

## INCENTIVE AGREEMENT

**THIS INCENTIVE AGREEMENT** (“Incentive Agreement”) for funds related to economic development through the creation and retention of certain existing jobs, dated as of ~~January~~, 2016 is made by and between:

April 21

**Lexington-Fayette Urban County Government,**  
an urban county government pursuant to KRS Chapter 67A  
200 East Main Street  
Lexington, Kentucky 40507 (“LFUCG”)

and

**Love Will Inc. (D/B/AFluent)**  
a Delaware Corporation registered to do business in Kentucky  
498 Georgetown Street  
Lexington, KY 40508

(“Company”)

### Recital

This Incentive Agreement provides for a forgivable Incentive in the amount of ninety thousand dollars (**\$90,000.00**) from LFUCG to the Company pursuant to Ordinance No. 153-2013 and its Jobs Fund Program. In order to induce LFUCG to enter into this Incentive Agreement and provide the Incentive, the Company is willing and desires to make the warranties, covenants, and agreements contained and set forth herein.

### SECTION 1 Definitions

As used in this Agreement:

“Accountant” shall mean the certified public accountant or firm of certified public accountants acting as the Company’s accountant.

An “Affiliate” of, or a Person “Affiliated” with, a specified Person, is a Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the Person specified.

“Activation Period” shall mean the date certain that the Company has met the requirements of and have executed Exhibit A, which is attached hereto and incorporated herein by reference.

“Application” shall mean the Company’s application for funding under LFUCG’s Job Funding Program, which is attached hereto as Exhibit B and incorporated herein by reference.

“Compliance” shall mean the Company maintains the Jobs Requirement and Wage Requirement and otherwise complies with the provisions of this Agreement.

“Disbursement” shall mean the distribution of proceeds of the Incentive by LFUCG to Company;

“Employee” shall mean a Kentucky resident who maintains a permanent, Full-Time Job (as further defined herein at the Project Site, which shall be located in Fayette County, Kentucky, as opposed a part-time employee or independent contractor.

“Event of Default” shall mean the happening of any one or more of the events which constitute an event of default under Section 6 of this Incentive Agreement.

“Full Time Job” shall mean a job held by a person employed in the capacity provided in the Application (Exhibit B) for a minimum of thirty-five (35) hours per week and subject to the Kentucky Individual Income Tax imposed by KRS 141.020 and the local occupational license fee.

“Incentive” shall mean the Incentive in the principal amount set forth Section 2 of this Agreement.

“Incentive Documents” shall mean this Incentive Agreement, the Application and Exhibits to this Agreement, and all other instruments or agreements related thereto.

“Jobs Requirement” shall have the meaning set forth in Section 4.9 hereof;

“LFUCG” shall mean the Lexington-Fayette Urban County Government, an urban county government of the Commonwealth of Kentucky created pursuant to KRS chapter 67A.

“Note” shall mean the promissory note attached as Exhibit C to this Agreement, and shall include any renewal, replacement, extension, or notation thereof.

“Person” shall mean any person, firm, trust, corporation, partnership, limited liability company, business organization, or other entity.

“Project” shall mean the certain project consisting of the Company’s acquisition, construction, equipping, and staffing of a facility within Fayette County, Kentucky.

“Project Site” shall mean the facility located at 498 Georgetown St., Lexington, KY 40508 together with all improvements and fixtures attached thereto.

“Repayment Penalty” shall mean the repayment required in the Event of a default as further defined in Section 4.9 of this Agreement.

“Request for Disbursement” shall mean a written request to the LFUCG for the making of a disbursement of the proceeds of the Incentive, in form, substance, and detail satisfactory to the LFUCG.

Insert security section

## SECTION 2 The Incentive

LFUCG agrees to provide to the Company the Incentive funds in accordance with the terms and conditions of the Incentive Documents, as follows:

2.1 Amount. The principal amount of the Incentive shall be Ninety Thousand dollars (**\$90,000.00**) as further evidenced by the Note attached hereto and made a part hereof as Exhibit C.

2.2 Interest. The Incentive and any interest are forgivable in the event the Company is fully compliant. However, should an Event of Default occur under the terms of this Agreement interest will be assessed at a minimum of two and seventeenth hundredths (2.17%) of the outstanding Incentive and, additional interest in an amount of three percentage points (3%) may be assessed at the sole discretion of LFUCG.

2.3 Disbursement. Disbursements of proceeds of the Incentive shall be made by the LFUCG to the Company upon an offer to hire. One draw of ninety thousand dollars (\$90,000.00) upon (i) execution of this Agreement by each of the respective parties hereto, (ii) the full performance by Company of each of the conditions precedent to the Incentive set forth in Section 8 of this Agreement and in each of the other Incentive Documents, and (iii) upon the receipt by LFUCG of a properly completed and executed Request for Disbursement, not less than ten (10) days prior to the date requested for the disbursement, to which shall be attached a document verifying the hiring of the positions for which the disbursement is requested and of any other supporting documentation requested by the LFUCG. The Company may request the first disbursement after the execution of the Incentive Agreement and all Exhibits.

2.4 Payments. The Company shall have the right at any time without penalty to prepay the Note in whole or in part. Any payments received shall reduce the amount used for calculation of penalty payments. The Guarantors shall be personally liable for the repayment of the proceeds in an Event of Default.

2.5 Late Charges. If the Company fails to pay any installment of payment due pursuant to this agreement or interest required under within fifteen (15) days after the date such payment first becomes due, the Company shall pay to LFUCG a late charge equal to five percent (5%) of such payment.

SECTION 3  
Security

The Note and the Incentive evidenced thereby are and shall be secured by and entitled to the benefits of the Security, which is in the form of the Guaranty, which is attached hereto and incorporated herein by reference as Exhibit D, which shall be delivered simultaneously with the execution of this Incentive Agreement by the Guarantors.

SECTION 4  
General Covenants

The Company agrees that, until the terms of this Agreement are fulfilled, it shall perform, observe, and comply with each of the following:

4.1 Mergers, Sales, Transfers, Redemptions, and Other Dispositions of Assets, or Dissolution. The Company shall not, without the prior written consent of LFUCG (which consent shall not be unreasonably withheld):

- (a) Liquidate or dissolve or take any action with a view toward liquidation or dissolution;
- (b) Substantially cease its business operations at the Project Site; or
- (c) Enter into any agreement for the assumption of the Incentive by any other Person.
- (d) Undertake a change in majority ownership, management, or control.

4.2 Financial Statements and Business Records. The Company shall keep true and complete financial records prepared with generally accepted accounting principles consistently applied, and keep business records in accordance with good business practices in the industry. Upon LFUCG's request or the request of its Economic Development Investment Board at reasonable times and places, the Company shall make its business records available to LFUCG for inspection on a confidential basis. During the term of the Incentive, the Company shall furnish to LFUCG annual financial reports prepared by the Accountant in a form satisfactory to LFUCG. With the annual report, the Company shall include a cover letter stating its average annual employment at the Project Site. Insofar as is possible under applicable laws, the financial reports and annual report ("Information") shall be deemed confidential business information and shall be treated by LFUCG as exempt from inspection under the Kentucky Open Records Act as records confidentially disclosed to it under KRS 61.878.

4.3 Designation of Agent. The Company shall at all times have a properly designated agent to accept service of process who is a resident of or has offices in the Commonwealth of Kentucky. The Company shall notify LFUCG of the name and address of such agent and of any change in the name or address of such agent.

4.4 Taxes and Other Obligations. The Company shall pay, before any of them becomes in arrears, all taxes, assessments, governmental charges, levies, and any other claims (for example, for labor, materials, or supplies) which, if unpaid, might become a lien or charge upon the Project Site or any other of the Company's property, unless the Company is contesting the same in good faith and has posted a bond protecting the same in such form and amount and with such parties as may be approved by LFUCG.

4.5 Use of Incentive Proceeds. The proceeds of the Incentive shall be used exclusively for the purposes described in the Application.

4.6 Properties and Insurance. The Company shall maintain its real property, buildings, and other fixed assets located at the Project Site in good condition, subject only to normal wear and tear, and make all necessary and proper repairs, renewals, and replacements, and shall comply with all material provisions of leases and other material agreements in order to prevent loss or forfeiture. All real property, personal property, or collateral located at the Project Site is and will remain insured against loss during the life of the Incentive. The Company shall provide LFUCG with a copy of the current insurance policy for the building and other fixed assets upon request. Failure to maintain insurance coverage as set forth herein shall constitute an Event of Default as set forth in Section 7 hereof.

4.7 Entity Existence. The Company shall preserve its entity existence as a corporation and shall be and remain qualified to do business in Kentucky and in all states in which it is required to be so qualified or in which the failure to be so qualified would have a material adverse effect on its ability to meet its obligations hereunder.

4.8 Compliance with Law. The Company shall comply in all material respects with all valid and applicable statutes, rules, and regulations of the United States of America, of the States thereof and their counties, municipalities, and other subdivisions, and of any other jurisdiction applicable to it, and the provisions of licenses issued to it, except where non-compliance (a) would not have a material adverse effect on the Company's ability to meet its obligations hereunder, or (b) shall be currently contested in good faith by appropriate proceedings, timely instituted, which shall operate to stay any order with respect to noncompliance.

4.9 Employment. The Company agrees to create at least one (1) new Full Time Jobs at the Project Site by the execution of this agreement, and further agrees to maintain said jobs through year ten (10) ("Jobs Requirement") as further provided in the Application and certified in the compliance form (Schedule 1 to Exhibit D). Failure to create and maintain said Full Time Jobs for each year as herein provided shall

constitute an Event of Default as set forth in this Agreement and may result, in LFUCG's sole discretion: (i) in repayment of Incentive funds as further provided herein (the "Repayment Penalty", (ii) the assessment of an interest penalty at the rate provided in Section 2.2 of this Agreement, or (iii) or both. The Repayment Penalty shall be calculated in accordance with the formula provided in Section 4.10, below as the percentage of Jobs not created multiplied by the total unforgiven principal of the Incentive Proceeds to LFUCG for each new Full Time Job not so created or maintained for each year that the Jobs Requirement is not met, or (if less) the amount of outstanding principal, said sum to be applied against outstanding principal. If at any time after activation period referenced herein has elapsed, it is determined by the LFUCG that the employment conditions contained herein have not been met, then at that time, LFUCG may assess the Company the funds due it per the foregoing formula and, also, in its sole discretion, assess the interest rate as set forth above as a penalty. The Company hereby agrees to provide, on a confidential basis (except as to information disclosed on the public website of LFUCG as to all projects approved by LFUCG), any additional employment information to LFUCG which LFUCG reasonably deems necessary to determine the Company's compliance with the Jobs Requirement. If during the initial five (5) years of this Agreement, the Company fails to establish and/or maintain any of the Required Jobs (i.e., none of the jobs are created or maintained) for a period of time exceeding twelve months, LFUCG, in its sole discretion, may require that Company repay the entire amount of the Incentive immediately, with any applicable interest penalty.

4.10 Wage Requirement. In addition to the requirement in Section 4.9, above, the Company acknowledges and agrees that the newly created Full Time Jobs must pay annual mean average wages of at least **\$43.27 per hour**, exclusive of benefits or other forms of compensation, including, but not limited to, bonuses and commissions (referred to as the "Wage Requirement"). As evidence of compliance with Sections 4.9 and 4.10 herein, the Company agrees to provide, on a confidential basis (except as to information disclosed on the public website of LFUCG as to all projects approved by LFUCG), an employee roster as of one (1) year from the execution of the agreement, and each year thereafter, which shall include the wages for each individual employee who holds a new Full Time Job at the Project Site (Schedule 1 to Exhibit D). The LFUCG may request additional compliance reports as necessary.

Failure to maintain the Wage Requirement (or Jobs Requirement) each year will result in a repayment by the Company to LFUCG of a proportionate amount of the Incentive, for each job that fails to meet the Wage Requirement as follows:

$$\frac{(\$43.27 \text{ minus Actual Annual Avg Wage}) \times \$90,000.00}{\$43.27 \text{ Years remaining}}$$

Positions that are not filled shall be calculated at a salary of \$0.00 for the calculation of the Actual Annual Average Wage. Positions that are filled shall be calculated at their hourly salary exclusive of benefits for the calculation of the Actual Annual Average Wage.

The Incentive Amount is \$90,000.00 and that amount shall be used for the calculation of penalty payments. In the instance that some amount has been forgiven, the Incentive Amount shall be adjusted according to section 7.2 of this Agreement.

In the event the jobs created and maintained by the Company at the Project Site fail to satisfy the Jobs Requirement and/or the Wage Requirement as specified above, the applicable repayment shall be calculated by LFUCG in accordance with this Section 4.10, to be paid by the Company to LFUCG and shall be due and payable thirty (30) days after receipt of notice from LFUCG of the amount due based upon the LFUCG's calculation.

4.11 Shut Down Repayment. Should the Company close, shut down, or for any reason permanently cease operation of the Project during the term of this Agreement, the entire amount of the Incentive received by company hereunder, less any other repayments received by LFUCG pursuant to the terms of this Agreement shall be due and payable to the LFUCG immediately.

4.12 Right to Inspect. The LFUCG shall, at any time upon reasonable notice have the right to inspect any and all records relating to the Project and to inspect the Company's premises relating to the Project in order to determine compliance with the Jobs and Wage requirement as well as to monitor the progress of the Project.

4.13 Indemnification. The Company shall indemnify, defend, and save harmless the LFUCG and their boards, directors, officers, agents, and employees (the "Indemnities") from all loss, liability, or expense (including the fees and expenses of in-house or outside counsel) arising out of or in connection with the Company's execution and performance of this Agreement except in the case of any Indemnitee to the extent such loss, liability, or expense is due to the gross negligence or willful misconduct of such Indemnitee. The Company acknowledges that the foregoing indemnities shall survive the termination of this agreement.

## SECTION 5 Representations and Warranties

The Company hereby represents and warrants to LFUCG as follows (which warranties and representations shall be deemed to survive the execution of this Incentive Agreement):

5.1 Existence. The Company is a duly organized and validly corporation under the laws of the State of Delaware qualified to do business in Kentucky and in all other states in which it is required to be so qualified or in which the failure to be so qualified would have a material adverse affect on Company's ability to meet its obligations hereunder. The Company shall preserve its entity existence as a corporation and shall be and remain qualified to do business in Kentucky and in all states in which it is required to be so qualified or in which the failure to be so qualified would have a material adverse affect on its ability to meet its obligations hereunder. The Company

shall also preserve its entity existence as a corporation and shall be and remain qualified to do business in Fayette County, Kentucky.

5.2 Right to Act. The Company has the legal power, capacity, and right to execute and deliver all of the Incentive Documents to which it is a party, and to observe and perform all of the provisions of the Incentive Documents to which it is a party. Neither the Company's execution or delivery of the Incentive Documents, nor the performance or observance by the Company of the provisions of the Incentive Documents violates or any law applicable to it or otherwise constitute a default or a violation under, or result in the imposition of any lien under, or conflict with, or result in any breach of any of the provisions of, any existing contract or other obligation binding upon it or its property, with or without the passage of time or the giving of notice or both. The officer executing and delivering the Incentive Documents to which Company is a party on behalf of the Company has been duly authorized to do so, and the Incentive Documents to which it is a party referred to herein are legal, valid, and binding obligations of the Company enforceable in accordance with their respective terms, except to the extent enforceability thereof may be limited under applicable bankruptcy, moratorium, insolvency, or similar laws or by equitable principles.

5.3 Litigation and Taxes. No litigation or proceeding involving the Company is pending or overtly threatened in writing in any court or administrative agency, which would be reasonably likely to have a material adverse impact on the Company's financial condition or otherwise impair its ability to honor the commitments made herein (in each case after giving effect to applicable insurance coverage). The Company is not in default in the payment of any tax, nor is any assessment threatened in respect thereof (other than the assessment of ad valorem property taxes not yet due and payable), and has timely filed all federal, state, and local tax returns and has paid all taxes required to be paid therewith, except for matters being contested in good faith by appropriate proceedings, timely instituted.

5.4 Financial Statements. The Company's financial statements, heretofore furnished to LFUCG and/or its Economic Development Board, are true and complete in all material respects, have been prepared on the modified cash basis of accounting, omit no material contingent liabilities of any kind that are not disclosed or otherwise reflected therein, and fairly present its financial condition as of their dates and the results of the Company's operations for the respective fiscal period then ending. Since the date of their preparation, there has been no material adverse change in the Company's financial condition, properties, or businesses.

5.5 Default. No Event of Default exists under this Incentive Agreement, nor shall any such default begin to exist immediately after the execution and delivery hereof.

5.6 Last Dollar In. Consistent with the representations in the Application, the Company does represent and certify that the financial incentives being provided by the LFUCG are necessary for the expansion to occur and are the last funds received from a public or private entity for the creation of the jobs provided in Section 4.9, above.



## SECTION 6 Events of Default

Each of the following shall constitute an Event of Default under this Incentive Agreement:

6.1 Payments. The failure of the Company to comply with the provisions of Section 4.9 or 4.10, above, or to make payments of principal or interest as provided in those sections under this Incentive Agreement when same shall be due and payable and the continuation of such failure for fifteen (15) days after such payment first becomes due.

6.2 Covenants and Agreement. If the Company violates, fails, or omits to perform or observe any non-monetary covenant, agreement, condition, or other provision contained or referred to in, or any non-monetary default occurs under, the Incentive Documents to which it is a party, and such failure or omission shall not have been fully corrected within thirty (30) days (or such shorter grace period as may be provided in the particular instrument for the particular default) after LFUCG has given written notice thereof to the Company. Notice is considered given upon receipt.

6.3 Accuracy of Statements. If any representation, warranty, or other statement of fact contained herein, or in any of the other Incentive Documents to which Company is a party or in any writing, certificate, report, or statement at any time furnished to LFUCG pursuant to or in connection with this Incentive Agreement, or otherwise, shall be materially false or misleading in any respect or shall omit a material fact, whether or not made with knowledge of same.

6.4 Adverse Financial Change. If there should be any material adverse change in the financial condition of the Company, as determined in LFUCG's reasonable discretion, from its financial condition as shown on any financial statement supplied to LFUCG as referred to in Sections 4.2 or 5.4 of this Incentive Agreement, and such adverse change is not fully corrected to LFUCG's satisfaction within thirty (30) days after written notice with respect thereto is provided to the Company from LFUCG.

6.5 Dissolution or Termination of Existence. If the Company or any person, firm, or corporation controlling the Company takes any action that is intended to result in the Company's termination, dissolution, or liquidation.

6.6 Solvency.

(a) If the Company shall (i) be adjudicated bankrupt, (ii) admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, or (iv) file a petition, or admit (by answer, default

or otherwise) the material allegations of any petition filed against it, in bankruptcy under the federal bankruptcy laws (as in effect on the date this Incentive Agreement, or as they may be amended from time to time), or under any other law for the relief of debtors, or for the discharge, arrangement or compromise of their debts.

(b) If a petition shall have been filed against the Company in proceedings under the federal bankruptcy laws (in effect on the day of this Incentive Agreement, or as they may be amended from time to time) or under any other laws for the relief of debtors, or for the discharge, arrangement, or compromise of their debts, or any order shall be entered by any court of competent jurisdiction appointing a receiver, trustee, or liquidator of all or any material part of the Company's assets, and such petition or order is not dismissed or stayed within thirty (30) consecutive days after entry thereof.

6.7 Other Defaults. If any event would give another Person or entity the right to accelerate payments of material indebtedness for borrowed money or to proceed against the Project Site.

6.8 Incentive Documents. For any reason, any of the Incentive Documents to which Company is a party shall cease to be in full force and effect, or shall be declared null and void, or shall be contested by the Company as to the validity or enforceability thereof.

## SECTION 7 Remedies Upon Default

Notwithstanding any contrary provisions or inference herein or elsewhere:

7.1 Acceleration; Assessment of Interest Rate. If any Event of Default shall occur under this Agreement, LFUCG shall have the right, in its sole discretion, to declare the amount of any Repayment Penalty to be immediately due and payable, along with interest as provided in Section 2.2 of this Agreement.

7.2 Forgivability of Principal. The full principal amount of the outstanding Incentive proceeds received by company will be considered repayable in an event of default; provided, however, that once the Company is in compliance with the requirements of this Incentive Agreement for a period of five consecutive years, the principal amount shall be reduced and forgiven by nine thousand dollars (\$9,000.00) each year thereafter that the Company remains in compliance beginning with the start of year 6 of this Incentive Agreement. For example, if the Company remains in compliance for years 1-5 of the Incentive Agreement, the principal amount shall be reduced to \$81,000.00 at the beginning of year 6. If the Company remains in compliance for the entire term of this Incentive Agreement, the entire remaining principal amount shall be forgiven at the end of year 10.

7.3 Exercise of Remedies. The rights and remedies of LFUCG under the Incentive Documents shall be deemed to be cumulative and shall be in addition to all those rights and remedies afforded to LFUCG at law or in equity. Any exercise of any rights or remedies shall not be deemed to be an election of that right or remedy to the exclusion of any other right or remedy.

## SECTION 8 Conditions Precedent

LFUCG's obligation to make the Incentive shall be conditioned upon the fulfillment of the following conditions prior to the making of such Incentive:

8.1 Representations, Warranties, and Covenants. Each and every representation, warranty, and covenant made by or on behalf of the Company in its application to LFUCG or relating to any of the Incentive Documents to which it is a party or instruments or transactions contemplated thereby shall be true, complete, and correct on and as of the date the Incentive is made and shall be so evidenced by a certificate executed by the Company's duly authorized officer, to be dated and delivered to LFUCG as of the closing date of this Incentive.

8.2 No Defaults. There shall exist no Event of Default and no event which, with the giving of any notice or the passage of any period of time, constitutes an Event of Default.

8.3 Compliance. The Company shall have observed or complied with all provisions of this Incentive Agreement.

8.4 Incentive Documents. The LFUCG and the Company shall have observed or complied with all provisions of this Agreement, as the same apply to each.

8.5 Insurance Policy. The Company shall have submitted to LFUCG a copy of an applicable certificate, in customary form, with respect to the current insurance coverage on the Project Site.

8.6 Employment Waiver and Authorization. The Company hereby authorizes LFUCG to request that the Office of Employment and Training within the Department for Workforce Investment ("OET") furnish to LFUCG, on a confidential basis (except as to information disclosed on the public website of LFUCG as to all projects approved by LFUCG), all information in the possession of OET concerning the number of people employed by the Company at the Project Site, and the number of hours worked by those employees. This authorization shall terminate upon the earlier of satisfactory completion of the Jobs Requirement or upon termination of this Incentive Agreement. The Company hereby releases OET from any and all responsibility for disclosing to LFUCG the information requested in connection with this Incentive Agreement.

8.7 LFUCG Approval. The LFUCG shall have supplied copies of any resolutions or ordinances authorizing the LFUCG's participation in the Incentive and execution of the Incentive Documents.

8.8 Corporate Existence and Authorization. The Company shall provide, at the request of the LFUCG, an original Certificate of Good Standing or equivalent from the Delaware Secretary of State's Office and copies of its Articles of Incorporation, and any amendments thereto. The company shall also provide at the request of the LFUCG a Certificate of Authority from the Kentucky Secretary of State's Office.

8.9 Successors and Assigns. Except as otherwise expressly provided herein, the terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of the parties hereto. This provision shall not be construed to permit assignment by the LFUCG or the Company of any of their respective rights and duties under this Agreement or the other Incentive Documents.

## SECTION 9 Interpretation

9.1 No Waivers; Multiple Exercise of Rights. No course of dealing in respect of, nor any omission or delay in the exercise of, any right, power, remedy, or privilege by LFUCG shall operate as a waiver thereof, nor shall any right, power, remedy, or privilege of LFUCG be exclusive of any other right, power, remedy, or privilege referred to herein or in any related document now or hereafter available at law, in equity, in bankruptcy, by statute, or otherwise. Each such right, power, remedy, or privilege may be exercised by LFUCG, and as often and in such order as LFUCG may deem expedient.

9.2 Time of the Essence. Time shall be of the essence in the performance of all the Company's obligations under the Incentive Documents and the other instruments related hereto.

9.3 Binding Effect. The provisions of this Incentive Agreement shall bind and benefit the Company and LFUCG and their respective successors and assigns, including each subsequent holder, if any; provided, however, that this paragraph shall not be construed to permit the assignment by the Company of its rights and obligations under this Incentive Agreement without LFUCG's prior written consent.

9.4 Headings. The headings used in this Incentive Agreement are for convenience of reference only, and shall not be considered in the interpretation or construction of this Incentive Agreement.

9.5 Governing Law. The Incentive Documents and the respective rights and obligations of the parties hereto shall be construed in accordance with and governed by the laws of the Commonwealth of Kentucky.

9.6 Jurisdiction and Venue. The parties hereto agree that any suit, action, or proceeding with respect to this Incentive Agreement may only be brought in or entered by, as the case may be, (a) the courts of the Commonwealth of Kentucky situated in Lexington, Fayette County, Kentucky, and the parties hereby submit to the jurisdiction of such court for the purpose of any such suit, action, proceeding, or judgment and waive any other preferential jurisdiction by reason of domicile. The parties hereby irrevocably waive any objection that they may now or hereafter have to the laying of venue of any suit, action, or proceeding arising out of or related to this Incentive Agreement and the Incentive Documents to which Company is a party brought in the Courts of the Commonwealth of Kentucky situated in Lexington, Fayette County, Kentucky and also hereby irrevocably waive any claim that any such suit, action, or proceeding brought in any one of the above-described courts has been brought in an inconvenient forum.

9.7 Complete Agreement. This Incentive Agreement and the other instruments referred to herein contain the entire agreement of the parties pertaining to its subject matter and supersede all prior written and oral agreements pertaining hereto.

9.8 Assignments or Modifications. The Company may not assign its rights under this Incentive Agreement to any other party without the prior written consent of the LFUCG, which consent shall not be unreasonably withheld or delayed. This Incentive Agreement may be modified only in a writing executed by LFUCG and the Company.

9.9 Severability. If any part, term, or provision of this Incentive Agreement is held by any court to be unenforceable or prohibited by any law applicable to this Incentive Agreement, the rights and obligations of the parties shall be construed and enforced with that part, term, or provision limited so as to make it enforceable to the greatest extent allowed by law, or, if it is totally unenforceable, as if this Incentive Agreement did not contain that particular part, term, or provision.

SECTION 10  
Notices

Any notice required or permitted to be given under this Incentive Agreement shall be in writing and shall be deemed sufficiently given for all purposes if sent by registered mail, postage pre-paid and return receipt requested, or by electronic mail, in each case addressed to the intended recipient (a) as follows:

If to LFUCG:	Chief Development Officer Lexington-Fayette Urban County Government 200 East Main Street Lexington, KY 40507 ATTN: Kevin Atkins
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If to the Company:	<b>Fluent</b>
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498 Georgetown Street  
Lexington, KY 40508  
ATTN: Lamar Wilson

or (b) such other address which any party hereto may specify by written notice to the other party in accordance with the terms of this Section 10, including electronic mail addresses as designated from time to time. Any registered mail notice shall be deemed effective as of three (3) business days after the mailing date of said notice.

SECTION 11  
Survival of Covenants, Agreements,  
Warranties, and Representations

All covenants, agreements, warranties, and representations made by the Company herein shall survive the making of the Incentive and the execution and delivery of the Incentive Documents.

SECTION 12  
Fees and Expenses;  
Costs of Enforcement

If any Event of Default shall occur under the Incentive Documents, the Company shall pay to LFUCG, to the extent allowable by applicable law, such amounts as shall be sufficient to reimburse LFUCG fully for all of its costs and expenses incurred in enforcing its rights and remedies under the Incentive Documents, including without limitation LFUCG's reasonable legal fees and court costs. Such amounts shall be deemed evidenced by and secured by all the Incentive Documents.

SECTION 13  
Miscellaneous Provisions

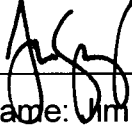
13.1 Term of Incentive Agreement. The term of this Incentive Agreement shall commence as of the Activation Period , and continue until the first date on which the Incentive and all accrued but unpaid interest thereon shall have been paid in full and the Company shall have paid or performed all its other obligations hereunder.

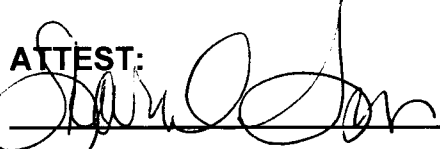
13.2 Incorporation by Reference. All exhibits, schedules, annexes, or other attachments to this Incentive Agreement are incorporated into this Incentive Agreement as if set out in full in the first place that reference is made thereto.

13.3 Multiple Counterparts. This Incentive Agreement may be signed by each party upon a separate copy, and in such case one counterpart of this Incentive Agreement shall consist of a sufficient number of such copies to reflect the signature of each party.


13.4 Waivers by the Company. The Company hereby waives, to the extent permitted by applicable law, (a) all presentments, demands for performance, notices of nonperformance, protests, notices of protest, and notices of dishonor in connection with; and, (b) any requirement of diligence or promptness on the part of LFUCG in enforcement of its rights under the provisions of the Incentive Documents.


**LEXINGTON-FAYETTE URBAN  
COUNTY GOVERNMENT**

By:   
 Printed Name: Jim Gray  
 Title: Mayor

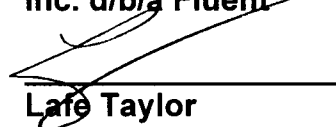
**ATTEST:**  
  
~~Martha Allen,~~  
 Deputy  
 Council Clerk

**COMPANY**

**Love Will, Inc. d/b/a Fluent**  
 By:   
 Printed Name: Lamar Wilson  
 Title: CEO

  
**Lamar Wilson**

**As personal Guarantor for Love Will,  
Inc. d/b/a Fluent**

  
**Lufe Taylor**

**As personal Guarantor for Love Will,  
Inc. d/b/a Fluent**

COMMONWEALTH OF KENTUCKY )  
 )  
 COUNTY OF Fayette )

The foregoing agreement was sworn to, subscribed and acknowledged before me on this 8 day of February, 2016, by Lufe Taylor as the Founder of Love Will, Inc. d/b/a Fluent, for and on behalf of said company, registered to do business in Kentucky.

  
 Notary Public  
 My commission expires: 12/12/2016

COMMONWEALTH OF KENTUCKY )  
 )  
 COUNTY OF Fayette )



The foregoing agreement was subscribed, sworn to and acknowledged before me on this 17 day of February, 2016 by Lamar Wilson, individually and as a guarantor.

*Anna Fogli*  
Notary Public  
My commission expires: 12/12/2014

COMMONWEALTH OF KENTUCKY )  
  )  
COUNTY OF Fayette )

The foregoing agreement was subscribed, sworn to and acknowledged before me on this 8<sup>th</sup> day of February, 2016 by Lefe Taylor, individually and as a guarantor

*Anna Fogli*  
Notary Public  
My commission expires: 12/12/2016

**EXHIBIT A**

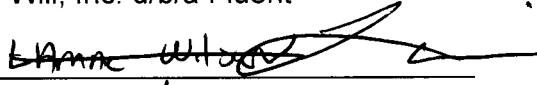
**Activation Certificate**

The undersigned, Lamar Wilson, in his/her capacity as CEO of Love Will Inc. d/b/a Fluent, a Delaware Corporation which is registered to do business in Kentucky (the "Company") hereby certifies that:

1. The Project at 498 Georgetown Street, Lexington, Kentucky 40508 in Fayette County, Kentucky, the expansion of which was facilitated in part by an incentive from the Lexington-Fayette Urban County Government (the "LFUCG") in the amount of ninety thousand dollars and zero cents (\$90,000.00) shall continue to be occupied by the Company for the life of the Incentive Agreement.
2. The Company will hire a total of one (1) new permanent full-time jobs, as defined in that certain Incentive Agreement by and among the Company and the LFUCG, and at least one (1) job has been created by the company on the Activation Date as set forth herein and further described in the Incentive Agreement.
3. The Company does request a disbursement of ninety thousand dollars and no cents (\$90,000.00) for operating expenses listed in the application.

IN WITNESS THEREOF, the undersigned has executed this certificate in his/her capacity as CEO of Love Will, Inc. d/b/a Fluent, a Delaware Corporation which is registered to do business in Kentucky on this 8 day of February, 2016.

Love Will, Inc. d/b/a Fluent

By:   
Printed Name: Lamar Wilson  
Title: CEO

COMMONWEALTH OF KENTUCKY )  
 ) SS  
COUNTY OF Fayette )

The foregoing Certificate was sworn to, subscribed and acknowledged before me on this 8th day of February, 2016, by Lamar Wilson as the CEO of Love Will, Inc. d/b/a Fluent, for and on behalf of said company, which is registered to do business in Kentucky.

Stephanie Elaine Stewart  
Notary Public

My commission expires: 11/18/2019

Love Will Inc., dba Fluent  
Incentive Agreement  
Exhibit B

Warning

The documents in Exhibit B contain exempt and proprietary information that is protected by open records law. These documents shall not be shared with the public or published to a public website without authorization from the Law Department.

## EXHIBIT C

### PROMISSORY NOTE

**Borrower:** Love Will, Inc. d/b/aFluent, 498 Georgetown Street,  
Lexington, KY 40508 (the "Borrower")  
**LFUCG:** Lexington-Fayette Urban County Government, 200 E. Main  
St, Lexington, KY, 40507 (the "LFUCG")  
**Principal Amount:** \$90,000.00 USD

1. FOR THE VALUE RECEIVED, The Borrower promises to pay to the LFUCG at such address as may be provided in writing to the Borrower, the principal advanced to Borrower pursuant to the terms of an Incentive Agreement dated of even date herewith (the "Incentive Agreement"), up to the maximum sum of NINETY THOUSAND DOLLARS (\$90,000.00) USD, with interest payable on the unpaid principal at a rate of two and seventeen one hundredths percent (2.17%) per annum and any applicable penalty, calculated monthly not in advance.
2. Notwithstanding paragraph 1, above, this note shall not accrue interest if the Borrower remains in compliance with the requirements of this Incentive Agreement nor shall the Borrower be required to make interest payments during periods of compliance.
3. The principal amount shall be reduced and forgiven by nine thousand dollars (\$9,000.00) each year thereafter that the Borrower remains in compliance beginning with the start of year 6 of the Incentive Agreement. If the Borrower remains in compliance for the entire term of the Incentive Agreement, the entire remaining principal amount shall be forgiven at the end of year 10.
4. At any time while not in default under this Note or the Incentive Agreement, the Borrower may pay the outstanding balance then owing under this Note, together with accrued interest thereon, to the LFUCG without further bonus or penalty.
5. All costs, expenses, and expenditures including, and without limitation, the complete legal costs incurred by the LFUCG in enforcing this Note or the Incentive Agreement as a result of any default by the Borrower, will be added to the principal then outstanding and will immediately be paid by the Borrower. In the case of the Borrower's default and the acceleration of the amount due by the LFUCG all amounts outstanding under this Note will bear interest of two and seventeen one hundredths percent (2.17%) per annum and any applicable penalty from the date of demand until paid.

6. If the Borrower defaults in payments after demand for thirty (30) days, the Security will be immediately provided to the LFUCG and the LFUCG is granted all rights of repossession as a secured party.
7. If any term, covenant, condition, or provision of this Note is held by a court of competent jurisdiction to be invalid, void, or unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable and the remainder of the provisions of this Note will in no way be affected, impaired, or invalidated as a result.
8. This Note will be construed in accordance with and governed by the laws of the Commonwealth of Kentucky.
9. This Note will ensure to the benefit of and be binding upon the respective heirs, executors, administrators, successors, and assigns of the Borrower and the LFUCG. The Borrower waives presentment for payment, notice of non-payment, protest, and notice of protest.

IN WITNESS THEREOF, the undersigned has executed this certificate in his/her capacity as CEO of Love Will, Inc. d/b/a Fluent, a Delaware Corporation registered to do business in Kentucky, on this 8 day of February, 2015.

Love Will, Inc. d/b/a Fluent

By: \_\_\_\_\_  
Printed Name: Lamar Wilson  
Title: CEO

COMMONWEALTH OF KENTUCKY     )  
  )  
COUNTY OF FAYETTE                            )

The foregoing instrument was sworn to, subscribed and acknowledged before me on this 8th day of February, 2016 by Lamar Wilson as the CEO Love Will, Inc. d/b/a Fluent, for and on behalf of said company, which is registered to do business in Kentucky.

Stephanie Elaine Stewart  
Notary Public  
My commission expires: 11/18/2019

COMMONWEALTH OF KENTUCKY )  
COUNTY OF Fayette )

The foregoing instrument was subscribed, sworn to and acknowledged before me on this 8th day of February, 2016 by Lamar Wilson, individually and as a guarantor.

Stephene Elaine Stewart  
Notary Public  
My commission expires: 11/18/19

COMMONWEALTH OF KENTUCKY )  
COUNTY OF Fayette )

The foregoing instrument was subscribed, sworn to and acknowledged before me on this 8 day of February, 2016 by Lafe Taylor, individually and as a guarantor

Lafe Taylor  
Notary Public  
My commission expires: 12/12/2016

## EXHIBIT D

### GUARANTY AGREEMENT

This is a personal guaranty by Lamar Wilson, whose mailing address is, 562 Huskins Dr. and Lafe Taylor, whose mailing address is 973 Apple Cross Dr. (the "Guarantors") running in favor of the Lexington-Fayette Urban County Government ("LFUCG") as security for the funds provided to Love Will Inc. d/b/a Fluent (the "Company") by LFUCG pursuant to the Incentive Agreement entered into by and between the Company and LFUCG on or about January \_\_, 2016.

WHEREAS, the Company which is authorized to do business in the Commonwealth of Kentucky, and has a mailing address of 498 Georgetown Street, Lexington, Kentucky 40508, desires to transact business with and to obtain incentive funding from LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, an urban county government of the Commonwealth of Kentucky created pursuant to KRS chapter 67A, whose mailing address is Lexington-Fayette Urban County Government, c/o Kevin Atkins, 200 East Main Street, Lexington, Kentucky 40507 ("LFUCG" or the "Government")), under the terms of the Incentive Agreement dated January \_\_, 2016 by and among LFUCG the Company, and the Guarantors (the "Incentive Agreement"), and as further evidenced by a promissory note in the principal amount of Ninety Thousand and N0/100 Dollars (\$90,000.00) (the "Note"); and

WHEREAS, LFUCG is unwilling to provide the incentive funds unless the undersigned Guarantors shall absolutely, unconditionally and jointly and severally guaranty to LFUCG the payment and performance of the obligations of the Company as set forth in the Incentive Agreement and the Note.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Guarantors, and to induce LFUCG from time to time, in its discretion, to extend or continue credit to the Company under the Incentive Agreement, and acknowledging that LFUCG in extending such credit shall rely on this Guaranty, Guarantors hereby for themselves and their respective heirs and assigns, personal representatives, successors (including, without limitation, by operation of law) and assigns, absolutely, and unconditionally guarantee to LFUCG, its successors and assigns, including each and every holder or owner of any obligations of the Company which are guaranteed hereby (each reference to LFUCG shall be construed to refer to each such holder or owner) as evidenced by the documents entered in connection with the Incentive Agreement and Note ("Company's Documents") as if the terms and conditions of each Company's Document have been restated herein in length, the prompt payment when due and at all times thereafter of any and all indebtedness and liabilities of the Company of every kind, nature, and character (including all renewals, extensions and modifications thereof, and whether created directly by LFUCG or



acquired by assignment or otherwise, whether joint or several, whether matured or unmatured, and whether absolute or contingent) to LFUCG under the Note, Incentive Agreement and other Company's Documents, including interest thereon as provided therein, reasonable attorneys' fees, and costs and expenses of collection incurred by LFUCG (all of which existing and future indebtedness of the Company to LFUCG are hereinafter collectively referred to as the "Obligations").

1. The maximum liability of the Guarantors under this Guaranty shall not exceed in the aggregate Ninety Thousand and No/100 Dollars (\$90,000.00), plus all accrued but unpaid interest, reasonable attorney's fees, and costs and expenses of collection of the Obligations.
2. This guaranty is an unconditional, absolute, and continuing guaranty and shall remain in full force and effect irrespective of any interruption of business relations between the Company and LFUCG.
- 3.
4. Anything contained in this Guaranty Agreement to the contrary notwithstanding, this Guaranty Agreement shall terminate upon the payment in full of the Obligations.
5. LFUCG shall have the right of immediate recourse against Guarantors for full and immediate payment of the Obligations at any time after the Obligations, or any part thereof, have not been paid in full according to the tenor and under the terms of the instrument governing such Obligations, whether on demand, at fixed maturity, or maturity accelerated by reason of a default.
6. The Guarantors' liability under this Guaranty Agreement shall be direct and immediate, and not conditional or contingent upon the pursuit of any remedies against the Company, any other Guarantors, or any other person, nor against any security or liens available to the holder of the Note for payment. If the Note is partially paid through LFUCG's election to pursue any of its remedies, or if the Note is otherwise partially paid, Guarantors shall remain liable for the entire unpaid principal balance of, and all accrued but unpaid interest on the Note and for the other Obligations.
7. This is a guaranty of payment, not of collection, and Guarantors therefore agree that LFUCG shall not be obligated prior to seeking recourse against or receiving payment from Guarantors, to any of the following (although LFCUG may do so, in whole or in part, at its sole option), all of which are hereby unconditionally waived by Guarantors:

- a. Take any steps whatsoever to collect from the Company or to file any claim of any kind against the Company;
  - b. Take any steps whatsoever to accept, perfect LFUCG's interest in, foreclose, realize on or deal in any manner with collateral security, if any, for the payment of the Obligations, or any other guaranty of the Obligations; or
  - c. In any other respect exercise any diligence whatever in collecting or attempting to collect any of the Obligations by any means. The liability of Guarantors for payment of the Obligations shall be absolute, and unconditional, and nothing whatsoever except actual full payment to LFUCG of all the Obligations shall operate to discharge Guarantors' liability hereunder. Accordingly, Guarantors unconditionally and irrevocably waives each and every defense which, under principles of guarantee or suretyship law, would otherwise operate to impair or diminish the liability of Guarantors.
8. Without limiting the generality of the foregoing, Guarantors agrees that none of the following shall diminish or impair the liability of Guarantors in any respect (all of which may be done without notice to Guarantors of any kind):
  - a. Any extension, modification, indulgence, compromise, settlement or variation of the terms of any of the Obligations, or of any agreement entered into with Guarantors or any other person liable for any part of the Obligations;
  - b. The voluntary or involuntary discharge or release of any of the Obligations, or of any Guarantors or other person liable therefore, by reason of bankruptcy or insolvency laws or otherwise;
  - c. The acceptance or release, with or without substitution, by LFUCG of any collateral security or other guaranty, or collateral security for such other guaranty, or any exchange, settlement, compromise or extension with respect to any collateral security, other guaranty or collateral security for such other guaranty;
  - d. The application or allocation by LFUCG of payments, collections or credits on any portion of the Obligations regardless of what portion of the Obligations remains unpaid;
  - e. The creation of any new Obligations covered by this guaranty or renewal of any existing Obligations, or the amendment or modification of any provision or term of the Incentive Agreement, Note

or any other Company's Document, with or without notice to Guarantors; or

f. The making of a demand, or absence of demand, for payment of the Obligations or giving, or failing to give, any notice of dishonor or protest or any other notice, including any notice regarding the disposition of any collateral acting as security for the incentive funding. Guarantors unconditionally waive:

i. Any subrogation of the rights of LFUCG against the Company, until all of the Obligations have been satisfied in full;

ii. Any acceptance of this guaranty; and

iii. Any set-offs of counterclaims against Lender which would impair Lender's rights against the Guarantors hereunder.

9. This guaranty shall inure to the benefit of LFUCG, its successors and assigns, including each and every holder or owner of any of the Obligations guaranteed hereby and this guaranty shall be deemed a separate contract with each such holder and owner.

10. It is expressly understood and agreed that LFUCG shall have the right to select, in its absolute discretion, the portion of the Obligations to which this guaranty will apply, regardless of what portion of the Obligations remains unpaid; LFUCG may, at its sole option, release another Guarantors and may proceed against any Guarantors hereunder without impairing the liability of any other Guarantors of the Obligations or the right of contribution among the Guarantors. Guarantors consents to personal jurisdiction in any court in which enforcement of this guaranty may be sought.

11. No invalidity, irregularity or unenforceability of all or any part of the Obligations hereby guaranteed or of any security thereof shall affect, impair or be a defense to this guaranty, and this guaranty is a joint and several, primary obligation of Guarantors.

12. Guarantors hereby grants to LFUCG a lien on and a continuing security interest in all instruments, documents, securities, cash, general intangibles, property, and the proceeds of any of the foregoing, owned by Guarantors or in which Guarantors have an interest, which now or hereafter are at any time in possession or control of LFUCG, or in transit by mail or carrier to or from Lender or in the possession of any third party on behalf of LFUCG, without regard to whether LFUCG received the same in pledge, for safekeeping, as agent for collection or

transmission or otherwise, or whether LFUCG had conditionally released the same, all of which shall at all times constitute additional security for the Obligations of the Company and the obligations of Guarantors hereunder, and all of which may be applied at any time without notice to the Company or to Guarantors to the Obligations of the company in such order as LFUCG may determine.

13. No amendment, modification or waiver of this Guaranty Agreement shall be deemed to be made by LFUCG unless in writing signed by an officer of LFUCG, and any such amendment, modification or waiver shall be strictly construed. No waiver by LFUCG shall be construed or deemed to be a waiver of any other provision or condition of this guaranty or a waiver of a subsequent breach of the same provision or condition.
14. If any Guarantors is a corporation or limited liability company, such Guarantors warrants and represents to LFUCG that it is duly organized and existing under the laws of the state of incorporation or organization and is in good standing in every other state in which it does business, that the execution, delivery and performance of this guaranty are within its corporate or company powers, have been duly authorized, are not in contravention of law or the terms of its articles, bylaws or operating agreement, or of any indenture, agreement or undertaking to which it is a party or by which it is bound, and that the execution of this guaranty is in furtherance of the business purposes of such operation. The invalidity or unenforceability of any one or more provisions of this Guaranty Agreement shall not impair the validity and enforceability of all of the other provisions of this Guaranty Agreement.
15. This Guaranty Agreement, and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the Commonwealth of Kentucky, and no defense given or allowed by the laws of any other state or country shall be interposed in any action hereon unless such defense is also given or allowed by the laws of the Commonwealth of Kentucky.
16. This Guaranty Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed on and the same Guaranty Agreement.

IN WITNESS WHEREOF, the undersigned Guarantors have executed this Guaranty Agreement, this 8 day of February, 2016.

  
\_\_\_\_\_  
Lefe Taylor

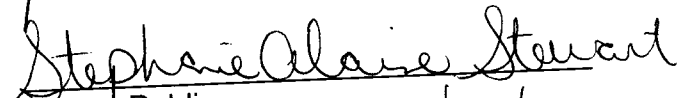
Individually and as personal  
Guarantor for Love Will, Inc. d/b/a  
Fluent



Lamar Wilson  
Individually and as personal  
Guarantor for Love Will, Inc. d/b/a  
Fluent

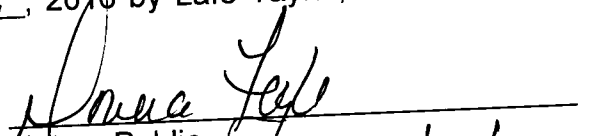
COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF Fayette )

The foregoing agreement was subscribed, sworn to and acknowledged  
before me on this 8<sup>th</sup> day of February, 2016 by Lamar Wilson, individually and  
as a guarantor.

  
Notary Public  
My commission expires: 11/18/2019

COMMONWEALTH OF KENTUCKY )  
 )  
COUNTY OF Fayette )

The foregoing agreement was subscribed, sworn to and acknowledged  
before me on this 8 day of February, 2016 by Lafe Taylor, individually and  
as a guarantor

  
Notary Public  
My commission expires: 12/12/2016