

GRANT AGREEMENT

THIS GRANT AGREEMENT (this "Agreement") is made and entered into as of the last signature date below (the "Effective Date") by and between CARTON COUNCIL OF NORTH AMERICA, INC. ("CCNA") and LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT ("County"). CCNA and County are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITAL

CCNA desires to make grant funds available to County in connection with County's purchase of equipment designed for the sorting of aseptic and gable top cartons ("Post-Consumer Cartons"), and County desires to receive such grant funds, on the terms set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained in this Agreement, CCNA and County agree as follows:

AGREEMENT

1. Provision of Grant Funds.

(a) CCNA agrees to provide grant funds to County to assist County in its purchase of equipment designed for the sorting of Post-Consumer Cartons (the "Equipment"). The Equipment is described in general terms on Exhibit A hereto. County shall install the Equipment at County's facility located at 360 Thompson Rd., Lexington, KY 40508 (the "Facility"). The amount of the grant is \$150,000, and such funds shall be paid by CCNA to County as follows: (a) \$50,000 shall be paid within ten (10) days after County's delivery to CCNA of a copy of County's purchase order for the Equipment, along with a copy of the Manufacturer's quote for the Equipment; (b) \$50,000 shall be paid within ten (10) days after County provides CCNA with a written description (including, without limitation, serial number(s) for the Equipment in a form satisfactory to CCNA) and written confirmation of the shipment of the Equipment from the manufacturer to the Facility; and (c) the remaining \$50,000 shall be paid within ten (10) days after County provides CCNA with written confirmation (in a form reasonably satisfactory to CCNA) that the Equipment has been installed at the Facility and is in operation and that County has completed the notification tasks described on Exhibit A hereto.

(b) Without limiting any other rights or remedies of CCNA, if this Agreement is terminated by CCNA pursuant to Section 5(a) below as a result of County's breach, then County shall pay to CCNA, as damages, an amount calculated as follows: (i) the aggregate amount of grant funds paid by CCNA to County under this Agreement, multiplied by (ii) a fraction, the numerator of which is an amount equal to sixty (60) minus the number of months this Agreement is in effect (rounded to the nearest month), and the denominator of which is sixty (60). Any amount to be paid by County pursuant this Section shall be paid within thirty (30) days after the termination date. For purposes of illustration only, if (A) CCNA pays \$150,000 pursuant to Section 2(a) above, (B) this Agreement is terminated by CCNA pursuant to Section 5(a) below forty-eight (48) months into the term as a result of County's breach, then County must pay to CCNA the amount of \$30,000.

(c) As a condition to CCNA's payment of the grant funds, County hereby grants to CCNA a security interest in County's right, title and interest in and to the Equipment, and all accounts, documents, general intangibles, contract rights, chattel paper, instruments, letter of credit rights and investment property arising from the sale, lease, rental or other disposition of the Equipment, and all additions and accessions to the Equipment, all spare and repair parts for the Equipment, special tools for the Equipment, equipment and replacements for the Equipment, software used in the Equipment, and all proceeds, supporting obligations and products of the foregoing (collectively, the "Collateral"), to secure the prompt payment and performance of the obligations contained in Section 1(b) above. County hereby authorizes CCNA to file such financing statements or continuation statements and amendments thereto, as may be necessary to perfect or continue the perfection of the security interest described in this Section 1(c).

(d) If any amount to be paid by County pursuant to Section 1(b) above is not paid within thirty (30) days after the termination date, CCNA may exercise in respect of the Collateral, in addition to all other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code, if applicable, as in effect in any relevant jurisdiction.

2. Recycling of Post-Consumer Cartons. During the term of this Agreement, County shall (a) accept and sort Post-Consumer Cartons into one grade of recycled material at the Facility, (b) offer Post-Consumer Carton recycling to all current and future municipal customers of the Facility and all third party haulers that deliver residential material to the Facility, and (c) sell mill-ready loads of Post-Consumer Cartons in full-truckload quantities. County may use the Equipment to sort and process materials other than Post-Consumer Cartons, but only to the extent that sorting other materials does not interfere with the Equipment's ability to sort Post-Consumer Cartons into a single grade of material. County shall conduct the Post-Consumer Carton recycling activities contemplated by this Section, and shall perform its other obligations under this Agreement, in accordance with applicable industry best practices and all applicable laws, including, without limitation, laws relating to workplace safety, lobbying, disclosure, ethics, and other laws governing business relationships with government entities. In addition, County shall use its commercially reasonable efforts to ensure that each recycled bale of Post-Consumer Cartons recovered from its residential collection program meets all standards established by the Institute of Scrap Recycling Industry, Inc. which are applicable to Post-Consumer Cartons, including, without limitation, PSI (Paper Stock Industries) grade #52 specifications. As and to the extent requested from time to time by CCNA, County shall provide reasonable cooperation to CCNA in connection with CCNA's efforts to promote the recycling of Post-Consumer Cartons in the service areas covered by the Facility. At times reasonably agreed to by the parties, CCNA shall make resources available to County to help County understand market opportunities for the movement and sale of Post-Consumer Cartons and to provide general support to County in connection with County's education and promotional programs relating to Post-Consumer Cartons. The nature and extent of assistance and support to be furnished by CCNA pursuant to the preceding sentence shall be as reasonably established by the Parties on a case by case basis.

3. Reporting. During the term of this Agreement, County shall, on a calendar quarter basis, provide CCNA with a written report setting forth, with respect to the Facility, (a) the volume of recycled Post-Consumer Cartons produced by County during the reporting period, and (b) the total volume of recyclables produced during the reporting period.

4. Term. The term of this Agreement shall begin on the Effective Date and shall continue in effect for a period of five (5) years, unless earlier terminated pursuant to Section 5(a) below.

5. Grounds for Termination; Effect of Termination.

(a) This Agreement shall automatically terminate upon expiration of the term described in Section 4 above. A Party may terminate this Agreement upon delivery of written notice of termination to the other Party if the other Party commits a material breach of this Agreement and fails or is otherwise unable to cure such breach within thirty (30) days of its receipt of notice of the breach (describing the breach) from the non-breaching Party. CCNA may terminate this Agreement without cause upon one year advance written notice to County. For the avoidance of doubt, any such termination without cause pursuant to the preceding sentence will not trigger the payment obligation set forth in Section 1(b) above.

(b) Upon termination of this Agreement, all of the rights and obligations of the Parties shall terminate, except that termination of this Agreement shall not (i) relieve either Party from any liabilities resulting from a breach of this Agreement which occurs prior to termination, (ii) relieve either Party from any payment obligation arising hereunder with respect to the period prior to termination, and (iii) result in a termination of any the following provisions, which shall survive termination: 1(b); 1(c); 1(d); 5(b); 6(a); 6(b); 6(d); 7; 8; and 9.

6. Indemnification; Limitation of Liability; Insurance.

(a) To the extent allowable by law, County shall defend, hold harmless and indemnify CCNA and its officers, directors, employees and representatives from and against all liabilities, damages and costs, including reasonable attorneys' fees, arising out of any third party claims caused by or resulting from the breach of this Agreement by County. County shall also defend, hold harmless and indemnify CCNA and its officers, directors, employees and representatives from and against all liabilities, damages and costs, including reasonable attorneys' fees, arising out of any third party claim for personal injury, including bodily injury, death or disease, or for loss of damage to property which results from or is caused by County's ownership, operation and/or use of the Equipment. This Section 6(a) shall not be deemed a waiver by County of sovereign immunity as to any third party or a waiver by County of any other third party defense available to County.

(b) IN NO EVENT SHALL CCNA BE LIABLE UNDER THIS AGREEMENT FOR CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, REGARDLESS OF WHETHER SUCH DAMAGES ARE CLAIMED UNDER CONTRACT, TORT, OR ANY OTHER THEORY.

(c) Without limiting Section 6(a) above, County shall maintain in full force and effect during the term of this Agreement, with one or more insurance companies reasonably satisfactory to CCNA or through a program of self-insurance, comprehensive general liability insurance, including coverage for personal injury, with respect to all claims and damages arising out of actions taken by County pursuant to this Agreement, regardless of when such claims are made or when the underlying injuries occur or manifest themselves. Such insurance policy(ies) shall have aggregate policy limits of not less than One Million Dollars (\$1,000,000). Further, County shall maintain in full force and effect on the same terms excess liability coverage with

policy limits of not less than Five Million Dollars (\$5,000,000). Upon request by CCNA from time to time during the term of this Agreement, County shall furnish to CCNA certificates of insurance evidencing County's compliance with this Section.

7. Intellectual Property Rights. Nothing in this Agreement shall be construed to grant to either Party any rights in the trademarks, service marks, trade names or other intellectual property of the other Party.

8. Confidentiality. County shall not, during the term of this Agreement and for a period of five (5) years after the expiration or termination of this Agreement, disclose to any third party (other than employees of County on a need-to-know basis and County's attorneys and accountants who need to know such information in connection with their performance of professional services for County) any of the financial arrangements described in Section 1 above. County shall ensure that each person receiving or otherwise having access to such information complies with the restrictions contained in this Section. Notwithstanding the foregoing, the provisions of this Section 8 shall not apply to the extent of any such information:

(a) becomes generally available to the public (other than as a result of a direct or indirect disclosure by County);

(b) becomes available to County on a non-confidential basis from a source which is entitled to disclose it; or

(c) is required to be disclosed in order to comply with applicable law, including, but not limited to, the Kentucky Open Records Act, provided that prior to making any disclosure contemplated by this Section 8(c), County shall notify CCNA of the disclosure requirement so as to give CCNA a reasonable opportunity to contest such requirement.

CCNA shall be entitled to an injunction or injunctions to prevent breaches of any provisions of this Section and may specifically enforce such provisions in any action instituted in any court having appropriate jurisdiction. These specific remedies are in addition to any other remedy to which CCNA may be entitled at law or in equity.

9. Miscellaneous.

(a) CCNA and County shall at all times be independent parties. Neither Party is an employee, joint venturer, franchisee, agent, or partner of the other; neither Party is authorized to assume or create any obligations or liabilities, express or implied, on behalf of or in the name of the other. This Agreement does not create a lender-borrower relationship. The employees, methods, facilities and equipment of each Party shall at all times be under the exclusive direction and control of that Party. CCNA has no obligation to provide County with any business registrations, permits or licenses required to perform this Agreement. County shall be solely responsible for obtaining and maintaining all registrations, permits or licenses required for it to perform this Agreement.

(b) The failure of a Party to insist, in any one or more instances, upon performance of any term, covenant or condition of this Agreement shall not be construed as a waiver or a relinquishment of any right granted hereunder or of the future performance of any such term, covenant or condition.

(c) All notices, demands, and other communications under this Agreement or in connection herewith shall be in writing and be transmitted by United States first class mail or overnight courier to the following address (as applicable):

If to CCNA:

Carton Council of North America, Inc.
3300 Airport Road
Denton, TX 76207
Attn: Edward Klein

If to County:

Lexington Fayette Urban County Government
200 East Main Street
Lexington, KY 40507
Attn: Tracey Turner Thurman

Each notice or other communication that satisfies the requirements set forth above shall be deemed to have been properly given or delivered (i) on the fifth business day after being mailed by United States first class mail, return receipt requested, postage prepaid or (ii) on the first business day after being deposited with a national overnight courier. CCNA or County may elect to receive notices or communications at a different address by notifying the other in accordance with the preceding requirements.

(d) If any provision of this Agreement is held to be invalid or unenforceable for any reason, the Parties acknowledge and agree that (i) such invalidity or unenforceability shall not affect any other provision of this Agreement, (ii) the remaining terms, covenants and conditions hereof shall remain in full force and effect, and (iii) any court of competent jurisdiction may so modify the objectionable provision as to make it valid and enforceable.

(e) This Agreement may only be modified, supplemented or amended by an agreement in writing signed by the Parties.

(f) This Agreement shall be governed by and construed in accordance with the internal laws of the Commonwealth of Kentucky, without regard to conflicts of law principles.

(g) This Agreement shall be binding upon, inure to the benefit of and be enforceable by and against CCNA, its successors and assigns, and County, its successors and assigns. Notwithstanding the foregoing, County may not delegate or assign, in whole or in part, all or any portion of its rights and/or obligations hereunder without the prior written consent of CCNA.

(h) This Agreement, which includes the Preamble and Recital above and Exhibit A hereto (all of which are incorporated herein by reference), sets forth the entire agreement of the Parties with respect to its subject matter and supersedes any prior agreements between the Parties with respect to its subject matter.

(i) Headings contained in this Agreement are inserted for purposes of convenience of reference only and shall not constitute a part of this Agreement.

(j) This Agreement may be executed in counterparts, each of which shall be deemed an original and both of which, taken together, shall constitute one and the same instrument. Signatures for the Parties transmitted by facsimile or other electronic means shall be deemed to be their original signatures for any purpose whatsoever.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

CARTON COUNCIL OF NORTH
AMERICA, INC.

By: _____

Print Name: _____

Title: _____

Date: _____

By: _____

Print Name: _____

Title: _____

Date: _____

LEXINGTON FAYETTE URBAN COUNTY
GOVERNMENT

By: _____

Print Name: _____

Title: _____

Date: _____

Exhibit A – Equipment; Notification Tasks

General Description of the Equipment:

- Dual-eject optical sorter complete with all necessary ancillary mechanical and electrical equipment to separate PET and fiber materials from the container line material stream. The optically sorted fiber stream will be directed to a manual quality control station where a) fiber items are to be negatively sorted and conveyed to the mixed paper storage bunker, b) aseptic and gable top cartons are to be positively sorted and directed / conveyed to their storage bunker by manual sorter; and c) trash items are to be positively picked and directed to an existing trash conveyor for disposal. Materials not optically sorted are to be conveyed to the existing container line. The optical sorter will be able to process up to an average input of 5 tons per hour

Notification Tasks:

- County shall update its website(s) and all of its public-facing informational materials to show that gable top and aseptic food and beverage cartons are accepted for recycling at the Facility.
- County shall provide documentation to CCNA, in a form acceptable to CCNA, confirming that all communities referenced below have been notified via email and/or letter of the acceptance of Post-Consumer Cartons at the Facility. County shall also use commercially reasonable efforts to cause the websites for such communities (to the extent such websites exist) to be updated to show carton acceptance in the recycling stream, and CCNA will make itself available to County to provide commercially reasonable assistance in connection with such efforts.

Communities:

- Anderson County
- Boyle County
- Clark County
- Franklin County
- Harrison County
- Jessamine County
- Madison County
- Lexington Fayette Urban County Government
- Lawrenceburg City
- Danville City
- Junction City
- Perryville City
- Winchester City
- Lexington City
- Frankfort City
- Berry City
- Cynthiana City
- High Bridge CDP
- Nicholasville City
- Wilmore City
- Berea City
- Richmond City
- Any other municipalities and/or their contracted hauler delivering recyclables to the Facility for processing.