Account pursuant to this Section 8 may be made in one of the forms as described in Section 7.1(b) elected by such Participant.

8.3 Small Accounts Payable on Retirement. Notwithstanding Section 8.2, a retired Participant whose Account is \$1,000 or less shall be paid in a lump sum payment as soon as administratively feasible following the date the Participant attains a Retirement Date.

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**SECTION 9**  
**DEATH BENEFITS**

9.1 Eligibility for and Timing of Payment. If a Participant dies before receiving a distribution of his vested Account, his Beneficiary shall receive the Participant's vested Account either (a) if the Participant's vested Account is \$1,000 or less, in a lump sum payment in cash as soon as administratively feasible after the Participant's death or (b) otherwise, in any one of the forms described in Section 7.1(b) as elected by the Beneficiary as soon as administratively feasible following the death of the Participant or, if the Beneficiary so elects, at any later date permitted under Appendix E. If a Participant dies after beginning to receive a distribution of his vested Account, his Beneficiary shall receive the undistributed portion of his vested Account, if any, in any form described in Section 7.1(b) selected by the Beneficiary.

9.2 Death Benefits under USERRA. Effective January 1, 2007, in case of a Participant who dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death.

**SECTION 10**  
**GENERAL RULES ON DISTRIBUTIONS**

10.1 Adjustments for Income. Except for installment distributions, Accounts shall not be adjusted for earnings or losses incurred after the Valuation Date with respect to which the Account is valued for imminent payout purposes. Prior to distribution of an Account, the Account shall be reduced by the amount necessary to satisfy the unpaid principal, accrued interest and penalties on any loan made to the Participant.

10.2 Form of Election Irrevocable. A Participant or Beneficiary's election as to the form of payment of the Participant's Account under Section 7.1(b) shall be irrevocable once such election is processed by the Plan Administrator; provided, however, effective January 1, 2009, that any Participant or Beneficiary receiving payments in the form permitted under Section 7.1(b)(2) may make a one-time election to receive the remaining installments in a lump sum.

10.3 Direct Rollovers. Notwithstanding any provisions of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 10 (other than Section 10.2), a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of a distribution pursuant to this Section which is an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover so long as all Eligible Rollover Distributions to a Distributee for a calendar year total or are expected to total at least \$200 and, in the case of a Distributee who elects to directly receive a portion of an Eligible Rollover Distribution and directly roll the balance over to an Eligible Retirement Plan, the portion that is to be directly rolled over totals at least \$500. If the Eligible Rollover Distribution is one to which Code Sections 401(a)(11) and 417 do not apply, such Eligible Rollover Distribution may commence less than thirty (30) days after the notice required under Treasury Regulations section 1.411(a)-11(c) is given, provided that:

(a) the Plan Administrator clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and

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(b) the Distributee, after receiving the notice, affirmatively elects a distribution.

Notwithstanding the foregoing, if the Distributee is a non-spouse Beneficiary of a deceased Participant and a direct trustee-to-trustee transfer is made to an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract):

- (1) the transfer shall be treated as an Eligible Rollover Distribution;
- (2) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of Code Section 408(d)(3)(C)); and
- (3) Code Section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

10.4 Suspension for Rehires. If a Participant has a termination of employment and is subsequently reemployed by a Plan Sponsor or an Affiliate prior to receiving a complete distribution of his Account, the Participant shall not be entitled to a distribution or, if applicable, to any remaining distributions, of his Account under this Section while he is an Employee.

10.5 Required Minimum Distributions. Notwithstanding any other provisions of the Plan, distributions will be made in accordance with Code Section 401(a)(9) and the regulations issued thereunder, including the incidental benefit requirements and such distributions shall be administered in accordance with the requirements of Appendix E hereto. Notwithstanding the foregoing provisions of this Section 10.5 and Appendix E, a Participant or Beneficiary who would have been required to receive minimum required distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code (the “2009 RMDs”), and who would have satisfied that requirement by receiving distributions that are (a) equal to the 2009 RMDs or (b) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated Beneficiary, or for a period of at least ten (10) years (the “Extended 2009 RMDs”), will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Such Participants and Beneficiaries will be given the opportunity to elect to receive the distributions and, notwithstanding Section 10.3 of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs will be treated as Eligible Rollover Distributions.

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10.6 Withholding. Notwithstanding any other provision of the Plan to the contrary, the Plan Administrator and Trustee shall have the right to withhold any and all Federal, state and local taxes which may be withheld in accordance with applicable law.

**SECTION 11**  
**ADMINISTRATION OF THE PLAN**

11.1 Trust Agreement. The Primary Sponsor shall establish a Trust with the Trustee designated by the Board of Directors for the management of the Fund, which Trust shall form a part of the Plan and is incorporated herein by reference.

11.2 Operation of the Plan Administrator. The Primary Sponsor shall appoint a Plan Administrator. If an organization is appointed to serve as the Plan Administrator, then the Plan Administrator may designate in writing one or more persons who may act on behalf of the Plan Administrator. If more than one person is so designated with respect to the same administrative function, a majority of such persons shall constitute a quorum for the transaction of business and shall have the full power to act on behalf of the Plan Administrator. The Primary Sponsor shall have the right to remove the Plan Administrator at any time by notice in writing. The Plan Administrator may resign at any time by written notice of resignation to the Trustee and the Primary Sponsor. Upon removal or resignation of the Plan Administrator, or in the event of the dissolution of the Plan Administrator, the Primary Sponsor shall appoint a successor. An organization serving as Plan Administrator shall have the right to remove any person designated to act on behalf of the Plan Administrator at any time by notice in writing. Any such designee may resign at any time by written notice of resignation to the Plan Administrator. Upon removal or resignation of any such designee, the Plan Administrator may appoint a successor.

11.3 Fiduciary Responsibility.

(a) The Plan Administrator, as a Named Fiduciary, may allocate its fiduciary responsibilities among Fiduciaries other than the Trustee, designated in writing by the Plan Administrator and may designate in writing persons other than the Trustee to carry out its fiduciary responsibilities under the Plan. The Plan Administrator may remove any person designated to carry out its fiduciary responsibilities under the Plan by notice in writing to such person.

(b) The Plan Administrator and each other Fiduciary may employ persons to perform services and to render advice with regard to any of the Fiduciary's responsibilities under the Plan. Charges for all such services performed and advice rendered may be paid by the Fund to the extent permitted by ERISA.

(c) Each Plan Sponsor shall indemnify and hold harmless each person constituting the Plan Administrator or the Investment Committee, except those individuals who are not a Plan Sponsor or an employee of a Plan Sponsor, if any, from and against any and all claims, losses, costs, expenses (including, without limitation, attorney's fees and court costs), damages, actions or causes of action arising from, on account of or in connection with the performance by such person of his duties in such capacity, other than such of the foregoing arising from, on account of or in connection with the willful neglect or willful misconduct of such person.

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#### 11.4 Duties of the Plan Administrator.

(a) The Plan Administrator shall advise the Trustee with respect to all payments under the terms of the Plan and shall direct the Trustee in writing to make such payments from the Fund; provided, however, in no event shall the Trustee be required to make such payments if the Trustee has actual knowledge that such payments are contrary to the terms of the Plan and the Trust.

(b) The Plan Administrator shall from time to time establish rules, not contrary to the provisions of the Plan and the Trust, for the administration of the Plan and the transaction of its business. All elections and designations under the Plan by a Participant or Beneficiary shall be made on forms prescribed by the Plan Administrator. The Plan Administrator shall have discretionary authority to construe the terms of the Plan and shall determine all questions arising in the administration, interpretation and application of the Plan, including, but not limited to, those concerning eligibility for benefits and it shall not act so as to discriminate in favor of any person. All determinations of the Plan Administrator shall be conclusive and binding on all Employees, Participants, Beneficiaries and Fiduciaries, subject to the provisions of the Plan and the Trust and subject to applicable law.

(c) The Plan Administrator shall furnish Participants and Beneficiaries with all disclosures now or hereafter required by ERISA or the Code. The Plan Administrator shall file, as required, the various reports and disclosures concerning the Plan and its operations as required by ERISA and by the Code, and shall be solely responsible for establishing and maintaining all records of the Plan and the Trust.

(d) The statement of specific duties for a Plan Administrator in this Section is not in derogation of any other duties which a Plan Administrator has under the provisions of the Plan or the Trust or under applicable law.

11.5 Investment Manager. The Primary Sponsor may, by action in writing certified by notice to the Trustee, appoint an Investment Manager. Any Investment Manager may be removed in the same manner in which appointed, and in the event of any removal, the Investment Manager shall, as soon as possible, but in no event more than thirty (30) days after notice of removal, turn over all assets managed by it to the Trustee or to any successor Investment Manager appointed, and shall make a full accounting to the Primary Sponsor with respect to all assets managed by it since its appointment as an Investment Manager.

11.6 Investment Committee. The Primary Sponsor may, by action in writing certified by notice to the Trustee, appoint an Investment Committee. The Primary Sponsor shall have the right to remove any person on the Investment Committee at any time by notice in writing to such person. A person on the Investment Committee may resign at any time by written notice of resignation to the Primary Sponsor. Upon such removal or resignation, or in the event of the death of a person on the Investment Committee, the Primary Sponsor may appoint a successor. Until a successor has been appointed, the remaining persons on the Investment Committee may continue to act as the Investment Committee.

11.7 Action by a Plan Sponsor. Any action to be taken by a Plan Sponsor shall be taken by resolution or written direction duly adopted by its board of directors or appropriate governing body, as the case may be; provided, however, that by such resolution or written direction, the board of directors or appropriate governing body, as the case may be, may delegate to any officer or other appropriate person of a Plan Sponsor the authority to take any such actions as may be specified in such resolution or written direction, other than the power to amend, modify or terminate the Plan or the Trust or to determine the basis of any Plan Sponsor contributions.

11.8 Corrective Action. Notwithstanding any provision of the Plan to the contrary, the Plan Sponsor may make corrective contributions, allocations, or distributions or take any other corrective action required to comply with, or otherwise permitted by, any program provided pursuant to applicable law, including without limitation the Employee Plans Compliance Resolution System or any successor guidance

11.9 Appeals Fiduciary. The Primary Sponsor shall appoint an Appeals Fiduciary. The Appeals Fiduciary shall be required to review claims for benefits payable due to a Participant's Disability that are initially denied by the Plan Administrator and for which the claimant requests a full and fair review pursuant to Section 12.3 and 12.4. The Appeals Fiduciary may not be the individual who made the initial adverse determination with respect to any claim he reviews and may not be a subordinate of any individual who made the initial adverse determination. The Appeals Fiduciary may be removed in the same manner in which appointed or may resign at any time by written notice of resignation to the Primary Sponsor. Upon such removal or resignation, the Primary Sponsor shall appoint a successor.

## **SECTION 12**

### **CLAIM REVIEW PROCEDURE**

12.1 Notice of Denial. If a Participant or a Beneficiary is denied a claim for benefits under the Plan, the Plan Administrator shall provide to the claimant written notice of the denial within ninety (90) days (forty-five (45) days with respect to a denial of any claim for benefits due to the Participant's Disability) after the Plan Administrator receives the claim, unless special circumstances require an extension of time for processing the claim. If such an extension of time is required, written notice of the extension shall be furnished to the claimant prior to the termination of the initial ninety (90)-day or forty-five (45)-day period, as applicable. In no event shall the extension exceed a period of ninety (90) days (thirty (30) days with respect to a claim for benefits due to the Participant's Disability) from the end of such initial period. With respect to a claim for benefits due to the Participant's Disability, an additional extension of up to thirty (30) days beyond the initial thirty (30)-day extension period may be required for processing the claim. In such event, written notice of the extension shall be furnished to the claimant within the initial thirty (30)-day extension period. Any extension notice shall indicate the special circumstances requiring the extension of time, the date by which the Plan Administrator expects to render the final decision, the standards on which entitlement to benefits are based, the unresolved issues that prevent a decision on the claim and the additional information needed to resolve those issues.

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12.2 Contents of Notice of Denial. If a Participant or Beneficiary is denied a claim for benefits under a Plan, the Plan Administrator shall provide to such claimant written notice of the denial which shall set forth:

- (a) the specific reasons for the denial;
- (b) specific references to the pertinent provisions of the Plan on which the denial is based;
- (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;
- (d) an explanation of the Plan's claim review procedures, and the time limits applicable to such procedures, including a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review;
- (e) in the case of a claim for benefits due to a Participant's Disability, if an internal rule, guideline, protocol or other similar criterion is relied upon in making the adverse determination, either the specific rule, guideline, protocol or other similar criterion; or a statement that such rule, guideline, protocol or other similar criterion was relied upon in making the decision and that a copy of such rule, guideline, protocol or other similar criterion will be provided free of charge upon request; and
- (f) in the case of a claim for benefits due to a Participant's Disability, if a denial of the claim is based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the denial, an explanation applying the terms of the Plan to the claimant's medical circumstances or a statement that such explanation will be provided free of charge upon request.

12.3 Right to Review. After receiving written notice of the denial of a claim or that a domestic relations order is a qualified domestic relations order, a claimant or his representative shall be entitled to:

- (a) request a full and fair review of the denial of the claim or determination that a domestic relations order is a qualified domestic relations order by written application to the Plan Administrator (or Appeals Fiduciary in the case of a claim for benefits payable due to a Participant's Disability);
- (b) request, free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim;

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(c) submit written comments, documents, records, and other information relating to the denied claim to the Plan Administrator or Appeals Fiduciary, as applicable; and

(d) a review that takes into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

#### 12.4 Application for Review .

(a) If a claimant wishes a review of the decision denying his claim to benefits under the Plan, other than a claim described in Subsection (b) of this Section 12.4, or if a claimant wishes to appeal a decision that a domestic relations order is a qualified domestic relations order, he must submit the written application to the Plan Administrator within sixty (60) days after receiving written notice of the denial or notice that the domestic relations order is a qualified domestic relations order.

(b) If the claimant wishes a review of the decision denying his claim to benefits under the Plan due to a Participant's Disability, he must submit the written application to the Appeals Fiduciary within one hundred eighty (180) days after receiving written notice of the denial. With respect to any such claim, in deciding an appeal of any denial based in whole or in part on a medical judgment (including determinations with regard to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate), the Appeals Fiduciary shall

(i) consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment; and

(ii) identify the medical and vocational experts whose advice was obtained on behalf of the Plan in connection with the denial without regard to whether the advice was relied upon in making the determination to deny the claim.

Notwithstanding the foregoing, the health care professional consulted pursuant to this Subsection (b) shall be an individual who was not consulted with respect to the initial denial of the claim that is the subject of the appeal or a subordinate of such individual.

12.5 Hearing. Upon receiving such written application for review, the Plan Administrator or Appeals Fiduciary, as applicable, may schedule a hearing for purposes of reviewing the claimant's claim, which hearing shall take place not more than thirty (30) days from the date on which the Plan Administrator or Appeals Fiduciary received such written application for review.

12.6 Notice of Hearing. At least ten (10) days prior to the scheduled hearing, the claimant and his representative designated in writing by him, if any, shall receive written notice of the date, time, and place of such scheduled hearing. The claimant or his representative, if any, may request that the hearing be rescheduled, for his convenience, on another reasonable date or at another reasonable time or place.

12.7 Counsel. All claimants requesting a review of the decision denying their claim for benefits may employ counsel for purposes of the hearing.

12.8 Decision on Review. No later than sixty (60) days (forty-five (45) days with respect to a claim for benefits due to the Participant's Disability) following the receipt of the written application for review, the Plan Administrator or the Appeals Fiduciary, as applicable, shall submit its decision on the review in writing to the claimant involved and to his representative, if any, unless the Plan Administrator or Appeals Fiduciary determines that special circumstances (such as the need to hold a hearing) require an extension of time, to a day no later than one hundred twenty (120) days (ninety (90) days with respect to a claim for benefits due to the Participant's Disability) after the date of receipt of the written application for review. If the Plan Administrator or Appeals Fiduciary determines that the extension of time is required, the Plan Administrator or Appeals Fiduciary shall furnish to the claimant written notice of the extension before the expiration of the initial sixty (60) day (forty-five (45) days with respect to a claim for benefits due to the Participant's Disability) period. The extension notice shall indicate the special circumstances requiring an extension of time and the date by which the Plan Administrator or Appeals Fiduciary expects to render its decision on review. In the case of a decision adverse to the claimant, the Plan Administrator or Appeals Fiduciary shall provide to the claimant written notice of the denial which shall include:

- (a) the specific reasons for the decision;
- (b) specific references to the pertinent provisions of the Plan on which the decision is based;
- (c) a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;
- (d) an explanation of the Plan's claim review procedures, and the time limits applicable to such procedures, including a statement of the claimant's right to bring an action under Section 502(a) of ERISA following the denial of the claim upon review;
- (e) in the case of a claim for benefits due to the Participant's Disability, if an internal rule, guideline, protocol or other similar criterion is relied upon in making the adverse determination, either the specific rule, guideline, protocol or other similar criterion; or a statement that such rule, guideline, protocol or other similar criterion was relied upon in making the decision and that a copy of such rule, guideline, protocol or other similar criterion will be provided free of charge upon request;

(f) in the case of a claim for benefits due to a Participant's Disability, if a denial of the claim is based on a medical necessity or experimental treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the denial, an explanation applying the terms of the Plan to the claimant's medical circumstances or a statement that such explanation will be provided free of charge upon request; and

(g) in the case of a claim for benefits due to a Participant's Disability, a statement regarding the availability of other voluntary alternative dispute resolution options.

### **SECTION 13** **INCOMPETENT DISTRIBUTE AND UNCLAIMED PAYMENTS**

13.1 Anti-Alienation. No benefit which shall be payable under the Plan to any person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person, nor shall it be subject to attachment or legal process for, or against, such person, and the same shall not be recognized under the Plan, except to such extent as may be required by law. Notwithstanding the above, this Section shall not apply to a "qualified domestic relations order" (as defined in Code Section 414(p)), and benefits may be paid pursuant to the provisions of such an order. The Plan Administrator shall develop procedures (in accordance with applicable federal regulations) to determine whether a domestic relations order is qualified, and, if so, the method and the procedures for complying therewith. In addition, a distribution to an "alternate payee" (as defined in Code Section 414(p)) shall be permitted if such distribution is authorized by a qualified domestic relations order, even if the affected Participant has not yet separated from service or reached the "earliest retirement age" (as defined in Code Section 414(p)).

13.2 Exceptions to Anti-Alienation. Notwithstanding any other provision of the Plan, the benefit of a Participant shall be subject to legal process and may be assigned, alienated or attached pursuant to a court judgment or settlement provided:

(a) such Participant is ordered or required to pay the Plan in accordance with the following:

(1) a judgment or conviction for a crime involving the Plan;

(2) a civil judgment entered by a court in an action brought in connection with a violation of part 4 of subtitle B of Title I of ERISA; or

(3) a settlement agreement between such Participant and the Secretary of Labor, in connection with a violation (or alleged violation) of part 4 of subtitle B of Title I of ERISA by a fiduciary or any other person; and

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(b) the judgment, order, decree, or settlement agreement shall expressly provide for the offset of all or part of the amount ordered or required to be paid to the Plan against such Participant's benefits under the Plan.

13.3 Attempts to Alienate. If any person who shall be entitled to any benefit under the Plan shall become bankrupt or shall attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge such benefit under the Plan, then the payment of any such benefit in the event a Participant or Beneficiary is entitled to payment shall, in the discretion of the Plan Administrator, cease and terminate and in that event the Trustee shall hold or apply the same for the benefit of such person, his spouse, children, other dependents or any of them in such manner and in such proportion as the Plan Administrator shall determine.

13.4 Minors and Incompetents. Whenever any benefit which shall be payable under the Plan is to be paid to or for the benefit of any person who is then a minor or determined to be incompetent by qualified medical advice, the Plan Administrator need not require the appointment of a guardian or custodian, but shall be authorized to cause the same to be paid over to the person having custody of such minor or incompetent, or to cause the same to be paid to such minor or incompetent without the intervention of a guardian or custodian, or to cause the same to be paid to a legal guardian or custodian of such minor or incompetent if one has been appointed or to cause the same to be used for the benefit of such minor or incompetent.

13.5 Missing Participants. If the Plan Administrator cannot ascertain the whereabouts of any Participant to whom a payment is due under the Plan, the Plan Administrator may direct that the payment and all remaining payments otherwise due to the Participant be cancelled on the records of the Plan and the amount thereof applied as a forfeiture in accordance with applicable Plan provisions, except that, in the event the Participant later notifies the Plan Administrator of his whereabouts and requests the payments due to him under the Plan, the forfeited amount shall be restored either from Trust income or by a special contribution by the Plan Sponsor to the Plan, as determined by the Plan Administrator, in an amount equal to the payment to be paid to the Participant.

#### **SECTION 14** **PROHIBITION AGAINST DIVERSION**

At no time shall any part of the Fund be used for or diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries, subject, however, to the payment of all taxes and administrative expenses and subject to the provisions of the Plan with respect to returns of contributions. Expenses incurred in the administration of the Plan shall be paid from the Trust, to the extent permitted by ERISA, unless such expenses are paid by a Plan Sponsor; provided, further, that a Plan Sponsor may be reimbursed by the Fund, to the extent permitted by ERISA, for Plan expenses originally paid by the Plan Sponsor.

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**SECTION 15**  
**LIMITATION OF RIGHTS**

Participation in the Plan shall not give any Employee any right or claim except to the extent that such right is specifically fixed under the terms of the Plan. The adoption of the Plan and the Trust by any Plan Sponsor shall not be construed to give any Employee a right to be continued in the employ of a Plan Sponsor or as interfering with the right of a Plan Sponsor to terminate the employment of any Employee at any time.

**SECTION 16**  
**AMENDMENT TO OR TERMINATION OF THE**  
**PLAN AND THE TRUST**

16.1 Right of Primary Sponsor to Amend or Terminate. The Primary Sponsor reserves the right at any time to modify or amend or terminate the Plan or the Trust in whole or in part; provided, however, that the Primary Sponsor shall have no power to modify or amend the Plan in such manner as would cause or permit any portion of the funds held under a Plan to be used for, or diverted to, purposes other than for the exclusive benefit of Participants or their Beneficiaries, or as would cause or permit any portion of a fund held under the Plan to become the property of a Plan Sponsor; and provided further, that the duties or liabilities of the Trustee shall not be increased without its written consent. No such modifications or amendments shall have the effect of retroactively changing or depriving Participants or Beneficiaries of rights already accrued under the Plan. No Plan Sponsor other than the Primary Sponsor shall have the right to so modify, amend or terminate the Plan or the Trust. Notwithstanding the foregoing, each Plan Sponsor may terminate its own participation in the Plan and Trust pursuant to the Plan.

16.2 Right of Plan Sponsor to Terminate Participation. Each Plan Sponsor other than the Primary Sponsor shall have the right to terminate its participation in the Plan and Trust by resolution of its board of directors or other appropriate governing body and notice in writing to the Primary Sponsor and the Trustee unless such termination would result in the disqualification of the Plan or the Trust or would adversely affect the exempt status of the Plan or the Trust as to any other Plan Sponsor. If contributions by or on behalf of a Plan Sponsor are completely terminated, the Plan and Trust shall be deemed terminated as to such Plan Sponsor. Any termination by a Plan Sponsor, shall not be a termination as to any other Plan Sponsor. The Primary Sponsor may, in its absolute discretion, terminate the participation of any other Plan Sponsor at any time.

16.3 Plan Termination.

(a) If the Plan is terminated by the Primary Sponsor or if contributions to the Trust should be permanently discontinued, it shall terminate as to all Plan Sponsors and the Fund shall be used, subject to the payment of expenses and taxes, for the benefit of Participants and Beneficiaries, and for no other purposes, and the Account of each affected Participant shall be fully vested and nonforfeitable, notwithstanding the provisions of the Section of the Plan which sets forth the vesting schedule.

(b) In the event of the partial termination of the Plan, each affected Participant's Account shall be fully vested and nonforfeitable.

16.4 Payments Upon Plan Termination . In the event of the termination of the Plan or the Trust with respect to a Plan Sponsor, the Accounts of the Participants with respect to the Plan as adopted by such Plan Sponsor shall be distributed in accordance with the applicable distribution provisions of the Plan pursuant to the instructions of the Plan Administrator; provided that the Trustee shall not be required to make any distribution until it receives a copy of an Internal Revenue Service determination letter to the effect that the termination does not affect the qualified status of the Plan or the exempt status of the Trust or, in the event that such letter is applied for and is not issued, until the Trustee is reasonably satisfied that adequate provision has been made for the payment of all taxes which may be due and owing by the Trust.

16.5 Plan Merger . In the case of any merger or consolidation of the Plan with, or any transfer of the assets or liabilities of the Plan to, any other plan qualified under Code Section 401, the terms of the merger, consolidation or transfer shall be such that each Participant would receive (in the event of termination of the Plan or its successor immediately thereafter) a benefit which is no less than the benefit which the Participant would have received in the event of termination of the Plan immediately before the merger, consolidation or transfer.

16.6 Optional Benefits . Notwithstanding any other provision of the Plan, an amendment to the Plan –

(a) which eliminates or reduces an early retirement benefit, if any, or which eliminates or reduces a retirement-type subsidy (as defined in regulations issued by the Department of the Treasury), if any, or

(b) which eliminates an optional form of benefit

shall not be effective with respect to benefits attributable to service before the amendment is adopted (except as otherwise provided in regulations issued by the Department of the Treasury). In the case of a retirement-type subsidy described in Subsection (a) above, this Section shall be applicable only to a Participant who satisfies, either before or after the amendment, the preamendment conditions for the subsidy.

## **SECTION 17**

### **ADOPTION OF PLAN BY AFFILIATES**

Any corporation or other business entity related to the Primary Sponsor by function or operation and any Affiliate, if the corporation, business entity or Affiliate is authorized to do so by written direction adopted by the Board of Directors, may adopt the Plan and the related Trust by action of the board of directors or other appropriate governing body of such corporation, business entity or Affiliate. Any adoption shall be evidenced by certified copies of the resolutions of the foregoing board of directors or governing body indicating the adoption and by the execution of the Trust by the adopting corporation, or business entity or Affiliate. The resolution shall state and define the effective date of the adoption of the Plan by the Plan Sponsor

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and, for the purpose of Code Section 415, the “limitation year” as to such Plan Sponsor, if different than the Plan Year. Notwithstanding the foregoing, however, if the Plan and Trust as adopted by an Affiliate or other corporation or business entity under the foregoing provisions shall fail to receive the initial approval of the Internal Revenue Service as a qualified Plan and Trust under Code Sections 401(a) and 501(a), any contributions by the Affiliate or other corporation or business entity after payment of all expenses will be returned to such Plan Sponsor free of any trust, and the Plan and Trust shall terminate, as to the adopting Affiliate or other corporation or business entity.

**SECTION 18**  
**QUALIFICATION AND RETURN OF CONTRIBUTIONS**

18.1 Initial Qualification Failure. If the Plan and the related Trust fail to receive the initial approval of the Internal Revenue Service as a qualified plan and trust within one (1) year after the date of denial of qualification (a) the contribution of a Plan Sponsor after payment of all expenses will be returned to a Plan Sponsor free of the Plan and Trust, (b) contributions made by a Participant shall be returned to the Participant who made the contributions, and (c) the Plan and Trust shall thereupon terminate.

18.2 Deductibility. All Plan Sponsor contributions to the Plan are contingent upon deductibility. To the extent permitted by the Code and other applicable laws and regulations thereunder, upon a Plan Sponsor’s request, a contribution which was made by reason of a mistake of fact or which was nondeductible under Code Section 404, shall be returned to a Plan Sponsor within one (1) year after the payment of the contribution, or the disallowance of the deduction (to the extent disallowed), whichever is applicable.

In the event of a contribution which was made by reason of a mistake of fact or which was nondeductible, the amount to be returned to the Plan Sponsor shall be the excess of the contribution above the amount that would have been contributed had the mistake of fact or the mistake in determining the deduction not occurred, less any net loss attributable to the excess. Any net income attributable to the excess shall not be returned to the Plan Sponsor. No return of any portion of the excess shall be made to the Plan Sponsor if the return would cause the balance in a Participant’s Account to be less than the balance would have been had the mistaken contribution not been made.

**SECTION 19**  
**INCORPORATION OF SPECIAL LIMITATIONS**

Appendices A, B, C, D and E to the Plan, attached hereto, are incorporated by reference and the provisions of the same shall apply notwithstanding anything to the contrary contained herein.

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IN WITNESS WHEREOF, the Primary Sponsor has caused this indenture to be executed as of the date first above written.

TYSON FOODS, INC.

By: /s/ Lee Kidd

Title: VP Benefits

ATTEST:

/s/ Kelle Langston

Title: Director, Financial Benefits

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**APPENDIX A**  
**LIMITATION ON ALLOCATIONS**

**SECTION 1**

Except to the extent permitted under Plan Section 3.1(c) and Code Section 414(v), if applicable, the “annual addition” for any Participant for any one limitation year may not exceed the lesser of:

- (a) \$49,000 (for the 2011 Plan Year), as adjusted under Code Section 415(d); or
- (b) 100% of the Participant’s Annual Compensation.

The limit described in Subsection (b) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code Section 401(h) or 419A(f)(2)) which is otherwise treated as an annual addition.

**SECTION 2**

(a) For the purposes of this Appendix A, the term “annual addition” for any Participant means for any limitation year, the sum of certain Plan Sponsor, Affiliate, and Participant contributions, forfeitures, and other amounts as determined in Code Section 415(c)(2) in effect for that limitation year.

(b) Participant contributions shall be determined without regard to:

- (1) Rollover Amounts;
- (2) repayments of loans made to a Participant from a plan;
- (3) catch-up contributions as described in Code Section 414(v);
- (4) repayments of amounts described in Code Section 411(a)(7)(B) (in accordance with Code Section 411(a)(7)(C)) and Section 411(a)(3)(D) or repayments of contributions to a governmental plan (as defined in Code Section 414(d)) as described in Code Section 415(k)(3);
- (5) repayments that would have been described in Paragraph (4) except that the plan to which such repayment is being made does not restrict the timing of repayments to the maximum extent permitted by Code Section 411(a);
- (6) employee contributions to a qualified cost of living arrangement within the meaning of Code Section 415(k)(2)(B); and

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(7) a payment described in Treasury Regulation Section 1.415(c)-1(b)(2)(ii)(C) made to restore losses to a plan resulting from actions by a fiduciary for which there is a reasonable risk of liability for breach of a fiduciary duty under Title I of ERISA or under other applicable federal or state law, where plan participants who are similarly situated are treated similarly with respect to the payments

### **SECTION 3**

For purposes of this Appendix A, the term “limitation year” shall mean a Plan Year unless a Plan Sponsor elects, by adoption of a written resolution, to use any other twelve month period adopted in accordance with regulations issued by the Secretary of the Treasury.

### **SECTION 4**

For purposes of applying the limitations of this Appendix A, all defined contribution plans maintained or deemed to be maintained by a Plan Sponsor shall be treated as one defined contribution plan, and all defined benefit plans now or previously maintained or deemed to be maintained by a Plan Sponsor shall be treated as one defined benefit plan. In the event any of the actions to be taken pursuant to Section 5 of this Appendix A or pursuant to any language of similar import in another defined contribution plan are required to be taken as a result of the annual additions of a Participant exceeding the limitations set forth in Section 1 of this Appendix A, because of the Participant’s participation in more than one defined contribution plan, the actions shall be taken first with regard to this Plan.

### **SECTION 5**

In the event that as a result of the allocation of forfeitures to the Account of a Participant, a reasonable error in estimating the Participant’s Annual Compensation, a reasonable error in determining the amount of Elective Deferrals, or other similar circumstances, the annual addition allocated to the Account of a Participant exceeds the limitations set forth in Section 1 of this Appendix A, the Plan Administrator shall, in writing, direct the Trustee to take such actions as are permitted by the Internal Revenue Service for the correction of such errors as the Plan Administrator shall deem appropriate, specifying in each case the amount or amounts of contributions involved. Notwithstanding anything contained in the Plan to the contrary, the Plan Administrator may modify any such action with respect to reduction of Participants’ Accounts in accordance with such procedures as the Plan Administrator may establish with respect to catch-up contributions as described in Code Section 414(v).

### **SECTION 6**

The provisions of this Appendix A shall be construed in a manner consistent with the provisions of final Treasury Regulations issued under Code Section 415 and any successor guidance.

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**APPENDIX B**  
**TOP-HEAVY PROVISIONS**

**SECTION 1**

As used in this Appendix B, the following words shall have the following meanings:

(a) “Determination Date” means, with respect to any Plan Year, the last day of the preceding Plan Year, or, in the case of the first Plan Year, means the last day of the first Plan Year.

(b) “Key Employee” means an Employee or former Employee (including a Beneficiary of a Key Employee or former Key Employee) who at any time during the Plan Year containing the Determination Date was:

(1) an officer of the Plan Sponsor or any Affiliate whose Annual Compensation was greater than \$150,000 (as adjusted for changes in the cost of living as provided in regulations issued by the Secretary of the Treasury) for the calendar year in which the Plan Year ends, where the term “officer” means an administrative executive in regular and continual service to the Plan Sponsor or an Affiliate; provided, however, that in no event shall the number of officers exceed the lesser of (A) fifty (50) employees; or (B) the greater of (I) three (3) employees or (II) ten percent (10%) of the number of Employees during the Plan Year, with any non-integer being increased to the next integer. If for any year, no officer of the Plan Sponsor meets the requirements of this Subparagraph (1), the highest paid officer of the Plan Sponsor for the Plan Year shall be considered an officer for purposes of this Subparagraph (1);

(2) an owner of more than five percent (5%) of the outstanding stock of the Plan Sponsor or an Affiliate or more than five percent (5%) of the total combined voting power of all stock of the Plan Sponsor or an Affiliate; or

(3) an owner of more than one percent (1%) of the outstanding stock of the Plan Sponsor or an Affiliate or more than one percent (1%) of the total combined voting power of all stock of the Plan Sponsor or an Affiliate, and who in such Plan Year had Annual Compensation from the Plan Sponsor and all of its Affiliates of more than \$150,000.

For purposes of determining ownership under Subsections (2) and (3) above, the rules set forth in Code Section 318(a)(2) shall be applied as follows (i) in the case of any Plan Sponsor or Affiliate which is a corporation, by substituting five percent (5%) for fifty percent (50%) and, (ii) in the case of any Plan Sponsor or Affiliate which is not a corporation, ownership shall be determined in accordance with Treasury Regulations which shall be based on principles similar to the principles of Code Section 318 (modified as described in Clause (i) above).

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Employees other than Key Employees are sometimes referred to in this Appendix B as “non-key employees.”

(c) “ Required Aggregation Group ” means:

(1) each plan of the Plan Sponsor and its Affiliates which qualifies under Code Section 401 (a) in which a Key Employee is a participant, and

(2) each other plan of the Plan Sponsor and its Affiliates which qualifies under Code Section 401 (a) and which enables any plan described in Subsection (a) of this Section to meet the requirements of Section 401(a)(4) or 410 of the Code.

(d) (1) “ Top-Heavy ” means:

(A) if the Plan is not included in a Required Aggregation Group, the Plan’s condition in a Plan Year for which, as of the Determination Date:

(i) the present value of the cumulative Accounts (excluding catch-up contributions as described in Code Section 414(v) made in the Plan Year in which the determination is being made) under the Plan for all Key Employees exceeds sixty percent (60%) of the present value of the cumulative Accounts (excluding catch-up contributions as described in Code Section 414(v) for the current Plan Year) under the Plan for all Participants; and

(ii) the Plan, when included in every potential combination, if any, with any or all of:

(I) any Required Aggregation Group, and

(II) any plan of the Plan Sponsor which is not part of any Required Aggregation Group and which qualifies under Code Section 401(a);

is part of a Top-Heavy Group (as defined in Paragraph (2) of this Subsection); and

(B) if the Plan is included in a Required Aggregation Group, the Plan’s condition in a Plan Year for which, as of the Determination Date:

(i) the Required Aggregation Group is a Top-Heavy Group (as defined in Paragraph (2) of this Subsection); and

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(ii) the Required Aggregation Group, when included in every potential combination, if any, with any or all of the plans of the Plan Sponsor and its Affiliates which are not part of the Required Aggregation Group and which qualify under Code Section 401(a), is part of a Top-Heavy Group (as defined in Paragraph (2) of this Subsection).

(C) For purposes of Subparagraphs (A)(ii) and (B)(ii) of this Paragraph (1), any combination of plans must satisfy the requirements of Sections 401(a)(4) and 410 of the Code.

(2) A group shall be deemed to be a Top-Heavy Group if:

(A) the sum, as of the Determination Date, of the present value of the cumulative accrued benefits for all Key Employees under all plans included in such group exceeds

(B) sixty percent (60%) of a similar sum determined for all participants in such plans.

(3) (A) For purposes of this Section, the present value of the accrued benefit for any participant in a defined contribution plan as of any Determination Date or last day of a plan year shall be the sum of:

(i) as to any defined contribution plan other than a simplified employee pension, the account balance as of the most recent valuation date occurring within the plan year ending on the Determination Date or last day of a plan year, and

(ii) as to any simplified employee pension, the aggregate employer contributions, and

(iii) an adjustment for contributions due as of the Determination Date or last day of a plan year.

In the case of a plan that is not subject to the minimum funding requirements of Code Section 412, the adjustment in Clause (iii) of this Subparagraph (A) shall be the amount of any contributions actually made after the valuation date but on or before the Determination Date or last day of the plan year to the extent not included under Clause (i) or (ii) of this Subparagraph (A); provided, however, that in the first plan year of the plan, the adjustment in Clause (iii) of this Subparagraph (A) shall also reflect the amount of any contributions made thereafter that are allocated as of a date in such first plan year. In the case of a plan that is subject to the minimum funding requirements, the account balance in Clause (i) and

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the aggregate contributions in Clause (ii) of this Subparagraph (A) shall include contributions that would be allocated as of a date not later than the Determination Date or last day of a plan year, even though those amounts are not yet required to be contributed, and the adjustment in Clause (iii) of this Subparagraph (A) shall be the amount of any contribution actually made (or due to be made) after the valuation date to the extent permitted by regulations or other guidance of general applicability to the extent not included under Clause (i) or (ii) of this Subparagraph (A).

(B) For purposes of this Subsection, the present value of the accrued benefit for any participant in a defined benefit plan as of any Determination Date or last day of a plan year must be determined as of the most recent valuation date which is within a twelve (12) month period ending on the Determination Date or last day of a plan year as if such participant terminated as of such valuation date; provided, however, that in the first plan year of a plan, the present value of the accrued benefit for a current participant must be determined either (i) as if the participant terminated service as of the Determination Date or last day of a plan year or (ii) as if the participant terminated service as of such valuation date, but taking into account the estimated accrued benefit as of the Determination Date or last day of a plan year. For purposes of this Subparagraph (B), the valuation date must be the same valuation date used for computing plan costs for minimum funding, regardless of whether a valuation is performed that year. The actuarial assumptions utilized in calculating the present value of the accrued benefit for any participant in a defined benefit plan for purposes of this Subparagraph (B) shall be established by the Plan Administrator after consultation with the actuary for the plan, and shall be reasonable in the aggregate and shall comport with the requirements set forth by the Internal Revenue Service in Q&A T-26 and T-27 of Regulation Section 1.416-1.

(C) For purposes of determining the present value of the cumulative accrued benefit under a plan for any Participant in accordance with this Subsection, the present value shall be increased by the aggregate distributions made with respect to the Participant (including distributions paid on account of death to the extent they do not exceed the present value of the cumulative accrued benefit existing immediately prior to death) under each plan being considered, and under any terminated plan which if it had not been terminated would have been in a Required Aggregation Group with the Plan, during the one-year period ending on the Determination Date or the last day of the Plan Year that falls within the calendar year in which the Determination Date falls. In the case of a distribution made with respect to a Participant made for a reason other than severance from employment, death, or disability, this provision shall applied by substituting a five-year period for the one-year period.

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(D) For purposes of this Paragraph (3), participant contributions which are deductible as “qualified retirement contributions” within the meaning of Code Section 219 or any successor, as adjusted to reflect income, gains, losses, and other credits or charges attributable thereto, shall not be considered to be part of the accrued benefits under any plan.

(E) For purposes of this Paragraph (3), if any employee is not a Key Employee with respect to any plan for any plan year, but such employee was a Key Employee with respect to such plan for any prior plan year, any accrued benefit for such employee shall not be taken into account.

(F) For purposes of this Paragraph (3), if any Employee has not performed any service for a Plan Sponsor or an Affiliate maintaining the Plan during the one-year period ending on the Determination Date, any accrued benefit for that Employee shall not be taken into account.

(G) (i) In the case of an “unrelated rollover” (as defined below) between plans which qualify under Code Section 401 (a), (a) the plan providing the distribution shall count the distribution as a distribution under Subparagraph (C) of this Paragraph (3), and (b) the plan accepting the distribution shall not consider the distribution part of the accrued benefit under this Section; and

(ii) in the case of a “related rollover” (as defined below) between plans which qualify under Code Section 401(a), (a) the plan providing the distribution shall not count the distribution as a distribution under Subparagraph (C) of this Paragraph (3), and (b) the plan accepting the distribution shall consider the distribution part of the accrued benefit under this Section.

For purposes of this Subparagraph (G), an “unrelated rollover” is a rollover as defined in Code Section 402(c)(4) or 408 (d)(3) or a plan-to-plan transfer which is both initiated by the participant and made from a plan maintained by one employer to a plan maintained by another employer where the employers are not Affiliates. For purposes of this Subparagraph (G), a “related rollover” is a rollover as defined in Code Section 402(c)(4) or 408(d)(3) or a plan-to-plan transfer which is either not initiated by the participant or made to a plan maintained by the employer or an Affiliate.

## SECTION 2

(a) Notwithstanding anything contained in the Plan to the contrary, except as otherwise provided in Subsection (b) of this Section, in any Plan Year during which the Plan is Top-Heavy, allocations of Plan Sponsor contributions and forfeitures for the Plan Year for the Account of each Participant who is not a Key Employee and who has not separated from service with the Plan Sponsor prior to the end of the Plan Year shall not be less than three percent (3%) percent of the Participant's Annual Compensation. For purposes of this Subsection, an allocation to a Participant's Account resulting from any Plan Sponsor contribution attributable to a salary reduction or similar arrangement shall not be taken into account.

(b) (1) The percentage referred to in Subsection (a) of this Section for any Plan Year shall not exceed the percentage at which allocations are made or are required to be made under the Plan for the Plan Year for the Key Employee for whom the percentage is highest for a Plan Year. For purposes of this Paragraph, an allocation to the Account of a Key Employee resulting from any Plan Sponsor contribution attributable to a salary reduction or similar agreement shall be taken into account but allocations of catch-up contributions as described in Code Section 414(v) shall not be taken into account.

(2) For purposes of this Subsection (b), all defined contribution plans which are members of a Required Aggregation Group shall be treated as part of the Plan.

(3) This Subsection (b) shall not apply to any plan which is a member of a Required Aggregation Group if the plan enables a defined benefit plan which is a member of the Required Aggregation Group to meet the requirements of Code Section 401(a)(4) or 410.

## SECTION 3

Notwithstanding anything contained in the Plan to the contrary, in any Plan Year during which the Plan is Top-Heavy, a Participant's interest in his Account shall not vest at any rate which is slower than the following schedule, effective as of the first day of that Plan Year:

Full Years of Vesting Service	Percentage
	Vested
Less than 2 years	0%
2 years	20%
3 years	40%
4 years	60%
5 years	80%
6 years	100%

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The Schedule set forth above in this Section 4 shall be inapplicable to a Participant who has failed to perform an Hour of Service after the Determination Date on which the Plan has become Top-Heavy. When the Plan ceases to be Top-Heavy, the Schedule set forth above shall cease to apply; provided however, that the provisions of the Plan Section dealing with changes in the vesting schedule shall apply.

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**APPENDIX C**  
**SPECIAL NONDISCRIMINATION RULES**

The Plan is intended to satisfy the requirements of Code Section 401(k)(12) with respect to contributions under Section 3.1 and Code Section 401(m)(11) with respect to contributions under Section 3.2. The Plan Sponsor will make Matching Contributions pursuant to Section 3.2, which are intended to satisfy the safe harbor requirements of Treasury Regulations Sections 1.401(k)-3 and 1.401(m)-3. Accordingly, this Appendix C is not applicable for any Plan Year during which the Plan Sponsor intends the Plan to satisfy the safe harbor requirements of Treasury Regulations Sections 1.401(k)-3 and 1.401(m)-3.

**SECTION 1**

As used in this Appendix, the following words shall have the following meanings:

- (a) “ Eligible Participant ” means a Participant who is an Employee during any particular Plan Year.
- (b) “ Highly Compensated Eligible Participant ” means any Eligible Participant who is a Highly Compensated Employee.
- (c) “ Matching Contribution ” means any contribution made by a Plan Sponsor to a Matching Account and any other contribution made to a plan by a Plan Sponsor or an Affiliate on behalf of an Employee on account of a contribution made by an Employee or on account of an Elective Deferral.
- (d) “ Qualified Matching Contributions ” means Matching Contributions which are immediately nonforfeitable when made, and which would be nonforfeitable, regardless of the age or service of the Employee or whether the Employee is employed on a certain date, and which may not be distributed, except upon one of the events described under Section 401(k)(2)(B) of the Code and the regulations thereunder.
- (e) “ Qualified Nonelective Contributions ” means contributions of the Plan Sponsor or an Affiliate, other than Matching Contributions or Elective Deferrals, which are nonforfeitable when made, and which would be nonforfeitable regardless of the age or service of the Employee or whether the Employee is employed on a certain date, and which may not be distributed, except upon one of the events described under Code Section 401(k)(2)(B) and the regulations thereunder.

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## SECTION 2

In addition to any other limitations set forth in the Plan, for each Plan Year one of the following tests must be satisfied:

(a) the actual deferral percentage for the Highly Compensated Eligible Participants for the Plan Year must not be more than the actual deferral percentage of all other Eligible Participants for the Plan Year multiplied by 1.25; or

(b) the excess of the actual deferral percentage for the Highly Compensated Eligible Participants for the Plan Year over that of all other Eligible Participants for such Plan Year must not be more than two (2) percentage points, and the actual deferral percentage for the Highly Compensated Eligible Participants for the Plan Year must not be more than the actual deferral percentage of all other Eligible Participants for the Plan Year multiplied by two (2).

The “actual deferral percentage” for the Highly Compensated Eligible Participants and all other Eligible Participants for a Plan Year is the average in each group of the ratios, calculated separately for each Employee, of the Deferral Amounts contributed by the Plan Sponsor on behalf of an Employee for the Plan Year to the Annual Compensation of the Employee in the Plan Year. In addition, for purposes of calculating the “actual deferral percentage” as described above, Deferral Amounts of Employees who are not Highly Compensated Employees which are prohibited by Code Section 401(a)(30) shall not be taken into consideration. Except to the extent limited by Treasury Regulation section 1.401(k)-2(a)(6) and any other applicable regulations promulgated by the Secretary of the Treasury, all or part of the Qualified Matching Contributions and Qualified Nonelective Contributions (other than Qualified Nonelective Contributions that are treated as Matching Contributions pursuant to Section 5 of Appendix C) made pursuant to the Plan may be treated as Deferral Amounts for purposes of determining the “actual deferral percentage.” The Plan Sponsor may in its sole discretion contribute Qualified Nonelective Contributions or Qualified Matching Contributions with respect to a Plan Year, provided the contributions are made no later than the last day of the Plan Year following the Plan Year for which the Qualified Nonelective Contributions or Qualified Matching Contributions are made.

## SECTION 3

If the Deferral Amounts contributed on behalf of any Highly Compensated Eligible Participant exceeds the amount permitted under the “actual deferral percentage” test described in Section 2 of this Appendix C for any given Plan Year, then before the end of the Plan Year following the Plan Year for which the Excess Deferral Amount was contributed, the portion of the Excess Deferral Amount for the Plan Year attributable to a Highly Compensated Participant, as adjusted in accordance with applicable Treasury Regulations to reflect income, gain, or loss attributable to it for the Plan Year for which the test is being performed and reduced by any excess Elective Deferrals as determined pursuant to Section 3.1 previously distributed to a Participant for the Participant’s taxable year ending with or within the Plan Year, may be distributed to the Highly Compensated Eligible Participant. The income, gain or loss allocable to such Excess Deferral Amount shall be determined in a similar manner as described in Section 4.2 of the Plan or in any other manner permitted by applicable Treasury Regulations. The Excess Deferral Amount to be distributed shall be reduced by Deferral Amounts previously distributed for the taxable year ending in the same Plan Year, and shall also be reduced by Deferral Amounts previously distributed for the Plan Year beginning in such taxable year. The portion of the Matching Contribution on which such Excess Deferral Amount was based shall be forfeited upon the distribution of such Excess Deferral Amount.

Notwithstanding the foregoing, if the Plan satisfies the actual deferral percentage test through correction by distribution of Excess Deferral Amounts for any Plan Year, any Excess Deferral Amounts attributable to a Highly Compensation Eligible Participant who is eligible to make catch-up contributions pursuant to Section 3.1(c) of the Plan, subject to the limitations of Code Section 414(v), shall be retained in the Plan and treated as catch-up contributions under the Plan. To the extent that the Excess Deferral Amount would exceed the applicable dollar amount specified in Code Section 414(v), as adjusted, such amount shall be distributed in accordance with the foregoing provisions of this Section 3.

(a) For purposes of this Section 3, "Excess Deferral Amount" means, with respect to a Plan Year, the excess of:

(1) the aggregate amount of Deferral Amounts contributed by a Plan Sponsor on behalf of Highly Compensated Eligible Participants for the Plan Year, over

(2) the maximum amount of Deferral Amounts permitted under Section 2 of this Appendix C for the Plan Year, which shall be determined by reducing the Deferral Amounts contributed on behalf of Highly Compensated Eligible Participants in order of the actual deferral percentages beginning with the highest of such percentages.

(b) Distribution of the Excess Deferral Amount for any Plan Year shall be made to Highly Compensated Eligible Participants on the basis of the dollar amount of Deferral Amounts attributable to each Highly Compensated Eligible Participant. The Plan Sponsor shall determine the amount of Excess Deferral Amounts which shall be distributed to each Highly Compensated Eligible Participant as follows.

(1) The Deferral Amounts allocated to the Highly Compensated Eligible Participant with the highest dollar amount of Deferral Amounts for the Plan Year shall be reduced by the amount required to cause that Highly Compensated Eligible Participant's remaining Deferral Amounts for the Plan Year to be equal to the dollar amount of the Deferral Amounts allocated to the Highly Compensated Eligible Participant with the next highest dollar amount of Deferral Amounts for the Plan Year. This amount is then distributed to the Highly Compensated Eligible Participant with the highest dollar amount of Deferral Amounts, unless a smaller reduction, when added to the total dollar amount already distributed pursuant to this Paragraph (1), equals the total Excess Deferral Amounts.

(2) If the total amount distributed under Paragraph (1) of this Section 3(b) is less than the total Excess Deferral Amounts, the procedure in Paragraph (1) shall be successively repeated until the total dollar amount distributed is equal to the total Excess Deferral Amounts attributable to Highly Compensated Eligible Participants.

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If a distribution of the Excess Deferral Amounts attributable to the Highly Compensated Eligible Participants is made in accordance with Paragraphs (1) and (2) of this Section 3(b), the limitations in Section 2 of this Appendix C shall be treated as being met regardless of whether the actual deferral percentage, if recalculated after such distributions, would have satisfied the requirements of Section 2.

#### **SECTION 4**

The Plan Administrator shall have the responsibility of monitoring the Plan's compliance with the limitations of this Appendix C and shall have the power to take all steps it deems necessary or appropriate to ensure compliance, including, without limitation, restricting the amount which Highly Compensated Eligible Participants can elect to have contributed pursuant to Plan Section 3.1(a). Any actions taken by the Plan Administrator pursuant to this Section 4 shall be pursuant to non-discriminatory procedures consistently applied.

#### **SECTION 5**

In addition to any other limitations set forth in the Plan, Matching Contributions under the Plan and the amount of nondeductible employee contributions under the Plan, for each Plan Year must satisfy one of the following tests:

(a) The contribution percentage for Highly Compensated Eligible Participants for the Plan Year must not exceed 125% of the contribution percentage for all other Eligible Participants for the Plan Year; or

(b) The contribution percentage for Highly Compensated Eligible Participants for the Plan Year must not exceed the lesser of (1) 200 % of the contribution percentage for all other Eligible Participants for the Plan Year, and (2) the contribution percentage for all other Eligible Participants for the Plan Year plus two (2) percentage points.

Notwithstanding the foregoing, for purposes of this Section 5, the terms Highly Compensated Eligible Participant and Eligible Participant shall not include any Participant who is not eligible to receive a Matching Contribution under the provisions of the Plan, other than as a result of the Participant failing to contribute to the Plan or failing to have an Elective Deferral contributed to the Plan on the Participant's behalf. The "contribution percentage" for Highly Compensated Eligible Participants and for all other Eligible Participants for a Plan Year shall be the average of the ratios, calculated separately for each Participant, of (A) to (B), where (A) is the amount of Matching Contributions under the Plan (excluding Qualified Matching Contributions which are used to apply the test set forth in Section 2 of this Appendix C) and nondeductible employee contributions made under the Plan for the Eligible Participant for the Plan Year, and where (B) is the Annual Compensation of the Eligible Participant for the Plan Year. Except to the extent limited by Treasury Regulation Section 1.401(m)-2(a)(6) and any other applicable regulations promulgated by the Secretary of the Treasury, a Plan Sponsor may

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elect to treat Deferral Amounts and Qualified Nonelective Contributions as Matching Contributions for purpose of determining the “contribution percentage,” provided the Deferral Amounts, excluding those treated as Matching Contributions, satisfy the test set forth in Section 2 of Appendix C.

The Plan Sponsor may in its sole discretion contribute Qualified Nonelective Contributions or Qualified Matching Contributions with respect to a Plan Year, provided the contributions are made no later than the last day of the Plan Year following the Plan Year for which the Qualified Nonelective Contributions or Qualified Matching Contributions are made. Notwithstanding the foregoing, Qualified Nonelective Contributions and Qualified Matching Contributions that are taken into account for purposes of applying the test contained in Section 2 of this Appendix C shall not be taken into account under this Section 5.

## **SECTION 6**

If either (a) the Matching Contributions and, if taken into account under Section 5 of this Appendix C, the Deferral Amounts, Qualified Nonelective Contributions and/or Qualified Matching Contributions made on behalf of Highly Compensated Eligible Participants, or (b) the nondeductible employee contributions made by Highly Compensated Eligible Participants exceed the amount permitted under the “contribution percentage test” for any given Plan Year, then, before the close of the Plan Year following the Plan Year for which the Excess Aggregate Contributions were made, the amount of the Excess Aggregate Contributions attributable to the Plan for the Plan Year under either Section 6(a) (1) or (2), or both, as adjusted to reflect any income, gain or loss attributable to such contributions through the end of the Plan Year shall be distributed or, if the Excess Aggregate Contributions are forfeitable, forfeited. The income allocable to such contributions shall be determined in a similar manner as described in Section 4.2 of the Plan. As to any Highly Compensated Employee, any distribution or forfeiture of his allocable portion of the Excess Aggregate Contributions for a Plan Year shall first be attributed to any nondeductible employee contributions made by the Participant during the Plan Year for which no corresponding Plan Sponsor contribution is made and then to any remaining nondeductible employee contributions made by the Participant during the Plan Year and any Matching Contributions thereon. As between the Plan and any other plan or plans maintained by the Plan Sponsor in which Excess Aggregate Contributions for a Plan Year are held, each such plan shall distribute or forfeit a pro-rata share of each class of contribution based on the respective amounts of a class of contribution made to each plan during the Plan Year. The payment of the Excess Aggregate Contributions shall be made without regard to any other provision in the Plan.

For purposes of this Section 6, with respect to any Plan Year, “Excess Aggregate Contributions” means the excess of:

(a) the aggregate amount of the Matching Contributions and nondeductible employee contributions (and any Qualified Nonelective Contributions or Qualified Matching Contributions) and, if taken into account under Section 5 of this Appendix C, the Deferral Amounts actually made on behalf of Highly Compensated Eligible Participants for the Plan Year, over

(b) the maximum amount of contributions permitted under the limitations of Section 5 of this Appendix C, determined by reducing contributions made on behalf of Highly Compensated Eligible Participants in order of their contribution percentages beginning with the highest of such percentages.

The determination of the amount of Excess Aggregate Contributions under this Section 6 shall be made after (1) first determining the excess Elective Deferrals under Section 3.1(b) of the Plan and (2) then determining the Excess Deferral Amounts under Section 3 of this Appendix C.

(c) Distribution or forfeiture of nondeductible employee contributions or Matching Contributions in the amount of the Excess Aggregate Contributions for any Plan Year shall be made with respect to Highly Compensated Eligible Participants on the basis of the dollar amount of the Excess Aggregate Contributions attributable to each Highly Compensated Eligible Participant. Forfeitures of Excess Aggregate Contributions may not be allocated to Participants whose contributions are reduced under this Section 6. The Plan Sponsor shall determine the amount of Excess Aggregate Contributions which shall be distributed to each Highly Compensated Eligible Participant (or forfeited, if forfeitable) as follows.

(1) The Matching Contributions and nondeductible contributions allocated to the Highly Compensated Eligible Participant with the highest dollar amount of such contributions for the Plan Year shall be reduced by the amount required to cause that Highly Compensated Eligible Participant's remaining Matching Contributions and nondeductible contributions for the Plan Year to be equal to the dollar amount of such contributions allocated to the Highly Compensated Eligible Participant with the next highest dollar amount of Matching contributions and nondeductible contributions for the Plan Year. This amount is then distributed to (or forfeited from the Account of, if forfeitable) the Highly Compensated Eligible Participant with the highest dollar amount of Matching Contributions and nondeductible contributions, unless a smaller reduction, when added to the total dollar amount already distributed (or forfeited, if forfeitable) pursuant to this Paragraph (1), equals the total Excess Aggregate Contributions.

(2) If the total amount distributed (or forfeited, if forfeitable) under Paragraph (1) is less than the total Excess Aggregate Contributions, the procedure in Paragraph (1) shall be repeated until the total dollar amount of Matching Contributions and nondeductible contributions distributed (or forfeited, if forfeitable) is equal to the total Excess Aggregate Contributions attributable to Highly Compensated Eligible Participants.

If a distribution of the total Excess Aggregate Contributions is made in accordance with Paragraphs (1) and (2) of this Section 6(c), the limitations in Section 5 of this Appendix C shall be treated as being met regardless of whether the actual contribution percentage, if recalculated after such distributions, would have satisfied the requirements of Section 5.

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## SECTION 7

Except to the extent limited by rules promulgated by the Secretary of the Treasury, if a Highly Compensated Eligible Participant is a participant in any other plan of the Plan Sponsor or any Affiliate which includes Matching Contributions, deferrals under a cash or deferred arrangement pursuant to Code Section 401(k), or nondeductible employee contributions, any contributions made by or on behalf of the Participant to the other plan shall be allocated with the same class of contributions under the Plan for purposes of determining the “actual deferral percentage” and “contribution percentage” under the Plan.

Except to the extent limited by rules promulgated by the Secretary of the Treasury, if the Plan and any other plans which include Matching Contributions, deferrals under a cash or deferred arrangement pursuant to Code Section 401(k), or nondeductible employee contributions are considered as one plan for purposes of Code Section 401(a)(4) and 410(b)(1), any contributions under the other plans shall be allocated with the same class of contributions under the Plan for purposes of determining the “contribution percentage” and “actual deferral percentage” under the Plan.

**APPENDIX D**  
**FROZEN BENEFIT DISTRIBUTION RULES**

**SECTION 1**  
**DEFINITIONS**

For purposes of this Appendix D, the following terms shall have the following meanings:

- (a) “ Annuity Starting Date ” means the date on which a distribution is deemed to commence for purposes of calculating the benefit to be distributed.
- (b) “ Qualified Joint and Survivor Annuity ” means an annuity for the life of the Participant with a survivor annuity for the life of his/her spouse which is one-half of the amount of the annuity payable during the joint lives of the Participant and his/her spouse and which is the actuarial equivalent of a single life annuity for the life of the Participant.
- (c) “ Preretirement Survivor Annuity ” means an annuity for the life of the surviving spouse of a deceased Participant that has an actuarial present value that is equal to 100% of the balance in the Participant’s account as of the date of the Participant’s death.
- (d) “ Qualified Optional Survivor Annuity ” means an annuity for the life of the Participant with a survivor annuity for the life of his/her spouse which is three-quarters of the amount of the annuity payable during the joint lives of the Participant and his/her spouse and which is the actuarial equivalent of a single life annuity for the life of the Participant.

For purposes of this Appendix D, the following election rules shall apply:

The Plan Administrator shall furnish to the Participant a written explanation of:

- (1) the terms and conditions of a Qualified Joint and Survivor Annuity, a Qualified Optional Survivor Annuity and a Qualified Preretirement Survivor Annuity;
- (2) the Participant’s right to make, and the effect of, an election not to receive the Qualified Joint and Survivor Annuity or the Qualified Preretirement Survivor Annuity;
- (3) the rights of the Participant’s spouse as described below; and
- (4) the right to make and the effect of such an election.

In the case of a Qualified Joint and Survivor Annuity and Qualified Optional Survivor Annuity, the written explanation shall be provided to the Participant no less than thirty (30) days and no more than ninety (90) days prior to the first date on which he is entitled to commencement of payments from the Fund. Notwithstanding the foregoing, a Participant may elect to waive the requirement that the written explanation be provided at

least thirty (30) days prior to commencement of payments, provided that the first payment from the Fund occurs more than seven (7) days from the date the explanation is received by the Participant. In the case of the Qualified Preretirement Survivor Annuity, the written explanation shall be provided to the Participant in whichever of the following periods ends last:

- (A) the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35;
- (B) the period beginning one year before and ending one year after the Employee first becomes a Participant;
- (C) the period beginning one year before and ending one year after these rules apply to the Participant; or
- (D) a reasonable period of time after separation from service in the case of a Participant who separates from service before attaining age 35.

The Participant may elect during the “applicable election period” not to receive his benefit in the form of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity by execution and delivery to the Plan Administrator of a form that purpose by the Plan Administrator. The term “applicable election period” shall mean, with respect to a Qualified Joint and Survivor Annuity, the 90-day period ending on the first date on which the Participant is entitled to commencement of payment from the Fund. In the event the Participant waives the minimum thirty (30) day requirement for the written explanation, the “applicable election period” shall not end before the period ending thirty (30)-days after the Participant receives the written explanation. Notwithstanding the foregoing, if the Participant receives the written explanation of the Qualified Joint and Survivor Annuity and affirmatively elects a form of distribution, the payments from the Fund may commence less than thirty (30) days after the Participant receives the written explanation provided that the Participant may revoke the affirmative distribution election until the later of the time payments from the Fund are to begin or the expiration of the seven (7) day period which begins on the day after the Participant receives the written explanation. With respect to a Qualified Preretirement Survivor Annuity, the “applicable election period” shall mean the period which begins on the first day of the Plan Year in which the Participant attains age 35 and ends on the date of the Participant’s death.

In the case of a married Participant, no election (other than an election to receive payment in the form of a Qualified Optional Survivor Annuity in lieu of a Qualified Joint and Survivor Annuity) shall be effective unless:

- (i) the spouse of the Participant consents in writing to the election and the consent acknowledges the effect of the election (including, if applicable, the identity of any Beneficiary other than the Participant’s spouse and the alternate form of payment) and is witnessed by a notary public, or

(ii) it is established to the satisfaction of the Plan Administrator that the consent required pursuant to subparagraph (i) above may not be obtained because there is no spouse, the spouse cannot be located, the Participant has a court order indicating that he is legally separated or has been abandoned (within the meaning of local law) unless a qualified domestic relations order provides otherwise, or of any other circumstances as permitted by regulations promulgated by the Department of the Treasury. If the spouse is legally incompetent to give consent, consent by the spouse's legal guardian shall be deemed to be consent by the spouse.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) shall be effective only with respect to that spouse. If an election is made, the Participant's Account may be paid in any alternate form of payment permitted by the Plan. Any waiver of a Qualified Preretirement Survivor Annuity made prior to the first day of the Plan Year in which the Participant attains age 35 shall become invalid as of the first day of the Plan Year in which the Participant attains age 35 and a Qualified Preretirement Annuity shall be provided, unless a new waiver is obtained. The Participant may revoke any election not to receive payment in the form of a Qualified Joint and Survivor Annuity at any time prior to commencement of payments from the Fund, and may make a new election at any time prior to the commencement of payments from the Fund

If a Participant is married and has in effect an annuity form of payment for the payment of his Account and the Participant wishes to obtain a loan from the Plan in accordance with Plan Section 5, the Participant's spouse must, within the ninety (90) day period preceding the date the loan is made, consent to the loan and the possibility of a reduction in the Participant's Account resulting in its nonpayment.

## **SECTION 2** **HUDSON PLAN**

Except as may be required or permitted by Plan Sections 7 through 10, effective April 1, 1998, all distributions made to a Participant or his beneficiaries attributable to amounts transferred to this Plan from the Prior Retirement Account under the Hudson Foods, Inc. 401(k) Retirement Plan (the "Hudson Plan") shall be made by the Trustee in one of the following methods:

(a) Qualified Joint and Survivor Annuity or Life Annuity. A Participant who is married and begins to receive payments under the Plan shall receive payments in the form of a Qualified Joint and Survivor Annuity, unless the Participant, with the consent of his spouse, has properly elected otherwise. An unmarried Participant shall receive his benefits in the form of a single life annuity, unless the Participant elects properly otherwise.

(b) Preretirement Survivor Annuity. If a Participant who is married dies before the date upon which benefit payments are to commence, the Participant's surviving spouse shall receive payments, commencing immediately, in the form of a Preretirement Survivor Annuity, unless the Participant, with the consent of his spouse has properly elected otherwise.

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(c) Optional Forms. In the event a Participant elects not to receive benefits in the form described in Subsection (a) above, the distribution of benefits may be made by the Trustee in one of the methods elected by the Participant described below:

(A) single life annuity, a single life annuity with a five- or ten-year certain term,

(B) an actuarially equivalent life annuity with a survivor annuity payable to the Participant's spouse equal to 100%, 66 and 2/3% or 50% of the payments made to the Participant during his life, or

(C) a Qualified Optional Survivor Annuity.

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**APPENDIX E**  
**MINIMUM DISTRIBUTION REQUIREMENTS**

**SECTION 1**  
**GENERAL RULES**

(a) Effective Date and Precedence . The provisions of this Appendix E will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. The requirements of this Appendix E will take precedence over any inconsistent provisions of the Plan.

(b) Requirements of Treasury Regulations Incorporated . All distributions required under this Section will be determined and made in accordance with the Treasury Regulations under Code Section 401(a)(9).

(c) TEFRA Section 242(b)(2) Elections . Notwithstanding the other provisions of this Appendix E, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

**SECTION 2**  
**TIME AND MANNER OF DISTRIBUTION**

(a) Required Beginning Date . The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(b) Death of Participant Before Distributions Begin . If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 <sup>1</sup>/<sub>2</sub>, if later.

(2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 2(b), other than Section 2(b)(1) of this Appendix E, will apply as if the surviving spouse were the Participant.

For purposes of this Section 2(b) and Section 4 of this Appendix E, unless Section 2(b)(4) of this Appendix E applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 2(b) of this Appendix E applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 2(b)(1) of this Appendix E. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution . Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year, distributions will be made in accordance with Sections 3 and 4 of this Appendix E. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the regulations issued thereunder.

### **SECTION 3 REQUIRED MINIMUM DISTRIBUTIONS DURING PARTICIPANT'S LIFETIME**

(a) Amount of Required Minimum Distribution For Each Distribution Calendar Year . During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(1) the quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year;

(2) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death . Required minimum distributions will be determined under this Section 3 beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

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**SECTION 4**  
**REQUIRED MINIMUM DISTRIBUTIONS AFTER PARTICIPANT'S DEATH**

(a) Death On or After Date Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

(A) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section 4(a).

(2) No Designated Beneficiary . If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin . If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 2(b)(1) of this Appendix E, this Section (b) will apply as if the surviving spouse were the Participant.

## **SECTION 5** **DEFINITIONS**

As used in this Appendix E, the following words and phrases shall have the meaning set forth below:

(a) Designated Beneficiary . The individual who is designated as the Beneficiary under Section 1.6 of the Plan and is the designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-4, Q&A-1, of the Treasury Regulations.

(b) Distribution Calendar Year . A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 2(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.

(c) Life Expectancy . Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(d) Participant's Account Balance . The Account balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year ("Valuation Calendar Year") increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the Valuation Calendar Year after the Valuation

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Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Account balance for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.

(e) Required Beginning Date. Required Beginning Date means April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 <sup>1</sup>/<sub>2</sub> or the calendar year in which the Participant retires, except that in the case of a person described in Section 1(b)(2) of Appendix B the Required Beginning Date shall be April 1 of the calendar year following the calendar year in which the Participant attains age 70 <sup>1</sup>/<sub>2</sub>.

**NONQUALIFIED STOCK OPTION AWARD  
PURSUANT TO THE TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

THIS AWARD (the "Award") is made as of the Grant Date by Tyson Foods, Inc., a Delaware corporation (the "Company"), to the Team Member (the "Optionee") listed below, Personnel No. «**Persno**». Upon and subject to the Terms and Conditions applicable hereto and incorporated herein by reference, the Company hereby awards as of the Grant Date to Optionee a nonqualified stock option (the "Option"), as described below, to purchase the Option Shares.

«**First\_name**\_\_\_\_\_» «**MI**» «**Last\_name**\_\_\_\_\_»  
 «**Street\_and\_house\_number**\_\_\_\_\_»  
 «**M\_2nd\_address\_line**\_\_\_\_\_»  
 «**City**\_\_\_\_\_», «**Rg**» «**Postal\_code**»

- A. Grant Date: \_\_\_\_\_ .
- B. Type of Option: Nonqualified Stock Option.
- C. Plan under which granted: Tyson Foods, Inc. 2000 Stock Incentive Plan ("Plan").
- D. Option Shares: All or any part of «**Txt\_Options**» shares of the Company's \$.10 par value Class A common stock (the "Common Stock"), subject to adjustment as provided in the Terms and Conditions.
- E. Exercise Price: \$\_\_\_\_\_ per share, subject to adjustment as provided in the Terms and Conditions.
- F. Option Period: The Option may be exercised only during the Option Period which commences on the Grant Date and ends, subject to earlier termination as provided in the Terms and Conditions, on the earliest of the following (a) the tenth (10th) anniversary of the Grant Date; (b) three months following the date the Optionee ceases to be an employee of the Company (including any Affiliate) for any reason other than death, Disability or, termination of employment without cause after attaining at least age 62; or (c) one (1) year following the date the Optionee ceases to be an employee of the Company (including any Affiliate) due to death, Disability or, termination of employment without cause after attaining at least age 62; provided, however, that the Option may only be exercised as to the vested Option Shares determined pursuant to the Vesting Schedule below. *Note that other restrictions to exercising the Option, as described in the Terms and Conditions, may apply.*
- G. Vesting Schedule: The Option Shares shall become vested Option Shares in the increasing percentages indicated below but only if the Optionee remains continuously employed by the Company or any Affiliate through the date indicated beside the applicable percentage:

Percentage of Option Shares Which are Vested Shares	Dates Upon Which Shares Become Vested Shares
Zero (0)	Prior to First Anniversary of Grant Date
One-third (1/3)	First Anniversary of Grant Date
One-third (1/3)	Second Anniversary of Grant Date
One-third (1/3)	Third Anniversary of Grant Date

Notwithstanding the foregoing, all unvested Option Shares shall become vested Option Shares immediately upon the Optionee's death, Disability or termination of employment without cause after attaining at least age 62. Upon a Change in Control (defined in Section 5(b) of the Terms and Conditions), all unvested Option Shares granted under this Award, or any prior award of Option Shares from the Company to the Optionee, shall become vested Option Shares sixty (60) days after the Change in Control.

IN WITNESS WHEREOF, the Company has executed and sealed this Award as of the Grant Date set forth above.

TYSON FOODS, INC.: \_\_\_\_\_ Donnie Smith, President and CEO

**TERMS AND CONDITIONS TO THE  
NONQUALIFIED STOCK OPTION AWARD  
PURSUANT TO THE  
TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

1. Exercise of Option. Subject to the provisions of the Plan and the Award, which is made pursuant to the Plan, and subject also to these Terms and Conditions, which are incorporated in and made a part of the attached Award:

(a) The Option may be exercised with respect to all or any portion of the vested Option Shares at any time during the Option Period by the delivery to the Company, at its principal place of business, of (i) a notice of exercise in substantially the form required by the Committee (as defined in the Plan) (a form of which is available from the Company), which shall be actually delivered to the Company before the Optionee desires to exercise all or any portion of the Option; (ii) payment to the Company of the Exercise Price *multiplied* by the number of shares being purchased (the "Purchase Price") in the manner provided in Subsection (b), and (iii) satisfaction of the tax withholding obligation described in Section 2 below.

(b) The Purchase Price shall be paid in full upon the exercise of an Option and no Option Shares shall be issued or delivered until full payment therefor has been made. Payment of the Purchase Price for all Option Shares purchased pursuant to the exercise of an Option shall be made in cash, certified check, or, alternatively, as follows:

(i) by delivery to the Company of a number of shares of Common Stock owned by the Optionee prior to the date of the Option's exercise, having a Fair Market Value, as determined under the Plan, on the date of exercise either equal to the Purchase Price or in combination with cash to equal the Purchase Price;

(ii) subject to applicable securities laws, by receipt of the Purchase Price in cash from a broker, dealer or other "creditor" as defined by Regulation T issued by the Board of Governors of the Federal Reserve System following delivery by the Optionee to the Committee of instructions in a form acceptable to the Committee regarding delivery to such broker, dealer or other creditor of that number of Option Shares with respect to which the Option is exercised; or

(iii) by any combination of the foregoing.

Upon acceptance of such notice and receipt of payment in full of the Purchase Price and any tax withholding liability, the Company shall cause to be issued a certificate representing the Option Shares purchased.

2. Withholding. The Optionee must satisfy federal, state and local, if any, withholding taxes imposed by reason of the exercise of the Option either by paying to the Company the full amount of the withholding obligation (i) in cash; (ii) by tendering shares of Common Stock by the Optionee prior to the date of exercise having a Fair Market Value equal to the tax withholding obligation; (iii) by electing, irrevocably and in substantially the form required by the Committee (the "Withholding Election"), to have the smallest number of whole shares of Common Stock which, when multiplied by the Fair Market Value of the Common Stock as of the date the Option is exercised, is sufficient to satisfy the minimum required amount of tax withholding obligations; or (iv) by any combination of the above. Optionee may make a Withholding Election only if the following conditions are met:

(a) the Withholding Election is made on or prior to the date on which the amount of tax required to be withheld is determined by executing and delivering to the Company a properly completed Notice of Withholding Election in substantially the form required by the Committee (a form of which is available from the Company); and

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(b) any Withholding Election will be irrevocable; however, the Committee may, in its sole discretion, disapprove and give no effect to the Withholding Election.

3. Rights as Shareholder . Until the stock certificates reflecting the Option Shares accruing to the Optionee upon exercise of the Option are issued to the Optionee, the Optionee shall have no rights as a shareholder with respect to such Option Shares. The Company shall make no adjustment for any dividends or distributions or other rights on or with respect to Option Shares for which the record date is prior to the issuance of that stock certificate, except as the Plan or this Award otherwise provides.

4. Restriction on Transfer of Option . Except as otherwise expressly permitted by the Committee in writing, the Option evidenced hereby is nontransferable other than by will or the laws of descent and distribution, and, shall be exercisable during the lifetime of the Optionee only by the Optionee (or in the event of his disability, by his legal representative) and after his death, by the Optionee's designated beneficiary. If the Optionee fails to name a beneficiary, the Option may be exercised by the Optionee's spouse, if the spouse survives the Optionee, otherwise, by the legal representative of the Optionee's estate. If no legal representative is appointed, the Option may be exercised by the person entitled to that right under the laws of descent and distribution of the state where the Optionee resided at the time of death.

5. Changes in Capitalization .

(a) The number of Option Shares and the Exercise Price shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a subdivision or combination of shares or the payment of a stock dividend (in excess of two percent (2%)) in shares of Common Stock to holders of outstanding shares of Common Stock or any other increase or decrease in the number of shares of Common Stock outstanding effected without receipt of consideration by the Company.

(b) If the Company shall be the surviving corporation in any merger, consolidation, reorganization or other change in the corporate structure of the Company or the Common Stock or in the event of an extraordinary dividend (including a spin-off), the Optionee shall be entitled to purchase or receive the number and class of securities to which a holder of the number of shares of Common Stock subject to the Option at the time of such transaction would have been entitled to receive as a result of such transaction, and a corresponding adjustment shall be made in the Exercise Price. Upon the occurrence of a Change in Control (defined below) all of the unvested Options granted hereunder will vest sixty (60) days after the Change in Control event occurs (unless vesting earlier pursuant to the terms of the Award). If the Optionee is terminated by the Company other than for egregious circumstances during such sixty (60) day period, all of the unvested Options granted hereunder will vest on the date of termination. For purposes of this Agreement, the term "Change in Control" shall have the same meaning as the term "Change in Control" as set forth in the Plan; provided, however, that a Change in Control shall not include any event as a result of which (i) Don Tyson; (ii) individuals related to Don Tyson by blood, marriage or adoption; and/or (iii) any entities (including, but not limited to, a partnership, corporation, trust or limited liability company) in which one or more individuals described in clauses (i) and (ii) hereof possess over fifty percent (50%) of the voting power or beneficial interests of such entities continue to possess, immediately after such event, over fifty percent (50%) of the voting power in the Company or, if applicable, successor entity. The Committee shall have the sole discretion to interpret the foregoing provisions of this paragraph.

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(c) In lieu of any adjustment or permitted exercises of the Option contemplated by Subsection (b) above, the Committee retains the discretion in the event of any transaction contemplated by Subsection (b) to cancel the Option in consideration for a payment to the Optionee equal to the positive difference between the then aggregate Fair Market Value of, and the aggregate Exercise Price for, those vested Option Shares which have not been exercised as of the effective date of such transaction. Such payment may be made in shares of Common Stock or in cash or in any combination thereof.

(d) The existence of the Plan and this Award shall not affect in any way the right or power of the Company to make or authorize any adjustment, reclassification, reorganization or other change in its capital or business structure, any merger or consolidation of the Company, any issue of debt or equity securities having preferences or priorities as to the Common Stock or the rights thereof, the dissolution or liquidation of the Company, any sale or transfer of all or any part of its business or assets, or any other corporate act or proceeding.

6. Special Limitations on Exercise. Any exercise of the Option is subject to the condition that if at any time the Committee, in its discretion, shall determine that the listing, registration or qualification of the shares covered by the Option upon any securities exchange or under any state or federal law is necessary or desirable as a condition of or in connection with the delivery of shares thereunder, the delivery of any or all shares pursuant to the Option may be withheld unless and until such listing, registration or qualification shall have been effected. The Optionee shall deliver to the Company, prior to the exercise of the Option, such information, representations and warranties as the Company may reasonably request in order for the Company to be able to satisfy itself that the Option Shares being acquired in accordance with the terms of an applicable exemption from the securities registration requirements of applicable federal and state securities laws.

7. Legend on Stock Certificates. The Company may endorse any legends on certificates evidencing Option Shares that it deems necessary and advisable or as may be required to reflect any restrictions provided for herein or otherwise required by applicable federal or state securities laws.

8. Governing Laws. This Award shall be construed, administered and enforced according to the laws of Delaware; provided, however, no option may be exercised except, in the reasonable judgment of the Board of Directors, in compliance with exemptions under applicable state securities laws of the state in which the Optionee resides, and/or any other applicable securities laws.

9. Successors. This Award shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of the parties.

10. Notice. Except as otherwise specified herein, all notices and other communications under this Award shall be in writing and shall be deemed to have been given if personally delivered or if sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the proposed recipient at the last known address of the recipient. Any party may designate any other address to which notices shall be sent by giving notice of the address to the other parties in the same manner as provided herein.

11. Severability. In the event that any one or more of the provisions or portion thereof contained in this Award shall for any reason be held to be invalid, illegal or unenforceable in any respect, the same shall not invalidate or otherwise affect any other provisions of this Award, and this Award shall be construed as if the invalid, illegal or unenforceable provision or portion thereof had never been contained herein.

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12. Entire Agreement. Subject to the terms and conditions of the Plan, this Award expresses the entire understanding and agreement of the parties.
13. Violation. Any transfer, pledge, sale, assignment, or hypothecation of the Option or any portion thereof shall be a violation of the terms of this Award and shall be void and without effect.
14. Headings. Paragraph headings used herein are for convenience of reference only and shall not be considered in construing this Award.
15. Specific Performance. In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Award, the party or parties who are thereby aggrieved shall have the right to specific performance and injunction in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative.
16. No Right to Continued Employment. Neither the establishment of the Plan nor the award of Option Shares hereunder shall be construed as giving the Optionee the right to continued employment.
17. Defined Terms. Any capitalized terms herein not otherwise defined shall have the meanings set forth for such terms in the Plan.

**NONQUALIFIED STOCK OPTION AWARD  
PURSUANT TO THE TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

THIS AWARD (the "Award") is made as of the Grant Date by Tyson Foods, Inc., a Delaware corporation (the "Company"), to «**First\_name** \_\_\_\_\_» «**MI**» «**Last\_name** \_\_\_\_\_» (the "Optionee") Personnel No. «**Persno**» .

Upon and subject to the Terms and Conditions applicable hereto and incorporated herein by reference, the Company hereby awards as of the Grant Date to Optionee a nonqualified stock option (the "Option"), as described below, to purchase the Option Shares.

- A. Grant Date: \_\_\_\_\_ .
- B. Type of Option: Nonqualified Stock Option.
- C. Plan under which granted: Tyson Foods, Inc. 2000 Stock Incentive Plan ("Plan").
- D. Option Shares: All or any part of «**TXT\_Options**» shares of the Company's \$.10 par value Class A common stock (the "Common Stock"), subject to adjustment as provided in the Terms and Conditions.
- E. Exercise Price: \$ \_\_\_\_\_ per share, subject to adjustment as provided in the Terms and Conditions.
- F. Option Period: The Option may be exercised only during the Option Period which commences on the Grant Date and ends, subject to earlier termination as provided in the Terms and Conditions, on the earliest of the following (a) the tenth (10th) anniversary of the Grant Date; (b) three months following the date the Optionee ceases to be an employee of the Company (including any Affiliate) for any reason other than death, Disability or, termination of employment without cause after attaining at least age 62; or (c) one year following the date the Optionee ceases to be an employee of the Company (including any Affiliate) due to death, Disability or, termination of employment without cause after attaining at least age 62; provided, however, that the Option may only be exercised as to the vested Option Shares determined pursuant to the Vesting Schedule below. *Note that other restrictions to exercising the Option, as described in the Terms and Conditions, may apply .*
- G. Vesting Schedule: The Option Shares shall become vested Option Shares in the increasing percentages indicated below but only if the Optionee remains continuously employed by the Company or any Affiliate through the date indicated beside the applicable percentage:

<u>Percentage of Option Shares Which are Vested Shares</u>	<u>Dates Upon Which Shares Become Vested Shares</u>
Zero (0)	Prior to First Anniversary of Grant Date
One-third (1/3)	First Anniversary of Grant Date
One-third (1/3)	Second Anniversary of Grant Date
One-third (1/3)	Third Anniversary of Grant Date

Notwithstanding the foregoing, all unvested Option Shares shall become vested Option Shares immediately upon the Optionee's death, Disability or termination of employment without cause after attaining at least age 62. If Optionee is involuntarily terminated by the Company other than for Cause, all unvested Option Shares which have been granted and outstanding for at least two years will fully vest upon the Optionee's execution of a Separation Agreement and General Release and such Options will be exercisable for a period of three months from Optionee's termination date (but no later than the tenth anniversary of the Grant Date). Upon a Change in Control (defined in Section 5(b) of the Terms and Conditions), all unvested Option Shares granted under this Award, or any prior award of Option Shares from the Company to the Optionee, shall become vested Option Shares sixty (60) days after the Change in Control.

IN WITNESS WHEREOF, the Company has executed and sealed this Award as of the Grant Date set forth above.

TYSON FOODS, INC.:

By: \_\_\_\_\_  
Title: President and CEO

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**TERMS AND CONDITIONS TO THE  
NONQUALIFIED STOCK OPTION AWARD  
PURSUANT TO THE  
TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

1. Exercise of Option. Subject to the provisions of the Plan and the Award, which is made pursuant to the Plan, and subject also to these Terms and Conditions, which are incorporated in and made a part of the attached Award:

(a) The Option may be exercised with respect to all or any portion of the vested Option Shares at any time during the Option Period by the delivery to the Company, at its principal place of business, of (i) a notice of exercise in substantially the form required by the Committee (as defined in the Plan) (a form of which is available from the Company), which shall be actually delivered to the Company before the Optionee desires to exercise all or any portion of the Option; (ii) payment to the Company of the Exercise Price *multiplied* by the number of shares being purchased (the "Purchase Price") in the manner provided in Subsection (b), and (iii) satisfaction of the tax withholding obligation described in Section 2 below.

(b) The Purchase Price shall be paid in full upon the exercise of an Option and no Option Shares shall be issued or delivered until full payment therefor has been made. Payment of the Purchase Price for all Option Shares purchased pursuant to the exercise of an Option shall be made in cash, certified check, or, alternatively, as follows:

(i) by delivery to the Company of a number of shares of Common Stock owned by the Optionee prior to the date of the Option's exercise, having a Fair Market Value, as determined under the Plan, on the date of exercise either equal to the Purchase Price or in combination with cash to equal the Purchase Price;

(ii) subject to applicable securities laws, by receipt of the Purchase Price in cash from a broker, dealer or other "creditor" as defined by Regulation T issued by the Board of Governors of the Federal Reserve System following delivery by the Optionee to the Committee of instructions in a form acceptable to the Committee regarding delivery to such broker, dealer or other creditor of that number of Option Shares with respect to which the Option is exercised; or

(iii) by any combination of the foregoing.

Upon acceptance of such notice and receipt of payment in full of the Purchase Price and any tax withholding liability, the Company shall cause to be issued a certificate representing the Option Shares purchased.

2. Withholding. The Optionee must satisfy federal, state and local, if any, withholding taxes imposed by reason of the exercise of the Option either by paying to the Company the full amount of the withholding obligation (i) in cash; (ii) by tendering shares of Common Stock owned by the Optionee prior to the date of exercise having a Fair Market Value equal to the tax withholding obligation; (iii) by electing, irrevocably and in substantially the form required by the Committee (the "Withholding Election"), to have the smallest number of whole shares of Common Stock which, when multiplied by the Fair Market Value of the Common Stock as of the date the Option is exercised, is sufficient to satisfy the minimum required amount of tax withholding obligations; or (iv) by any combination of the above. Optionee may make a Withholding Election only if the following conditions are met:

(a) the Withholding Election is made on or prior to the date on which the amount of tax required to be withheld is determined by executing and delivering to the Company a properly completed Notice of Withholding Election in substantially the form required by the Committee (a form of which is available from the Company); and

(b) any Withholding Election will be irrevocable; however, the Committee may, in its sole discretion, disapprove and give no effect to the Withholding Election.

3. Rights as Shareholder. Until the stock certificates reflecting the Option Shares accruing to the Optionee upon exercise of the Option are issued to the Optionee, the Optionee shall have no rights as a shareholder with respect to such Option Shares. The Company shall make no adjustment for any dividends or distributions or other rights on or with respect to Option Shares for which the record date is prior to the issuance of that stock certificate, except as the Plan or this Award otherwise provides.

4. Restriction on Transfer of Option. Except as otherwise expressly permitted by the Committee in writing, the Option evidenced hereby is nontransferable other than by will or the laws of descent and distribution, and, shall be exercisable during the lifetime of the Optionee only by the Optionee (or in the event of his disability, by his legal representative) and after his death, by the Optionee's designated beneficiary. If the Optionee fails to name a beneficiary, the Option may be exercised by the Optionee's spouse, if the spouse survives the Optionee, otherwise, by the legal representative of the Optionee's estate. If no legal representative is appointed, the Option may be exercised by the person entitled to that right under the laws of descent and distribution of the state where the Optionee resided at the time of death.

5. Changes in Capitalization.

(a) The number of Option Shares and the Exercise Price shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a subdivision or combination of shares or the payment of a stock dividend (in excess of two percent (2%)) in shares of Common Stock to holders of outstanding shares of Common Stock or any other increase or decrease in the number of shares of Common Stock outstanding effected without receipt of consideration by the Company.

(b) If the Company shall be the surviving corporation in any merger, consolidation, reorganization or other change in the corporate structure of the Company or the Common Stock or in the event of an extraordinary dividend (including a spin-off), the Optionee shall be entitled to purchase or receive the number and class of securities to which a holder of the number of shares of Common Stock subject to the Option at the time of such transaction would have been entitled to receive as a result of such transaction, and a corresponding adjustment shall be made in the Exercise Price. Upon the occurrence of a Change in Control (defined below) all of the unvested Options granted hereunder will vest sixty (60) days after the Change in Control event occurs (unless vesting earlier pursuant to the terms of the Award). If the Optionee is terminated by the Company other than for egregious circumstances during such sixty (60) day period, all of the unvested Options granted hereunder will vest on the date of termination. For purposes of this Agreement, the term "Change in Control" shall have the same meaning as the term "Change in Control" as set forth in the Plan; provided, however, that a Change in Control shall not include any event as a result of which (i) Don Tyson; (ii) individuals related to Don Tyson by blood, marriage or adoption; and/or (iii) any entities (including, but not limited to, a partnership, corporation, trust or limited liability company) in which one or more individuals described in clauses (i) and (ii) hereof possess over fifty percent (50%) of the voting power or beneficial interests of such entities continue to possess, immediately after such event, over fifty percent (50%) of the voting power in the Company or, if applicable, successor entity. The Committee shall have the sole discretion to interpret the foregoing provisions of this paragraph.

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(c) In lieu of any adjustment or permitted exercises of the Option contemplated by Subsection (b) above, the Committee retains the discretion in the event of any transaction contemplated by Subsection (b) to cancel the Option in consideration for a payment to the Optionee equal to the positive difference between the then aggregate Fair Market Value of, and the aggregate Exercise Price for, those vested Option Shares which have not been exercised as of the effective date of such transaction. Such payment may be made in shares of Common Stock or in cash or in any combination thereof.

(d) The existence of the Plan and this Award shall not affect in any way the right or power of the Company to make or authorize any adjustment, reclassification, reorganization or other change in its capital or business structure, any merger or consolidation of the Company, any issue of debt or equity securities having preferences or priorities as to the Common Stock or the rights thereof, the dissolution or liquidation of the Company, any sale or transfer of all or any part of its business or assets, or any other corporate act or proceeding.

6. Special Limitations on Exercise. Any exercise of the Option is subject to the condition that if at any time the Committee, in its discretion, shall determine that the listing, registration or qualification of the shares covered by the Option upon any securities exchange or under any state or federal law is necessary or desirable as a condition of or in connection with the delivery of shares thereunder, the delivery of any or all shares pursuant to the Option may be withheld unless and until such listing, registration or qualification shall have been effected. The Optionee shall deliver to the Company, prior to the exercise of the Option, such information, representations and warranties as the Company may reasonably request in order for the Company to be able to satisfy itself that the Option Shares being acquired in accordance with the terms of an applicable exemption from the securities registration requirements of applicable federal and state securities laws.

7. Legend on Stock Certificates. The Company may endorse any legends on certificates evidencing Option Shares that it deems necessary and advisable or as may be required to reflect any restrictions provided for herein or otherwise required by applicable federal or state securities laws.

8. Governing Laws. This Award shall be construed, administered and enforced according to the laws of Delaware; provided, however, no option may be exercised except, in the reasonable judgment of the Board of Directors, in compliance with exemptions under applicable state securities laws of the state in which the Optionee resides, and/or any other applicable securities laws.

9. Successors. This Award shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of the parties.

10. Notice. Except as otherwise specified herein, all notices and other communications under this Award shall be in writing and shall be deemed to have been given if personally delivered or if sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the proposed recipient at the last known address of the recipient. Any party may designate any other address to which notices shall be sent by giving notice of the address to the other parties in the same manner as provided herein.

11. Severability. In the event that any one or more of the provisions or portion thereof contained in this Award shall for any reason be held to be invalid, illegal or unenforceable in any respect, the same shall not invalidate or otherwise affect any other provisions of this Award, and this Award shall be construed as if the invalid, illegal or unenforceable provision or portion thereof had never been contained herein.

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12. Certain Breaches of Employment Agreement. Notwithstanding anything to the contrary herein, if, at any time, the Company determines that the Optionee has breached any of the terms, provisions and restrictions imposed upon the Optionee under any employment agreement between the Company and Optionee, or any provision thereof, then in effect (the "Employment Agreement"), all of the Option Shares shall be forfeited. Such forfeiture shall occur without limiting the Company's other rights and remedies available under the Employment Agreement.

13. Entire Agreement. Subject to the terms and conditions of the Plan, this Award expresses the entire understanding and agreement of the parties.

14. Violation. Any transfer, pledge, sale, assignment, or hypothecation of the Option or any portion thereof shall be a violation of the terms of this Award and shall be void and without effect.

15. Headings. Paragraph headings used herein are for convenience of reference only and shall not be considered in construing this Award.

16. Specific Performance. In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Award, the party or parties who are thereby aggrieved shall have the right to specific performance and injunction in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative.

17. No Right to Continued Employment. Neither the establishment of the Plan nor the award of Option Shares hereunder shall be construed as giving the Optionee the right to continued employment.

18. Defined Terms. Any capitalized terms herein not otherwise defined shall have the meanings set forth for such terms in the Plan.

**NONQUALIFIED STOCK OPTION AWARD  
PURSUANT TO THE TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

THIS AWARD (the "Award") is made as of the Grant Date by Tyson Foods, Inc., a Delaware corporation (the "Company"), to «**First\_name** \_\_\_\_\_» «**MI**» «**Last\_name** \_\_\_\_\_» (the "Optionee") Personnel No. «**Persno**» .

Upon and subject to the Terms and Conditions applicable hereto and incorporated herein by reference, the Company hereby awards as of the Grant Date to Optionee a nonqualified stock option (the "Option"), as described below, to purchase the Option Shares.

- A. Grant Date: \_\_\_\_\_ .
- B. Type of Option: Nonqualified Stock Option.
- C. Plan under which granted: Tyson Foods, Inc. 2000 Stock Incentive Plan ("Plan").
- D. Option Shares: All or any part of «**TXT\_Options**» shares of the Company's \$.10 par value Class A common stock (the "Common Stock"), subject to adjustment as provided in the Terms and Conditions.
- E. Exercise Price: \$\_\_\_\_\_ per share, subject to adjustment as provided in the Terms and Conditions.
- F. Option Period: The Option may be exercised only during the Option Period which commences on the Grant Date and ends, subject to earlier termination as provided in the Terms and Conditions, on the earliest of the following (a) the tenth (10th) anniversary of the Grant Date; (b) three months following the date the Optionee ceases to be an employee of the Company (including any Affiliate) for any reason other than death, Disability or, termination of employment without cause after attaining at least age 62; or (c) one year following the date the Optionee ceases to be an employee of the Company (including any Affiliate) due to death, Disability or, termination of employment without cause after attaining at least age 62; provided, however, that the Option may only be exercised as to the vested Option Shares determined pursuant to the Vesting Schedule below. *Note that other restrictions to exercising the Option, as described in the Terms and Conditions, may apply .*
- G. Vesting Schedule: The Option Shares shall become vested Option Shares in the increasing percentages indicated below but only if the Optionee remains continuously employed by the Company or any Affiliate through the date indicated beside the applicable percentage:

Percentage of Option Shares Which are Vested Shares	Dates Upon Which Shares Become Vested Shares _____
Zero (0)	Prior to First Anniversary of Grant Date
One-third (1/3)	First Anniversary of Grant Date
One-third (1/3)	Second Anniversary of Grant Date
One-third (1/3)	Third Anniversary of Grant Date

Notwithstanding the foregoing, all unvested Option Shares shall become vested Option Shares immediately upon the Optionee's death, Disability or termination of employment without cause after attaining at least age 62. If Optionee is involuntarily terminated by the Company other than for Cause, and such Optionee meets the Rule of 70 (i.e., at least 55 years of age, and when age and years of employment with the Company are added together the sum equals or exceeds 70), any of Optionee's non-vested Options awarded two or more years prior to the date of termination shall vest upon the Optionee's execution of a Separation Agreement and General Release and such Options will be exercisable for a period of three months from Optionee's termination date (but no later than the tenth anniversary of the Grant Date). Upon a Change in Control (defined in Section 5(b) of the Terms and Conditions), all unvested Option Shares granted under this Award, or any prior award of Option Shares from the Company to the Optionee, shall become vested Option Shares sixty (60) days after the Change in Control.

IN WITNESS WHEREOF, the Company has executed and sealed this Award as of the Grant Date set forth above.

TYSON FOODS, INC.:

By: \_\_\_\_\_  
Title: President and CEO

**TERMS AND CONDITIONS TO THE  
NONQUALIFIED STOCK OPTION AWARD  
PURSUANT TO THE  
TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

1. Exercise of Option. Subject to the provisions of the Plan and the Award, which is made pursuant to the Plan, and subject also to these Terms and Conditions, which are incorporated in and made a part of the attached Award:

(a) The Option may be exercised with respect to all or any portion of the vested Option Shares at any time during the Option Period by the delivery to the Company, at its principal place of business, of (i) a notice of exercise in substantially the form required by the Committee (as defined in the Plan) (a form of which is available from the Company), which shall be actually delivered to the Company before the Optionee desires to exercise all or any portion of the Option; (ii) payment to the Company of the Exercise Price *multiplied* by the number of shares being purchased (the "Purchase Price") in the manner provided in Subsection (b), and (iii) satisfaction of the tax withholding obligation described in Section 2 below.

(b) The Purchase Price shall be paid in full upon the exercise of an Option and no Option Shares shall be issued or delivered until full payment therefor has been made. Payment of the Purchase Price for all Option Shares purchased pursuant to the exercise of an Option shall be made in cash, certified check, or, alternatively, as follows:

(i) by delivery to the Company of a number of shares of Common Stock owned by the Optionee prior to the date of the Option's exercise, having a Fair Market Value, as determined under the Plan, on the date of exercise either equal to the Purchase Price or in combination with cash to equal the Purchase Price;

(ii) subject to applicable securities laws, by receipt of the Purchase Price in cash from a broker, dealer or other "creditor" as defined by Regulation T issued by the Board of Governors of the Federal Reserve System following delivery by the Optionee to the Committee of instructions in a form acceptable to the Committee regarding delivery to such broker, dealer or other creditor of that number of Option Shares with respect to which the Option is exercised; or

(iii) by any combination of the foregoing.

Upon acceptance of such notice and receipt of payment in full of the Purchase Price and any tax withholding liability, the Company shall cause to be issued a certificate representing the Option Shares purchased.

2. Withholding. The Optionee must satisfy federal, state and local, if any, withholding taxes imposed by reason of the exercise of the Option either by paying to the Company the full amount of the withholding obligation (i) in cash; (ii) by tendering shares of Common Stock owned by the Optionee prior to the date of exercise having a Fair Market Value equal to the tax withholding obligation; (iii) by electing, irrevocably and in substantially the form required by the Committee (the "Withholding Election"), to have the smallest number of whole shares of Common Stock which, when multiplied by the Fair Market Value of the Common Stock as of the date the Option is exercised, is sufficient to satisfy the minimum required amount of tax withholding obligations; or (iv) by any combination of the above. Optionee may make a Withholding Election only if the following conditions are met:

(a) the Withholding Election is made on or prior to the date on which the amount of tax required to be withheld is determined by executing and delivering to the Company a properly completed Notice of Withholding Election in substantially the form required by the Committee (a form of which is available from the Company); and

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(b) any Withholding Election will be irrevocable; however, the Committee may, in its sole discretion, disapprove and give no effect to the Withholding Election.

3. Rights as Shareholder. Until the stock certificates reflecting the Option Shares accruing to the Optionee upon exercise of the Option are issued to the Optionee, the Optionee shall have no rights as a shareholder with respect to such Option Shares. The Company shall make no adjustment for any dividends or distributions or other rights on or with respect to Option Shares for which the record date is prior to the issuance of that stock certificate, except as the Plan or this Award otherwise provides.

4. Restriction on Transfer of Option. Except as otherwise expressly permitted by the Committee in writing, the Option evidenced hereby is nontransferable other than by will or the laws of descent and distribution, and, shall be exercisable during the lifetime of the Optionee only by the Optionee (or in the event of his disability, by his legal representative) and after his death, by the Optionee's designated beneficiary. If the Optionee fails to name a beneficiary, the Option may be exercised by the Optionee's spouse, if the spouse survives the Optionee, otherwise, by the legal representative of the Optionee's estate. If no legal representative is appointed, the Option may be exercised by the person entitled to that right under the laws of descent and distribution of the state where the Optionee resided at the time of death.

5. Changes in Capitalization.

(a) The number of Option Shares and the Exercise Price shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a subdivision or combination of shares or the payment of a stock dividend (in excess of two percent (2%)) in shares of Common Stock to holders of outstanding shares of Common Stock or any other increase or decrease in the number of shares of Common Stock outstanding effected without receipt of consideration by the Company.

(b) If the Company shall be the surviving corporation in any merger, consolidation, reorganization or other change in the corporate structure of the Company or the Common Stock or in the event of an extraordinary dividend (including a spin-off), the Optionee shall be entitled to purchase or receive the number and class of securities to which a holder of the number of shares of Common Stock subject to the Option at the time of such transaction would have been entitled to receive as a result of such transaction, and a corresponding adjustment shall be made in the Exercise Price. Upon the occurrence of a Change in Control (defined below) all of the unvested Options granted hereunder will vest sixty (60) days after the Change in Control event occurs (unless vesting earlier pursuant to the terms of the Award). If the Optionee is terminated by the Company other than for egregious circumstances during such sixty (60) day period, all of the unvested Options granted hereunder will vest on the date of termination. For purposes of this Agreement, the term "Change in Control" shall have the same meaning as the term "Change in Control" as set forth in the Plan; provided, however, that a Change in Control shall not include any event as a result of which (i) Don Tyson; (ii) individuals related to Don Tyson by blood, marriage or adoption; and/or (iii) any entities (including, but not limited to, a partnership, corporation, trust or limited liability company) in which one or more individuals described in clauses (i) and (ii) hereof possess over fifty percent (50%) of the voting power or beneficial interests of such entities continue to possess, immediately after such event, over fifty percent (50%) of the voting power in the Company or, if applicable, successor entity. The Committee shall have the sole discretion to interpret the foregoing provisions of this paragraph.

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(c) In lieu of any adjustment or permitted exercises of the Option contemplated by Subsection (b) above, the Committee retains the discretion in the event of any transaction contemplated by Subsection (b) to cancel the Option in consideration for a payment to the Optionee equal to the positive difference between the then aggregate Fair Market Value of, and the aggregate Exercise Price for, those vested Option Shares which have not been exercised as of the effective date of such transaction. Such payment may be made in shares of Common Stock or in cash or in any combination thereof.

(d) The existence of the Plan and this Award shall not affect in any way the right or power of the Company to make or authorize any adjustment, reclassification, reorganization or other change in its capital or business structure, any merger or consolidation of the Company, any issue of debt or equity securities having preferences or priorities as to the Common Stock or the rights thereof, the dissolution or liquidation of the Company, any sale or transfer of all or any part of its business or assets, or any other corporate act or proceeding.

6. Special Limitations on Exercise. Any exercise of the Option is subject to the condition that if at any time the Committee, in its discretion, shall determine that the listing, registration or qualification of the shares covered by the Option upon any securities exchange or under any state or federal law is necessary or desirable as a condition of or in connection with the delivery of shares thereunder, the delivery of any or all shares pursuant to the Option may be withheld unless and until such listing, registration or qualification shall have been effected. The Optionee shall deliver to the Company, prior to the exercise of the Option, such information, representations and warranties as the Company may reasonably request in order for the Company to be able to satisfy itself that the Option Shares being acquired in accordance with the terms of an applicable exemption from the securities registration requirements of applicable federal and state securities laws.

7. Legend on Stock Certificates. The Company may endorse any legends on certificates evidencing Option Shares that it deems necessary and advisable or as may be required to reflect any restrictions provided for herein or otherwise required by applicable federal or state securities laws.

8. Governing Laws. This Award shall be construed, administered and enforced according to the laws of Delaware; provided, however, no option may be exercised except, in the reasonable judgment of the Board of Directors, in compliance with exemptions under applicable state securities laws of the state in which the Optionee resides, and/or any other applicable securities laws.

9. Successors. This Award shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of the parties.

10. Notice. Except as otherwise specified herein, all notices and other communications under this Award shall be in writing and shall be deemed to have been given if personally delivered or if sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the proposed recipient at the last known address of the recipient. Any party may designate any other address to which notices shall be sent by giving notice of the address to the other parties in the same manner as provided herein.

11. Severability. In the event that any one or more of the provisions or portion thereof contained in this Award shall for any reason be held to be invalid, illegal or unenforceable in any respect, the same shall not invalidate or otherwise affect any other provisions of this Award, and this Award shall be construed as if the invalid, illegal or unenforceable provision or portion thereof had never been contained herein.

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12. Certain Breaches of Employment Agreement. Notwithstanding anything to the contrary herein, if, at any time, the Company determines that the Optionee has breached any of the terms, provisions and restrictions imposed upon the Optionee under any employment agreement between the Company and Optionee, or any provision thereof, then in effect (the "Employment Agreement"), all of the Option Shares shall be forfeited. Such forfeiture shall occur without limiting the Company's other rights and remedies available under the Employment Agreement.

13. Entire Agreement. Subject to the terms and conditions of the Plan, this Award expresses the entire understanding and agreement of the parties.

14. Violation. Any transfer, pledge, sale, assignment, or hypothecation of the Option or any portion thereof shall be a violation of the terms of this Award and shall be void and without effect.

15. Headings. Paragraph headings used herein are for convenience of reference only and shall not be considered in construing this Award.

16. Specific Performance. In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Award, the party or parties who are thereby aggrieved shall have the right to specific performance and injunction in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative.

17. No Right to Continued Employment. Neither the establishment of the Plan nor the award of Option Shares hereunder shall be construed as giving the Optionee the right to continued employment.

18. Defined Terms. Any capitalized terms herein not otherwise defined shall have the meanings set forth for such terms in the Plan.

**TYSON FOODS, INC.**  
**PERFORMANCE STOCK AWARD**

THIS PERFORMANCE STOCK AWARD (the "Award") is made effective as of \_\_\_\_\_ (the "Award Date") by TYSON FOODS, INC., a Delaware corporation, to \_\_\_\_\_ (the "Recipient").

**Preliminary Statements**

A. To promote the success of the Company, the Company desires to provide the Recipient with an enhanced incentive to perform services on behalf of the Company to aid in its continued growth and financial success in a manner that aligns the interests of the Recipient with the interests, generally, of the stockholders of the Company.

B. The terms of the Tyson Foods, Inc. 2000 Stock Incentive Plan (the "Plan") permit the Compensation Committee of the Board of Directors of the Company (the "Committee") to grant shares generally on such terms and conditions as may be provided by the Committee.

C. Terms that are not defined in the text of this Award are contained in Section 4.10 below or in the Plan.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in this Award and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**Section 1**  
**Award of Performance Shares**

1.1 Award of Performance Shares. Subject to the terms, restrictions, limitations, and conditions stated in this Award, the Company hereby awards to Recipient the right to receive up to \_\_\_\_\_ shares of Stock if and to the extent the Peer Group Goals are satisfied at the Measurement Date (the "Award").

1.2 Performance Measure Conditions to Payment of Award. The extent, if any, to which the Recipient shall have the right to payment of the Award shall depend, in part, upon the extent to which the performance measure has been satisfied as of the Measurement Date, as specified below. The Peer Group Goals shall have the following benchmarks during the Performance Period:

(a) Threshold performance shall mean that the Company has outperformed five (5) members of its Peer Group on the basis of Stock Price Comparison, which shall result in the payment of \_\_\_\_\_ shares of Stock to the Recipient;

(b) Target performance shall mean that the Company has outperformed seven (7) members of its Peer Group on the basis of Stock Price Comparison, which shall result in the payment of \_\_\_\_\_ shares of Stock to the Recipient; and

(c) Maximum or above performance shall mean that the Company has outperformed nine (9) members of its Peer Group on the basis of Stock Price Comparison, which shall result in the payment of \_\_\_\_\_ shares of Stock to the Recipient.

Performance between the foregoing benchmarks shall result in the payment of a number of shares of Stock to the Recipient determined as a matter of applying a straight-line interpolation between the minimum number of shares of Stock specified in Clause (a) above and the maximum number of shares of Stock specified in Clause (c) above.

1.3 General Conditions to Payment of Award. Regardless of the extent to which the performance measures are attained under Section 1.2, the extent, if any, to which the Recipient shall have the right to payment of the Award is further conditioned upon the Recipient's satisfaction of the following requirements during the Performance Period:

(a) The Recipient shall remain continuously in the employ of the Company or any Affiliate from the Award Date through the Vesting Date (as defined in Section 1.5 below), except as otherwise provided in Section 2.2 below; and

(b) If the Recipient has elected to deliver cash or a certified check under Section 1.4, the Recipient shall have delivered to the Company cash or a certified check for the payment of applicable tax withholding obligations (whether federal, state or local) imposed on the Company by reason of the payment of the Award.

1.4 Optional Withholding Election. The Recipient may elect to (i) pay the applicable tax withholding obligations in cash or by certified check, or (ii) have the shares of Stock otherwise payable pursuant to the Award reduced by the smallest number of whole shares of Stock which, when multiplied by the fair market value of the Stock on the Payment Date (as defined in Section 1.5 below), as determined by the Committee, is sufficient to satisfy the amount of the tax withholding obligations imposed on the Company by reason of the Award (the "Withholding Election"). The Recipient may make a Withholding Election only if all of the following conditions are met:

(a) the Withholding Election must be made at least 60 days prior to the date on which the amount of tax required to be withheld is determined (the "Tax Date") by executing and delivering to the Company a properly completed Notice of Withholding Election, in substantially the form of Exhibit A attached hereto;

(b) if no Withholding Election is delivered by the Recipient to the Company and the Recipient has not satisfied the applicable tax withholding obligations in accordance with Section 1.3(b) above, the Company will automatically reduce the Award by the smallest number of whole shares of Stock which is sufficient to satisfy the amount of the tax withholding obligations imposed on the Company by reason of the Award; and

(c) any Withholding Election made will be irrevocable; however, the Board of Directors may, in its sole discretion, disapprove and give no effect to any Withholding Election.

1.5 Payment of the Award. The Award shall vest two (2) business days after the Measurement Date (the “Vesting Date”) and shall be paid in the appropriate number of shares of Stock of the Company, reduced, if applicable, in accordance with any Withholding Election tendered pursuant to Section 1.4, during the \_\_\_\_\_ calendar year but not prior to the Vesting Date (such date of payment is referred to herein as the “Payment Date”).

## **Section 2**

### **Restrictions and Forfeitures**

2.1 Forfeitures. Notwithstanding anything to the contrary in this Award, the Award shall expire and no payment of any type shall be due in the event of the occurrence of either one of the events described in Sections 3(b) or 3(c).

2.2 Death, Disability and Retirement. If, prior to the Vesting Date, the Recipient ceases to be employed by the Company and all of its Affiliates due to (i) death, (ii) Disability, or (iii) voluntary termination of employment after attaining at least age 62 and at least 12 months and one day have elapsed since the execution date by the Recipient of his/her most recent employment agreement with the Company (the “Employment Agreement”) and the Recipient retires, then the Recipient (or, if applicable, the legal representative of the Recipient) shall have the right to the payment of the shares of Stock subject to the Award, but only if and to the extent that the performance measures are satisfied at the Measurement Date, determined as if the Recipient had continued in the employ of the Company. If payment is due in accordance with this Section 2.2, the payment shall be made at the same time as payment would otherwise be due in accordance with Section 1.5.

2.3 Restrictions on Transfer of Award. No rights attributable to the Award may be conveyed, pledged, assigned, transferred, hypothecated, encumbered, or otherwise disposed of by the Recipient, except by the laws of descent and distribution.

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**Section 3**  
**Expiration of the Award**

The Award shall terminate upon the first to occur of the following events:

(a) the delivery of the appropriate number of shares of Stock to the Recipient following the occurrence of the Measurement Date upon attaining at least the threshold benchmark for the Peer Group Goals, as the terms of the Award so provide and, subject to any applicable exception in Section 2.2 above, the Recipient's continuous employment with the Company or an Affiliate through the Vesting Date;

(b) the Recipient ceases to be employed by the Company and all of its Affiliates for any reason prior to the occurrence of the Vesting Date, other than as specified in Section 2.2; or

(c) the attainment of the Measurement Date and a corresponding failure to achieve at least the threshold benchmark for the Peer Group Goals.

**Section 4**  
**General Provisions**

4.1 Committee Determinations . All determinations required by the terms of the Award shall be made by the Committee and such determinations shall be final, binding and conclusive upon the Recipient and the Recipient's successors and permitted assigns.

4.2 Rights as Stockholder . Recipient shall have no rights as a stockholder with respect to any shares of the Stock of the Company as a result of this Award prior to the delivery of shares of Stock in payment of the Award.

4.3 Change in Capitalization . Except as otherwise provided in the Recipient's Employment Agreement, if the outstanding shares of the Stock shall be recapitalized, reorganized or there is any other change in the corporate structure of the Company, the number of shares of Stock subject to the Award shall be adjusted by the Committee in a manner that it determines, in its sole discretion, best reflects the event.

4.4 Governing Laws . This Award shall be construed, administered and enforced according to the laws of the State of Delaware.

4.5 Notice. Except as otherwise specified herein, all notices and other communications given with respect to this Award shall be in writing and shall be deemed to have been given if personally delivered or if sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the proposed recipient at the last known address of the recipient. Until further notice, the address for the Company is:

Tyson Foods, Inc.  
2200 Don Tyson Parkway  
Springdale, Arkansas 72762-6999  
Attn: Vice President - Benefits

Any party may designate any other address to which notices shall be sent by giving notice of the address to the other party in the same manner as provided herein.

4.6 Severability. In the event that any one or more of the provisions or portion thereof contained in this Award shall for any reason be held to be invalid, illegal, or unenforceable in any respect, the same shall not invalidate or otherwise affect any other provisions of this Award, and this Award shall be construed as if the invalid, illegal or unenforceable provision or portion thereof had never been contained herein.

4.7 Entire Agreement. Subject to the terms of the Plan, which are incorporated herein by reference, and Section 14 of the Employment Agreement (or any successor provision), this Award expresses the entire understanding and agreement of the parties with respect to the subject matter hereof.

4.8 Violation. Any transfer, pledge, sale, assignment, or hypothecation of any rights attributable to the Award shall be a violation of the terms of this Award and shall be void and without effect.

4.9 No Employment Rights Created. The grant of the Award shall not be construed as giving Recipient the right to continued employment with the Company or any Affiliate.

4.10 Definitions. For purposes of this Award, capitalized terms not defined herein or below shall have the meanings ascribed to them in the Plan:

“Company” means Tyson Foods, Inc.; however, where the context so requires, the term shall include any successor company or business entity.

“Measurement Date” means \_\_\_\_\_.

“Peer Group” means Campbell Soup Co., ConAgra Foods, Inc., General Mills, Inc., H. J. Heinz Co., Hershey Foods Corporation, Kellogg Company, McCormick & Company, Inc., Sara Lee Corporation, Smithfield Foods, Inc., Pilgrim’s Pride Corp. and Hormel Foods Corporation. If one or more members of the Peer Group ceases to be the surviving entity in a corporate transaction, the successor entity shall replace the entity which has ceased to exist provided that the primary business of the successor entity and its affiliates is in substantially the same lines of business as the Company. If a member of the Peer Group (a) ceases to have any class of securities registered under the Securities Exchange Act of 1934; (b) ceases to exist in circumstances where there is no successor entity or where the primary business of the successor entity and its affiliates is not in substantially the same lines of business as the Company; or (c) becomes bankrupt, that member of the Peer Group shall be deleted as a member of the Peer Group and shall not be counted for purposes of measuring satisfaction of the benchmarks provided in Section 1.2 and said benchmarks shall be reduced accordingly.

“Peer Group Goals” means the performance measures specified in Section 1.2.

“Performance Period” means the period beginning as of the Award Date and ending on the Measurement Date.

“Stock” means the shares of the Class A Common Stock of the Company granted as performance stock under this Award.

“Stock Price Comparison” means the comparison of the Company’s Stock price against the stock price for each of the Peer Group companies, each as reported in The Wall Street Journal. Such comparison shall begin with the closing price for the Company’s Stock and the stock of each of the Peer Group companies on \_\_\_\_\_ and end with the average closing price of each company’s stock for the thirty (30) trading days ending on the Measurement Date.

IN WITNESS WHEREOF, the Company has executed this Award as of the date set forth below.

TYSON FOODS, INC.

By: \_\_\_\_\_  
Title: President and CEO

## Computation of Ratio of Earnings to Fixed Charges

(dollars in millions)

	Fiscal Years				
	2011	2010	2009	2008	2007
<b>Earnings:</b>					
Income (loss) from continuing operations before income taxes	\$1,074	\$1,203	\$(543)	\$ 154	\$ 410
Add: Fixed charges	305	360	388	272	278
Add: Amortization of capitalized interest	4	3	4	4	3
Less: Capitalized interest	(9)	(11)	(3)	(3)	(2)
Total adjusted earnings	1,374	1,555	(154)	427	689
<b>Fixed Charges:</b>					
Interest	191	240	289	212	228
Capitalized interest	9	11	3	3	2
Amortization of debt discount expense	44	46	38	3	4
Rentals at computed interest factor (1)	61	63	58	54	44
Total fixed charges	\$ 305	\$ 360	\$ 388	\$ 272	\$ 278
Ratio of Earnings to Fixed Charges	4.50	4.32		1.57	2.48
Insufficient Coverage			\$ 542		

(1) Amounts represent those portions of rent expense (one-third) that are reasonable approximations of interest costs.

**Code of Conduct**

For over 75 years, Tyson Foods' success has been based on the most valuable asset we have as a company – our people. From our earliest days of hauling live chickens to market, to our current position as one of the world's largest food production companies, our commitment to "Doing What's Right!" with regard to our people has sustained the growth of our company, enhanced our reputation, and elevated respect for our brand.

The guidelines expressed in this Code of Conduct are drawn from existing policies and procedures. Of course, no single document or code can address every possible business situation. This Code, however, provides a foundational resource that offers guidance on how to act in most situations. It also provides specific guidance on whom to contact when questions or concerns arise about a situation or a particular transaction.

Our focus on taking care of our customers, shareholders, suppliers, and Team Members is apparent in the way we conduct business every day. Our Core Values, Cultural Tenets, Customer Creed, business strategy, and this Code of Conduct are guidelines that are available to each of us to make sure we conduct business the right way, the ethical way, every day.

A company culture begins with its leaders and grows through the actions and behaviors of its people. Our executive team may set and articulate values, tenets, creeds, and policies, but all of us are responsible for executing and exemplifying the company culture of "Doing What's Right!"

/s/ John Tyson

Chairman  
Tyson Foods, Inc.

/s/ Donnie Smith

President and CEO  
Tyson Foods, Inc.

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## **Section 1: Introduction**

### **Applicability**

This Tyson Foods, Inc., Code of Conduct (“Code”) describes the basic ethical standards that should be observed by the Company, the Tyson Board of Directors, Team Members, business units, and subsidiaries (“Tyson”). These standards also apply to consultants, lobbyists, brokers, agents, and other representatives of Tyson. This Code of Conduct expresses the foundation for our Company’s policies. All Team Members are encouraged to review the related Tyson policies that are linked under “Company Info” on the Tyson Intranet home page. Any waiver of principles expressed in this Code must be approved by the Board of Directors.

This Code attempts to address the most common legal and ethical issues that we might encounter; however, it cannot address every business situation. When deciding whether an action is ethical, or permitted under this Code, consider the following questions:

- Does my action comply with Tyson Foods’ Core Values?
- Do I feel like this action is the right thing to do?
- Is it consistent with the way I would want to be treated?
- Would Tyson or I be embarrassed if my action were published in the newspaper?
- Is it legal?

If you have any doubts about an action you are considering, seek guidance from one of the resources listed within this Code or contact the Tyson Help Line at 1-888-301-7304.

### **Training and Verification**

Our business success depends on each Team Member’s commitment to operating with integrity, respect, accountability, and honor. All Team Members and Tyson Directors must participate in an annual compliance-training curriculum and certify that they understand and agree to follow the provisions of this Code. In addition, certain Team Members may be required to participate in training and acknowledge their understanding of key policies based on their specific roles and responsibilities. To review the current year’s training curriculum, please refer to the Required Training Policy.

### **Reporting, Retaliation, and Consequences**

We must all be alert and sensitive to workplace situations that could result in illegal or unethical actions. If you become aware of, or suspect, any violation of the law, the Code, or Tyson policy, you have a duty to report the issue promptly to a member of management with whom you feel comfortable or your local Human Resources (HR) representative. As part of your personal responsibility for “Doing What’s Right,” you should never delegate the responsibility of reporting misconduct, nor should you assume someone else will report the misconduct.

Tyson recognizes there may be situations where you do not feel comfortable going to local management or you may want to remain anonymous. In these situations, we recommend using the Tyson Help Line (1-888-301-7304) or the Tyson Web Line ([tysonintegrity.eawebline.com](http://tysonintegrity.eawebline.com)).

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We also encourage you to use these confidential options when you:

- Want further advice or guidance on an ethical issue;
- Want to tell us about a situation where you think the law or Company policy has not been upheld; and/or
- Think issues you have reported locally are not being addressed properly.

The Tyson Help Line and Web Line are free, accommodate most languages, and are available 24 hours a day, seven days a week. All of our reporting avenues are provided to uphold our commitment to our Core Values and to protect the rights of Team Members without fear of retaliation.

Tyson is devoted to maintaining a workplace where we can all raise questions or concerns without fear of retaliation. Tyson prohibits all forms of retaliation, including but not limited to verbal abuse or exclusion by management or coworkers, demotion or denial for promotion, relocation or reassignment, threats of physical harm to person or property, and other adverse employment actions against those who in good faith report illegal or unethical conduct. This protection extends to those who cooperate in an official investigation.

Appropriate corrective action, up to and including termination, will be taken against any Team Member or Tyson Director whose conduct violates the provisions of this Code. Corrective action may extend to those who have knowledge or authority for failing to prevent, detect, or report a known violation or misconduct. Additionally, in cases in which a reporting Team Member is found to be involved in a violation, the Team Member may be disciplined when appropriate.

### **Company Records**

Tyson expects Team Members to create clear and accurate records, whether paper or electronic, and to maintain those records securely and in accordance with generally accepted accounting practices, any applicable government regulations, and all applicable Company policies. Company record-retention and destruction activities are governed by company-approved retention schedules and any applicable litigation or tax holds. Please refer to the Record Retention and Disposal Policy or contact the Records Retention staff for further guidance.

### **Reporting**

Q: Do I have to give my name when I use the Tyson Help Line or Web Line?

A: Because we keep your information confidential, we would rather you identify yourself as this helps us to better assess the concern you are raising. However, if you wish to remain anonymous, you may do so. In some cases, it does make it more difficult to conduct a thorough investigation.

Q: Do I have to be absolutely sure there is a problem before I make a report?

A: No. If you have a real and honest concern the law or our standards are being violated or have been violated, then you must report it. If it turns out your concern, reported in good faith, was unfounded or mistaken, you will not be penalized.

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## **Retaliation**

Q: How can I be sure I won't be penalized if I report wrongdoing?

A: Tyson is fully committed to protecting your position and maintaining the independence, impartiality, and confidentiality of the reporting and Help Line process. Anyone who tries to undermine our commitment not to retaliate against those who report in good faith can expect to be disciplined.

## **Consequences**

Q: What if someone makes a malicious or frivolous report?

A: Making a malicious or frivolous report or deliberately giving false information will be treated as serious misconduct, and disciplinary action may result.

Q: What will happen when I call the Tyson Help Line?

A: Your call will be answered by the trained staff of an independent third-party call-center provider. They will take written details of your report then make a confidential report to the Corporate Ethics and Compliance Department. Your call will not be recorded, and the details will only be provided to those investigating your concern. At the end of the call, you will be provided a reference number so you can contact the Help Line again to get a status of your report or to provide additional information.

## **Confidential and Personal Information**

Each day, Team Members are entrusted with confidential information from and about Team Members, customers, vendors, and our business. Team Members are prohibited from using or sharing any confidential information with third parties unless the third party signs a non-disclosure agreement. A non-disclosure agreement, or confidentiality agreement, is a legal contract intended to protect proprietary or confidential information. The parties involved in the non-disclosure agreement promise not to share information described except as specifically permitted in the agreement.

The Tyson Legal Department will review a non-disclosure agreement to ensure it includes all the appropriate information to protect Tyson and its proprietary or confidential information. Non-disclosure agreements should be in place prior to sharing proprietary or confidential information with another company, as well as when another company is sharing confidential information with Tyson.

## **Data Classification and Privacy**

Data classification is a system for identifying and protecting information critical to Tyson, its Team Members, supply partners, and customers. It is one of the first steps Team Members can take to safeguard Tyson information.

Data classification applies to any application, system, or device connected to the Tyson network, such as (but not limited to) Internet access, email, handheld devices, smart phones, desktops and laptops, plant and manufacturing control systems, physical documents, drawings, pictures, and specifications. In order to provide appropriate levels of protection, data needs to be classified according to sensitivity, which includes the confidentiality and availability related to the storage, processing, and transmission of data.

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Data owned, used, created, or maintained by Tyson is classified into one of three categories, which are listed below with a sample (not all inclusive) of Tyson data within each category:

- Public (Non-Confidential)
  - Publicly posted press releases
  - Publicly available marketing materials
- Tyson Confidential
  - Business partner information
  - Internal directories and organization charts
- Tyson Restricted Confidential
  - Medical records
  - Social Security numbers

Team Members are required to utilize the appropriate data classification in headers and/or footers for documents, presentations, and spreadsheets. In addition, we are encouraged to encrypt and password protect Tyson Restricted Confidential data to ensure that such data is secured and not accessible for unauthorized use. Please refer to the Data Classification Policy for further guidance and resources to protect our data.

## **Section 2: Who We Are**

- We strive to be a company of diverse people working together to produce food.
- We strive to be honorable people.
- We strive to be a faith-friendly company.

Tyson Foods' Core Values ensure our Company's commitment to the well-being of all Tyson Team Members. We are expected to act responsibly in the workplace by treating each other with dignity and respect; following all rules, policies, regulations, and laws; reporting policy violations; and working ethically at all times.

## **Team Member Bill of Rights**

Tyson is committed to fostering an environment in which Team Members can work together in a safe and productive workplace. Tyson has implemented a Team Member Bill of Rights that sets forth the rights and responsibilities of all Team Members, including the right to:

- A safe workplace,
- Be free from discrimination and retaliation,
- Certain information,
- Compensation for work performed,
- Adequate facilities and equipment,
- Training, and
- Tell Tyson First.

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## **Human Rights**

Tyson Foods' human-rights practices are grounded in the Company's Core Values, Team Member Bill of Rights, and this Code. These documents outline the many rights, benefits, and responsibilities enjoyed by and expected of Team Members. We strive to provide our Team Members a safe workplace and payment of wages owed for the work they perform.

Team Members are encouraged to honor their social, economic, cultural, and political institutions and to respect those of fellow Team Members. In addition, we do not employ anyone under the legal age of employment, and we do not tolerate forced and compulsory labor.

These rights, benefits, and responsibilities correspond with, or are in addition to, all other rights provided by state or federal law.

## **Dignity and Respect**

**Q:** My coworker is frequently rude and insulting toward on-site contractors. He claims this is a way to achieve the best performance. Is such behavior acceptable because they are not Team Members?

**A:** No. It is not acceptable, and in the long term, it is likely to adversely affect the contract and damage the vendor relationship. You should talk to your local HR manager about this behavior or call the Tyson Help Line.

## **Inclusion and Diversity**

**Q:** One of my coworkers seems to be picked on constantly by others. I discussed this with another Team Member who advised me to ignore the situation because if I spoke up I could "become the next target." Where can I go for advice?

**A:** You have a right to challenge and should challenge inappropriate or unacceptable behavior. You need to report this to your immediate supervisor to get this resolved at a local level. If you don't feel comfortable, seek advice from HR or call the Help Line.

## **Equal Employment Opportunity**

**Q:** My supervisor is recruiting and hiring new Team Members, but is excluding applicants because of age. How can I best advise my supervisor that this is wrong?

**A:** Do not discuss the situation with your supervisor. Tyson does not allow age discrimination. Instead, seek advice from your HR representative and allow him or her to handle the situation.

## **Dignity and Respect**

Team Members should treat one another with dignity and respect at all times. We should always be fair, reasonable, and courteous in our interactions. We should all practice the "Golden Rule" of treating others as we wish to be treated, thus helping to create a respectful workplace where each Team Member's contribution is valued.

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## **Inclusion and Diversity**

Tyson is dedicated to promoting an environment of inclusiveness. We recognize that understanding, respecting, and valuing inclusion and diversity is central to Tyson Core Values and its business culture. Team Members are encouraged to embrace and foster their diverse nature, and respect the diversity of others. Diversity includes differences in race, religion, national origin, or education, skills, background, thoughts, and experiences. Tyson is devoted to maintaining an inclusive work environment in which all Team Members feel welcome and each individual is considered a valued member of our team. Together we will ensure Tyson continues to encourage a culture of diversity, inclusion, and engagement, thus promoting the idea of ONE – One Person, One Team, One Goal.

## **Equal Employment Opportunity**

Tyson is dedicated to equal opportunity in all aspects of employment from recruitment to retirement. All personnel actions will be administered solely upon a Team Member's or applicant's qualifications, skills, performance, and abilities without discrimination with respect to any condition or characteristic protected by applicable laws.

## **Harassment and Discrimination**

Tyson is committed to providing a workplace free from unlawful harassment and discrimination. Our Harassment and Discrimination Policy prohibits any kind of unlawful harassing or discriminatory behavior, such as that involving race, sex, age, religion, veteran's status, color, national origin, disability, or sexual orientation. Harassment and discrimination are strictly prohibited in any form, including verbal, written, visual, or physical actions. We are required to exercise good judgment in our actions and interactions with others in and outside of the workplace; this expectation extends to our vendors, brokers, clients, and customers. We should treat one another with dignity and respect at all times by always being fair, reasonable, and courteous in our interactions with each other. We help to create a unified and respectful workplace by practicing the "Golden Rule" – treating others as we wish to be treated.

Team Members are required to immediately report any real or perceived harassment, discrimination, or unwelcomed behavior to their supervisors, local HR representatives, the Employment Compliance Department or the Tyson Help Line. Tyson is committed to assessing all complaints and taking swift remedial action as appropriate.

## **Workplace Violence**

Providing a safe workplace is one of our Core Values. Tyson is committed to maintaining a working environment free of violence or threats of violence. Tyson strives to provide an atmosphere in which all Team Members, visitors, contractors, and business partners are treated with dignity and respect. This includes freedom from inappropriate language, gestures, threats of violence, or physical violence. Workplace violence not only includes physical acts involving a weapon but also written or verbal remarks, such as making false, malicious, or unfounded statements against another person. Workplace violence is strictly prohibited and is absolutely not tolerated. Violations of this policy can lead to disciplinary action, up to and including termination.

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## **Potential Conflicts with Tyson Business (Conflicts of Interest)**

Team Members have a duty to avoid possible conflicts of interest. For example, a conflict may exist if a situation arises where a Team Member's or a family member's personal interest conflicts with the interests of Tyson Foods, or a Team Member uses his or her position at Tyson Foods to achieve personal gain. Such a conflict of interest may harm the integrity of both Tyson and the Team Member. All Team Members have a duty to report any personal, property, or business interests or obligations that might conflict or appear to conflict with the interests of Tyson. Situations or circumstances that may present or be perceived to present a conflict of interest should be disclosed to the Company according to the guidelines in the Potential Conflicts with Tyson Business Policy. Each disclosure will be evaluated by the Team Member's direct supervisor, HR, and the Ethics and Compliance Department for propriety on an individual basis. Gifts and entertainment may also be perceived as a conflict of interest; please refer to the section of Gifts and Entertainment for further guidance or contact the Ethics and Compliance Office.

## **Faith-Friendly Workplace and Chaplain Services**

At the heart of Tyson Foods' commitment to people is a profound respect for the Company's rich culture of various traditions, faiths, and beliefs. Our vision of being a faith-friendly company centers on the idea that faith enriches the workplace. Through Chaplain Services, Tyson provides Chaplains who offer counseling and personal guidance to Team Members of all faiths. Tyson strives to be a faith-friendly company by respecting all Team Members and acknowledging their faith in a manner that is respectful of all traditions and beliefs.

Chaplain Services offers proactive assistance with a spiritual foundation. Chaplains are available to talk in confidence with Team Members about many issues, including health concerns, marital and family issues, grief and death, substance abuse, and job and financial concerns. Team Members are encouraged to refer to the Chaplain Services intranet page or reach out to the Director of Chaplain Services for further guidance.

## **Religious Accommodations**

Tyson is dedicated to providing a workplace that is free from religious discrimination and intolerance. In order to maintain this commitment, we have adopted a Religious Accommodation Policy that outlines the guidelines and procedures for making reasonable accommodations for religious practices and observances. Team Members who believe their work requirements conflict with their sincerely held religious beliefs or practices must promptly report their concerns to their local HR representatives or contact the Tyson Help Line.

## **Substance Abuse**

A large part of Tyson Foods' success relies upon each Team Member performing his or her best while at work. Using alcohol or illegal drugs in the workplace prevents Team Members from contributing at their highest levels and puts their fellow Team Members in danger. Furthermore, Tyson does not allow the misuse of prescription medications or the use of alcohol, illegal drugs, or controlled substances in the workplace. Team Members are strongly encouraged to seek help for dependency issues.

All Team Members should become familiar with our Drug and Alcohol Abuse Policy. If you are ever suspicious of a Team Member's behavior, you must immediately report your concern to a HR representative or the Tyson Help Line.

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## **Management Standards of Behavior**

Those who are managers or supervise other Team Members have additional responsibilities, and our Management Standards of Behavior Policy sets forth guidelines and expectations for appropriate managerial behavior and disciplinary protocols. As leaders, we are to comply with and be stewards of Tyson Foods' Core Values and Cultural Tenets – both in word and deed. Whether we are on the job or off, managers have an obligation to align ourselves with these values and tenets. Management Team Members are the first point of contact when Team Members have concerns, and as such, need to be ready and willing to listen and respond appropriately. Management Team Members have the additional responsibility of closely monitoring compliance with the Code of those they supervise and ensuring that third parties with whom they interact are aware of and comply with the policies and procedures.

## **Social Media**

Social media tools have added another dimension to the way we communicate. As we engage in these online communities, remember that the Code and policies apply to all online communications. Tyson respects your right to personal speech. At the same time, Tyson also prohibits us from sharing sensitive business information, such as posting messages about business performance that could be perceived as material to the share price. Federal regulations require that you disclose your affiliation with Tyson if you comment about the Company or its products. Tyson reserves the right to investigate and take appropriate action against those who violate the Code or policies through social media tools. Whether you're engaging in public or virtual communities, it's always good to remember that online communications tend to be "evergreen." After something is posted, more often than not, the information stays up indefinitely and can be read out of context. Think before you post.

## **Immigration Laws**

A diverse workforce is critical to Tyson Foods' success, and we are committed to employing only individuals who are legally authorized to work in the United States.

Tyson is devoted to ensuring all of our hiring locations consistently implement and follow our Employment Eligibility Policy. Accordingly, we have established procedures that include training, certification, record keeping, and third-party verification to ensure compliance. Team Members are prohibited from knowingly hiring or allowing anyone to continue working if they are not authorized for employment.

If Team Members have questions regarding U.S. immigration and naturalization laws, they should contact Employment Compliance or the Legal Department.

## **Use of Company Assets**

Tyson provides Team Members with the assets necessary to achieve business objectives. These assets may include such items as a photocopier, a cell phone, or a Company car. Assets also include confidential Company information, Company goodwill, or Company logos. Misuse of any Company asset costs Tyson Foods money and is strictly prohibited. Tyson expects us to use good judgment in the proper use and care of these Company assets. If you suspect misuse of a Company asset, contact a member of management or the Tyson Help Line.

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## **Trade Secrets**

Trade secrets and intellectual property give Tyson an advantage over our competitors and customers. Protecting this information keeps us ahead of the competition. A trade secret can be a formula, practice, process, design, instrument, pattern, or compilation of information that is not common knowledge. Intellectual properties are creations of the mind – inventions, patents, names, images, trademarks, designs, literary and artistic works, and symbols. To protect Tyson information, we need to make sure we discuss with others only Tyson information that is public and non-confidential or is protected by a confidentiality agreement that has been approved by the Legal Department.

## **E-mail and Internet Usage**

When using a Tyson e-mail or instant-messaging account, or visiting a website on the Internet at work, you are representing Tyson to the world. To communicate the acceptable use of these accounts and the various information system resources, Tyson has adopted an Electronic Usage Policy to protect the interests of the Company, our business partners, and Team Members from the loss or compromise of confidential data. Team Members may not use these tools at work for personal gain or for unlawful or unethical purposes. Tyson monitors Team Member usage of e-mail and the Internet. Team Members are expected to use e-mail and the Internet responsibly and to limit personal use of these tools in the workplace so that it will not affect job performance or the success of the Company. Questions or concerns regarding improper e-mail or Internet usage should be directed to HR, the IS Security Department, or the Tyson Help Line.

## **Raffles and Lotteries**

Raffles and lotteries, which are defined as the payment of money for the purpose of obtaining a “chance” to win a prize, are forbidden in most states, even if the beneficiary of the raffle or lottery is a charity.

It is permissible to raise funds through donations made directly to a charity or to raise funds through events that do not require payment to obtain a “chance” for a prize. For instance, a donor could make a donation to receive a small item (a cookie, a soft drink, candy, a meal), and all donors could be entered in a door-prize drawing because they made a donation in exchange for the item, not to enter a drawing. Any questions should be directed to the Legal Department or the Ethics and Compliance Department. If you are in doubt regarding participating in or organizing a raffle, please reach out for guidance before proceeding.

## **Section 3: What We Do**

- We feed our families, the nation, and the world with trusted food products.
- We serve as stewards of the animals, land, and environment entrusted to us.
- We strive to provide a safe work environment for our Team Members.

Tyson Foods’ Core Values reinforce the Company’s deep-seated commitment to produce trusted food products. We are expected to act responsibly in the workplace and comply with all applicable laws, regulations, and policies for food safety, animal welfare, the environment, and Team Member safety.

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## **Food Safety and Quality**

Our customers and consumers trust us to deliver high quality, safe products that provide the dietary benefits and food value promised on each product's label and in our advertisements. In keeping with these expectations, Team Members need to take appropriate responsibility throughout the process to ensure that food safety is always one of Tyson Foods' top priorities.

Team Members are obligated to adhere to government regulations and the Company's Food Safety and Quality Assurance (FSQA) Policies and Procedures. Any actual or suspected failure to comply with these regulations or policies must be reported to a member of management or the Tyson Help Line. Standards and expectations governing food quality and safety are complex and frequently change; therefore, Team Members are encouraged to seek guidance from a FSQA representative to ensure full compliance.

Team Members must immediately report any actual or suspected, accidental or intentional non-compliance with all applicable food-safety laws, regulations, or Company-defined policies to the FSQA Department, or the Tyson Help Line.

## **Animal Well-Being**

Tyson has a long-standing commitment to the well-being, proper handling, and humane slaughter of all animals used in its food products. This is not only the right thing to do; it is also an important moral and ethical obligation the Company owes to suppliers, customers, Team Members, and most importantly of all, the animals entrusted to us and upon whom the Company depends for its products and our livelihood.

Team Members and contract producers or suppliers should raise, transport, and slaughter animals in an environment that complies with all federal, state, and local laws for humane treatment and slaughter. We are all expected to respect and serve as stewards of the animals the Company works with every day, treating them in a proper manner at all times.

Tyson has an Office of Animal Well-Being and our position statement on animal well-being to provide guidance regarding animal well-being expectations and standards. Each Team Member is expected to immediately report any actual or suspected accidental or intentional mistreatment of animals to his or her supervisor, Food Safety and Quality Assurance Department, Office of Animal Well-Being, or the Tyson Help Line.

## **Food Safety and Quality**

**Q:** I witnessed someone not following the product specification. What should I do – it's not like it is a food-safety issue?

**A:** Whether it is a food-safety issue or customer expectation, all standards must be followed. Contact a member of the FSQA staff immediately so that they can look into the matter.

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## **Health and Safety**

Q: My lead asked me to do a job that I am not trained for, one which has safety implications. What should I do?

A: You should not undertake a job you have not been trained to do. Talk to your lead about getting the right training for the job. Seek advice on what sort of training is needed from your manager or local safety representative, and if necessary, ask them to support you in discussing what is required with your lead.

## **Environmental**

Tyson is committed to protecting natural resources to maintain clean air, water, and land for our world. Team Members are required to perform work in an environmentally responsible manner, including minimizing water usage, practicing proper housekeeping, and ensuring proper storage and disposal of waste. Team Members are accountable for managing all operations in an environmentally responsible manner so as to meet or exceed environmental laws and regulations.

The federal regulatory agency responsible for overseeing environmental compliance is the Environmental Protection Agency (EPA). There are many federal and state laws, rules, regulations, and Tyson policies which govern environmental compliance. Should questions arise, Team Members are encouraged to seek guidance from the complex environmental manager or the Corporate Environmental Health and Safety Services Department. Any actual or suspected, accidental or intended failure to comply with these laws, regulations, or policies needs to be reported to a member of management, the Environmental Health and Safety Services Department, or the Tyson Help Line.

## **Health and Safety**

Tyson promotes a culture that values the health and safety of its Team Members. We view workplace injuries and illnesses as unacceptable, and improving our health and safety performance is a priority. We have created and implemented programs to reduce the frequency and severity of these events, and we review and monitor our performance closely. Additionally, we aspire to have zero injuries and illnesses, and we are working to build an incident-free culture that is grounded on the premise of eliminating workplace risks and hazards and continual improvement. Team Members must understand and comply with our policies; safety, health and environmental laws; and all regulations that affect our business activities.

Tyson has created and implemented standards, known as the Core Safety Mandates. These mandates focus on three critical areas regarding accident prevention and Occupational Safety and Health Administration (OSHA) compliance including:

- Lock out and tag out,
- Confined space entry, and
- Fall-protection.

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Contractors, suppliers, and others who work with us must also follow applicable laws and regulations. Team Members must promptly report unsafe work conditions, threats, and unusual actions or situations (including those relating to vendors or customers). Speak up if you observe unsafe behavior. Do not allow yourself or anyone to ignore established safety practices or procedures. If you see anyone performing an unsafe act or creating an unsafe condition, stop the Team Member and explain what they are doing that is unsafe. Let your fellow Team Members know, “I Got Your Back!” If you do not feel comfortable talking with someone directly, tell the Team Member’s supervisor, the local HR representative, or contact the Tyson Help Line.

### **Sustainability**

Tyson Foods is one of the world’s largest processors and marketers of chicken, beef, and pork food products. As our company has grown, so have our responsibilities. We understand our actions and decisions have an impact. We recognize the global community we serve faces unparalleled economic, environmental, and social issues such as increased unemployment rates, resource scarcity, and extreme hunger and poverty. Understanding and addressing these issues is consistent with the Core Values of our company.

We believe our triple-bottom-line success, including social progress, environmental excellence, and economic growth, will continue as we strive to do the right thing with respect to people, planet, and profit. Sustainability touches every aspect of our company and our operations. Accordingly, we define sustainability in a way that brings responsibility and accountability into every business activity and process. Our Core Values and focus on sustainability guide our actions on important issues such as hunger relief, food safety, environmental protection and resource conservation, animal well-being, ethical business practices, the health and safety of our Team Members, and returning a profit to our shareholders.

We are committed to building the world’s most extraordinary food company and to conducting business in a manner that builds financial success, respects the environment, and supports those in need.

To review our most recent sustainability report, visit [www.tyson.com](http://www.tyson.com).

### **Section 4: How We Do It**

- We strive to earn consistent and satisfactory profits for our shareholders and to invest in our people, products, and processes.
- We strive to operate with integrity and trust in all we do.
- We strive to honor God and be respectful of each other, our customers, and other stakeholders.

### **Regulatory Compliance**

There are numerous laws and regulations that Tyson and its Team Members must observe and obey. The Company’s actions and dealings with federal, state, and local governmental officials must comply with all applicable laws and regulations. They must also be free from even the appearance of wrongdoing. Team Members, Tyson Directors, consultants, lobbyists, agents, and other representatives of Tyson must adhere to the highest ethical standards of conduct when dealing with government personnel.

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## **Sarbanes-Oxley Act (SOX) and Financial Reporting**

The accuracy and completeness of our financial reports are important to our shareholders and Tyson as a company. The SOX Act of 2002 requires that senior management take individual responsibility for the accuracy and completeness of published corporate financial reports. Each fiscal quarter, Tyson Foods' executive and senior-management teams certify the integrity of the Company's financial reports.

Financial reporting controls have been installed to ensure that we are compliant with these requirements. External Auditors and our Internal Audit Department perform audit testing throughout the year to verify the effectiveness of these controls. The Securities and Exchange Commission (SEC) requires Tyson to file periodic reports (8-K, 10-Q, and 10-K), quarterly earnings releases, and an Annual Report; all of which report significant events. These reports are considered public (non-confidential) information after they have been filed and published and are available on [www.sec.gov](http://www.sec.gov). For more information regarding SOX or the requirements of the SEC, contact Legal, Finance and Accounting, or the Internal Audit Department.

## **Securities (Stock) Trading**

All Team Members have a responsibility to keep inside information or "family talk" inside the family and to comply with insider trading laws under federal and other applicable securities laws. The Securities Trading Policy is in place to assist Team Members and their relatives from performing any illegal use or exchange of information about our company or any other publically traded company, including information about our customers, suppliers, and business partners.

In addition, there are specific safeguards and processes in place for those in senior management (or those designated by senior management) who routinely have access to significant financial or strategic information not yet released to the public. This financial or strategic information not yet released to the general public is commonly referred to as non-public material information. Non-public material information is any information that a reasonable investor would consider important in a decision to buy, hold, or sell stock or any information which could reasonably affect the stock price.

If you have any questions about specific stock transactions, reach out to the Legal Department. Remember, the ultimate responsibility for adhering to the securities trading expectations rests with you. Always use your best judgment. If you become aware of potentially illegal use or exchange of non-public material information, contact the Legal Department or the Tyson Help Line.

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## Securities (Stock) Trading

Q: What are some examples of material information?

A: In short, any information which could reasonably affect the stock price, whether it be of our company or another company. Common examples of material information are: projections of future earnings or losses; news of a pending or proposed merger, acquisition, or joint venture; news of a significant sale of assets; changes in senior management; the declaration of a stock split or the offering of additional securities; significant new products or discoveries (see section on Trade Secrets); and the gain or loss of a substantial customer or supplier. Remember, either positive or negative information may be considered material.

## Whistle Blower

Tyson has adopted a Whistle Blower Policy that defines formal procedures for Team Members and other interested parties to confidentially and anonymously bring good-faith material or significant concerns or complaints regarding accounting matters or publically filed documents to the attention of the Audit Committee of the Board of Directors without fear of dismissal or retaliation. Team Members are required to immediately report any real or perceived illegal or unethical financial or accounting conduct using the procedures described in the Whistle Blower Policy or by contacting the Tyson Help Line.

## Political Activities and Contributions

Government decisions affect Tyson and the communities in which our Team Members live. For that reason, we encourage involvement in civic affairs, including running for office or supporting those who do. However, there are restricted political activities that may not be undertaken without the pre-approval of the External Relations Department:

- Using your work time or another Team Member's work time for personal political activities.
- Using Tyson assets (phone, computer, copier, vehicle, etc.) for personal political purposes.
- Using Tyson funds for political activities.

At Tyson, we engage public officials through memberships in trade associations, local "grassroots" relationships, direct lobbying, and other initiatives. Since lobbying activities are regulated by law, any lobbying activity on behalf of Tyson must be limited to those endorsed and expressly approved by the External Relations Department and reported quarterly.

Team Members may make direct political contributions of their own money in accordance with applicable law, but such contributions may not be made in the name of Tyson. Team Members are restricted from using their positions to coerce contributions from other Team Members for the purpose of supporting a charity, political candidate, political party, or political action committee. No political contributions made by Team Members may be reimbursed through Tyson expense accounts. In addition, political contributions may not be made on Tyson Foods' behalf directly or indirectly through suppliers, customers, or agents.

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Contributions to federal candidates and political parties may be made by the Tyson Political Action Committee (TYPAC), which is a federal PAC organized and administered under applicable law. Contributions to TYPAC by eligible salaried Team Members are voluntary. For further information on political contributions by the Company or by TYPAC, please refer to the Company's Charitable and Political Contribution Policy and the TYPAC Political Contribution Policy.

### **Political Activities and Contributions**

**Q:** I don't have any contact with government officials, but I am sometimes asked to research pending legislation. Do I have to know anything specific about the lobbying rules?

**A:** Yes. There may be rules that require you to report the time you spend supporting those who lobby the government directly. It's best to ask the Legal Department or the External Relations Department for guidance.

### **Labor Unions and Relations**

The highest ethical standards must be upheld when interacting with labor unions and their representatives. In keeping with these high ethical standards, the solicitation or giving of bribes, illegal gratuities, improper gifts, or anything of value in any form by or to a labor union officer, official, member, or other union representative is strictly prohibited and will not be tolerated. Such conduct may constitute a violation of the National Labor Relations Act or other federal statutes and may result in disciplinary action. Questions or concerns regarding labor relations or unions should be directed to the Corporate HR Department or the Tyson Help Line.

### **Antitrust Laws and Competition**

The United States adopted antitrust and pricing discrimination laws to protect free enterprise by ensuring vigorous competition. Tyson is committed to doing its part to preserve free enterprise by requiring that all Team Members strictly obey all applicable antitrust laws and follow the governing principles contained within our Pricing and Competitive Information Policy. Team Members who are routinely involved in the negotiation, pricing, review, approval, or execution of a written or oral agreement relating to the sale of Tyson products or the purchase of products and raw materials for Tyson must pay special attention to the guidelines and requirements of the Pricing and Competitive Information Policy.

Matters and issues involving antitrust laws or the Company policy on pricing and competitive information should be brought to the attention of the Legal Department or the Tyson Help Line.

### **Gifts and Entertainment**

Although buying gifts and paying for entertainment are customary business practices, they can sometimes be perceived as conflicts of interest. Offering or receiving any gift, gratuity, travel, meal, entertainment, or other hospitality that might be perceived as a way to influence a business decision must be avoided, especially when a government official is involved (see section on Anti-Corruption).

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Directors, Team Members, and third parties conducting business on behalf of Tyson must follow the rules contained within the Gift and Hospitality Policy. In summary, the policy contains several key provisions:

- We (and our families) must never give (or receive) gifts of cash or cash equivalents (such as gift cards, checks, or gift certificates) or loans of any amount to (or from) a government official or a non-government party (such as, a current or potential supply partner, contractor, or customer). Receiving such items or favors may compromise or appear to compromise your ability to make objective, impartial, and fair business decisions.
- There may be a legitimate business purpose where a gift, travel, or lodging may be appropriate to provide to a government official, but in every instance it must be specifically allowed under the Gift & Hospitality Policy or written approval is required from the Legal Department before the gift or item of hospitality is offered.
- In the rare occurrence that a gift or item of hospitality is offered from a government official, you must obtain written approval from the vice president responsible for your group prior to accepting if the gift exceeds US\$50. For gifts exceeding US\$100, you must have written approval from the senior or group vice president responsible for your group. The written approval must be communicated to the Ethics and Compliance Department.
- There may also be a legitimate business purpose where a gift, travel, meal, entertainment, or lodging may be appropriate to exchange with a non-government party, but the exchange must be related to a valid business purpose, should not be considered extravagant, and must have the appropriate level of written approval as follows:
  - Gifts or items of hospitality that exceed US\$100 received from a non-government party must have approval from the vice president responsible for the group.
  - Gifts or items that exceed US\$250 must have the approval from the senior or group vice president responsible for the group.

Although gifts of an advertising or promotional nature may be given to (or received from) a non-government party, the value of the promotional gift must not be greater than US\$100. Promotional items, gifts, and/or other items of hospitality valued at more than US\$100 must be approved by the appropriate level (as defined above) and communicated to the Ethics and Compliance Department.

The solicitation of gifts from our business partners, no matter how small, may be perceived to be an attempt to create an obligation to the giver and are therefore inappropriate. This applies at all times and does not change during traditional gift-giving seasons. Team Members must not solicit a gift or entertainment from a current or potential supply partner or customer except for the solicitation of contributions for Tyson-endorsed fundraisers. Please reach out to the Legal Department or the Ethics and Compliance Department for guidance on approved ways to solicit for Tyson-endorsed events before you proceed with your fundraising efforts.

If you become aware of any exchange not consistent with these provisions of the Gift and Hospitality Policy, or the Global Anti-Corruption Policy, contact the Legal Department or the Tyson Help Line immediately.

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## **Gifts and Entertainment**

Q: I was given an expensive gift during a business meeting and know that – because of cultural traditions – it would offend the provider if I did not accept it. What should I do with the gift, so as not to offend the provider?

A: You should report the gift immediately to the Ethics and Compliance Department and ask for guidance. Depending on the circumstances and value of the gift, we may ask you to return the gift or seek the provider's permission to donate it to charity.

## **Dealing with Regulatory Government Personnel**

The United State Department of Agriculture (USDA) and Food and Drug Administration (FDA) regulate the manufacturing of Tyson products. There are particularly strict rules governing dealings with USDA personnel. Team Members, agents, consultants, lobbyists, and other representatives cannot give or receive anything of value to or from any USDA official or employee under any circumstances. This applies to gifts of money; non-monetary items, such as meals, transportation, lodging, entertainment (e.g., tickets to sporting events), and other hospitality; and services (e.g., car washing), as well as any other personal benefit or favor. This standard also applies to all other federal officials regardless of the agency they represent.

If any government official requests a gift of any kind, including gifts of service from a Team Member, the Team Member must decline and immediately report the request to his or her supervisor and the Ethics and Compliance Department. Tyson will not tolerate the solicitation, receiving or giving of bribes, illegal gratuities, or improper gifts in any form by or to any local, state, or federal government personnel (see section on Foreign Corrupt Practices Act or FCPA).

## **Supplier Code of Conduct**

The Supplier Code of Conduct sets forth the principles and high ethical standards that we strive to achieve and expect from our supply partners. These principles and ethical standards include: assuring compliance with legal standards; sharing a desire to provide safe, quality food products; an abiding concern for the well-being of animals; respect for the rights and safety of others; dedication to protection of the environment; and a commitment to sustainable business practices. The Supplier Code of Conduct supplements but does not supersede any rights or obligations established in any agreement we may have with our supply partners. Please contact the Purchasing or Legal Department if you have questions about how the Supplier Code of Conduct applies to contracts with our suppliers.

## **International Code of Conduct**

Tyson has adopted a separate International Code of Conduct, which applies to all Team Members in our international operations and companies and foreign sales offices. Due to the nature and number of possible international ethical concerns, Team Members who act and interact with our business internationally should have an understanding of the International Code of Conduct and the specific laws and expectations governing conduct and business affairs beyond the basic principles found in this Code. International matters or issues should be directed to the Legal Department or the Ethics and Compliance Department.

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## **Federal Sanctions Program Compliance**

Federal agencies administer a variety of embargoes and sanctions programs against regimes in foreign countries and individuals and organizations in the United States and elsewhere whose activities have been determined to be contrary to the interests of the United States and its allies (“Federal Sanctions Program”). These countries, individuals, and organizations that have been determined by a federal agency to be a terrorist, a drug trafficker, or a weapons dealer are known as “Targets.” Transactions with Targets are prohibited by federal laws. Severe civil and criminal penalties may be levied against companies and individuals who conduct business with Targets in violation of a Federal Sanctions Program or U.S. export controls. Companies must self report violations of Sanctions Program requirements, and delayed self reporting can be the basis for the government seeking additional penalties against the Company.

Team Members who are responsible for domestic and international trade negotiations are encouraged to “know their customers.” The Ethics and Compliance Department has the capability of determining whether a person, regime, or organization has been designated as a Target.

Team Members must report transactions that they suspect could be in violation of a Federal Sanctions Program to the Ethics and Compliance Department, the Tyson Help Line, or the Legal Department as soon as possible, preferably before the transaction is finalized.

## **Customs and Import Restrictions**

All goods imported into the United States must pass through U.S. Customs, where a duty must be paid unless an exemption applies. Team Members are required to supply accurate information about the classification and value of such goods.

## **Restrictive Trade Practices and Boycotts**

Tyson must not participate in any activity, including those fostered by foreign countries or organizations, intended to restrain trade or promote a boycott of customers or suppliers located in a country friendly to the United States or of U.S. persons, firms, or corporations. If a Team Member receives or learns of a boycott request or a related information request, it must be reported to the Legal Department or the Tyson Help Line.

## **Anti-Corruption**

Anti-corruption laws such as the Foreign Corrupt Practices Act (FCPA) and the United Kingdom Bribery Act (UK Bribery Act) are intended to curb dishonesty in international dealings. Team Members must fully comply with all applicable laws, including all applicable foreign tax and currency controls. Team Members must keep accurate records reflecting the true nature of all transactions. Falsification of records or illegal payments may be grounds for civil and criminal prosecution of both the Team Member(s) involved and Tyson. Due to the nature and number of possible international ethical concerns in the countries in which we conduct business, Team Members who conduct Tyson business internationally should have an understanding of the Global Anti-Corruption Policy and its provisions governing international trade beyond the principles found in this Code of Conduct. Additionally, the Global Anti-Corruption Policy contains annual training requirements for certain Team Members. If you have any questions regarding the policy or your training expectations, contact the Legal Department or the Ethics and Compliance Department.

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## **Bribes, Kickbacks, or Payoffs**

The FCPA, the UK Bribery Act, and other anti-corruption laws prohibit the payment of any money or anything of value to a foreign official, foreign political party (or official), or any candidate for foreign political office for purposes of obtaining, retaining, or directing business to Tyson. Additionally, the UK Bribery Act prohibits the offering, promising, or giving of a bribe to any private individual or entity.

Matters and issues involving bribes, kickbacks, or payoffs should immediately be brought to the attention of the Legal Department or the Tyson Help Line.

## **Facilitating Payments**

Facilitating payments to government officials made in order to expedite or secure performance of non-discretionary, routine governmental actions (e.g., processing a visa, customs invoice, or the processing of other governmental paper) are not permitted pursuant to the Global Anti-Corruption Policy.

## **Facilitating Payments**

**Q:** I was informed I could hire a local company or consultant to help get all the necessary permits from a foreign government. An advance payment has been requested to “help move the process along.” I have been told this is common practice in this country. Do we have to worry about it?

**A:** Yes. We are responsible for the actions of any third party working on our behalf. The request for an advance payment is itself a red flag; the comment to help move the process along is even more so. Consult with the Legal Department before proceeding.

## **A Final Thought**

Tyson Foods believes that the integrity each Team Member brings to his or her position will enable the Company to set the standard for business conduct in the agribusiness industry. This Code of Conduct sets formal expectations that each Team Member must meet to comply with the laws that govern the Company’s business.

All provisions of this Code of Conduct are fully binding, without exception, as long as you are a Team Member. In addition, the provisions in this Code of Conduct protecting the company’s confidential and proprietary information continue to be binding upon those persons who leave Tyson employment, either voluntarily or involuntarily.

If Team Members have questions or concerns about conduct or about provisions of this Code of Conduct, they should promptly bring them to the attention of the Ethics and Compliance Department or the Legal Department.

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**The Tyson Help Line:**

- Phone – 1-888-301-7304
- Website – [tysonintegrity.eaweblines.com](http://tysonintegrity.eaweblines.com)

**Ethics and Compliance Department**

- Phone – (479) 290-2652
- E-mail – [helpline@tyson.com](mailto:helpline@tyson.com)
- Fax – (479) 717-0370
- Mail – 2200 Don Tyson Parkway (CP006), Springdale, AR 72762

**Legal Department**

- Phone – (479) 290-4000
- E-mail – [helpline@tyson.com](mailto:helpline@tyson.com)
- Mail – 2200 Don Tyson Parkway (CP004), Springdale, AR 72762

<u>Entity Name</u>	<u>Place of Incorporation</u>
<b>Tyson Foods, Inc.</b>	<b>Delaware (1986)</b>
<b><i>Subsidiaries 100% owned unless otherwise noted</i></b>	
WBA Analytical Laboratories, Inc. (formerly known as FPPCI Acquisition, Inc.)	Delaware (2008)
Global Employment Services, Inc.	Delaware (1993)
National Comp Care Inc.	Delaware (1995)
Oaklawn Capital Corporation	Delaware (1995)
The Pork Group, Inc.	Delaware (1998)
TyNet Corporation	Delaware (1995)
Tyson Breeders, Inc.	Delaware (1971)
Tyson International Company, Ltd.	Bermuda (1993)
Tyson Mexican Original, Inc.	Delaware (1998)
Tyson Pet Products, Inc.	Delaware (2005)
Tyson Poultry, Inc.	Delaware (1998)
Tyson Receivables Corporation	Delaware (2001)
Tyson Sales and Distribution, Inc.	Delaware (1998)
Tyson Shared Services, Inc.	Delaware (1998)
Tyson (Shanghai) Enterprise Management Consulting Co., Ltd	China (2011)
<b><i>Tyson Chicken, Inc. (Subsidiary of Tyson Foods, Inc.)</i></b>	<b>Delaware (1997)</b>
Hudson Midwest Foods, Inc.	Nebraska (1996)
<b><i>Tyson Farms, Inc. (Subsidiary of Tyson Foods, Inc.)</i></b>	<b>North Carolina (1968)</b>
Central Industries, Inc.	Mississippi (1964)
<b><i>Tyson Fresh Meats, Inc. (Subsidiary of Tyson Foods, Inc.)</i></b>	<b>Delaware (2000)</b>
Tyson Processing Services, Inc.	Delaware (1997)
The IBP Foods Co.	Delaware (1999)
Tyson Hog Markets, Inc.	Delaware (1972)
IBP Caribbean, Inc.	Cayman Islands (1997)
IBP Redevelopment Corporation	Missouri (2000)
Tyson Service Center Corp.	Delaware (1979)
Tyson of Wisconsin, LLC	Delaware (1989)
Madison Foods, Inc.	Delaware (1998)
PBX, inc.	Delaware (1974)
Rural Energy Systems, Inc.	Delaware (1984)
Texas Transfer, Inc.	Texas (1987)
<b><i>Tyson International Service Center, Inc. (Subsidiary of Tyson Fresh Meats, Inc.)</i></b>	<b>Delaware (1973)</b>
Tyson International Service Center, Inc. Asia	Delaware (1985)
Tyson International Service Center, Inc. Europe	Delaware (1985)
<b><i>IBP Foodservice, L.L.C.</i></b>	
<b><i>(78% owned by Tyson Fresh Meats, Inc.; 22% owned by IBP Caribbean, Inc.)</i></b>	<b>Delaware (1997)</b>
<b><i>Foodbrands America, Inc. (Subsidiary of IBP Foodservice, L.L.C.)</i></b>	<b>Delaware (1994)</b>
The Bruss Company	Illinois (1956)
CBFA Management Corp.	Delaware (1998)
Foodbrands Supply Chain Services, Inc.	Delaware (1992)
Wilton Foods, Inc.	New York (1964)
Zemco Industries, Inc.	Delaware (1969)
<b><i>Tyson Deli, Inc. (Subsidiary of Foodbrands America, Inc.)</i></b>	<b>Delaware (2003)</b>
Tyson Prepared Foods, Inc.	Delaware (2003)

**Tyson Refrigerated Processed Meats, Inc.**  
*(Subsidiary of Foodbrands America, Inc.)*  
Carolina Brand Foods, LLC

**Delaware (2003)**  
North Carolina (2000)

**DFG Foods, Inc. (Subsidiary of Foodbrands America, Inc.)**  
DFG Foods, LLC

**Delaware (1998)**  
Oklahoma (1998)

**New Canada Holdings, Inc.**  
*(87.52% owned by Tyson Fresh Meats, Inc.;*  
*12.48% owned by Cobb-Vantress, Inc.)*  
Tyson China Holding 3 Limited  
Haimen Tyson Poultry Development Co., Ltd.  
Jiangsu Tyson Foods Co., Ltd.

**Delaware (2007)**  
Hong Kong (2009)  
China (2008)  
China (2008)

**Tyson International Holding Company**  
*(Subsidiary of New Canada Holdings, Inc.)*  
Oaklawn Sales Ltd.  
Tyson India Holdings, Ltd.  
Tyson China Holding 2 Limited

**Delaware (1994)**  
British Virgin Islands (1995)  
Republic of Mauritius (2008)  
Hong Kong (2009)

**Tyson China Holding Limited**  
*(Subsidiary of Tyson International Holding Company)*  
Changyi Tyson Xinchang Foods Co., Ltd.  
Changyi Tyson Xinchang Poultry Co., Ltd.  
Changyi Tyson Xinsheng Foods Co., Ltd.  
Rizhao Tyson Xinchang Poultry Company, Ltd.  
Shandong Tyson Xinchang Foods Company, Ltd.  
Shandong Tyson Yuansheng Duck Co., Ltd.  
Shandong Tyson Shengde Foods Co., Ltd.  
Weifang Tyson Xinchang Feed Co., Ltd.

**Hong Kong (2008)**  
China (1995)  
China (2005)  
China (2000)  
China (2009)  
China (2009)  
China (2009)  
China (2004)  
China (2002)  
China (1998)

**Tyson International Holding Srl (Subsidiary of New Canada Holdings, Inc.)**

**Luxembourg (2003)**

**Tyson Global Holding Srl (Subsidiary of Tyson International Holdings Srl)**  
Tyson Delaware Holdings, LLC  
Tyson Americas Holding Srl

**Luxembourg (2009)**  
Delaware (2003)  
Luxembourg (2009)

**Tyson International Holding S.C.A.**  
*(.1% owned by Tyson Americas Holdings Srl;*  
*99.9% owned by Tyson Global Holding Srl)*  
Cobb-Vantress Brasil Ltda.  
Hybro Genetics Brasil Ltda.  
Tyson Do Brasil Alimentos Ltda.  
Tyson Brasil Investimentos I Ltda.  
Tyson Brasil Investimentos II Ltda.  
Tyson Brasil Investimentos III Ltda.  
Cobb Europe B.V.

**Luxembourg (2003)**  
Brazil (1995)  
Brazil (2005)  
Brazil (1975)  
Brazil (2008)  
Brazil (2008)  
Brazil (2008)  
Brazil (2008)  
The Netherlands (1994)

**IBP Finance Company of Canada (Subsidiary of Tyson Americas Holding Srl)**

**Nova Scotia, Canada (1997)**

**Alberta Farm Industries ULC (Subsidiary of IBP Finance Company of Canada)**  
Tyson Canada Finance LP  
Provemex Holdings, LLC  
1385606 Alberta ULC  
Alberta Feeders Partnership

**Alberta, Canada (1994)**  
New Brunswick, Canada (2003)  
Delaware (2005)  
Alberta, Canada (2008)  
Alberta, Canada (2001)

**Cobb Breeders B.V. (Subsidiary of Alberta Farm Industries ULC)**

Hybro B.V.  
Avex S.A.  
Fortune G-P Farms Ltd.

**Cobb Europe Limited (Subsidiary of Alberta Farm Industries ULC)**

Cobb France Eurl  
Cobb Poland B.V. Sp. z o.o

**JOINT VENTURES/PARTNERSHIPS**

Cactus Argentina S.A.  
Carneco Foods, LLC  
Dorada Poultry LLC  
Dynamic Fuels, LLC  
Exportaciones Agroindustriales Argentinas, S.A.  
Godrej Tyson Foods Limited  
Nacrail, LLC  
Professor Connor's, Inc.  
Shandong Sand's Food and Development Co. Ltd.  
Shandong Tyson Da Long Food Company Limited

**TYSON DE MEXICO, S. DE R.L. DE C.V.**

Tyson de Mexico, S. de R.L. de C.V.  
Avicultores Tecnicos, S. de R.L. de C.V.  
Comercializadora Avemex, S. de R.L. de C.V.  
Corporativo Orvin, S. de R.L. de C.V.  
Empresas Provemex, S. de R.L. de C.V.  
Laboral Gomez Palantina, S. de R.L. de C.V.  
Provemex Avicola, S. de R.L. de C.V.

**Cobb-Vantress, Inc.**

**Cobb-Vantress, Inc.**

*(Subsidiary of Tyson Foods, Inc.)*

Cobb Asia (Thailand) Limited  
Cobb Caribe, S.A.  
Cobb Espanola SA  
Cobb-Vantress GmbH  
Gen Ave S.A.  
Matusaka Farm Co., Ltd.  
Progenitores Avicolas, C.A.  
Venco Research and Breeding Farm Limited  
Reproductores Cobb S.A.  
Cobb-Russia LLC  
OOO Broiler Budeshego (Broiler of the Future, LLC)

**Cobb-Vantress Philippines, Inc.**

*(99.99% owned by Cobb-Vantress, Inc.; .01% owned by 7 individuals)*

C.V. Holdings, Inc.

**The Netherlands (1994)**

The Netherlands (1959)  
Peru (2006)  
Sri Lanka (2004)

**United Kingdom (1974)**

France (1990)  
Poland (1996)

Argentina (1998)  
Oklahoma (2000)  
Oklahoma (2010)  
Delaware (2007)  
Argentina (1994)  
India (2008)  
Delaware (2001)  
Delaware (2004)  
China (Inactive) (1995)  
China (2001)

Mexico (1984)  
Mexico (1985)  
Mexico (1992)  
Mexico (1989)  
Mexico (1972)  
Mexico (1988)  
Mexico (1974)

**Delaware (1986)**

Bangkok (2011)  
Dominican Republic (2001)  
Spain (1969)  
Germany (2001)  
Argentina (1982)  
Japan (1967)  
Venezuela (1967)  
India (1980)  
Argentina (1999)  
Delaware (2006)  
Russia (2004)

**Philippines (2003)**

Philippines (2003)

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statement on Forms S-8 (Nos. 333-115378, 333-115379, 333-115380, 333-70646, 333-02135 and 333-22881) of Tyson Foods, Inc. of our report dated November 21, 2011 relating to the financial statements, financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

Fayetteville, AR  
November 21, 2011

**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statements (Form S-8 Nos. 333-115378, 333-115379, 333-115380, 333-70646, 333-02135 and 333-22881) pertaining to certain employee benefit plans of Tyson Foods, Inc., of our report dated November 23, 2009 (except for those matters described in Note 2 “Change in Accounting Principles” as it relates to the retrospective application of accounting principles adopted in 2010, as to which the date is November 22, 2010), with respect to the consolidated financial statements and schedule of the Company for the year ended October 3, 2009, included in this Annual Report (Form 10-K) for the year ended October 1, 2011.

/s/ Ernst & Young LLP

Rogers, Arkansas  
November 21, 2011

## CERTIFICATIONS

I, Donnie Smith, certify that:

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

Date: November 21, 2011

/s/ Donnie Smith

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Donnie Smith

President and Chief Executive Officer

## CERTIFICATIONS

I, Dennis Leatherby, certify that:

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

Date: November 21, 2011

/s/ Dennis Leatherby

Dennis Leatherby

Executive Vice President and Chief Financial Officer

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

In connection with the accompanying Annual Report of Tyson Foods, Inc. (the "Company") on Form 10-K for the fiscal year ending October 1, 2011, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Donnie Smith, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge, that:

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

/s/ Donnie Smith

Donnie Smith  
President and Chief Executive Officer

November 21, 2011

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

In connection with the accompanying Annual Report of Tyson Foods, Inc. (the "Company") on Form 10-K for the fiscal year ending October 1, 2011, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Dennis Leatherby, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Dennis Leatherby

Dennis Leatherby  
Executive Vice President and Chief Financial Officer

November 21, 2011