

MASTER AGREEMENT

#: VCU-IT-6852

This Master Agreement ("Agreement"), effective as of the last date executed ("Effective Date"), is between Virginia Commonwealth University, a corporation and an institution of higher education of the Commonwealth of Virginia, whose address is 912 West Grace Street, Richmond, VA 23298 ("VCU", or "University"), and Fenix Alma Solutions Inc. a Foreign Entity – Canadian Business corporation, with offices located at 147 Fairview Road, Kingston, ON, Canada, K7M3B2, ("Fenix Alma Solutions Inc." or "Firm"). VCU and Firm are sometimes referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, VCU issued a Request for Proposals to solicit proposals for a Learning Management System (LMS) (the "Services/Goods"), RFP # 204620874DP August 19, 2025 (the RFP); and

WHEREAS, Firm submitted its proposal dated September 16, 2025, (the "Proposal") wherein it wished to be considered, among other things, for the Services/Goods as more fully specified therein; and

WHEREAS, VCU considered all proposals submitted, including the Firm's Proposal, and VCU now desires to award to Firm, understanding that the final execution date shall be deemed the Award Date; and

WHEREAS, Firm desires to perform the Services/Goods as set forth herein.

NOW THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. AGREEMENT DOCUMENTS: The following documents are integrated into and made part of this Agreement:

1. ATTACHMENT A: General Contractual Provisions
1. ATTACHMENT B: Specific Contractual Provisions
2. ATTACHMENT C: Data Protection Addendum
3. RFP# 204620874DP issued August 19, 2025, in its entirety as clarified and negotiated, by reference;
4. Firm's RFP Proposal, dated September 16, 2025, by reference
5. Exhibit A – System Specifications
6. Exhibit B – Pricing Schedule
7. Exhibit C – Product Roadmap

Should a conflict arise among the foregoing documents, this Agreement, to include the Contractual Provisions, shall control.

B. TERM and RENEWAL OF CONTRACT: This contract shall have a one (1) year initial term (the "Initial Term") and may be renewed by VCU upon mutual written agreement of authorized representatives of both Parties for nine (9) successive one (1) year periods (the "Renewal Term") under the terms and conditions of this original Contract or as otherwise agreed in writing by the Parties at such time.

If VCU elects to exercise the option to renew the contract for an additional one (1) year period, the contract price(s) for the additional one (1) year shall not exceed the contract price(s) of the previous contract period increased/decreased by more than the percentage increase/decrease of the Services

/Goods category of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

C. SERVICES/GOODS: The Firm shall grant VCU a non-exclusive, non-transferable license to use, for its operational purchases as described herein, VidaNovaVLE™, a comprehensive cloud-hosted Learning Management System, and all implementation, configuration, migration, integration, validation, training, and post-launch support services necessary to operationalize the platform for use at the VCU School of Medicine. The Firm shall ensure the LMS supports core academic and administrative functions of the medical education program and shall provide ongoing system support and access to future platform enhancements

D. FIRM RESPONSIBILITIES:

1. **Overview**

The Firm shall provide VidaNovaVLE™, a comprehensive Learning Management System, for the Virginia Commonwealth University School of Medicine. The LMS shall be modern, scalable, and designed to support delivery, administration, assessment, and continuous improvement of medical education. The Firm shall perform all services necessary to configure, implement, and operationalize the LMS for use by VCU faculty, staff, and learners in accordance with this Agreement and as further defined in Exhibit A – System Specifications.

The LMS shall support, at minimum:

- Management and delivery of academic curriculum
- Assessment administration and tracking
- Evaluation workflows and faculty review process
- Learner performance and progression monitoring
- Reporting and analytics capabilities

2. **Implementation**

a) Implementation shall be conducted in a structured and collaborative manner. The Firm shall:

- Conduct stakeholder engagement sessions to confirm requirements, workflows, and project roles
- Develop and maintain a written implementation plan that includes milestones, deliverables, and timeline commitments
- Provide regular progress updates and communicate risks or changes proactively

b) The Clinical Phase shall be treated as the priority phase, with a target go-live of approximately April 6. This phase shall include configuration and delivery of approximately eight (8) to nine (9) clinical course shells and shall support required clinical functionality, including Required Clinical Experiences (RCEs), clinical evaluations, and core LMS capabilities.

The Firm shall make a Clinical Phase environment available in advance of go-live, such that the University may begin training and preparation activities approximately four (4) weeks prior to the Clinical Phase go-live date. Students shall be uploaded and associated to clinical courses based on existing University assignments, and no lottery functionality is required for this phase.

The Clinical Phase shall include planning, configuration, course setup, account provisioning, applicable data and content migration, training, and readiness activities, including targeted support for clerkship directors, coordinators, and clinical faculty within the compressed implementation timeline.

The Pre-Clinical Phase shall follow, with a target go-live no later than June 30, and shall include remaining configuration, content and historical data migration as applicable, training, and transition to broader adoption. Training for the Pre-Clinical Phase may be delivered on a more rolling and scalable basis.

The implementation schedule may be modified only by mutual written agreement of the parties.

- c) Prior to Go-Live, the Firm shall provide validation, support and training including the following:
 - Conduct functional validation and system testing in collaboration with the University
 - Address defects or issues identified during testing
 - Provide documentation, configuration guidance, and administrator reference materials
 - Deliver training using a train-the-trainer approach

3. System Configuration and Hosting

The Firm shall install and configure the LMS in accordance with VCU's requirements. Configuration shall:

- Reflect medical education-specific curriculum structures, workflow models, and user functionality as confirmed during the implementation workshops
- Support a user experience that aligns with practical academic workflows and incorporates reasonable usability feedback from faculty and administrative users as part of implementation activities
- Be deployed within a dedicated, single-tenant environment hosted in the United States using AWS or an equivalent enterprise-grade cloud provider, and deliver the associated infrastructure advantages, including operational reliability, high availability, and performance scalability.

4. Data Migration and Integrations

The Firm shall perform and support data migration and integration services, which includes:

- Migration of applicable legacy data (e.g., curriculum content, course structure, user records, grades, and evaluations), where technically feasible, with ETL, validation, and parallel testing
- Provide nightly structured SQL data export functionality consistent with the technical specifications confirmed during the implementation workshops
- Implementation of system integrations including Single Sign-On (SSO), Student Information System (SIS), and/or video hosting platforms such as Kaltura
- Support API-based access through the Moodle framework in collaboration with the University, as feasible

5. Acceptance

The Firm shall notify the University in writing when implementation activities are complete. The Software will be accepted only upon the University's written confirmation. Acceptance of the system will be based on the following criteria:

- Completion of configuration activities as described in the implementation plan
- Successful execution of validation and functional testing scripts,
- Ability for authorized users to log in and perform core academic workflows, and
- No Severity 1 defects remaining unresolved

Acceptance will not be contingent on subjective preferences, post-launch refinements, or future enhancement requests.

After acceptance of the solution, any updates, upgrades, patches, or modifications to the solution shall not materially degrade existing functionality, performance, security, or accessibility. Any degradation resulting from such changes shall be promptly corrected by the Firm at no additional cost to the University.

6. Go-Live and Post-Implementation Services

Upon written confirmation from VCU that the LMS is operational and performing substantially as intended, the system shall be deemed live for purposes of the Agreement. Following go-live, the Firm shall provide:

- Ongoing support, via Slack channel, embedded documentation, and continuous training refreshers
- Continuous assistance with workflow refinement and enhancement planning
- The Firm shall also collaborate with the VCU to evaluate potential feature enhancements.
- New features made generally available to all VidaNovaVLE™ customers will be provided to VCU at no additional cost. Institution-specific enhancements, custom development, or bespoke workflows shall be governed by a separate Statement of Work.
- Support the University in mitigating adoption risks through targeted faculty engagement strategies and implementation feedback sessions during configuration and validation phases.

Nothing in this Agreement obligates Firm to develop new features, custom workflows, or enhancements beyond its standard Product Roadmap, Exhibit C, unless agreed in writing under a separate Statement of Work.

7. Service Levels

Minimum performance standards are outlined below:

- Priority Level 1 – Critical, Target Response Time: 1 hour, Target Resolution Time: 2 hours*, Firm will respond within the stated Response Time and will work continuously and in good faith toward resolution. Resolution times are estimates and not guaranteed deadlines, as issues may involve external dependencies, third-party systems, or complex technical remediation. All or material parts of VidaNovaVLE™ are not available and critical business functions cannot be performed. This represents a complete outage or severe degradation

that prevents the system from being used in production.

- Priority Level 2 – Serious, Target Response Time: 4 hours*, Target Resolution Time: 1 business day, VidaNovaVLE™ is partially available or unable to perform certain business functions, or performance or functionality is seriously degraded or limited, resulting in a serious impact to operations.
- Priority Level 3 – Less Serious, Target Response Time: 1 business day, Target Resolution Time: 3 business days*, Non-critical functions are not working or not working properly, with little or no operational impact.
- Priority Level 4 – Minor / Enhancement, Target Response Time: 2 business days, Target Resolution Time: Next scheduled release*, Minor usability issues or feature requests that do not impact system functionality.

* Firm will respond within the stated Response Time for each priority level and will work continuously and in good faith toward resolution. All Resolution Times are estimates and not guaranteed deadlines due to potential dependencies on external systems, third-party platforms, or complex technical remediation requirements, however consistent underperformance will result in the Firm submitting a corrective action plan to the University that outlines specific tasks and timelines for completion of such tasks for the remediation of such performance so that the resolution times can be more consistently delivered.

8. VCU Responsibilities

- Provide access to key stakeholders, technical contacts, and subject matter experts
- Supply source data required for migration and support system access and testing
- Participate in training, validation, and transition planning
- Provide written acknowledgment of milestone completion and go-live readiness

E. **FEES:** VCU shall pay Firm fees as described in Exhibit B, Pricing Schedule.

F. **ACCEPTANCE OF VCU PURCHASE ORDERS:** The Firm will provide a detailed statement of work prior to any project summarizing specific services, deliverables, delivery dates, and cost. The Firm will do so without introducing additional terms or conditions and will not require VCU to sign any separate agreements.

G. **PAYMENT METHOD AND PAYMENT TERMS:**

1. VCU shall pay Firm within the net days specified below following receipt of a proper invoice, services rendered, or goods delivered, whichever is later pursuant to and in accordance with §§ 42-45 of the *Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher Education of the Commonwealth* (similar to the Virginia Prompt Payment Act).
2. Fees appearing to be incorrect will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached.
3. Specific Terms:
 - a) Payment Method: Wire Transfer
 - b) Payment Terms: Net 35

4. Firm acknowledges and agrees that the payment method agreed to under this Agreement shall apply to all invoices and payments related to this Agreement and any other current or future agreements, purchase orders, or transactions involving the same Firm, regardless of remit-to address or locations.

If VCU and Firm execute multiple agreements with different payment methods specified, VCU may, in its sole discretion, select and apply one preferred payment method across all such agreements and associated transactions for consistency and administrative efficiency. VCU may update the payment method in the Firm's vendor file without further notice.

Any Firm-requested changes must be submitted in writing and are subject to approval by the Office of Procurement Services. Firm may, at any time, upgrade to either the Virtual Card or Premium ACH (Paymode-X) payment method by coordinating with Bank of America or Paymode-X. These upgrades do not require an amendment to the Agreement but VCU reserves the right to reject or deny a change deemed not in the best interest of the University.

- H. **INVOICING:** All invoices will reflect the VCU Purchase Order number and will be emailed to VCU.Invoices@trustflowds.com or mailed to Accounts Payable, Box 3985, Scranton, PA 18505. For additional information regarding proper invoicing practices follow the link below:

<https://procurement.vcu.edu/for-suppliers/vendor-invoicing--payment/>

Firm shall comply with all University invoicing requirements, including submission through VCU's designated intake channels and accurate referencing of applicable Purchase Orders. VCU reserves the right to reject or return any improper invoice, including but not limited to duplicate invoices, without penalty. In the event Firm repeatedly submits improper invoices, VCU may impose administrative fees and costs, and may deduct such fees and costs from future Firm payments. Prior to the imposition of any administrative fees, VCU shall provide the Firm with written notice identifying any improper or noncompliant invoices. Upon receipt of such notice, the Firm shall submit to VCU, for review and approval, a written corrective action plan describing the steps the Firm will take to remedy the issue and the timeline for completion.

If the Firm fails to implement the approved corrective action plan within the specified timeframe, or otherwise fails to remedy the identified issue, VCU may, upon written notice to the Firm, assess administrative fees. Such notice shall describe the applicable fees and the effective date on which they will be imposed.

- I. **CONTRACTS ADMINISTRATOR:** The Firm will not make any commitments/comments or take actions on behalf of the University without the explicit direction of the Contract Administrator.

1. Primary Administrator:

The Primary Administrator is the point of contact for day-to-day operations under this Agreement. The Firm and the Primary Administrator acknowledge that no binding changes or amendments to this Agreement can be made without approval of the Office of Procurement Services. The Primary Administrator is:

Eric Ellis, ellisg@vcu.edu

2. Secondary Administrator:

Firm will channel all contract questions not pertaining to a specific service or department request through the VCU's Procurement Office and the individual named below:

Dana Parent, dmparent@vcu.edu

Any updates to the information in this section may be provided to the Firm in writing. A formal amendment to this Agreement is not required to do so.

J. **NOTICES:** Notices, requests, claims, legal notices, and other communications not related to the day-to-day operations, but required or permitted under this Agreement, shall be in writing, shall refer specifically to this Agreement, and shall be deemed delivered upon receipt. Any such notices, requests, and other communications shall be addressed as follows:

FOR VCU:

Director
Office of Procurement Services
912 West Grace Street, 5th Floor
Richmond, Virginia 23298-0327
(804) 828-1077
contracts@vcu.edu

FOR FIRM:

Andrew Dos-Santos
Found, President, and CEO
Fenix Alma Solutions, Inc.
147 Fairview Road
Kinston/Ontario/K7M3B2
andrew@fenixalma.com

Any notice sent by any other means shall not be considered duly given or delivered unless the receiving party affirmatively acknowledges receipt.

K. **SMALL BUSINESS AND SUPPLIER DIVERSITY (SBSD) CERTIFIED BUSINESSES REPORTING:** The Firm will identify and fairly consider SBSD Firms for subcontracting opportunities when qualified SBSD firms are available to perform a given task required under this Agreement. Firm will submit a quarterly SBSD business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January.

If Firm does not subcontract any portion of the work under this Agreement, Firm may satisfy the quarterly reporting requirement by submitting a statement of 'no subcontracting activity' for that reporting period.

Firm will submit the quarterly SBSD business reports, based upon the Firm's proposed commitment to:

VCU SBSD Reporting
swamreporting@vcu.edu

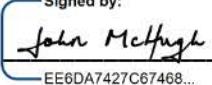
The quarterly SBSD business reports will contain the following information:

1. SBSD firms' name, address and phone number with which Firm has contracted over the specified quarterly period.
2. Contact person at the SBSD firm who has knowledge of the specified information.
3. Type of goods and/or services provided over the specified period of time.
4. Total amount paid to the SBSD firm as it relates to the University's account.

Firm's failure to provide SBSD reports on a quarterly basis which contain the information required by this section and/or Firm's failure to comply with the plan for utilizing SBSD businesses submitted by Firm as part of its proposal and/or negotiation response may be grounds for debarment pursuant to Section 9(G)(4) of the [Purchasing Manual \(https://vascupp.org/sites/vascupp/files/2020-09/hem.pdf\)](https://vascupp.org/sites/vascupp/files/2020-09/hem.pdf).

IN WITNESS WHEREOF, the Parties agree that this Agreement contains the entire understanding between the Parties and may only be modified upon mutual agreement and executed in writing by authorized representatives of each Party. By signing below, the signatories affirm that they are the authorized representatives of their respective party and have been delegated authority to bind their respective parties in contract.

Virginia Commonwealth University

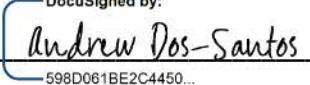
Signed by:
By: 
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Name: John McHugh

Title: Executive Director, Office of Procurement Services

Date: 1/20/2026

Fenix Alma Solutions Inc.

DocuSigned by:
By: 
598D061BE2C4450...

Name: Andrew Dos-Santos

Title: President, Founder, and CEO

Date: 1/15/2026

ATTACHMENT A
VIRGINIA COMMONWEALTH UNIVERSITY
GENERAL CONTRACTUAL PROVISIONS

- A. **COMPLIANCE.** Firm¹ will comply with all applicable laws, regulations, industry codes, and guidance in performing services under this Agreement.
- B. **CONFLICT OF INTERESTS.** The Firm represents and affirms to the University that its entering into this Agreement with the University and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by the Virginia State and Local Government Conflict of Interests Act (§ 2.2-3100 *et seq* of the *Code of Virginia (Virginia Code)*), the Virginia Ethics In Public Contracting Act (*Virginia Code* § 2.2-4367 *et seq*), the Virginia Governmental Frauds Act (*Virginia Code* § 18.2-498.1 *et seq*) or any other applicable law or regulation. Should circumstances change, the Firm will notify the University of any potential conflict of interests prohibited under law.
- C. **INDEPENDENT CONTRACTOR:** Firm is not an employee of the University, but is engaged as an independent contractor. The Firm will indemnify and hold harmless the Commonwealth of Virginia, the University, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to the Firm's performance of this Agreement. Nothing in this Agreement will be construed as authority for the Firm to make commitments which will bind the University, or to otherwise act on behalf of the University, except as the University may expressly authorize in writing.
- D. **WAIVER OF CLAIMS:** No waiver of any right will be deemed a continuing waiver, and no failure on the part of either party to exercise wholly or in part any right will prevent a later exercise of such or any other right.

Notwithstanding anything contained herein to the contrary, VCU is an agency of the Commonwealth of Virginia and as such, pursuant to *Virginia Code* § 2.2-514, cannot waive or settle legal claims that VCU may have against another party nor may VCU bestow any right or obligation that is beyond the duly granted authority of the signatory to bestow or incur on behalf of the Commonwealth of Virginia.

- E. **NONDISCRIMINATION/ANTI-DISCRIMINATION:** During the performance of this Agreement, Firm will comply with the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975 (VFECA), as amended, the Virginians With Disabilities Act (VDA), the Americans With Disabilities Act (ADA) and § 9 of the *Rules Governing Procurement of Goods, Services, Insurance and Construction by a Public Institution of Higher Education of the Commonwealth (Governing Rules)*.

If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Governing Rules* § 36)

In every contract over \$10,000, the provisions below apply.

1. During the performance of this Agreement, the Firm agrees as follows:
 - a) The Firm will not discriminate against any employee or applicant for employment because of race, religion, color, gender, gender identity, national origin, age, disability or other basis prohibited by state law relating discrimination, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Firm. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this

¹ The term "Firm" shall have the same meaning and be interchangeable with the terms "Vendor", "Supplier" and/or "Firm" as such terms may be used/referenced in this Agreement or any underlying agreement documents.

nondiscrimination clause.

- b) The Firm, in all solicitations or advertisements for employees placed by or on behalf of the Firm, will state that such Firm is an equal opportunity employer.
- c) Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
- d) If Firm employs more than five employees, Firm shall (i) provide annual training on Firm's sexual harassment policy to all supervisors and employees providing services in the Commonwealth of Virginia, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post Firm's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth of Virginia that Firm owns or leases for business purposes and (b) Firm's employee handbook.

2. The Firm will include the provisions of a through d above in every subcontract or purchase order over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

F. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Firm warrants and certifies that it does not and will not during the performance of this contract employ unauthorized alien workers, as defined by the federal Immigration Reform and Control Act of 1986 or violate any other provisions of the Act.

G. **ANTITRUST:** By entering into a contract, Firm conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under this Agreement.

H. **NON-APPROPRIATION:** Funding for any Agreement between the University and a Firm is dependent at all times upon the appropriation of funds by the Virginia General Assembly and/or any other organization of the Commonwealth authorized to appropriate such funds. In the event that funding to support this Agreement is not appropriated, whether in whole or in part, then the Agreement may be terminated by the University effective the last day for which appropriated funding is available.

I. **VIRGINIA MINIMUM WAGE ACT:** All Firms must comply with the state and federal minimum wage requirements. Every Firm shall pay to each of their employee's wages at a rate not less than the greater of (i) the adjusted state hourly minimum wage or (ii) the federal minimum wage as prescribed by Virginia Minimum Wage Act (Virginia Code § 40.1-28.8 et seq.) and the U.S. Fair Labor Standards Act (29 U.S.C. § 201 et seq.), respectively. For details on minimum wage law requirements, contact the Department of Labor & Industry at: <https://doli.virginia.gov>

J. **WORKERS' COMPENSATION:** Firm will (i) obtain and maintain a workers' compensation policy for all employees in accordance with applicable law, and (ii) comply with all federal and/or state laws and regulations pertaining to Workers' Compensation requirements for insured or self-insured programs.

K. **DRUG-FREE WORKPLACE:** Firm, its agents and employees are prohibited, pursuant to *Governing Rules §11*, and the Commonwealth of Virginia, Department of Human Relations Management Policy No. 1.05, from manufacturing, distributing, dispensing, possessing, or using any unlawful or unauthorized drugs or alcohol while on University property.

During the performance of this Agreement, the Firm agrees to (i) provide a drug-free workplace for the Firm's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Firm's workplace and specifying the actions that will be taken against employees for violation of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Firm that the Firm maintains a drug-free workplace; and (iv) includes the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor providing services under this Agreement.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection

with a specific agreement awarded to a Firm, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Agreement.

- L. **VIRGINIA FOIA:** Nothing contained herein is intended to limit VCU's compliance with the Virginia Freedom of Information Act ("VFOIA"). For clarity, agreements and pricing between VCU and its vendors are not considered to be exempt from VFOIA requests.
- M. **STATUTORY DAMAGES:** VCU is not authorized to waive damages granted or otherwise available by statute.
- N. **SOVEREIGN IMMUNITY:** VCU is an agency of the Commonwealth of Virginia and is afforded the protection of sovereign immunity under Virginia law. Any claims against VCU or the Commonwealth are subject to the requirements established under Virginia law for bringing such claims against VCU or the Commonwealth, including the Virginia Tort Claims Act (Virginia Code §§ 8.01-195.1 et seq.) and other applicable statutes relating to claims against the Commonwealth or its agencies. Notwithstanding any other provision, nothing in this Agreement shall be deemed to be or construed as a waiver of VCU's or the Commonwealth's sovereign immunity, or any other applicable requirements under Virginia law for bringing claims against VCU or the Commonwealth. The total cumulative liability of the University, its officers, employees, and agents in connection with this Agreement or in connection with any goods, services, actions or omissions relating to this Agreement, shall not under any circumstance exceed payment of the maximum purchase price.
- O. **REPRESENTATIONS AND WARRANTIES:** All representations and warranties made by the University are made to the best of its knowledge at the time the representation or warranty is made. University will use its best efforts to comply with all conditions and restrictions on its accounts and the services provided hereunder.
- P. **INFORMATION TECHNOLOGY ACCESS:** All electronic and information technology procured through this agreement must meet the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended and is viewable at <http://www.section508.gov>. If requested, the Firm must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. Additionally, in accordance with § 2.2-3504 of the Code of Virginia, the following will apply to all information technology Agreements:

All information technology ("Technology") which is purchased or upgraded by the University will comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

1. Effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
2. The Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
3. Nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
4. The technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if University's Executive Director of Procurement Services determines (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software, or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

If requested, the Firm must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration. The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, *Virginia Code §§ 2.2-3500 through 2.2-3504*.

Q. **ARBITRATION:** Neither Party shall be compelled to agree to any form of binding alternative dispute resolution, but may request and/or opt to participate in non-binding alternative dispute resolution in its sole discretion.

R. **CONTRACTUAL CLAIMS PROCEDURE:** *Governing Rules § 53* (similar to the Virginia Acts of Assembly of 2007, Chapter 943, Chapter 3, Exhibit P and its attachments) requires Firms with the University to submit any claims, whether for money or other relief, in writing no later than 60 days after final payment; however, written notice of the Firm's intention to file such a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based.

The University's procedure for deciding such contractual claims is:

1. Firm must provide the written claim to:
Assistant Director of Purchasing
Virginia Commonwealth University
Office of Procurement Services
912 West Grace Street
Box 980327
Richmond, Virginia 23298
2. Although Firm may, if it chooses, attempt to resolve its claim by dealing with a University department other than the one stated in Section 1 above, Firm must submit any unresolved claim in writing no later than 60 days after final payment to the Assistant Director of Purchasing if it wishes to pursue its claim.
3. Upon receiving the written claim, the Assistant Director of Purchasing will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Firm. If such discussion is to be held, the Assistant Director of Purchasing will contact Firm and arrange such discussion. The manner of conducting such discussion will be as Assistant Director of Purchasing and Firm mutually agree.
4. The Assistant Director of Purchasing will mail his or her decision to Firm within 60 days after receipt of the claim. The decision will state the reason for granting or denying the claim.
5. Firm may appeal the decision to:

Executive Director of Procurement Services
Virginia Commonwealth University
Office of Procurement Services
912 West Grace Street
Box 980327
Richmond, Virginia 23298

Provide a written statement explaining the basis of the appeal within fifteen (15) calendar days after Firm's receipt of the decision.

6. Upon receiving the written appeal, the Executive Director of Procurement Services will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Firm. If such discussion is to be held, the Executive Director of Procurement Services will contact Firm and arrange such discussion. The manner of conducting such discussion will be as the Executive Director of Procurement Services and the Firm mutually agree.
7. The Executive Director of Procurement Services will mail his or her decision to Firm within 60 days after the receipt of the appeal. The decision will state the reasons for granting or denying the appeal.

Nothing in this procedure will preclude either party from filing a claim in any court of the Commonwealth of Virginia to seek legal or equitable remedy if a dispute should arise, in addition to such other remedies as are expressly

provided in this Agreement. Firm may not, however, file such claim unless and until it has complied fully with the procedure set forth in this provision.

S. **PAYMENT OFFSET:** In the event any payment from VCU to Firm is intercepted and offset by the federal government or the Commonwealth of Virginia pursuant to applicable law, such payment shall be deemed received in full by Firm for the applicable services or goods. Firm acknowledges that it shall not seek additional payments from VCU, suspend services, or refuse to perform under this Agreement solely due to such lawful offset. This provision shall not limit Firm's rights to pursue remedies directly with the applicable governmental entity responsible for the offset, nor shall it preclude Firm from enforcing its rights under this Agreement in the event of non-payment unrelated to such offset.

T. **PURCHASING MANUAL.** This Agreement is subject to the provisions of the Commonwealth of [Virginia Purchasing Manual for Institutions of Higher Education and Their Vendors \(Purchasing Manual\)](#) and any subsequent revisions, which is available on Procurement and Supplier Diversity Services website at: <https://vascupp.org/sites/vascupp/files/2020-09/hem.pdf>.

U. **REALSOURCE REGISTRATION:** The Firm is required to register in VCU's source-to-pay platform, RealSource, upon signing an agreement with VCU. For information on registering, visit realsource.vcu.edu. Registration is free, and registered vendors shall have access to purchase order, invoice, and payment information. Firm is responsible for the security of its RealSource portal account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of the Firm's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to the Firm's failure to update or protect its account information. If this is a cooperative procurement, this clause shall apply to orders placed by VCU only.

V. **ORDERING PROCESS.** The University does not place verbal orders for Goods and Services. The University may only place orders for the Goods and Services by issuing a formal written Purchase Order in advance of Firm's provision of the Goods and Services. Accordingly, at the University's request, the Firm will issue a proposal/quotations listing the Goods and Services desired by the University and the corresponding fees and/or fee estimates. After any necessary discussions and/or revisions, the University will issue a corresponding Purchase Order for a specified fee amount. This specified fee amount cannot be exceeded by the Firm unless a new formal written Purchase Order or Purchase Order revision is issued by the University authorizing a specific additional fee amount. Under no circumstances does the University authorize the Firm to provide the Goods and Services before receipt of a formal written Purchase Order corresponding to its proposal/quotations. If the Firm provides Goods and Services prior to receipt of a formal written Purchase Order, or incurs costs in excess of authorized purchase order fee amounts, it does so at its own risk.

W. **eVA REGISTRATION:** The eVA Internet electronic procurement solution is the Commonwealth of Virginia's comprehensive electronic procurement system. The portal, found at www.eva.virginia.gov, is a gateway for Firms to conduct business with state agencies and public bodies. All agencies and public bodies are expected to utilize eVA and all Firms desiring to provide goods and/or services in the Commonwealth are encouraged to participate in the eVA Internet e-procurement solution. Firm is required to register in the eVA Internet e-procurement solution as a condition of award and remain eVA registered during the term of this Agreement.

Firm shall be responsible for the security of its eVA account, including restricting access to it, maintaining the confidentiality of login information, and taking any other actions necessary to protect the security of Firm's account. VCU will not be responsible for a third party's fraudulent collection of VCU payments due to Firm's failure to update or protect its account information.

X. **eVA FEES:** Unless the procured services are exempt pursuant to eVA standard, Firm will be subject to an eVA transaction fee, for which Firm will be invoiced by Commonwealth of Virginia, Department of General Services. The Commonwealth shall assess eVA transaction fees as specified below for each order resulting from this Agreement. The Vendor transaction fee (which is subject to change) is:

1. DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
2. Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified Vendor transaction fee will be invoiced by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and the invoice is payable 30 days

after the invoice date. ***Firm shall be prohibited from recouping or seeking reimbursement of the eVA fee by invoicing the University for the fee.***

Y. **SMALL BUSINESS AND SUPPLIER DIVERSITY (SBSD) CERTIFIED BUSINESSES REPORTING:** If Firm has a SBSD plan or is required to have a SBSD plan, the Firm will identify and fairly consider SBSD Firms for subcontracting opportunities when qualified SBSD firms are available to perform a given task required under this Agreement. Firm will submit a quarterly SBSD business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January.

Firm will submit the quarterly SBSD business reports, based upon the Firm's proposed commitment to:

VCU SBSD Reporting
swamreporting@vcu.edu

The quarterly SBSD business reports will contain the following information:

1. SBSD firms' name, address and phone number with which Firm has contracted over the specified quarterly period.
2. Contact person at the SBSD firm who has knowledge of the specified information.
3. Type of goods and/or services provided over the specified period of time.
4. Total amount paid to the SBSD firm as it relates to the University's account.

Firm's failure to provide SBSD reports on a quarterly basis which contain the information required by this section and/or Firm's failure to comply with the plan for utilizing SBSD businesses submitted by Firm as part of its proposal and/or negotiation response may be grounds for debarment pursuant to Section 9(G)(4) of the [Purchasing Manual](#).

Z. **FEDERAL PROVISIONS:** For Contracts funded by a U.S. Government grant or contract, the following provisions found in [Appendix II of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule \(2 CFR Part 200, et al\)](#) shall be incorporated and made a part of this Contract.

AA. **LIMITATION OF LIABILITY:** Firm shall be liable for the direct damages caused by the negligence of itself, its officers, employees, and agents in connection with this Agreement or any goods, services, actions, or omissions relating to this Agreement.

Except for each Party's (i) willful misconduct, (ii) fraud, or (iii) infringement of the other Party's intellectual property rights, the total aggregate liability of either Party arising out of or relating to this Agreement shall not exceed two (2) times the total fees paid by VCU to Firm in the twelve (12) months preceding the event giving rise to the claim.

Neither Party shall be liable for incidental, consequential, punitive, exemplary, special, or indirect damages.

For clarity, claims related to confidentiality and data protection obligations, including those arising from a Security Breach shall be subject to this limitation of liability.

Nothing in this Agreement shall be construed to limit either Party's obligations described in any applicable national, federal, state or local law, rule, directive or regulation relating to the privacy of personal information, including, without limitation, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Privacy and Security Rules issued thereunder, the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), the Financial Modernization Act of 1999 ("Gramm-Leach-Bliley Act"), the Fair Credit Reporting Act as amended by the Fair and Accurate Credit Transactions Act, the Americans with Disabilities Act, Section 508 of the Rehabilitation Act (29 U.S.C. 794d, as amended, and the Virginia Consumer Data Protection Act

BB. **GRAMM-LEACH-BLILEY ACT:** If applicable, the Firm shall comply with the Act by implementing and maintaining appropriate safeguards to protect and prevent unauthorized release of student, faculty and staff nonpublic

information. Nonpublic information is defined as social security numbers, or financial transactions, bank, credit, and tax information.

CC. **INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR):** If Firm is providing any items, data or services under this order that are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (ITAR), it must notify (by sending an email to exportctrl@vcu.edu and receive prior written authorization from, the University's Export Compliance Program before delivery. The notification provided by the supplier shall include the name of the Virginia Commonwealth University point of contact, identify each ITAR-controlled commodity, provide the associated U.S. Munitions List (USML) category number(s), and indicate whether or not the determination was reached as a result of a commodity jurisdiction or self-classification process. Firm agrees that if it fails to notify the University that it is providing ITAR-controlled items, data or services, it shall reimburse the University for any fines, legal costs and other fees imposed by the above-named regulatory agency for any violation of export controls regarding the provided items, data or services.

DD. **COOPERATIVE PROCUREMENT / USE OF AGREEMENT BY THIRD PARTIES:** It is the University's intent to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University-related foundation (Additional Users) may access this Agreement if authorized by Firm.

To that end and if agreeable with the Firm, upon written request from Additional Users the Firm may allow access to the contract. Although the University desires to provide access on such contract to Additional Users, the Firm is not required to provide such access. A Firm's willingness to provide this access to Additional Users, will not be a consideration in awarding this contract. Although the Additional Users have access to any resulting contract, Additional Users are not bound to use the contract and any use of the contract is strictly optional. If the Additional Users choose to access the contract and the Firm agrees to such access, the terms and conditions of the contract will be in full force and effect as between the Additional Users and the Firm. VCU will have no responsibility for the resolution of any contractual disputes, or for payment for services rendered which may arise from an Additional User accessing the contract. The Firm understands and agrees that it shall not have any recourse against VCU with respect to any claim it may have against another Additional User that accessed this contract.

EE. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the Firm desires to subcontract some part of the work specified herein, the Firm shall furnish the University with the names, qualifications and experience of their proposed subcontractors. The Firm shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the Contract.

FF. **VCU CAMPUS COMPLIANCE:** Any Firm personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use, and conduct within such facilities. Please note that VCU is a smoke and tobacco-free campus ([VCU Smoke and Tobacco-Free Campus Policy](#)). In addition, if on-campus access, identification cards, or parking are required to perform or meet Firm's obligations under this Agreement, the Firm shall comply with all applicable University procedures:

- Information on University identification cards is available at: <https://cardservices.vcu.edu/>
- Building access requirements are outlined at: <https://cardservices.vcu.edu/access-control/building-access/>
- Contractor parking information is available at: <https://parking.vcu.edu/parking/contractors/>

All costs associated with obtaining on-campus University identification, access credentials, background checks, or parking are the responsibility of the Firm unless otherwise stated in writing by the University.

GG. **CRIMINAL BACKGROUND INVESTIGATION:** If Firm employees and agents will be on the VCU campus, or have access to protected data as defined herein, Firm must comply with the following: Firm shall ensure that its employees, full-time or part-time, including newly hired, re-hired, seasonal, and/or temporary, who may have access to VCU confidential or proprietary information, or data about VCU personnel or students, have passed a criminal background check pursuant to the *Virginia Code § 2.2-1201.1*. Criminal background checks shall comply with the standards set forth in VCU's employment policies found at:

<https://policy.vcu.edu/doctract/documentportal/08DA32A63EDBCEAAB4962445672CE290>

Specifically, Firm shall ensure an investigation is conducted by a third-party vendor utilizing courthouse records and

national databases to obtain records within the past seven (7) years. Convictions related to drugs, violence and/or sexual behavior are generally considered job related due to the nature of the VCU environment and the need to provide reasonable levels of protection for students, patients, employees, visitors, and institutional resources.

HH. **INTELLECTUAL PROPERTY RIGHTS/DISCLOSURE:** All pre-existing intellectual property, software, tools, processes, documentation, templates, know-how, configurations, or materials used or provided by Firm in connection with this Agreement ("Firm Pre-Existing IP") shall remain the sole and exclusive property of Firm.

Any work product created by Firm specifically and exclusively for VCU under a mutually executed Statement of Work, and which does not incorporate or modify Firm Pre-Existing IP, shall be deemed a "Work-for-Hire" and owned by VCU upon full payment.

To the extent such work product incorporates Firm Pre-Existing IP, Firm grants VCU a non-exclusive, non-transferable licence to use such incorporated elements solely for internal purposes during the Term.

Nothing in this Agreement shall be construed to transfer ownership of Firm's product, platform, configurations, feature design, enhancements, custom development, or any other improvement to the VidaNovaVLE® platform.

II. **BRAND STANDARDS:** Firm warrants that any Creative Work produced for the University (1) will comply with the University's brand standards and (2) in its end application, will fit the visual look and feel of the overall brand aesthetic, brand concept, color palette, visual effects, photographic and video style standards, and make correct use of all marks including logos and identity components. Firm agrees that the University, in its sole discretion, will determine Firm's compliance with this Provision. Creative Work includes, but is not limited to: websites, applications, electronic communications, newsletters, advertisements, mailings, magazines, and other communication materials (digital and print) produced for the University. For additional guidance, Firm should consult the VCU Brand Guidelines at <https://brand.vcu.edu/vcu-university/guidelines> (requires registration) or contact University Trademark and Licensing (trademarks@vcu.edu)

JJ. **TRADEMARKS/LOGOS AND PROMOTIONAL ACTIVITY:** The University retains all rights, title and interest to its trademarks, logos and other intellectual property. Firm shall obtain approval in writing from the VCU Division of University Relations prior to use of any VCU marks, name, or logos. During the Term of the Agreement, Firm may reference the University as a customer in sales and marketing materials and public statements ("Promotional Materials"), provided such Promotional Materials do not include opinions explicitly or implicitly attributed to the University about the quality of the goods and/or services provided to the University. In no event shall Firm request that the University or any University employee endorse Firm or Firm's goods and/or services. Promotional Materials may include the name "Virginia Commonwealth University" and VCU's approved institutional logo solely to identify accurately the University as an entity to whom Firm provides goods and/or services. Furthermore, the University grants Firm a limited, nonexclusive license to display the University's trademarks/logos solely as they are made available to Firm in connection with Firm's goods and/or services.

KK. **MARKETING AT VCU:** The University encourages Firm to appropriately and specifically market itself to applicable end-using University departments that may be interested in Firm's goods and/or services. However, Firm shall not use non-specific mass marketing formats; such as, but not limited to, spam, emails and junk mail. In the event that Firm engages in non-specific mass marketing formats, the University, in its sole discretion, may choose to terminate this Agreement.

LL. **FAILURE TO DELIVER GOODS OR SERVICES:** In case of failure to deliver goods or services in accordance with the Agreement terms and conditions, VCU, after oral or written notice, may procure them from other sources and hold the Firm responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which VCU may have.

MM. **SHIPPING:** Firm shall ship all goods FOB (Freight on Board) Destination at the actual freight rate based upon the actual weight of the goods to be shipped. All prices unless otherwise specified are FOB Destination, Freight Prepaid and Allowed.

NN. **INSTALLATION DELIVERY AND STORAGE:** If applicable, it shall be the responsibility of the Firm to make all

arrangements for delivery, unloading, receiving and storing materials in a VCU building during installation. VCU will not assume any responsibility for receiving these shipments. Firm shall check with VCU and make necessary arrangements for security and storage space in the building during installation.

- OO. **TESTING AND INSPECTION:** To the extent applicable, VCU reserves the right to conduct any testing/inspection it may deem advisable to ensure goods and services conform to the specifications/Agreement.
- PP. **TAXES:** Firm acknowledges all sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this Agreement shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.
- QQ. **AUDIT:** Any audit conducted by VCU under this Agreement shall be performed remotely and shall be limited to information reasonably necessary to verify the Firm's compliance with its contractual obligations. VCU shall provide the Firm with at least fifteen (15) business days' prior written notice of any audit request. All information disclosed by the Firm in connection with an audit shall be treated as Confidential Information in accordance with this Agreement.

Except as required by law or directed by a governmental authority with jurisdiction, the Firm shall not be required to provide access to proprietary information, internal development or production environments, data relating to non-VCU customers, or detailed architectural diagrams. In lieu of such access, the Firm shall provide documentation reasonably sufficient to demonstrate compliance with applicable contractual requirements, including security controls, system availability, and invoicing accuracy.

The Firm shall retain all books, records, and other documents relating to this Agreement for a period of five (5) years following final payment, or until audited by the Commonwealth of Virginia, whichever occurs first. During such period, and pursuant to applicable law or court order, the University, its authorized representatives, and/or state auditors shall have the right to access and examine such records to the extent required by law.

- RR. **FAVORED CUSTOMER:** Firm represents that the prices, terms, warranties, and benefits are comparable to or better than the equivalent terms being offered by the Firm to any present customer.
- SS. **ADDITIONAL GOODS AND SERVICES:** The University reserves the right to have the Firm provide additional goods and/or services that may be required by the University during the Term of this Agreement. Any such goods and/or services will be provided under the same terms and conditions of this Agreement. Such additional goods and services may include other products, components, accessories, subsystems or services provided by the Firm. These additional goods and services will be provided to the University at Favored Customer pricing.
- TT. **EXTRA CHARGES NOT ALLOWED:** The Agreement price shall reflect all fees to be incurred for the performance of the Agreement, including all applicable freight and installation charges. Any additional fees that arise during the performance of the Agreement shall only be paid if approved by the University prior to incurring such fees.
- UU. **INDEMNIFICATION:** Firm agrees to indemnify, defend, and hold harmless VCU, the Commonwealth of Virginia, and their officers, employees and agents from any claim, damage, liability, injury, expense or loss, including defense costs and attorneys' fees, arising from Firm's negligence under this Agreement. Accordingly, VCU shall promptly notify Firm of any claim or action brought against VCU in connection with this Agreement. Upon such notification, and at the request and direction of VCU and/or the Office of the Attorney General, Firm will immediately defend any such claim or action pursuant to the provisions and requirements of Virginia Code § 2.2-514.
- VV. **CONFIDENTIAL INFORMATION:** "Confidential Information" means all information of a party ("Disclosing party") disclosed or made available to the other party ("Receiving party") that (i) is clearly marked or identified as such at the time of disclosure or within a reasonable time thereafter; or (ii) should be reasonably known by the Receiving party to be confidential due to the nature of the information disclosed and the circumstances surrounding the disclosure. Confidential Information of VCU shall include, but not be limited to information about VCU personnel and

students of VCU to the extent such information is not available to the public domain in accordance with the laws of the Commonwealth of Virginia and FERPA. Firm shall use its reasonable efforts to prevent and protect Confidential Information from unauthorized use or disclosure, with at least the same degree of care that Firm uses to protect its own confidential and proprietary information, but in no event less than a reasonable degree of care under the circumstances. Each Party will only disclose the other Party's Confidential Information to its employees, consultants, or subcontractors only on a need-to-know basis, provided that such employees or subcontractors are subject to confidentiality obligations no less restrictive than those contained herein. Upon the completion of the services and upon request of VCU, Firm shall return all Confidential Information received in written format, including copies or reproductions or other media containing Confidential Information within seven (7) calendar days of such request.

The Parties agree that Firm's security documentation, Disaster Recovery Plan details, penetration test results, system architecture, and proprietary configuration documents are all Confidential Information and release of such information would harm the competitive, financial and proprietary interests of the Firm by allowing others replicate the Firm's goods or services or exploit any security vulnerabilities for malicious purposes as well as other related reasons and are therefore subject to the protections of the Virginia Freedom of Information Act (VFOIA). VCU shall, to the maximum extent permitted under law, assert all applicable exemptions under VFOIA prior to disclosure of such materials

- WW. **FERPA:** To the extent that VCU provides to the Firm any student information that is an "education record" protected by the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, 34 C.F.R. Part 99, including a student's address, email address or phone number, which is protected by the Code of Virginia § 23.1-405(C), VCU hereby designates Firm as a school official with a legitimate educational interest in the education records of the participating student(s) to the extent that access to VCU's records is required by Firm to fulfill the obligations of this Agreement. Firm will (1) limit access to such information to only those employees or agents with a need to know it, (2) use the information only for the purpose for which it was disclosed, and (3) not disclose the information to any third party without the prior written authorization of the individual student. Further, Firm agrees to provide to the University, upon request, any information about a student.
- XX. **LICENSE REQUIREMENTS:** Certain statutes and regulatory agencies require that some Firms be properly registered and licensed, or hold a permit, prior to performing specific types of services. It is Firm's responsibility to comply with the rules and regulations issued by the appropriate regulatory agencies, and possess and maintain the appropriate licenses if applicable for the Goods and/or Services to be provided under this Agreement. A copy of any such applicable license and/or permit must be furnished upon request to the University or VASCUPP member institution. For example, if Firm will be providing removal, repair, improvement, renovation or construction-type services they, or a qualified individual employed by the Firm, must possess and maintain an appropriate State of Virginia Class A, B, or C Contractor License (as required by applicable regulations and value of services to be performed) for the duration of this Agreement.
- YY. **FORCE MAJEURE:** Neither Party will be deemed in default or otherwise liable hereunder due to its inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, governmental restrictions, act of public enemy, embargo, war, act of God, or any municipal, county, state, national or international ordinance or law or any executive, administrative, judicial or similar order, including orders from any governing body (which order is not the result of any act or omission to act which would constitute a default under this Agreement), or any failure or delay of any transportation, power, or other essential thing required, or similar causes beyond the Party's control. Any delay in performance will be no greater than the event of force majeure causing the delay. If the delay or failure in the performance of the Party claiming Force Majeure continues for thirty (30) days or more, then the Party not claiming Force Majeure may terminate this Agreement by written notice to the other Party without penalty. Any funds paid will be reimbursed pro rata based on Services not provided.
- ZZ. **APPLICABLE LAW AND COURTS:** This Agreement shall be construed, governed, and interpreted pursuant to the laws of the Commonwealth of Virginia without regard to choice of law principles. The Parties agree that all disputes arising under this Agreement shall be brought in the state or federal courts located in Richmond, Virginia. To the

extent any provision of the Agreement is prohibited by Virginia law, or is otherwise not authorized by Virginia law, due to VCU's status as an agency of the Commonwealth of Virginia, such provision is null and void. Each party shall be responsible for its own legal fees and costs unless otherwise ordered by a court of law.

AAA. FEDERAL TARIFFS: In the event that a federal entity authorized by law, imposes an import duty or tariff (a "tariff"), on an imported good that results in an increase in Firm's costs to a level that renders performance under the Agreement impracticable, VCU may agree, at its discretion, to an increase to the purchase price for the affected good. No increase in purchase price may exceed the actual tariff imposed on the goods imported or purchased by the Firm that are provided to VCU under this Agreement.

1. Prior to VCU agreeing to a price increase pursuant to this provision, the Firm must provide to VCU the following documentation, all of which must be satisfactory to VCU:
 - a) evidence demonstrating: (i) the unit price paid by Firm as of the date of award for the good or raw material used to furnish the goods to VCU under this Agreement, (ii) the applicability of the tariff to the specific good or raw material, and (iii) Firm's payment of the increased import duty or tariff (either directly or through an increase to the cost paid for the good or raw material). The evidence submitted shall be sufficient in detail and content to allow VCU to verify that the tariff is the cause of the price change;
 - b) a certification signed by Firm that it has made all reasonable efforts to obtain the good or the raw materials comprising the good procured by VCU at a lower cost from a different source located outside of the country against which the tariff has been imposed;
 - c) a certification signed by Firm that the documentation, statements, and any other evidence it submits in support of its request for a price increase under this Section are true and correct, and that the Firm would otherwise be unable to perform under this Agreement without such price increase; and
 - d) as requested by VCU, written instructions authorizing VCU to request additional documentation from Firm's suppliers to verify the information submitted by Firm.
2. If VCU agrees to a price increase pursuant to this provision, the parties further agree to add the following terms to this Agreement:
 - a) During the Term and for five (5) years after the termination of this Agreement, Firm shall retain, and VCU and its authorized representatives shall have the right to audit, examine, and make copies of, all of Firm's books, accounts, and other records related to this Agreement and Firm's costs for providing goods to VCU, including, but not limited to those kept by the Firm's agents, assigns, successors, and subcontractors.
 - b) Notwithstanding anything to the contrary in this Agreement, VCU shall have the right to terminate this Agreement for VCU's convenience upon 15 days' written notice to Firm.

In the event the import duty or tariff is repealed or reduced prior to termination of this Agreement, the increase in VCU's contract price shall be reduced by the same amount and adjusted accordingly.

Any material misrepresentation made or caused to be made by a Firm, increasing the price and/or costs in a payment obligation due from the University, may be deemed fraud under the law, including by not limited to the Virginia Fraud Against Taxpayers Act, and such misrepresentation may be subject to penalties and damages.

BBB. PAYMENT TERMS UNIVERSAL APPLICATION: Firm acknowledges and agrees that the payment method agreed to under this Agreement shall apply to all invoices and payments related to this Agreement and any other current or future agreements, purchase orders, or transactions involving the same Firm, regardless of remit-to address or locations. If VCU and Firm execute multiple agreements with different payment methods specified, VCU may, in its sole discretion, select and apply one preferred payment method across all such agreements and associated transactions for consistency and administrative efficiency. VCU may update the payment method in the Firm's vendor file without further notice.

Any Firm-requested changes must be submitted in writing and are subject to approval by the Office of Procurement Services. Firm may, at any time, upgrade to either the Virtual Card or Premium ACH (Paymode-X) payment method by coordinating with Bank of America or Paymode-X. These upgrades do not require an amendment to the

Agreement but VCU reserves the right to reject or deny a change deemed not in the best interest of the University.

CCC. MODIFICATION OF THE AGREEMENT:

1. The parties may agree to modify the scope of the Agreement. An increase or decrease in the price of the Agreement resulting from such modification shall be agreed by the parties as a part of their written Agreement to modify the scope of the Agreement.
2. The Purchasing Agency may order changes within the general scope of the Agreement at any time by written notice to the Firm. Changes within the scope of the Agreement include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Firm shall comply with the notice upon receipt. The Firm shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings.
3. Material, substantive modifications, changes, and amendments to the Agreement must be in a writing executed by authorized representatives of each party.

DDD. TERMINATION OF AGREEMENT:

1. Either Party may terminate this Agreement if the other Party materially breaches this Agreement and such breach is not cured within thirty (30) days after written notice to the breaching Party.
2. University reserves the right to terminate this Agreement, in part or in whole, without penalty, upon sixty (60) days written notice to the Firm.
3. Either Party may terminate this Agreement after the initial twelve (12) months of this Agreement upon sixty (60) days written notice to the other Party.

EEE. ENTIRE AGREEMENT: This is the entire agreement between the University (including University employees and other End Users) and Firm. The Agreement shall not be assignable by Firm in whole or in part without the written consent of the University. In the event that Firm enters into terms of use agreements or other agreements or understanding, whether electronic, click-thru, verbal or in writing, with University employees or other End Users, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply. This Agreement may be executed in counterparts, each of which will be deemed an original, and both of which taken together will constitute one and the same document. Electronically transmitted signatures will be deemed originals for all purposes relating to the agreement.

ATTACHMENT B
SPECIFIC CONTRACTUAL PROVISIONS

INSURANCE: Firm shall procure and maintain and require any Subcontractor to procure and maintain for the duration of the Agreement, insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the Firm, its agents, representatives, employees or subcontractor. Beginning on the Commencement Date and continuing during the Initial Term of the Agreement and any Renewals or extensions thereof, the Firm, at the Firm's expense, shall keep in force, with an insurance company with a current A.M. Best's rating of no less than A: VII, one which is authorized to transact business in Virginia, and in a form acceptable to the University, the following:

NOTE: 'X's indicate insurance is needed, whereas empty parentheses indicate insurance is not.

- (X) Commercial General Liability (CGL): Providing CGL coverage on an "occurrence" basis, including for (X) bodily injury liability including: death, assault or battery, (X) property damage liability for damage to property of third parties, (X) personal injury liability, () advertising injury liability, () contractual liability, () drone liability, () products/completed operations liability and () full liquor liability arising out of the service of liquor (e.g., Dram shop liability), () environmental liability, with limits no less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate.
- () Automobile Liability: Providing coverage on all vehicles (i.e., owned, non-owned, and hired) operate with combined minimum limits of liability of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage.
- (X) Workers' Compensation: Providing coverage of at least the statutory amounts covering all employees, and employer's liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) for each coverage part.
- () Professional Liability Insurance: Providing coverage for professional designations or licenses where professional services are being rendered with minimum limits of One million dollars (\$1,000,000) of coverage.
- () Employment Practices Insurance: Providing coverage against claims made by any employee, former employee, or potential employee or third party who alleges discrimination (e.g., age, sex, race, or disability), wrongful termination of employment, harassment or any other employment practices-related injuries with limits of liability of at least One Million Dollars (\$1,000,000).
- (X) Cyber Security Liability: Providing coverage against claims made for financial losses caused by cyberattacks and/or data breaches with limits of liability of at least Five Million Dollars (\$5,000,000) (subject to higher requirement depending on the nature of the work).

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

Additional Insured Status

The Commonwealth of Virginia, and Virginia Commonwealth University, its officers, employees, and agents are to be covered on the CGL policy with respect to liability arising out of work or operations performed including materials, parts, or equipment furnished in connection with such work or operations.

Primary Coverage

For any claims related to this contract, the Firm's insurance coverage shall be primary insurance and any insurance or self-insurance maintained by the Commonwealth of Virginia, Virginia

Commonwealth University, its officers, employees and agents shall be in excess of the Firm's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with thirty (30) calendar days prior written notice to the University.

Waiver of Subrogation

The Firm will grant to the University a waiver of any right to subrogation which any insurer of said Firm may acquire against the University by virtue of the payment of any loss under such insurance. The Firm will agree to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not University has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the University. University may require the Firm to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Claims Made Policies

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Firm must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

Verification of Coverage

The Firm shall furnish University with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the University before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Firm's obligation to provide them. University reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

University reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

B. **DATA PROTECTION:** Sensitive, non-public "VCU Data" is strictly regulated by state or federal law. Such data includes but is not limited to: business, administrative and financial data, intellectual property, and patient, student and personnel data. If the Firm providing goods or services to VCU will receive, create, or come into non- incidental contact with VCU Data, the Firm agrees to abide by the terms and conditions of the Data Protection Addendum ("DPA") attached to this Agreement as a separate document. The Data Protection Addendum may be updated from time to time and it is

the Firm's obligation to review the Data Protection Addendum in effect at the time of its provision of goods or services to VCU. Further, if the Firm providing goods or services to VCU will receive, create, or come into non-incidental contact with patient or VCU health plan participant Protected Health Information as that term is defined in 45 C.F.R. § 160.103, the Firm may be a Business Associate, and agrees to abide by the terms and conditions of the Business Associate Addendum in addition to the Data Protection Addendum should a determination be made that the Firm is a Business Associate.

C. **TRANSITION OF SERVICES:** If Firm does not opt to renew the agreement and at the request of VCU prior to or upon expiration or termination of this Contract, Firm shall provide all assistance as VCU may reasonably require transitioning the Firm's contractual obligations, or any portion thereof, to any other supplier with whom the VCU contracts for provision of same. This Transition Period obligation may extend beyond expiration or termination of the Contract for a period of twelve (12) months. If this Contract includes Firm's provision of licensed products, Supplier shall take no action to restrict or terminate the use of such licensed products after the date of expiration or termination of the Contract or during any Transition Period, or both.

VCU shall pay for any additional maintenance or licensing fees during any Transition Period at the hourly rate or at a fee agreed upon by Firm and the University. Firm shall provide all reasonable transition assistance requested by VCU to allow for the expired or terminated portion of the Services to continue without interruption or adverse effect. The transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to transition assistance.

D. **DISASTER RECOVERY AND BUSINESS CONTINUITY:** Firm shall maintain and annually test a Disaster Recovery and Business Continuity Plan ("DR Plan") appropriate for a cloud-hosted SaaS solution. Upon request, Firm will provide VCU with a high-level summary of its DR Plan and a summary of its most recent annual test results, subject to execution of a mutually acceptable non-disclosure agreement.

Firm shall remediate material deficiencies identified through testing or actual events using commercially reasonable efforts consistent with generally accepted industry standards. Disclosure of internal security architecture, detailed system diagrams, or other proprietary operational materials shall be in accordance with Attachment A, Section QQ, titled Audit.

E. **INFORMATION SECURITY REVIEWS AND CERTIFICATION REQUIREMENTS:** Firm is actively pursuing formal security certification and expects to complete both SOC 2 Type I and ISO 27001 certifications as part of its current audit cycle. Firm will provide VCU with copies of its SOC 2 Type I report and ISO 27001 certificate once available. In the event the Firm is unable to obtain the certifications, the Firm shall provide written notice to the University, together with an updated plan for completion.

Following issuance of its SOC 2 Type I report, Firm intends to pursue a SOC 2 Type II report in the subsequent audit period. Until SOC 2 Type II is completed, Firm may satisfy its ongoing audit obligations through its ISO 27001 certification or an equivalent independent third-party security assessment acceptable to the University.

Any timeline for certification provided by Firm is an estimate only and shall not constitute a binding

obligation. If Firm's expected timeline materially changes, Firm will notify VCU and provide an updated estimate.



Attachment C Data Protection Addendum

FIRM¹: Fenix Alma Solutions Inc

This Data Protection Addendum (“Addendum”) is by and between **Virginia Commonwealth University** (“VCU”) and the **Firm** (each a “Party” and collectively the “Parties”). It is applicable only in those situations where the Firm provides goods or services under which necessitate that the Firm create, obtain, transmit, use, maintain, process, or dispose of VCU Data² (as defined in the Definitions Section of this Addendum) in order to fulfill its obligations to VCU.

1. DEFINITIONS

- a. “End User” means an individual authorized by VCU to access and use the Services provided by the Firm under this agreement.
- b. “Protected VCU Data” includes all data defined as Highly Sensitive, Sensitive, or Internal Use data that is not intentionally made generally available by VCU on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- c. “Securely Destroy” means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88, REV 1 guidelines relevant to data categorized as high security.
- d. “Security Breach” means the unauthorized access, use or disclosure that compromises or threatens to compromise the confidentiality, integrity, or availability of VCU Data
- e. “Services” means any goods or services acquired by VCU from the Firm.
- f. “VCU Data” includes Protected VCU Data and any other information that is created, possessed or used by VCU or is intentionally made generally available by VCU on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- g. “Audit” includes or may include a chronological record that reconstructs and examines the sequence of activities surrounding or leading to a specific operation, procedure, or event in a security-relevant transaction from inception to final result.

2. RIGHTS AND LICENSE IN AND TO VCU DATA

The parties agree that as between them, all rights including all intellectual property rights in and to VCU Data shall remain the exclusive property of VCU, and Firm has a limited, nonexclusive license to use these data as provided in this agreement solely for the purpose of performing its obligations hereunder. This agreement does not give a

¹ The term “Firm” shall have the same meaning and be interchangeable with the terms “Vendor”, “Supplier” and/or “Contractor” as such terms may be used/referenced in this Addendum or the underlying agreement.

² If the Firm providing goods or services to VCU will receive, create, or come into non-incident contact with patient or VCU health plan participant Protected Health Information (PHI) as that term is defined in 45 C.F.R. § 160.103, the Firm may be a Business Associate, and agrees to abide by the terms and conditions of the Business Associate Addendum in addition to the Data Protection Addendum should a determination be made that the Firm is a BAA.

party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated in the agreement.

3. DATA PRIVACY

- a. Firm will use VCU Data only for the purpose of fulfilling its duties under this agreement and will not share such data with or disclose it to any third party without the prior written consent of VCU, except as required by this agreement or as otherwise required by law.
- b. Protected VCU Data will not be stored outside the United States without prior written consent from VCU.
- c. Firm will provide access to VCU Data only to its employees and subcontractors who need to access the data to fulfill Firm obligations under this agreement. Firm will ensure that employees who perform work under this agreement have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this agreement.
- d. The following provision applies only if Firm will have access to VCU's education records as defined under the Family Educational Rights and Privacy Act (FERPA): The Firm acknowledges that for the purposes of this agreement it will be designated as a "school official" with "legitimate educational interests" in VCU education records, as those terms have been defined under FERPA and its implementing regulations, and the Firm agrees to abide by the limitations and requirements imposed on school officials. Firm will use the education records only for the purpose of fulfilling its duties under this agreement for VCU's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this agreement, required by law, or authorized in writing by VCU.

4. DATA SECURITY, INTEGRITY, AND CONFIDENTIALITY

- a. Firm will take reasonable measures, including the use of industry standard administrative, technical, and physical controls, such as redundant backups, access control and auditing, to protect VCU Data to ensure the integrity and availability of VCU Data against deterioration or degradation of data quality and authenticity. The Selected Firm will be responsible during the terms of this agreement, unless otherwise specified elsewhere in this agreement, for converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.
- b. Firm will store and process VCU Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, such as network and system protection, access controls, and security auditing and monitoring, and to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will ensure the confidentiality and overall security of VCU Data, and be no less protective than those used to secure Firm's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, Firm warrants that all electronic VCU Data will be encrypted in transmission (including via web interface) in accordance with industry best practices in data encryption.
- c. If Firm stores, transmits, or processes Protected VCU Data as part of this Agreement, Firm shall maintain an information security program aligned with recognized industry standards such as ISO/IEC 27001 or SOC 2. Firm shall implement administrative, technical, and physical safeguards appropriate to the nature of the data and Firm's role as a SaaS provider.
- d. Firm will use reasonable, appropriate industry-standard and up-to-date security tools and technologies in providing Services under this agreement.

5. EMPLOYEE BACKGROUND CHECKS AND QUALIFICATIONS

Firm shall ensure that its employees who will have potential access to VCU Data have passed reasonable and appropriate background screening and possess the qualifications and training to comply with the terms of this agreement.

6. SECURITY BREACH

- a. Response. Upon becoming aware of a Security Breach, or of circumstances that are reasonably understood to suggest an actual or suspected Security Breach of VCU Data, Firm will immediately notify VCU consistent with applicable state or federal laws, fully investigate the incident, and cooperate fully with VCU's investigation of and response to the incident. Except as otherwise required by law, Firm will not provide notice of an actual or suspected Security Breach directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from VCU.
 - b. In the event a Security Breach is caused by Firm's failure to comply with its obligations under this Agreement, Firm shall reimburse VCU for reasonable, documented out-of-pocket costs VCU incurs as a direct result of such breach, to the extent such costs are not covered by Firm's cyber liability insurance.

Firm's total financial responsibility under this Section shall be subject to Attachment A, Section AA, titled Limitation of Liability.

7. RESPONSE TO LEGAL ORDERS, DEMANDS OR REQUESTS FOR DATA

- a. Except as otherwise expressly prohibited by law, Firm will immediately notify VCU of Firm's receipt of any subpoenas, warrants, or other legal orders, demands or requests seeking VCU Data; consult with VCU regarding its response; cooperate with VCU's reasonable requests in connection with efforts by VCU to intervene and quash or modify the legal order, demand or request; and provide VCU with a copy of its response.
- b. If VCU receives a subpoena, warrant, or other legal order, demand or request (including request pursuant to the Virginia Freedom of Information Act) seeking VCU Data maintained by Firm, VCU will promptly provide a copy to Firm. Firm will promptly supply VCU with copies of data required for VCU to respond in a timely manner, and will cooperate with VCU's reasonable requests in connection with its response.

8. DATA TRANSFER UPON TERMINATION OR EXPIRATION

- a. Upon termination or expiration of this Agreement, Firm will make VCU Data available for export for a period of thirty (30) days. Upon written instruction from VCU, Firm will delete VCU Data in accordance with Firm's standard data retention and deletion processes, which align with industry-accepted practices and are designed to render data unrecoverable. The firm agrees to provide documentation of data destruction to VCU.

Firm shall not be required to certify or document destruction of data held by third-party subservice providers beyond confirming deletion as part of Firm's standard decommissioning procedures. Firm shall nevertheless use commercially reasonable efforts, consistent with generally accepted industry standards, to ensure such data is deleted or securely destroyed.

- b. If Firm becomes unable to continue providing the Services, Firm will provide VCU with reasonable access to its standard data export tools and will assist VCU in retrieving VCU Data in a mutually workable format.

Firm shall not be required to provide access to its facilities, proprietary systems, source code, internal infrastructure, or any non-VCU customer data. Firm shall have no obligation to escrow or transfer its software or intellectual property.

9. AUDITS

- a. Audits may be conducted pursuant to Attachment A, Section QQ, titled Audit.
- b. To satisfy security assessment obligations under this Agreement, Firm shall provide VCU on an annual basis with either:
 1. its ISO 27001 certificate, or
 2. its SOC 2 report (Type I or Type II),

whichever is then available.

Provision of either the ISO/IEC 27001 certificate or SOC 2 report may be deemed to fully satisfy and replace all other audit, security assessment, vulnerability scanning, penetration testing, HECVAT, and subservice-provider assessment requirements set forth in this Section 9, however VCU may reasonably request additional and the Firm will reasonably provide documentation to support VCU's assessment that the Firm is compliant with this agreement. Such documentation shall be subject to the provisions of Attachment A, Section VV, titled Confidential Information.

- c. Additionally, the Firm will provide VCU upon request the results of the above audits, scans and tests, and will promptly modify its security measures as needed based on those results in order to meet its obligations under this agreement. VCU may require, at VCU expense, the Firm to perform additional audits and tests, the results of which will be provided promptly to VCU.

10. COMPLIANCE

- a. Firm will comply with all applicable laws and industry standards in performing services under this agreement. Any Firm personnel visiting VCU's facilities will comply with all applicable VCU policies regarding access to, use of, and conduct within such facilities. VCU will provide copies of such policies to Firm upon request.
- b. Firm warrants that the service it will provide to VCU is fully compliant with all state and federal laws, regulations, industry codes, and guidance that may be applicable to the service, which may include:
 - 1) any applicable national, federal, state or local law, rule, directive or regulation relating to the privacy of personal information, including, without limitation, the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Privacy and Security Rules issued thereunder, the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), the Financial Modernization Act of 1999 ("Gramm-Leach-Bliley Act"), the Fair Credit Reporting Act as amended by the Fair and Accurate Credit Transactions Act, the Americans with Disabilities Act, Section 508 of the Rehabilitation Act (29 U.S.C. 794d, as amended, and the Virginia Consumer Data Protection Act;
 - 2) any privacy policy or practice applicable to any personal information that Customer or any User accesses, uses, collects, or maintains hereunder, including, without limitation any practice required in connection with the processing of credit card data, including the Payment Card Industry Data Security Standards ("PCI-DSS"); and
 - 3) Federal Export Administration Regulations, Federal Acquisitions Regulations, Defense Federal Acquisitions Regulations and Department of Education guidance.
- c. If PCI-DSS is applicable to the Firm service provided to VCU, the Firm agrees to: Store, transmit, and process VCU Data in scope of the PCI-DSS in compliance with the PCI-DSS; and Attest that any third-party providing services in scope of PCI-DSS under this agreement will store, transmit, and process VCU Data in scope of the PCI-DSS in compliance with the PCI-DSS; and Provide either proof of PCI-DSS compliance or a certification (from a recognized third-party security auditing firm), within 10 business days of the request, verifying Firm/Vendor and any third party who stores, transmits, or processes VCU data in scope of PCI-DSS as part of the services provided under this agreement maintains ongoing compliance under PCI-DSS as it changes over time; and Store, transmit, and process any VCU Data in scope of the PCI DSS in a manner that does not bring VCU's network into PCI-DSS scope; and Attest that any third-party providing services in scope of PCI-DSS under this agreement will store, transmit, and process VCU Data in scope of the PCI-DSS in a manner that does not bring VCU's network into PCI DSS scope.

11. SURVIVAL

The Firm's obligations under Section 8 shall survive termination of this agreement until all VCU Data has been returned or Securely Destroyed.

Exhibit A - System Specifications					
No.	LMS Modules	Required	Preferred	Offering Type (Select from Dropdown)	Fenix Alma Notes
1	Analytics: PowerBI Integration			Included in Core LMS Offering	VidaNovaVLE™ supports integration with PowerBI and other analytics tools via APIs. Institutions can also receive nightly production data dumps for advanced dashboards and reporting, ensuring flexible analytics aligned with VCU's needs.
2	Announcements	X		Included in Core LMS Offering	Announcements can be targeted to cohorts, courses, or the entire institution, with notifications delivered both in platform and via email.
3	Assignment Manager	X		Included in Core LMS Offering	Faculty can create assignments, attach rubrics, collect submissions, and grade online. Assignments can be linked to learning objectives and integrated with the gradebook.
4	Attendance Recording/Monitoring	X		Included in Core LMS Offering	VidaNovaVLE™ supports multiple attendance methods, including self-reporting, kiosk mode for card readers, badge scanners, tap-to-check in, and manual entry by faculty. The system is highly configurable, with options such as grace periods (e.g., students marked "on time" if within 15 minutes of start), automated flagging of late or absent status, and role-based notifications to designated users (e.g., course directors, advisors) when attendance issues arise. Attendance records can be aggregated for compliance, accreditation reporting, and learner performance oversight.
5	Calendaring	X		Included in Core LMS Offering	Centralized calendar integrates course sessions, exams, clinical events, and personal schedules. Events can be filtered in a number of ways including by course, instructor, or taxonomy node.
6	Case Admin, Case Builder		X	Included in Core LMS Offering	Faculty can author, manage, and reuse cases for problem-based or case-based learning via the Lesson Activity. Cases can be embedded in courses and sessions and have inline assessments that can feed grades to the gradebook.
7	Clinical Management: Preceptors, sites	X		Included in Core LMS Offering	The platform provides full lifecycle management of preceptors and sites. Profiles include specialties, subspecialties, availability, capacity, credentials, and affiliation agreements. Site capacity feeds directly into the scheduler, preventing overbooking. The system centralizes credentials and affiliation agreement documents with expiration tracking.
8	Clinical Management: Required Clinical Experiences	X		Included in Core LMS Offering	VidaNovaVLE™ allows learners to log required clinical encounters and procedures in real time using mobile-friendly forms. Logs can be viewed, and configurable conditions can be set to ensure both learners and administrators know whether logging requirements are being met. The system is the most configurable logging solution in this space, as it is natively integrated with our taxonomy management, enabling direct alignment of logged experiences to competencies, outcomes, and accreditation standards.
9	Clinical Management: Formative Feedback: Direct Observations	X		Included in Core LMS Offering	Mobile-friendly forms allow faculty and preceptors to capture direct observations quickly that have been tagged to competencies or objectives. Data flows into learner records for longitudinal tracking and can be aggregated for advisors and committees to review progression.
10	Clinical Management: Summative Feedback: RIME, M4 Evaluations			Included in Core LMS Offering	VidaNovaVLE™ supports configurable summative feedback forms, including RIME and milestone-based models. Results are linked to competencies and outcomes within the taxonomy framework, ensuring feedback contributes to longitudinal learner records and programmatic assessment.
11	Coach, Advisor Management	X		Included in Core LMS Offering	Advisors can view holistic learner profiles including performance trends, logged encounters, evaluations, and professionalism notes. This supports longitudinal advising and student success.
12	Courses	X		Included in Core LMS Offering	Course pages provide centralized access to sessions, materials, assessments, and discussions. Permissions ensure the right access by role.
13	Courses: Electives Catalog		X	Included in Core LMS Offering	A course shell can be created within VidaNovaVLE™ to house all elective offerings and related information. Students can browse and review electives in one central location, and elective experiences can also be included in lottery ranking for schedule creation, ensuring fair and efficient placement.

14	Curriculum Search/Curriculum Mapping	X		Included in Core LMS Offering	VidaNovaVLE™ includes a comprehensive curriculum mapping engine designed specifically for medical education. All courses, sessions, assessments, and evaluations can be mapped to competencies, program outcomes, FAs, and accreditation standards (LCME, CoCA, etc.). The system supports versioning for curriculum governance. Longitudinal views across years and advanced search functionality that allows faculty, staff, and learners to quickly identify where topics are taught, and assessed. This makes accreditation reporting far more efficient and ensures transparency across the entire program.
15	Discussion Board	X		Included in Core LMS Offering	Forums support peer-to-peer and faculty-student collaboration. Discussions can be tied to sessions, assessments, or cases, with faculty moderation, notifications, and grading options if desired.
16	Evaluation Management	X	X	Included in Core LMS Offering	Evaluations are fully integrated in VidaNovaVLE™ workflows. Faculty, students, and preceptors receive automated prompts based on course or rotation schedules, with reminders to ensure compliance. Assessments and evaluations can also be triggered on demand, providing flexibility for immediate or ad hoc feedback. Forms can be customized to include Likert scales, rubric-free, or checklists, and can be tied to competencies, milestones, and learning objectives. Evaluation data feeds into longitudinal learner records and competency dashboards, providing advisors and committees with a holistic view of performance across pre-clinical and clinical phases. Bulk upload of grades and evaluations is also supported. While we do not currently support C.R. code-based evaluation access, we are open to investigating this requirement, with VCU if it is a priority.
17	Exam Authoring System (EAS), Exam Grading System, Exam Review		X	Included in Core LMS Offering	VidaNovaVLE™ offers a secure Exam Authoring System that supports a wide range of item types, including MCQ (single/multiple select), extended matching, short answer, essay, image hotspot, and case-based questions. Exams are delivered through a built-in secure lockdown browser, with pre-download options to mitigate connectivity issues. All exam items can be mapped directly to objectives and competencies, enabling psychometric analysis, item banking, and blueprinting for curriculum alignment. Faculty will be able to review performance by cohort or at the item level, providing evidence-based insights into assessment quality as we continue our data visualization work.
18	Gradebook	X		Included in Core LMS Offering	VidaNovaVLE™ supports bulk upload of grades via CSV/Excel, with built-in data validation to prevent errors during import. Grades can also be exported in multiple formats for institutional reporting. CE grade posting workflows could potentially be supported through configuration or integration with existing institutional systems, ensuring efficiency in managing large grade sets.
19	Grades: Bulk Grade Upload, CE Grade Posting	X		Included in Core LMS Offering	VidaNovaVLE™ supports bulk upload of grades via CSV/Excel, with built-in data validation to prevent errors during import. Grades can also be exported in multiple formats for institutional reporting. CE grade posting workflows could potentially be supported through configuration or integration with existing institutional systems, ensuring efficiency in managing large grade sets.
20	Groups, Large Groups, Small Group Mgmt. (PCM)	X		Included in Core LMS Offering	Small groups can be managed natively in VidaNovaVLE™. Students can be enrolled into courses and subdivided into groups for activities, discussions, and assessments, supporting PCM and heart group structures.
21	Media: Kaltura integration		X	Included in Core LMS Offering	VidaNovaVLE™ supports integration with Kaltura via a Moodle Plugin. Session recordings can be linked to the correct session so learners access them directly within their course materials.
22	Migration		X	Included in Core LMS Offering	Data migration includes courses, users, grades, evaluations, and calendars where possible. Our ETL methodology ensures validation and accuracy, with parallel testing before go-live.

23	MSPE		X	Included in Core LMS Offering	Our MSPE is in active development and will be included at no additional cost once development has been completed.
24	Quizzes, graded, self-assessment)	X		Included in Core LMS Offering	The platform supports both graded quizzes and self-assessments. Faculty can create item banks, randomize questions, and deliver quizzes linked to learning objectives.
25	Reports		X	Included in Core LMS Offering	VidaNovaVLE™ includes standard reporting, plus the ability to generate custom reports. Data can also be exported to PowerBI via API. Nightly database extracts are available for internal reporting and BI needs.
26	Resources	X		Included in Core LMS Offering	Course- and session-level resources can be uploaded, stored, and shared with appropriate permission. Resources can include documents, links, media, or external tools.
27	scheduling, Lottery, enrollment management, _lock Availability Block, scheduling, Track Pre's	X		Included in Core LMS Offering	We have lottery process that allows for learners to rank their preferred experience (including items and block preferences). We will be developing an add/drop stage as well and would love to learn more about VCU's requirements so we can ensure we meet those needs (no additional cost for this feature).
28	Scheduling: Custom Events, Lesson Scheduling (currently in Courses), PCMI Event: Scheduling	X		Included in Core LMS Offering	Faculty and staff can create and manage custom events, lessons, and PCMI activities directly within the scheduler. Events can be linked to courses, tagged to objectives, and included in calendars.
29	Scholarships, Scholarship Announcements		X	Included in Core LMS Offering	Scholarship opportunities and related announcements can be posted within the LMS, targeted to specific cohorts or learner groups.
30	Student Management: - red flags - Student Status Management (e.g. LOA) - Student schedule details - Extracurricular - Honors - Academic History - Addresses - Demographics - Grades - Student Grade View - Testing - Training - Learner Dashboard/Live view of learner data by the student	X	X	Included in Core LMS Offering	VidaNovaVLE™ provides live learner views with demographic, academic, and scheduling information. Activities can be tracked and marked complete (e.g., a required blog post every block). Student status such as LOA, honors, and extracurriculars can also be recorded and reported.
31	Student Management: Absence Requests Forms		X	Included in Core LMS Offering	Learners can submit absence requests in the system. Requests route automatically to faculty/administrators for approval, ensuring accurate and auditable record-keeping.
32	Student Management: Counseling/Advising/Leadership Communication		X	Included in Core LMS Offering	Advising interactions can be logged, tracked, and viewed in the learner profile. Supports both one-on-one and group advising communication.
33	Student Management: Professionalism Notes		X	Included in Core LMS Offering	Professionalism notes can be recorded and flagged for advisor or committee review. Entries can be restricted for confidentiality.
34	Student Portfolio Personal & Professional Development System		X	Included in Core LMS Offering	VidaNovaVLE™ supports learner portfolios where students can record reflections, self-assessments, and achievements throughout their program. Faculty and advisors can review submissions and provide feedback, supporting longitudinal tracking of personal and professional development. Portfolios are configurable using core LMS features, with integration options available for dedicated ePortfolio systems if desired.
35	Student Research		X	Included in Core LMS Offering	Faculty and administrators can document student research projects within the platform. Learners can also upload and track their research involvement for advising and reporting via the Database Activity.
36	System Administration	X		Included in Core LMS Offering	Administrators manage courses, permissions, integrations, and modules with full audit logging. Configurable storage allocation, automated AWS backup, and disaster recovery are included. Elastic scalability ensures performance at peak usage.
38	TJ , TBL Proctor Dashboard	X		Included in Core LMS Offering	VidaNovaVLE™ supports Team-Based Learning (TBL) workflows natively, including the delivery of individual and team readiness assurance tests (iRATs and tRATs). Faculty can manage groups, monitor results, and review participation data. Integration with dedicated LMS solutions is also possible if additional functionality is desired.
39	User management	X		Included in Core LMS Offering	User management is handled via SSO (CAS/SAML2 supported) or SIS integration (PeopleSoft supported). Roles determine access levels, ensuring the right permissions for learners, faculty, and administrators.
40	User home page		X	Included in Core LMS Offering	Each user has a personalized home page/dashboard showing upcoming events, announcements, tasks, evaluations, and links to active courses.
37	Transcript		X	VidaNovaVLE™ does not currently support automated transcript generation.	Transcript generation is not currently available. With VCU's guidance, we are open to co-developing this functionality as a value-add feature for all partner institutions.

EXHIBIT B
PRICING SCHEDULE

The Pricing Schedule includes all required cost elements associated with delivering a fully functional Learning Management System (LMS) for the School of Medicine as described in the Master Agreement.

Definition of Subscription Year: For purposes of annual license billing and true-up calculations, the "Subscription Year" means the twelve-month period beginning on the Effective Date and each successive twelve-month period during any renewal term.

All upfront fees, including the one-time implementation fee and the annual license fees, shall be invoiced upon execution of this Agreement and are payable in accordance with the payment terms set forth herein. If payment is not received within the agreed payment terms despite VCU's reasonable efforts to remit payment, Firm may, upon written notice, suspend implementation activities.

The annual license fees are based on the number of Active Learners authorized to access the platform during each Subscription Year. "Active Learner" means a learner record with an active status in the platform at any point during the applicable Subscription Year.

If the actual number of Active Learners exceeds the number initially invoiced, Firm shall issue a year-end true-up invoice at the contracted per-learner rate. True-up amounts shall cover only the then-current Subscription Year and shall be payable within the standard payment terms.

All annual license fees and implementation fees are invoiced in advance and are non-refundable, except where Firm fails to provide the contracted Services and such failure remains uncured after the applicable cure period. Termination for convenience by VCU shall not entitle VCU to a refund of any pre-paid fees.

A. One-Time Implementation Costs

Item	Description	Price
Implementation Services	Deployment of the proposed LMS, including configuration, customization, testing, and project management through go-live.	\$10,000.00
Data Migration	Import of existing course content, user data and historical records	Included
Integrations	Development/configuration of integrations	Included – custom/bespoke development is performed under a Statement of Work and not included here.

Total Implementation Cost: \$10,000.00

B. Annual Ongoing Costs

Item	Description	Proposed Price
License Fees	Enterprise or seat-based license costs	\$150 per learner per year
Cloud Hosting	Subscription fees for cloud-based hosting of the LMS	Included

Cloud Data Storage	Fees associated with storing course materials, user and other information and backups for the LMS	Included
Maintenance and Support	Help desk, updates, patches, enhancements and other maintenance and support	Included

C. Optional Services

Describe any other costs not captured in the above

Item	Description	Proposed Price
Training	Fees for onsite or virtual training, as proposed	<ul style="list-style-type: none"> Virtual Training Included. On-site training may be quoted
Professional Services	Consulting, customization and/or other post go-live services	<ul style="list-style-type: none"> Project Manager – \$150/hour Senior Developer – \$175/hour Developer – \$150/hour Business Analyst – \$140/hour Quality Assurance Specialist – \$120/hour Implementation & Training Specialist – \$120/hour <p>All work under a Statement of Work will be described in a Scope of Work and approved by both parties in advance.</p>
Optional Modules	Additional tools or features that may be purchased ad hoc	N/A – All VidaNovaVLE™ features (current and future) are included

Exhibit C – Product Roadmap (VidaNovaVLE® 2026)

At Fenix Alma Solutions, our 2026 product roadmap reflects direct input from our institutional partners and focuses on delivering the tools required to streamline curriculum delivery, improve learner experience, and reduce administrative burden. The following outlines the major enhancements planned for upcoming development cycles.

1. Advanced Practicum Scheduling & Clinical Orchestration

We are expanding our clinical scheduling capabilities to support add, drop, and swap workflows, real-time seat availability, priority-based rotations, and program-specific scheduling rules. These enhancements are designed to simplify learner scheduling while providing administrators with greater flexibility, transparency, and operational control across all clinical placements.

2. AI-Enabled Teaching, Learning & Assessment

We plan to introduce AI-driven automated curriculum tagging to streamline alignment between learning content, outcomes, competencies, and accreditation frameworks. In parallel, we are exploring real-time dashboards and data visualization tools powered by conversational AI within VidaNovaVLE®, enabling users to surface insights and trends through natural language interactions directly in the platform.

3. MSPE / Letter Builder

We are developing a structured Medical Student Performance Evaluation (MSPE) builder to support the creation, review, and approval of standardized student letters. This functionality will integrate performance data across courses, clinical experiences, and competencies, and will also support workflows for other reference letters and narrative evaluations.

4. Mobile Application Development

VidaNovaVLE® currently provides a fully responsive web-based experience across desktop, tablet, and mobile devices. In 2026, we plan to build upon this foundation with a native mobile application to enhance offline access, streamline clinical workflows, and provide deeper integration with device features such as push notifications and biometric authentication. These enhancements are intended to further improve accessibility, performance, and engagement in mobile-first environments.

5. Accreditation Reporting Tools

We are enhancing our reporting framework to enable institutions to visualize and export data aligned to accreditation standards. This includes curriculum coverage mapping, assessment alignment reporting, and competency tracking dashboards, all configurable to support institution-specific frameworks and regulatory requirements.

6. Custom Dashboard Widgets

Institutions will be able to create tailored dashboards with program- and role-specific views. Deans, program directors, course coordinators, faculty advisors, and administrators will have access to relevant insights ranging from learner performance indicators to program coverage metrics and longitudinal outcomes.

7. Infrastructure, Performance & Usability Enhancements

We will continue to invest in platform performance optimization, workflow streamlining, and user experience improvements across all modules. This work is intended to ensure that VidaNovaVLE® scales reliably with institutional growth while maintaining a responsive and secure user experience.

Disclaimer: This product roadmap is provided for informational and planning purposes only and reflects Fenix Alma Solutions' current development goals and priorities for the 2026 calendar year. The roadmap is non-binding and does not constitute a contractual commitment or guarantee of delivery of any specific feature, functionality, or timeline. Development priorities, scope, and sequencing may change based on partner feedback, regulatory requirements, technical considerations, and overall strategic direction.

Fenix Alma Solutions Inc.
Purpose-built. Partner-driven.