

30. CONTINGENCIES, COMMITMENTS AND GUARANTEES

The Company is involved in, and potentially subject to, various claims by third parties arising out of the normal course and conduct of its business including, but not limited to, product liability, labour and employment, regulatory and environmental claims. In addition, the Company is involved in and potentially subject to regular audits from federal, provincial and state tax authorities relating to income, capital and commodity taxes and as a result of these audits, may receive assessments and reassessments. Although such matters cannot be predicted with certainty, management currently considers the Company's exposure to such claims and litigation, to the extent not covered by the Company's insurance policies or otherwise provided for, not to be material to these consolidated financial statements, with the exception of the items disclosed in the Legal Proceedings section below.

As at year end 2008, the Company has committed approximately \$51 (2007 – \$114) with respect to capital investment projects such as the construction, expansion and renovation of buildings and the purchase of real property.

The Company establishes standby letters of credit used in connection with certain obligations mainly related to real estate transactions and benefit programs. The aggregate gross potential liability related to these standby letters of credit is approximately \$413 (2007 – \$398), a portion of which is recorded on the consolidated balance sheet. Other standby letters of credit related to the financing program for Loblaw's independent franchisees and securitization of PC Bank's credit card receivables have been identified as guarantees and are discussed further in the Guarantees section below.

Guarantees

The Company has provided to third parties the following significant guarantees as defined pursuant to AcG 14, "Disclosure of Guarantees".

Independent Funding Trust

Certain independent franchisees of Loblaw obtain financing through a structure involving independent trusts, which were created to provide loans to the independent franchisees to facilitate their purchase of inventory and fixed assets, consisting mainly of fixtures and equipment. These trusts are administered by a major Canadian chartered bank. During the first quarter of 2008, Loblaw was notified that an Event of Termination of the independent funding trust agreement for Loblaw's franchisees had occurred as a result of Loblaw's long term credit rating downgrade by Dominion Bond Rating Service to "BBB (high)" from "A (low)". As a result of the Event of Termination, during the second quarter of 2008, Loblaw finalized an alternative financing arrangement for the independent funding trust in the form of a \$475, 364-day revolving committed credit facility provided by a syndicate of banks. The gross principal amount of loans issued to Loblaw's independent franchisees outstanding as at year end 2008 was \$388 (2007 – \$418) including \$152 (2007 – \$153) of loans payable by VIEs consolidated by the Company. Based on a formula, Loblaw has agreed to provide credit enhancement in the form of a standby letter of credit for the benefit of the independent funding trust equal to approximately 15% (2007 – 10%) of the principal amount of the loans outstanding at any point in time, \$66 (2007 – \$44) as at year end 2008. The standby letter of credit has not been drawn upon. This credit enhancement allows the independent funding trust to provide favourable financing terms to Loblaw's independent franchisees. As well, each independent franchisee provides security to the independent funding trust for its obligations by way of a

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general security agreement. In the event that an independent franchisee defaults on its loan and Loblaw has not, within a specified time period, assumed the loan, or the default is not otherwise remedied, the independent funding trust would assign the loan to Loblaw and draw upon this standby letter of credit. Loblaw has agreed to reimburse the issuing bank for any amount drawn on the standby letter of credit.

This new alternative financing structure has been reviewed and Loblaw determined there were no material implications with respect to the consolidation of VIEs. In accordance with Canadian GAAP, the financial statements of the independent funding trust are not consolidated with those of the Company.

Standby Letters of Credit

Standby letters of credit for the benefit of independent trusts with respect to the credit card receivables securitization program of PC Bank have been issued by major Canadian chartered banks. These standby letters of credit could be drawn upon in the event of a major decline in the income flow from or in the value of the securitized credit card receivables. Loblaw has agreed to reimburse the issuing banks for any amount drawn on the standby letters of credit. The aggregate gross potential liability under these arrangements, which represents 9% (2007 – 9%) on a portion of the securitized credit card receivables amount, is approximately \$116 (2007 – \$89) (see note 12).

Lease Obligations

In connection with historical dispositions of certain of its assets, the Company has assigned leases to third parties. The Company remains contingently liable for these lease obligations in the event any of the assignees are in default of their lease obligations.

The estimated amount for minimum rent, which does not include other lease related expenses such as property tax and common area maintenance charges, is in aggregate \$63 (2007 – \$79).

Indemnification Provisions

The Company from time to time enters into agreements in the normal course of its business, such as service and outsourcing arrangements and leases, and in connection with business or asset acquisitions or dispositions. These agreements by their nature may provide for indemnification of counterparties. These indemnification provisions may be in connection with breaches of representations and warranties or with future claims for certain liabilities, including liabilities related to tax and environmental matters. Indemnities were provided to the purchasers of the Company's dairy and bottling operations and the U.S. fresh bakery business. The terms of these indemnification provisions vary in duration and may extend for an unlimited period of time. Indemnification provisions could result in future cash outflows and statement of earnings charges. The Company is unable to reasonably estimate its total maximum potential liability as certain indemnification provisions do not provide for a maximum potential amount and the amounts are dependent on the outcome of future contingent events, the nature and likelihood of which cannot be determined at this time. Historically, the Company has not made any significant payments in connection with these indemnification provisions.

Legal Proceedings

During 2007, GWL and Loblaw were two of 17 defendants served with an action brought in the Superior Court of Ontario by certain beneficiaries of a multi-employer pension plan in which Loblaw's employees and those of its independent franchisees participate. In their claim against the employers and the trustees of the multi-employer pension plan, the plaintiffs claimed that assets of the multi-employer pension plan had been mismanaged and were seeking, among other demands, damages of \$1 billion. The action was framed as a representative action on behalf of all the beneficiaries of the multi-employer pension plan. During 2008, the Company received confirmation that the actions against the Company and against the plan trustees have been dismissed.

In addition to the civil proceedings described above, the trustees of this multi-employer pension plan are involved in proceedings brought by Financial Services Commission of Ontario whereby it has been alleged that the trustees violated certain provisions of the Pension Benefits Act (Ontario) in their management of the plan's funds. One of the trustees, an officer of Loblaw, is entitled to indemnification from Loblaw.

In 2007, pursuant to a transaction whereby Domtar was combined with the fine paper business of Weyerhaeuser Inc., Domtar common shares were exchanged for an equal number of either exchangeable shares of Domtar (Canada) Paper Inc. or common shares of New Domtar. The Company elected to receive exchangeable shares of Domtar (Canada) Paper Inc. in exchange for its Domtar common shares. See note 19 for a further discussion on the exchangeable shares. The Share Purchase Agreement governing the June 1998 sale by GWL of E.B. Eddy Paper, Inc. to Domtar (the "SPA") contains a price adjustment clause. The SPA provides, subject to certain limited exceptions, that if any person subsequently acquired more than 50% of the outstanding voting shares of Domtar, the price adjustment

clause applies. GWL believes that a price adjustment in the amount of \$110 is payable to it by Domtar and it has demanded payment of such amount from Domtar. Domtar's position is that the purchase price adjustment does not apply because of the application of an exception contained in the SPA. GWL has commenced an action against Domtar for \$110. The parties have exchanged legal pleadings.

The Company is the subject of various legal proceedings and claims that arise in the ordinary course of business. The outcome of all of these proceedings is uncertain. However, based on information currently available, these claims, individually and in the aggregate, are not expected to have a material impact on the Company.