



**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: \*5.k

Title: Recommendation to Approve the Purchase of 2018/2019 Treated Rock Salt from Compass Minerals through the State of Illinois Joint Purchasing Program

Presenter: Michael Shortall, Inventory Control Division Manager

Meeting: Government Services Committee

Date: November 26, 2018

Proposed Cost: \$234,640

Budgeted Amount: \$289,340

Not Budgeted:

**Executive Summary** *(if not budgeted please explain):*

The City was recently notified that we are eligible to purchase rock salt through the State of Illinois' Joint Purchasing Program. The State's 2018/2019 contract for white rock salt was awarded to Compass Minerals America Inc. of Overland Park, Kansas at a price of **\$45.91** per ton. Our order is for **4,000** tons. As in prior years, we will have an obligation to purchase 80% of the order quantity and the supplier is obligated to sell the City a maximum 120% of our order.

Additionally, the City has desired to use a treated salt mixture that includes a liquid deicer. The cost for the treated salt is an additional \$17.00 per ton, for a total cost of **\$62.91** per ton.

The budgeted allotment for salt purchased in FY 18/19 is \$289,340.

**Attachments** *(please list):*

\* State of Illinois Letter of Intent \* Compass Mineral Letter of Intent

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to Approve Purchase of 2018/2019 Treated Rock Salt From Compass Minerals through the State of Illinois Joint Purchasing Program.



# ILLINOIS

## JOINT PURCHASING REQUISITION CY'18-'19 New Purchase Commitment

**PLEASE RETURN TO:**  
Illinois Department of  
Central Management Services  
801 Wm. G. Stratton Building  
401 S. Spring Street  
Springfield, IL 62706

Email Address for submission:  
CMS.BOSS.EC@illinois.gov

       No Thank You,  
But keep on mailing list.

**Opt-Out->** Our unit does not want to participate in the CY' 2018-2019 Contract Procurement.  
**Notice:->** Please complete and return the Contact information below to remain on the mailing list.

Joint Purchasing #: # L5170-5170

Date: 3/20/2018

Government Unit: CITY OF ST CHARLES

Mailing Address: 2 EAST MAIN STREET

City / State / Zip: ST CHARLES IL 60174

County: KANE

Contact Person: MICHAEL SHORTALL

*new* Telephone Number: 1-630-377-4471

*new* Fax Number: 1-630-377-4431

Contact Email: MSHORTALL@STCHARLESIL.GOV

Delivery Point
( Provide Delivery Details To Contract ) ( Vendor At Time Of Order Placement )
MSHORTALL@STCHARLESIL.GOV ← Please provide Email Address

\*\*\*\*\* Participant, Complete Only One - Either "Table-A" or "Table-B" Below \*\*\*\*\*

Table A: Complete this table to have the State "SOLICIT BIDS" for your governmental entity		
ITEM DESCRIPTION	BID QUANTITY	UNIT MEASURE
<u>AASHTO M143 Road Salt or Equivalent</u>	<u>( Total Tonnage )</u>	<u>( 22 - 25 Ton / Truck )</u>
<b>Rock Salt, Bulk</b>	<u>                    </u>	<b>Tons</b>

Please note your Purchase Commitment Percentage for Total Tonnage Quantity as stated above (choose one):  
 OPTION 1  80.% minimum purchase requirement/120% maximum purchase requirement  
 OPTION 2  100% minimum purchase requirement/120% maximum purchase requirement

\*\*\*\*\* Participant, Complete Only One - Either "Table-A" Above or "Table-B" Below \*\*\*\*\*

Table B: Complete this table to have the State "RENEW" Requirements for your governmental entity		
ITEM DESCRIPTION	QUANTITY	UNIT MEASURE
<u>AASHTO M143 Road Salt or Equivalent</u>	<u>( Total Tonnage )</u>	<u>( 22 - 25 Ton / Truck )</u>
<b>Rock Salt, Bulk</b>	<u>4000</u>	<b>Tons</b> <u>45.91</u>

**Note:** Renewal is available ONLY under Contracts PSD 4018455, 4018456, and 4018457 for prior CY' 2017-2018.  
 Your quantity may not exceed more than a 20% increase of last season's quantity, and price cannot increase more than 10.% of last season's price. Other Terms & Conditions of Contract will remain the same as last year. Please Check Contract # Below:  
 Note Your Current CMS Contract: PSD ~~4018455~~ -or- PSD 4018456 ~~(X)~~ -or- PSD 4018457 ( )

I certify that funds are available for the purchase of the items on this Requisition and that such items are for the sole use of this governmental unit, and not for personal use of any official or individual or re-sale.

In addition, I agree to abide by the Joint Purchasing Procedure established by the Department of Central Management Services.  
[Signature]

INVENTORY CONTROL MANAGER

SIGNATURE OF AUTHORIZED OFFICIAL OR AGENT

TITLE

Printed on Recycled Paper



October 1, 2019

Dear Joint Purchasing Participant:

Subject: 2018 - 2019 Rock Salt, Bulk Contract Information

In completing the 2018 – 2019 Rock Salt season contract re-procurement, the State of Illinois did not encounter the types of supply-related issues experienced in previous seasons. We have made every effort to secure Road Salt at the best available price for participants in our contract solicitation, and gladly report that the State was able to obtain an offer for your location and its requirements through the State's procurement efforts.

In accordance with your response on "Table B: Complete to have the State RENEW for your Governmental Entity" from the seasonal participation survey, we have secured your revised REQUISITION QUANTITY with the previous season's contract vendor.

Enclosed is a copy of the requisition you submitted to us for the purchase of rock salt. The information from the requisition, including the purchase commitment, can be used to submit your requirements to this year's contract vendor:

**CMS Contract: PSD 4018456**

**BidBuy PO# 18-416CMS-BOSS4-P-401**

**Term: October 2018 – September 2019**

Compass Minerals America Inc.

FEIN Number: 48-1047632

9900 West 109-th. Street

Overland Park, KS 66210

Phone (800) 323-1641 or (913) 344-9330 Contact Name: Sean Lierz

Your unit is **CMS Contract Line#: \_ 146 \_ BidBuy PO Item# \_ 61 \_**

Your unit **Renewal Price per ton F.O.B. destination**, is **\$ 4 5 . 9 1**

Emergency pickup of salt from vendor's warehouse is not made available in this contract.

The additional price per ton to have rock salt delivered in trucks equipped with coal/grain chute openings in the tailgate to permit controlled off-loading of rock salt onto conveyors was not provided for by this vendor in this season's procurement process.

You are responsible for issuing your own purchase order document to the vendor. Orders may be placed with the vendor via telephone, with a written or fax confirmation to follow immediately. ***You are strongly encouraged to order and store as much salt as possible in order to help prevent potential salt shortages this winter.*** Also, you must place orders in full truckload ( typically 22-25 tons ) delivery quantities or multiples of such.

Your governmental unit is responsible for ensuring that the 80 or 100 percent minimum guaranteed purchase commitment ( as noted on your Requisition ) is met before the end of the winter season, June 30, 2019. The vendor is required to furnish not less than 120 percent ( if needed ) of the contract quantity by March 1, 2019. Your governmental unit is responsible for processing vendor invoices in a timely manner.

Delivery shall be made as soon as possible after vendor receipt of order by phone or mail. The maximum time from receipt of order to the actual delivery for orders placed between December 1, 2018 through April 1, 2019 shall not exceed seven working days, unless as modified in the Order Guidelines herein.

For orders placed between December 1, 2018 and April 1, 2019, if a vendor is unable to make delivery within the order timeline, local governmental units shall have the right to retain as liquidated damages, not as a penalty, 5.% per working-day on the undelivered portion of the order, but not to exceed 50.%. For orders placed prior to 9:00 a.m. on a given day, that day to be considered as the first calendar day of the seven-day delivery period. For an order placed after 9:00 a.m. on a given day, the following day shall be considered as the first calendar day of the seven-day delivery period.

CMS reserves the right to mitigate application of liquidated damages imposed against a vendor, in the event of orders exceeding the maximum percentages outlined below:

An agency may order up to 20.% of their awarded contract tonnage in any given week and vendor shall deliver within 7 working-days after receipt of order. Quantity ordered above the 20.% threshold shall have an extended deliver time of one-working-day for each one-percentage-point above the 20.% guideline. For example, if an agency orders 25.% of their awarded total 100 ton, delivery of the first 20 ton ( 20.% ) shall be within 7 working-days after receipt of order, the remaining 5 ton should be delivered within 12 working-days after receipt of order.

If after seven working-days of liquidated damages assessment, the vendor has still has failed to deliver, local governmental unit shall have the right to terminate an order and purchase road salt or abrasives from another source, or take action consistent with public safety as needed to continue daily business. Any and all additional costs incurred may be collected from the original vendor, in addition to liquidated damages, by participant's legal action.

All deliveries shall be covered with approved weatherproof materials. The vendor shall ensure that delivery person inspects the inside of the trailer and that all salt is removed from the trailer before leaving a delivery point. The vendor will ensure all weights and measures shown on delivery tickets are correct. Local governmental units reserve the right to require that delivery trucks occasionally be directed to a scale in the vicinity of the delivery point as a check on delivered truckloads.

Deliveries of rock salt containing any foreign material such as mud, rocks, grader teeth, wood, tarpaulins, etc., may be rejected at the delivery site. In the event that any foreign material is discovered in dumped deliveries, the salt and foreign matter may be reloaded onto the cartage hauler's truck by the local governmental unit and returned for credit, or the vendor shall immediately ship a specification compliant load of replacement salt, or issue a refund to the governmental unit consistent with the contract price.

In December 2018, the contract vendor shall have in place stockpile(s) located in or near Illinois covering the tonnage awarded for the northern regions of the State, and in January of 2019 the contract vendor shall have in place stockpile(s) in or near to Illinois covering the total tonnage awarded for all regions of the State. At our discretion, we will inspect the stockpiles to ensure that these stockpiles are in sufficient quantities, and that vendor commitments to the stockpiles are with the users of this contract.

Enhanced Rock Salt 2018 - 2019 season availability from Compass Minerals America Inc:

The Department of Central Management Services surveyed vendors for availability of an enhanced rock salt option in the invitation for bid, and received an offering from North American Salt Company. Locations interested in this enhanced salt option must call the vendor for availability information and to facilitate potential ordering arrangements.

Their product is made available to any joint purchasing participant awarded in the Compass Minerals America Inc. Contract as an up-charge per ton option and would be added to your order as a separate line item. Contact Sean Lierz at 913-344-9330 for the details.

The enhanced salt product features additional pre-treatment of approved road salt with a product providing enhanced melting performance, with reduced corrosion and clumping.

It is hoped that this information will be beneficial to you in the utilization of this contract. If you have any further questions concerning the rock salt contract, please feel free to contact me at (217) 782-8091.

Sincerely,










Wayne Ilsley, CPPB, Buyer  
Bureau of Strategic Sourcing

## Joint Purchasing Participant.

BidBuy is the new procurement system implemented by the State Of Illinois, in which this Master Blanket Purchase Order ( Master Contract ) was re-established.

As a municipality, you do not need to register in BidBuy. To access master contracts you only need to follow the steps outlined in the following document.

Locating State Wide Master Contracts (without registration in BidBuy)  
( To begin you just click on the 'Contract & Bid Search' as shown below.)

Screen	Task
To BidBuy Homepage	 <a href="https://www.bidbuy.illinois.gov/bsa/">https://www.bidbuy.illinois.gov/bsa/</a>
BidBuy Homepage	 Click <b>Contract &amp; Bid Search</b> at bottom of screen
Advanced Search	 Select radio dial next to Contracts/Blankets
Advanced Search	 Enter <b>Search Criteria</b> or enter nothing to receive all contracts  Click <b>Find It</b>
Advanced Search	 Click on Contract/Blanket# ( <b>underlined</b> ) to show contract information
Master Blanket Purchase Order Under Header Information	Verify Field " <b>Master Contract?</b> " = <b>Yes</b>  Click on Copy of contract (underlined) next to <b>Agency Attachment</b> field to download contract document
To Exit	In BidBuy  Click <b>Exit</b> at bottom of screen
Advanced Search	 Click <b>Exit</b> at bottom of screen to return to BidBuy homepage



**Sold-To ("Purchaser"):**

Accounts Payable  
City of St. Charles  
2 E Main St  
St Charles, IL 60174-1984

**Date:** October 22, 2018  
**Document:** 149641  
**Tel:** (630) 377-4429  
**Fax:** (630) 377-4432  
**Email:** mshortall@stcharlesil.gov  
**Customer #:** H705421  
**Preferred:** Fax

**Compass Minerals America Inc. (Seller) / Quotation for bulk de-icing salt**

Quantity (TN)	Delivery Location	Price Per Ton (USD)		
1,000 Reserve: 0	City of St Charles - S 7Th Ave 1405 S 7Th Ave St Charles, IL 60174-1984 Destination #: H969655 Delivery Lead Time: 7 days	62.91	Deliver	Depot: Chicago - Calumet Product: THAWROX - TREATED SALT (6602) Mode of Transport: DUMP (END OR BOTTOM) Distance: 48.5 Miles
1,000 Reserve: 0	City of St Charles-Kane CO-Lincoln Hwy 3805 Lincoln Hwy St Charles, IL 60174	62.91	Deliver	Depot: Chicago - Calumet Product: THAWROX - TREATED SALT (6602) Mode of Transport: DUMP (END OR

Subject to terms and conditions of St of Illinois Solicitation# 228529

Price(s) effective through Monday, 30 Sep 2019

**Purchaser agrees to pay the seller for such salt as and when delivered, in accordance with the price and payment terms stated above and on the reverse side of this form (unless inconsistent with the terms on this page).**

Terms are NET 30 days from shipment with approved credit.

- \* This proposal is open for acceptance for 15 days following date of issue, and supersedes any and all previous proposals and or contracts. Proposal must be signed indicating acceptance to be valid.
- \* Delivered price(s) via dump and based on full truck load quantities.
- \* Seller does not commit to a specific delivery lead time. Any lead time specified above is an estimated target only.
- \* Product is for bulk end use only and is not intended for blending and packaging without prior consent.
- \* Applicable taxes extra
- \* Compass Minerals America Inc. has no obligation to store salt after the Term, but if it chooses to make storage available it will be for a fee of \$5 per month per ton.

Thank you for the opportunity to quote on your bulk de-icing salt needs.

Accepted By;

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Sean Lierz  
Senior Sales Manager 1-800-323-1641 x2  
Compass Minerals America Inc.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Please sign and return by fax to 913-338-7945 or e-mail highwaygroup@compassminerals.com or by mail  
Order placement and inquiries Monday through Friday - 7:00 am to 5:00 pm.



**Sold-To ("Purchaser"):**

Accounts Payable  
City of St. Charles  
2 E Main St  
St Charles, IL 60174-1984

**Date:** October 22, 2018  
**Document:** 149641  
**Tel:** (630) 377-4429  
**Fax:** (630) 377-4432  
**Email:** mshortall@stcharlesil.gov  
**Customer #:** H705421  
**Preferred:** Fax

**Compass Minerals America Inc. (Seller) / Quotation for bulk de-icing salt**

Quantity (TN)	Delivery Location	Price Per Ton (USD)
1,000 Reserve: 0	Destination #: H811622 Delivery Lead Time: 7 days City of St. Charles-Kane CO-Devereaux WA 200 Devereaux Way St Charles, IL 60174 Destination #: H761606 Delivery Lead Time: 7 days	62.91 Deliver BOTTOM) Distance: 48.5 Miles Depot: Chicago - Calumet Product: THAWROX - TREATED SALT (6602) Mode of Transport: DUMP (END OR BOTTOM) Distance: 48.5 Miles

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Accepted By;

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Title: \_\_\_\_\_

Sean Lierz  
Senior Sales Manager 1-800-323-1641 x2  
Compass Minerals America Inc.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Please sign and return by fax to 913-338-7945 or e-mail highwaygroup@compassminerals.com or by mail  
Order placement and inquiries Monday through Friday - 7:00 am to 5:00 pm.



## Terms and Conditions of Sale

1. PARTIES. "Seller" is identified in the "Remit To" section and "Buyer" in the "Sold To" section of an invoice to which these Terms and Conditions of Sale ("Agreement") relate or are attached.
2. OFFER. No terms in Buyer's bid, purchase order or other form shall be binding upon Seller. Seller rejects additional/different terms in such Buyer's documents. SELLER'S OFFER IS EXPRESSLY LIMITED TO AND CONDITIONED UPON BUYER'S ACCEPTANCE OF THIS AGREEMENT.
3. PRICES; TAXES. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE. ORDERS WILL BE INVOICED, UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, AT SELLER'S PRICE IN EFFECT ON THE SCHEDULED DATE OF SHIPMENT. Prices on the invoicing document are net of all applicable discounts and promotional allowances. References to "tons" means short tons (2000 lbs.) unless otherwise specified. Any tax or other governmental charges now or hereafter levied upon production, severance, manufacture, delivery, storage, consumption, sale, use or shipment of Products ordered or sold are not included in Seller's price and will be charged to and paid by Buyer.
4. CANCELLATION. Orders may be canceled by Buyer only upon (1) written or oral notice to Seller and accepted in writing by Seller and (2) payment to Seller of reasonable cancellation charges to be solely determined by Seller. Except as otherwise agreed in writing, until the products identified in Buyer's purchase order as accepted by Seller ("Products") are shipped, Seller has no obligation under any order submitted by Buyer (and may cancel the order at any time prior to shipment).
5. PAYMENT; CREDIT; PAST DUE ACCOUNTS. Buyer will make payment to Seller at the time and in the currency specified on Seller's invoicing document. Seller may, in its sole judgment, require such other payment terms as Seller deems appropriate, including full or partial payment in advance of shipment or by letter of credit. Credit payment terms must have the prior approval of Seller's Credit Department and must be specified in writing on Seller's invoicing document. Whenever reasonable grounds for insecurity arise with respect to due payment from Buyer or with respect to Buyer's financial condition generally, Seller reserves the right to stop shipment on notification to Buyer and to demand payment in advance or at the time of delivery for future deliveries or require reasonable assurance of payment, and in the absence thereof, to cancel, without liability, the unfilled portion of Buyer's order. A finance charge of the lesser of 1.5% per month (18% - APR) or the highest rate permitted by law will be assessed on all past due accounts. Interest charged on a past due invoice will be assessed from the date of the invoice. Amounts owed by Buyer with where there is no dispute will be paid without set-off for any amounts that Buyer may claim are owed by Seller. Buyer agrees to reimburse Seller for all attorney fees and court costs in connection with default of these payment terms by Buyer.
6. DELAYS. All orders are subject to Seller's ability to make delivery at the time and in the quantities specified, and Seller shall not be liable for damages for failure to make partial or complete shipment or for any delay in making shipments. Seller shall not be liable for delays or defaults in delivery caused by forces not reasonably within Seller's control (including but not limited to delays or defaults by carriers, extreme cold weather, partial or total failure of Seller's intended production, transportation or delivery facilities, etc., floods, fires, storms, or other acts of God, war or act of public enemy (or civil disturbance), strikes, lock-outs, shortages of labor or raw materials and supplies (including fuel), acts or omissions of Buyer, action of any governmental authority, or other force majeure event). Buyer shall be liable for any added expenses incurred by Seller because of Buyer's delay in furnishing requested information to Seller, delays resulting from order changes by Buyer, or delay in unloading shipments at the delivery point that are the fault of Buyer.
7. SHIPMENT COSTS/TRANSPORTATION MATTERS. Unless otherwise specified on Seller's invoicing document, all transportation charges, including, but not limited to, Seller's and carrier's charges for notification prior to delivery, demurrage, switching, detention, delay in unloading, diversion, or reconsignment shall be the sole responsibility of Buyer. Buyer will assume title and risk of loss concurrently in accordance with Seller's invoicing document. On passage of title, Buyer is then responsible for proper protection of Products and compliance with all regulations and ordinances and will indemnify Seller against all claims for personal injuries or property damage arising from the storage, use or handling of such Products. Claims for damage or shortage in transit must be made by Buyer against the carrier. Buyer has the responsibility to inspect shipments before or during unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support a claim. Upon transfer of the Products' risk of loss to Buyer, Buyer is solely responsible for the care, condition, damage or loss of railcars used to deliver the Products until the railcars are released empty by Buyer to the rail carrier. Without Seller's prior written approval, neither Buyer nor any of its employees/agents will divert or export any such railcar to anywhere outside the continental U.S. Even with such Seller's approval, Buyer remains fully responsible for and shall promptly reimburse Seller for all claims, losses, costs, expenses, liabilities, penalties, demands and taxes directly caused by or incidental to such use of the railcars by Buyer.
8. WARRANTY/TIME FOR MAKING CLAIMS. Seller warrants only that it will convey good title to the Products and that, at the time of shipment, the Products will conform to the published specifications of Seller. Seller's specifications are subject to change at any time without notice to Buyer. NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, IS MADE BY SELLER AND SELLER HEREBY DISCLAIMS ALL SUCH OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. Buyer must notify Seller of any claim with respect to Products, warranty, or any other claim under this Agreement within thirty (30) days of Seller's delivery of Products or such claim is waived. In the event of an alleged breach hereof by Seller, the sole remedy available to Buyer on account of any defect in the Products shall be limited to the replacement of such defective Products by Seller. In the event the remedy provided herein shall be deemed to have failed its essential purpose, then Buyer shall be entitled only to a refund of the amounts paid to Seller for such defective Products. Subject to the notification of claim provision above, no action for breach of the contract for sale or otherwise with respect to Products will be commenced more than one (1) year after the accrual of the cause of action thereto.
9. LIMITATION OF LIABILITY. SELLER'S LIABILITY FOR ANY CLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE NET PURCHASE PRICE ACTUALLY PAID TO SELLER FOR THE PRODUCTS INVOLVED. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES FOR ANY CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE. Buyer assumes all risks and liability for any damage to persons or property resulting from the use of the Products delivered hereunder in manufacturing processes of Buyer or in combination with other substances or otherwise.
10. INDEMNIFICATION. BUYER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND SELLER AND ITS AFFILIATES AND THEIR RESPECTIVE PRESENT OR FUTURE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, INSURERS, AGENTS AND REPRESENTATIVES (COLLECTIVELY, "INDEMNIFIED PARTIES"), FROM ALL CLAIMS, LIABILITIES, DAMAGES, SUITS, PROCEEDINGS, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) (COLLECTIVELY, "LOSSES"), FOR ANY DAMAGE, INJURY, DEATH, LOSS OR DESTRUCTION OF ANY KIND RELATING TO OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OR DAMAGE TO ANY PROPERTY OR INJURY TO OR DEATH OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, BUYER OR ITS EMPLOYEES), WHETHER ARISING AS A WORKERS' COMPENSATION CLAIM OR UNDER THEORIES OF NEGLIGENCE, TORT, STRICT LIABILITY, INTENTIONAL MISCONDUCT, OR FAULT OF ANY KIND, AND EVEN IF THE RESULT OR ALLEGED RESULT OF THE CONDUCT, NEGLIGENCE, ERROR, OMISSION, OR BREACH OF THIS AGREEMENT OR NON-COMPLIANCE WITH APPLICABLE LAWS BY ANY INDEMNIFIED PARTIES. THIS PROVISION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS AGREEMENT.
11. SECURITY INTEREST. Buyer grants to Seller, and Seller retains, a security interest in all Products furnished by Seller and the proceeds thereof, until the purchase price therefor is fully paid. Seller may file any financing statements and give notice of such security interest to third parties as Seller may determine to be necessary to perfect such security interest.
12. LEGAL COMPLIANCE. Buyer and its employees/agents (1) will comply with all applicable U.S. federal, state, local and foreign laws and regulations, including the U.S. Export Administration Regulations, the U.S. Foreign Corrupt Practices Act, and the U.S. Patriot Act, as amended from time to time (collectively, "Laws"); (2) will not subject Seller to any claim, penalty or loss of benefits under the Laws; and (3) will cooperate with Seller in any audit/inspection relating to the Laws. Upon Seller's request, Buyer will deliver a certificate to Seller in a form provided by Seller, certifying such matters as requested by Seller, as required by the Laws, or pertaining to Buyer's intended use of the Products as represented to Seller.
13. MISCELLANEOUS. Matters arising out of or in connection with a sale hereunder will be governed by Kansas laws without regard to conflicts of law rules, and Buyer and Seller consent to the jurisdiction of Johnson County, Kansas courts. Buyer shall not assign this Agreement without Seller's prior written consent. This Agreement constitutes the entire agreement regarding the subject matter hereof; no modification may be made, unless in writing and signed by the parties; and no acknowledgment/acceptance of purchase order forms containing different/additional terms shall have force or effect. Seller's failure to enforce any provision will not be a waiver of its right to enforce such provision or any other provision then or thereafter. Any unenforceable provision shall be enforced to the extent it is enforceable. Any provision intended to survive shall survive this Agreement's termination/expiration and the consummation of the transactions contemplated hereunder.