

June 21, 2019

In the Matter of  
the Securities Legislation of Saskatchewan and Ontario  
(the **Jurisdictions**)

and

In the Matter of  
the Process for Cease to be a Reporting Issuer Applications

and

In the Matter of  
AGT Food and Ingredients Inc.  
(the **Filer**)

## **ORDER**

### **Background**

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer is not a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

Under the Process for Cease to be a Reporting Issuer applications (for a dual application):

- (a) the Financial and Consumer Affairs Authority of Saskatchewan is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in the Provinces of British Columbia, Alberta, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; and
- (c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this order, unless otherwise defined.

## Representations

This order is based on the following facts represented by the Filer:

1. The Filer was formed under the *Business Corporations Act* (Ontario) (the **OBCA**) on July 2, 2009 as AGT Food and Ingredients Inc.
2. The Filer's head office is located at 6200 E. Primrose Green Drive, Regina, Saskatchewan, S4V 3L7.
3. The Filer's registered office is located at Suite 800, 95 Wellington Street West, Toronto, Ontario, M5J 2N7.
4. On April 17, 2019 (the **Effective Date**) 2667980 Ontario Inc. (the **Purchaser**), acquired all of the issued and outstanding common shares of the Filer (the **Common Shares**) not already held by them pursuant to a plan of arrangement under section 182 of the OBCA (the **Arrangement**), which became effective at 12:01 a.m. (Toronto time) (the **Effective Time**) on the Effective Date.
5. The Purchaser is comprised of a group of investors led by the Filer's President and Chief Executive Officer, Murad Al-Katib, and including Fairfax Financial Holdings Limited and Point North Capital Inc. (the **Purchaser Group**) and affiliates of the Purchaser Group.
6. The remaining members of the Purchaser Group not described above are all employees, or family members of employees, of the Filer who have continued their employment with the Filer upon completion of the Arrangement and participated as part of the Purchaser Group on the understanding that the Filer intended to cease to be a reporting issuer. The Purchaser Group consists in aggregate of 42 securityholders.
7. Immediately prior to the Effective Time, the authorized capital of the Filer consisted of an unlimited number of Common Shares and an unlimited number of class A shares (**Class A Shares**).
8. Immediately prior to the Effective Time, the Filer had the following outstanding securities: (i) 24,236,536 Common Shares, (ii) 13,568 deferred share units (**DSU**), (iii) 428,436.35 accelerated restricted share units (**ARSU**), (iv) 350,152.96 restricted share units (**RSU**), (v) \$200 million principal amount of 5.875% unsecured senior notes (the **Notes**); (vi) 5,714,286 common share purchase warrants (the **Original Warrants**) entitling the holder thereof to acquire one Common Share for each Original Warrant at an exercise price of \$33.25; and (vii) an aggregate of \$190 million in preferred securities (the **Preferred Securities**) issued pursuant, and subject, to the indenture dated August 31, 2017 among, *inter alia*, the Company and TSX Trust, each of which is held by the Fairfax



Financial Holdings Limited or its affiliates. Immediately prior to the Effective Time, there were no Class A Shares issued and outstanding.

9. The Common Shares were listed on the TSX under the symbol "AGT". The Preferred Securities were listed on the TSX under the symbol "AGT.PR.A". No other securities of the Filer were listed on any exchange.
10. The notice of special meeting of holders of Common Shares was delivered to the holders of Common Shares, DSUs, ARSUs and RSUs in connection with the special meeting of holders of Common Shares that took place on February 5, 2019 to consider the Arrangement (the **Meeting**). The full details of the Arrangement were contained in a management information circular of the Filer dated January 7, 2019 and filed on SEDAR.
11. The Filer received the requisite shareholder approval of the Arrangement at the Meeting and a final order approving the Arrangement of the Ontario Superior Court of Justice (Commercial List) at the final order hearing held on February 11, 2019.
12. Prior to completion of the Arrangement, among other things, the following occurred:
  - a. each member of the Purchaser Group entered into rollover agreements with the Purchaser in respect of their Common Shares, agreeing to, among other things, exchange the Common Shares held by such members of the Purchaser Group into shares in the capital of the Purchaser pursuant to the terms of the Arrangement, and such rollover agreements were entered into on the understanding that the intention of the Filer was to cease to be a reporting issuer upon completion of the Arrangement;
  - b. all of the outstanding DSUs of the Filer were transferred to the Filer in exchange for a cash payment by the Filer and each such DSU was immediately cancelled; and
  - c. each ARSU and RSU of the Filer was continued on substantially the same terms and conditions as were applicable prior to the completion of the Arrangement.
13. The Filer is not required to remain a reporting issuer pursuant to the terms of the rollover agreements, the ARSUs or the RSUs.
14. The ARSUs and RSUs are notional, cash-settled incentive securities granted to directors, officers and other employees of the Filer under the Filer's long term incentive plan (the **LTIP**). They are, by their nature and pursuant to the terms of the LTIP, non-transferable and not convertible into any other security.

15. The Notes were issued pursuant to the indenture (the **Indenture**) dated as of December 21, 2016 between the Filer, as issuer and TSX Trust Company, as trustee. The Notes are not convertible or exchangeable into Common Shares (or any other equity securities).
16. On January 7, 2019, the Filer announced a cash tender offer (the **Tender Offer**) to purchase all of the outstanding Notes and related solicitation of consents (**Consents**) from the holders of the Notes to certain proposed amendments to the Indenture, including eliminating substantially all of the restrictive and reporting covenants, certain events of default and certain other provisions contained in the Indenture (the **Proposed Amendments**). The purchase of the Notes and the effectiveness of the Proposed Amendments were conditional on the completion of the Arrangement.
17. At the expiry of the Tender Offer, which was February 4, 2019, the aggregate principal amount of Notes validly tendered was \$169,395,124, which represented 84.70% of the aggregate principal amount of the Notes and which exceeds the Consents of the holders of not less than a majority of the aggregate principal amount of the outstanding Notes required to adopt the Proposed Amendments.
18. All of the outstanding Notes are held in book-entry form through the facilities of CDS Clearing and Depository Services Inc. Following the expiration of the Tender Offer, \$30,604,876 in aggregate principal amount of the Notes remain outstanding.
19. Notwithstanding the Tender Offer, pursuant to the terms of the Indenture, the Filer is required to make a "change of control offer" to the remaining holders of the Notes within 30 days following completion of the Arrangement. The Filer commenced such change of control offer on April 26, 2019. Further, for any outstanding Notes after the change of control offer, the Filer currently intends that it will redeem the remainder of the outstanding Notes as soon as is practicable on or after December 21, 2019, at the then current redemption price, as set forth in the Indenture.
20. In connection with the Tender Offer, the Filer, with the assistance of a consent solicitation agent, ascertained and communicated with all the holders of the Notes, either directly or through intermediaries, in order to obtain the Consents and make all holders of the Notes aware of the Proposed Amendments.
21. As the Proposed Amendments became effective on completion of the Arrangement, the Indenture no longer contains any provision requiring that the Filer remain subject to the reporting requirements of the securities laws of Canada, the reporting requirements of Section 13 or 15(d) of the 1934 Act, or the reporting requirements of any other jurisdiction. The amended and restated Indenture is filed on SEDAR. The amended and restated Indenture does not contain any provision requiring ongoing reporting to holders of the Notes.



22. Following completion of the Arrangement, the Filer has an authorized capital consisting of an unlimited number of Class "A" common shares (**Class A Common Shares**), an unlimited number of Class "B" common shares (**Class B Common Shares**), an unlimited number of Class "C" common shares (**Class C Common Shares**), an unlimited number of Class "D" common shares (**Class D Common Shares**) and an unlimited number of preferred shares, issuable in series.
23. Pursuant to the terms of the Arrangement, among other things:
- a. the Preferred Securities were converted into Class "A" common shares in the capital of the Purchaser and Class "B" common shares in the capital of the Purchaser on the basis of 0.55555555 Class "A" common shares for each Preferred Security held by a non-resident holder, and 0.55555555 Class "B" common shares for each Preferred Security held by a resident holder, with residency in each instance determined in accordance with the *Income Tax Act* (Canada). All of the applicable common shares issued therewith were held by members of the Purchaser Group (and affiliates of Fairfax Financial Holdings Limited, a member of the Purchaser Group). The Class "A" common shares in the capital of the Purchaser were converted into Class A Shares on the amalgamation of the Purchaser with the Filer in accordance with the terms of the Arrangement (the **Amalgamation**), and the Class "B" common shares in the capital of the Purchaser were converted into Class B Common Shares on the Amalgamation;
  - b. the Common Shares held by members of the Purchaser Group (and affiliates of Fairfax Financial Holdings Limited, a member of the Purchaser Group), other than those Common Shares held by PointNorth Capital (O) LP and PointNorth Capital (PNG) LP (together, **PointNorth**), were transferred to the Purchaser in exchange for Class "C" common shares in the capital of the Purchaser, which were then converted into Class C Common Shares on the Amalgamation. The Common Shares held by PointNorth were transferred to the Purchaser in exchange for Class "D" common shares in the capital of the Purchaser, which were then converted into Class D Common Shares on the Amalgamation. All of the Common Shares then held by the Purchaser were subsequently cancelled without repayment of capital or any other consideration in respect thereof on the Amalgamation;
  - c. the Filer amended and restated its outstanding Original Warrants to (i) reduce their exercise price to \$18.00, (ii) change the shares into which the Original Warrants are convertible from Common Shares to Class A Common Shares, and (iii) reduce the number of Class A Common Shares issuable pursuant to the Original Warrants to 3,200,000 (the **Amended Warrants**). The Filer also issued 15,111,111 warrants (the **Arrangement**

**Warrants**, and together with the Amended Warrants, the **Warrants**) to purchase 15,111,111 Class A Common Shares at an exercise price of \$22.50. All of the Warrants were issued to affiliates of Fairfax Financial Holdings Limited, a member of the Purchaser Group; and

d. the Purchaser and the Filer completed the Amalgamation.

24. All securities issued by the Filer pursuant to, or in connection with, the Arrangement were issued by the Filer in reliance of the business combination and reorganization prospectus exemption under Section 2.11 of National Instrument 45-106 *Prospectus Exemptions*.
25. As of the date hereof, the Filer has the following outstanding securities: (i) 10,555,556 Class A Common Shares; (ii) 0 Class B Common Shares; (iii) 5,107,071 Class C Common Shares; (iv) 2,362,070 Class D Common Shares; (v) \$30,604,876 in aggregate principal amount of Notes; (vi) 350,152.95 ARSUs; (vii) 428,436.35 RSUs; and (viii) 20,825,397 Warrants.
26. The number of holders, number of the outstanding securities of the Filer held, and percentage of the outstanding securities held in each jurisdiction are as follows:

a. Class A Common Shares (all held by affiliates of Fairfax Financial Holdings Limited, a member of the Purchaser Group):

Jurisdiction	Number of Holders	Number of Securities Held	Percentage of outstanding securities (%)
Bermuda	1	2,950,291	27.9501
United States	4	6,494,153	61.5236
United Kingdom	3	1,111,112	10.5263

b. Class B Common Shares: Nil

c. Class C Common Shares (all held by members of the Purchaser Group):

Jurisdiction	Number of Holders	Number of Securities Held	Percentage of outstanding securities (%)
Manitoba	2	20,000	0.3916



United States	1	7,745	0.1517
Ontario	1	183,700	3.5970
Quebec	1	2,651	0.0519
Saskatchewan	31	4,831,553	94.6052
South Africa	4	57,674	1.1293
Turkey	1	3,748	0.0734

d. Class D Common Shares (all held by members of the Purchaser Group):

Jurisdiction	Number of Holders	Number of Securities Held	Percentage of outstanding securities (%)
Ontario	2	2,362,070	100.0000

e. Based on searches conducted of data provided by intermediaries, the number of beneficial holders, principal amount, and percentage of the outstanding Notes held in each jurisdiction is as follows:

Jurisdiction	Number of Holders	Principal Amount of Notes Held	Percentage of outstanding Notes (%)*
Ontario	474	10,228,323	33.4206
Alberta	67	3,270,000	10.6846
British Columbia	230	3,962,657	12.9478
Quebec	1,182	11,792,826	38.5325
Saskatchewan	19	279,000	0.9116
Manitoba	12	88,000	0.2875
New Brunswick	3	18,000	0.0588
Nova Scotia	12	187,865	0.6138
Newfoundland &	5	42,000	0.1372

Labrador			
Prince Edward Island	1	2,000	0.0065
United States	15	442,400	1.4455
Foreign	10	226,000	0.7384

*\*Note – the figures in the table do not equate to 100% of the outstanding Notes given certain gaps in intermediary reporting.*

f. ARSUs:

Jurisdiction	Number of Holders	Number of Securities Held	Percentage of outstanding securities (%)
Australia	16	8,106.25	2.3151
British Columbia	1	884.32	0.2526
Manitoba	3	6,632.38	1.8941
Quebec	3	3,316.19	0.9471
Saskatchewan	49	254,757.18	72.7560
Turkey	1	62,639.17	17.8891
United States	4	13,817.46	3.9461

g. RSUs:

Jurisdiction	Number of Holders	Number of Securities Held	Percentage of outstanding securities (%)
Australia	16	14,269.95	3.3307
British Columbia	1	360.28	0.0841
India	1	12,178.73	2.8426
Italy	1	2,139.72	0.4994



Manitoba	3	4,568.66	1.0664
Quebec	6	11,205.64	2.6155
Saskatchewan	48	285,741.76	66.6941
Switzerland	1	6,749.12	1.5753
Turkey	2	75,765.57	17.6842
United States	4	15,456.92	3.6078

h. Warrants (all held by affiliates of Fairfax Financial Holdings Limited, a member of the Purchaser Group):

Jurisdiction	Number of Holders	Number of Securities Held	Percentage of outstanding securities (%)
Bermuda	2	2,088,889	10.0305
United States	10	18,736,508	89.9695

27. The Common Shares and Preferred Securities were delisted from the TSX as of the close of business on April 17, 2019.
28. The Filer is not eligible to surrender its status as a reporting issuer pursuant to the simplified procedure in National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* because its outstanding securities, including debt securities, are not beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide.
29. The Filer is not a reporting issuer in any jurisdiction of Canada other than the jurisdictions identified in this order. The Filer is applying for an order that it has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer.
30. Upon granting of the Order Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction of Canada.
31. The Filer is not in default of any of its obligations under the Legislation other than its obligation to file: (i) its interim financial statements and related management's discussion and analysis for the interim period ended March 31, 2019, as required under National Instrument 51-102 *Continuous Disclosure Obligations* which were

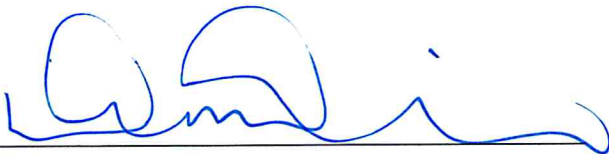
due to be filed May 15, 2019; and (ii) the related certification of such interim financial statements as required under National Instrument 52-109 *Certification of Disclosure in Issuer's Annual and Interim Filings*, also due to be filed May 15, 2019.

32. The Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*.
33. The Filer has no intention to seek public financing by way of an offering of securities.
34. No securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported.

### **Order**

Each of the Decision Makers is satisfied that the order meets the test set out in the Legislation for the Decision Maker to make the order.

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.



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Dean Murrison  
Director, Securities Division  
Financial and Consumer Affairs  
Authority of Saskatchewan