

TYSON FOODS INC  
Form DEF 14A  
December 21, 2012  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**SCHEDULE 14A**

**Proxy Statement Pursuant to Section 14(a)**  
**of the Securities Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

Preliminary Proxy Statement

Definitive Proxy Statement

Definitive Additional Materials

Soliciting Material Pursuant to §240.14a-12

**Confidential, for Use of the Commission Only**

(as permitted by Rule 14a-6(e)(2))

**Tyson Foods, Inc.**

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(4) and 0-11.

(1) Title of each class of securities to which transaction applies:

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- (2) Aggregate number of securities to which transaction applies:
- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
- (4) Proposed maximum aggregate value of transaction:
- (5) Total fee paid:
- .. Fee paid previously with preliminary materials.
- .. Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
- (1) Amount Previously Paid:
- (2) Form, Schedule or Registration Statement No.:
- (3) Filing Party:

(4) Date Filed:

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**Tyson Foods, Inc.**

**2200 Don Tyson Parkway**

**Springdale, Arkansas 72762-6999**

**NOTICE OF ANNUAL MEETING OF SHAREHOLDERS**

**February 1, 2013**

To Tyson Foods, Inc. Shareholders:

Notice is hereby given that the Annual Meeting of Shareholders ( Annual Meeting ) of Tyson Foods, Inc., a Delaware corporation ( Company ), will be held at the Holiday Inn Northwest Arkansas Convention Center, 1500 South 48<sup>th</sup> Street, Springdale, Arkansas, on Friday, February 1, 2013 at 10:00 a.m., Central time, for the following purposes:

1. To elect nine directors named in the accompanying proxy statement to the Company s Board of Directors;
2. To approve the amendment and restatement of the Tyson Foods, Inc. 2000 Stock Incentive Plan, a copy of which is attached to the accompanying proxy statement as Appendix A;
3. To approve the amendment and restatement of the Tyson Foods, Inc. Employee Stock Purchase Plan, a copy of which is attached to the accompanying proxy statement as Appendix B;
4. To ratify the selection of PricewaterhouseCoopers LLP as the independent registered public accounting firm for the Company for the fiscal year ending September 28, 2013; and
5. To consider and act upon such other business as may properly come before the Annual Meeting or any adjournments or postponements thereof.

Only shareholders of record at the close of business on December 3, 2012, the record date for the Annual Meeting, will be entitled to attend or vote at the Annual Meeting and any adjournments or postponements thereof. **If you plan to attend the Annual Meeting, an admission ticket is required and can be obtained by contacting Tyson Foods Investor Relations via email at [ir@tyson.com](mailto:ir@tyson.com) or by telephone at (479) 290-4524. The Annual Meeting will also be webcast live at 10:00 a.m., Central time, Friday, February 1, 2013 at <http://ir.tyson.com>.**

This year we will again take advantage of the rules of the Securities and Exchange Commission that allow us to furnish our proxy materials over the Internet. As a result, we are sending the Notice of Internet Availability of Proxy Materials to our shareholders rather than a full paper set of the proxy materials. The Notice of Internet Availability of Proxy Materials contains instructions on how to access our proxy materials on the Internet, as well as instructions on how shareholders may obtain a paper copy of our proxy materials. This process substantially reduces the costs associated with printing and distributing our proxy materials. To make it easier for you to vote, Internet and telephone voting are available. The instructions on the Notice of Internet Availability of Proxy Materials or, if you requested a paper copy of the proxy materials, the proxy card you will receive describe how to use these convenient services.

By Order of the Board of Directors

R. Read Hudson

*Secretary*

Springdale, Arkansas

December 21, 2012

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE ANNUAL MEETING TO BE HELD ON FEBRUARY 1, 2013: The Company's Proxy Statement and Annual Report on Form 10-K for the fiscal year ended September 29, 2012 are also available at <http://ir.tyson.com> or <http://www.proxyvote.com>.**

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**SOLICITATION AND REVOCATION OF PROXY**

The Company cordially invites all shareholders to attend the Annual Meeting in person. Whether or not you personally plan to attend, if you wish to vote in accordance with the Board of Directors' recommendations, please take a few minutes now to vote by Internet, telephone or mail by following the instructions on the Notice of Internet Availability of Proxy Materials or the proxy card. If you hold your shares in street name, please follow the instructions in the voting instruction form provided by your bank, broker or other nominee. Regardless of the number of Company shares you own, your presence by proxy is helpful to establish a quorum and your vote is important.

**OUR BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ELECTION OF EACH OF THE INDIVIDUALS NOMINATED BY THE BOARD TO SERVE ON THE COMPANY'S BOARD OF DIRECTORS AND IN ACCORDANCE WITH THE BOARD'S RECOMMENDATIONS ON THE OTHER PROPOSALS USING THE COMPANY'S PROXY MATERIALS.**

If you sign and submit a proxy card, you have the right to change your vote by voting again on a later date by Internet, telephone or mail, by signing and returning a proxy card or voting instruction form with a later date, or by attending the Annual Meeting and voting in person. Only your last-dated proxy will count. Any proxy may be revoked at any time prior to its exercise at the Annual Meeting as described in the accompanying proxy statement.

**WHETHER OR NOT YOU PLAN TO ATTEND THE ANNUAL MEETING, YOU ARE URGED TO VOTE AS SOON AS POSSIBLE BY INTERNET, TELEPHONE OR MAIL SO THAT YOUR SHARES MAY BE VOTED IN ACCORDANCE WITH YOUR WISHES. THE GIVING OF A PROXY DOES NOT AFFECT YOUR RIGHT TO REVOKE IT LATER OR VOTE YOUR SHARES IN PERSON IN THE EVENT YOU SHOULD ATTEND THE ANNUAL MEETING.**

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**Tyson Foods, Inc.**

**2200 Don Tyson Parkway**

**Springdale, Arkansas 72762-6999**

**PROXY STATEMENT**

**For**

**ANNUAL MEETING OF SHAREHOLDERS**

**To Be Held**

**February 1, 2013**

**GENERAL INFORMATION ABOUT THIS PROXY STATEMENT AND THE ANNUAL MEETING**

**Why am I receiving these proxy materials?**

The Company has made these materials available to you in connection with the solicitation of proxies by the Board of Directors ( **Board** ) of Tyson Foods, Inc., a Delaware corporation ( **Company** ), for use at the Annual Meeting of Shareholders ( **Annual Meeting** ), to be held at the Holiday Inn Northwest Arkansas Convention Center, 1500 South 48<sup>th</sup> Street, Springdale, Arkansas, on Friday, February 1, 2013 at 10:00 a.m., Central time. You are invited to attend the Annual Meeting and are requested to vote on the matters described in this Proxy Statement.

**What is included in the proxy materials?**

These materials include:

This Proxy Statement for the Annual Meeting; and

The Company's Annual Report on Form 10-K for the fiscal year ended September 29, 2012.

If you request printed versions of these materials be sent to you by mail, these materials will also include a proxy card or voting instruction form for the Annual Meeting.

**Why did I receive a one-page notice in the mail regarding the Internet availability of the proxy materials instead of a full set of the proxy materials?**

Pursuant to rules adopted by the Securities and Exchange Commission ( **SEC** ), the Company has elected to provide access to its proxy materials over the Internet. All shareholders will have the ability to access the proxy materials on the website referred to in the Notice of Internet Availability of Proxy Materials or request a printed set of our proxy materials, including a proxy card. Instructions on how to access the proxy materials over the Internet or to request a printed copy may be found in the Notice of Internet Availability of Proxy Materials. We encourage you to take advantage of the availability of the proxy materials on the Internet in order to help reduce our costs and the environmental impact of the Annual Meeting.

**How can I get electronic access to the proxy materials?**

The Notice of Internet Availability of Proxy Materials provides you with instructions regarding how to view the proxy materials for the Annual Meeting on the Internet and how to instruct the Company to send future proxy materials, including the Notice of Internet Availability of Proxy

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Materials, to you electronically by email. The Company's proxy materials are also available on the website at <http://ir.tyson.com>.

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If you choose to receive future proxy materials by email, you will receive an email message next year with instructions containing a link to those materials and a link to the proxy voting website. Your election to receive proxy materials electronically will remain in effect until you terminate it.

### **What items will be voted on at the Annual Meeting?**

The following matters will be presented for shareholder consideration and voting at the Annual Meeting:

To elect the nine directors named in this Proxy Statement to the Board;

To approve the amendment and restatement of the Tyson Foods, Inc. 2000 Stock Incentive Plan;

To approve the amendment and restatement of the Tyson Foods, Inc. Employee Stock Purchase Plan;

To ratify the selection of PricewaterhouseCoopers LLP as the independent registered public accounting firm for the Company for the fiscal year ending September 28, 2013; and

To consider and act upon such other business as may properly come before the Annual Meeting or any adjournments or postponements thereof.

### **What are the Board's voting recommendations?**

The Board recommends that you vote your shares:

FOR the election of each of the director nominees named in this Proxy Statement to the Board;

FOR approval of the amendment and restatement of the Tyson Foods, Inc. 2000 Stock Incentive Plan;

FOR approval of the amendment and restatement of the Tyson Foods, Inc. Employee Stock Purchase Plan; and

FOR ratification of the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending September 28, 2013.

### **What is the difference between a shareholder of record and a beneficial owner of shares held in street name?**

*Shareholder of Record.* If your shares are registered directly in your name with the Company's transfer agent, Computershare, Inc., you are considered the shareholder of record with respect to those shares, and the Notice of Internet Availability of Proxy Materials was sent directly to you by the Company. If you request printed copies of the proxy materials by mail, you will receive the proxy card.

*Beneficial Owner of Shares Held in Street Name.* If your shares are held in an account at a brokerage firm, bank, broker-dealer, or other similar organization, then you are the beneficial owner of shares held in street name, and the Notice of Internet Availability of Proxy Materials was forwarded to you by that organization. The organization holding your account is considered the shareholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct that organization on how to vote the shares held in your account. If you request printed copies of the proxy materials by mail, you will receive a voting instruction form from the organization holding your shares.

**If I am a shareholder of record of the Company's shares, how do I vote using the Company's proxy materials?**

There are four ways to vote using the proxy materials:

*Via the Internet.* You may vote by proxy via the Internet by following the instructions provided in the Notice of Internet Availability of Proxy Materials, or, if you request printed copies of the proxy materials be sent to you by mail, by following the instructions provided with the proxy card.

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*By telephone.* You may vote by proxy by calling the toll-free number found on the Notice of Internet Availability of Proxy Materials or, if you request printed copies of the proxy materials be sent to you by mail, you may vote by proxy by calling the toll-free number found on the proxy card.

*By mail.* If you request printed copies of the proxy materials be sent to you by mail, you may vote by proxy by filling out the proxy card and sending it back in the envelope provided.

*In person.* If you are a shareholder of record, you may vote in person at the Annual Meeting. If you desire to vote in person at the Annual Meeting, please request a ballot when you arrive.

### **If I am a beneficial owner of shares held in street name, how do I vote using the Company's proxy materials?**

There are four ways to vote using the Company's proxy materials:

*Via the Internet.* You may vote by proxy via the Internet by visiting <http://www.proxyvote.com> and entering the control number found in the Notice of Internet Availability of Proxy Materials, or, if you request printed copies of the proxy materials be sent to you by mail, by following the instructions provided in the voting instruction form.

*By telephone.* You may vote by proxy by calling the toll-free number found on the Notice of Internet Availability of Proxy Materials or, if you request printed copies of the proxy materials be sent to you by mail, you may vote by proxy by calling the toll-free number found on the voting instruction form you received from the organization holding your shares.

*By mail.* If you request printed copies of the proxy materials be sent to you by mail, you may vote by proxy by filling out the voting instruction form you received from the organization that holds your shares and sending it back in the envelope provided.

*In person.* If you are a beneficial owner of shares held in street name and you wish to vote in person at the Annual Meeting, you must first obtain a legal proxy from the organization that holds your shares. If you obtain such a proxy and desire to vote in person at the Annual Meeting, please request a ballot when you arrive.

### **Can I change my vote after I have voted?**

You may revoke your proxy and change your vote at any time before the final vote at the Annual Meeting. You may vote again on a later date via the Internet or by telephone (only your latest Internet or telephone proxy submitted prior to the Annual Meeting will be counted), by signing and returning a proxy card or voting instruction form with a later date, or by attending the Annual Meeting and voting in person. However, your attendance at the Annual Meeting will not automatically revoke your proxy unless you vote again at the Annual Meeting or specifically request that your prior proxy be revoked by delivering to the Company's corporate secretary at 2200 Don Tyson Parkway, Mail Stop CP004, Springdale, Arkansas 72762-6999 a written notice of revocation prior to the Annual Meeting.

### **Is my vote confidential?**

Proxy instructions, ballots and voting tabulations that identify individual shareholders are handled in a manner that protects your voting privacy. Your vote will not be disclosed either within the Company or to third parties, except:

as necessary to meet applicable legal requirements;

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to allow for the tabulation and certification of votes; and

to facilitate a successful proxy solicitation.

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Occasionally, shareholders provide written comments on their proxy cards, which may be forwarded to the Company's management and the Board.

**Where can I find the voting results of the Annual Meeting?**

The preliminary voting results will be announced at the Annual Meeting. The final voting results will be tallied by the inspector of election and published within four business days following conclusion of the Annual Meeting.

**How can I attend the Annual Meeting?**

Only persons owning shares at the close of business on December 3, 2012, the record date for the Annual Meeting, will be entitled to attend or vote at the Annual Meeting and any adjournments or postponements thereof. If you plan to attend the Annual Meeting, an admission ticket is required and can be obtained by contacting Tyson Foods Investor Relations via email at *ir@tyson.com* or by telephone at (479) 290-4524. The Annual Meeting will also be webcast live at *http://ir.tyson.com*.

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**OUTSTANDING STOCK AND VOTING RIGHTS**

*Generally.* As of December 3, 2012, the outstanding shares of the Company's capital stock consisted of 288,462,438 shares of Class A Common Stock, \$0.10 par value ( Class A Common Stock ), and 70,015,755 shares of Class B Common Stock, \$0.10 par value ( Class B Common Stock ). The holders of record of the shares of Class A Common Stock and Class B Common Stock outstanding at the close of business on December 3, 2012, the record date for the Annual Meeting, will vote together as a single class on all matters hereby submitted to shareholders and such other matters as may properly come before the Annual Meeting and any adjournments or postponements thereof. Each share of Class A Common Stock will entitle the holder to one vote on all such matters and each share of Class B Common Stock will entitle the holder to ten votes on all such matters.

*Quorum.* A majority of votes represented by the holders of the Company's outstanding Class A Common Stock and Class B Common Stock, treated as a single class, must be present in person or represented by proxy to hold the Annual Meeting.

*Approval Standard.* A majority of the votes cast at the Annual Meeting is required to elect any director and to ratify the selection of PricewaterhouseCoopers LLP ( PwC ) as the independent registered public accounting firm for the Company for the fiscal year ending September 28, 2013. Pursuant to the rules of the New York Stock Exchange ( NYSE ), a majority of votes cast (provided that the total vote cast on each proposal represents over 50% in interest of all securities entitled to vote thereon) is required to approve the amendment and restatement of the Tyson Foods, Inc. 2000 Stock Incentive Plan ( Stock Incentive Plan ) and to approve the amendment and restatement of the Tyson Foods, Inc. Employee Stock Purchase Plan ( Employee Stock Purchase Plan ).

The form of proxy provides a method for shareholders to vote for, against or to abstain from voting with respect to (i) each director nominee, (ii) the approval of the amendment and restatement of the Stock Incentive Plan, (iii) the approval of the amendment and restatement of the Employee Stock Purchase Plan, and (iv) the ratification of the selection of PwC as the Company's independent registered public accounting firm.

*Broker Non-Votes and Abstentions.* Under the rules of the NYSE, brokers, banks or other similar organizations holding shares in street name for customers who are beneficial owners of such shares are prohibited from giving a proxy to vote such customers' shares on non-routine matters in the absence of specific instructions from such customers. This is commonly referred to as a broker non-vote. Broker non-votes will be counted for quorum purposes but will not be counted as votes cast either for or against a proposal. In other words, broker non-votes are not considered votes cast. The election of directors, the approval of the amendment and restatement of the Stock Incentive Plan and the approval of the amendment and restatement of the Employee Stock Purchase Plan are considered non-routine matters under applicable NYSE rules and, therefore, if you hold your shares through a bank, broker or other similar organization, the organization may not vote your shares on these matters absent specific instructions from you. As such, there may be broker non-votes with respect to these matters. However, broker non-votes will have no impact on the outcome of these matters because, as stated above, they are not considered votes cast for voting purposes. On the other hand, the ratification of the selection of PwC as the Company's independent registered public accounting firm is considered a routine matter under the current rules of the NYSE, therefore, the organization that holds your shares may vote on this matter without instructions from you and no broker non-votes will occur with respect to this matter.

Abstentions are counted for quorum purposes and, in accordance with NYSE rules, will have the effect of a vote against the proposals to approve the amendment and restatement of the Stock Incentive Plan and the amendment and restatement of the Employee Stock Purchase Plan. Abstentions, on the other hand, are not counted as votes cast with respect to the election of directors or the ratification of the selection of PwC as the Company's independent registered public accounting firm and will have no effect on the outcome of these matters.



**Table of Contents****SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS**

The table below sets forth certain information as of December 3, 2012 regarding the only persons known by the Company to own, directly or indirectly, more than 5% of either of its two classes of Common Stock:

<b>Title of Class</b>	<b>Name and Address of Beneficial Owner</b>	<b>Amount And Nature of Beneficial Ownership</b>	<b>Percent of Class</b>
Class B Common Stock	Tyson Limited Partnership  2200 Don Tyson Parkway  Springdale, AR 72762-6999	70,000,000(1)	99.98%
Class A Common Stock	Alliance Bernstein LP  1345 Avenue of the Americas  New York, NY 10105	17,365,637(2)	6.02%
Class A Common Stock	The Vanguard Group Inc.  100 Vanguard Blvd.  Malvern, PA 19355	16,805,012(3)	5.83%
Class A Common Stock	BlackRock, Inc.  40 East 52nd Street  New York, NY 10022	16,771,588(4)	5.81%

- (1) 70,000,000 shares of Class B Common Stock and 3,000,000 shares of Class A Common Stock are owned of record by the Tyson Limited Partnership, a Delaware limited partnership ( "TLP" ). The Tyson 2009 Family Trust is a limited partner and has a 53.4881% interest in the TLP, and the Randal W. Tyson Testamentary Trust is a limited partner and has a 45.2549% interest in the TLP. The descendants of Don Tyson, including Mr. John Tyson, Chairman of the Board of the Company, are the sole beneficiaries of the Tyson 2009 Family Trust. Ms. Barbara A. Tyson, the widow of Randal W. Tyson and a director of the Company, is the sole income beneficiary of and has limited dispositive power with respect to the Randal W. Tyson Testamentary Trust. Mr. John Tyson is one of the contingent beneficiaries of the Randal W. Tyson Testamentary Trust. The general partners of the TLP, who in the aggregate have a 1.257% interest in the TLP, are Mr. John Tyson, Ms. Tyson, Mr. Harry C. Erwin, III and the Tyson Partnership Interest Trust ( "TPIT" ), whose trustees are Mr. Erwin, Mr. Thomas B. Schueck and Mr. Leland E. Tollett. A managing general partner of the TLP has the exclusive right, subject to certain restrictions, to do all things on behalf of the TLP necessary to manage, conduct, control and operate the TLP's business, including the right to vote all shares or other securities held by the TLP, as well as the right to mortgage, pledge or grant security interests in any assets of the TLP. However, the TLP has no managing general partner at this time. Until a new managing general partner is selected, the management rights of the managing general partner may be exercised by a majority of the percentage interests of the general partners, which no single general partner currently possesses. The percentage of general partnership interests of the TLP are as follows: TPIT (44.44%); Mr. John Tyson (33.33%); Ms. Tyson (11.115%); and Mr. Erwin (11.115%). The TPIT terminates on December 31, 2016. Upon termination, the general partnership interests held by the TPIT will transfer to the Donald J. Tyson Revocable Trust of which Mr. John Tyson, Mr. Schueck and Mr. Erwin are the trustees. The TLP terminates December 31, 2040. Additionally, the TLP may be dissolved upon the occurrence of certain events, including (i) a written determination by the managing general partner that the projected future revenues of the TLP will be insufficient to enable payment of costs and expenses, or that such future revenues will be such that continued operation of the TLP will not be in the best interest of the partners, (ii) an election to dissolve the TLP by the managing general partner that is approved by the affirmative vote of a majority in percentage interest of all general partners, or (iii) the sale of all or substantially all of the TLP's assets and properties. The withdrawal of the managing general partner or any other general partner (unless such partner is the sole remaining general partner) will not cause the dissolution of the TLP. Upon dissolution of the TLP, each partner, including all limited partners, will receive in cash or otherwise, after payment of creditors, loans from any partner,

and return of capital account balances, their respective percentage interests in the TLP assets.

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- (2) The information provided is based solely on information obtained from a Schedule 13F filed with the SEC on or about November 14, 2012. The information has been included solely in reliance upon, and without independent investigation of, the disclosures contained in such Schedule 13F.
- (3) The information provided is based solely on information obtained from a Schedule 13F filed with the SEC on or about November 14, 2012. The information has been included solely in reliance upon, and without independent investigation of, the disclosures contained in such Schedule 13F.
- (4) The information provided is based solely on information obtained from Schedule 13Fs filed by Blackrock, Inc. and certain of its affiliates with the SEC on or about November 13, 2012. The information has been included solely in reliance upon, and without independent investigation of, the disclosures contained in such Schedule 13Fs.

**Table of Contents****SECURITY OWNERSHIP OF MANAGEMENT**

The table below sets forth information with respect to the beneficial ownership of Class A Common Stock, as of December 3, 2012, by the Company's directors, each of whom is a Company Nominee, named executive officers and by all directors and executive officers as a group (who, individually or collectively, do not directly own any shares of Class B Common Stock):

<b>Name of Beneficial Owner</b>	<b>Amount and Nature Of Beneficial Ownership(1)</b>	<b>Percent of Class</b>
John Tyson(2)(3)	4,039,473	1.40%
Kathleen M. Bader(4)	4,000	*
Gaurdie E. Banister Jr.(4)	8,450	*
Jim Kever(4)	11,421	*
Kevin M. McNamara(4)	10,689	*
Brad T. Sauer(4)	0	*
Robert Thurber(4)	15,000	*
Barbara A. Tyson(2)(4)	170,395	*
Albert C. Zapanta(4)	0	*
Donnie King	329,214	*
Dennis Leatherby	229,480	*
James V. Lochner	976,989	*
Donnie Smith	985,564	*
Noel White	406,776	*
All Directors and Executive Officers as a Group (17 persons)	7,686,582	2.66%

\* Indicates percentage of less than 1%.

- (1) The amounts in this column include beneficial ownership of shares with respect to which voting or investment power may be deemed to be directly or indirectly controlled. Accordingly, the shares shown in the table include shares owned directly, shares held in such person's account under the Company's Employee Stock Purchase Plan, shares owned by certain of the individual's family members and shares held by the individual as a trustee or in a fiduciary or other similar capacity, unless otherwise disclaimed and/or described below. The amounts in this column also include shares subject to options exercisable on or within 60 days of December 3, 2012, held by the directors and executive officers as a group in the amount of 5,163,778, and held by the named individuals in the following amounts: Mr. Tyson (2,500,000); Mr. Kever (6,000); Mr. King (259,681); Mr. Leatherby (150,001); Mr. Lochner (803,335); Mr. Smith (816,679); Mr. White (318,081); and the other executive officers (310,001). The amounts in this column do not include performance stock awards. The 2012 performance stock awards are described under the table titled "Grants of Plan Based Awards During Fiscal Year 2012" in this Proxy Statement.
- (2) The amounts in these rows do not include any shares of Class A Common Stock or Class B Common Stock owned by the TLP, of which Mr. Tyson and Ms. Tyson are general partners. The TLP owns 99.98% of the outstanding Class B Common Stock and 1.04% of the outstanding Class A Common Stock, which results in the TLP controlling 71.11% of the aggregate vote of Class A Common Stock and Class B Common Stock. When combined with the total ownership of directors and executive officers as a group, the aggregate voting percentage increases to 71.89%. The TLP and its ownership of such stock are further described in Footnote 1 to the table titled "Security Ownership of Certain Beneficial Owners" in this Proxy Statement.
- (3) This amount includes 449,351 shares of Class A Common Stock pledged as security for a loan.
- (4) The amounts in these rows do not include grants of deferred stock awards of Class A Common Stock made on the date(s) of election to the Board by shareholders (see the section titled "Director Compensation for Fiscal Year 2012" in this Proxy Statement) to each of Ms. Bader (6,493); Mr. Banister (6,493); Mr. Kever (46,648); Mr. McNamara (30,863); Mr. Sauer (25,014); Mr. Thurber (16,465); Ms. Tyson (6,493) and Mr. Zapanta (46,648).

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**ELECTION OF DIRECTORS**

The number of directors that will serve on the Board for the ensuing year is currently set at nine but may be changed from time to time in the manner provided in the Company's by-laws. Directors are elected for a term of one year or until their successors are duly elected and qualified. Our by-laws provide that no person shall be nominated to serve as a director after he or she has passed his or her 70<sup>th</sup> birthday (the Retirement Age By-law), unless the Board has voted, on an annual basis, to waive or continue to waive the Retirement Age By-law for a nominee.

Set forth below is biographical information for each director nominee chosen by the Board to stand for election at the Annual Meeting. The slate consists of seven independent directors and two non-independent directors. Each of the director nominees is currently serving as a director of the Company and was elected at the 2012 Annual Meeting of Shareholders (2012 Annual Meeting). The Board recommends that each director nominee be elected at the Annual Meeting.

**John Tyson**

John Tyson, 59, is Chairman of the Board. Mr. Tyson has been a member of the Board since 1984, has served as Chairman since 1998, and served as Chief Executive Officer from 2001 until 2006. Mr. Tyson was first elected an executive officer in 1989. Mr. Tyson has devoted his professional career to the Company and brings extensive understanding of the Company, its operations and the protein and food processing industries to the Board. Through his leadership experience gained as a recent Chief Executive Officer of the Company, Mr. Tyson provides the Board with critical insight into the Company's business. In addition, Mr. Tyson, through his association with the TLP, has a substantial personal interest in the Company. The Board believes that Mr. Tyson's leadership experience and knowledge of the Company acquired through his years of service to the Company and his personal stake in its success qualify him to serve on the Board.

**Kathleen M. Bader**

Kathleen M. Bader, 62, was President and Chief Executive Officer of NatureWorks LLC, which manufactures fibers and packaging materials from renewable sources, having served in that capacity from 2004 to 2006, at which time she retired. Ms. Bader also spent more than 30 years with Dow Chemical, holding various management positions in the company's global and North American operations, including global business president of a \$4.2 billion plastics portfolio. She has served on the board of directors of Textron Inc. since 2004 and was previously a director for Halliburton Company. She also served on the President's Homeland Security Advisory Council and recently completed an eight year term on the board for Habitat for Humanity International. Ms. Bader has been a member of the Board since August 3, 2011. The Board believes Ms. Bader's extensive leadership experience, including her exposure to commodities and international business, qualifies her to serve on the Board.

**Gaurdie E. Banister Jr.**

Gaurdie E. Banister Jr., 55, is currently the President and Chief Executive Officer of Aera Energy LLC, a \$5 billion oil and gas producer that is jointly owned by Shell and ExxonMobil, a position he has held since 2007. Prior to joining Aera Energy in 2007, Mr. Banister held a number of management positions with Shell where he had responsibility for, among other things, strategic planning and mergers and acquisitions. Mr. Banister has been a member of the Board since November 17, 2011. The Board believes his more than 30 years in the oil and gas industry, which included significant involvement in international business, along with his leadership experience as CEO of one of California's largest oil and gas producers, qualify him to serve on the Board.

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### **Jim Kever**

Jim Kever, 60, is the founding partner of Voyent Partners, LLC, an investment partnership founded in 2001. Mr. Kever is also a director of 3D Systems Corporation and Luminex Corporation and has served as a director of ACI Worldwide, Inc. and Emdeon Corporation. Mr. Kever has been a member of the Board since 1999. Mr. Kever has extensive knowledge of capital markets and corporate finance and qualifies as an audit committee financial expert within the meaning of the regulations of the SEC. His experience as the director of various companies across a diverse range of industries provides him a unique perspective of, and the ability to understand and address, the challenges and issues facing the Company. The Board believes that his professional experience, financial expertise and service on the boards of other public companies qualify him to serve on the Board.

### **Kevin M. McNamara**

Kevin M. McNamara, 56, is Chairman of Agilum Healthcare Intelligence, a healthcare business intelligence company, and has served in that capacity since November 2011. He is the retired Vice Chairman of Leon Medical Centers, a healthcare provider for medicare patients in Miami-Dade County, Florida, having served in that capacity from April 2010 to June 2011. He previously served as Executive Vice President, Chief Financial Officer and Treasurer of HealthSpring, Inc., a managed care company, from 2005 to 2009. Mr. McNamara is a director of Luminex Corporation, and has served as a director of COMSYS IT Partners, Inc. (f/k/a Personnel Group of America, Inc.) and Emdeon Corporation. Mr. McNamara has been a member of the Board since 2007. Mr. McNamara's financial expertise and professional experience are critical to the Board, the Audit Committee and the Compensation Committee. His experience overseeing financial reporting processes, internal accounting and financial controls, as well as managing independent auditor engagements, qualifies him as an audit committee financial expert within the meaning of the regulations of the SEC. The Board believes that Mr. McNamara's financial expertise and management experience as both a principal financial officer and director of other public companies qualify him to serve on the Board.

### **Brad T. Sauer**

Brad T. Sauer, 53, is Executive Vice President, 3M Industrial Business Group, of 3M Company, since October 2012. He previously served as Executive Vice President, HealthCare Business for 3M Company and served in that capacity from October 2004 to October 2012. Mr. Sauer has been a member of the Board since 2008. Mr. Sauer's career and management expertise spans many disciplines, including sales and marketing, technology and product innovation, and manufacturing quality and processes, which allows him to bring an extensive, multi-disciplined perspective to the Board. In addition, Mr. Sauer's experience as an executive officer of a Fortune 500 company helps him understand the Company's challenges in a global marketplace. The Board believes that Mr. Sauer's diverse management experience qualifies him to serve on the Board.

### **Robert Thurber**

Robert Thurber, 65, currently retired, served as Vice President of purchasing for Sysco Corporation from 1987 to 2007. Mr. Thurber is also a director of Capstone Bancshares, Inc. Mr. Thurber has been a member of the Board since 2009. Mr. Thurber's experience at a leading marketer and distributor of food products to the foodservice industry is particularly relevant given the Company's position as a leading supplier of high quality protein to the foodservice industry. The Board benefits greatly from Mr. Thurber's extensive understanding of the foodservice industry, which provides him the insight necessary to address the challenges, opportunities and operations of the Company's complex business operations. The Board believes these attributes qualify him to serve on the Board.

### **Barbara A. Tyson**

Barbara A. Tyson, 63, served as Vice President of the Company until 2002, when she retired and became a consultant to the Company. She ceased serving as a consultant on November 30, 2011. Ms. Tyson has been a

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member of the Board since 1988. Through her years of experience as both an officer and director of the Company, Ms. Tyson developed an understanding of the Company and its operations, which allows her to assist the Board in its development of the Company's long-term strategy. Ms. Tyson, as the sole income beneficiary of the Randal W. Tyson Testamentary Trust, also has a substantial personal interest in the Company. The Board believes that Ms. Tyson's management experience, understanding of the Company and personal interest in the Company's success qualify her to serve on the Board.

**Albert C. Zapanta**

Albert C. Zapanta, 71, is President and Chief Executive Officer of the United States-Mexico Chamber of Commerce and has served in that capacity since 1993. Mr. Zapanta has been a member of the Board since 2004. After a distinguished military career, Mr. Zapanta entered the private sector, where he served as a senior corporate officer for 18 years. He also has an extensive public service career, which includes various presidential appointments. The Board believes that Mr. Zapanta's broad management and leadership experiences, in both the private and public sectors, allow him to understand the Company's challenges in a global marketplace and qualify him to serve on the Board. In consideration of these qualities and Mr. Zapanta's tenure on the Board, the Board waived the Retirement Age By-law and nominated him to serve on the Board for the coming year.

*Family and Other Relationships.* Ms. Tyson is the aunt of Mr. Tyson. There are no other family relationships among the director nominees. By reason of its beneficial ownership of the Company's common stock, the TLP is deemed to be a controlling person of the Company. Other than the TLP, none of the companies or organizations listed in the director nominees' biographies above is a parent, subsidiary or affiliate of the Company.

*Director Independence.* After reviewing all relevant relationships of the directors, the Board has determined that each of Ms. Bader, Mr. Banister, Mr. Keever, Mr. McNamara, Mr. Sauer, Mr. Thurber and Mr. Zapanta qualify as independent directors in accordance with the NYSE corporate governance rules. In making its independence determinations, the Board considered all relevant transactions, relationships or arrangements disclosed in this Proxy Statement under the section titled "Certain Transactions" and the following:

Each of Mr. Tyson, Mr. Keever and Mr. McNamara has an investment in a privately held company for which Mr. Keever is a director. Neither Mr. Tyson nor Mr. McNamara has any business relationship with, and neither Mr. Tyson nor Mr. McNamara serve as a director or officer of, this company. Based on the foregoing facts, the Board has determined that this relationship does not affect Mr. Keever's independence.

Mr. Sauer is Executive Vice President, 3M Industrial Business Group, one of five business groups of 3M Company. During fiscal years 2012, 2011 and 2010, the Company paid 3M Company \$1,357,772, \$1,327,648 and \$1,596,291 for direct purchases of lab-related supplies and materials, which in each year was less than two percent (2%) of 3M Company's gross revenues. Under the NYSE rules, a director may be considered independent if payments made to an entity with which the director is affiliated are less than the greater of \$1,000,000 or two percent (2%) of the affiliated entity's gross revenues in any of the last three fiscal years. Mr. Sauer did not personally benefit from any of the purchases. Based on the foregoing facts, the Board has determined that Mr. Sauer did not have a direct or indirect material interest in the transactions and this relationship does not affect Mr. Sauer's independence.

**Information Regarding the Board and its Committees**

*Board Meetings.* The Board held four meetings and took action by written consent in lieu of a meeting one time during fiscal year 2012. All directors attended all of the Board and committee meetings they were eligible to attend during fiscal year 2012. The Company expects all directors to attend each annual meeting of shareholders. All directors attended the 2012 Annual Meeting.

*Executive Session; Lead Independent Director.* Independent directors meet in executive session without management present each time the Board holds its regularly scheduled quarterly meetings, and Mr. Keever, who

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has been designated by the Board as the Lead Independent Director, presides over these sessions. Executive sessions occurred four times during fiscal year 2012.

*Leadership Structure.* The Board's current leadership structure consists of a Chairman of the Board and a Lead Independent Director. Pursuant to the Company's Corporate Governance Principles, the Board is permitted to either separate or combine the positions of Chief Executive Officer and Chairman of the Board as it deems appropriate from time to time. Since 2006, these positions have been held by separate individuals. The Lead Independent Director is annually selected by the Board from among the independent directors. The Lead Independent Director is a member of the Executive Committee of the Board. The Board reviews the continued appropriateness and effectiveness of this leadership structure at least annually. At the present time, the Board believes that separation of the positions of Chief Executive Officer and Chairman of the Board, combined with the role of the Lead Independent Director, improves the ability of the Board to exercise its oversight role over management, provides multiple opportunities for discussion and evaluation of management decisions and the direction of the Company, and ensures a significant role for non-management directors in the oversight and leadership of the Company. The Board understands that maintaining qualified independent and non-management directors on the Board is an integral part of effective corporate governance. Accordingly, it believes the current board leadership structure strikes an appropriate balance between independent directors and directors affiliated with the TLP, the Company's controlling shareholder, which allows the Board to effectively represent the best interests of the Company's entire shareholder base.

*Risk Oversight.* Management has the primary responsibility for identifying and managing the risks facing the Company, subject to the oversight of the Board. The Board's committees assist in discharging its risk oversight role by performing the subject matter responsibilities outlined below in the descriptions of each committee. The Board retains full oversight responsibility for all subject matters not specifically assigned to a committee, including risks presented by the Company's business strategy, competition, regulation, general industry trends and capital structure and allocation. On a periodic basis, management conducts an enterprise risk assessment as well as an evaluation and alignment of its risk mitigation activities. Management reviews the results of this periodic assessment with the appropriate committees of the Board.

The Board's administration of its risk oversight function has not specifically affected the Board's leadership structure. In establishing the Board's current leadership structure, risk oversight was one factor among many considered by the Board, and the Board believes that the current leadership structure is conducive to and appropriate for its risk oversight function. As stated above, the Board regularly reviews its leadership structure and evaluates whether it, and the Board as a whole, is functioning effectively. If in the future the Board believes that a change in its leadership structure is required to, or potentially could, improve the Board's risk oversight function, it may make any change it deems appropriate.

*Audit Committee.* The Board has an Audit Committee ( Audit Committee ) whose primary function is to assist the Board in fulfilling its responsibilities through regular review and oversight of the Company's financial reporting, audit and accounting processes. See the section titled Report of the Audit Committee in this Proxy Statement. During fiscal year 2012, the Audit Committee consisted of independent directors Mr. Keever, who serves as Chairman of the Audit Committee, Ms. Bader, Mr. McNamara and Mr. Sauer. Each of these individuals qualifies as an independent director under the regulations adopted by the SEC pursuant to the Sarbanes-Oxley Act of 2002 and the NYSE listing standards relating to audit committees. The Board has determined each member of the Audit Committee is knowledgeable and qualified to review financial statements. In addition, the Board has determined that Messrs. Keever and McNamara each qualify as an audit committee financial expert within the meaning of the regulations of the SEC. The Audit Committee held five meetings and took action by written consent in lieu of a meeting one time in fiscal year 2012.

*Compensation Committee.* The Board has a Compensation Committee ( Compensation Committee ) whose primary functions are to (i) establish the Company's compensation policies and (ii) oversee the administration of the Company's employee benefit plans. The Company qualifies as a controlled company due to the ownership by



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the TLP of shares allowing it to cast more than 50% of votes eligible to be cast for the election of directors. Therefore, the Company has elected not to implement NYSE corporate governance rules that provide that the Compensation Committee has the power to determine the compensation of the Chief Executive Officer. However, the Compensation Committee has approved the employment contracts and total compensation for our Chief Executive Officer since 2003. For more information regarding the duties of the Compensation Committee, see the subsection titled *How We Determine Compensation Role of the Compensation Committee* in this Proxy Statement under the section titled *Compensation Discussion and Analysis*. During fiscal year 2012, the Compensation Committee consisted of independent directors Mr. McNamara, who served as Chairman, Mr. Sauer and Mr. Thurber. The Compensation Committee held five meetings and took action by written consent in lieu of a meeting one time in fiscal year 2012.

*Governance Committee.* The Board has a Governance Committee ( *Governance Committee* ) whose primary functions are to (i) review and recommend to the Board Corporate Governance Principles applicable to the Company; (ii) review and recommend to the Board a Code of Conduct applicable to the Company; and (iii) oversee and review related party and other special transactions between the Company and its directors, executive officers or their affiliates. During fiscal year 2012, the Governance Committee consisted of independent directors Mr. Thurber, who served as Chairman of the Governance Committee, Mr. Banister, Mr. Kever and Mr. Zapanta. The Governance Committee held four meetings during fiscal year 2012.

*Nominating Committee.* The Board has a Nominating Committee ( *Nominating Committee* ) whose primary function is to identify, evaluate, and recommend individuals qualified to be directors of the Company for either appointment to the Board or to stand for election at a meeting of the shareholders. While the Company has not established minimum qualifications for director nominations, the Company has established, and the Nominating Committee charter contains, criteria by which the Nominating Committee is to evaluate candidates for recommendation to the Board. In evaluating candidates, the Nominating Committee takes into account the applicable requirements for directors under the Securities Exchange Act of 1934, as amended, the rules and regulations promulgated thereunder and the listing standards of the NYSE. The Nominating Committee may also take into consideration the factors and criteria set forth in the Company's Corporate Governance Principles and such other factors or criteria that the Nominating Committee deems appropriate in evaluating a candidate, including but not limited to the applicable requirements for members of committees of the Board. While the Nominating Committee does not have a formal policy on diversity with regard to its consideration of nominees, it considers diversity in its selection process and seeks to nominate candidates that have a diverse range of views, backgrounds, leadership and business experience.

The Nominating Committee may (but is not required to) consider candidates suggested by management or other members of the Board. In addition, the Nominating Committee may (but is not required to) consider shareholder recommendations for candidates to the Board. In order to recommend a candidate to the Board, shareholders should submit the recommendation to the Chairman of the Nominating Committee in the manner described in the section of this Proxy Statement titled *Shareholder Communications*. Shareholders who wish to nominate a candidate to the Board must submit the name of the proposed candidate to the then current Board on or before September 30 of any year in accordance with the Company's by-laws. During fiscal year 2012 the Nominating Committee consisted of Mr. Zapanta, who served as Chairman of the Nominating Committee, Mr. Kever and Mr. Thurber. The Nominating Committee held one meeting and took action by written consent in lieu of a meeting one time during fiscal year 2012.

*Executive Committee.* The Board has an Executive Committee ( *Executive Committee* ) whose primary function is to act on behalf of the Board during intervals between regularly scheduled meetings of the Board. The Executive Committee may exercise all powers of the Board, except as otherwise provided by law and the Company's by-laws; however, its actions are typically ministerial, such as approving (i) the sale or purchase of property, (ii) the opening and closing of bank accounts, and (iii) amendments to benefit plans for which Compensation Committee approval is not required. All actions taken by the Executive Committee between meetings of the Board are reviewed for ratification by the Board at the following Board meeting. The members of

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the Executive Committee are Mr. Tyson, Mr. Kever and Ms. Tyson. The Executive Committee took action by written consent in lieu of a meeting four times during fiscal year 2012.

*Corporate Governance Principles; Committee Charters; Code of Conduct.* The Board has adopted Corporate Governance Principles, and each of the Audit Committee, Compensation Committee, Governance Committee and Nominating Committee has adopted a written charter. The Board has also adopted a Code of Conduct applicable to all directors, officers and employees. Copies of these corporate governance documents are available on the Company's Investor Relations website at <http://ir.tyson.com> and in print to any shareholder who sends a request to Tyson Foods, Inc., Attention: Secretary, 2200 Don Tyson Parkway, Mail Stop CP004, Springdale, Arkansas 72762-6999.

### **Compensation Committee Interlocks and Insider Participation**

At the end of fiscal year 2012, the Compensation Committee consisted of Mr. McNamara (Chairman), Mr. Sauer and Mr. Thurber. All members of the Compensation Committee during fiscal year 2012 were independent directors, and no member was an officer or employee of the Company or a former officer or employee of the Company. No member of the Compensation Committee serving during fiscal year 2012 was party to a transaction, relationship or arrangement requiring disclosure under Item 404 of Regulation S-K. During fiscal year 2012, none of our executive officers served on the compensation committee (or its equivalent) or board of directors of another entity whose executive officer served on our Compensation Committee or Board.

### **Board Recommendation**

**THE BOARD OF DIRECTORS OF THE COMPANY RECOMMENDS THAT SHAREHOLDERS VOTE FOR THE SLATE OF DIRECTORS NOMINATED BY THE BOARD.**

**PROXIES SOLICITED BY THE BOARD WILL BE VOTED FOR EACH COMPANY NOMINEE UNLESS SHAREHOLDERS SPECIFY A CONTRARY VOTE.**

### **Vote Required**

Approval of a nominee for director requires the affirmative vote of a majority of the votes cast at the Annual Meeting, with the holders of shares of Class A Common Stock and Class B Common Stock voting together as a single class.

Shareholders are not entitled to cumulate voting with respect to the election of directors. The Board contemplates that all of the director nominees will be able to stand for election, but should any director nominee become unavailable for election, all proxies will be voted for the election of a substitute nominated by the Board (unless the Board chooses to reduce the number of directors on the Board). If the Board identifies or nominates substitute nominees before the meeting, we will file an amended proxy statement that (1) identifies the substitute nominees, (2) discloses whether such nominees have consented to being named in the revised proxy statement and to serve if elected and (3) includes the disclosure required by Items 5(b) and 7 of Schedule 14A with respect to such nominees.

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**APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE  
TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN**

Shareholders are being asked to approve the amendment and restatement of the Stock Incentive Plan. The purpose of amending and restating the Stock Incentive Plan is to incorporate all prior amendments to the Stock Incentive Plan since it was last amended and restated effective November 19, 2004, as well as to increase the number of shares of Class A Common Stock available for issuance under the Stock Incentive Plan by 29,340,000 to 90,000,000. The Stock Incentive Plan, as amended and restated, has been approved by the Compensation Committee and the Board.

The following description of the Stock Incentive Plan is qualified in its entirety by reference to the applicable provisions of the plan document, which is attached as [Appendix A](#).

**Purpose**

The purpose of the Stock Incentive Plan is to attract and retain highly qualified persons to serve as directors, officers and employees, thereby more closely aligning their interest with that of the Company's shareholders. The Stock Incentive Plan also provides for grants of stock-based awards to consultants and other service providers; however, no such grants are currently outstanding.

The Board believes that the successful continuation of the Company's business strategy depends upon attracting and retaining able executives, managers and other key employees. The Board believes that additional shares must be reserved for issuance under the Stock Incentive Plan to facilitate the Company's attraction and retention of capable personnel. Consequently, the Board has approved an amendment to the Stock Incentive Plan, subject to shareholder approval of this proposal, to increase by 29,340,000, the number of shares of Class A Common Stock available for issuance under the Stock Incentive Plan. That number is subject to future adjustment as provided in the Stock Incentive Plan for certain changes in the Company's capital structure.

**General Description of the Stock Incentive Plan**

The Stock Incentive Plan was originally approved by the shareholders of the Company on January 12, 2001, was amended and restated on November 19, 2004, and was amended on February 2, 2007, August 13, 2007 and November 20, 2009. The Stock Incentive Plan has an indefinite term.

The Stock Incentive Plan permits awards of a variety of equity-based incentives, including stock awards, options to purchase shares of Class A Common Stock, stock appreciation rights, dividend equivalent rights, performance unit awards and phantom shares to purchase or acquire shares of Class A Common Stock (collectively, "Stock Incentives").

Prior to the amendment to the Stock Incentive Plan represented by this proposal, the number of shares of Class A Common Stock reserved for issuance under the Stock Incentive Plan was 60,660,000, of which approximately 5,945,000 were available as of December 3, 2012 for future grants thereunder. As of December 3, 2012, the market value for Class A Common Stock was \$19.22 per share. If amendment and restatement of the Stock Incentive Plan is approved by shareholders, the number of shares of Class A Common Stock available for future grants would increase by 29,340,000.

The number of shares of Class A Common Stock as to which any Stock Incentive is granted and the persons to whom any Stock Incentive are granted is determined by the Compensation Committee, subject to the provisions of the Stock Incentive Plan. To the extent not inconsistent with the terms of the Stock Incentive Plan, the Compensation Committee may establish the terms of any Stock Incentive, including exercise or settlement price and terms of forfeiture. Stock Incentives generally are not transferable or assignable during a holder's lifetime, subject to such terms as may be established by the Compensation Committee.

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No eligible employee may be granted during any single calendar year rights to shares of Class A Common Stock under performance-based Stock Incentives which, in the aggregate, exceed 1,000,000 shares of Class A Common Stock, subject to future adjustment as provided in the Stock Incentive Plan for certain changes in the Company's capital structure.

### **Eligibility**

Officers, employees, directors, consultants and other service providers of the Company and its subsidiaries are eligible for awards under the Stock Incentive Plan. However, only employees of the Company and its subsidiaries will be eligible to receive incentive stock options under the Stock Incentive Plan. As of December 3, 2012, there were approximately 1,500 officers, employees and directors that were approved by the Compensation Committee to receive awards under the Stock Incentive Plan. Because consultants and other service providers may not be directly employed by the Company, it is not possible to approximate the number of such consultants and other service providers that are eligible to participate in the Stock Incentive Plan.

### **Performance Criteria**

Under the Stock Incentive Plan, at the time a Stock Incentive is granted, the Compensation Committee may establish performance measures, if any, attributable to the payment, vesting or other settlement of the Stock Incentive. Performance measures will be established by the Compensation Committee under an objective formula or standard consisting of one or any combination of the following criteria:

earnings per share and/or growth in earnings per share in relation to target objectives, excluding the effect of extraordinary or nonrecurring items;

operating cash flow and/or growth in operating cash flow in relation to target objectives;

cash available in relation to target objectives;

net income and/or growth in net income in relation to target objectives, excluding the effect of extraordinary or nonrecurring items;

revenue and/or growth in revenue in relation to target objectives;

total shareholder return (measured as the total of the appreciation of, and dividends declared on, Class A Common Stock) in relation to target objectives;

return on invested capital in relation to target objectives;

return on shareholder equity in relation to target objectives;

return on assets in relation to target objectives;

return on common book equity in relation to target objectives;

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operating income in relation to target objectives;

EBIT, EBITDA or EBITDAR or any adjusted version thereof in relation to target objectives;

Company stock price performance as compared against a peer group of companies selected by the Compensation Committee; or

any combination of the foregoing.

The Compensation Committee may amend or adjust the performance measures of an outstanding award in recognition of unusual or nonrecurring events affecting the Company or its financial statements, such as changes in the business, operations or corporate or capital structure of the Company, changes in law or changes in accounting principles, except where such action would result in the loss of a tax deduction to the Company under Section 162(m) of the Internal Revenue Code.

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The Compensation Committee may, but is not required to, structure any Stock Incentive so as to qualify as performance-based compensation under Section 162(m) of the Internal Revenue Code.

### **Federal Income Tax Consequences**

The following discussion outlines generally the federal income tax consequences of participation in the Stock Incentive Plan. Individual circumstances may vary and each participant should rely on his or her own tax counsel for advice regarding federal income tax treatment under the Stock Incentive Plan.

*Incentive Stock Options.* A participant who exercises an incentive stock option will not be taxed at the time he or she exercises his or her option or a portion thereof. Instead, the participant will be taxed at the time he or she sells the shares of Class A Common Stock purchased pursuant to the incentive stock option. The participant will be taxed on the difference between the price he or she paid for the Class A Common Stock and the amount for which he or she sells the Class A Common Stock. If the participant does not sell the shares of Class A Common Stock prior to two years from the date of grant of the incentive stock option and one year from the date the stock is transferred to him or her, any subsequent gain on sale of the shares will be capital gain and the Company will not receive a corresponding deduction. If the participant sells the shares of stock at a gain prior to that time, the difference between the amount the participant paid for the Class A Common Stock and the lesser of fair market value on the date of exercise or the amount for which the stock is sold will be taxed as ordinary income, and the Company will receive a corresponding deduction. If the participant sells the shares of Class A Common Stock for less than the amount he or she paid for the stock prior to the one- or two-year period indicated, no amount will be taxed as ordinary income and the loss will be taxed as a capital loss. Exercise of an incentive stock option may subject a participant to, or increase a participant's liability for, the alternative minimum tax.

*Nonqualified Stock Options.* A participant will not recognize income upon the grant of a nonqualified option without a readily ascertainable market value or at any time prior to the exercise of the option or a portion thereof. At the time the participant exercises a nonqualified option or portion thereof, he or she will recognize compensation taxable as ordinary income in an amount equal to the excess of the fair market value of the Class A Common Stock on the date the option is exercised over the price paid for the stock, and the Company will then be entitled to a corresponding deduction.

Depending upon the time period shares of Class A Common Stock are held after exercise, the sale or other taxable disposition of shares acquired through the exercise of a nonqualified option generally will result in a short- or long-term capital gain or loss equal to the difference between the amount realized on such disposition and the fair market value of such shares when the nonqualified option was exercised.

Special rules apply to a participant who exercises a nonqualified option by paying the exercise price, in whole or in part, by the transfer of shares of Class A Common Stock to the Company.

*Other Stock Incentives.* A participant will not recognize income upon the grant of a stock appreciation right, dividend equivalent right, performance unit award or phantom share (collectively, the Other Equity Incentives). Generally, at the time a participant receives payment under any Other Equity Incentive, he or she will recognize compensation taxable as ordinary income in an amount equal to the cash or fair market value of the Class A Common Stock received (less the grant price in the case of a stock appreciation right), and the Company will then be entitled to a corresponding deduction.

A participant will not be taxed upon the grant of a stock award if such award is subject to a substantial risk of forfeiture, as defined in the Internal Revenue Code. When the shares of Class A Common Stock that are subject to the stock award are no longer subject to a substantial risk of forfeiture; however, the participant generally will recognize compensation taxable as ordinary income in an amount equal to the fair market value of the stock subject to the award, less any amount paid for such stock, and the Company will then be entitled to a corresponding deduction. If a participant so elects at the time of receipt of a stock award, he or she may include

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the fair market value of the stock subject to the award, less any amount paid for such stock, in income at that time and the Company will also be entitled to a corresponding deduction at that time.

**Withholding Taxes**

A participant may be liable for federal, state and local tax withholding obligations as a result of the grant, exercise, vesting or settlement of a Stock Incentive. The tax withholding obligations may be satisfied by payment in the form of cash, certified check, previously-owned shares of the Company's Class A Common Stock or, if a participant elects with the permission of the Compensation Committee, by a reduction in the number of shares to be received by the participant under the award.

**Table of Contents****Plan Benefits**

Set forth below is a table that shows equity grants pursuant to the Stock Incentive Plan in fiscal year 2012. These are the same amounts as would have been paid pursuant to the Stock Incentive Plan if shareholders had approved the amendment and restatement of the Stock Incentive Plan prior to fiscal year 2012. Future benefits to be received by a person or group under the Stock Incentive Plan are not fully determinable at this time and will depend on individual and corporate performance and other determinations to be made by the Compensation Committee during fiscal year 2013.

Name	Tyson Foods, Inc. 2000 Stock Incentive Plan	
	Total Number of Awards	Dollar Value
John Tyson	0	\$ 0
Donnie Smith	400,000	\$ 2,796,000
Dennis Leatherby	52,960	\$ 357,054
Donnie King	117,680	\$ 822,583
James V. Lochner	325,000	\$ 2,271,750
Noel White	117,680	\$ 822,583
Non-NEO Executive Group	120,265	\$ 914,218
Non-Executive Director Group	51,600	\$ 1,000,000
Non-Executive Officer Employee Group	3,486,003	\$ 31,150,383

**Board Recommendation**

**THE BOARD OF DIRECTORS OF THE COMPANY RECOMMENDS THAT SHAREHOLDERS VOTE FOR APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE TYSON**

**FOODS, INC. 2000 STOCK INCENTIVE PLAN.**

**PROXIES SOLICITED BY THE BOARD WILL BE VOTED FOR APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE TYSON FOODS, INC. 2000 STOCK INCENTIVE PLAN UNLESS SHAREHOLDERS SPECIFY A CONTRARY VOTE.**

**Vote Required**

Approval of the amendment and restatement of the Tyson Foods, Inc. 2000 Stock Incentive Plan requires the affirmative vote of a majority of the votes cast at the Annual Meeting, with the holders of shares of Class A Common Stock and Class B Common Stock voting together as a single class, provided that the total vote cast on this proposal represents over 50% in interest of all securities entitled to vote thereon.



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**APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE  
TYSON FOODS, INC. EMPLOYEE STOCK PURCHASE PLAN**

Shareholders are being asked to approve the amendment and restatement of the Tyson Foods, Inc. Employee Stock Purchase Plan (the "Stock Purchase Plan") to ensure compliance with New York Stock Exchange listing standards. The Stock Purchase Plan, as amended and restated, has been approved by the Compensation Committee and the Board. The Stock Purchase Plan was amended and restated on October 1, 2008 and was amended on December 27, 2009. The purpose of amending and restating the Stock Purchase Plan is to incorporate the 2009 amendment to the plan, as well as to increase the number of shares that may be sold under the plan.

The following description of the Stock Purchase Plan is qualified in its entirety by reference to the applicable provisions of the plan document, which is attached as [Appendix B](#).

**General Description of the Stock Purchase Plan**

The Stock Purchase Plan permits eligible employees of the Company and designated affiliates to purchase shares of the Company's Class A Common Stock in a convenient manner through payroll deductions, receive a percentage match from the Company when eligible, and thereby allow such employees to share in the success of the Company and to encourage them to remain in the service of the Company or its subsidiaries. The Stock Purchase Plan authorizes the committee administering the Stock Purchase Plan to purchase shares of the Company's Class A Common Stock either directly from the Company or in the open market at the prevailing market price in such amount as is necessary to satisfy the purchases made under the Stock Purchase Plan.

**Terms of the Stock Purchase Plan**

*Administration.* The Stock Purchase Plan is administered by the Company which has appointed a committee (the "Administrative Committee") to exercise the authority of the Company as the plan administrator.

*Term.* The Stock Purchase Plan has an indefinite term, but the Board may discontinue the Stock Purchase Plan at any time without shareholder approval. The Stock Purchase Plan also will terminate automatically if this amendment and restatement is not approved by the shareholders.

*Shares.* The number of shares of Class A Common Stock to be sold under the Stock Purchase Plan will not exceed 50,000,000. This number will be proportionately adjusted for any nonreciprocal transaction between the Company and its shareholders that causes the per share value of the Class A Common Stock to change, such as a stock dividend, stock split, spin-off, rights offering, or recapitalization through a large, nonrecurring cash dividend. No fractional shares will be issued or optioned in making any such adjustments. As of December 3, 2012, the market value for Class A Common Stock was \$19.22 per share.

*Eligibility.* Under the Stock Purchase Plan, all employees who have completed three (3) full calendar months of service with the Company or a participating affiliate (the "Eligible Employees") are eligible to participate, beginning with the first payday that falls on or after the first day of the immediately succeeding month. However, any employee who is a member of a collective bargaining unit and who is covered by a collective bargaining agreement which does not provide for coverage of such employee under the Stock Purchase Plan is not an Eligible Employee. As of September 29, 2012, approximately 87,000 employees were eligible to purchase Class A Common Stock under the Stock Purchase Plan.

*Employee Participation and Contributions.* Participation by Eligible Employees in the Stock Purchase Plan is voluntary. An Eligible Employee may elect to purchase shares of the Company's Class A Common Stock under the Stock Purchase Plan by authorizing his or her employer to withhold from the employee's compensation the amount specified to purchase shares of the Company's Class A Common Stock under the Stock Purchase Plan. The employee must elect either (i) a specified percentage (not less than 1% nor more than 20%) of his or her base earnings to be withheld or (ii) a specified dollar amount (not less than \$1.00 per week nor more than \$25.00 per week). Such percentage or amount may be increased or decreased by any multiple of one percent or

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one dollar, respectively, at such times as permitted by the Administrative Committee. In no event, however, may an employee contribute, in any one year, more than 20% of his or her base earnings or \$25.00 per week depending on the contribution method chosen.

*Employer Contributions.* Each participant who has completed at least one year of continuous service with the Company or a participating affiliate is entitled to employer matching contributions on that participant's employee contributions, if any, made following completion of the first year of service. Matching contributions are equal to a percentage, not to exceed 50%, of the first 10% of the amount contributed by each eligible participant pursuant to his or her employee contribution elections. The Board has the discretion to determine the level of contributions to be made. The matching contributions are made directly to a matching account under the Stock Purchase Plan.

*Purchases of Common Stock.* All participant contributions plus the employer's matching contributions are used to make purchases of the shares of the Company's Class A Common Stock on the open market or directly from the Company. Shares of the Company's Class A Common Stock are purchased at reasonable intervals on an aggregate basis with the aggregate amount of funds available used to buy whole shares of the Company's Class A Common Stock or multiples thereof. No interest is payable by the Company on accumulated payroll deductions.

*Stock Certificates.* A participant may request delivery of a stock certificate representing the number of shares of the Company's Class A Common Stock purchased on his behalf, not more frequently than twice monthly, subject to certain limitations described in the Stock Purchase Plan.

*Dividends.* All cash dividends received with respect to shares of the Company's Class A Common Stock purchased under the Stock Purchase Plan while the shares are held by a brokerage firm will be used to purchase additional shares of the Company's Class A Common Stock for participants in proportion to their specified interest in the shares upon which dividends were paid.

*Transfer Restrictions.* The purchase rights under the Stock Purchase Plan are not transferable by a participant. When shares of the Company's Class A Common Stock are acquired under the Stock Purchase Plan by an executive officer of the Company such shares may be re-offered or resold only pursuant to a registration statement or an available exemption from registration, including Rule 144 under the Securities Act of 1933. This restriction also applies to re-offers and resales by persons who become executive officers after their acquisition of shares under the Stock Purchase Plan. Additionally, such persons may be subject to further restrictions on transactions under the Stock Purchase Plan (including sales of shares, withdrawals, and changes in contributions) under the reporting and short-swing profits provisions of Rule 16b-3 of the Securities Exchange Act of 1934.

*Cessation of Participation.* A participant may choose to withdraw from the Stock Purchase Plan by giving the Company written or electronic notice no later than the Friday before a new pay period for which the withdrawal is to be effective. A participant who withdraws may renew participation in the Stock Purchase Plan by giving notice to the Company. Distributions from the Stock Purchase Plan after a voluntary withdrawal are subject to the rules described above in the section titled "Stock Certificates."

Withdrawals will occur automatically when and if a participant ceases to be an eligible employee. As soon as practicable following the withdrawal, the Company will issue to the participant a stock certificate and a check for the sum of the uninvested funds held to the participant's credit under the Stock Purchase Plan. At that time, all of the participant's purchase rights under the Stock Purchase Plan will terminate.

*Expenses.* The Company intends to bear all costs of maintaining records and executing transfers of Class A Common Stock. Brokerage expenses incurred in the purchase of shares will be included as part of the cost of shares purchased by the participants.

*Amendment or Discontinuance of the Stock Purchase Plan.* The Board may amend or discontinue the Stock Purchase Plan at any time without shareholder approval. No amendment will be effective without the approval of the Company's shareholders where such approval is deemed necessary under applicable law.

**Table of Contents****Plan Benefits**

It is not presently possible to determine, with respect to the persons and groups shown in the table below, the number of shares to be purchased in the future by such person or groups pursuant to the Stock Purchase Plan. Therefore, the following table sets forth information pertaining to shares which have been purchased during fiscal year 2012 pursuant to the Stock Purchase Plan. The closing price of the Company's Class A Common Stock on the New York Stock Exchange was \$16.02 per share on September 29, 2012, the last business day of the 2012 fiscal year.

Name	Tyson Foods, Inc. Employee Stock Purchase Plan Total	
	Number of Shares Purchased	Dollar Value
John Tyson	0	\$ 0
Donnie Smith	6,164	\$ 98,747
Dennis Leatherby	3,802	\$ 60,908
Donnie King	1,834	\$ 29,381
James V. Lochner	5,599	\$ 89,696
Noel White	3,668	\$ 58,761
Non-NEO Executive Group	7,658	\$ 122,681
Non-Executive Director Group	7	\$ 112
Non-Executive Officer Employee Group	1,690,851	\$ 27,087,433

**Federal Income Tax Consequences**

The Stock Purchase Plan is not intended to be a qualified plan under Section 401 or any other provision of the Internal Revenue Code. Accordingly, amounts withheld from a participant's compensation, as well as a participant's share of the Company's matching contributions credited under the Stock Purchase Plan, are immediately taxable to the participant for federal income tax purposes and may also be taxable under applicable state and local laws. Such taxable amount determines the participant's cost basis in the shares of the Company's Class A Common Stock purchased under the Stock Purchase Plan. Upon a disposition of the shares purchased under the Stock Purchase Plan, any gain or loss which may be realized will be treated for federal income tax purposes as long-term or short-term capital gain or loss.

**Board Recommendation**

**THE BOARD OF DIRECTORS OF THE COMPANY RECOMMENDS THAT SHAREHOLDERS VOTE FOR APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE TYSON FOODS, INC. STOCK PURCHASE PLAN.**

**PROXIES SOLICITED BY THE BOARD WILL BE VOTED FOR APPROVAL OF THE AMENDMENT AND RESTATEMENT OF THE TYSON FOODS, INC. STOCK PURCHASE PLAN UNLESS SHAREHOLDERS SPECIFY A CONTRARY VOTE.**

**Vote Required**

Approval of the amendment and restatement of the Tyson Foods, Inc. Stock Purchase Plan requires the affirmative vote of a majority of the votes cast at the Annual Meeting, with the holders of shares of Class A Common Stock and Class B Common Stock voting together as a single class, provided that the total vote cast on this proposal represents over 50% in interest of all securities entitled to vote thereon.

**Table of Contents****Securities Authorized for Issuance Under Equity Compensation Plans**

The following information reflects certain information about our equity compensation plans as of September 29, 2012:

	<b>Equity Compensation Plan Information</b>		
	(a)	(b)	(c)
	<b>Number of Securities to be issued upon exercise of outstanding options</b>	<b>Weighted average exercise price of outstanding options</b>	<b>Number of Securities remaining available for future issuance under equity compensation plans (excluding Securities reflected in column (a))</b>
Equity compensation plans approved by security holders	19,067,360	\$ 14.82	22,187,165
Equity compensation plans not approved by security holders			
<b>Total</b>	<b>19,067,360</b>	<b>\$ 14.82</b>	<b>22,187,165</b>

- (a) Outstanding options granted by the Company  
(b) Weighted average exercise price of outstanding options  
(c) Shares available for future issuance as of September 29, 2012, under the Stock Incentive Plan (10,795,188), the Employee Stock Purchase Plan (3,744,369) and the Retirement Savings Plan (7,647,608)

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**RATIFICATION OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Company's Audit Committee has appointed PricewaterhouseCoopers LLP ( PwC ) to serve as the Company's independent registered public accounting firm for the fiscal year ending September 28, 2013. Shareholders are asked to ratify this appointment at the Annual Meeting. Representatives of PwC will be present at the Annual Meeting and will have the opportunity to make a statement and respond to appropriate questions. Even if the selection is ratified, the Audit Committee, in its sole discretion, may change the appointment at any time during the year if it determines that such a change would be in the best interests of the Company and its shareholders.

**Audit Fees**

The fees for professional services rendered by PwC for the audit of the Company's annual financial statements for each of the fiscal years ended September 29, 2012 and October 1, 2011, and the reviews of the financial statements included in the Company's quarterly reports on Form 10-Q and for services that are normally provided by the independent registered public accounting firm in connection with statutory or regulatory filings or engagements for each of those fiscal years were \$3,796,125 and \$3,380,341, respectively.

**Audit-Related Fees**

Aggregate fees billed or expected to be billed by PwC for assurance and related services reasonably related to the performance of the audit or review of the Company's financial statements for the fiscal years ended September 29, 2012 and October 1, 2011, and not included in the audit fees listed above were \$183,400 and \$178,400, respectively. These services comprise engagements to perform audits of employee benefit plans and required agreed-upon procedures.

**Tax Fees**

Aggregate fees billed or expected to be billed by PwC for tax compliance, tax advice and tax planning for each of the fiscal years ended September 29, 2012 and October 1, 2011 were \$311,817 and \$388,455, respectively.

**All Other Fees**

For each of the fiscal years ended September 29, 2012 and October 1, 2011, PwC billed the Company \$3,600 for services rendered, other than those services covered in the sections captioned Audit Fees, Audit-Related Fees and Tax Fees. These fees were for an on-line research tool for accounting rules and guidance.

None of the services described above were approved pursuant to the *de minimis* exception provided in Rule 2-01(c)(7)(i)(C) of Regulation S-X promulgated by the SEC.

**Audit Committee Pre-Approval Policy**

The Audit Committee has adopted policies and procedures for the pre-approval of all audit and non-audit services to be performed by the Company's independent registered public accounting firm. The Audit Committee charter provides that the Audit Committee must approve in advance all audit services to be performed by the independent registered public accounting firm. The Audit Committee has approved a separate written policy for the approval of engagements for non-audit services to be performed by the independent registered public accounting firm. For non-audit services, any person requesting that such services be performed by the independent registered public accounting firm must prepare a written explanation of the project (including the scope, deliverables and expected benefits), the reason for choosing the independent registered public accounting

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firm over other service providers, the estimated costs, the estimated timing and duration of the project and other pertinent information. Non-audit services must first be pre-approved by each of the Company's Chief Accounting Officer and Chief Financial Officer before being submitted for pre-approval to the Audit Committee, and then the Audit Committee or a designated member of the Audit Committee must pre-approve the proposed engagement before the engagement can proceed. The requirement for Audit Committee pre-approval of an engagement for non-audit services may be waived only if (i) the aggregate amount of all such non-audit services provided is less than five percent (5%) of the total amount paid by the Company to the independent registered public accounting firm during the fiscal year when the services are provided; (ii) the services were not recognized by the Company at the time of the engagement to be non-audit services; and (iii) the services are promptly brought to the attention of the Audit Committee and approved prior to the completion of the audit of the fiscal year in which the non-audit services were provided.

**Board Recommendation**

**THE BOARD OF DIRECTORS OF THE COMPANY RECOMMENDS THAT SHAREHOLDERS VOTE FOR RATIFICATION OF PRICEWATERHOUSECOOPERS LLP AS THE COMPANY'S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR THE FISCAL YEAR ENDING SEPTEMBER 28, 2013.**

**PROXIES SOLICITED BY THE BOARD WILL BE VOTED FOR RATIFICATION OF PRICEWATERHOUSECOOPERS LLP AS THE COMPANY'S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM UNLESS SHAREHOLDERS SPECIFY A CONTRARY VOTE.**

**Vote Required**

Ratification of PwC as the Company's independent registered public accounting firm for the fiscal year ending September 28, 2013 requires the affirmative vote of a majority of the votes cast at the Annual Meeting, with the holders of shares of Class A Common Stock and Class B Common Stock voting together as a single class. Ratification of the selection of PwC by shareholders is not required by law. However, as a matter of policy, such selection is being submitted to the shareholders for ratification at the Annual Meeting. If the shareholders fail to ratify the selection of this firm, the Board will reconsider the matter.

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**COMPENSATION DISCUSSION AND ANALYSIS**

**Introduction**

This Compensation Discussion and Analysis provides information regarding the compensation paid to our Chairman of the Board, Chief Executive Officer, Chief Financial Officer and certain other executive officers who were the most highly compensated in fiscal year 2012. These individuals, referred to as named executive officers or NEOs, are identified below:

John Tyson, Chairman of the Board ( Chairman )

Donnie Smith, President and Chief Executive Officer ( CEO )

Dennis Leatherby, Executive Vice President and Chief Financial Officer ( CFO )

Donnie King, Senior Group Vice President, Poultry and Prepared Foods

James V. Lochner, Chief Operating Officer ( COO )

Noel White, Senior Group Vice President, Fresh Meats

Our Board recognizes the fundamental interest our shareholders have in the compensation of our executive officers. At the 2011 Annual Meeting, our shareholders approved, on an advisory basis, the compensation of our named executive officers. Based upon the results of such advisory vote and our review of our compensation policies and decisions, we believe that our existing compensation policies and decisions are consistent with our compensation philosophy and objectives discussed below and adequately align the interests of our named executive officers with the long term goals of the Company.

Based on the advisory vote of our shareholders at the 2011 Annual Meeting, the Board determined that the Company will hold shareholder advisory votes on executive compensation once every three years. The next shareholder advisory vote on executive compensation is scheduled to occur at the Annual Meeting of Shareholders to be held in 2014.

**Fiscal Year 2013 Compensation Decisions**

During fiscal year 2012, the Compensation Committee undertook a project in which it examined short-term and long-term compensation of executive officers as well as the Company's employment contract structure, with a goal toward implementing any changes after the end of fiscal year 2012. The Compensation Committee, which worked with the Company's compensation consultant, Hay Group, and members of senior management during the project, had an overarching goal that any changes in compensation would be consistent with the Company's compensation philosophy and objectives described below. As part of this process, the Compensation Committee selected a new peer group of companies which they felt more accurately reflected the Company's industry peers. The new peer group, which will first be used in comparative performance in compensation in fiscal year 2013, is made up of Archer-Daniels-Midland Company, Bunge Limited, Campbell Soup Company, ConAgra Foods, Inc., Dean Foods Company, General Mills, Inc., H. J. Heinz Company, Hormel Foods Corporation, Kellogg Company, Kraft Foods Group, Inc., McCormick & Company, Incorporated, Pilgrim's Pride Corporation, Sanderson Farms, Inc., Smithfield Foods, Inc., The Hillshire Brands Company, and The J. M. Smucker Company. During the course of the project, the Company compared the compensation of its executive officers against comparable employees of the new peer group companies, as well as against comparable employees included in the General Industry Data (defined below). The data developed during the project indicated that Company executive officer salaries and target performance incentive amounts were generally at or below the 50th percentile of the comparative data. Long-term incentives, i.e. equity compensation, were generally below the 50th percentile, and the Company's historic mix of equity compensation, namely options and restricted stock (weighted heavily toward options) was considerably different from the new peer group.

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At the conclusion of the project, the Compensation Committee concluded that:

employment contracts should be simplified, with no specific term (i.e., length) for any officer with the exception of the Chairman, the CEO and the COO;



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equity compensation would not be pre-determined by the contract which would instead only set forth eligibility, providing flexibility for the Compensation Committee, with the input of management, to determine actual amounts for NEOs; and

the mix of equity grants for executive officers was changed to provide for two classes of performance stock (40% and 25% of equity compensation, respectively) and stock options (35%).

Because these changes do not relate to compensation earned by or paid to the NEOs during fiscal year 2012, they will be more fully described in the proxy statement for the Annual Meeting of Shareholders to be held in 2014.

### **Compensation Philosophy and Objectives**

Our executive compensation program is designed to provide a competitive level of compensation necessary to attract, motivate and retain talented and experienced executives and to motivate them to achieve short-term and long-term corporate goals that enhance shareholder value. Consistent with this philosophy, the following are the key objectives of our compensation programs.

*Shareholder Alignment.* One of the primary objectives of our executive compensation philosophy is to ensure that an appropriate relationship exists among executive pay, the Company's financial performance and the creation of shareholder value. We believe that linking executive compensation to corporate performance results in a better alignment of compensation with corporate goals and shareholder interests.

*Attract, Motivate and Retain Key Employees.* Our executive compensation program is shaped by the competitive market for management talent in the food industry and at other public and private companies. We believe our executive compensation should be competitive with the organizations with which we compete for talent. As such, it is our goal to provide compensation at levels (both in terms of benefits provided and amounts paid) that attracts, motivates and retains superior executive talent for the long-term.

*Link Pay to Performance.* We believe that as an executive's responsibility increases, a larger portion of his or her total compensation should be at-risk incentive compensation (both short-term and long-term), subject to corporate, segment, individual, stock price and/or earnings performance measures. Our compensation program links pay to performance by making a substantial portion of total executive compensation variable, or at-risk, through an annual performance incentive program based on Company earnings and performance goals. As performance goals are met or exceeded, executives are rewarded commensurately. The program also includes the granting of long-term incentive equity awards, primarily including stock options and restricted stock.

### **How We Determine Compensation**

*Role of the Compensation Committee.* In general, the Compensation Committee works with management to set compensation philosophy and objectives and to ensure key executives are compensated in accordance with such philosophy and objectives. More specifically, the Compensation Committee periodically reviews and approves the Company's stated compensation strategy, corporate goals and objectives relevant to management compensation and total compensation policy to ensure they support business objectives, create shareholder value, are consistent with shareholder interests, attract, motivate and retain key executive talent and link compensation to corporate performance. The Compensation Committee also periodically reviews the composition of the peer groups used for competitive pay/performance benchmarking and analyzes total compensation for the Chairman and the CEO and the Company's band level structure as compared to the relevant external benchmarks. A discussion of the peer group and external benchmarks used in establishing compensation is set forth below under the heading *Role of Compensation Consultants/Benchmarking.* The Compensation Committee's charter describes additional duties and responsibilities of the Compensation Committee with respect to the administration, oversight and determination of executive compensation. A copy of the Compensation Committee's Charter can be found at the website <http://ir.tyson.com>.

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The Compensation Committee works to ensure that its decisions are consistent with tax regulations, relevant law, and NYSE listing requirements and are handled in a manner that is mutually satisfactory to the Compensation Committee and the Company's principal shareholder. Because the Company meets the definition of a controlled company under NYSE corporate governance rules, the Compensation Committee is not required to determine the compensation of our CEO in its sole discretion. However, the Compensation Committee has approved the employment contracts and total compensation for our CEO since 2003.

*Band Structure.* Except for our Chairman, CEO and COO, our executive officers and key employees are compensated based on the Company's band structure. Our band structure has nine levels, each of which sets forth amounts for target base salary, target annual cash performance incentive payments, annual stock option grants and restricted stock grants, as well as eligibility to participate in the Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan (SERP). An executive officer's band level designation is made by the CEO subject to ratification by the Compensation Committee. The designation is based on the individual's level of responsibility and ability to affect shareholder value relative to other executive officers and key employees. Each element of compensation paid or awarded under the band structure is fixed at pre-determined amounts with the exception of base salary and annual cash performance incentive payments. The band structure provides a target amount at each band level for base salary and annual cash performance incentive payments, but actual salary and performance incentive payments can be adjusted above or below such targets based on an individual's responsibility and performance as determined on a case by case basis by such individual's supervisor.

Our current band structure was established in 2004 by our human resources group and senior management based on their collective review of recommendations provided by Hay Group together with market analysis and data regarding general industry trends in executive compensation (General Industry Data). The General Industry Data was selected as the benchmark for the Company's band structure because we believe it served as a stable representation of national pay levels. The Compensation Committee and the Company's human resources group periodically review the band structure and updated market analysis with senior management and suggest modifications as they deem necessary to ensure that our executive officers and key employees are generally compensated in accordance with our compensation philosophies and objectives. For more detailed discussion regarding decisions with respect to each element and amount of compensation provided for in the band structure, see the section below titled Elements of Compensation.

*Interaction Between the Compensation Committee and Management.* Band level designations for all executive officers, other than our Chairman, CEO and COO, and key employment contract terms are determined by the CEO in consultation with the Company's human resources group. The Company's human resources group presents a summary of the key terms of each executive officer's contract, including band level designations, to the Compensation Committee. The Compensation Committee reviews and discusses the contracts and will meet with the Company's human resources group as it deems necessary to discuss any questions or issues it has regarding these decisions. Once all questions and issues have been addressed to the satisfaction of the Compensation Committee, the Compensation Committee will ultimately ratify these employment contracts and the band level designations.

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*Role of Compensation Consultants/Benchmarking.* Since fiscal year 2001, the Company has retained Hay Group to periodically provide data and market analyses regarding compensation practices of a certain group of publicly traded companies in the protein and packaged foods industries (which we refer to as the Compensation Peer Group ) and the General Industry Data. The following companies made up the Compensation Peer Group for fiscal year 2012:

Campbell Soup Company

ConAgra Foods, Inc.

General Mills, Inc.

H.J. Heinz Company

Hormel Foods Corporation

Kellogg Company

McCormick & Company, Incorporated

Pilgrim s Pride Corporation

Smithfield Foods, Inc.

The Hershey Company

The Hillshire Brands Company (formerly Sara Lee Corporation)

Hay Group furnishes the data and analyses to our human resources group which are then summarized and presented by our human resources group to the Compensation Committee. The Compensation Committee uses this summary information in its review of compensation for executive officers (including the NEOs) and compensation levels within our band structure to determine whether the compensation levels are consistent with our compensation philosophy and our objective of providing competitive compensation that attracts, motivates and retains executive talent. In that regard, the Compensation Committee targets total compensation at or below the 50th percentile of the Compensation Peer Group for our CEO, between the 50th and 75th percentiles of the broader General Industry Data for our COO, and at or below the 50th percentile of the General Industry Data for the other NEOs. The Compensation Committee believes it is necessary to target our CEO s compensation based on the smaller Compensation Peer Group, which is made up exclusively of public companies in the food industry, because these are companies against which we compete for the specialized talents and experience possessed by our CEO. On the other hand, because many of the talents possessed by the other NEOs could transcend a variety of industries, the Compensation Committee believes it appropriate to use the General Industry Data in setting their compensation as it represents a cross section of consumer products and other industries, not just food industry companies. In fiscal year 2012, these data and market analyses and the services described above in the section titled Fiscal Year 2013 Compensation Decisions were the only consulting services provided by Hay Group to the Company. Neither the Compensation Committee nor the Company believes that these services raise any conflict of interest.

The Compensation Committee is expressly authorized in its charter to retain independent legal, accounting or other advisors or experts at the Company s expense. In fiscal year 2012 the Compensation Committee did not retain any independent legal, accounting or other advisors or experts.

### **How NEOs Are Compensated**

It is the Company s practice to enter into employment contracts with its executive officers. Once compensation decisions are made and an employment contract is executed, the officer is entitled to receive the compensation provided for in his or her contract until it is terminated or amended. For a more detailed discussion of each NEO s employment contract, see the section titled Employment Contracts in this Proxy Statement.



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*John Tyson.* In fiscal year 2011, the Company entered into an employment contract with Mr. Tyson for his role as non-executive chairman of the Board. Mr. Tyson assumed the role of executive chairman of the Board in fiscal year 2012, though an updated employment contract regarding his new position was not entered into until November 25, 2012. As a result, during fiscal year 2012, Mr. Tyson was compensated pursuant to the terms of his non-executive chairman employment contract which did not contain provisions customarily included in the Company's executive officer contracts, such as the possibility for annual base salary increases and equity award grants. Such contract was approved by the Compensation Committee and the compensation payable thereunder was determined based on an evaluation of compensation paid to non-executive chairmen. All elements of compensation payable to Mr. Tyson under this employment contract were fixed except annual cash performance incentive payments. Decisions regarding Mr. Tyson's participation in the Company's cash performance incentive payment programs were made annually by the Compensation Committee. For a more detailed analysis regarding these decisions see the section titled "Elements of Compensation" in this Proxy Statement.

*Donnie Smith.* For fiscal year 2012, Mr. Smith was compensated in accordance with an employment contract he entered into with the Company on December 16, 2009. The Compensation Committee approved the final terms of this contract before it was executed. The decision to approve this contract and the compensation payable thereunder was based upon:

an evaluation of historical total compensation made to individuals with similar responsibilities at companies in the Compensation Peer Group;

an evaluation of the proposed total compensation in comparison to the Company's other executive officers to ensure that compensation was commensurate with level of responsibility; and

recommendations from the Company's human resources group and advice from compensation consultants engaged by the Company and the Compensation Committee.

All elements of compensation payable to Mr. Smith under this contract were fixed except base salary and annual cash performance incentive payments. Decisions regarding whether to increase Mr. Smith's base salary and his participation in the Company's cash performance incentive payment programs were made annually by the Compensation Committee. For a more detailed analysis regarding these decisions see the section titled "Elements of Compensation" in this Proxy Statement.

For fiscal year 2012, Mr. Smith's target and actual total compensation were below the 50th percentile of the Compensation Peer Group based on the most recently available published information.

*James V. Lochner.* For fiscal year 2012, Mr. Lochner was compensated in accordance with an employment contract he entered into with the Company on December 16, 2009. The Compensation Committee approved the terms of this contract before it was executed. The decision to approve this contract and the compensation payable thereunder was based upon:

an evaluation of the proposed total compensation in comparison to the Company's other executive officers to ensure that compensation was commensurate with level of responsibility; and

recommendations from the Company's CEO and human resources group and advice from compensation consultants engaged by the Company and the Compensation Committee.

All elements of compensation payable to Mr. Lochner under this employment contract were fixed except base salary and annual cash performance incentive payments. Decisions regarding whether to increase Mr. Lochner's salary were made annually by the CEO and his participation in the Company's cash performance incentive payment programs were made annually by the CEO and the Compensation Committee. For a more detailed analysis regarding these decisions, see the section titled "Elements of Compensation" in this Proxy Statement.

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Mr. Lochner's target total compensation in fiscal year 2012 was between the 50th and 75th percentiles of the General Industry Data based on the most recently available published information.

*All Other NEOs.* The compensation payable to Messrs. Leatherby, King and White under their respective employment contracts is based on the band level designated to them prior to execution of their respective contracts. In fiscal year 2012, Messrs. King and White were compensated at the first band level and Mr. Leatherby was compensated at the second band level.

With respect to target total compensation in fiscal year 2012, Messrs. Leatherby, King and White were below the 50<sup>th</sup> percentile of the General Industry Data based on the most recently available published information.

**Elements of Compensation**

The Company's executive compensation program consists of:

base salary;

annual performance incentive payment;

equity-based compensation;

financial, retirement and welfare benefit plans; and

certain defined perquisites.

*Compensation Mix*

Because of the ability of executive officers to directly influence the overall performance of the Company, and consistent with our philosophy of linking pay to performance, it is our goal to allocate a significant portion of compensation paid to our executive officers to performance-based, short- and long-term incentive programs. In addition, as an executive officer's responsibility and ability to affect financial results of the Company increases, base salary becomes a smaller component of total compensation and long-term, equity-based compensation becomes a larger component of total compensation, further aligning his or her interests with those of the Company and its shareholders. We strive to allocate total compensation in a manner that is market competitive with our peer groups. The table below illustrates the mix of total compensation for Mr. Smith, individually, and Messrs. Leatherby, King, Lochner, and White, as a group, based on compensation paid in fiscal year 2012. Mr. Tyson is excluded from the table below because for fiscal year 2012 he was compensated under his previous non-executive chairman contract.

Compensation Element	2012 Total Compensation Mix for Mr. Smith	2012 Total Compensation Mix for Messrs. Leatherby, King, Lochner and White
Base Salary	11.47%	15.21%
Performance Incentive Payment	31.86%	32.92%
Equity-Based Compensation	35.64%	25.67%
Financial, Retirement and Welfare Benefit Plans and Perquisites	21.02%	26.20%

**Table of Contents***Base Salary*

Base salary is one element of executive compensation used to compensate NEOs for services rendered during the fiscal year. Each NEO's employment contract sets a floor amount for base salary. The Compensation Committee approved such amounts for Messrs. Tyson, Smith and Lochner as part of its process in approving their respective employment contracts. Base salary amounts for all other NEOs are based on each NEO's pre-determined band level. The Company's band structure sets forth a target amount for base salary at each level. The CEO has discretion to set base salary above or below the target amount as he deems appropriate based on each NEO's level of responsibility when employment contracts for these individuals are entered into or amended.

The employment contract effective for each NEO during fiscal year 2012 (other than Mr. Tyson's) states that base salary is subject to annual increases but not decreases. The Compensation Committee has the ability to increase Mr. Smith's base salary annually as it deems appropriate. The CEO has the discretion to make increases to base salaries for the other current NEOs as he deems appropriate. In determining whether to increase an NEO's base salary, the Compensation Committee or the CEO, as applicable, considers (i) the individual's past performance, (ii) the individual's potential for advancement within the Company, (iii) changes in level and scope of responsibility for the individual, and (iv) salaries of persons holding comparably responsible positions at companies represented in the Compensation Peer Group or General Industry Data, as applicable. The Compensation Committee or the CEO also considers cost of living adjustments in determining annual base salary increases. Neither the CEO nor the Compensation Committee assigns a particular weight to any factor. Annual salary merit increases for NEOs that are approved by the CEO are generally consistent with merit increases for other officers and management personnel. For fiscal year 2012, each NEO (other than the Chairman and the CEO) received an annual salary merit increase of approximately 3%. Mr. Smith was eligible to receive a 3% merit increase in fiscal year 2012, however, he declined to accept it.

The table below discloses the base salary in effect for each NEO at the end of fiscal years 2011 and 2012 and the percentage increase in their 2012 base salary from their 2011 base salary.

Name	End of	End of	Percentage Change
	Fiscal Year 2011 Salary	Fiscal Year 2012 Salary	
John Tyson	\$ 500,000	\$ 500,000	0.0%
Donnie Smith	\$ 900,000	\$ 900,000	0.0%
Dennis Leatherby	\$ 550,000	\$ 566,500	3.0%
Donnie King	\$ 530,000	\$ 548,000	3.4%
James V. Lochner	\$ 900,000	\$ 927,000	3.0%
Noel White	\$ 530,000	\$ 548,000	3.4%

*Annual Performance Incentive Payments*

Employment contracts with our NEOs provide them an opportunity to receive cash performance incentive payment awards each year. In fiscal year 2012, the cash performance incentive payment plan in place for senior executive officers was the Tyson Foods, Inc. Annual Incentive Compensation Plan for Senior Executive Officers (Executive Incentive Plan). This plan is designed to align the interests of management towards the achievement of a common corporate goal. The Executive Incentive Plan is also designed to maximize the Company's ability to deduct for tax purposes performance-based compensation paid to NEOs. Participants in the Executive Incentive Plan are selected each year by the Compensation Committee based on their potential to receive total compensation that may not otherwise be deductible by the Company for tax purposes. An NEO selected to participate in the Executive Incentive Plan is not eligible to participate in other cash performance incentive payment plans maintained by the Company. For fiscal year 2012, the Compensation Committee designated all NEOs as eligible participants under the Executive Incentive Plan.

Cash performance incentive payments under the Executive Incentive Plan are based on performance measures established each year by the Compensation Committee. For fiscal year 2012, the Compensation Committee selected Adjusted EBIT as the performance measure under the plan. EBIT is the Company's

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operating income (which takes into account accruals for performance incentive payments) before interest and taxes, and Adjusted EBIT takes into account any unusual or unique items, such as one-time gains or losses. The Compensation Committee believes Adjusted EBIT is an appropriate measure of Company performance to utilize in making performance-based compensation decisions because senior management uses this same measure, in large part, to evaluate the day-to-day performance of the business. For fiscal year 2012, the Compensation Committee set the target Adjusted EBIT level for 100% of target performance payments at \$1.134 billion and a threshold level of Adjusted EBIT for 30% of target performance incentive payments at \$800 million.

An NEO's target performance incentive payment eligibility, expressed as a percentage of base salary, is established each year by the Compensation Committee. Performance incentive payment eligibility begins at threshold Adjusted EBIT and increases linearly. For fiscal year 2012, Messrs. Tyson, Smith and Lochner were awarded higher performance incentive payment eligibility by the Compensation Committee given their level of responsibility and ability to affect shareholder value relative to the other NEOs.

Name	2012 Salary	Performance Incentive Payment Eligibility at Target Adjusted EBIT Expressed as Percentage of Base Salary	Performance Incentive Payment Eligibility at Threshold Adjusted EBIT of \$800 million (30% of target performance incentive payment)	Performance Incentive Payment Eligibility at Target Adjusted EBIT of \$1.134 billion (100% of target performance incentive payment)	Performance Incentive Payment Eligibility at Actual Adjusted EBIT of \$1.281 billion (170% of target performance incentive payment)
John Tyson	\$ 500,000	180%	\$ 270,000	\$ 900,000	\$ 1,531,980
Donnie Smith	\$ 900,000	180%	\$ 486,000	\$ 1,620,000	\$ 2,757,564
Dennis Leatherby	\$ 566,500	120%	\$ 203,940	\$ 679,800	\$ 1,157,156
Donnie King	\$ 548,000	132%	\$ 217,008	\$ 723,360	\$ 1,231,303
James V. Lochner	\$ 927,000	180%	\$ 500,580	\$ 1,668,600	\$ 2,840,291
Noel White	\$ 548,000	132%	\$ 217,008	\$ 723,360	\$ 1,231,303

In determining actual performance incentive payment amounts to be paid, the Compensation Committee has the discretion to award performance incentive payments up to the amount of an NEO's performance incentive payment eligibility. Actual Adjusted EBIT for fiscal year 2012 was approximately \$1.281 billion, which resulted in performance incentive payment eligibility for each NEO of approximately 170% of their respective target performance incentive payments. At the end of the fiscal year, the Compensation Committee reviewed performance incentive payment eligibility for NEOs based on this amount and the individual performance of each NEO with our CEO and other members of management and the Board. Based on this review, the Compensation Committee awarded the NEOs the performance incentive payment amounts set forth below.

Name	Performance Incentive Payment Eligibility at Actual Adjusted EBIT of \$1.281 billion	Performance Incentive Payment	Percentage of Performance Incentive Eligibility Paid
John Tyson	\$ 1,531,980	\$ 1,348,200	88.00%
Donnie Smith	\$ 2,757,564	\$ 2,499,562	90.64%
Dennis Leatherby	\$ 1,157,156	\$ 964,296	83.33%
Donnie King	\$ 1,231,303	\$ 1,083,593	88.00%
James V. Lochner	\$ 2,840,291	\$ 2,405,565	84.69%
Noel White	\$ 1,231,303	\$ 1,026,086	83.33%

*Equity-Based Compensation*

We believe equity-based compensation is an effective long-term incentive for executives and managers to create value for shareholders as the value of such compensation has a strong correlation to appreciation in the Company's stock price. Each NEO's employment contract during fiscal year 2012 (other than Mr. Tyson's) set





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forth the amount of equity-based compensation the NEO will receive during the term of the contract. Because Mr. Tyson's employment contract for fiscal year 2012 related to his service as a non-executive officer, it did not provide for annual equity awards. For Messrs. Smith and Lochner, the amount of annual equity grants was determined by the Compensation Committee. For Messrs. Leatherby, King and White, these amounts were set based on the applicable amount of such awards for their respective band level designation at the time their contracts were executed. The Company's band structure sets forth the number of stock options and the dollar amount of restricted stock and performance stock to be awarded. However, unlike base salary and cash performance incentive payments, these amounts are not subject to adjustment after an employment contract is executed.

The amounts and types of equity-based compensation to be awarded within the band levels are determined by management and/or the Compensation Committee with a view towards aligning the interests of executives and other managers with the interests of the Company's shareholders. In determining these amounts, management and the Compensation Committee review the relationship of long-term compensation to cash compensation and the perceived need of providing additional incentives to executives and managers to increase shareholder value and compare the value of equity-based compensation awarded to NEOs to awards made to executives in similar positions within the peer groups.

**Stock Options.** Stock options were the primary component of our equity-based compensation for fiscal year 2012. Each NEO's employment contract in effect during fiscal year 2012 (other than Mr. Tyson's) set forth the number of annual stock options the NEO was entitled to receive. The Compensation Committee believes that stock options allow the Company to provide employees with an incentive different from base salary and cash performance incentive payments as options increase in value based on Company share price rather than individual performance. Stock options are typically awarded and approved annually by the Compensation Committee prior to or on a pre-determined grant date. The grant date for fiscal year awards usually occurs four business days after the Company announces fiscal year-end financial results. The exercise price for option awards is the closing price for our Class A Common Stock as reported on the NYSE on the grant date. Option awards expire ten years after the grant date. The Company does not backdate, re-price or grant equity awards retroactively. All stock options awarded prior to fiscal year 2010 vest in annual increments beginning on the second anniversary of the date of the award and become fully vested after five years; however, beginning in fiscal year 2010, the stock options vest in equal annual increments beginning on the first anniversary of the date of the award and become fully vested after three years. The Compensation Committee set the grant date of November 28, 2011 on May 5, 2011 and made final approval of the 2012 fiscal year stock option awards at its meeting held on November 17, 2011. For details regarding stock options granted to the NEOs in fiscal year 2012, see the table titled "Grants of Plan Based Awards During Fiscal Year 2012" in this Proxy Statement.

**Restricted Stock.** Restricted stock held by NEOs during fiscal year 2012 was awarded in the form of a one-time grant when the NEO entered into his employment contract. The actual number of shares of restricted stock granted was determined by dividing the designated band level dollar value or the dollar value assigned by the Compensation Committee, as applicable, for restricted stock by the closing stock price on the day prior to the date the contract was offered. For example, if the designated dollar value for restricted stock was \$300,000 and the closing stock price on the day prior to the date the contract was offered to the executive is \$15 per share, the employment contract offered to the executive included a grant of 20,000 shares of restricted stock. For details regarding outstanding restricted stock in fiscal year 2012, see the table titled "Outstanding Equity Awards at 2012 Fiscal Year-End" in this Proxy Statement.

**Performance Stock.** As with stock options, the number of performance stock awards an executive is entitled to receive each year is established when an employment contract is entered. However, beginning in July 2009, new employment contracts did not contain provisions for performance stock awards. The Company's decision not to award performance stock after that date was based on the Compensation Committee's belief that stock options provided NEOs with adequate incentive to achieve results aligned with shareholders' interests. Messrs. Leatherby and King were the only NEOs with outstanding performance stock awards as of

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September 29, 2012. Beginning in fiscal year 2013, the Compensation Committee elected to reinstate performance stock awards as part of NEO compensation along with stock options as part of the Company's program to provide executive officers a more balanced mix of equity compensation.

Performance stock awards represent the right to receive shares of Class A Common Stock if certain performance criteria are met within the time period indicated in the grant. The actual number of shares of performance stock granted is determined by dividing the designated band level dollar value or the dollar value assigned by the Compensation Committee, as applicable, for performance stock by the closing price of the Company's stock on the last trading day of the fiscal year. The grant date for annual performance stock awards historically occurs on the first business day of the fiscal year. The Compensation Committee ratified the fiscal year 2012 performance stock awards at its November 17, 2011 meeting with a grant date of October 3, 2011. Performance criteria are measured three years from the date of grant and, if the performance criteria are achieved, the award vests thereafter. The right to receive Class A Common Stock under a performance stock award is conditioned upon the executive officer remaining continuously in the employment of the Company from the grant date through the vesting date, subject to certain exceptions involving the death, disability or retirement of the executive officer. All performance stock awards are issued under the Stock Incentive Plan.

On an annual basis, the Company's senior management, Compensation Committee and human resources group meet to discuss the performance criteria options and levels to be considered for the following year's grants. A list of eligible criteria available for consideration was approved by shareholders to ensure tax deductibility for performance-based compensation. Through the course of its review and discussions, the Compensation Committee chooses such options that the Compensation Committee reasonably believes provide the appropriate balance between (i) significant performance measures aimed at increasing shareholder value if achieved, and (ii) performance measures that are reasonably attainable so as to motivate the officers to achieve the performance goals.

The performance criteria adopted by the Compensation Committee for performance stock awards granted in fiscal year 2012 compared the Company's stock price performance against the stock price performance of companies making up the Compensation Peer Group. The vesting of performance stock awards granted in fiscal year 2012 is as follows:

33% of such shares vest if the Company's stock outperforms five members of the Compensation Peer Group over a three-year period;

67% of such shares vest if the Company's stock outperforms seven members of the Compensation Peer Group over a three-year period;  
and

all such shares vest if the Company's stock outperforms nine members of the Compensation Peer Group over a three-year period.

For details regarding performance stock awards granted to the NEOs in fiscal year 2012, see the table titled "Grants of Plan Based Awards During Fiscal Year 2012" in this Proxy Statement.

*Financial, Retirement and Welfare Benefit Plans*

Our NEOs are eligible to participate in the Company's financial, retirement and welfare benefit plans that are generally available to all employees of the Company. The NEOs are also eligible to participate in certain plans, described below, that are only available to contracted officers and managers. We believe these benefits are a basic component in attracting, motivating and retaining executives and are comparable to the benefits offered by the companies in our peer groups according to market data.

Deferred Compensation. The SERP is a nonqualified deferred compensation plan providing life insurance protection during employment and a subsequent retirement benefit to certain officers of the Company, including all NEOs. The retirement benefit is a lifetime annuity. The primary formula for calculating the amount of such

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benefit is one percent of the average annual compensation paid to the participant for his or her final five years of service multiplied by his or her years of creditable service. The SERP also provides for catch-up accruals for certain grandfathered participants (officers prior to 2002 receive an additional one percent of their final 5 year average annual compensation multiplied by their final five years of creditable service). In addition, participants with at least 20 years of vesting service are generally eligible for a minimum benefit and a tax allowance based on the amount of their executive life insurance premium at the male nonsmoker rate. Participants do not vest in the retirement benefits until attaining age 62, although a participant who attains at least age 55 and whose combination of age and years of vesting service equal or exceed 70 vests on the date that the early vesting rule is satisfied. A participant who vests in his or her retirement benefit prior to age 62 may retire early and receive an actuarially reduced benefit. A participant who terminates employment or becomes ineligible to participate before vesting or a participant who is terminated for cause, even if fully vested, is not entitled to any benefits under the SERP. A participant who terminates prior to vesting because of disability is eligible for a fully vested and unreduced minimum benefit. The Compensation Committee has the discretion to grant early retirement benefits under the plan.

If a participant in the SERP dies, the participant's beneficiaries receive a death benefit under the life insurance portion of the SERP. As of September 29, 2012, the life insurance portion of the SERP provided a death benefit of \$3,000,000 for each of Messrs. Smith and Lochner and \$2,000,000 for each of Messrs. Leatherby, King and White. Mr. Tyson no longer participates in the life insurance portion of the SERP because previous amounts accrued by him were monetized and are being paid in connection with his assuming the role of non-executive chairman in fiscal year 2008, and Mr. Tyson is currently receiving the benefits. Additional information about our SERP is included in the narrative text following the table titled "Pension Benefits for Fiscal Year 2012" in this Proxy Statement.

**Retirement Plans.** We also provide the following qualified and nonqualified plans to the NEOs:

Employee Stock Purchase Plan;

Retirement Savings Plan;

Executive Savings Plan; and

Executive Long-Term Disability Plan.

The Employee Stock Purchase Plan is a nonqualified benefit plan available to all NEOs and to most employees (some bargaining units do not participate). The purpose of the plan is to offer employees who participate a way to purchase our common stock on terms better than those available to a typical investor. Participants are eligible to participate on the first day of the month following three months of service and can contribute (on an after tax basis) up to 20% of base pay to this plan per pay period. After one year of service the Company will match 25% of the first 10% of base pay contributed. The plan provides for 100% immediate vesting.

The Retirement Savings Plan is a qualified benefit plan (401(k)) available to all NEOs and to most employees (some bargaining units do not participate). The plan allows employees who participate to save money for retirement while deferring income taxes on the amount saved and any earnings on those amounts until the funds are withdrawn. Participants may elect how their accounts are invested from a number of investment options. Participants are eligible to participate on the first day of the month following three months of service and can contribute from 2% to 60% of base pay to this plan per pay period, subject to IRS annual limits on contributions and compensation. After one year of service the Company will match 100% of the first 3% of base pay contributed, plus 50% of the next 2% contributed. This plan provides for 100% immediate vesting.

The Executive Savings Plan is a nonqualified deferred compensation plan available to the NEOs and other highly compensated employees of the Company. The plan is available for those who wish to defer additional dollars over and above the IRS limits for qualified plans. After reaching the annual IRS limits in the Retirement

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Savings Plan, participants can begin deferring up to 100% of base pay into this plan. Participants can also defer up to 100% of the annual performance incentive payment to this plan. All deferrals and payout elections to this plan must be elected by December 31 of the year prior to the deferral year. This plan provides Company matching contributions in the same manner and amount as the Retirement Savings Plan not otherwise matched under the Retirement Savings Plan. Participants may elect how their accounts are invested from the investment options available under the Retirement Savings Plan plus an investment option paying the prime rate as reported in the *Wall Street Journal* plus two percentage points. This plan provides for 100% immediate vesting. Additional information on the Executive Savings Plan can be found in the narrative text following the table titled "Nonqualified Deferred Compensation for Fiscal Year 2012" in this Proxy Statement.

Officers and certain managers of the Company who are party to a written employment contract (including the NEOs) participate in the Executive Long-Term Disability Plan. This plan replaces (tax free) up to 60% of insured earnings to a maximum benefit of \$25,000 per month. Insured Earnings includes salary, annual performance incentive payment and a portion of the current estimated value of restricted stock and stock options. The value of the premiums paid by the Company, plus estimated income taxes thereon, are included in the participant's taxable income.

Welfare Plans. Our NEOs and other executives participate in our broad-based employee welfare plans, including medical, dental, vision and insurance. These plans and benefits are available to all salaried employees. In addition, contracted officers and managers, including our NEOs, have an additional health insurance benefit, known as the Executive Medical Reimbursement Plan (EMRP). The EMRP reimburses contracted officers and certain contracted managers of the Company (including the NEOs) and their covered dependents up to 100% of medical, prescription drug, dental and vision expenses not covered by Company plans. The benefits eligible to be reimbursed include only those expenses allowable as tax deductions for the Company under tax regulations existing at the time of reimbursement. Benefits through this plan are limited to annual maximums which vary based on position with the Company (\$30,000 for each NEO). Each participant is charged a supplemental premium for this benefit.

### *Perquisites*

Pursuant to the employment contracts with the NEOs, we provide certain perquisites that the Compensation Committee believes are reasonable and consistent with our overall compensation program. The Company pays any taxes owed by the NEOs on certain of these perquisites. The value of these perquisites and the estimated income taxes thereon are imputed as income to the executive. The Compensation Committee believes that these personal benefits provide executives with benefits comparable to those they would receive at other companies within our peer groups and are necessary for us to remain competitive in the marketplace. The Compensation Committee reviews the perquisites on a periodic basis to ensure that they are appropriate in light of the Company's total compensation program and market practice. For the last completed fiscal year, Messrs. Tyson, Smith and Lochner were permitted by their employment contracts to personal use of Company-owned aircraft (subject to certain contractual limits), and all NEOs were provided access to event tickets. For fiscal year 2012, Mr. Tyson was entitled to receive the following additional perquisites under the terms of his employment contract:

reimbursement for annual country club dues;

use of, and the payment of all reasonable expenses for, an automobile;

reimbursement for reasonable costs incurred for tax and estate planning advice;

up to 1,500 hours per year in security services (which the Company estimates will cost \$40 per hour); and

reimbursement for the annual premium payment on a \$7,500,000 life insurance policy.

The attributed costs of the perquisites described above for the NEOs for fiscal year 2012 are described in the "All Other Compensation" column of the Summary Compensation Table for Fiscal Years 2012, 2011, and 2010 in this Proxy Statement.

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### **Employment Contracts**

The Company maintained employment contracts with each NEO during fiscal year 2012. A summary description of these contracts is provided below. During fiscal year 2013, the employment contracts described below were terminated and replaced by new employment contracts.

*John Tyson.* On October 3, 2010, the Company entered into a contract with Mr. Tyson concerning his role as non-executive chairman of the Board for a term expiring on October 3, 2020. Under the contract, Mr. Tyson was required to perform services not to exceed twenty hours per month. The contract provided for a payment of \$500,000 annually to Mr. Tyson and eligibility for annual performance incentive payments at the discretion of the Compensation Committee. Mr. Tyson was also eligible to receive certain perquisites, including personal use of Company-owned aircraft for himself and/or his designated passengers for up to 150 hours annually. Under the terms of the employment contract, the Company agreed to reimburse Mr. Tyson and gross-up any tax liability incurred by Mr. Tyson through his use of Company-owned aircraft and receipt of certain other perquisites. Beginning in April 2008, Mr. Tyson began receiving annual benefit payments under the SERP pursuant to his prior contract. These payments are \$175,196 (which includes a tax allowance), less any required tax withholdings. If the contract was terminated by the Company for Cause or by Mr. Tyson (other than by reason of the Company's breach of the contract), the obligations of the Company under the contract were to cease.

*Donnie Smith.* Following his promotion to President and CEO on November 19, 2009, the Company and Mr. Smith entered into a three-year employment contract effective as of December 16, 2009, which provided for, among other things, an annual base salary of not less than \$900,000, participation in the Company's annual performance incentive payment programs, participation in Company employee benefit plans, a grant of 400,000 options on each grant date specified by the Company for the grant of options to employees generally that occurred during the term of his contract, a one-time grant of 282,320 options on the date that was four business days after the Company released its earnings for its fiscal first quarter of 2010, and a one-time award of 118,671 shares of restricted stock. Additionally, Mr. Smith was entitled to certain perquisites, including personal use of Company-owned aircraft for up to 50 hours per year during the term of the contract. Under the terms of the employment contract, the Company agreed to reimburse Mr. Smith and gross-up any tax liability incurred by Mr. Smith through his use of Company-owned aircraft.

*All Other NEOs.* The employment contracts with Messrs. Leatherby, King, Lochner and White, which are described below in more detail, provided for minimum base salary, participation in the Company's annual performance incentive payment programs, participation in Company employee benefit plans and grants of stock options and restricted stock as an incentive to an officer's long term commitment to the Company and the willingness to agree to a one-year non-compete obligation.

On June 6, 2008, Mr. Leatherby entered into a five-year employment contract with the Company upon his promotion to Executive Vice President and Chief Financial Officer. His contract provided for, among other things, a minimum base salary of \$450,000 per year, a grant of 40,000 stock options on each grant date specified by the Company for the grant of stock options to employees generally that occurred during the term of his contract, a one-time award of 41,399 shares of restricted stock, and an award of performance stock having a maximum aggregate value of \$225,000 on the first business day of each of the Company's 2009, 2010, 2011, 2012 and 2013 fiscal years.

On December 9, 2009, Mr. King entered into a three-year employment contract with the Company upon his promotion to Senior Group Vice President, Poultry and Prepared Foods. His contract provided for, among other things, a minimum base salary of \$530,000 per year, a grant of 117,680 stock options on each grant date specified by the Company for the grant of stock options to employees generally that occurred during the term of his contract, and a one-time award of 24,096 shares of restricted stock.

On December 16, 2009, Mr. Lochner entered into a three-year employment contract with the Company in connection with his promotion to COO on November 19, 2009. The contract provided for an annual base salary of not less than \$900,000, a grant of 325,000 stock options on each grant date specified by the

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Company for the grant of options to employees generally that occurred during the term of the contract, a one-time grant of 275,000 stock options on the date that was four business days after the Company released its earnings for its fiscal first quarter of 2010, and a one-time award of 77,136 shares of restricted stock. Additionally, Mr. Lochner was entitled to certain perquisites, including personal use of Company-owned aircraft for up to 50 hours per year during the term of the contract. The Company also agreed to reimburse Mr. Lochner and gross-up any tax liability incurred by him through his use of Company-owned aircraft.

On December 21, 2009, Mr. White entered into a three-year employment contract with the Company upon his promotion to Senior Group Vice President, Fresh Meats. His contract provided for, among other things, a minimum base salary of \$530,000 per year, a grant of 117,680 stock options on each grant date specified by the Company for the grant of stock options to employees generally that occurred during the term of his contract, and a one-time award of 24,096 shares of restricted stock. On February 4, 2011, Mr. White executed an amendment to this contract which extended the term to December 21, 2013. Pursuant to the amendment, Mr. White was paid \$230,000 and issued 5,388 shares of restricted stock.

While the contracts terminated by their terms after three years (except for Mr. Tyson's contract, which terminated in ten years, and Mr. Leatherby's contract, which terminated in five years), the NEO (including Mr. Smith) had the right to terminate their respective contracts, subject to the non-compete obligation, at any time upon ninety days' notice, and the Company had the right to terminate the contract at any time upon written notice subject to the obligation, if terminated without cause, to continue to pay base salary for a period specified in the contract and subject to provisions relating to the early vesting of equity-based compensation upon such termination.

### **Certain Benefits Upon a Change in Control**

*Employment Contracts.* Each employment contract in effect during fiscal year 2012 between the Company and our NEOs provided for certain benefits payable to the NEO following a change in control of the Company. The Compensation Committee believes these benefits are an important part of the total executive compensation program because they protect the Company's interest in the continuity and stability of the executive group. The Compensation Committee also believes that the change in control benefits are necessary to retain and attract highly qualified executives and advisors and help to keep them focused on minimizing interruptions in business operations by reducing any concerns they may have of being terminated prematurely and without cause during any ownership transition.

*Impact of Change in Control on the SERP.* No later than thirty days after a change in control of the Company, the grantor trust created under the SERP will be funded with the present value of the higher of (i) the minimum defined benefit or (ii) all accrued benefits for each participant under the SERP. Participants will vest in a benefit equal to the amount calculated under the general provisions of the SERP as of the effective date of the change in control, but without regard to any age or service requirements, if following the change in control the SERP is terminated in a manner that adversely affects a participant or a participant experiences a termination of employment (other than a voluntary resignation without good reason or an involuntary termination for cause). For this purpose, "good reason" means: (i) a substantial adverse change in position, duties, title or responsibilities; (ii) any material reduction in base salary or annual performance incentive opportunity or benefit plan coverages; (iii) any relocation required by the Company to an office or location more than 25 miles from the current location; or (iv) failure by a successor to assume the plan. Payment of the amount calculated as of the effective date of the change in control would begin following termination of employment, regardless of age, on an actuarially adjusted basis.

*Executive Life Insurance Program.* Following a change in control of the Company, the Company will continue to pay the annual life insurance premiums (plus a tax gross-up based on the withholding rates for supplemental wages) under the Executive Life Insurance Program for active participants on the date of the change in control up to the earlier of termination of employment or age 62.

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Severance and change in control information is more particularly described in the sections titled "Potential Payments Upon Termination" and "Potential Payments Upon a Change in Control" in this Proxy Statement.

### **Tax and Accounting Considerations**

*Limits on Deductibility of Compensation.* Section 162(m) of the Internal Revenue Code generally prevents public corporations from deducting as a business expense that portion of compensation paid to NEOs that exceeds \$1,000,000 unless it qualifies as performance-based compensation under Section 162(m). The goal of the Compensation Committee is to comply with the requirements of Section 162(m), to the extent possible, to avoid losing this deduction. However, the Compensation Committee may elect to provide compensation outside those requirements when necessary to achieve its compensation objectives. For this and other reasons, the Compensation Committee will not necessarily limit executive compensation to the amount deductible under Section 162(m). The Compensation Committee will consider various alternatives to preserve the deductibility of compensation payments and benefits to the extent reasonably practicable and to the extent consistent with its other compensation objectives. Compensation paid under the Executive Incentive Plan is intended to be deductible under Section 162(m). Notwithstanding the Executive Incentive Plan, \$96,673 of Mr. Tyson's compensation and \$33,277 of Mr. Lochner's compensation during fiscal year 2012 are not expected to qualify for deduction.

*Compensation Expense.* The Company accounts for equity-based awards by recognizing the compensation expense of a stock option award to an employee based on the fair value of the award on the grant date. The Company has determined the fair value of these awards based on the assumptions set forth in Note 13 to our fiscal year 2012 audited financial statements included in our most recent Form 10-K for the fiscal year ended September 29, 2012, compensation expense of restricted stock awards to an employee is based on the stock price at grant date, and deferred cash awards are based on the amount of the award. The compensation expense for stock options, stock appreciation rights, restricted stock, phantom stock, performance stock and deferred cash is ratably recognized over the vesting period.

### **Stock Ownership Program**

In 2004, the Company adopted stock ownership and holding requirements that require senior officers (which includes the NEOs) to maintain a minimum equity stake in the Company. The requirements were modified in 2010 and subsequent to the end of fiscal year 2012, ownership and holding requirements were adopted for directors. These requirements were put into place to strengthen the alignment between the interest of the Company's directors and senior officers and the interests of its shareholders.

The program sets forth the minimum amount of shares of Company stock a director and certain officers must own. These ownership requirements are reviewed and modified, if necessary, by the Company at the beginning of the fiscal year of every even numbered fiscal year or after a significant increase or decrease in the share price. Each officer subject to the requirements has five years from the effective date of their current employment contract to achieve the applicable level of ownership. Directors have five years from the later of the Annual Meeting or his or her initial election as director.

The levels are set at a dollar amount for each band level. Officers that are promoted into new bands will be assigned the appropriate ownership levels based on the new contract and will have five years from the date of their new contract to comply with their new ownership requirements. The CEO and COO's initial ownership levels are five times annual salary and the named NEO's levels are two times annual salary. Directors ownership levels are four times their annual cash retainer.

### **Risk Considerations in our Overall Compensation Program**

We believe that the Company's compensation program is structured in such a way as to discourage excessive risk-taking. In making this determination, we considered various aspects of our compensation program, including the mix of fixed and performance-based compensation for management and other key employees. The



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Company's performance-based compensation awards are designed to reward both short- and long-term performance. By linking a portion of total compensation to the Company's long-term performance, we mitigate any short-term risk that could be detrimental to the Company's long-term best interests and the creation of shareholder value. Another aspect we considered is our practice of increasing an individual's equity-based, performance compensation as a percentage of his or her total compensation as his or her responsibility and ability to affect the financial results of the Company increases. Such equity-based performance awards are subject to multi-year vesting periods and derive their value from the Company's total performance, which we believe further encourages decision-making that is in the long-term best interests of the Company and its shareholders. Finally, we considered our stock ownership guidelines for executive officers and directors, who we believe can have the greatest internal influence on the financial performance of the Company. These stock ownership guidelines are designed to strengthen the alignment between the interests of our Board and executive officers and the Company's shareholders. We believe these guidelines discourage any risk-taking that could be detrimental to the long-term interests of the Company, its performance, or our stock price. In conclusion, we believe that the Company's compensation policies and practices for all employees, including executive officers, do not create risks that are reasonably likely to have a material adverse effect on the Company.

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**REPORT OF THE COMPENSATION COMMITTEE**

We, the Compensation Committee of the Board of Directors of Tyson Foods, Inc., have reviewed and discussed the Compensation Discussion and Analysis contained in this Proxy Statement with management. Based on such review and discussion, we have recommended to the Board of Directors that the Compensation Discussion and Analysis be included in this Proxy Statement and in Tyson Foods, Inc.'s Annual Report on Form 10-K for the fiscal year ended September 29, 2012.

Compensation Committee of the Board of

Directors

Kevin M. McNamara, Chairman

Brad T. Sauer

Robert Thurber

**Table of Contents****EXECUTIVE COMPENSATION****Summary Compensation Table for Fiscal Years 2012, 2011 and 2010**

The table below summarizes the compensation for our NEOs during fiscal years 2012, 2011 and 2010.

Name and Principal Position	Year	Salary(\$)	Bonus (\$)	Stock Awards \$(1)	Option Awards \$(1)	Non-Equity Incentive Plan Compensation \$(2)	Change in Pension Value and Nonqualified Deferred Compensation Earnings \$(3)	All Other Compensation \$(4)	Total(\$)
John Tyson, Chairman of the Board	2012	\$ 500,000	\$ 0	\$ 0	\$ 0	\$ 1,348,200	\$ 928,699	\$ 1,440,535	\$ 4,217,434
	2011	\$ 500,000	\$ 1,582,500	\$ 0	\$ 0	\$ 0	\$ 0	\$ 1,251,968	\$ 3,334,468
	2010	\$ 300,000	\$ 600,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 847,626	\$ 1,747,626
Donnie Smith, President and Chief Executive Officer	2012	\$ 900,000	\$ 0	\$ 0	\$ 2,796,000	\$ 2,499,562	\$ 1,275,854	\$ 373,263	\$ 7,844,679
	2011	\$ 900,000	\$ 0	\$ 0	\$ 2,476,000	\$ 2,969,298	\$ 1,038,481	\$ 288,975	\$ 7,672,754
	2010	\$ 855,577	\$ 0	\$ 1,478,641	\$ 2,428,629	\$ 3,764,475	\$ 156,384	\$ 329,306	\$ 9,013,012
Dennis Leatherby, Executive Vice President and Chief Financial Officer	2012	\$ 554,442	\$ 0	\$ 77,454	\$ 279,600	\$ 964,296	\$ 560,702	\$ 142,023	\$ 2,578,517
	2011	\$ 550,000	\$ 0	\$ 77,491	\$ 247,600	\$ 1,215,214	\$ 422,506	\$ 143,295	\$ 2,656,106
	2010	\$ 523,077	\$ 0	\$ 77,618	\$ 176,800	\$ 1,533,675	\$ 157,271	\$ 153,116	\$ 2,621,557
Donnie King Senior Group Vice President, Poultry and Prepared Foods	2012	\$ 534,846	\$ 0	\$ 0	\$ 822,583	\$ 1,083,593	\$ 534,879	\$ 71,677	\$ 3,047,578
	2011	\$ 530,000	\$ 0	\$ 0	\$ 728,439	\$ 1,256,152	\$ 449,245	\$ 69,546	\$ 3,033,382
	2010	\$ 513,077	\$ 0	\$ 431,538	\$ 176,800	\$ 1,625,696	\$ 77,791	\$ 64,896	\$ 2,889,798
James V. Lochner, Chief Operating Officer	2012	\$ 907,269	\$ 0	\$ 0	\$ 2,271,750	\$ 2,405,565	\$ 1,691,135	\$ 525,701	\$ 7,801,420
	2011	\$ 900,000	\$ 0	\$ 0	\$ 2,011,750	\$ 2,969,298	\$ 1,427,805	\$ 374,457	\$ 7,683,310
	2010	\$ 860,654	\$ 0	\$ 961,127	\$ 2,080,000	\$ 3,764,475	\$ 265,255	\$ 423,274	\$ 8,354,785
Noel White, Senior Group Vice President, Fresh Meats	2012	\$ 534,846	\$ 0	\$ 0	\$ 822,583	\$ 1,026,086	\$ 681,266	\$ 154,936	\$ 3,219,717
	2011	\$ 530,000	\$ 230,000	\$ 100,000	\$ 728,439	\$ 1,458,277	\$ 543,280	\$ 177,504	\$ 3,767,500
	2010	\$ 512,823	\$ 0	\$ 295,911	\$ 176,800	\$ 1,625,696	\$ 108,378	\$ 180,169	\$ 2,899,777

- The amounts included in these columns are the aggregate grant date fair values for stock and option awards granted in the fiscal year shown, computed in accordance with the stock-based compensation accounting rules set forth in Financial Accounting Standards Board's Accounting Standards Codification Topic 718. The assumptions used in the calculation of the amounts shown are included in Note 13 to our audited consolidated financial statements, which are included in our Annual Report on Form 10-K for the fiscal year ended September 29, 2012. The grant date fair values of the performance stock awards included in such amounts are based on the probable outcome of those awards as of the grant date, i.e., the probable payout of such awards based on what we have determined, in accordance with the stock-based compensation accounting rules, to be the probable levels of achievement of the performance goals related to those awards. The maximum value for such performance stock awards was \$207,619. The resulting number of shares of performance stock that vest, if any, depends on whether we achieve certain levels of performance with respect to the performance measures tied to the performance stock awards. Our NEOs do not realize the value of equity-based awards until the awards vest. The actual value that an NEO will realize from these awards is determined by the Company's future performance and share price, and may be higher or lower than the amounts indicated in the table, which represent the full grant date fair value of such awards. Descriptions of these awards are provided under "Compensation Discussion and Analysis" in this Proxy Statement.
- Amounts reflected in this column are cash payments made to NEOs pursuant to the performance measures under the Executive Incentive Plan. For a more detailed discussion, see the subsection titled "Elements of Compensation - Annual Performance Incentive Payments" under the "Compensation Discussion and Analysis" section of this Proxy Statement.
- The amounts reflected in this column include above market earnings for fiscal years 2012, 2011 and 2010, respectively, on nonqualified deferred compensation as follows: Mr. Tyson - \$0, \$0 and \$0; Mr. Smith - \$35,905, \$5,144 and \$455; Mr. Leatherby - \$13,174, \$2,473 and \$787; Mr. King - \$88, \$22 and \$11; Mr. Lochner - \$98,482, \$23,726 and \$10,095; and Mr. White - \$24,879, \$4,522 and \$1,711. The amounts reflected



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in this column also include the change in pension values for fiscal years 2012, 2011 and 2010, respectively, as follows: Mr. Tyson - \$928,699, \$0 and \$0; Mr. Smith - \$1,239,949, \$1,033,337 and \$155,929; Mr. Leatherby - \$547,528, \$420,033 and \$156,484; Mr. King - \$534,791, \$449,223 and \$77,780; Mr. Lochner - \$1,592,653, \$1,404,079 and \$255,160; and Mr. White - \$656,387, \$538,758 and \$106,667. For the assumptions used to determine the change in the pension value, see the table titled "SERP Assumptions" in this Proxy Statement.

- (4) The amounts reflected in this column represent the sum of all other compensation and perquisites received by the NEOs from the Company in fiscal years 2012, 2011 and 2010. Also included in these amounts are matching contributions to the applicable NEOs pursuant to the Executive Savings Plan subsequent to the end of the fiscal years 2012, 2011 and 2010, though attributable to performance in the prior fiscal years, as follows: Mr. Tyson - \$53,928, \$63,300, and \$24,000; Mr. Smith - \$99,982, \$118,772, and \$150,579; Mr. Leatherby - \$38,572, \$48,609, and \$61,347; Mr. Lochner - \$96,223, \$118,772, and \$150,579; and Mr. White - \$41,043, \$58,332, and \$65,028 (a description of the Executive Savings Plan is provided under the heading "Financial, Retirement and Welfare Benefit Plans" in "Compensation Discussion and Analysis" of this Proxy Statement, as well as following the table titled "Nonqualified Deferred Compensation for Fiscal Year 2012" under the heading "Executive Savings Plan"). Mr. King did not receive any contributions from the Company for the fiscal years described. Including post-fiscal year matching contributions is a change from previous years' reporting practice, and the amounts previously reported in this column for fiscal years 2011 and 2010 have been updated in this Proxy Statement according to our revised practice.

Name	Year	Reimbursement of Taxes	Executive Life Insurance Premiums	Company Contribution under the Employee Stock Purchase Plan	Company Contribution under the Executive Savings Plan	Company Contribution under the Retirement Savings Plan	Perquisites(a)
John Tyson	2012	\$ 188,507	\$ 0	\$ 0	\$ 62,390	\$ 10,000	\$ 1,179,638(b)
	2011	\$ 157,455	\$ 0	\$ 0	\$ 72,931	\$ 10,369	\$ 1,011,213
	2010	\$ 167,826	\$ 0	\$ 0	\$ 26,200	\$ 9,800	\$ 643,800
Donnie Smith	2012	\$ 60,476	\$ 54,923	\$ 22,500	\$ 123,213	\$ 10,000	\$ 102,151(c)
	2011	\$ 43,738	\$ 44,508	\$ 22,500	\$ 144,972	\$ 9,800	\$ 23,457
	2010	\$ 46,335	\$ 47,460	\$ 21,389	\$ 175,848	\$ 9,800	\$ 28,474
Dennis Leatherby	2012	\$ 25,978	\$ 33,310	\$ 13,861	\$ 49,006	\$ 10,000	*
	2011	\$ 21,124	\$ 26,993	\$ 13,750	\$ 60,809	\$ 9,800	\$ 10,819
	2010	\$ 20,740	\$ 26,993	\$ 13,077	\$ 73,162	\$ 9,800	*
Donnie King	2012	\$ 21,950	\$ 27,870	\$ 6,686	\$ 0	\$ 5,000	\$ 10,171
	2011	\$ 21,567	\$ 22,585	\$ 6,625	\$ 0	\$ 4,900	\$ 13,869
	2010	\$ 18,460	\$ 22,585	\$ 9,005	\$ 0	\$ 4,900	*
James V. Lochner	2012	\$ 106,105	\$ 79,116	\$ 20,414	\$ 119,661	\$ 10,000	\$ 190,405(d)
	2011	\$ 71,329	\$ 64,113	\$ 20,250	\$ 144,972	\$ 9,800	\$ 63,993
	2010	\$ 65,999	\$ 68,312	\$ 19,365	\$ 176,113	\$ 9,800	\$ 83,685
Noel White	2012	\$ 26,310	\$ 44,961	\$ 13,371	\$ 50,750	\$ 10,000	*
	2011	\$ 27,368	\$ 44,961	\$ 13,250	\$ 69,732	\$ 9,800	\$ 12,393
	2010	\$ 26,523	\$ 44,961	\$ 12,821	\$ 76,400	\$ 9,800	*

\* Indicates value less than \$10,000.

- (a) The amounts in this column include premiums paid by the Company for a long-term disability insurance policy and the EMRP for each NEO.
- (b) This amount includes \$860,520 for personal use of Company-owned aircraft, \$175,196 for a SERP payment, and \$58,520 for a life insurance premium. This also includes amounts for automobile allowance, personal security, tax preparation fees, club dues, event tickets, premiums paid by the Company for the EMRP and for a long term disability policy, and an amount paid to Mr. Tyson pursuant to Mr. Don Tyson's employment contract in effect prior to his death on January 6, 2011.
- (c) This amount includes \$92,480 for personal use of Company-owned aircraft. This also includes amounts for premiums paid by the Company for the EMRP, for a long term disability policy and for spousal attendance at an event.

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- (d) This amount includes \$180,619 for personal use of Company-owned aircraft. This also includes amounts for premiums paid by the Company for the EMRP, for a long term disability policy, event tickets, and for spousal attendance at an event.

The values expressed for personal use of Company-owned aircraft are based on the aggregate incremental cost to the Company using a method that accounts for fuel, maintenance, landing fees, other associated travel costs and charter fees. Messrs. Tyson's, Smith's and Lochner's personal use of Company-owned aircraft is in accordance with their respective employment contracts; moreover, such use must comply with the Company's then existing aircraft policy and not interfere with the Company's use of the aircraft. The values of all perquisites are based on the incremental aggregate cost to the Company and are individually quantified only if they exceed the greater of \$25,000 or 10% of the total amount of perquisites for such NEO.

**Grants of Plan-Based Awards During Fiscal Year 2012**

The table below provides information on stock options, restricted stock, and equity and cash-based performance awards granted to each of the Company's NEOs during fiscal year 2012.

Name	Grant Date	Approval Date	Estimated Possible Payouts Under Non-Equity Incentive Plan Awards(1)			Estimated Future Payouts Under Equity Incentive Plan Awards(2)			All Other Stock Awards: Number of Shares or Units (#)	All Other Awards: Number of Securities Underlying Options (#)(3)	Exercise or Base Price of Option Awards (\$/Sh)(4)	Grant Date Fair Value of Stock and Option Awards (\$)(5)
			Threshold (\$)	Target (\$)	Maximum (\$)	Threshold (#)	Target (#)	Maximum (#)				
John Tyson			270,000	900,000	10,000,000							
Donnie Smith	11/28/2011	11/17/2011	486,000	1,620,000	10,000,000				400,000	19.63	2,796,000	
Dennis Leatherby	10/03/2011 11/28/2011	11/17/2011 11/17/2011	203,940	679,800	10,000,000	4,320	8,640	12,960	40,000	19.63	77,454 279,600	
Donnie King	11/28/2011	11/17/2011	217,008	723,360	10,000,000				117,680	19.63	822,583	
James V. Lochner	11/28/2011	11/17/2011	500,580	1,668,600	10,000,000				325,000	19.63	2,271,750	
Noel White	11/28/2011	11/17/2011	217,008	723,360	10,000,000				117,680	19.63	822,583	

- (1) The amounts in these columns represent the threshold, target and maximum amounts payable for performance in fiscal year 2012 under the Executive Incentive Plan. For more detailed information on the Executive Incentive Plan and potential payments thereunder, see the discussion and tables in the subsection titled "Elements of Compensation - Annual Performance Incentive Payments" in the section titled "Compensation Discussion and Analysis" in the Proxy Statement.
- (2) The amounts in these columns represent the threshold, target and maximum amount of shares of performance stock which would be awarded upon the achievement of specified performance criteria. For a more detailed discussion on performance stock, see the subsection titled "Equity-Based Compensation - Performance Stock" in the section titled "Compensation Discussion and Analysis" in this Proxy Statement.
- (3) The stock options are nonqualified stock options and expire on November 28, 2021.
- (4) Pursuant to the terms of the Stock Incentive Plan, the exercise price represents the closing price of our Class A Common Stock on the grant date.
- (5) For a description of the methodology used to determine the grant date fair value of stock and option awards, see footnote 1 of the Summary Compensation Table for Fiscal Years 2012, 2011 and 2010 in this Proxy Statement.

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*Description of Plan-Based Awards*

The equity awards reported in the Grants of Plan-Based Awards During Fiscal Year 2012 table were granted under the Stock Incentive Plan. The non-equity awards were granted under the Executive Incentive Plan. Material terms of these plans and more information on plan-based and incentive awards are described in the subsection titled Elements of Compensation under the Compensation Discussion and Analysis section of this Proxy Statement.

**Outstanding Equity Awards at 2012 Fiscal Year-End**

The table below provides information on the stock option, restricted stock and performance stock awards held by each of the Company's NEOs as of September 29, 2012.

Name	Grant Date or Beginning of Performance Period	Option Awards		Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date	Stock Awards		Equity Incentive Plan Awards: Number of Unearned Shares, Units or Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Rights That Have Not Vested (\$)(1)
		Number of Securities Underlying Exercisable Options (#)	Number of Securities Underlying Unexercisable Options (#)				Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)(1)		
John Tyson	7/29/2003	500,000	0		11.23	7/29/2013				
	9/19/2003	500,000	0		13.33	9/19/2013				
	9/29/2004	500,000	0		15.96	9/29/2014				
	11/16/2005	500,000	0		16.35	11/16/2015				
	11/17/2006	500,000	0		15.37	11/17/2016				
Donnie Smith	9/19/2003	2,784	0		13.33	9/19/2013				
	9/29/2004	6,000	0		15.96	9/29/2014				
	11/16/2005	10,000	0		16.35	11/16/2015				
	11/17/2006	20,000	0		15.37	11/17/2016				
	11/16/2007	32,000	8,000(2)		15.06	11/16/2017				
	11/14/2008	24,000	16,000(3)		4.90	11/14/2018				
	11/30/2009	78,454	39,226(4)		12.02	11/30/2019				
	12/16/2009						121,602(5)	1,948,064		
	2/11/2010	188,214	94,106(6)		15.96	2/11/2020				
	11/29/2010	133,334	266,666(7)		16.19	11/29/2020				
	11/28/2011	0	400,000(8)		19.63	11/28/2021				
Dennis Leatherby	9/19/2003	6,000	0		13.33	9/19/2013				
	9/29/2004	8,000	0		15.96	9/29/2014				
	11/16/2005	8,000	0		16.35	11/16/2015				
	11/17/2006	8,000	0		15.37	11/17/2016				
	11/16/2007	6,400	1,600(2)		15.06	11/16/2017				
	6/06/2008						38,401(5)	615,184		
	11/14/2008	24,000	16,000(3)		4.90	11/14/2018				
	10/05/2009								6,087(9)	97,514
	11/30/2009	26,667	13,333(4)		12.02	11/13/2019				
	10/04/2010								4,613(10)	73,900
	11/29/2010	13,334	26,666(7)		16.19	11/29/2020				
10/03/2011								4,320(11)	69,206	
11/28/2011	0	40,000(8)		19.63	11/28/2021					
Donnie King	9/29/2004	10,000	0		15.96	9/29/2014				

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11/16/2005	10,000	0	16.35	11/16/2015		
11/17/2006	10,000	0	15.37	11/17/2016		
11/16/2007	32,000	8,000(2)	15.06	11/16/2017		
11/14/2008	24,000	16,000(3)	4.90	11/14/2018		
10/05/2009					10,146(9)	162,539



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Name	Grant Date or Beginning of Performance Period	Option Awards			Stock Awards			Equity Incentive Plan Awards: Number of Unearned Shares, Units or Rights That	Equity Incentive Plan Awards: Market Value of Units of Stock That	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Rights That
		Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Units of Stock That Have Not Vested (\$)(1)	Have Not Vested (#)	Have Not Vested (\$)(1)
Donnie King	11/30/2009	26,667	13,333(4)		12.02	11/30/2019				
	12/09/2009						24,692(5)	395,566		
	11/29/2010	39,227	78,453(7)		16.19	11/29/2020				
	11/28/2011	0	117,680(8)		19.63	11/28/2021				
James V. Lochner	9/19/2003	15,000	0		13.33	9/19/2013				
	9/29/2004	40,000	0		15.96	9/29/2014				
	11/16/2005	50,000	0		16.35	11/16/2015				
	11/17/2006	50,000	0		15.37	11/17/2016				
	11/16/2007	40,000	10,000(2)		15.06	11/16/2017				
	11/14/2008	30,000	20,000(3)		4.90	11/14/2018				
	11/30/2009	33,334	16,666(4)		12.02	11/30/2019				
	12/16/2009						79,041(5)	1,266,237		
	2/11/2010	183,334	91,666(6)		15.96	2/11/2020				
	11/29/2010	108,334	216,666(7)		16.19	11/29/2020				
11/28/2011	0	325,000(8)		19.63	11/28/2021					
Noel White	9/19/2003	2,400	0		13.33	9/19/2013				
	9/29/2004	6,000	0		15.96	9/29/2014				
	11/16/2005	40,000	0		16.35	11/16/2015				
	11/17/2006	40,000	0		15.37	11/17/2016				
	11/16/2007	32,000	8,000(2)		15.06	11/16/2017				
	11/14/2008	24,000	16,000(3)		4.90	11/14/2018				
	11/30/2009	26,667	13,333(4)		12.02	11/30/2019				
	12/21/2009						24,691(5)	395,550		
	11/29/2010	39,227	78,453(7)		16.19	11/29/2020				
	2/07/2011						5,471(5)	87,645		
11/28/2011	0	117,680(8)		19.63	11/28/2021					

The footnotes below are applicable to more than one NEO where noted.

- (1) The amounts listed in this column reflect a share price of \$16.02, the closing price of our shares on the NYSE on September 28, 2012, the last trading day of our 2012 fiscal year.
- (2) These options vested and became exercisable on November 16, 2012.
- (3) One-half of these options vested and became exercisable on November 14, 2012, the remaining options are scheduled to vest and become exercisable on November 14, 2013.
- (4) These options vested and became exercisable on November 30, 2012.
- (5) These amounts include shares purchased with dividends paid on the original restricted stock award. The awards were scheduled to vest and have the restrictions lapse upon the expiration of the applicable NEO's employment contract. Upon each of these NEOs' execution of new employment contracts on November 14, 2012, pro rata portions of these shares vested in the following amounts: Mr. Smith (119,383); Mr. Leatherby (34,363); Mr. King (24,398); Mr. Lochner (77,598); and Mr. White (24,128) and (3,435).
- (6) These options are scheduled to vest and become exercisable on February 11, 2013.
- (7) One-half of these options vested and became exercisable on November 29, 2012. The remaining options are scheduled to vest and become exercisable on November 29, 2013.
- (8) One-third of these options vested and became exercisable on November 28, 2012. One-half of the remaining options are scheduled to vest and become exercisable on November 28, 2013, and the remaining options are scheduled to vest and become exercisable November

28, 2014.

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- (9) Per instructions for this table, the number of shares reported is based on achieving the threshold performance goals. Based on the satisfaction of applicable performance criteria, these shares vested on October 2, 2012 in the amount reported.
- (10) Per instructions for this table, the number of shares reported is based on achieving the threshold performance goals. This represents an award of performance stock that vests on the second business day following the last day of fiscal year 2013 subject to the satisfaction of the applicable performance criteria.
- (11) Per instructions for this table, the number of shares reported is based on achieving the threshold performance goals. This represents an award of performance stock that vests on the second business day following the last day of fiscal year 2014 subject to the satisfaction of the applicable performance criteria.

**Option Exercises and Stock Vested During Fiscal Year 2012**

The table below sets forth the number of shares acquired and the value realized upon exercise of stock options and vesting of stock awards during fiscal year 2012 by each of the NEOs.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise(#)	Value Realized on Exercise(\$)	Number of Shares Acquired on Vesting#(1)	Value Realized on Vesting\$(2)
John Tyson	200,000	2,005,740	0	0
Donnie Smith	1,392	9,278	29,550	505,319
Dennis Leatherby	6,000	37,661	17,730	303,191
Donnie King	8,352	56,404	29,550	505,319
James V. Lochner	15,000	138,249	0	0
Noel White	1,008	6,613	0	0

- (1) The amounts in this column represent previously awarded performance stock that vested on October 5, 2011.
- (2) The amounts in this column are based on our stock price of \$17.10 on October 5, 2011, which was the vesting date, plus an additional amount paid to the recipient for a fractional share.

**Pension Benefits for Fiscal Year 2012**

Pension benefits are available to our NEOs under the SERP. The SERP is a nonqualified deferred compensation plan providing life insurance protection to executive officers during employment and a cash benefit at retirement. Contributions to the SERP are made entirely by the Company. Retirement benefits under the SERP are paid out of a trust established by the Company in the form of a lifetime annuity. Such benefits are equal to one percent of a participant's final average annual compensation multiplied by his or her years of creditable service.

Compensation for purposes of this calculation includes cash compensation (salary plus non-equity performance incentive plan compensation) paid during the most recently completed calendar year. Final average annual compensation is the average of the cash compensation received by a participant during his or her last five completed calendar years of service. Officers prior to 2002 receive an additional one percent of their final five year average annual compensation multiplied by their final five years of creditable service. The normal retirement age under the SERP is 62, but participants may receive a benefit prior thereto, or in certain cases forfeit benefits, as further explained in the subsection titled "Elements of Compensation - Financial, Retirement and Welfare Benefit Plans" under the "Compensation Discussion and Analysis" section of this Proxy Statement. The Company does not sponsor a tax-qualified pension plan that covers NEOs.

**Table of Contents**

The following table shows the years of credited service for benefit accrual purposes and the present value of the accrued benefits for each of the NEOs under the SERP as of September 29, 2012.

Name	Plan Name	Numbers of Years of Credited Service(#)(1)	Present Value of Accumulated Benefit\$(2)	Payments During Last Fiscal Year(\$)
John Tyson	Tyson Foods, Inc. SERP	9.00	3,415,746	175,196
Donnie Smith	Tyson Foods, Inc. SERP	13.75	2,792,426	0
Dennis Leatherby	Tyson Foods, Inc. SERP	13.75	1,409,463	0
Donnie King	Tyson Foods, Inc. SERP	13.75	1,337,450	0
James V. Lochner	Tyson Foods, Inc. SERP	13.75	4,001,935	0
Noel White	Tyson Foods, Inc. SERP	13.75	1,674,785	0

- (1) The plan considers only a limited number of years of service, as more fully described above. The NEOs' actual years of service are as follows: Mr. Tyson 40 years, Mr. Smith 31 years, Mr. Leatherby 22 years, Mr. King 30 years, Mr. Lochner 29 years and Mr. White 29 years.
- (2) The present value of these benefits is based on the following assumptions:

**SERP Assumptions**

	As of October 1, 2011	As of September 29, 2012
<b>Discount Rate</b>	4.75%	4.23%
<b>Mortality Table for Annuities</b>	2011 projected, static, combined tables for males and females as published in IRS Notice 2008-85	2012 projected, static, combined tables for males and females as published in IRS Notice 2008-85

The following table shows the estimated annual single life annuity payable from the plan upon retirement at age 62, based on the specific compensation and years of service classifications indicated below.

**SERP Estimates**

Average Compensation	Years of Service				
	15	20	25	30	35
\$500,000	\$ 75,000	\$ 100,000	\$ 125,000	\$ 150,000	\$ 175,000
\$750,000	\$ 112,500	\$ 150,000	\$ 187,500	\$ 225,000	\$ 262,500
\$1,000,000	\$ 150,000	\$ 200,000	\$ 250,000	\$ 300,000	\$ 350,000
\$1,500,000	\$ 225,000	\$ 300,000	\$ 375,000	\$ 450,000	\$ 525,000
\$2,000,000	\$ 300,000	\$ 400,000	\$ 500,000	\$ 600,000	\$ 700,000
\$3,000,000	\$ 450,000	\$ 600,000	\$ 750,000	\$ 900,000	\$ 1,050,000
\$5,000,000	\$ 750,000	\$ 1,000,000	\$ 1,250,000	\$ 1,500,000	\$ 1,750,000

**Table of Contents****Nonqualified Deferred Compensation for Fiscal Year 2012**

The table below provides information on benefits available to the NEOs for fiscal year 2012 under the Executive Savings Plan, the Retirement Income Plan and the IBP Share Grant Program.

Name	Plan(1)	Executive Contributions in Last Fiscal Year(\$)(2)	Company Contributions in Last Fiscal Year (\$)(3)	Aggregate Earnings in Last Fiscal Year (\$)(4)	Aggregate Withdrawals/Distributions (\$)	Aggregate Balance at Last Fiscal Year-End (\$)(5)(6)
John Tyson	Executive Savings Plan	80,871	62,390	587,640	0	3,166,347
Donnie Smith	Executive Savings Plan	218,584	123,213	91,996	0	1,685,803
Dennis Leatherby	Executive Savings Plan	80,390	49,006	34,010	0	702,173
Donnie King	Executive Savings Plan	0	0	441	0	12,633
James V. Lochner	Executive Savings Plan	153,526	119,661	47,360	0	979,635
	Retirement Income Plan	0	0	209,145	0	4,204,092
	IBP Share Grant Program	0	0	3,831	0	77,003
Noel White	Executive Savings Plan	131,632	50,750	51,602	0	795,759
	Retirement Income Plan	0	0	25,079	0	504,114

- (1) As further detailed in the narrative below, all NEOs may participate in the Company's Executive Savings Plan. As previous executives of IBP, inc. ( IBP ), Messrs. Lochner and White also have account balances in the Company's Retirement Income Plan, a deferred compensation plan previously maintained by IBP as further described below. In addition, Mr. Lochner has an account balance in the IBP Share Grant Program, a plan previously maintained by IBP which has not had additional contributions since the acquisition of IBP by the Company in 2001.
- (2) Amounts in this column are included in the Salary and/or Non-Equity Incentive Plan Compensation columns of the Summary Compensation Table for Fiscal Years 2012, 2011 and 2010 in this Proxy Statement. The amounts in this column include post-fiscal year 2012 contributions made from the NEOs non-equity incentive plan compensation attributable to fiscal year 2012 performance as follows: Mr. Tyson (\$67,410); Mr. Smith (\$174,969); Mr. Leatherby (\$48,215); Mr. Lochner (\$120,278); and Mr. White (\$102,609).
- (3) Amounts in this column are included in the NEOs compensation reported in footnote 4 to the Summary Compensation Table for Fiscal Years 2012, 2011 and 2010 in this Proxy Statement. The amounts reflected in this column include post-fiscal year 2012 matching contributions to the applicable NEOs pursuant to the Executive Savings Plan attributable to fiscal year 2012 performance as follows: Mr. Tyson (\$53,928); Mr. Smith (\$99,982); Mr. Leatherby (\$38,572); Mr. Lochner (\$96,223); and Mr. White (\$41,043). A description of the Executive Savings Plan is provided under the heading Financial, Retirement and Welfare Benefit Plans in Compensation Discussion and Analysis of this Proxy Statement, as well as below under the heading Executive Savings Plan .
- (4) The above-market portion of these earnings is reported in footnote 3 to the Summary Compensation Table for Fiscal Year 2012, 2011 and 2010 in this Proxy Statement.
- (5) The amounts in this column include post-fiscal year 2012 executive contributions and Company matching contributions as described in footnotes (2) and (3) above.

2009

2,308

2010

1,748

2011

1,619

Thereafter

641

19

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**PERFICIENT, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

**8. Equity Based Compensation**

**Stock Option Plans**

In May 1999, the Company's Board of Directors and stockholders approved the 1999 Stock Option/Stock Issuance Plan (the "1999 Plan"). The 1999 Plan contains programs for (i) the discretionary granting of stock options to employees, non-employee board members and consultants for the purchase of shares of the Company's common stock, (ii) the discretionary issuance of common stock directly to eligible individuals, and (iii) the automatic issuance of stock options to non-employee board members. The Compensation Committee of the Board of Directors administers the 1999 Plan, and determines the exercise price and vesting period for each grant. Options granted under the 1999 Plan have a maximum term of 10 years. In the event that the Company is acquired, whether by merger or asset sale or board-approved sale by the stockholders of more than 50% of the Company's voting stock, each outstanding option under the discretionary option grant program which is not to be assumed by the successor corporation or otherwise continued will automatically accelerate in full, and all unvested shares under the discretionary option grant and stock issuance programs will immediately vest, except to the extent the Company's repurchase rights with respect to those shares are to be assigned to the successor corporation or otherwise continued in effect. The Compensation Committee may grant options under the discretionary option grant program that will accelerate in the acquisition even if the options are assumed or that will accelerate if the optionee's service is subsequently terminated.

The Compensation Committee may grant options and issue shares that accelerate in connection with a hostile change in control effected through a successful tender offer for more than 50% of the Company's outstanding voting stock or by proxy contest for the election of board members, or the options and shares may accelerate upon a subsequent termination of the individual's service.

On December 15, 2004, the Company granted restricted stock awards of 262,500 shares of common stock under the 1999 Stock Option/Stock Issuance Plan. This equity grant vests over seven years, with an original vesting schedule that was back-loaded but was converted to pro-rata or straight-line vesting over the seven year period due to the achievement of certain performance targets and compensation committee approval. On December 28, 2005, the Company granted restricted stock awards of approximately 323,000 shares of common stock under the 1999 Stock Option/Stock Issuance Plan. This equity grant vests over six years, with an original vesting schedule that was back-end loaded but was converted to pro-rata or straight-line vesting over the six year period due to the achievement of certain performance targets and compensation committee approval. On December 21, 2006, the Company granted restricted stock awards of approximately 843,000 shares of common stock under the 1999 Stock Option/Stock Issuance Plan. This equity grant vests ratably over five years.

**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

A summary of changes in common stock options during 2006, 2005 and 2004 is as follows (in thousands, except exercise price information):

	Shares	Range of Exercise Prices	Weighted-Average Exercise Price	Aggregate Intrinsic Value
Options outstanding at January 1, 2004	5,726	\$ 0.02 - \$26.00	\$ 2.42	
Options granted	1,459	\$ 3.00 - \$6.31	\$ 4.67	
Options exercised	(492)	\$ 0.03 - \$4.50	\$ 1.34	
Options canceled	(254)	\$ 0.50 - \$13.25	\$ 3.37	
Options outstanding at December 31, 2004	6,439	\$ 0.02 - \$26.00	\$ 2.97	
Options granted	415	\$ 7.34 - \$9.19	\$ 7.81	
Options exercised	(1,354)	\$ 0.03 - \$8.10	\$ 2.00	
Options canceled	(232)	\$ 0.03 - \$16.00	\$ 5.37	
Options outstanding at December 31, 2005	5,268	\$ 0.02 - \$16.94	\$ 3.53	
Options granted	--	--	--	
Options exercised	(1,672)	\$ 0.02 - \$12.13	\$ 2.40	
Options canceled	(44)	\$ 1.01 - \$13.25	\$ 5.41	
Options outstanding at December 31, 2006	3,552	\$ 0.02 - \$16.94	\$ 4.03	43,975
Options vested, December 31, 2004	3,227	\$ 0.02 - \$16.94	\$ 2.85	



			0.02 -		
Options vested, December 31, 2005	3,305	\$	\$16.94	\$	3.00
Options vested or expected to vest, December 31, 2006	2,347	\$	\$16.94	\$	3.62 41,400

The total aggregate intrinsic value of options exercised during the years ended December 31, 2006, 2005, and 2004, was \$18.6 million, \$8.4 million, and \$1.5 million, respectively. The total fair value of restricted shares vesting during the year ended December 31, 2006 was \$1.4 million. For the years ended December 31, 2005 and 2004, the total fair value of restricted shares vesting during the year was \$0.

## PERFICIENT, INC.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

Restricted stock activity for the year ended December 31, 2006 was as follows (in thousands, except fair value information):

	Shares	Weighted-Average Grant Date Fair Value
Restricted stock awards outstanding at January 1, 2006	614	\$ 7.69
Awards granted	911	15.61
Awards released	(83)	7.62
Awards canceled	(13)	8.04
Restricted stock awards outstanding at December 31, 2006	1,429	\$ 12.74

The following is additional information related to stock options outstanding at December 31, 2006 (in thousands, except exercise price information):

Options Outstanding		Options Exercisable			
		Weighted Average	Weighted Average Remaining	Weighted Average	
Range of Exercise Prices	Options	Exercise Price	Contractual Life (Years)	Options	Exercise Price
\$0.02 - \$1.15	468	\$0.62	4.94	468	\$0.62
\$1.21 - \$2.28	1,101	\$2.09	6.53	808	\$2.02
\$2.77 - \$3.75	796	\$3.42	5.5	578	\$3.54
\$4.40 - \$6.31	733	\$6.04	7.61	182	\$5.51
\$6.97 - \$16.94	454	\$10.10	6.22	311	\$11.30
\$0.02 - \$16.94	3,552	\$4.03	6.27	2,347	\$3.62

The fair value of options was calculated at the date of grant using the Black-Scholes pricing model with the following weighted-average assumptions for the year ended December 31, 2005 and 2004, as follows, with a weighted-average life of options of 5 years used for each of the years presented:

Year End December 31,	Risk-Free Interest Rate	Dividend Yield	Volatility Factor
2004	3.61%	0%	1.388
2005	3.72%	0%	1.405

No stock options were granted in 2006.

At December 31, 2006, 2005 and 2004, the weighted-average remaining contractual life of outstanding options was 6.27, 7.17, and 7.89 years, respectively. The weighted-average grant-date fair value per share of options granted during 2005 and 2004 at market prices was approximately \$7.81 and \$4.67, respectively. There were no option grants at below or above market prices during 2005 and 2004. No option grants occurred in 2006.

The Company recognized \$3.1 million and \$0.3 million of stock compensation expense during 2006 and 2005, respectively. Tax benefits recognized on stock option exercises were \$0.8 million and \$0.2 million during 2006 and 2005. For the year ended December 31, 2004, stock compensation expense and the related tax benefits recognized on stock option exercises were immaterial. As of December 31, 2006, there was \$19.7 million of total unrecognized compensation cost related to non-vested share-based awards. This cost is expected to be recognized over a weighted-average period of 2.8 years. Our estimated forfeiture rate for the year ended December 31, 2006 of approximately 12% for share based awards was based on historical forfeiture experience to anticipate actual forfeitures in the future.

**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

Prior to the adoption of SFAS No. 123R, the Company accounted for employee stock-based compensation using the intrinsic value method prescribed by APB 25. As presented below, the Company applied the disclosure provisions of SFAS 123, as amended by SFAS 148, *Accounting for Stock-Based Compensation - Transition and Disclosure*, as if the fair value method had been applied. If this method had been used, the Company's net income and net income per share for the years ended December 31, 2005 and 2004 would have been adjusted to the pro forma amounts below (in thousands except per share data):

	<b>Year ended December 31,</b>	
	<b>2005</b>	<b>2004</b>
Net income -- as reported	\$ 7,177	\$ 3,913
Total stock-based compensation costs, net of tax, included in the determination of net income as reported	162	27
The stock-based employee compensation cost, net of tax, that would have been included in the determination of net income if the fair value based method had been applied to all awards	(2,609)	(1,016)
Pro forma net income	\$ 4,730	\$ 2,924
Earnings per share		
Basic - as reported	\$ 0.33	\$ 0.22
Basic - pro forma	\$ 0.23	\$ 0.17
Diluted - as reported	\$ 0.28	\$ 0.19
Diluted - pro forma	\$ 0.20	\$ 0.14

At December 31, 2006, 3.6 million shares were reserved for future issuance upon exercise of outstanding options and 8,575 shares were reserved for future issuance upon exercise of outstanding warrants. At December 31, 2006, there were 1.4 million shares of restricted stock outstanding under the 1999 Plan and classified as equity.

The following table summarizes information regarding warrants outstanding and exercisable as of December 31, 2006 (in thousands, except exercise price information):

<b>Exercise Price</b>	<b>Warrants Outstanding and Exercisable</b>	
	<b>Warrants</b>	
\$1.98	9	
<b>\$1.98</b>	<b>9</b>	

The majority of the outstanding warrants expire in December 2011.

**Employee Stock Purchase Plan**

In 2005, the Compensation Committee approved the Employee Stock Purchase Plan (the "ESPP") to be available to employees starting January 1, 2006. The ESPP is a broadly-based stock purchase plan in which any eligible employee may elect to participate by authorizing the Company to make payroll deductions in a specific amount or designated percentage to pay the exercise price of an option. In no event will an employee be granted an option under the ESPP that would permit the purchase of Common Stock with a fair market value in excess of \$25,000 in any calendar year and the Compensation Committee of the Company has set the current annual participation limit at \$12,500. For the

year ended December 31, 2006, approximately 6,000 shares had been purchased under the ESPP.

There are four three-month offering periods in each calendar year beginning on January 1, April 1, July 1, and October 1, respectively. The exercise price of options granted under the ESPP is an amount equal to 95% of the fair market value of the Common Stock on the date of exercise (occurring on, respectively, March 31, June 30, September 30, and December 31). The ESPP is designed to comply with Section 423 of the Code and thus is eligible for the favorable tax treatment afforded by Section 423.

**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****9. Line of Credit and Long Term Debt**

On June 29, 2006, the Company entered into an Amended and Restated Loan and Security Agreement with Silicon Valley Bank and KeyBank National Association. The amended agreement increased the total size of the Company's senior bank credit facilities from \$28.5 million to \$51.3 million by increasing the accounts receivable line of credit from \$15 million to \$25 million and increasing the acquisition term line of credit from \$13.5 million to \$26.3 million.

The accounts receivable line of credit, which expires in June 2009, provides for a borrowing capacity equal to all eligible accounts receivable, including 80% of unbilled revenues, subject to certain borrowing base calculations as defined in the agreement, but in no event more than \$25 million. Borrowings under this line of credit bear interest at the bank's prime rate (8.25% at December 31, 2006). As of December 31, 2006, there were no amounts outstanding under the accounts receivable line of credit and \$25 million of available borrowing capacity, excluding \$450,000 reserved for two outstanding letters of credit to secure facility leases. In January 2007, the letters of credit decreased \$50,000.

The Company's \$26.3 million term acquisition line of credit provides an additional source of financing for certain qualified acquisitions. As of December 31, 2006, the balance outstanding under this acquisition line of credit was approximately \$1.3 million. Borrowings under this acquisition line of credit bear interest equal to the four year U.S. Treasury note yield plus 3% based on the spot rate on the day the draw is processed (7.69% at December 31, 2006). Borrowings under this acquisition line are repayable in thirty-six equal monthly installments after the initial interest only period which continues through June 29, 2007. Draws under this acquisition line may be made through June 29, 2008. As of December 31, 2006, the balance outstanding under this acquisition line of credit of \$1.3 million had an average interest rate of 7.00%. The Company currently has approximately \$25.0 million of available borrowing capacity under this acquisition line of credit.

The Company is required to comply with various financial covenants under the \$51.3 million credit facility. Specifically, the Company is required to maintain a ratio of after tax earnings before interest, depreciation and amortization, and other non-cash charges, including but not limited to stock and stock option compensation expense on trailing three months annualized, to current maturities of long-term debt and capital leases plus interest of at least 1.50 to 1.00, a ratio of cash plus eligible accounts receivable including 80% of unbilled revenues less principal amount of all outstanding advances on accounts receivable line of credit to advances under the term acquisition line of credit of at least 0.75 to 1.00, and a maximum ratio of all outstanding advances under the entire credit facility to earnings before taxes, interest, depreciation, amortization and other non-cash charges, including but not limited to, stock and stock option compensation expense including pro forma adjustments for acquisitions on a trailing twelve month basis of no more than 2.50 to 1.00. As of December 31, 2006, the Company was in compliance with all covenants under this facility. This credit facility is secured by substantially all assets of the Company.

Notes payable to related party at December 31, 2005 consisted of non interest-bearing notes issued to the shareholders of Javelin Solutions, Inc. ("Javelin") in April 2002 in connection with the Company's acquisition of Javelin. The note was fully repaid in 2006.

Future minimum term debt repayments as of December 31, 2006 are as follows (in thousands):

	<b>Debt Payments</b>
2007	\$ 1,201

2008		137
Present value of debt commitments		1,338
Less current portion		1,201
Long term portion	\$	137

## 10. Income Taxes

As of December 31, 2006, the Company had U.S. Federal tax net operating loss carry forwards of approximately \$6.3 million that will begin to expire in 2020 if not utilized. The Company has established a valuation allowance against these net operating loss carry forwards of \$2.0 million.

Utilization of net operating losses may be subject to an annual limitation due to the “change in ownership” provisions of the Internal Revenues Code of 1986. The annual limitation may result in the expiration of net operating losses before utilization.

**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

Significant components of the provision for income taxes attributable to continuing operations are as follows (in thousands):

	<b>Year Ended December 31,</b>		
	<b>2006</b>	<b>2005</b>	<b>2004</b>
<b>Current:</b>			
Federal	\$ 1,138	\$ 1,148	\$ 1,412
Foreign	102	223	255
State	260	241	235
Total current	1,500	1,612	1,902
Tax benefit on acquired net operating loss carryforward	246	353	312
Tax benefit from stock options	6,554	2,306	342
<b>Deferred:</b>			
Federal	(902)	201	(26)
Foreign	--	--	--
State	(116)	26	(2)
Total deferred	(1,018)	227	(28)
Total provision for income taxes	\$ 7,282	\$ 4,498	\$ 2,528

The components of pretax income for the years ended December 31, 2006, 2005 and 2004 are as follows (in thousands):

	<b>Year Ended December 31,</b>		
	<b>2006</b>	<b>2005</b>	<b>2004</b>
Domestic	\$ 16,565	\$ 11,267	\$ 5,804
Foreign	284	408	637
Total	\$ 16,849	\$ 11,675	\$ 6,441

Foreign operations include Canada and the United Kingdom for the years ended December 31, 2004 and 2005. In 2006, foreign operations only included Canada. As of December 31, 2006, the Company's location in the United Kingdom was dormant.



## PERFICIENT, INC.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred taxes as of December 31, 2006 and 2005 are as follows:

	December 31,	
	2006	2005
	(In thousands)	
Deferred tax assets:		
Current deferred tax assets:		
Accrued liabilities	\$ 298	\$ 140
Net operating losses	243	246
Bad debt reserve	268	110
	809	496
Valuation allowance	(457)	(361)
Net current deferred tax assets	\$ 352	\$ 135
Non-current deferred tax assets:		
Net operating losses	\$ 2,339	\$ 2,577
Fixed assets	53	49
Deferred compensation	435	102
	2,827	2,728
Valuation allowance	(1,599)	(1,984)
Net non-current deferred tax assets	\$ 1,228	\$ 744
Deferred tax liabilities:		
Current deferred tax liabilities:		
Deferred income	\$ 308	\$ 93
Non-current deferred tax liabilities:		
Deferred income	\$ 431	\$ 94
Foreign withholding tax on undistributed earnings	65	45
Intangibles	1,983	461
Total non-current deferred tax liabilities	\$ 2,479	\$ 600
Net current deferred tax asset	\$ 44	\$ 42
Net non-current deferred tax asset (liability)	\$ (1,251)	\$ 144

The Company has established a valuation allowance to offset a portion of the Company's deferred tax assets due to uncertainties regarding the realization of deferred tax assets based on the Company's earnings history and limitations on the utilization of acquired net operating losses. The valuation allowance decreased by approximately \$0.3 million during 2006 and decreased by approximately \$0.7 million during 2005. These decreases are primarily due to the benefit of acquired net operating loss carryforwards. As of December 31, 2006, all of the valuation allowance relates to acquired entities, and as such, if realized, will reduce goodwill or other non-current assets prior to resulting in an income tax benefit.

Changes to the valuation allowance are summarized as follows for the years presented (in thousands):

	Year ended December 31,		
	2006	2005	2004

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Balance, beginning of year	\$	2,345	\$	3,027	\$	1,057
Benefit realized		(289)		(446)		--
Additions resulting from purchase accounting		--		--		1,970
Write-offs		--		(236)		--
Balance, end of year	\$	2,056	\$	2,345	\$	3,027

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**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

During 2005, the Company determined that its undistributed earnings of foreign subsidiaries were no longer permanently reinvested. All of the undistributed earnings were deemed to have been repatriated during 2005 under U.S. tax law, and current federal and state taxes on the deemed repatriated amounts (less applicable foreign tax credits) are included in the respective current provisions. Upon actual repatriation of these earnings, in the form of dividends or otherwise, the Company will be subject to withholding taxes payable to the various foreign countries. A deferred tax liability has been recorded to reflect the foreign withholding tax. The foreign entities have minimal temporary items and thus no deferred taxes have been provided thereon.

The federal corporate statutory rate is reconciled to the Company's effective income tax rate as follows:

	Year Ended December 31,		
	2006	2005	2004
Federal corporate statutory rate	34.3%	34.0%	34.0%
State taxes, net of federal benefit	4.6	4.3	2.8
Intangibles amortization	--	--	0.7
Effect of foreign operations	--	0.1	0.6
Stock compensation	2.1	--	--
Other	2.2	0.1	1.1
Effective income tax rate	43.2%	38.5%	39.2%

The effective income tax rate increased to 43.2% for the year ended December 31, 2006 from 38.5% for the year ended December 31, 2005 as a result of non-deductible stock compensation related to incentive stock options included in the Company's statement of operations in 2006 as a result of the adoption of SFAS 123R on January 1, 2006 and certain non-deductible compensation required by Section 162(m) of the Internal Revenue Code, which imposes a limitation on the deductibility of certain compensation in excess of \$1 million paid to covered employees .

**11. Commitments and Contingencies**

The Company leases its office facilities and certain equipment under various operating lease agreements, as amended. The Company has the option to extend the term of certain of its office facilities leases. Future minimum commitments under these lease agreements as of December 31, 2006 are as follows (in thousands):

	Operating Leases
2007	\$ 1,355
2008	1,128
2009	1,020
2010	768
2011	351
Thereafter	61
Total minimum lease payments	\$ 4,683

Rent expense for the years ended December 31, 2006, 2005 and 2004 was approximately \$1.7 million, \$1.5 million and \$1.4 million respectively.

In connection with certain of its acquisitions, the Company was required to establish various letters of credit totaling \$450,000 with Silicon Valley Bank to serve as collateral for certain office space leases. These letters of credit reduce the borrowings available under the Company's line of credit with Silicon Valley Bank. In January 2007, these letters of credit decreased \$50,000. One letter of credit for \$200,000 will remain in effect through October 2009, and the other letter of credit for \$250,000 will remain in effect through June 2007.

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## PERFICIENT, INC.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

## 12. Balance Sheet Components

	December 31,	
	2006	2005
	(In thousands)	
<b>Accounts receivable:</b>		
Accounts receivable	\$ 29,461	\$ 17,037
Unbilled revenues	9,846	6,581
Allowance for doubtful accounts	(707)	(367)
<b>Total</b>	<b>\$ 38,600</b>	<b>\$ 23,251</b>
<b>Other current assets:</b>		
Income tax receivable	\$ 2,150	\$ 1,367
Other current assets	649	163
<b>Total</b>	<b>\$ 2,799</b>	<b>\$ 1,530</b>
<b>Other current liabilities:</b>		
Accrued bonus	\$ 9,851	\$ 3,525
Accrued subcontractor fees	1,803	1,842
Deferred revenues	1,318	1,084
Payroll related costs	1,258	503
Sales and use taxes	326	150
Accrued acquisition costs related to Insolexen and EGG	563	--
Other accrued expenses	915	1,227
<b>Total</b>	<b>\$ 16,034</b>	<b>\$ 8,331</b>
<b>Property and Equipment:</b>		
Hardware (useful life of 2 years)	\$ 3,933	\$ 2,708
Furniture and fixtures (useful life of 5 years)	980	781
Leasehold improvements (useful life of 3 years)	275	150
Software (useful life of 1 year)	702	474
Accumulated depreciation and amortization	(4,084)	(3,153)
<b>Property and equipment, net</b>	<b>\$ 1,806</b>	<b>\$ 960</b>

## 13. Allowance for Doubtful Accounts

Activity in the allowance for doubtful accounts is summarized as follows for the years presented (in thousands):

	Year ended December 31,		
	2006	2005	2004
Balance, beginning of year	\$ 367	\$ 654	\$ 623
Charged to expense	264	32	33
Additions resulting from purchase accounting	371	24	--

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Uncollected balances written off, net of recoveries	(295)	(343)	(2)
Balance, end of year	\$ 707	\$ 367	\$ 654

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**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****14. Business Combinations**Acquisition of iPath Solutions, Ltd.

On June 10, 2005, the Company acquired iPath Solutions, Ltd. (“iPath”), a privately held technology consulting company, for \$9.9 million. The purchase price consists of \$3.9 million in cash, \$900,000 of liabilities repaid on behalf of iPath, transaction costs of \$600,000, and 623,803 shares of the Company's common stock valued at approximately \$7.24 per share (approximately \$4.5 million worth of Company's common stock). The total purchase price has been allocated to the assets acquired, including identifiable intangible assets, based on their respective fair values at the date of acquisition. Goodwill is assigned at the enterprise level. The purchase price was allocated to intangibles based on management's estimate and an independent valuation. The results of the iPath operations have been included in the Company's consolidated financial statements since June 10, 2005.

The purchase price allocation is as follows (in millions):

Intangibles:	
Customer relationships	\$ 0.7
Customer backlog	0.2
Non-compete agreements	0.1
Goodwill	7.3
Tangible assets and liabilities acquired:	
Accounts receivable	1.6
Property and equipment	0.1
Accrued expenses	(0.1)
Net assets acquired	\$ 9.9

The Company estimates that the intangible assets acquired have useful lives of six months to five years.

Acquisition of Vivare, LP

On September 2, 2005, the Company acquired Vivare, LP (“Vivare”), a privately held technology consulting company, for \$9.8 million. The purchase price consists of \$4.9 million in cash, transaction costs of approximately \$500,000, and 618,500 shares of the Company's common stock valued at approximately \$7.03 per share (approximately \$4.4 million worth of Company's common stock). The total purchase price has been allocated to the assets acquired, including identifiable intangible assets, based on their respective fair values at the date of acquisition. Goodwill is assigned at the enterprise level. The purchase price was allocated to intangibles based on management's estimate and an independent valuation. The results of Vivare's operations have been included in the Company's consolidated financial statements since September 2, 2005.

The purchase price allocation is as follows (in millions):

Intangibles:	
Customer relationships	\$ 1.0

Customer backlog	0.1
Non-compete agreements	0.1
Goodwill	6.8
Tangible assets acquired:	
Accounts receivable	1.7
Property and equipment	0.1
Net assets acquired	\$ 9.8

The Company estimates that the intangible assets acquired have useful lives of nine months to six years.



**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**Acquisition of Bay Street Solutions, Inc.

On April 7, 2006, the Company acquired Bay Street Solutions, Inc. (“Bay Street”), a national customer relationship management consulting firm, for approximately \$9.8 million. The purchase price consists of approximately \$4.1 million in cash, transaction costs of \$636,000, and 464,569 shares of the Company's common stock valued at approximately \$12.18 per share (approximately \$5.7 million worth of the Company's common stock) less the value of those shares subject to a lapse acceleration right of approximately \$630,000, as determined by a third party valuation firm. The total purchase price has been allocated to the assets acquired, including identifiable intangible assets, based on their respective fair values at the date of acquisition. Goodwill is assigned at the enterprise level. The purchase price was allocated to intangibles based on management's estimate and an independent valuation. Management expects to finalize the purchase price allocation within twelve months of the acquisition date as certain initial accounting estimates are resolved. The results of Bay Street's operations have been included in the Company's consolidated financial statements since April 7, 2006.

The preliminary purchase price allocation is as follows (in millions):

Intangibles:	
Customer relationships	\$ 1.6
Customer backlog	0.2
Non-compete agreements	0.1
Goodwill	6.4
Tangible assets acquired:	
Accounts receivable	2.4
Other assets	0.6
Property and equipment	0.1
Accrued expenses	(1.6)
Net assets acquired	\$ 9.8

The Company estimates that the intangible assets acquired have useful lives of four months to six years.

Acquisition of Insolexen, Corp.

On May 31, 2006, the Company acquired Insolexen, Corp. (“Insolexen”), a business integration consulting firm, for approximately \$15.1 million. The purchase price consists of approximately \$7.7 million in cash, transaction costs of \$695,000, and 522,944 shares of the Company's common stock valued at approximately \$13.72 per share (approximately \$7.2 million worth of the Company's common stock) less the value of those shares subject to a lapse acceleration right of approximately \$613,000, as determined by a third party valuation firm. The total purchase price has been allocated to the assets acquired, including identifiable intangible assets, based on their respective fair values at the date of acquisition. Goodwill is assigned at the enterprise level. The purchase price was allocated to intangibles based on management's estimate and an independent valuation. Management expects to finalize the purchase price allocation within twelve months of the acquisition date as certain initial accounting estimates are resolved. The results of Insolexen's operations have been included in the Company's consolidated financial statements since May 31, 2006.



**PERFICIENT, INC.****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

The preliminary purchase price allocation is as follows (in millions):

Intangibles:	
Customer relationships	\$ 2.8
Customer backlog	0.4
Non-compete agreements	0.1
Goodwill	10.5
Tangible assets and liabilities acquired:	
Accounts receivable	3.9
Other assets	2.1
Accrued expenses	(4.7)
Net assets acquired	\$ 15.1

The Company estimates that the intangible assets acquired have useful lives of seven months to six years.

Acquisition of the Energy, Government and General Business (EGG) division of Digital Consulting & Software Services, Inc.

On July 21, 2006, the Company acquired the Energy, Government and General Business (“EGG”) division of Digital Consulting & Software Services, Inc., a systems integration consulting business, for approximately \$13.1 million. The purchase price consists of approximately \$6.4 million in cash, transaction costs of approximately \$275,000, and 511,382 shares of the Company's common stock valued at approximately \$12.71 per share (approximately \$6.5 million worth of the Company's common stock) less the value of those shares subject to a lapse acceleration right of approximately \$92,000, as determined by a third party valuation firm. The total purchase price has been allocated to the assets acquired, including identifiable intangible assets, based on their respective fair values at the date of acquisition. Goodwill is assigned at the enterprise level. The purchase price was allocated to intangibles based on management's estimate and an independent valuation. Management expects to finalize the purchase price allocation within twelve months of the acquisition date as certain initial accounting estimates are resolved. The results of EGG's operations have been included in the Company's consolidated financial statements since July 21, 2006.

The preliminary purchase price allocation is as follows (in millions):

Intangibles:	
Customer relationships	\$ 3.7
Customer backlog	0.5
Non-compete agreements	0.1
Goodwill	6.3
Tangible assets and liabilities acquired:	
Accounts receivable	3.7
Other assets	0.4

Accrued expenses	(1.6)
Net assets acquired	\$ 13.1

The Company estimates that the intangible assets acquired have useful lives of five months to six years.

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## PERFICIENT, INC.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)

Pro-forma Results of Operations

The following presents the unaudited pro forma combined results of operations of the Company with iPath, Vivare, Bay Street, Insolexen, and EGG for the years ended December 31, 2006 and 2005, after giving effect to certain pro forma adjustments related to the amortization of acquired intangible assets and assuming these companies were acquired as of the beginning of each period presented. These unaudited pro forma results are not necessarily indicative of the actual consolidated results of operations had the acquisitions actually occurred on January 1, 2005 and January 1, 2006 or of future results of operations of the consolidated entities (in thousands, except per share information):

	December 31,	
	2006	2005
Revenues	\$ 181,953	\$ 148,833
Net income	\$ 9,132	\$ 8,464
Basic income per share	\$ 0.36	\$ 0.35
Diluted income per share	\$ 0.32	\$ 0.31

**15. Quarterly Financial Results (Unaudited)**

The following tables set forth certain unaudited supplemental quarterly financial information for the years ended December 31, 2006 and 2005. The quarterly operating results are not necessarily indicative of future results of operations. The financial data presented is not directly comparable between periods as a result of the adoption of Statement of Financial Accounting Standards No. 123R (As Amended), *Share Based Payment* ("SFAS 123R") in the first quarter of 2006 and three acquisitions in 2006 and two acquisitions in 2005 (in thousands, except per share data):

	Three Months Ended,			
	March 31,	June 30,	September 30,	December 31,
	2006	2006	2006	2006
	(Unaudited)			
Revenues:				
Services	\$ 25,606	\$ 32,751	\$ 40,219	\$ 39,145
Software	2,682	2,587	1,532	7,635
Reimbursable expenses	1,356	2,172	2,543	2,698
Total revenues	\$ 29,644	\$ 37,510	\$ 44,294	\$ 49,478
Gross margin	\$ 9,288	\$ 13,178	\$ 15,854	15,437
Income from operations	\$ 3,057	\$ 4,027	\$ 4,840	\$ 5,159
Income before income taxes	\$ 3,034	\$ 3,900	\$ 4,675	\$ 5,241
Net income	\$ 1,705	\$ 2,255	\$ 2,834	\$ 2,774
Basic net income per share	\$ 0.07	\$ 0.09	\$ 0.11	\$ 0.10
Diluted net income per share	\$ 0.07	\$ 0.08	\$ 0.10	\$ 0.10

	Three Months Ended,			
	March 31,	June 30,	September 30,	December 31,
	2005	2005	2005	2005
	(Unaudited)			
Revenues:				

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Services	\$	17,657	\$	19,234	\$	23,157	\$	23,691
Software		1,407		1,393		1,918		4,669
Reimbursable expenses		660		1,034		1,048		1,129
Total revenues	\$	19,724	\$	21,661	\$	26,123	\$	29,489
Gross margin	\$	6,720	\$	7,283	\$	9,298		9,117
Income from operations	\$	2,532	\$	2,756	\$	3,555	\$	3,432
Income before income taxes	\$	2,420	\$	2,650	\$	3,359	\$	3,245
Net income	\$	1,488	\$	1,627	\$	2,066	\$	1,996
Basic net income per share	\$	0.07	\$	0.08	\$	0.09	\$	0.09
Diluted net income per share	\$	0.06	\$	0.07	\$	0.08	\$	0.08

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**PERFICIENT, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

**16. Subsequent Event**

On February 20, 2007, the Company consummated the acquisition of E-Tech Solutions. The Company paid approximately \$12.2 million consisting of approximately \$6.1 million in cash and \$6.1 million worth of the Company's common stock, subject to certain post-closing adjustments. As required, the Company will use the closing price of the its common stock at or near the close date in reporting the value of the stock consideration paid in the acquisition, which was \$20.34. The Company issued 306,248 shares of its common stock in connection with the acquisition.

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors and Stockholders  
Perficient, Inc.  
Austin, Texas

We have audited the accompanying consolidated balance sheets of Perficient, Inc. as of December 31, 2006 and 2005 and the related consolidated statements of income, stockholders' equity and comprehensive income, and cash flows for each of the three years in the period ended December 31, 2006. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our 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 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, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Perficient, Inc. at December 31, 2006 and 2005, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2006, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 1 to the consolidated financial statements, effective January 1, 2006, the Company adopted Statement of Financial Accounting Standards No. 123(R), *Share-Based Payment*.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Perficient, Inc.'s internal control over financial reporting as of December 31, 2006, based on criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and our report dated March 1, 2007 expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP  
Houston, Texas  
March 1, 2007, except Note 2  
as to which date is August 13, 2007



## **Item 9A. Controls and Procedures.**

### *Evaluation of Disclosure Controls and Procedures*

We have established disclosure controls and procedures to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the officers who certify the Company's financial reports and to other members of senior management and the Board of Directors.

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Company's reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management, including the principal executive officer and principal financial officer of the Company, as appropriate, to allow timely decisions regarding required disclosure. The Company's management, with the participation of the Company's principal executive officer and principal financial officer, has evaluated the effectiveness of the Company's disclosure controls and procedures as of the end of the fiscal year covered by this Annual Report on Form 10-K/A. As described below under Management's Annual Report on Internal Control Over Financial Reporting, the Company has determined that its disclosure controls and procedures were effective.

### *Management's Report on Internal Control over Financial Reporting*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f). In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of internal control include providing management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America. Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on our assessment under those criteria, management concluded that the Company's internal control over financial reporting was effective as of December 31, 2006.

The Company acquired Bay Street, Insolexen, and EGG in April, May, and July of 2006, respectively. As permitted by SEC guidance, management excluded these acquired companies from its assessment of the effectiveness of the Company's internal control over financial reporting as of December 31, 2006. In total, Bay Street, Insolexen, and EGG represented 29% and 17% of the Company's total assets and total revenues, respectively, as of and for the year ended December 31, 2006. Excluding identifiable intangible assets and goodwill recorded in the business combination, Bay Street, Insolexen, and EGG represented 6% of the Company's total assets as of December 31, 2006.

Our management's assessment of the effectiveness of our internal control over financial reporting as of December 31, 2006 has been audited by BDO Seidman, LLP, an independent registered public accounting firm, as stated in their report which is included herein.

### *Changes in Internal Control Over Financial Reporting*

During the quarter ended December 31, 2006, we continued our remediation efforts from the prior quarters in order to fully remediate our previously reported material weakness. This includes performing the following:

- Verified employee security access to our automated general ledger system is appropriate related to the employee's responsibilities and further strengthened our controls surrounding general ledger access granted to our new accounting personnel;
- Established certain spreadsheet controls including required detail review of key spreadsheets, limited access to key spreadsheets on a central server and assignment of appropriate rights, a controlled process for requesting changes to a spreadsheet, and a process to back up spreadsheets on a regular basis so that complete and accurate information is available for financial reporting;
- Activated certain additional application and prevent controls with the assistance of our general ledger software provider and our internal technology personnel; and
- Engaged a third party to assist with project management and strategic oversight of our remediation of the 2005 significant deficiencies and material weakness and the 2006 control review process.

In addition, during the year ended December 31, 2006, we have hired several new employees to further diversify accounting responsibilities, most notably the addition of a new Chief Financial Officer, but also including various senior and staff accountants.

The cumulative impact of these activities established during 2006 occurred and management obtained sufficient evidence of the operating effectiveness of such additional controls during the year ended December 31, 2006. Accordingly, management has concluded that our previously reported material weakness caused principally by inadequate staffing levels has been remediated.

As discussed in Note 2 to the Notes to Consolidated Financial Statements, in August 2007, it was determined that certain previously reported payments associated with our business acquisitions were incorrectly included as a component of cash flows from operating activities instead of from investing activities in the Company's Consolidated Statement of Cash Flows. These errors were promptly brought to the attention of our audit committee and former auditors as we worked to resolve such errors with our current auditors. As a result of correcting these misclassifications, in the annual report of Form 10-K/A, we have restated our Consolidated Statements of Cash Flows for the years ended December 31, 2006 and 2005. We have also revised our Notes to Consolidated Financial Statements as necessary to reflect these errors.

These errors resulted from a significant deficiency in the procedures to reconcile and review the impact of acquisitions on the Consolidated Statement of Cash Flows. The controls in place regarding reconciliation and review of cash flows related to acquisition activity represent a very narrow subset of the Company's financial closing and disclosure controls and an even narrower element of the Company's overall financial control structure. The Company does not believe that this restatement resulted from a breakdown in its general controls; rather represents an isolated classification error for specific types of acquisition payments. In light of these reclassification errors identified, we have implemented new procedures for reconciling and reviewing the Consolidated Statement of Cash Flows related to business acquisitions. Management believes that controls are now in place to ensure similar errors do not occur again.

In connection with the restatement and the filing of this Form 10-K/A, the Company re-evaluated, with the participation of management, including the Company's Chief Executive Officer and Chief Financial Officer, the effectiveness of the design and operation of the Company's disclosure controls and procedures as of December 31, 2006. The Company considered that the restatement of financial statements in prior filings made with the SEC may be an indicator of the existence of weaknesses in the design or operation of internal control over financial reporting. Based on such evaluation, the Chief Executive Officer and the Chief Financial Officer concluded that the Company's original conclusions with respect to the effectiveness of disclosure controls and procedures remain appropriate and that the disclosure controls and procedures were effective at a reasonable assurance level as of December 31, 2006. In arriving at such conclusion, management considered the facts and circumstances that resulted in the reclassifications in the statements of cash flows, including considerations with respect to its internal controls over financial reporting. Management determined that the reclassifications were not the result of a material weakness within internal control over financial reporting.

In concluding that the Company's disclosure controls and procedures were effective as of December 31, 2006, management considered, among other things, the circumstances that resulted in the restatement of its previously issued financial statements as more fully described in Note 2, Restatement of Financial Information, to the consolidated financial statements included within this Form 10-K/A.

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders  
Perficient, Inc.  
Austin, Texas

We have audited management's assessment, included in the accompanying Management's Report on Internal Control over Financial Reporting, that Perficient, Inc. ("the Company") maintained effective internal control over financial reporting as of December 31, 2006, based on the criteria established in Internal Control-Integrated Framework, issued by the Committee of Sponsoring Organizations, or COSO, of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting 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 that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

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: (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company; (2) 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 (3) 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.

As indicated in the accompanying Management's Report on Internal Control Over Financial Reporting, the scope of management's assessment of the effectiveness of internal control over financial reporting includes all of the Company's consolidated operations, except for the acquired operations of Bay Street Solutions, Inc., Insolexen Corporation, and the Energy, Government and General Business ("EGG") division of Digital Consulting & Software Services, Inc. (collectively the "Acquired Companies"), each of which the Company acquired during 2006. The Acquired Companies represented 29% of the Company's total assets as of December 31, 2006, and 17% of the Company's revenues for the year ended December 31, 2006. Our audit of internal control over financial reporting of the Company also excluded an evaluation of the internal control over financial reporting of the Acquired Companies' operations.

In our opinion, management's assessment that Perficient, Inc. maintained effective internal control over financial reporting as of December 31, 2006 is fairly stated in all material respects, based on the criteria established in Internal Control-Integrated Framework issued by COSO. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2006, based on the criteria established in Internal Control-Integrated Framework issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Perficient, Inc. as of December 31, 2006 and 2005, and the related consolidated statements of income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2006. Our report on these financial statements dated, March 1, 2007, expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP

Houston, Texas

March 1, 2007, except Note 2

as to which date is August 13, 2007

**PART IV**

**Item 15. Exhibits, Financial Statement Schedules.**

(a) Financial Statements

1.

The following consolidated statements are included within Item 8 under the following captions:

<b>Index</b>	<b>Page</b>
Consolidated Balance Sheets	11
Consolidated Statements of Income	12
Consolidated Statements of Changes in Stockholders' Equity	13
Consolidated Statements of Cash Flows	14
Notes to Consolidated Financial Statements	15-33
Report of Independent Registered Public Accounting Firm	34

2. Financial Statement Schedules

No financial statement schedules are required to be filed by Items 8 and 15(d) because they are not required or are not applicable, or the required information is set forth in the applicable financial statements or notes thereto.

3. Exhibits

See Index to Exhibits on page 40.



August 13,  
2007

David S. Lundeen

\*BY: /s/ Paul E. Martin  
Paul E. Martin  
*Attorney-in-Fact*



**INDEX TO EXHIBITS**

<b>Exhibit Number</b>	<b>Description</b>
2.1	Asset Purchase Agreement, dated as of June 10, 2005, by and among Perficient, Inc., Perficient iPath, Inc. and iPath Solutions, Ltd., previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on June 15, 2005 and incorporated herein by reference
2.2	Asset Purchase Agreement, dated as of September 2, 2005, by and among Perficient, Inc., Perficient Vivare, Inc., Vivare, LP and the other signatories thereto, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on September 9, 2005 and incorporated herein by reference
2.3	Agreement and Plan of Merger, dated as of April 6, 2006, by and among Perficient, Inc., PFT MergeCo, Inc., Bay Street Solutions, Inc. and the other signatories thereto, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on April 12, 2006 and incorporated herein by reference
2.4	Agreement and Plan of Merger, dated as of May 31, 2006, by and among Perficient, Inc., PFT MergeCo II, Inc., Insolixen, Corp., HSU Investors, LLC, Hari Madamalla, Steve Haglund and Uday Yallapragada, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on June 5, 2006 and incorporated herein by reference
2.5	Asset Purchase Agreement, dated as of July 20, 2006, by and among Perficient, Inc., Perficient DCSS, Inc. and Digital Consulting & Software Services, Inc., previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on July 26, 2006 and incorporated herein by reference
3.1	Certificate of Incorporation of Perficient, Inc., previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form SB-2 (File No. 333-78337) declared effective on July 28, 1999 by the Securities and Exchange Commission and incorporated herein by reference
3.2	Certificate of Amendment to Certificate of Incorporation of Perficient, Inc., previously filed with the Securities and Exchange Commission as an Exhibit to our Form 8-A filed with the Securities and Exchange Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 on February 15, 2005 and incorporated herein by reference
3.3	Certificate of Amendment to Certificate of Incorporation of Perficient, Inc., previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form S-8 (File No. 333-130624) filed on December 22, 2005 and incorporated herein by reference
3.4	Bylaws of Perficient, Inc., previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form SB-2 (File No. 333-78337) declared effective on July 28, 1999 by the Securities and Exchange Commission and incorporated herein by reference

- 4.1 Specimen Certificate for shares of common stock, previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form SB-2 (File No. 333-78337) declared effective on July 28, 1999 by the Securities and Exchange Commission and incorporated herein by reference
- 4.2 Warrant granted to Gilford Securities Incorporated, previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form SB-2 (File No. 333-78337) declared effective on July 28, 1999 by the Securities and Exchange Commission and incorporated herein by reference

**Exhibit**

**Number Description**

- 4.3 Form of Common Stock Purchase Warrant, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on January 17, 2002 and incorporated herein by reference
  
- 4.4 Form of Warrant, previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form S-3 (File No. 333-117216) and incorporated by reference herein
  
- 10.1 Perficient, Inc. Amended and Restated 1999 Stock Option/Stock Issuance Plan, previously filed with the Securities and Exchange Commission as an Exhibit to our annual report on Form 10-K for the year ended December 31, 2005 and incorporated by reference herein
  
- 10.2 Form of Stock Option Agreement, previously filed with the Securities and Exchange Commission as an Exhibit to our Annual Report on Form 10-KSB for the fiscal year ended December 31, 2004 and incorporated herein by reference
  
- 10.3 Perficient, Inc. Employee Stock Purchase Plan, previously filed with the Securities and Exchange Commission as Appendix A to the Registrant's Schedule 14A (File No. 001-15169) on October 13, 2005 and incorporated herein by reference
  
- 10.4 Form of Restricted Stock Agreement, previously filed with the Securities and Exchange Commission as an Exhibit to our annual report on Form 10-K for the year ended December 31, 2005 and incorporated by reference herein
  
- 10.5 Form of Indemnity Agreement between Perficient, Inc. and each of our directors and officers, previously filed with the Securities and Exchange Commission as an Exhibit to our Registration Statement on Form SB-2 (File No. 333-78337) declared effective on July 28, 1999 by the Securities and Exchange Commission and incorporated herein by reference
  
- 10.6 Offer Letter, dated July 20, 2006, by and between Perficient, Inc. and Mr. Paul E. Martin, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on July 26, 2006 and incorporated herein by reference
  
- 10.7 Offer Letter Amendment, dated August 31, 2006, by and between Perficient, Inc. and Mr. Paul E. Martin, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on September 1, 2006 and incorporated herein by reference
  
- 10.8† Employment Agreement between Perficient, Inc. and John T. McDonald dated March 28, 2006, and effective as of January 1, 2006, previously filed with the Securities and Exchange Commission as an Exhibit to our annual report on Form 10-K for the year ended December 31, 2005 and incorporated by reference herein
  
- 10.9† Employment Agreement between Perficient, Inc. and Jeffrey Davis dated August 3, 2006, and effective as of July 1, 2006 filed with the Securities and Exchange Commission as an

Exhibit to our Quarterly Report on Form 10-Q filed on August 9, 2006 and incorporated herein by reference

- 10.10 Amended and Restated Loan and Security Agreement by and among Silicon Valley Bank, KeyBank National Association, Perficient, Inc., Perficient Canada Corp., Perficient Genisys, Inc., Perficient Meritage, Inc. and Perficient Zettaworks, Inc. dated effective as of June 3, 2005, previously filed with the Securities and Exchange Commission as an Exhibit to our annual report on Form 10-K for the year ended December 31, 2005 and incorporated herein by reference
  
- 10.11 Amendment to Amended and Restated Loan and Security Agreement, dated as of June 29, 2006, by and among Silicon Valley Bank, KeyBank National Association, Perficient, Inc., Perficient Genisys, Inc., Perficient Canada Corp., Perficient Meritage, Inc., Perficient Zettaworks, Inc., Perficient iPath, Inc., Perficient Vivare, Inc., Perficient Bay Street, LLC and Perficient Insolexen, LLC, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on July 5, 2006 and incorporated herein by reference

**Exhibit**

**Number Description**

- 10.12 Lease by and between Cornerstone Opportunity Ventures, LLC and Perficient, Inc., previously filed with the Securities and Exchange Commission as an Exhibit to our annual report on Form 10-K for the year ended December 31, 2005 and incorporated by reference herein
  
- 10.13 First Amended and Restated Investor Rights Agreements dated as of June 26, 2002 by and between Perficient, Inc. and the Investors listed on Exhibits A and B thereto, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on July 18, 2002 and incorporated by reference herein
  
- 10.14 Securities Purchase Agreement, dated as of June 16, 2004, by and among Perficient, Inc., Tate Capital Partners Fund, LLC, Pandora Select Partners, LP, and Sigma Opportunity Fund, LLC, previously filed with the Securities and Exchange Commission as an Exhibit to our Current Report on Form 8-K filed on June 23, 2004 and incorporated by reference herein
  
- 14.1 Corporate Code of Business Conduct and Ethics, previously filed with the Securities and Exchange Commission on Form 10-KSB/A for the year ended December 31, 2003 and incorporated by reference herein
  
- 14.2 Financial Code of Ethics, previously filed with the Securities and Exchange Commission on Form 10-KSB/A for the year ended December 31, 2003 and incorporated by reference herein
  
- 21.1 Subsidiaries (included as an exhibit to our Annual Report on Form 10-K filed on March 5, 2007)
  
- 23.1\* Consent of BDO Seidman, LLP
  
- 24.1 Power of Attorney (included on the signature page to our Annual Report on Form 10-K filed on March 5, 2007)
  
- 31.1\* Certification by the Chief Executive Officer of Perficient, Inc. as required by Section 302 of the Sarbanes-Oxley Act of 2002
  
- 31.2\* Certification by the Chief Financial Officer of Perficient, Inc. as required by Section 302 of the Sarbanes-Oxley Act of 2002
  
- 32.1\* Certification by the Chief Executive Officer and Chief Financial Officer of Perficient, Inc. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

† Identifies an Exhibit that consists of or includes a management contract or compensatory plan or arrangement.

\* Filed herewith.



