

CITY OF AUGUSTA, MAINE
**APPLICATION FOR
PARCEL RECLASSIFICATION/ REZONING**

1. Applicant Name: Performance Foodservice - Northcenter
Mailing Address: 20 Dalton Rd. Augusta, me 04330
Phone Number: 207-623-8451 Email Address: tholt@PFGL.com
2. Agent Name: Tim Holt SVP operations
Mailing Address: 20 Dalton Rd. Augusta, me 04330
Phone Number: 207-623-8451 Email Address: tholt@PFGL.com
3. Owner Names PAUL & Alice Bowen Furt | Central Maine Power
Mailing Address: 92 Old Belmont Rd, Augusta | 83 Edison Drive, Augusta 04336
Phone Number: 207-622-5013 Email Address: 207-523-3521
4. Project Location (Street Address): 20 Dalton Rd
5. Tax Map and Lot Number: 54 map (lots 3, 35, 34, 36, 37)
6. Existing zoning district of parcel: PD2
Zoning district being proposed for this parcel: Contract ~~PD~~ parking services
7. Type of zoning being applied for (check one):

General Rezoning Contract Rezoning Conditional Rezoning

Definitions:

General Rezoning: Requests to reclassify a parcel from one zoning district classification to another; no specific use is proposed. All uses listed in the requested zoning district would be allowed upon Planning Board recommendation and City Council Approval.

Contract Rezoning: Requests to reclassify a parcel from one zoning district classification to another; the requested zone would be modified, upon Board recommendation and approval by the Council, to limit the use of the property for a selected few of the listed uses.

Conditional Rezoning: Requests to reclassify a parcel from one zoning district classification to another; specific land use is proposed. The requested zone would be modified, upon Board recommendation and Council approval, to limit the use of the property to the use requested.

8. Please attach a narrative that addresses each of the following questions:

1. How the rezoning is consistent with the 2007 Comprehensive Plan.
2. How the rezoning is consistent with established land use patterns.
3. How the rezoning will not create an isolated district unrelated to adjacent districts.
4. How adequate public utilities, roads and services exist or will be provided.
5. How the rezoning is justified by a changed or changing conditions.

9. If you are submitting a "Contract" or "Conditional" Rezoning Application, please address the following:

1. What land use(s) do you propose? Parking Services
2. Provide a detailed conceptual plan/ drawing showing your proposed development of the site.

Note: Approval of conditional or contract rezoning may include conditions and restrictions. The conditions and restrictions will only be associated with the physical development or operation of the property. The conditions and restrictions may include deed restrictions.

10. Checklist of required submissions:

Paper Copy	Included	Waiver Requested
10 copies of the application form and narratives	10	
10 copies of the deed, Purchase & Sale agreement, or other document to show standing <u>8.5x11</u>	10	
6 reduced-sized copies of any conceptual plan on 11" x 17" size paper	10	
4 full-sized copies of any conceptual plan on ANSI D or E size paper		✓
10 copies of a letter authorizing the agent to represent the applicant	10	
Payment in full of \$150 application fee (Note: an abutter notification fee will be assessed after the application is determined to be complete. The fee is \$0.15 plus the cost of first class postage for each abutter that will be notified as required by the ordinance.)		
Electronic Copy		
1 CD that includes each of the application documents in Adobe PDF format <u>Flash Drive</u>		

11. Applicant Acknowledgement

Complete Application Required. This application is being submitted under the requirements of the Augusta Land-Use Ordinance. As the applicant, I understand that this application must contain a complete submission of required materials by the application filing deadline date in order to be heard by the Planning Board. The deadline allows for adequate review by City Staff and the Planning Board; and as such, any applications that are not complete by the filing deadline date will not be placed on the Planning Board meeting agenda. To insure review by the Planning Board on the date desired, the applicant should submit materials at least 7 days ahead of the scheduled filing deadline so that staff can determine completeness of the application.

Applicant's Signature: Justin E. Hall, SVP Operations Date: 6/12/2015
Performance Solutions - New Center

For Staff Use:		
<input type="checkbox"/> \$150 Application Fee Paid.	Received By (Initials): _____	Date: _____

1) \$ _____ Abutter Notification Fee Paid. Received By (Initials): _____ Date: _____

Application for rezoning of land for PFG-NorthCenter expansion:

Please note the Bonenfant and CMP properties were recently rezoned from PD to PD2. The original zoning would have allowed the vehicle parking use.

Response to zoning questions:

1. In the 2007 comprehensive plan on pages 42 and 43 the plan recognizes the North River Residential area as a mixed use area, as it presently has industrial and residential areas. The plan also states " the key in this area is not to exclude uses, but rather to create buffering standards that allow residential and business uses to coexist in a practical and attractive way." This rezoning request allows for this buffering by keeping the three house lots (34, 36,37) on tax map 54 undeveloped.
2. Again on page 43 of the comprehensive plan states "there is no particular pattern to the mixture of uses and it is anticipated that the district will continue to develop in the same manner. " Also on tax map 54, lot 35 was a working gravel mining operation, with a road running through a residential property. This rezoning request would tie the property to an existing industrial zone and close the road running through the residential area, except for emergency situations such as fire.
3. This area is adjacent to an industrial zone, which has a truck parking facility already. This plan also makes use of the land under Central Maine Powers transmission lines. The elevation of the parking lot land is 60 feet below Sherwood drive the nearest housing area. Using light poles 25ft high and full cut of lights should prevent unwanted illumination. Also this parking lot would have forested buffer more than 300 ft. form the closest residence on Sherman drive.
4. The egress to this property will be provided by a road coming from the PFG-NorthCenter property, crossing the railroad tracks via a crossing onto the Central Maine Power property. The maintenance for this road will be the responsibility of PFG-NorthCenter. Electrical service will be provided for lighting via a separate service. The site will not require water or sewer as it is only a parking area for vehicles.
5. Performance Foodservice- NorthCenter started in the Augusta area in 1963 as a division of Joseph Kirschner and in 1970 it had a total of five employees. In 1975 the company moved to newly purchased land on Dalton road into a 12,000 square foot building. The company continued to grow with additions in 1984, 1988, 1995, and 2000, which brought the square footage of the existing building up to 140,000 square feet. Today the company employees 358 associates in jobs as drivers, warehouse associates, sales and office staff in Maine, New Hampshire and Massachusetts. At our Augusta location we employ 193 associates, with around 50 working at night. We are proud of our growth and wish to continue to grow; however our present space does not allow for that as we have maxed out the present facility. This purchase of land from Bonenfant and the lease of property from Central Maine Power, along with this rezoning will allow us to move our parking to the new land and allow for an additional 50,000 square foot freezer. Giving us the option of continuing our growth and increasing our employment of local residents.



**CENTRAL MAINE
POWER**

June 2, 2015

Mr. Matthew Nazar, Planner
City of Augusta, Maine
16 Cony Street
Augusta, ME 04330-5201

RE: Central Maine Power Company, Transmission Line Section 213, Lipman Road
Rezoning Consent

Dear Mr. Nazar:

Central Maine Power Company (CMP) has been asked by NorthCenter Foods (also known as Performance Foods) to allow parking on its Section 213 transmission line, located off Lipman Road in Augusta. We understand this would require rezoning this area from PD2 to PD. CMP approves of this rezoning to allow for this use.

Please call or email me (626-9557; gerry.mirabile@cmpco.com) with any questions. Thank you.

Sincerely,

Gerry J. Mirabile
Manager – Programs/Projects
Environmental Compliance

cc: Teresa Despres, Alice Richards (CMP Real Estate Services)

83 Edison Drive, Augusta, ME 04336
Telephone 207.623.3821



**IBERDROLA
USA**



PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement"), dated April 14, 2015 (the "Effective Date"), is entered into by and between PAUL and ALICE BONENFANT, (husband and wife, the "Sellers") and PERFORMANCE FOOD GROUP, INC., a Colorado corporation ("Purchaser"), with reference to the following facts:

EXPLANATORY STATEMENT

A. Sellers are the owner of fee title of the Real Property (as defined below).

B. Sellers agree to sell the Property (as defined below) and Purchaser agrees to purchase the Property, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. DESCRIPTION OF THE PROPERTY. Subject to the terms and conditions of this Agreement, Sellers agree to sell, assign and convey to Purchaser, and Purchaser agrees to purchase from Sellers, all of Sellers' right, title and interest in and to the following:

(a) ^{5004 2013} The three (3) parcels of property depicted on Exhibit A attached hereto and incorporated herein by reference together with all rights of way, easements, appurtenances, mineral rights, and water rights, if any, belonging or pertaining to the property (such property and all such easements and appurtenances are sometimes collectively hereinafter referred to as the "Real Property"); provided, however, that the parties agree to attach, during the Due Diligence Period, a legal description, which shall define and set forth the property depicted on Exhibit A, said legal description to be consistent with the Commitment, Survey, if any, and Deed delivered by the Sellers, all of such terms are hereinafter defined;

(b) Sellers' interest (if any) and to the extent the same are transferable in and to (i) any consents, approvals, authorizations, variances, licenses, permits, certificates of occupancy, development rights, and agreements, if any, issued or granted by any governmental authority with respect to the Real Property; and (ii) to the extent assignable and available all architectural and engineering plans, surveys, soil studies, environmental studies and reports, hazardous waste studies and reports, topographical drawings, title materials, and geotechnical reports or data (collectively, the "Intangible Property"). The Real Property and the Intangible Property are sometimes collectively hereinafter referred to as the "Property".

2. PURCHASE PRICE.

2.1 The purchase price for the Property is One Hundred Thirty-Five Thousand Dollars (\$135,000) (the "Purchase Price"), subject to prorations and adjustments as set forth in Section 10 of this Agreement, and shall be paid to Sellers by Purchaser as follows:

(a) Within five (5) Business Days after the Effective Date of this Agreement, Purchaser shall deposit in escrow with Chicago Title Insurance Company, 1111 Superior Avenue, Suite 600, Cleveland, Ohio 44114 (Attn: Linda Green) (the "Title Company") an earnest money deposit in immediately available funds in the amount of Five Thousand Dollars (\$5,000) (the "Deposit"). The Deposit shall be held by Title Company in a non-interest bearing account insured by the federal government in an institution selected by Title Company. Upon the consummation of the purchase and sale of the Property as contemplated hereunder, the Deposit shall be credited against the Purchase Price. After the expiration of the Due Diligence Period (as defined below), the Deposit shall be non-refundable to Purchaser; provided, however, that if the purchase and sale of the Property is not consummated because of the failure of any Purchaser's conditions precedent to Closing (as set forth in Section 11), the Deposit shall be immediately refunded to Purchaser. If the purchase and sale of the Property is not consummated because of a default under this Agreement on the part of Purchaser, the Deposit shall be promptly paid to Sellers pursuant to Section 12(a).

(b) The balance of the Purchase Price, over and above the amounts paid by or credited to Purchaser pursuant to Sections 2.1(a) or 10, shall be paid to the Title Company by wire transfer of immediately available funds at the Closing.

3. TITLE AND SURVEY.

(a) Purchaser shall obtain a title commitment concerning the Real Property issued by the Title Company (the "Commitment"). Within the period beginning on the Effective Date and expiring on the date that is sixty (60) days thereafter (the "Due Diligence Period"), Purchaser shall notify Sellers of any exceptions or matters of title of which it disapproves. If Purchaser timely notifies Sellers of disapproval of any matter, then Sellers may notify Purchaser within ten (10) days after delivery of Purchaser's notice of disapproval ("Seller Title Response Period") that Sellers will cure such matter, in which event this condition shall be deemed satisfied as to such matter and Sellers shall be obligated to remove or cure such matter on or before the Closing Date (if no election is made by Sellers during the Seller Title Response Period, Sellers shall be deemed to have elected not to remove or cure such matters). If Sellers do not notify Purchaser within the Seller Title Response Period that Sellers will remove or cure all matters disapproved by Purchaser, then, within ten (10) days after the expiration of the Seller Title Response Period, Purchaser may terminate this Agreement by providing written notice of such termination to the Sellers and upon such termination the Deposit shall be returned to Purchaser.

(b) Survey. Within ten (10) days following the Effective Date, the Sellers shall provide to Purchaser any existing surveys of the Real Property in its actual physical possession. At Purchaser's cost and expense, Purchaser may obtain a current survey or an update to the Sellers' existing survey (the "Survey") of the Real Property prepared by a duly licensed land surveyor. On or before the expiration of the Due Diligence Period, Purchaser shall notify Sellers of any objections to the Survey and Sellers shall have a period of ten (10) days thereafter ("Seller Survey Response Period") to elect to remove or to cure the cause of Purchaser's objection (if no election is made by Sellers, Sellers shall be deemed to have elected not to remove or cure the objection). If Purchaser timely notifies Sellers of its disapproval of any matter or condition on the Survey and Sellers do not notify Purchaser within the Seller Survey Response Period that it will remove or cure such matter or condition disapproved by Purchaser, then, within ten (10) days after the expiration of the Seller Survey

Response Period, Purchaser may terminate this Agreement by providing written notice of such termination to the Sellers and upon such termination the Deposit shall be returned to Purchaser.

4. DELIVERY OF OTHER DOCUMENTS AND MATERIALS.

Within five (5) days following the Effective Date, the Sellers shall deliver or otherwise make available to Purchaser, at the Sellers' expense, the following documents (either by delivering paper or electronic copies to Purchaser, or by making electronic copies available for download from an internet portal) for Purchaser's review during the Due Diligence Period, to the extent such documents are in the Sellers' actual physical possession and have not previously been delivered to Purchaser (collectively, the "Preliminary Documents"):

- (i) Any third-party reports relating to the environmental condition, geotech (soil) condition, drainage, wetlands, water rights, or mineral rights of the Real Property;
- (ii) Copies of the most recent real property tax bills and special assessments for the Real Property and a representative sample of current utility bills, if any;
- (iii) Copies of any engineering reports affecting the Real Property, if any.

5. DUE DILIGENCE PERIOD.

(a) During the Due Diligence Period, Purchaser and its employees, agents and contractors, shall be provided with physical access to the Property and an opportunity to conduct, at Purchaser's expense, any and all physical inspections and environmental assessments Purchaser deems necessary (collectively, the "Physical Inspections").

(b) Purchaser shall not conduct any surface or subsurface invasive testing or sampling (collectively, "Testing") of the Property without the Sellers' prior written approval (which approval shall not be unreasonably withheld or delayed). If Purchaser, or its agents or contractors, damage the Real Property, then Purchaser shall restore said portion of the Real Property to its condition immediately prior to the commencement of the Physical Inspections and/or Testing.

(c) Prior to Purchaser or any independent contractor or agent of Purchaser entering onto the Real Property for the purpose of conducting Physical Inspections and/or Testing on such Real Property, Purchaser shall, as a condition to its right to enter the Real Property, provide to Sellers a certificate of insurance showing that Purchaser maintains in full force and effect a policy of commercial general liability (occurrence) insurance with limits not less than One Million Dollars (\$1,000,000) per occurrence, including bodily injury and property damage and contractual liability coverage to insure the indemnity obligations under this Agreement. The Sellers shall each be listed as an additional insured on each such insurance certificate provided by Purchaser or said independent contractor or agent. Purchaser agrees to indemnify, defend and hold harmless the Sellers, and their agents (the "Seller Indemnitees") against and in respect of, any and all damages, claims, losses, liabilities, costs and expenses (including, without limitation, reasonable legal, accounting, consulting, engineering and other expenses), which may be imposed upon, incurred by or assessed against any of the Seller Indemnitees arising out of, in connection with, or relating to any Physical Inspections and Testing on the Property,

including, without limitation, claims of injury to persons or damage to property. The obligations of Purchaser pursuant to this Section 5(c) shall survive the Closing or the termination of this Agreement for a period of one (1) year.

(d) If Purchaser shall determine, in the exercise of its sole and absolute discretion, that the Property is not acceptable to Purchaser for any reason or for no reason whatsoever, Purchaser shall have the right to terminate this Agreement by notifying Sellers of such termination in writing prior to the expiration of the Due Diligence Period (the "Termination Notice"). Upon such termination, the Deposit shall be returned to Purchaser. If Purchaser fails to so notify Sellers of Purchaser's termination of this Agreement prior to the expiration of the Due Diligence Period, then Purchaser shall have waived any right to terminate this Agreement pursuant to this Section 5 and Purchaser and Sellers shall proceed to Closing subject to and in accordance with the terms and conditions of this Agreement.

6. SELLERS' REPRESENTATIONS.

(a) In addition to any other express representations and warranties made by the Sellers in this Agreement, the Sellers represent and warrant to Purchaser as of the Effective Date and as of the Closing Date as follows:

(i) The Sellers have all requisite power and authority to enter into and perform this Agreement.

(ii) The Sellers are not a "foreign person," as such term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), and the sale of the Property is not subject to the federal income tax withholding requirements of such section of the Code.

(iii) To the knowledge of the Sellers, the Sellers have not received notice of, (i) any violation by the Sellers of any law, zoning ordinance or building rules or regulations affecting the Property, or (ii) any pending or threatened legal proceedings or administrative actions of any kind or character adversely affecting the Property or the Sellers' interest therein.

(iv) Except as set forth on Schedule 6(a)(iv), there are no leases, licenses, contracts, or other unrecorded agreements encumbering or affecting the Real Property, and there are no parties with any rights of possession other than Sellers, and Sellers have not entered into any agreements for the purchase or conveyance of the Property or granted any rights of first refusal, first offer rights, or options to acquire all or any part of the Property or any other rights to acquire all or any part of the Property that would still be in effect as of the Effective Date.

(v) To the Sellers' knowledge, the Sellers have not received any notice of any proceedings in condemnation, nor any written offer to purchase all or any part of the Property in lieu of condemnation.

(vi) To Sellers' knowledge, the Sellers have not received any notice of any pending or levied special assessments affecting the Property.

(vii) Sellers have not appealed any taxes or assessments payable against the Property and has made no commitments or agreements with any taxing authorities pertaining to the payment of taxes and assessments against the Property or the assessed value of the Property.

(viii) To the Sellers' knowledge, there are no mineral rights or water rights in the Property held by any third party.

(ix) The representations and warranties of Sellers set forth in the Explanatory Statement are hereby incorporated herein by reference.

(b) The representations and warranties of the Sellers to Purchaser contained in Section 6(a) (the "Express Representations") shall survive the Closing Date and the delivery of the Deed for a period of one (1) year. The Sellers shall notify Purchaser, in writing and with reasonable detail, of any event or condition that, to the Sellers' actual knowledge, will cause a change in the facts relating to, or the truth of, any of the Express Representations (a "Change Notice"). Such Change Notice shall be delivered promptly upon the Sellers' acquisition of such actual knowledge.

7. PURCHASER'S REPRESENTATIONS. Purchaser represents and warrants to the Sellers as of the Effective Date and as of the Closing Date that Purchaser is duly formed, validly existing and in good standing under the laws of the State of its incorporation and has all requisite power and authority to enter into and perform this Agreement. Each person executing this Agreement on behalf of Purchaser has all requisite authority to do so.

8. "AS IS" CONDITION; RELEASE. Purchaser hereby represents and warrants to the Sellers as of the time of Closing that Purchaser has had the opportunity to conduct Purchaser's own independent investigation and inspection of the Property, to the extent desired by Purchaser. Except as expressly provided to the contrary or otherwise set forth in this Agreement (including without limitation, the Express Representations) and the Sellers' Deed and any other documents delivered by Sellers to Purchaser at Closing, the Sellers will deliver, and Purchaser will accept, exclusive possession of the Property at Closing "AS IS" in its present state and condition without any representation or warranty by the Sellers or their representatives to any matter.

9. DELIVERIES AT CLOSING.

(a) Items to be Delivered by Sellers. Sellers shall execute, acknowledge and deliver, as applicable to Purchaser on the Closing Date the following:

(i) Sellers shall execute, acknowledge and deliver an original fully executed, acknowledged and recordable general warranty deed ("Deed") conveying fee title to the Real Property to Purchaser in a form customarily used in the State of Maine.

(ii) The Sellers shall execute and deliver an assignment of the Intangible Property in the form of a general assignment agreed upon between the Sellers and Purchaser in the exercise of their reasonable discretion ("Assignment").

(iii) Sellers shall execute and deliver a certificate pursuant to the Foreign Investment and Real Property Tax Act.

(iv) The Sellers shall execute and deliver a settlement statement showing all of the payments, adjustments and prorations provided for in Section 10 of this Agreement and otherwise agreed upon by the Sellers and Purchaser ("Closing Statement").

(v) The Sellers shall deliver to the Title Company a standard affidavit of Sellers in form and content reasonably acceptable to Sellers and sufficient to allow Title Company to delete or insure over the standard exceptions contained in Purchaser's owner's title insurance policy relative to (i) parties in possession, (ii) liens for labor, materials, or services, and (iii) unrecorded easements or other instruments.

(vi) The Sellers shall execute, acknowledge and deliver such other documents required to be executed by the Sellers hereunder and such other documents as are reasonably requested or required by the Title Company to consummate the transaction contemplated hereby.

(b) Items to be Delivered by Purchaser. Purchaser shall execute, acknowledge and deliver to Sellers on the Closing Date the following:

(i) The balance of the Purchase Price.

(ii) A counterpart original of the Assignment.

(iii) Funds sufficient to pay the costs and prorations, if any, borne by Purchaser as set forth in Section 10 of this Agreement.

(iv) A counterpart Closing Statement.

(v) Such other documents required to be executed by Purchaser hereunder and such other documents as are reasonably requested or required by the Title Company to consummate the transaction contemplated hereby.

10. COSTS AND PRORATIONS.

(a) Recording Costs, Survey and Title Costs and Due Diligence Costs. Purchaser shall pay (i) the costs of preparation of the Survey, and (ii) the cost of any title insurance policy obtained by Purchaser, and the cost of any endorsements thereto; (iii) preparation of the Deed; (iv) recording and filing fees for recording of the Deed; and (v) escrow fees or closing fees charged by the Title Company. The Sellers and Purchaser shall each bear their own respective legal and accounting costs. Purchaser shall pay all costs incurred in its Physical Inspection and Testing of the Property.

(b) Taxes and Assessments. All real and personal property taxes and general and special assessments, and any other governmental taxes or charges affecting the Property, which are due and payable for the tax year in which Closing occurs shall be prorated between the Sellers and Purchaser as of Closing based upon the latest available tax information, with the Sellers being charged

and paying all such taxes up to the Closing Date and Purchaser being charged and paying all such taxes on the Closing Date and thereafter.

(c) Utilities and Other Charges. Utility charges, if any, shall be ratably prorated with the Sellers being charged and paying all such utility charges up to the Closing Date and Purchaser being charged and paying all such utility charges on the Closing Date and thereafter. Notwithstanding the foregoing, if possible, final readings and final billings for utilities will be made as of the Closing Date and Sellers shall make arrangements to obtain such readings, in which event no proration will be made at the Closing with respect to utility bills. Sellers will be entitled to all deposits presently in effect with the utility providers, and Purchaser will be obligated to make its own arrangements for deposits with the utility providers.

(d) Survival. The provisions of this Section 10 shall survive Closing. The Sellers and Purchaser agree to readjust, within ninety (90) days following Closing the prorations and adjustments contemplated hereby upon the written request of the other accompanied by reasonable evidence of the basis for such readjustment.

11. CONDITIONS TO CLOSING.

(a) General. The respective obligations of the Sellers and Purchaser to complete the purchase and sale of the Property are subject to satisfaction of the conditions set forth below at or prior to Closing. Satisfaction of any condition to Closing may be waived by the party whose obligations are subject to such condition. If any condition precedent has not been satisfied or waived as of the Closing Date by the party whose obligations are subject to such condition, such party may terminate this Agreement by written notice to the other at any time prior to the satisfaction of such condition; provided, however, that:

(i) if the failure of such condition is as a result of the default by the Sellers, then Purchaser shall also have the right to exercise or pursue any rights or remedies set forth in Section 12 of this Agreement;

(ii) if the failure of such condition is as a result of the default by Purchaser, then the Sellers shall also have the right to exercise or pursue any rights or remedies set forth in Section 12 of this Agreement;

(iii) unless such termination is made by the Sellers in connection with a default by Purchaser under this Agreement, upon the termination of this Agreement because of the failure of a condition precedent the Deposit shall be returned to Purchaser; and

(iv) if the condition precedent set forth in Section 11(b)(ii) is not satisfied as the result of changes not willfully caused by the Sellers in violation of this Agreement or changes in the ordinary course of business (e.g., a notice of condemnation), or other such changes as may be permitted under this Agreement, then Purchaser's sole right in connection therewith shall be to either waive such condition precedent or terminate this Agreement by written notice to the Sellers on or before the Closing Date, whereupon the Title Company shall promptly return the Deposit to Purchaser and neither

party shall have any further obligations or liability hereunder, except any obligations that expressly survive termination.

(b) Conditions to Purchaser's Obligations. Purchaser's obligations to purchase the Property and perform Purchaser's other obligations under this Agreement are subject to satisfaction of each of the following conditions:

(i) The Sellers shall not be in default of any material obligations under this Agreement after Purchaser has provided Sellers with five (5) Business Days written notice of such default.

(ii) No event shall have occurred which would constitute a material breach of Sellers' representations or warranties contained in this Agreement.

(iii) At Closing, the Sellers shall have delivered the documents referenced in Section 9(a) of this Agreement and Purchaser shall be delivered exclusive possession of the Property.

(c) Conditions to Sellers' Obligations. The Sellers' obligation to convey the Property shall be subject to satisfaction of the following conditions:

(i) Purchaser shall not be in default of any material obligation under this Agreement after the Sellers have provided Purchaser with five (5) Business Days written notice of such default.

(ii) Purchaser shall have delivered the documents specifically referenced in Section 9(b) of this Agreement.

(iii) Sellers shall have received payment in full of the Purchase Price, as adjusted pursuant to Section 10 of this Agreement.

12. REMEDIES AND ESCROW.

(a) Remedies. If Purchaser fails to perform any covenant, agreement or obligation provided herein prior to or at Closing, which failure shall constitute a default on the part of Purchaser, or if there is any material breach or failure of any of Purchaser's warranties or representations prior to Closing, and Purchaser fails to cure such failure to perform or breach within five (5) Business Days after receipt of written notice from the Sellers, then the Sellers shall be entitled to: (i) terminate this Agreement by written notice to Purchaser and upon such termination, Sellers shall be entitled to immediately receive, the Deposit as liquidated damages, or (ii) sue Purchaser for damages (excluding consequential or punitive damages) due to such failure or breach. In any event, the rights of the Sellers pursuant to Section 5(c) hereof shall survive and not be affected by this Section 12(a). If Sellers fail to perform any covenant, agreement or obligation hereof as provided herein prior to Closing, which failure shall constitute a default on the part of Sellers, or if there is any material breach or failure of any warranty or representation by the Sellers prior to or at Closing (except for changes in such warranties or representations as contemplated by Section 11(a)(iv) of this Agreement), and the Sellers fail to cure

such failure or breach within five (5) Business Days after receipt of written notice from Purchaser, then Purchaser may as either (i) terminate this Agreement by written notice to Sellers and upon such termination, Purchaser shall be entitled to immediately receive a return of the Deposit, (ii) treat this Agreement as being in full force and effect with a right to an action for specific performance brought ninety (90) days after the originally scheduled Closing Date; or (iii) sue Sellers for damages (excluding consequential or punitive damages) due to such failure or breach.

(b) Escrow. Title Company shall at all times be authorized to deliver the Deposit or any additional moneys in accordance with the terms of this Agreement or pursuant to written instructions executed by both Sellers and Purchaser. At Closing, Title Company shall remit the Deposit to Sellers, and Purchaser shall receive a credit against the Purchase Price in the amount of the Deposit. Wherever this Agreement provides for return or refund of the Deposit to Purchaser, or the delivery of the Deposit to Sellers, Title Company shall promptly return or refund the Deposit to Purchaser or deliver the Deposit to Sellers, as the case may be, upon receipt of written notice from Purchaser or Sellers delivered to Title Company and the other party ("Earnest Money Notice"), unless the other party receiving the Earnest Money Notice makes written objection to such return/refund or delivery of the Deposit by written notice delivered to Title Company and the party that delivered the Earnest Money Notice within ten (10) days after delivery of the Earnest Money Notice. If Title Company receives such written objection within such ten (10) day period, Title Company shall continue to hold such amount until otherwise directed by written instructions from the parties to this Agreement or a final judgment of a court. Except as provided above, Title Company may not condition or withhold disbursement upon receipt of (i) consent or writing of the other party to such disbursement, or (ii) receipt of payment in full of any monies that Sellers or Purchaser may owe to Title Company. In the event that Title Company receives a written claim of default by either Purchaser or Sellers against the other, Title Company shall not release the Deposit or any of the additional money from escrow unless and until Title Company receives either joint written instructions from Sellers and Purchaser as to the proper delivery of the Deposit or additional money or direction from a court of competent jurisdiction as to the party entitled to receipt of the Deposit or additional money. Title Company shall be authorized to file an action in interpleader to determine the party entitled to the Deposit or additional money, and the party not entitled to the Deposit or additional money, as determined by such proceeding, shall indemnify and hold harmless Title Company from all legal fees, costs and expenses associated with such proceeding. Title Company may act in reliance upon any writing, instrument, or signature that it in good faith believes to be genuine and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. Title Company shall not be liable in any manner for the sufficiency or correctness as to form, manner or execution or validity of any instrument deposited in this escrow nor for the identity, authority or right of any persons executing the same; and its duties hereunder shall be limited to the safekeeping and disposition of the Deposit and additional money in accordance with this Agreement. Title Company hereby executes this Agreement for the sole and exclusive purpose of evidencing its agreement to the provisions of Section 2(a) and this Section 12(b).

13. CLOSING. The Sellers and Purchaser agree to consummate the purchase and sale which is the subject of this Agreement (the "Closing") no later than thirty (30) days after the expiration of the later of the Due Diligence Period. The date on which the Closing shall occur is herein referred to as the "Closing Date."

14. MISCELLANEOUS

(a) Brokers. Sellers and Purchaser warrant that they have had no dealings with any broker or agent in connection with negotiation and consummation of this Agreement. The parties, for themselves and their respective agents, representatives, employees and consultants ("Their Respective Representatives"), warrant to each other that neither they nor Their Respective Representatives have contacted, contracted or entered into any agreement with any real estate broker or agent in connection with the sale of the Real Property, and that neither they nor Their Respective Representatives have taken any action which might result in any real estate broker's, finder's or other fee or commission being due or payable in connection with this transaction. Each party shall indemnify and save harmless the other from and against all costs, claims, expenses or damages, including reasonable attorneys' fees, resulting from or related to any brokerage commission due or alleged to be due. The parties' respective obligations under the immediately preceding sentence shall survive the expiration, consummation or earlier termination of this Agreement.

(b) Waiver, Consent and Remedies. The Sellers and Purchaser may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the Sellers or Purchaser, as the case may be, with any breach or provision so waived. The consent by the Sellers or Purchaser to any act by the other party(ies) for which consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of the Sellers or Purchaser to act, except as otherwise specified in this Agreement. Except as otherwise expressly specified in this Agreement, all rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other.

(c) Attorneys' Fees. In the event any declaratory or other legal or equitable action is instituted between the Sellers and Purchaser in connection with this Agreement, then as between Purchaser and the Sellers each party will be responsible for paying its own costs and attorneys' fees.

(d) Notices. Any notice, request, demand, instruction or other document to be provided hereunder to a party hereto shall be in writing and shall be given to such party at its address or facsimile number set forth below or such other address or facsimile number as such party may hereafter specify for that purpose by notice to the other party. Each communication shall be deemed given and received (a) if given by a recognized overnight delivery service, upon first attempted delivery, or (b) if given by certified mail, return receipt requested, postage prepaid, upon first attempted delivery, at the address specified below:

If to the Sellers:

Paul and Alice Bonenfant

Attn: _____
Phone: _____
Facsimile: _____

If to Purchaser:

Performance Food Group, Inc.
12650 East Arapahoe Road
Centennial, CO 80112-3901
Attention: Kent Berke, Sr. Vice President
Telephone: (303) 662-7155
Facsimile: (303) 662-7500

With copy to:

McCarthy, Lebit, Crystal & Liffman Co., LPA
Attn: Kenneth B. Liffman, Esq.
101 West Prospect Avenue, #1800
Cleveland, Ohio 44115-1088
Telephone: (216) 696-1422
Facsimile: (216) 696-1210

(e) Gender and Number. In this Agreement (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

(f) Entire Agreement. This Agreement and its exhibits constitute the entire agreement among the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written express or implied, are hereby superseded and merged herein.

(g) Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

(h) Governing Law. This Agreement shall be governed by and construed under the laws of the State of Maine.

(i) Invalidity of Provision. If any provision of this Agreement as applied to the parties or to any circumstances shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances

different from those adjudicated by the court, or the validity or enforceability of the Agreement as a whole.

(j) Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by both Purchaser and the Sellers.

(k) Counterparts. This Agreement may be executed in one or more counterparts and may be delivered by exchange of facsimile signatures or by exchange of PDF signatures by email, each of which shall be deemed an original, but all of which shall constitute but one and the same instrument.

(l) Exhibits. All exhibits to this Agreement are incorporated by reference.

(m) Date and Time of Performance. If the date on which any performance required hereunder is other than a Business Day, then such performance shall be required as of the next following Business Day. The term "Business Day" shall mean a day that is other than a Saturday, Sunday or holiday in which the banks in Maine are authorized to close. The final day of such period shall be deemed to end at 5:00 p.m., Eastern Time.

(n) Recording of Agreement. This Agreement shall not be recorded or filed in the public land or other public records of any jurisdiction by either party and any attempt to do so may be treated by the non-recording party(ies) as a breach of this Agreement.

(o) Time of Essence. Time is of the essence of every provision of this Agreement of which time is an element.

(p) Nonliability. The parties agrees that neither the directors, officers, employees, members, shareholders, affiliates, nor any agents of a party shall have any personal liability or obligation hereunder, and that each party shall not seek to assert any claim or enforce any of its rights hereunder against such directors, officers, employees, members, shareholders, affiliates or agents, whether disclosed or undisclosed.

(q) Confidentiality. The parties agree to maintain the confidentiality of the economic terms of this Agreement until Closing shall occur; provided, however, that Purchaser and the Sellers may disclose such matters: (i) as may be required by applicable law, or (ii) to their respective lenders and prospective lenders, partners, attorneys, accountants, engineers, employees, Title Company, and other consultants to the extent reasonably necessary in connection with the due diligence investigation and/or consummation of the transaction contemplated hereby.

[Signature page to follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SELLERS:



Paul Bonenfant



Alice Bonenfant

Date of Execution: 4-13, 2015

PURCHASER:

PERFORMANCE FOOD GROUP, INC.

By: 

Kent R. Berke
Sr. Vice President

Date of Execution: 4-14, 2015

JOINDER OF TITLE COMPANY

Title Company joins in the execution hereof solely for the purposes of evidencing its acknowledgment of and agreement to the terms of the foregoing Purchase and Sale Agreement applicable to Title Company.

By: _____

Name: _____

Title: _____

LIST OF EXHIBITS

Exhibit A - Depiction of Real Property

EXHIBIT A

Depiction of Property

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

This First Amendment to Purchase and Sale Agreement (the "Amendment") is entered into as of May 24, 2015, by and between Paul and Alice Bonenfant, husband and wife (the "Sellers"), and Performance Food Group, Inc., a Colorado corporation ("Purchaser").

RECITALS:

- A. Sellers and Purchaser entered into that Purchase and Sale Agreement dated as of April 14, 2015 (the "Agreement"), for the sale by Sellers to Purchaser of certain real property located in Augusta, Maine and further described in the Agreement (the "Property");
- B. Unless otherwise defined herein, all capitalized terms in this Amendment shall have the same meanings assigned to such terms in the Agreement; and
- C. Seller and Purchaser desire to amend the Agreement in accordance with the terms of this Amendment.

AMENDMENT:

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sellers and Purchaser agree as follows:

1. Due Diligence Period. The Due Diligence Period is hereby extended through August 14, 2015.
2. Extension of Due Diligence Period. Sellers grant Purchaser one (1) option (the "Extension Option") to extend the Due Diligence Period for an additional thirty (30) days (the "Extended Due Diligence Period"). Purchaser shall provide notice to Sellers that Purchaser is exercising the Extension Option prior to the expiration of the Due Diligence Period. Upon delivery of such notice to Sellers, Purchaser shall deposit Five Thousand and 00/100 Dollars (\$5,000.00) with the Title Company as an additional Deposit to be applied against the Purchase Price if the Purchaser proceeds with the purchase of the Property or refunded to the Purchaser if the Purchaser elects not to proceed with the Purchase of the Property.
3. Closing. The parties agree that the Closing Date shall be no later than thirty (30) days after the expiration of the Due Diligence Period, or the Extended Due Diligence Period, if exercised.
4. Full Force and Effect. Except as amended herein, the Agreement is and shall remain in full force and effect.

5. Multiple Counterparts. This Amendment may be executed in a number of identical counterparts, which, taken together, shall constitute collectively one (1) agreement; in making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart with each party's signature. The parties further agree that signatures transmitted by electronic means shall be deemed the equivalent of original signatures in ink.

[Signature page to follow.]

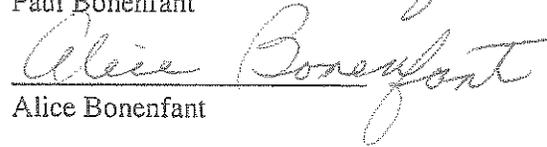
IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date and year first above written.

SELLERS:

Paul and Alice Bonenfant



Paul Bonenfant



Alice Bonenfant

PURCHASER:

Performance Food Group, Inc.

By: 

Kent R. Becke, Sr. Vice President



© 2014 Google

© 2014 Europa Technologies

Google earth

1997

Imagery Date: 9/17/2013 44°21'55.81" N 69°44'14.12" W elev 59 ft eye alt 4620 ft

