

**SHUTTLE BUS SERVICE AGREEMENT BETWEEN
THE COUNTY OF ALBEMARLE, WILLOWTREE, INC.,
WOOLEN MILLS, LLC, AND JAUNT, INC.**

This Agreement is entered into as of ____ April, 2020, between the County of Albemarle, Virginia, a political subdivision of the Commonwealth of Virginia (“*County*”), WillowTree, Inc., a Virginia corporation (“*WillowTree*”), Woolen Mills, LLC a Virginia limited liability company (“*Developer*”) and Jaunt, Inc., a Virginia corporation (“*Jaunt*”).

RECITALS

- A. The County, WillowTree, Inc., and Developer wish to establish a shuttle bus service between Downtown Charlottesville proper and the new Woolen Mills development located on Broadway Street in Albemarle County; and
- B. Jaunt has the necessary expertise, skill, and business infrastructure to perform such services; and
- C. Jaunt’s proposal can best meet the needs of WillowTree; and
- D. The County is enabled to enter into this Agreement pursuant to Virginia Code §§ 15.2-947, 15.2-950, and 15.2-1300 as an exercise of joint powers to provide and facilitate public transportation to and within Albemarle County; and
- E. This Agreement is in furtherance of and as contemplated by the First Amended Economic Opportunity Fund Performance Agreement dated 31 October 2019 between the County, Developer, and the Economic Development Authority of Albemarle County, Virginia, wherein the County and Developer, acknowledged the transit obligation, amongst other elements of the project, would stimulate additional tax revenues, generate economic activity, and constitute a valid public purpose.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between the County, WillowTree, Developer, and Jaunt consist of this Agreement including:

- EXHIBIT A Definitions
- EXHIBIT B Scope of Services
- EXHIBIT B-1 Shuttle Bus Schedule.

In the event any discrepancies or inconsistencies between the provisions of this Agreement and any of the above-referenced documents arise, the provisions of this Agreement will prevail.

This Agreement and the Exhibits set forth above and attached hereto contain all of the agreements, representations, and understandings of the parties hereto, and supersede and replace any previous understandings, commitments, or agreements, whether oral or written.

2. DEFINITIONS

Each reference in the body of this Agreement to specific terms or phrases set forth in **EXHIBIT A** shall have the specific meanings and/or contain the respective express information set forth below. To the extent there is a conflict between the information in **EXHIBIT A** and any more specific provision of this Agreement, the more specific provision contained in the Agreement shall control.

3. TERM OF AGREEMENT

The initial term of this Agreement is from March 1, 2020, to June 30, 2021 which is considered the first year of the Agreement. The term will automatically renew for 12 months on each successive June 30th until June 30, 2025, or unless otherwise terminated as set out in the provisions of Section 7.

4. SCOPE OF SERVICES

Jaunt's services must be completed according to the schedule set out in **EXHIBIT B**, "*Scope of Services*."

5. ADDITION OR DELETION OF SCOPE OF SERVICES

The parties may agree to add or delete areas designated for Shuttle Bus Service and/or Scope of Services. Jaunt will advise the County, WillowTree, and Developer of the effect on its pricing and schedule based on any proposed changes. Any and all changes in Scope of Services and compensation will only become effective upon execution of a signed addendum between the County, WillowTree, Developer, and Jaunt specifying the change in the Scope of Services and any adjustment to the Fee.

6. COMPENSATION

Albemarle County shall pay Jaunt quarterly (the "*Fee*") subject to the fee cap and receipt of contribution deposits defined below for the Shuttle Bus Services provided pursuant to this Agreement (with a 4% increase effective July 1, 2021). This figure will fully compensate Jaunt for all of its out-of-pocket expenses to fulfill the Scope of Services (including but not limited to all costs related to Shuttle Bus drivers; maintenance and supervisory staff; support vehicles; bus cleaning, maintenance, and repair operations; administrative; safety, management and dispatch staff; insurance costs; fixed facility and equipment costs; taxes; overhead) and a profit.

The maximum Fee for the period March 1, 2020 through June 30, 2021, will be \$120,000; and the maximum Fee for any renewal period will be \$120,000.

Within two weeks of full execution of this Agreement, Developer must deposit with the County \$80,000 to cover its and the County's first year payments. WillowTree must deposit \$40,000 with the County within the same time to cover its first year payments. Developer will be responsible for two-thirds of the first year charges and WillowTree will be responsible for one-third. Deposits with the County exceeding Jaunt's first year charges will be credited towards second year deposits.

Before July 1 of each renewal year, Developer and WillowTree must each deposit with the County \$40,000 to cover that renewal year's Jaunt charges. The County will contribute \$40,000 to cover its share of that year's Jaunt charges. The County, Developer, and WillowTree each will be

responsible for one-third of the renewal year charges. Deposits exceeding Jaunt's annual charges will be credited towards renewal year deposits or returned to the contributing party upon expiration of this Agreement.

From the deposits and the County's required contribution, the County agrees to pay Jaunt in arrears, upon receipt of a quarterly invoice, the Fee for actual Shuttle Bus Service provided by Jaunt. The quarterly statement shall set forth the number of hours of Scheduled Shuttle Bus Service provided during the quarter subject to maximum annual Fee limits.

7. TERMINATION

7.1 Termination for convenience. The County, WillowTree, and Developer shall have the right to terminate this Agreement, without cause, by giving not less than ninety (90) days' written notice of termination.

7.2 Termination for default. If Jaunt fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, the County, WillowTree, and Developer may terminate this Agreement immediately upon written notice.

7.3 Payments upon Termination. If this Agreement is terminated because of Jaunt's default or election not to renew, the County's obligation to provide transit services shall be limited to contributing funds through grants to the EDA, subject to annual limits and according to the payment schedule described in Section 6, to Developer and/or WillowTree to support their efforts to replace the Shuttle Bus Service.

7.4 Effect of Termination. The termination of this Agreement for any reason shall not affect any right, obligation or liability which has accrued under this or any other Agreement or commitment, including the lease between WillowTree and Woolen Mills dated July 16, 2018, containing Woolen Mills' commitment to provide \$40,000 annually toward the cost of a shuttle, and the Albemarle County Board's July 2018 commitment to provide \$40,000 annually toward the cost of a shuttle Agreement on or before the effective date of such termination subject to Section 20.12 (Non-Appropriation).

8. INDEMNIFICATION

8.1 Jaunt's indemnification to the County, WillowTree, and Developer. Jaunt covenants and hereby agrees to indemnify, defend, protect, and hold harmless the County, Developer, and WillowTree ("the Indemnified Parties") from and against any and all claims, demands, damages, obligations, liabilities, losses, costs, expenses, reasonable attorneys' fees, penalties, suits, or judgments, at any time received, incurred, or accrued by any of the Indemnified Parties arising out of or resulting in whole or in part from any act (or failure to act) of Jaunt, its officers, employees, agents, permittees, or invitees, or which results from their noncompliance with any laws respecting the condition, use, occupation, or safety of the Shuttle Buses, or any part thereof, or which arises from the Shuttle Services, or which arises from Jaunt's failure to do anything required under this Agreement, except as may arise from the sole active negligence or the sole willful misconduct of any of the Indemnified Parties. The right to full indemnity hereunder shall arise notwithstanding that principles of joint, several, or concurrent liability or comparative negligence might otherwise impose liability on any of the Indemnified Parties pursuant to statutes, ordinances, regulations, or other laws. This Section shall survive termination of this Agreement.

8.2 Jaunt's assumption of risk. Jaunt agrees to and covenants that it shall voluntarily assume any and all risk of loss, damage, or injury to the person or property of Jaunt, the County, WillowTree, Developer, their respective directors, officers, employees, students, guests, and agents, that may occur in, on, or about the Shuttle Buses at any time and in any manner, except such loss, injury, or damage as may be caused by the sole active negligence or the sole willful misconduct of the County, WillowTree, Developer, their respective officers, employees, or agents, or any passengers. The indemnification obligations of Jaunt shall include the obligation of Jaunt to defend, indemnify, protect and hold the County, WillowTree, and/or Developer from and against fines, costs, claims, damages, obligations, suits, judgments, penalties, proceedings, causes of action, losses, liabilities (including those arising under the Americans With Disabilities Act of 1990), and reasonable attorneys' fees, which arise from Jaunt's activities under this Agreement.

8.3 Damage by Jaunt. If Jaunt's employees cause any injury, damage, or loss to any property of the County, WillowTree, or Developer, Jaunt shall repair such injury, damage, or loss at its sole cost and expense.

8.4 Indemnification to the County. Developer agrees to indemnify, hold harmless, and defend the County, its officers, directors, agents, and employees from any and all liability, loss, damage, claims, causes of action, and expenses (including without limitation reasonable attorneys' fees), caused or asserted to have been caused, directly or indirectly, in connection with the performance of this Agreement and any amendments thereto and/or any act or omission of an officer, director, agent, employee, or representative of Developer, its successors and assigns to the extent that such liability or damage is caused in whole or in part by Developer's default or breach, negligence, or intentional misconduct. The provisions of this section shall survive termination of this Agreement as to acts or omissions occurring prior to the effective date of termination. WillowTree agrees to indemnify, hold harmless, and defend the County, its officers, directors, agents, and employees from any and all liability, loss, damage, claims, causes of action, and expenses (including without limitation reasonable attorneys' fees), caused or asserted to have been caused, directly or indirectly, in connection with the performance of this Agreement and any amendments thereto and/or any act or omission of an officer, director, agent, employee, or representative of WillowTree, its successors and assigns to the extent that such liability or damage is caused in whole or in part by WillowTree's default or breach, negligence, or intentional misconduct. The provisions of this section shall survive termination of this Agreement as to acts or omissions occurring prior to the effective date of termination.

9. INSURANCE REQUIREMENTS

9.1 Required Insurance Coverage. Jaunt agrees to have and maintain commercial general liability insurance coverage against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the Shuttle Bus Services by Jaunt, its agents, representatives, and employees, in the amount of at least \$5,000,000 per occurrence for bodily injury, personal injury and property damage. All policies, endorsements, certificates and/or binders shall be subject to approval by the County, WillowTree, and Developer as to form and content. These requirements are subject to amendment or waiver if approved in writing by the County, WillowTree, and Developer. Jaunt agrees to provide the County, Developer and WillowTree with a copy of all policies, certificates, and/or endorsements before work commences under this Agreement.

The policies are to contain, or be endorsed to contain, the following provisions:

- a. The County, WillowTree, and Developer and their respective officers, employees, guests, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of Jaunt and Jaunt's operations of Shuttle Buses or other vehicles owned, leased, hired, or borrowed by Jaunt. The coverage shall contain no special limitations on the scope of protection afforded to the County, WillowTree, and Developer, or their respective officers, employees, guests, and agents.
- b. Jaunt's insurance coverage shall be primary insurance as respects the County, WillowTree, or Developer, and their respective officers, employees, guests, and agents. Any insurance or self-insurance maintained by the County, WillowTree, and Developer, or their respective officers, employees, guests, and agents shall be excess of the Jaunt's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, WillowTree, and Developer, or their respective officers, employees, guests, or agents.
- d. Each insurance policy required under this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to Albemarle County, WillowTree, and Developer.

9.2 Acceptability of Insurance. Insurance is to be placed with insurers acceptable to the County, WillowTree, and Developer's Risk Manager.

10. INDEPENDENT CONTRACTOR

Jaunt, in the performance of this Agreement, will be considered an independent contractor. It shall not be represented, and Jaunt shall not represent itself, as an extension of the County, WillowTree, or Developer. Jaunt shall maintain complete control over all of Jaunt's employees and Jaunt's operations. Neither Jaunt nor any person retained by Jaunt may represent, act, or purport to act as the agent, representative, or employee of the County, WillowTree, or Developer. Neither Jaunt nor the County, WillowTree, or Developer is granted any right or authority to assume or create any obligation on behalf of the other.

11. COMPLIANCE WITH LAWS

Jaunt shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local governments, including without limitation, any and all laws specified elsewhere in this Agreement.

12. NONDISCRIMINATION

Jaunt agrees that there shall be no discrimination against, or segregation of, any person, on account of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, marital status, or family status, in connection with or related to the performance of this Agreement.

13. DEFAULT BY JAUNT

13.1 Conditions of Default. In addition to the other defaults specified in this Agreement, the County, WillowTree, or Developer may determine that Jaunt is in default under this Agreement if:

- a) Jaunt fails to promptly commence services on the Commencement Date; or
- b) Jaunt fails duly and punctually to make any payment required hereunder, when due;
or
- c) Jaunt makes a general assignment of its assets for the benefit of Jaunt's creditors except for usual and customary credit and security arrangements entered into with banks or other commercial lending institutions; or
- d) Jaunt makes an assignment hereunder in violation of the provisions of this Agreement, whether voluntary or by operation of law; or Jaunt fails to provide Services, or to provide the Services in a timely manner as specified in **Exhibit B** for any period of time;
or
- e) Jaunt becomes insolvent, or takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consents to the appointment of a receiver, trustee, or liquidator of any or substantially all of its property; or
- f) the interest of Jaunt under this Agreement shall be transferred, by reason of death, operation of law, assignment, sublease, or otherwise, to any other person, firm, corporation, or entity; or
- g) The County, WillowTree, or Developer determine that there is a reasonable probability that Jaunt's financial condition is impaired and that Jaunt cannot provide adequate assurances that any conditions giving rise to the impairment of financial condition can be removed within thirty (30) days of receipt of the County, WillowTree, and Developer's demand for same; or
- h) Jaunt fails to keep, perform, and observe any other promise, covenant, and agreement set forth in this Agreement, and such failure shall continue for a period of more than ten (10) days after delivery by the County, WillowTree, or Developer of a written notice of such breach or default, except where fulfillment of its obligation requires activity over a period of time, in excess of ten (10) days and Jaunt shall have commenced in good faith to perform whatever may be required for fulfillment within ten (10) days after receipt of notice and continues such performance without interruption except for causes beyond its control;
or
- i) any representation or warranty made by Jaunt hereunder or under any instrument delivered in connection herewith shall have been false or misleading in any material respect as of the date on which such representations or warranty was made.

13.2 Remedies. Upon the occurrence of a Default, the County, WillowTree, and Developer shall have the following rights and remedies, in addition to all other rights and remedies provided by law or at equity, to which Albemarle County, WillowTree, and Developer may resort cumulatively, or in the alternative.

13.2.1 Termination. Upon any default, the County, WillowTree, or Developer shall have the right to terminate this Agreement by giving Jaunt written notice of termination in which event this Agreement shall terminate on the date set forth for termination in such notice. Any termination under this paragraph shall not relieve Jaunt from any claim for damages or fees previously accrued or then accruing against Jaunt.

13.2.2 Damages. In the event Albemarle County, WillowTree, or Developer elects to terminate this Agreement, Jaunt shall pay all amounts owing at the time of termination on account of Jaunt's breach of any term, covenant, or condition of this Agreement including but not limited to unpaid or unearned fees plus interest thereon on all such amounts from the date due until paid at the judgment interest rate; and any other amount to compensate fully for all detriment and damage proximately caused by Jaunt's failure to perform its obligations hereunder or which in the ordinary course would likely result therefrom.

13.2.3 Liquidated Damages. Jaunt understands and agrees that one of the County, WillowTree, and Developer's primary goals in entering into this Agreement is to ensure that customer service provided to the employees and invitees of WillowTree and Developer's tenants using the Shuttle Bus services is of the highest caliber and is consistent with the image that WillowTree and Developer want to project to their users and visitors. Jaunt further agrees that WillowTree and Developer will suffer damage if Jaunt fails to meet these standards and that, due to the nature of certain breaches, the actual damage to WillowTree and Developer would be difficult to quantify.

JAUNT, WILLOWTREE, AND DEVELOPER AGREE THAT THE AMOUNTS SET FORTH IN SUBSECTIONS 13.2.4 BELOW SHALL BE IMPOSED AS LIQUIDATED DAMAGES IF JAUNT BREACHES THE PERFORMANCE STANDARDS REQUIRED BY THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT ACTUAL DAMAGES IN THE EVENT OF A BREACH OF SUCH PERFORMANCE STANDARDS WOULD BE IMPRACTICAL OR VERY DIFFICULT TO DETERMINE. THEREFORE, BY PLACING THEIR SIGNATURES BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNTS SET FORTH IN SUBSECTION 13.2.4 BELOW HAVE BEEN AGREED UPON AS THE PARTIES' REASONABLE ESTIMATE OF DAMAGES IN THE EVENT OF SUCH BREACH. ACCEPTANCE OF ANY LIQUIDATED DAMAGES AS A RESULT OF A PERFORMANCE STANDARD BREACH SHALL NOT PREVENT DEVELOPER OR WILLOWTREE FROM EXERCISING ANY OTHER RIGHT OR REMEDY FOR DEFAULT AVAILABLE TO EITHER PARTY UNDER THIS AGREEMENT

13.2.4 Performance Standard Breaches. The following specified breaches shall be referred to as "Performance Standard Breaches." Jaunt agrees to have imposed in the amount specified below as liquidated damages for the applicable breach.

No drivers for designated scheduled route	\$500.00 per occurrence
Passenger waiting for Shuttle Bus more than thirty (30) minutes during normal operating hours	\$25.00 per passenger per occurrence
Number of complaints exceeds three (3) in any one calendar month period	Warning for first three (3) complaints, \$100.00 for 4 th complaint in calendar month, \$25.00 for each additional complaint per calendar month
Shuttle bus driver not in uniform with name badge display while operating Shuttle Bus	Warning for first violation per calendar month, \$25.00 per additional violation per calendar month
Shuttle Bus driver failing to comply with the performance standards as set out in this Agreement	Warning for first violation per calendar month, \$25.00 per additional violation per calendar month
Failure to make Shuttle Buses available as stipulated in this Agreement	\$500.00 per occurrence

Upon determining the existence of a Performance Standard Breach, the County, WillowTree, and/or Developer shall issue a written notice to Jaunt of the occurrence of such breach and claim for liquidated damages. The notice of Performance Standard Breach shall become final unless the County, WillowTree, and Developer receive from Jaunt no later than ten (10) calendar days after the date of the notice of Performance Standard Breach is received by Jaunt, a written statement from Jaunt including Jaunt's evidence that the breach did not occur. The County, WillowTree, and Developer shall review such evidence and determine, in their reasonable discretion, whether Jaunt has demonstrated that the breach did not occur. If such written evidence is not received within ten (10) calendar days of the date Jaunt received the notice of Performance Standard Breach, the determination shall be final and the applicable liquidated damages shall be deducted from the next scheduled payment due to Jaunt.

13.25 No waiver. The agreement as to liquidated damages hereunder by the County, WillowTree, and/or Developer shall not be deemed to be a waiver of any preceding violation by Jaunt of any provision of this Agreement regardless of knowledge of such preceding or subsequent violation at the time such liquidated damage is deducted or the waiver of any other right or remedy allowed in law or in equity. The consent or approval to any act of Jaunt requiring approval shall not be deemed to waive or render unnecessary the need for consent to or approval of any subsequent similar act of Jaunt.

14. JAUNT'S BREACH NOT WAIVED

In the event of any breach of this Agreement by Jaunt, the County, WillowTree, and Developer may, at any time without notice and without any obligation to do so (implied or otherwise), and upon condition that it be for the account and at the expense of Jaunt, and without a waiver of such breach, perform any act which if performed by Jaunt would otherwise cure the breach. If in so doing the County, WillowTree, and/or Developer are required or elect to pay any moneys or do any acts which will require the payment of any moneys or the incurring of any costs or expenses, Jaunt covenants to reimburse the sum or sums of money paid or incurred, together with interest at judgment rate until paid. The receipt showing payment by the County, WillowTree, and/or Developer shall be

prima facie evidence that the expense incurred was necessary and reasonable and that such expense was incurred on behalf of Jaunt.

15. REPRESENTATIONS AND WARRANTIES

Jaunt represents, warrants, and covenants as follows:

That Jaunt has the power and authority to enter into this Agreement, that the Board of Directors of Jaunt has by corporate resolution approved such power and authority to enter into this Agreement and bind Jaunt, that this Agreement shall be properly executed, delivered, and performed by Jaunt and shall be binding upon Jaunt, and that the individual executing this Agreement is duly authorized to do so.

That Jaunt shall furnish true and accurate financial statements, records, reports, resolutions, certifications, and other information required under **EXHIBIT B** as may be reasonably requested of Jaunt from time to time during the term of this Agreement.

That Jaunt is in compliance with all local, state, and federal laws related to the Services.

That Jaunt possesses the necessary experience and qualifications to provide the Shuttle Bus Services.

That all information provided in connection with the award of this contract is true and correct in all material respects.

16. JAUNT'S BOOKS AND RECORDS

16.1 Maintenance of records. Jaunt shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other documents evidencing or relating to charges for services, or expenditures and disbursements charged for a minimum period of four (4) years, or for any longer period required by law, from the date of final payment to Jaunt pursuant to this Agreement.

16.2 Inspection. Any documents required to be maintained pursuant to this Agreement must be made available for inspection or audit, at any time during regular business hours, upon written request by the County, WillowTree, or Developer. Jaunt shall provide copies of such documents for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Jaunt's address indicated for receipt of notices in this Agreement.

17. ASSIGNABILITY

Jaunt may not assign this Agreement or any of its rights or obligations under this Agreement without the advance written consent of the County, WillowTree, and Developer, which may be granted, conditioned, or withheld in their sole discretion.

18. GOVERNING LAW

This Agreement shall be construed, and its performance enforced, under the laws of the Commonwealth of Virginia, without reference to conflicts of law principles.

19. NOTICES

Any Party may change its address by giving notice as this section provides. All notices must be in writing and sent to the following addresses, unless duly changed, by facsimile, email (with receipt requested), or by UPS or Federal Express overnight delivery service:

Each Notice to the County shall be addressed as follows:

Albemarle County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
Attention: Jeffrey B. Richardson, County Executive
Email: jrichardson3@albemarle.org

Designated Representative: Douglas C. Walker
Email: dwalker@albemarle.org

With a copy (which shall not constitute notice):

Albemarle County Attorney
401 McIntire Road, Suite 325
Charlottesville, VA 22902
Attention: Greg Kamptner, Esq.
Email: gkamptner@albemarle.org

Each Notice to Jaunt shall be addressed as follows:

JAUNT, Inc.
104 Keystone Place
Charlottesville, Virginia 22902-6200
Attention: Brad Sheffield, CEO
Email: brads@ridejaunt.org

Each Notice to WillowTree shall be addressed as follows:

WillowTree
____ Broadway Street
Charlottesville, Virginia
Attention: Tobias Dengel, CEO
Email:

With a copy to:

Michael Signer, Esquire
____ Broadway Street
Charlottesville, Virginia

Each Notice to Developer shall be addressed as follows:

Woolen Mills, LLC
1012-C Druid Avenue
Charlottesville, Virginia 22902
Attention: Brian H. Roy
Email:

With a copy to:

Peter J. Caramanis, Esquire
Royer & Caramanis, PLC
200-C Garrett Street
Charlottesville, Virginia 22902

The date such notice shall be deemed to have been received shall be the first to occur of (i) the actual date of receipt if delivered prior to 5:00 pm local time, or (ii) the first calendar day after delivery thereof to UPS or Federal Express (“next day delivery”) or delivery of a facsimile or email after 5:00 pm local time.

20. MISCELLANEOUS

20.1 Entire agreement. This instrument contains all of the agreements and conditions entered into and made by and between the parties and may not be modified orally, or in any manner, other than by an agreement in writing signed by all the parties hereto.

20.2 Headings. The headings of the sections and exhibits of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and are not to be used in its construction.

20.3 Gender; Number; Including. The use of any gender in this Agreement shall refer to all genders, and the use of the singular shall refer to the plural, and vice versa, as the context may require. The term “including” and variants thereof shall mean “including without limitation.”

20.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. A faxed, scanned, or electronic signature shall be as effective as an original.

20.5 Severability. If a court of competent jurisdiction finds or rules that any Provision of this Agreement is void or unenforceable, the remaining Provisions of this Agreement shall remain in effect.

20.6 Successors and assigns. The provisions of this Agreement shall, subject to the provisions of this Agreement concerning transfer, apply to and bind the successors and assigns of the parties hereto. An assignment by one party must be approved in writing in advance by the remaining parties.

20.7 No joint venture. The parties do not intend to create a joint venture, partnership, or employer-employee relationship. Jaunt is acting solely as an independent contractor and not as an

agent of the County, WillowTree, or Developer. No party has any authority to bind or commit any other party in any way.

20.8 No Third-Party Beneficiaries. This Agreement does not confer any rights on any person or entity who is not a party, whether as a third-party beneficiary or otherwise.

20.9 No Waiver of Sovereign Immunity or Other Immunities. This Agreement and any action taken by the County or its Board of Supervisors pursuant to this Agreement is not, and must not construed to be, a waiver of either sovereign immunity or any other governmental immunity that applies to the County or the Board of Supervisors.

20.10 Non-Liability of County Officers and Employees. No County Supervisor or other County officer or employee shall be personally liable to any of the other parties if there is any default or breach by the County or the Board of Supervisors pursuant to this Agreement.

20.11 Non-appropriation. The obligation of the County to contribute Payments as provided in this Agreement is subject to, and dependent upon, appropriations being made from time to time by the Board. Therefore:

- (a) Obligations in the Event of Non-appropriation. If the Board of Supervisors does not appropriate the County's contribution, then this Agreement shall terminate and the remaining parties shall have no further obligation under this Agreement.
- (b) This Agreement does not Establish an Irrevocable Obligation. Under no circumstances shall this Agreement be construed to establish an irrevocable obligation on the County to contribute to Jaunt as provided in this Agreement.

20.12 Interpretation of this Agreement. This Agreement shall be interpreted in accord with how any terms are defined in this Agreement and otherwise by applying the plain and natural meaning of the words used. The Parties and their respective legal counsel have fully participated in the preparation and negotiation of this Agreement and, accordingly, waive any rule of construction that this Agreement be construed for or against any party by reason of authorship.

20.13 Exhibits and addenda. All exhibits and addenda referred to herein, and any exhibits or schedules which may from time to time be referred to in any duly executed amendment thereto, are by such reference incorporated herein and shall be deemed a part of this Agreement as if set forth fully herein.

20.14 Dispute Resolution. If there is a dispute of any kind between any parties arising under this Agreement, the resolution process, upon the written request of a party, shall be as follows, unless specifically provided otherwise in this Agreement:

- a. Designation of a Senior Representative; Negotiation. Each of the parties to whom the dispute pertains will designate one or more senior representatives to negotiate with the other parties' senior representatives in good faith and as necessary to attempt to resolve the dispute without any formal proceedings.
- b. Corrective Action. If the negotiated resolution of the dispute requires any party to take, cause to be taken, or cease taking some action or practice, that party shall do

so within a reasonable period of time, not to exceed 30 days.

- c. Dispute Resolution Process a Prerequisite to Starting Court Proceedings. No party may initiate court proceedings by filing an action in a court of competent jurisdiction to resolve a dispute until the earlier of: (i) a good faith mutual conclusion by the senior representatives that amicable resolution through continued negotiation of the dispute does not appear likely; or (ii) 60 days after the initial request to negotiate the dispute. After either condition has occurred, a party may file an action in the jurisdiction and venue provided in this Agreement and may pursue any other remedy available at law or in equity. Each party shall be responsible for its own fees and costs.
- d. When the Dispute Resolution Process is Not Required. Nothing in this Section 20.14 will, however, prevent or delay a Party from instituting court proceedings to: (i) avoid the expiration of any applicable limitations period; or (ii) seek declaratory and injunctive relief.

20.15 Force Majeure. If a party's timely performance of any obligation in this Agreement is interrupted or delayed by any occurrence that is not caused by the conduct of the officers or employees of any party, whether the occurrence is an "Act of God" such as lightning, earthquakes, floods, or other similar causes; a common enemy; the result of war, riot, strike, lockout, civil commotion, sovereign conduct, explosion, fire, or the act or conduct of any person or persons not a party to or under the direction or control of the parties, then performance is excused for a period of time that is reasonably necessary after the occurrence to remedy the effects thereof.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO DEVELOPMENT AGREEMENT]

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

JAUNT, INC.,
a Virginia corporation

By: _____ [SEAL]
Brad L. Sheffield
Chief Executive Officer

WOOLEN MILLS, LLC
a Virginia limited liability company

By: _____ [SEAL]
Brian Roy
Manager

WILLOWTREE, INC.,
a Virginia corporation

By: _____ [SEAL]
Tobias Dengel
Chief Executive Officer

COUNTY OF ALBEMARLE, VIRGINIA

By: _____ [SEAL]
Jeffrey Richardson
County Executive

Approved as to Form Only:

County Attorney

EXHIBIT A DEFINITIONS

Each reference in the body of the Agreement to specific terms or phrases set forth in this Exhibit shall have the specific meanings and/or contain the respective express information set forth below. To the extent there is a conflict between the information in this Exhibit and any more specific provision of the Agreement, such more specific provision shall control.

“Agreement” means this Shuttle Bus Service Agreement between Albemarle County, WillowTree, Woolen Mills, and Jaunt.

“Assignment” means any dissolution, merger, consolidation or other reorganization of Jaunt, or the sale or transfer of a controlling percentage of the capital stock or membership interests of Jaunt, or the sale of at least fifty-one percent (51%) of the value of the assets of Jaunt.

“Business Day” means any calendar day except a Saturday, Sunday, and any day observed as a Holiday by WillowTree.

“Commencement Date” means the date that Jaunt’s obligations under this Agreement begin.

“Day” means any calendar day, unless a Business Day is specified. The time in which an act is to be performed shall be computed by excluding the first day and including the last day.

“Effective Date” means the date upon which the County, WillowTree, Developer and Jaunt have all executed this Agreement which date shall be set out in the first paragraph on page 1 of this Agreement by the last party to sign the Agreement.

“Fee” means the total compensation payable to Jaunt for fulfilling the Scope of Services pursuant to Section 6.

“Indemnified Parties” means the County, WillowTree, and Developer, their respective directors, officers, employees, and agents.

“Holiday” means each of the following days when the WillowTree is closed: New Year’s Eve, New Year’s Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, day before Thanksgiving, Thanksgiving Day, Friday after Thanksgiving, and December 24 through 28.

“Jaunt” means JAUNT, Inc., a corporation duly organized and authorized to do business in the Commonwealth of Virginia.

“Performance Standard Breaches” means Jaunt’s failures to perform as more particularly described in Section 13.2.4.

“Scope of Services” means the services, equipment, and personnel to be provided by Jaunt as more fully set forth in EXHIBIT B.

“Shuttle Bus” means a passenger transport vehicle that provides 10 or more seating.

“Shuttle Bus Service” means the Shuttle Bus Service provided by Jaunt pursuant to the terms of this Agreement.

“Shuttle Bus Stop” means each of the stops designated by the County, WillowTree, and Woolen Mills for use by the Shuttle Buses.

“VADMV” means the Virginia Department of Motor Vehicles.

“USDOT” means the United States Department of Transportation.

EXHIBIT B SCOPE OF SERVICES

Jaunt shall perform the following services and provide the following equipment:

1. SERVICES AND EQUIPMENT

1.1 General. The Shuttle Bus Service is intended to provide timely and convenient transportation between Downtown Charlottesville proper and the Woolen Mills development for WillowTree employees and guests, and tenants and guests of Developer. During the term of this Agreement, Jaunt shall provide the highest level of professional, courteous, safe, and efficient Shuttle Bus Service in a quiet and orderly manner, so as not to annoy, disturb, injure, harm, or offend the general public or the passengers using the Shuttle Buses. The Shuttle Bus Service shall include, without limitation: (a) operating Shuttle Buses in accordance with the Shuttle Service Schedule of arrival and departure times attached as **EXHIBIT B-1**; (b) providing licensed, well-trained, professional, and courteous Shuttle Bus drivers to operate the Shuttle Buses and to assist the passengers; and (c) rendering such other related services as may be requested by Albemarle County, WillowTree, and Developer, or more fully set forth in this Agreement.

1.2 Provision and maintenance of Shuttle Buses. At minimum, Jaunt will provide one new ADA accessible passenger shuttle bus (minimum 10 passenger capacity); the Shuttle Bus shall be used solely and exclusively to fulfill Jaunt's obligations under this Agreement and for no other purpose. Wi-Fi will be available for passenger use at all times during Shuttle Bus Service Hours. Each Shuttle Bus will be equipped with bike racks (where legally allowed by Virginia state inspection code) and universal serial bus charging ports, which will be located at passenger seats.

Jaunt is responsible for providing all routine and necessary maintenance and repairs to the Shuttle Buses to ensure efficient and safe operation at all times. Jaunt shall direct its employees to monitor the condition of the Shuttle Bus during the course of operation of the Shuttle Bus, and to promptly report to Jaunt any items of concern.

Each Shuttle Bus will be "wrapped" with Jaunt's "Connect" brand. Each Shuttle Bus shall contain only such route/destination signs and messages that are applicable to the service provided.

1.3 Shuttle Bus Stops and signage. Jaunt will provide Shuttle Bus Stop signs and poles at each Shuttle Bus Stop. If applicable to the specific stops for the specific service to WillowTree, WillowTree will provide logo and artwork for signage and have final design approval. All Shuttle Bus Stops will be ADA compliant. Developer will provide and service a trash receptacle at the Woolen Mills stop(s).

1.4 Transit Visualization System (TransLoc GPS/AVL System). Jaunt will provide and install in each Shuttle Bus all hardware, equipment, and software, including GPS and wireless equipment and internet, required to access the TransLoc mobile application so that passengers may check actual locations of the Shuttle Buses and estimated Shuttle Bus arrival times. The use of this system will allow Jaunt, WillowTree, and passengers to pinpoint locations and specific routes and to provide accurate arrival estimates and locations for all Shuttle Buses on all routes; and will provide, by way of example, information such as management tracking, service hours, historical playback, web based exportable reports including on-time performance, headways, and all arrivals and departures for every Shuttle Bus. As these proceeding items are listed as examples of information only, they are not specifically required under this Agreement.

2. JAUNT PERSONNEL

2.1.1 Shuttle Bus drivers. All of Jaunt's Shuttle Bus drivers and shift supervisors shall be properly licensed and shall possess satisfactory work qualifications and experience with respect to their areas of responsibility. Jaunt shall not employ as a driver of a Shuttle Bus under the Agreement any person who has a poor record for operating any motor vehicle, including a Shuttle Bus. For purposes of this section, a poor driving record means any conviction for driving under the influence or a negative point balance as shown on the driver's record as compiled by the VADMV. A driver must also qualify for a commercial driving license under the applicable rules and regulations promulgated by USDOT and VADMV. Jaunt shall comply with USDOT's requirements for pre-employment drug and alcohol testing, and Jaunt shall participate in a consortium for random drug and alcohol testing for its employees. Jaunt shall maintain at all times a personnel file for each employee that shall include verifications of employment and the employee's driver's license number and expiration date and any other information required by VADMV. Jaunt represents and warrants that all Shuttle Bus drivers are duly qualified to operate the Shuttle Buses, and that they will all be properly trained in the use and operation of the Shuttle Buses.

2.1.2 Employee use of cell phones. No driver of any shuttle bus shall drive while using a wireless telephone or cell phone. Drivers shall use radios provided by the Jaunt.

2.1.3 Employee appearance and conduct. All employees, while acting within the course and scope of employment by Jaunt in the provision of Shuttle Bus Service under this Agreement, shall be clean, neat in appearance, and uniformly attired, and shall behave courteously. No such personnel shall use improper language or act in a loud, offensive, or otherwise improper manner. Jaunt shall control the conduct, demeanor, and appearance of its agents, employees, and officers while providing the Shuttle Bus Service.

2.1.4 Uniforms and badges. All Shuttle Bus drivers will wear khaki pants, with polo shirts and jackets bearing Jaunt's "Connect" logo. The drivers shall wear in plain view a Jaunt-issued photo identification badge. Each Shuttle Bus driver shall wear as part of the uniform a reliable watch on his or her person during a work shift.

2.1.5 Customer service. All Shuttle Bus drivers shall provide appropriate customer service to passengers including, but not limited to, ADA required assistance and providing information and directions.

3. SHUTTLE BUS SCHEDULE

Jaunt shall operate the Shuttle Buses on every Business Day during the hours 8:00 a.m. through 7:00 p.m. Attached as **EXHIBIT B-1** is the initial Shuttle Bus Schedule. Jaunt will ensure that the Shuttle Bus will arrive no later than two (2) minutes after the designated arrival time at least ninety (90%) percent of each Business Day, provided that Jaunt shall not be responsible for delays beyond its control such as road repairs or major traffic delays that are not customary on the route.

Any proposed changes to the schedule must be submitted to the County, WillowTree, and Developer at least ten (10) days in advance of any proposed change and must be approved in writing prior to implementing the change.

Jaunt covenants to continuously operate the Shuttle Bus as specified in the Shuttle Bus Schedule during the term of the Agreement, and the failure of Jaunt to do so shall constitute a material event of default.

4. CLEAN AND ORDERLY CONDITION

Jaunt shall maintain the interior and the exterior of the Shuttle Buses in a clean, neat, and orderly manner at all times and provide for the timely disposal of trash and debris; and Jaunt shall establish a schedule to ensure interior cleaning of the buses are conducted by Jaunt on a regular basis. Interior cleaning should include, but not be limited to dusting, vacuuming, and spot/spill cleaning.

5. ENFORCEMENT OF NO SMOKING REQUIREMENTS

Jaunt shall post “NO SMOKING” signs on all Shuttle Buses. Jaunt shall ensure that the bus drivers inform passengers, as necessary, that smoking is prohibited on all Shuttle Buses at all times.

6. EQUIPMENT AND SUPPLIES

Jaunt shall provide any and all equipment and supplies that are necessary to provide the Shuttle Bus Service, including, without limitation, Shuttle Buses, employee uniforms, radio communication equipment, radio communication equipment, and reasonable and necessary office equipment. Jaunt shall obtain any and all required permits and licenses to operate the Shuttle Buses and such radios.

EXHIBIT B-1
SHUTTLE BUS SCHEDULE

Initial Shuttle Bus Schedule

(or substantially similar schedule as may be determined by Woolen Mills and WillowTree)

Two stops for pick-up within one (1) block of the Broadway route, including one on or immediately next to the Downtown Mall.

Monday through Friday

8:00 am – 10:00 am – continuous loop operation – (average travel time TBD)

10:00 am – 12:00 pm – at least one loop per hour

12:00 pm – 2:00 pm - continuous loop operation

2:00 pm – 5:00 pm – at least one loop per hour

5:00 pm – 7:00 pm - continuous loop operation

In the event Jaunt employs a vendor-based platform such as Routematch to provide the Services, the written consent of WillowTree will be required.