

AMENDMENT 1: MEMORANDUM OF AGREEMENT BETWEEN ALAMANCE COUNTY AND VAYA
HEALTH

THIS AMENDMENT to the Memorandum of Agreement dated September 1, 2022 (hereinafter, the "Agreement" or "MOA"), by and between Alamance County, a North Carolina body corporate and politic, (hereinafter referred to as "County"), and Vaya Health, a North Carolina Local Government Entity/ Managed Care Organization as that term is defined at N.C.G.S. § 122C-3(20c) (hereinafter "Vaya") (collectively hereinafter "Parties") is made and entered into effective this ____ day of _____, 2024.

WITNESSETH

That, for and in consideration of the mutual covenants and agreements herein set forth, County and Vaya hereby agree to modify the Agreement by replacing the below terms in the Agreement in their entirety with the following:

1. Purpose.

In order to effectively manage the provision of improved services to Alamance County citizens, Vaya intends to enter into a ten (10) year lease of real property located at 963 Kirkpatrick Road, Burlington, NC 27215 (the "Property") for the development of a crisis center. Construction of a building on the Property is anticipated to begin September 2022, and Vaya intends to lease the Property upon completion of construction, which is anticipated for November 2023 (the "Lease").

2. Term and Termination.

a. Effective Date and Term. The term of this MOA shall begin on September 1, 2022, and shall remain in effect until the end date of the Lease, unless earlier terminated as set forth herein ("Term"). There is no right of renewal of this MOA and this Term may be extended only by written agreement of both Parties.

b. Voluntary Termination. This MOA may be voluntarily terminated at any time upon the mutual consent of both Parties.

c. Involuntary Termination. Vaya may immediately, without prior notice, terminate this MOA if County fails to timely provide the funding referenced in Section 4, below. If Vaya terminates this Agreement, Vaya may pursue any of its remedies at law or in equity, or both, including damages, injunctive relief, attorneys' fees, and specific performance.

d. County's obligation to make payments under this MOA shall terminate should Vaya cease to make, or be obligated to make, Lease payments for any reason.

3. Costs and Funding.

a. From the period beginning July 1, 2024, the total annual cost to County for the Lease and operation of the Property will be the total of the funds allocated by the County on an annualized basis as the "Maintenance of Effort" ("MOE") funds for the State of North Carolina's Department of Health and Human Services, Mental Health Division grant program (for fiscal year 2023-24, \$1,031,000) plus a portion of the County's received funding from ongoing, national opioid litigation settlements which is proportional to the number of persons treated during the prior fiscal year by Vaya and its subcontractors at the Property for opiate addiction (for fiscal year 2023-24, \$413,580). The sum of these fund amounts will be referred to hereinafter as the "Funds." The Parties understand and acknowledge that the amount of Funds may change from year to year, but County shall be responsible for providing no more in payment to Vaya for the Lease and operation of the Property than is actually received by County from these two funding sources.

b. For the period commencing July 1 2024, County will provide Vaya with the Funds described in Section 3a. County shall provide such Funds to Vaya by electronic funds transfer within ten (10) business days of the signing of Amendment 1 to the Agreement. For subsequent fiscal years, County shall provide such funding to Vaya by electronic funds transfer at least thirty (30) days in advance of the date the first monthly lease payment of the fiscal year is due or as quickly as reasonably possible after County's receipt of each portion of the Funds, whichever occurs later.

c. County shall pay to Vaya \$1,031,000 (the State of North Carolina's Department of Health and Human Services, Mental Health Division's required "Maintenance of Effort" ("MOE") funds for fiscal year 2023-24, presently held by County) as payment for the Lease for the 2023-24 fiscal year by electronic funds transfer within ten (10) business days of Vaya's signing of Amendment 1 to the Agreement.

c. County shall pay to Vaya \$1.2 million in "Cardinal funds" presently held in escrow by County by electronic funds transfer within ten (10) business days of Vaya's signing of Amendment 1 to the Agreement.

Additionally, the Parties agree to add the below term to the Agreement:

11. Appropriation.

County warrants that it has funds available to make payments as outlined in Section 3 of this Agreement until the end of its current appropriation period and warrants that it presently intends to make payments in each fiscal year from now until the end of the term of the Lease. The officer of County responsible for preparation of County's annual budget shall request from The County's Board of Commissioners funds to be paid to Vaya under this Agreement. If, notwithstanding the making in good faith of such request in accordance with appropriate procedures and with the exercise of reasonable care and diligence, such legislative body does not appropriate funds to be paid to Vaya, County may, upon prior written notice to Vaya, effective upon the exhaustion of the funding authorized for the then current appropriation period, terminate this Agreement, and thereupon, County shall be released of its obligation to make Payments to Vaya due thereafter, provided: (1) the above described notice states the failure of the legislative body to appropriate the necessary funds as the reason for cancellation; and (2) such notice is accompanied by payment of all amounts then due to Vaya under this Agreement. County's obligations for Lease payments under this Agreement shall constitute a current expense of County for such fiscal year, and shall not constitute indebtedness or a multiple fiscal year obligation of County under North Carolina law. Nothing in this Agreement shall constitute a pledge by County of any taxes or other monies, other than as appropriated for a specific fiscal year, for the Costs and Funding outlined in Section 3.

(Only signature pages follow)

IN WITNESS WHEREOF, the parties have executed this Amendment in their official capacities with legal authority to do so.

ALAMANCE COUNTY

HEIDI YORK, ALAMANCE COUNTY MANAGER

VAYA HEALTH

TRACY HAYES, AREA DIRECTOR AND CHIEF EXECUTIVE OFFICER

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act, N.C.G.S. § 159-28.

SUSAN EVANS, ALAMANCE COUNTY FINANCE OFFICER

LARRY HILL, CHIEF FINANCIAL OFFICER, VAYA HEALTH

Approved as to form only.

JAMES F. STEVENS, ALAMANCE COUNTY ATTORNEY