

AMENDED AND RESTATED

ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL AUTHORITY SERVICE
AGREEMENT

By and Among

THE COUNTY OF ALBEMARLE,
THE COUNTY OF NELSON

and

THE CITY OF CHARLOTTESVILLE

and

THE ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL AUTHORITY

AGREEMENT

THIS AMENDED AND RESTATED SERVICE AGREEMENT (the "Agreement") is made this _____ May 2022 by and among the COUNTY OF ALBEMARLE, the COUNTY OF NELSON and the CITY OF CHARLOTTESVILLE, all of which are political subdivisions of the Commonwealth of Virginia (collectively the "Member Jurisdictions"), and the ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL AUTHORITY (the "Authority").

RECITALS

WHEREAS, the Authority has been created to provide secure confinement, at the local level, for local and state-responsible inmates, and to enhance the public safety and welfare within the region for the protection of its citizens; and

WHEREAS, the Authority and Member Jurisdictions initially adopted a Service Agreement on November 15, 1995 with amendments adopted on March 12, 1998 and November 12, 1998 (together, the "Original Service Agreement"); and

WHEREAS, the Member Jurisdictions desire to amend and restate the Original Service Agreement containing the authority governing the parties' respective obligations.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I **Definitions**

The capitalized terms in this Agreement have the meanings set forth below unless the context otherwise requires.

"Annual Budget" has the meaning given to such term in Section 4.7.

"Applicable Laws" means all applicable laws, ordinances, judgments, decrees, injunctions, writs and orders of any court, arbitrator or governmental agency or authority and all rules, regulations, orders, interpretations, licenses and permits of any Federal, state, county, municipal, regional, foreign or other governmental body, instrumentality, agency or authority.

"Authority" means the Albemarle-Charlottesville Regional Jail Authority, as created by the Original Service.

"Authority Default" has the meaning given to such term in Section 9.1.

"Bonds" means revenue bonds issued by the Authority to finance or refinance the design, construction, equipping and other costs of the Jail and any additions or improvements thereto.
"Capital Expenses" means all costs, including but not limited to costs for architectural,

engineering, planning, legal, financial or other professional services; land acquisition, labor, materials and equipment, contractors' fees, utility connection and building permit fees, capitalized interest, and other charges incurred for demolition, excavation, construction, equipping, paving, or landscaping, incurred or required for building and otherwise completing any addition or renovation to the existing Jail, or for building any future replacement for the Jail. Unless the context clearly indicates otherwise, "Capital Expenses" shall also include "Debt Service."

"Debt Service" means the amounts of principal and interest payable by the Authority under any Obligations. The Member Jurisdictions shall reimburse the Authority for its Debt Service attributable to Capital Expenses, through the per diem rate paid by the Member Jurisdictions for their prisoners, and in accordance with the provisions of Section 5.1 below.

"Expenses" means all expenses which may reasonably be determined by the Authority to be attributable directly or indirectly to the ownership or operation of the Jail and payable as operating expenses in accordance with generally accepted accounting principles and shall also include debt service payments and other capital expenses, required payments to the Operating Reserve Fund established in Section 5.3, required payments to any debt service reserve established in connection with any Bonds and other reasonable or necessary payments required to comply with debt service coverage requirements imposed in connection with any Bonds in Section 5.3.

"Facilities Charge" and "Facilities Charges" means the amounts payable by the Member Jurisdictions as determined in accordance with the provisions of Section 5.1(a)(2).

"Facilities Charge Percentages" has the meaning given such term in Section 5.1 (a)(2)(ii).

"Fiscal Year" means the annual accounting period from July 1 of one year to June 30 of the following year.

"Jail" means the existing regional Joint Security Complex located at 1600 Avon Street Extended, Charlottesville, Virginia, together with any additions or improvements constructed and equipped by the Authority at that location or any future replacement for such facility at such other location as may be determined by the Authority.

"Member Jurisdiction" means the County of Albemarle, the City of Charlottesville, and the County of Nelson, each a political subdivision of the Commonwealth of Virginia, and any other political subdivision that may hereafter join the Authority, but excluding any political subdivision that may have withdrawn from the Authority, as provided in Section 6.7 and 6.8, respectively.

"Member Jurisdiction Default" has the meaning given to such term in Section 9.2.

"Net Debt Service" means the total annual Debt Service on Obligations, less any reimbursements for such Debt Service received from the Commonwealth of Virginia.

"Net Operating Expenses" means Operating Expenses reduced by an amount equal to revenue from (i) non-member jurisdictions (including the state or federal government),

- (ii) Operating Expenses of the Authority reimbursed by the Commonwealth of Virginia, and
- (iii) all other non-member revenue.

“Non-Member Jurisdictions” means political subdivisions or agencies thereof, including but not limited to, the federal government and the District of Columbia, which utilize the Jail.

“Non-Member Per Diem Rate” means the daily charge to Non-Member Jurisdictions for each Prisoner as determined from time to time by the Authority.

"Notes" means revenue anticipation notes issued by the Authority.

"Obligations" means any Notes, Bonds, lease financing obligations or other instruments of debt issued by the Authority to finance or refinance the Jail serving the Member Jurisdictions.

"Operating Expenses" means all expenditures for salaries, goods, services, utilities, routine maintenance and other items incurred by the Authority in the daily ownership and operation of the Jail, but excludes any Capital Expenses.

"Operating Reserve Fund" means the reserve fund established in Section 5.3.

“Per Diem Rate” means a uniform daily rate equal to Net Operating Expenses plus Debt Service for the relevant Fiscal Year divided by the total number of beds used by Member Jurisdictions in the preceding Fiscal Year divided by 365 or 366 days, as the case may be.

"Placed in Service" means the first day on which the Jail or any addition thereto has been certified by the appropriate authority of the Commonwealth to accept Prisoners.

"Prisoner(s)" has the meaning given in such term in Section 4.1.

ARTICLE II

Creation of

Authority

Section 2.1 Regional Jail Authority. By their approval and execution of this Agreement, the Member Jurisdictions hereby reaffirm the establishment in the Original Service Agreement of a regional jail authority pursuant to Chapter 3, Article 3.1 of Title 53.1 (Sections 53.1-95.2 et. seq.) of the Code of Virginia, as amended. The name of the Authority shall be the ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL AUTHORITY (the "Authority"). The principal office of the Authority shall be located at the Office of the Superintendent of the Albemarle-Charlottesville Joint Security Complex, 1600 Avon Street Extended, Charlottesville, Virginia 22902.

Section 2.2 Board. The powers of the Authority shall be exercised by a Board (the “Board”) consisting of eleven (11) members. Four members shall be from the City of Charlottesville, four members shall be from the County of Albemarle, and three members shall be from the County of Nelson. The first member from the City of Charlottesville, the

County of Albemarle, and the County of Nelson shall be its duly elected sheriff. The second member from the City of Charlottesville and the County of Albemarle shall be a currently serving member of the Jurisdiction's governing body appointed by the governing body. The second member from Nelson County shall be either a currently serving member of the Jurisdiction's governing body or a non-serving citizen of Nelson County. The third member from the City of Charlottesville, the County of Albemarle, and the County of Nelson shall be its current county executive, city manager or other chief executive officer, provided that such officers may designate other staff members to act as their alternates, who, if approved by their respective governing bodies, may attend and vote in place of the chief executives. The fourth member from the City of Charlottesville and the County of Albemarle shall be any other citizen of a Member Jurisdiction appointed by its governing body. The Sheriffs' service on the Authority shall be coterminous with their elected terms, and executive officers' terms shall be coterminous with their employment. Other members shall be appointed for three-year terms. Members may be removed by their appointing authorities for failure to attend meetings or for other sufficient cause. The membership of the Authority may be increased or decreased by joint agreement of the governing bodies of the Member Jurisdictions, subject to the limits imposed by applicable state statutes. Alternates may be appointed as provided by state law.

Any officer or employee of a Member Jurisdiction, appointed to the Board by that Member Jurisdiction, who ceases to hold office or be employed in the Member Jurisdiction shall vacate his or her seat on the Board, unless reappointed by the governing body of the Member Jurisdiction.

The Board shall establish bylaws governing the election of officers, the conduct and scheduling of meetings and giving notice thereof, and other procedural matters.

Section 2.3 Purpose of Authority. The purpose of the Authority shall be to operate the Jail and to finance, design, construct and operate additions or renovations to the existing jail facility, subject to all zoning and other legal requirements, as described in Article III of this Agreement. The general scope and nature of such improvements and additions and the estimated cost of designing, financing and constructing same are set forth in Section 3.1. It is anticipated that this Capital Expense will be financed through Obligations issued by the Authority, and that reimbursement of a portion of the annual Debt Service on these Obligations will be paid by the Commonwealth of Virginia.

Section 2.4 Powers of Authority. The Authority shall have all powers as set forth in Chapter 3, Article 3.1 of Title 53.1 (Sections 53.1-95.2 et. seq.) of the Code of Virginia, or its successor statutes, as amended from time to time, as well as all other powers conferred by state law upon regional jail authorities, and all powers necessarily and reasonably implied from such expressly granted powers.

Section 2.5 Future disposition of Jail Property. In the event the Authority is to be dissolved or its powers and obligations are to be transferred by operation of law to some other public entity, the Authority shall, if consistent with outstanding bond indentures or other obligations, convey all its real and personal property to such other entity for a consideration of One Dollar. In the event the Authority determines that the real estate and

improvements comprising present Jail property are no longer needed for jail purposes, the Authority shall reconvey the same to the County of Albemarle and the City of Charlottesville, and the County of Nelson or their successors and assigns, as tenants in common.

Section 2.6 Prior Agreement. This Agreement supersedes the Original Service Agreement and all other prior agreements and amendments. Any provision of such earlier agreement inconsistent with this Agreement shall be of no further effect upon the adoption of this Agreement by all of the parties hereto. The Member Jurisdictions agree to consider amending their existing ordinances, and taking such other actions as may be necessary to reflect the transfer of ownership of and responsibility for the Jail from the Regional Jail Board to the Authority consistent with this Agreement.

ARTICLE III

New Construction

Section 3.1 Construction of Jail Improvements. Any Obligations for future improvements to or expansion of the Jail shall require the approval of the governing bodies of each of the Member Jurisdictions.

ARTICLE IV

Provision of Services, Operation and Maintenance

Section 4.1 Acceptance of Prisoners. The Authority will accept Prisoners from each Member Jurisdiction (and to the extent space is available, from other jurisdictions, including the federal government and its agencies) who have been (i) duly arrested for committing a criminal offense and held over pending trial or (ii) duly convicted of committing a criminal offense and sentenced to a term of incarceration by a court having proper jurisdiction (the "Prisoners"). If the Jail is at capacity, as defined by the Authority, the Authority shall be responsible for securing alternative housing for all Prisoners from the Member Jurisdictions. The Authority shall first, however, have a duty to remove all Prisoners other than those from Member Jurisdictions from the Jail.

Section 4.2 Commitment of Prisoners. Each Member Jurisdiction agrees to offer to commit all of its Prisoners to the custody of the Authority. Each Member Jurisdiction's prisoners shall be defined as those persons being held for offenses committed in that jurisdiction. To encourage compliance with the provisions of this Section, each Member Jurisdiction hereby agrees that it will refuse to pay for the incarceration of any of its Prisoners committed to custody in any jail other than the Jail unless (i) the Jail is full, (ii) the Authority refuses to accept such Prisoner, (iii) commitment of such Prisoner to a correctional facility other than the Jail is ordered by a court of competent jurisdiction or (iv) a court of competent jurisdiction orders the Member Jurisdiction to make such payment.

Section 4.3 Transportation of Prisoners. Unless the Authority agrees otherwise, each Member Jurisdiction shall be responsible for the initial transportation of Prisoners from such Jurisdiction to the Jail for processing into the Jail population, and for transporting its prisoners from the Jail to court appearances and back. The Authority shall be responsible for transporting Prisoners for medical and dental care and other required purposes and for all costs, expenses and security relating to such Prisoners during transportation.

Section 4.4 Operation and Maintenance. The Authority will operate and maintain the Jail in accordance with all other Applicable Laws. The Authority shall be an equal opportunity employer.

Section 4.5 Insurance. The Authority will maintain hazard, liability or such other insurance as may be required by Applicable Law, or which the Authority may deem advisable.

Section 4.6 Annual Report. The Authority will provide to each Member Jurisdiction on or before each October 1 a report showing the activities of the Authority and its revenues, expenditures, and employee compensation schedules and other similar data for the preceding Fiscal Year.

Section 4.7 Annual Budget. The Authority will provide to each Member Jurisdiction on or before dates in the fiscal year specified by the Member Jurisdictions the Authority's preliminary Annual Budget for the next Fiscal Year and its final Annual Budget for the next Fiscal Year. For each Fiscal Year in which the Jail will be in operation, such Annual Budget shall set forth the Facilities Charge Percentage for each Member Jurisdiction, the Per Diem rate for each Prisoner committed to the Authority by the Member Jurisdictions, as well as the projected number of Prisoners from each Member Jurisdiction, all for the next Fiscal Year. The Authority agrees to set, and revise at least quarterly, if necessary, Facilities Charges that are sufficient to generate revenue adequate to pay Net Operating Expenses and Debt Service for the current Fiscal Year, and to fund any required reserves. Within ten days of any such revision the Authority shall notify each member Jurisdiction of the revised charges and payments required. Any such revision will be based on factors affecting the Jail's revenues or expenditures, including but not limited to changes in assumed or actual occupancy levels, operating expenses, State operating or capital cost reimbursement, and any nonpayment by any Member Jurisdiction or other jurisdiction housing prisoners at the Jail. The Authority will promptly provide copies of any amendments to its Annual Budget to each Member Jurisdiction.

Section 4.8 Books and Records. The Authority will maintain proper books of record and account in which proper entries shall be made in accordance with general accepted accounting principles for governmental bodies, consistently applied, of all of its business and affairs related to the Jail. The Authority shall have an annual audit conducted by an independent outside auditor, with copies being provided to the Member Jurisdictions.

All books of record and account documents in the Authority's possession relating to the Jail shall at all reasonable times be open to inspection by such agents or employees of the Member Jurisdictions as they may designate.

Section 4.9 Majority Required for Authority Decisions. A majority of the members of the Board shall constitute a quorum for the transaction of its business. An affirmative vote of a majority of the full membership of the Board shall be required to adopt the Annual Budget, to amend the Per Diem charges as set forth in Section 4.7, or to approve the creation of any Obligation or any other contract obligating the Authority for longer than one year. All other decisions of the Board may be made by affirmative vote of a majority of the members present and voting.

ARTICLE V
Payments

Section 5.1 Payment from Member Jurisdictions.

(a) Facilities Charges.

(1) In each Annual Budget, the Authority shall establish the Facilities Charge for the following Fiscal Year which shall be revised as necessary as provided in Section 4.7.

(2) The Facilities Charge shall be invoiced quarterly by the Authority 30 days in advance.

(A) The Member Jurisdictions agree to pay their ratable share of the Facilities Charge as budgeted by the Authority in accordance with the percentages established annually pursuant to this Section (the “Facilities Charge Percentages”) notwithstanding the actual number of Prisoners committed or expected to be committed, subject to Fiscal Year-end adjustment to reflect actual use.

(B) The Facilities Charge for each Member Jurisdiction shall be based upon the actual Prisoner count at the end of the fiscal year after reconciliation subject to Paragraph 5.7(a). For the period commencing on the date of this Agreement through the Fiscal Year ending June 30, 2022, the proposed Facilities Charge will be paid in accordance with the following percentages:

Member Jurisdiction	Estimated Bed Usage	Facilities Charge Percentage
Albemarle County		__%
City of Charlottesville		__%
Nelson County		__%
Total	_____	100.00%

(C) Beginning with the Fiscal Year that commences July 1, 2023, the budgeted Facilities Charge Percentages shall be adjusted each Fiscal Year to approximate the actual proportionate use of the Jail by the Member Jurisdictions as of the end of the immediately preceding Fiscal Year. Such actual proportionate use for each Member Jurisdiction shall be determined by a fraction the numerator of which shall be the number of Prisoner beds used by the Member Jurisdiction during

the immediately preceding Fiscal Year and the denominator of which shall be the total number of Prisoner beds used by all Member Jurisdictions in the immediately preceding Fiscal Year. Notwithstanding the foregoing, the Authority and the Member Jurisdictions may use such other method for annually adjusting budgeted Facilities Charge Percentages as may be mutually agreeable.

(3) If not paid when due, the Facilities Charge shall bear interest at $\frac{3}{4}\%$ per month until paid; provided, however, that this provision shall not apply in instances where Applicable Law prescribes some other due date or late payment charge.

(4) By the end of each [October] following the immediately preceding Fiscal Year, the Authority shall reconcile the total amount of each Member Jurisdiction's payments to reflect the amount each Member Jurisdiction should have paid during such year based upon actual proportionate use of the Jail and compare it to the amount paid by each Member Jurisdiction. Any Member Jurisdiction which has underpaid shall be notified by the Authority of the amount of the shortfall, which amount shall be paid as an additional sum in equal quarterly installments over the next Fiscal Year. Any Member Jurisdiction that has overpaid shall be entitled to a refund or a credit, as such Member Jurisdiction may elect, in the amount of such overpayment to be applied in equal quarterly installments over the next Fiscal Year; provided, however, no Member Jurisdiction shall be entitled to a full credit until such time as the Authority has received payment of all underpaid amounts. In the event the Authority receives a portion, but not all of the payments due for underpaid bills, the Authority shall apply the amount received ratably as a partial credit to the Member Jurisdictions which overpaid.

(b) If for any reason any new capital improvements to the Jail approved by the Member Jurisdiction but not ultimately placed in service, the Member Jurisdictions shall reimburse the Authority for all expenses, including debt service on the Authority's interim financings, not previously paid by the Member Jurisdictions pursuant to the percentages contained in the table in Section 5.1(a)(2): provided, however, that the payment required by any Member Jurisdiction, will be subject to the appropriation of funds for such purpose by the governing body of such Member Jurisdiction.

(c) If the Authority lacks sufficient funds to pay scheduled debt service on any Obligations, or to pay any debt service reserve funding requirements, the Authority shall promptly notify the Member Jurisdictions of the amount of each insufficiency. Upon such notification, each Member Jurisdiction agrees to pay, subject to the conditions contained in this paragraph, a portion of such deficit equal to its Facilities Charge Percentage then in effect for the then current Fiscal Year as determined pursuant to Section 5.1 (a)(2). Any such payment under this paragraph shall be subject to the appropriation of funds by the governing body of each Member Jurisdiction. In no event shall the obligation of any Member Jurisdiction, under this paragraph (c) or the immediately preceding paragraph (b) be deemed to constitute a debt within the meaning of the Constitution of Virginia.

Section 5.2 Payments from Other Jurisdictions. Within the limits allowed by law, the Authority shall establish a Non-member Per Diem Rate or Rates for the care, maintenance and subsistence of Prisoners from Non-member Jurisdictions. Such Non-member Per Diem Rate charges shall be due and payable to the Authority from Non-member Jurisdictions having Prisoners in the Jail no later than 30 days after receipt of the Authority's periodic billing for such charges and if not paid when due shall bear interest at

such rate as the Authority shall establish until paid; provided, however, that this provision shall not apply in instances where applicable law prescribes some other due date or late payment charge.

Section 5.3 Operating Reserve Fund. The Authority agrees to provide for an Operating Reserve Fund in each of its Annual Budgets in an amount equal to not less than twenty percent of its projected Annual Budget for each year, less debt service. The Operating Reserve Fund will be established as a separate account and will be used to cover periods of revenue shortfall when the Authority's revenues are not sufficient to cover its Operating Expenses or Debt Service, or in such other instances as may be approved by the Authority and concurred in by the chief administrative officers of all member jurisdictions. If such withdrawals reduce the Operating Reserve Fund below twenty percent of the Annual Budget, the Authority shall adopt a plan to restore it to that level over a period not exceed three fiscal years.

Section 5.4 Commonwealth Reimbursement Grants. Any funds that the Authority receives from the Commonwealth of Virginia as reimbursement for Debt Service or other Capital Expenses incurred by the Authority for constructing additions or improvements to the Jail or any replacement Jail will be applied as required by the terms of the Indenture for any Obligations issued to fund such projects.

Section 5.5 Limitation of Liability. The only obligations of the Member Jurisdictions to pay for the establishment, operation or maintenance of the Jail arise out of this Agreement. No such payment responsibility shall constitute a debt of any Member Jurisdiction within the meaning of any constitutional or statutory limitation.

ARTICLE VI

Additional Agreements

Section 6.1 Sale or Other Conveyance. The Authority will not sell, lease, sublease, assign, convey or otherwise voluntarily dispose of the Jail unless all Obligations incurred by the Authority have been or will be paid or deemed defeased in accordance with the agreements under which they were issued.

Section 6.2 Further Documents and Data. The parties to this Agreement will execute and deliver all documents and perform all further acts that may be reasonably necessary to perform the obligations and consummate the transactions contemplated by this Agreement.

Section 6.3 Right to Access. Each Member Jurisdiction will have reasonable access to the Jail and its records in order to monitor the Authority's compliance with the terms of this Agreement.

Section 6.4 Confidentiality. The Authority will maintain all records and files on the Prisoners on a confidential basis in accordance with all Applicable Laws. Each Member Jurisdiction will maintain the confidential nature of all records and files relating to the Prisoners of other Member Jurisdictions in accordance with all Applicable Laws.

Section 6.5 Notification. The Authority will promptly furnish to each Member Jurisdiction a copy of any notice or order of any governmental authority asserting that the Authority or the Jail is not in compliance in any material respect with any Applicable Law.

Section 6.6 Tax-Exemption Covenant.

(a) The Authority intends to issue its Notes and Bonds in a manner such that their interest is excludable from gross income for Federal income tax purposes under Section 103(a) and related provisions of the Internal Revenue Code of 1986, as amended, and applicable rules and regulations. The Authority and each Member Jurisdiction agree that after the Notes and Bonds have been issued, they will not take any action or omit to take any action which would adversely affect such exclusion.

(b) Pursuant to Section 15c2-12(b) of regulations issued by the Securities and Exchange Commission, the Authority and the Member Jurisdictions will be required to agree with the owners of the Bonds, for as long as the bonds are outstanding, to supply certain national securities information repositories (1) annually certain financial and statistical information, and (2) periodically, notification of certain specified material events affecting the Authority, the Member Jurisdictions and the Bonds. The particulars of this ongoing disclosure requirement will be set forth in the Indenture and in a continuing disclosure agreement for the Bonds. Each Member Jurisdiction agrees to execute and deliver a continuing disclosure agreement and to cooperate with the Authority in fulfilling this requirement, including providing the Authority with timely notice of the occurrence of any of the specified events which are material to its operations.

Section 6.7 Additional Members. Any city, county or town in Virginia may, with the approval of its governing body and with the consent of all of the Member Jurisdictions, join and participate in the Authority under such additional terms and conditions for membership as may be prescribed by the Member Jurisdictions.

Section 6.8 Withdrawal of Membership. Any Member Jurisdiction may withdraw from membership in the Authority by resolution or ordinance of its governing body; however, no Member Jurisdiction shall be permitted to withdraw from the Authority as long as any Obligations of the Authority are outstanding except by unanimous vote of all Member Jurisdictions. No Member Jurisdiction withdrawing without unanimous consent of the other Member Jurisdiction(s) shall be entitled to any reimbursement for its equity in the Jail.

Section 6.9 Change in Independent Status of City. The parties acknowledge that the obligations of the City of Charlottesville under this Agreement presume Charlottesville's continued existence as an independent city. If Charlottesville ceases to be an independent city and becomes a town or other governmental unit that is part of Albemarle County, Charlottesville's obligations under this agreement shall be subject to modification in one of three (3) ways: (a) as prescribed by then-applicable state statutes for such towns or the governmental unit; or (b) as ordered by a court of competent jurisdiction; or (c) as determined by agreement of the parties.

ARTICLE VII
Representations, Warranties and Covenants of Authority

In addition to the covenants in other Articles of this Agreement, the Authority represents, warrants and covenants as follows:

Section 7.1 Organization, Authorization and Validity. The Authority is a political subdivision of the Commonwealth duly organized and validly existing under the laws of the Commonwealth and has duly authorized and delivered this Agreement.

Section 7.2 Authority. The Authority has all requisite authority under the Act to execute and deliver and perform its obligations under this Agreement and is not a party of any indenture, contract or other agreement or arrangement, the performance of which by the Authority would prevent or materially and adversely affect the Authority's ability to perform the terms of this Agreement.

Section 7.3 Non-Contravention. The execution and delivery of this Agreement by the Authority and the consummation of the transactions contemplated in it will not conflict with or result in a breach of or constitute a default under or violate any of the terms, conditions or provisions of the Act, the bylaws of the Authority or any material indenture, contract or other agreement or arrangement to which the Authority is a party or by which any of its properties are bound, or any Applicable Law by which the Authority or the Jail is bound.

Section 7.4 Litigation. The Authority is not a party to any legal, administrative, arbitration or other proceeding or controversy pending, or, to the best of the Authority's knowledge, threatened, which would materially adversely affect the Authority's ability to perform under this Agreement.

Section 7.5 Approvals. Except for approvals that may be expressly required by this Agreement, or by the Virginia Board of Corrections, the Authority does not require the consent or approval of any governmental body to carry out the terms of this Agreement.

ARTICLE VIII
Representations, Warranties and Covenants of
Member Jurisdictions

Each Member Jurisdiction represents, warrants and covenants for itself as follows:

Section 8.1 Organization, Authorization and Validity. Each Member Jurisdiction is a political subdivision of the Commonwealth duly organized and validly existing under the laws of the Commonwealth, and each has duly authorized, executed and delivered this Agreement.

Section 8.2 Authority. Each Member Jurisdiction has all requisite authority to execute and deliver and perform its obligations under this Agreement and is not a party to any indenture, contract or other agreement or arrangement, the performance of which by it would prevent or materially and adversely affect its individual performance under this Agreement.

Section 8.3 Non-Contravention. The execution and delivery of this Agreement by each Member Jurisdiction and the consummation of the transactions contemplated in it will not conflict with or result in a breach of or constitute a default under or violate any of the terms, conditions or provisions of any charter, resolution or ordinance, any material indenture, contract or agreement or arrangement to which it is a party or by which any of its properties are bound, or any Applicable Law by which it is bound.

Section 8.4 Litigation. No Member Jurisdiction is a party to any legal, administrative, arbitration, or other proceeding or controversy pending, or, to the best of its knowledge, threatened, which would materially and adversely affect its ability to perform under this Agreement.

ARTICLE IX

Defaults and Remedies

Section 9.1 Default by Authority. The occurrence of any one or more of the following events will constitute an "Event of Default" by the Authority ("Authority Default").

(a) failure of the Authority to pay principal of or interest when due on any Notes, Bonds or other temporary or permanent financing for the Jail issued or obtained by the Authority pursuant to this Agreement;

(b) the Authority is for any reason rendered incapable of performing any of its material obligations under this Agreement;

(c) the Authority makes an assignment of all or a portion of its obligations under this Agreement without the prior consent of the Member Jurisdictions;

(d) the Authority defaults on any of its material obligations under any agreement pursuant to which any Obligations have been issued pursuant to this Agreement and such default is not cured within the applicable cure period;

(e) any proceeding is instituted, with the consent or acquiescence of the Authority, for the purpose of effecting a composition between the Authority and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the bonds of the Authority; or

(f) the Authority defaults in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in this Agreement, and the default continues for thirty days after written notice specifying the default and requiring it to be remedied has been given to the Authority by any Member Jurisdiction.

Section 9.2 Default by Member Jurisdictions. The occurrence of any one or more of the following events will constitute an "Event of Default" by any Member Jurisdiction ("Member Jurisdiction Default").

(a) failure of any Member Jurisdiction to make payments of Facility Charges in accordance with its respective Facilities Charge Percentage when due;

(b) if any Member Jurisdiction shall for any reason be rendered incapable of fulfilling its obligations under this Agreement; or

(c) if any proceeding is instituted, with the consent or acquiescence of any Member Jurisdiction, for the purpose of effecting a composition between such Member Jurisdiction and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of such Member Jurisdiction; or

(d) if any Member Jurisdiction defaults in the due and punctual performance of any of the other covenants, conditions, agreements and provisions contained in this Agreement, and the default continues for thirty days after written notice specifying the default and requiring it to be remedied has been given to such Member Jurisdiction by the Authority.

Section 9.3 Remedies of Member Jurisdictions. Upon the occurrence of an Authority Default, any Member Jurisdiction, after giving notice of such Authority Default to all parties, may bring suit by mandamus or other appropriate proceeding to require the Authority to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

Section 9.4 Remedies of Authority. Upon the occurrence of a Member Jurisdiction Default, the Authority, after giving notice of such Member Jurisdiction Default to all parties, may bring suit by mandamus or other appropriate proceeding to require the Member Jurisdiction to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

Section 9.5 Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to the parties is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute.

ARTICLE X

Miscellaneous

Section 10.1 Severability of Invalid Provisions. If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

Section 10.2 Notices. Any notice or other communication under or in connection with this Agreement shall be in writing, and shall be effective when delivered in person or sent by first class United States mail to the following persons and addresses or to such other persons and addresses as any of such persons may from time to time specify in writing.

If to the Authority:

Chair
Albemarle-Charlottesville Regional Jail Authority
1600 Avon Street Extended
Charlottesville, VA 22901

If to Albemarle County:

County Executive
Albemarle County Office Building 401
McIntire Road
Charlottesville, VA 22902-4596

**If to City of
Charlottesville:**

City Manager
P.O. Box 911
Charlottesville, VA 22902

If to Nelson County:

County Administrator
P.O. Box 336
Lovingston, VA 22949

Section 10.3 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

Section 10.4 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia.

Section. 10.5 Amendments. This Agreement may be changed or amended only with the consent of the Authority and each Member Jurisdiction. No such change or amendment may be made which will affect adversely the prompt payment when due of all

monies required to be paid by the Member Jurisdictions under the terms of this Agreement, and no such change or amendment shall be effective which would cause a violation of any provision of any resolution, indenture or agreement pursuant to which any Obligations have been issued.

Section 10.6 Effective Date of Agreement. This Agreement will be effective from the date of its approval by each of the Member Jurisdictions and the Authority

Section 10.7 Waiver. Any waiver by any party of its rights under this Agreement must be in writing, and will not be deemed a waiver with respect to any matter not specifically covered. Nothing in this Agreement authorizes the waiver of any Member Jurisdiction's obligation to make payments when due of all moneys required to be paid by the Member Jurisdictions under the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers on the dates indicated.

COUNTY OF ALBEMARLE

APPROVED AS TO FORM

County Executive

County Attorney

CITY OF CHARLOTTESVILLE

APPROVED AS TO FORM

City Manager

County Attorney

COUNTY OF NELSON

APPROVED AS TO FORM

County Executive

County Attorney

**ALBEMARLE-CHARLOTTESVILLE
REGIONAL JAIL AUTHORITY**

APPROVED AS TO FORM

Chair

Attorney