
ACA Subscription Agreement

This ACA Subscription Agreement (“Agreement”) is made by and between:

Selerix Systems, Inc., a Delaware Corporation, with its principal place of business located at 2851 Craig Drive, Suite 300, McKinney, TX 75070 (hereinafter referred to as “SELERIX”)

and

_____, a _____, with its principal place of business located at _____ (hereinafter referred to as “SUBSCRIBER”)

as of

_____ (“Effective Date”)

WHEREAS, SELERIX, as Licensor, has granted licenses in its Benefits-Selection software system and associated documentation (the “Licensed Product”) to licensees (“Licensees”) through SELERIX’s execution of one or more software licensing agreements, as the same may be amended from time to time (each, a “License Agreement”, and collectively, the “License Agreements”);

WHEREAS, SUBSCRIBER is an authorized user of the Licensed Product under a License Agreement that a third-party has with SELERIX;

WHEREAS, SUBSCRIBER has requested that SELERIX provide to SUBSCRIBER a certain add on plug-in described in this Agreement (the “ACA Reporting Module”), which can be used in conjunction with the Licensed Product, but such ACA Reporting Module is not included in and is outside the scope of the applicable License Agreement under which SUBSCRIBER is authorized to use the Licensed Product;

WHEREAS, SELERIX is willing to provide the ACA Reporting Module to SUBSCRIBER, and SUBSCRIBER is willing to accept the ACA Reporting Module from SELERIX, on the terms and conditions described in this Agreement;

NOW THEREFORE, the parties further agree to the following:

1. ACA Reporting Module

- (a) **Purposes.** SUBSCRIBER represents that SUBSCRIBER is an authorized user under a current, valid, and existing License Agreement. SUBSCRIBER ACKNOWLEDGES THAT THIS AGREEMENT DOES NOT GRANT A LICENSE TO THE LICENSED PRODUCT. This Agreement, however, does permit the use of the ACA Reporting Module as described herein. SUBSCRIBER plans to utilize the ACA Reporting Module for the following purposes (the “Purposes”):
- Facilitate SUBSCRIBER’s regular tracking of benefits eligibility status of its employees as defined by SUBSCRIBER for becoming eligible for medical coverage; tracking includes those becoming eligible and those ceasing to be eligible for medical coverage as defined by the federal Affordable Care Act (“ACA”) law and regulations.
 - Facilitate SUBSCRIBER’s uploading of its employees’ hours worked into the Licensed Product’s system, which SUBSCRIBER acknowledges is SUBSCRIBER’s responsibility to upload and not SELERIX’s responsibility.
 - When the appropriate data is uploaded by SUBSCRIBER and when scheduled by SUBSCRIBER, production of IRS forms 1094B, 1094C, 1095B and 1095C for SUBSCRIBER’s individual employees and employer level filings.
- (b) **ACA Tracking Capability.** The ACA Reporting Module will provide the following ACA tracking capability and reporting to SUBSCRIBER:

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- SELERIX will provide a standard template with documentation that outlines the hourly data required in SELERIX's ACA Reporting Module. To the extent SUBSCRIBER needs SELERIX's assistance in configuring the hours-worked eligibility upload file, SELERIX's services in providing such assistance will be billed at the rates and in the manner described in Section 7(b) below.
 - SELERIX's ACA Reporting Module will produce system-generated reports that identify employees who are newly eligible for benefits or have ceased to be benefit eligible.
 - SELERIX's provision to SUBSCRIBER of the ACA Reporting Module will not include any consulting services or support services. SUBSCRIBER may obtain these additional services from SELERIX on terms mutually agreeable to SELERIX and SUBSCRIBER as documented in a written agreement separate from this Agreement.

SUBSCRIBER's obligation to SELERIX:

- SUBSCRIBER will prepare and regularly upload into SELERIX's ACA Reporting Module SUBSCRIBER's hours-worked data concerning its employees using the SELERIX standard template.
- SUBSCRIBER represents to SELERIX that its employees currently using the Licensed Product have received sufficient training to use the Licensed Product to its full functionality, including attending classroom instruction for implementation training. Further, SUBSCRIBER represents its employees will continue their training by attending webinars offered by SELERIX to assist such employees in becoming proficient in building and supporting cases on the Licensed Product's system.
- NOTWITHSTANDING THE FOREGOING HOWEVER, SELERIX SHALL NOT BE REQUIRED TO ENGAGE IN ANY COMMUNICATIONS WITH ANY EMPLOYEES OF SUBSCRIBER.

(c) **Enhanced ACA Services.** SELERIX has arranged for NavigateHCR to provide to SUBSCRIBER certain additional services with respect to ACA compliance ("Enhanced Services") so long as SUBSCRIBER agrees to the additional services and enters into an agreement with NavigateHCR concerning such additional services. NavigateHCR provides the following services:

- (i) Advice on how to analyze and select the proper "Measurement Period" appropriate for an individual business via a hotline service.
- (ii) Review and filing of the year end IRS forms data including the individual 1094B, 1094C, 1095B, and 1095C, plus the employer IRS forms 6055 and 6056. NavigateHCR is an approved IRS electronic filer.

A separate NavigateHCR Agreement provided by NavigateHCR must be executed by SUBSCRIBER in order for SUBSCRIBER to be provided the "Enhanced Services". SELERIX makes no representations or warranties concerning the additional services provided by NavigateHCR.

(d) **Technical Support Services.** Should SUBSCRIBER need technical support assistance in setting up the ACA Reporting Module, SELERIX will provide that assistance under the terms and for the fees described in Section 7(b) below.

2. Confidentiality

(a) Confidential Information. As used herein, "SUBSCRIBER's Confidential Information" means, subject to the exceptions set forth in subsection (c) and (d) hereof, any information or data, regardless of whether it is in tangible form, disclosed by SUBSCRIBER directly to SELERIX that SUBSCRIBER has either marked as confidential or proprietary, or has identified in writing as confidential or proprietary within thirty (30) days of disclosure to SELERIX or which would be apparent to a reasonable person to be of a confidential or proprietary nature, the maintenance of which is important to SUBSCRIBER; unless such information is the subject of any of the exceptions set forth in Section 2 (c) and (d) hereof.

(b) Use and Disclosure of Confidential Information. SELERIX acknowledges that in the course of SELERIX's performance of its obligations under this Agreement, SUBSCRIBER may directly disclose to SELERIX SUBSCRIBER's Confidential Information. SELERIX agrees that it will not (i) use any such Confidential Information in any way, for its own account or the account of any third party, except for the exercise of its rights and performance of its obligations under this Agreement, or (ii) disclose any such Confidential Information to any party, other than furnishing such Confidential Information to (a) its employees, agents, customers and consultants who are required to have access to the Confidential Information in connection with the exercise of its rights and performance of its obligations under this Agreement and (b) investors, prospective acquirers and professional advisers; provided that such employees, consultants, investors, prospective acquirers and professional advisers are bound by written agreements in accordance with the terms of this Section 2 (b). SELERIX agrees that it will not allow any unauthorized person access to SUBSCRIBER's Confidential Information, and that SELERIX will take all action reasonably necessary to protect the confidentiality of such Confidential Information, including implementing and enforcing procedures to minimize the possibility of unauthorized use or copying of such Confidential Information. In the event that SELERIX is required by law to make any disclosure of any of SUBSCRIBER's Confidential Information, by subpoena, judicial or administrative order or otherwise, SELERIX shall first give written notice of such requirement to SUBSCRIBER, and shall permit SUBSCRIBER to intervene in any relevant proceedings to protect its interests in the Confidential Information, and provide full cooperation and assistance to SUBSCRIBER in seeking to obtain such protection.

(c) Exceptions. Information will not be deemed Confidential Information hereunder if such information: (i) is known to SELERIX prior to receipt from SUBSCRIBER directly from a source other than one having an obligation of confidentiality to SUBSCRIBER; (ii) becomes known (independently of disclosure by the SUBSCRIBER) to SELERIX directly from a source other than one having an obligation of confidentiality to SUBSCRIBER; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by SELERIX; or (iv) is independently developed by SELERIX.

(d) Exception from Confidentiality Provision Regarding Terms of the Agreement. In addition, except as required by law, neither of the parties to this Agreement will disclose the terms of this Agreement to any other person or entity not a party to this Agreement without the prior written consent of the other party to this agreement, except that a party to this Agreement may disclose the terms of this Agreement to its accountants, advisors, investors, acquirers and/or potential investors or acquirers and their advisors (collectively, "Representatives"), which Representatives have a "need-to-know" solely for the purpose of evaluating, negotiating or documenting a contemplated investment or acquisition; provided, however, that each such Representative is bound by a written agreement (or in the case of attorneys or other professional advisors, formal ethical duties) requiring such Representative to treat, hold and maintain the terms of this Agreement as Confidential Information in accordance with the terms and conditions of this Section 2 (d).

3. Risk of Loss

SELERIX shall not be responsible for, and SUBSCRIBER shall bear the risk of, loss during any transmission of SUBSCRIBER's records and data over all communications links and devices.

4. Term

Subject to Section 5 below, this Agreement shall commence on the Effective Date and shall continue in effect for seven (7) months (the "Initial Term"). Upon expiration of the Initial Term, and on each annual anniversary thereafter, this Agreement shall be automatically renewed for an additional one-year period unless either party gives notice of non-renewal to the other party at least thirty (30) days prior to the expiration of the then current term. Notwithstanding the foregoing, however, the term of this agreement shall expire immediately in the event SUBSCRIBER is no longer permitted to use the Licensed Product under the terms of the applicable License Agreement.

5. Termination Without Cause

Notwithstanding the foregoing, SUBSCRIBER or SELERIX may terminate the Agreement at any time by providing advanced written notice of not less than thirty (30) days to the other party. In the event SELERIX terminates this Agreement without cause, SELERIX will refund to SUBSCRIBER a pro-rata portion of any fees paid by SUBSCRIBER in advance.

6. Termination For Cause

This Agreement may be terminated by either party for cause, as follows:

(a) If either party breaches any material term or condition of this Agreement, except for SUBSCRIBER's obligation to pay fees, and fails either to substantially cure such breach within five (5) days after receiving written notice specifying the breach, then the party not in breach may, by giving written notice to the breaching party, terminate this Agreement as of a date specified in such notice of termination. All of the obligations of the parties contained in this Agreement, except for SUBSCRIBER's obligation to pay fees, shall be deemed to have been performed in an acceptable manner unless the party not in breach provides the breaching party with written notice as stated above within thirty (30) days of the event giving rise to the breach; provided the party not in breach, knows or should have known about such breach.

(b) If SUBSCRIBER fails to pay when due any amounts owed hereunder within five (5) days of its due date, SELERIX may, by giving notice thereof to SUBSCRIBER, immediately terminate the provision to SUBSCRIBER of the ACA Reporting Module described herein (including termination of product keys required for SUBSCRIBER's use of such ACA Reporting Module) and terminate this Agreement as of the date of the notice or as of another date specified in such notice of termination.

(c) In the event that either party hereto becomes or is declared insolvent or bankrupt, is the subject of any proceedings related to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or readjustment of all or substantially all of its obligations, then the other party hereto may, by giving written notice thereof to such party, terminate this Agreement as of the date specified in such notice of termination.

(d) Upon the termination of the Agreement for any reason, SELERIX will cease providing the ACA Reporting Module and any services and SUBSCRIBER will promptly pay to SELERIX all fees due up to the termination date pursuant to this Agreement.

7. Fees and Payment Terms

(a) Fees for the ACA Reporting Module. Fees for the ACA Reporting Module described above shall be charged to and payable by SUBSCRIBER for each group.

- A. Fees for SELERIX's ACA Reporting Module: Greater of \$125/month, or \$.25/employee/month. Fee is billed and payable quarterly in advance.

AND

- B. Enhanced Services

Pricing for employers with **500 employees or less**:

- Hotline Services and Review and Form Filing Services (these two services are bundled together for an employer of 500 employees or less): \$2,100/year; \$175/month

OR

Pricing for employers with **more than 500 employees**:

- Hotline Services -- \$3,850/year; \$329.84/month
 Review and Form Filing Services -- \$3,600/year; \$300/month

A separate NavigateHCR Agreement provided by NavigateHCR must be executed by SUBSCRIBER in order for SUBSCRIBER to be provided the "Enhanced Services". SELERIX makes no representations or warranties concerning the additional services provided by NavigateHCR.

(b) Fees for Additional Services. SELERIX will also provide technical support for the ACA Reporting Module at the rate of \$150 per hour.

(c) Payment Terms. SUBSCRIBER agrees to pay the fees set forth above. Invoices will be sent on a quarterly basis in advance for all components above which are provided by SELERIX. Payments are due upon receipt of the invoice and delinquent on the 30th day after the date of the invoice. SUBSCRIBER acknowledges that, due to ACA's annual reporting requirements, the services provided to SUBSCRIBER under this Agreement are services that are of benefit to SUBSCRIBER and its clients during the entire calendar year in which such services are rendered, including retroactively to the beginning of such calendar year, even if such services are not commenced at the beginning of the calendar year. SUBSCRIBER acknowledges that the total effort required to render the services to SUBSCRIBER over a partial calendar year (if this Agreement does not commence at the beginning of the calendar year) are generally equivalent to the total effort required to render the services to SUBSCRIBER over an entire calendar year. Accordingly, notwithstanding the foregoing provisions of this Section 7 or anything to the contrary in this Agreement, SUBSCRIBER agrees to pay, and SELERIX will invoice SUBSCRIBER for, an entire calendar year's worth of the foregoing fees by the end of each calendar year regardless of the date on which this Agreement commences. For example, if SUBSCRIBER and SELERIX execute this Agreement on September 30th of any calendar year requiring SELERIX to render its ACA Reporting Module services over the remainder of such calendar year to a group of 100 employees, then for such group, SELERIX will bill, and SUBSCRIBER will pay, for an entire calendar year's worth of fees during the last quarter of such calendar year and such last quarter's bill will be \$1,500 (representing 12 months multiplied by the monthly minimum of \$125 for the ACA Reporting Module). As an additional example, if SUBSCRIBER executes this Agreement on June 15th, SELERIX will bill, and SUBSCRIBER will pay, for an entire calendar year's worth of fees divided into two quarterly installments, one such installment being billed on the commencement of the 3rd quarter of such calendar year, and the second installment being billed on the commencement of the 4th quarter of such calendar year.

Any amount not paid when due shall thereafter bear interest until paid at a rate equal to the lesser of one and one half percent (1½%) per month or the maximum rate allowed by applicable law.

8. Limited Warranty

SELERIX warrants that it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement. Except for the foregoing express warranty, SELERIX does not make, and hereby disclaims, any and all other express or implied warranties.

9. Limitation of Liability

Under no circumstances will SELERIX or its related persons be liable to SUBSCRIBER or SUBSCRIBER's clients for any consequential, indirect, special, punitive, or incidental damages or lost profits, whether foreseeable or unforeseeable, whether or not arising out of breach or failure of express or implied warranty, breach of contract, misrepresentation, negligence, strict liability in tort or otherwise, based on SUBSCRIBER's claims, including, but not limited to claims for:

- use of the ACA Reporting Module or any services provided hereunder,
- use of the Licensed Product,
- interruption in use or availability of data,
- loss of goodwill,
- use of third party software,
- accuracy or interpretation of resulting reports,
- stoppage of other work, or
- impairment of other assets

IN NO EVENT WILL THE AGGREGATE LIABILITY WHICH SELERIX INCURS IN ANY ACTION OR PROCEEDING EXCEED THE AMOUNT ACTUALLY PAID BY SUBSCRIBER TO SELERIX UNDER THIS AGREEMENT DURING THE YEAR ENDING ON THE DATE ON WHICH THE EVENT FORMING THE BASIS OF THE ACTION OR PROCEEDING FIRST OCCURRED.

10. Indemnification

EACH PARTY SHALL DEFEND, INDEMNIFY, AND HOLD THE OTHER PARTY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, ACTIONS, CAUSES OF ACTION, DAMAGES, JUDGMENTS, FINES, FEES (INCLUDING REASONABLE ATTORNEY'S FEES), PENALTIES, SETTLEMENTS, AND ANY AND ALL OTHER SUMS OF MONEY RESULTING FROM OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT BY THE INDEMNIFYING PARTY OR THE INDEMNIFYING PARTY'S EMPLOYEES OR AGENTS.

IN ADDITION TO THE INDEMNIFICATION SET FORTH ABOVE, SUBSCRIBER SHALL HOLD HARMLESS SELERIX, ITS AFFILIATES, SUBSIDIARIES, SUCCESSORS, ASSIGNS, AGENTS, OFFICERS, DIRECTORS, REPRESENTATIVES, AND EMPLOYEES, FROM AND AGAINST ANY LIABILITY, CLAIMS, ACTIONS, DAMAGES OR LOSSES, FOR INJURY, INCLUDING DEATH, TO ANY PERSON OR DAMAGE TO ANY PROPERTY OR PROPERTY RIGHT ARISING OUT OF OR IN CONNECTION WITH SELERIX'S PROVISION OF THE ACA REPORTING MODULE OR SERVICES OR ANY USE OF THE LICENSED PRODUCT, THE ACA REPORTING MODULE, OR THE SERVICES DESCRIBED HEREIN BY SUBSCRIBER (COLLECTIVELY, A "LOSS") SO LONG AS THE LOSS DID NOT RESULT FROM THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF SELERIX OR THE BREACH OF THIS AGREEMENT BY SELERIX.

11. Force Majeure

Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control, including, but not limited to, fire, explosion, epidemics, earthquake, lightning, failures or fluctuations in electrical power or telecommunications equipment, accidents, floods, acts of God, the elements, terrorism, war, civil disturbances, acts of civil or military authorities or the public enemy, fuel or energy shortages, acts or omissions of any common carrier, strikes, labor disputes, regulatory restrictions, restraining orders or decrees of any court, changes in law or regulation or other acts of governmental, transportation stoppages or slowdowns or the inability to procure parts or materials. These causes will not excuse SUBSCRIBER from paying accrued amounts due to SELERIX through any available lawful means acceptable to SELERIX.

12. Assignment

Neither party may assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder without the other party's prior written approval. Any attempt to do so without such approval will be void.

Notwithstanding the foregoing, either party may assign this Agreement, upon notice to the other party, to a related or unrelated entity in connection with a transfer of all, or substantially all, of its stock or assets to a third party, and the parties hereto hereby consent to any such assignment.

This Agreement will bind each party's successors-in-interest.

13. Relationship

In performing hereunder, both parties are acting as independent contractors and neither party undertakes to perform any obligation of the other, whether regulatory or contractual, or to assume any responsibility for the other's business or operations. SUBSCRIBER understands and agrees that SELERIX may perform for or provide to third parties products or services similar to the ACA Reporting Module and the services described herein. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between SELERIX and SUBSCRIBER. Neither party shall hold itself out as having any authority to enter into any contract or create any obligation or liability on behalf of or binding upon the other party.

14. Notices

Any notice or approval required or permitted under this Agreement to be sent to SUBSCRIBER will be sent via email to the email address specified for SUBSCRIBER below or to any other email address of which SUBSCRIBER gives SELERIX prior written notice. Any such notice will be deemed received the day it is sent.

If to SUBSCRIBER:	Company Name: _____ Address: _____ City, State & Zip Code: _____ Attn: _____
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Any notice or approval required or permitted under this Agreement to be sent to SELERIX will be in writing and will be sent by fax, courier, or mail, postage prepaid, to the address specified for SELERIX below or to any other address that may be designated by SELERIX in a prior written notice to SUBSCRIBER. Any such notice or approval delivered by fax (with answer back) will be deemed to have been received the day it is sent. Any notice or approval sent by courier will be deemed received one (1) day after its date of posting. Any notice or approval sent by mail will be deemed to have been received on the fifth (5th) business day after its date of posting.

If to SELERIX:	Selerix Systems, Inc. 2851 Craig Drive, Suite 300 McKinney, TX 75070 Attn: Legal Compliance
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15. Accuracy of Data and Records

SUBSCRIBER is solely responsible for the accuracy and integrity of data stored in the system. SUBSCRIBER is solely responsible for data input and maintenance of employee and benefit plan information.

16. Amendments

Any waiver, amendment or modification of this Agreement will not be effective unless executed in writing and signed by both parties.

17. Governing Law

This Agreement will be governed by and interpreted in accordance with the laws of the State of Texas, U.S.A., to the exclusion of its conflict of law provisions. If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement, unless either party in good faith deems the unenforceable provision to be essential, in which case such party may terminate this Agreement effective immediately upon notice to the other party.

Venue for any dispute resolution proceeding shall be in Collin County, Texas or, if applicable, the state and federal courts covering the geographic area or district in which Collin County, Texas is located.

18. Entire Agreement

This Agreement, together with the Exhibits and attachments hereto which are hereby incorporated into this Agreement, constitutes the complete and entire statement of all conditions and representations of the agreement between SELERIX and SUBSCRIBER with respect to its subject matter and supersedes all prior writings or understandings.

19. Survival

Notwithstanding any other provisions of this Agreement to the contrary, Sections 2, 6, 8, 9, 10, 14, and 17 shall survive the termination of this Agreement.

In witness whereof, the parties hereto have caused this Agreement to be executed by the duly authorized representatives as of the Effective Date:

SUBSCRIBER

Selerix Systems, Inc.

Signed: _____

Signed: _____

Print name: _____

Print name: Craig J. Stephens

Title: _____

Title: Vice President

Date: _____

Date: _____