

REALscore LLC User Agreement

Welcome to REALscore.com!

This Agreement was last updated on August 4, 2014.

Note: This is a legally binding Agreement. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT ACCESS OR OTHERWISE USE THE SERVICES OR SITE.

You agree that by registering on REALscore.com, or by using this website, mobile or tablet applications, professional services, or purchasing Products, Reports, Consulting (including screenshots) or other information provided as part of the REALscore services (collectively the "**Services**"), you are entering into a legally binding agreement with REALscore LLC ("**we,**" "**us,**" "**our,**" or "**REALscore**") based on the terms of this User Agreement and the REALscore Privacy Notice, which is hereby incorporated by reference (collectively referred to as the "**Agreement**").

If you or a related or affiliated entity are using or licensing REALscore or purchasing Products or any Services either on a Reseller or Referral Program basis on behalf of a practice, company or any other legal entity, you are individually bound by this Agreement even if your company has a separate agreement with us. If you do not want to register an account and become a REALscore User, do NOT click "I Agree" and do not access, view, download, print, order Products or otherwise use any REALscore webpage, information or Services. By clicking "I Agree," you acknowledge that you have read and understood the terms and conditions of this Agreement, agree to be bound by all of its provisions, and that it constitutes an electronic signature.

1. Definitions.

"Consulting" means any Service, online screen-sharing session on the site or conversation provided for the benefit of a customer or 3rd party that does not include a purchased Report or License to use the Site. It includes any discussion of a previously purchased Report or the site.

"Intellectual Property" means all intellectual property rights including but not limited to any and all inventions, patents, copyrightable works, trade secrets and confidential business information, trademarks, service marks, trade dress, logos, and trade names, Product and Product Report formats, screenshots of the site, all goodwill associated therewith, and rights to protection of interests therein under the laws of all jurisdictions.

"Licensed Content" means all information presented on or accessible through the Site, including by way of example and not limitation, Products, Reports, Site text, user manuals or documentation, graphics, maps, logos, icons, images, illustrations, auditory and visual elements, screenshots, scores, database content and information, and any arrangement and compilation of the foregoing, and any other materials pertaining to the Site, including Third Party IP, which are furnished by us to you, or that you access through the Site.

"License Fee" means the price paid to access the Site, create an account, and use the Services.

"Licensed Technology" means the REALscore software, object code, source code, algorithms, methodologies, processes, and other technologies accessed and executed by the Site, including Third Party IP, which includes any modified, updated, or enhanced versions of such programs or data that REALscore, or its Third Party Licensors, may provide to you pursuant to this Agreement or any separate maintenance and support agreement.

"Products" means any REALscore Report, license, Consulting service or other service sold directly to a customer or as part of a contract for a Referral or Reseller program.

"Referral Program" means any contract where sales leads and other customers are referred to REALscore and upon sale of a Product, REALscore pays a commission or referral fee.

"Product Fee" means the price paid for an individual report or consulting service.

"Report" means any Report provided to a customer as part of "Products" above.

"Reseller Program" means any contract where reports are purchased from REALscore and then resold to a customer of the purchaser.

"Service Marks" means the marks **REALscore™**, **REALtools™**, REALratio or any other marks so designated by us in conjunction with the Site.

"Site" means the website located at **www.REALscore.com**, including current and future subdomains used by us, such as store.realscore.com & dental.realscore.com, both secure and un-secure portions, and any web pages, including the Licensed Technology and Licensed Content, and the Intellectual Property included or associated with the Site.

"Third Party IP" means any computer software, technology, Intellectual Property, content, databases, information, or other material embedded in, used with, or provided by us to you including, without limitation, Health Care Data Solutions Practitioner database, ESRI demographic data and Google Maps or any other third party provider ("**Third Party Licensors**") materials licensed to REALscore, including all accompanying documentation and user manuals.

"You" "Your" or "User" means you, an individual who has paid the applicable License Fee to access or use the Site, or you, an individual using the Site on behalf of a practice, company or any other legal entity, or you, an individual who has purchased a report, product or service from REALscore.

2. License Grant, Authorized Use, Copying. In consideration of payment in full of the License Fee or Product Fee and subject to compliance with the terms of this Agreement, we grant you one revocable, non-exclusive, non-transferable, non-assignable, non-sublicenseable limited license to (a) use and access the Site, including all Licensed Content, data and Reports, printed and online, in connection only with your internal business operations and analysis purposes, through a generally available web browser, mobile device or application (but not through scraping, spidering, crawling or other technology or software used to access data without the express written consent of REALscore), (b) view the Licensed Content and use the Services that we provide on REALscore webpages and Products and in accordance with this Agreement and (c) upon selecting a report to print, the site converts the reports into HTML and PDF format; at that time, the report may be printed and/or copied/pasted into other internal reports. Any other use of the Site contrary to our mission and purpose (such as using information gathered from use of the Site commercially, unless expressly authorized by REALscore) is strictly prohibited and a violation of this Agreement. You are permitted to print (in paper form) or copy and paste electronically into other internal reports the Licensed Content solely for your internal business purposes and only if such copies are not further sold, shared, or used in any way other than to accomplish your internal business purpose. If you desire to sell or share Licensed Content externally, you must contact us for the appropriate User License or Enterprise License Agreement. We may monitor the number of reports run for reasonableness. You acknowledge and agree that the license and rights granted to the Site are provided to you alone and individually, as a user based license, and shall in no way be interpreted as an enterprise or other multi-user license.

The entire content included in this site, including but not limited to text, graphics or code is copyrighted as a collective work under the United States and other copyright laws, and is the property of REALscore. The collective work includes works that are licensed to REALscore. Copyright 2014, REALscore ALL RIGHTS RESERVED.

Permission is granted to electronically copy and print hard copy portions of this site for the sole purpose of placing an order with REALscore or purchasing or licensing REALscore Products. You may display and, subject to any expressly stated restrictions or limitations relating to specific material, download or print portions of the material from the different areas of the site solely for your own non-commercial use, or to place an order with REALscore or to purchase or license REALscore Products. Any other use, including but not limited to the reproduction, distribution, display or transmission of the content of this site is strictly prohibited, unless authorized by REALscore. You further agree not to change or delete any proprietary notices from materials downloaded from the site or from any Product.

3. License Restrictions. You shall not, without written permission from REALscore: (a) grant sublicenses or otherwise assign, transfer, sell, resell, distribute, share, rent or exploit or make available to any third party the Site (including the Licensed Technology and Licensed Content); (b) permit any other person to use or access the Site; (c) modify or create derivative works based upon the Site including, without limitation, creating any derivative works based on Licensed Content accessible through the Site; (d) make or print paper copies of Licensed Content accessible through the Site; (e) create Internet "links" to "frame" or "mirror" Licensed Content on any other server, website, or wireless or Internet-based device or service, or email screen shots of the Site to any third party; (f) translate, reverse engineer or assemble, decompile or disassemble Licensed Technology used with or accessible through the Site; (g) use Licensed Content or Licensed Technology, in whole or in part, separate from the Site; (h) redistribute Licensed Content except with our prior express written consent; (i) build a competitive product or service or a product using similar scoring, reporting, ideas, features, functions, or graphics of the Site; or (j) copy any ideas, features, functions, algorithms or graphics from the Licensed Technology accessible through the Site.

4. Other Prohibited Activities. For clarity, the following activities are prohibited on the Site and constitute express violations of this Agreement:

- Submitting any purposely inaccurate information, committing fraud or falsifying information in connection with your REALscore account;
- Submitting false information via Report a Data Discrepancy
- Falsely attempting to Claim a Practice that does not belong to you.
- Attempting to, or actually accessing data not intended for you, such as logging into a server or an account which you are not authorized to access;
- Attempting to scan, or test the security or configuration of the Site or to breach security or authentication measures without proper authorization;
- Tampering or interfering with the proper functioning of any part, page or area of the Site and any and all functions and services provided by REALscore;
- Attempting to interfere with service to any user in any manner, including, without limitation, by means of submitting a virus to our Site, or attempts at overloading, "flooding", "spamming", "mail bombing" or "crashing" the Site;
- Reselling or repurposing your log in access to the Site;
- Using the Site or any of its resources to solicit Users, merchants or other business partners of REALscore to become users or partners of other online or offline services directly or indirectly competitive or potentially competitive with REALscore;
- Exceeding or attempting to exceed run credit limits when subscribing or otherwise using any REALscore account for resale, or for speculative, false, fraudulent or any other purpose not expressly permitted by this Agreement and the terms of a specific offer on the Site;
- Accessing, monitoring or copying any content or information from this Site using any robot, spider, scraper or other automated means or any manual process for any purpose without our express written permission;
- Violating the restrictions in any robot exclusion headers on this Site or bypassing or circumventing other measures employed to prevent or limit access to this Site;
- Taking any action that places excessive demand on our Services, or imposes, or may impose an unreasonable or disproportionately large load on our servers or other portion of our infrastructure (as determined in our sole discretion);
- Acting illegally or maliciously against the business interests or reputation of REALscore, our merchants or our services; or
- Hyperlinking to the Site from any other website without our initial and ongoing consent.
- Scan and disseminate Reports for any purpose other than for internal use without REALscore permission.
- Using the Site to create Reports which compete with REALscore reports, services or products.

Harassment in any manner or form on the site, including via e-mail, chat, or by use of obscene or abusive language, is strictly forbidden. Impersonation of others, including a REALscore or other licensed employee, host, or representative, as well as other members or visitors on the site is prohibited. You may not upload to, distribute, or otherwise publish through the site any content which is libelous, defamatory, obscene, threatening, invasive of privacy or publicity rights, abusive, illegal, or otherwise objectionable which may constitute or encourage a criminal offense, violate the rights of any party or which may otherwise give rise to liability or violate any law. You may not upload commercial content on the site or use the site to solicit others to join or become members of any other commercial online service or other organization.

5. Access to the Site. You shall be solely responsible for providing all hardware systems, devices, network connectivity, compatible Internet browser, and all other necessary software, connectivity, email or equipment to facilitate your use of the Site, at your sole cost. You acknowledge that the minimum technical requirements for use of the Site may periodically change upon notice to you, and we shall not be liable or responsible for the cost any additional cost or fees you incur to utilize the Site as a result. You are responsible for maintaining confidentiality of your username, password and other sensitive information. You are responsible for all activities that occur in your user account and you agree to inform us immediately of any unauthorized use of your user account emailing or calling us on any of the means listed on <http://realscore.com/contactUs.php>. We are not responsible for any loss or damage to you or to any third party incurred as a result of any unauthorized access and/or use of your user account, or otherwise. You understand and acknowledge that the Site requires the current version of Microsoft Silverlight to be installed on your computer as part of the operating system, and that REALscore has no control whatsoever over this program and will not be held liable for any impact this program has on User's computers or for future changes in their program outside of our control that affects REALscore functionality.

6. Information You Submit, Including Patient Information. It is your responsibility to keep your REALscore profile and practice management information accurate and updated. Because we do not control the security of the Internet or other networks you use to access the Site or communicate with us, we can't be, and are not responsible for, the security of information that you choose to communicate with REALscore and the Site while it is being transmitted. In addition, REALscore is not responsible for any data lost during transmission. We reserve the right to withhold, remove and or discard any content available as part of your account, with or without notice if deemed by us to be contrary to this Agreement. We have no obligation to store, maintain or provide you a copy of any content that you or other Users provide when using the Services. You have the sole option to upload certain patient information to the site to use in running REALscore™ and REALtools™ reports. If you choose to upload any Protected Health Information (as defined in Exhibit A) to the Site, the provisions contained in Exhibit A shall apply and are incorporated into this Agreement by reference.

7. Title, Ownership and Proprietary Rights. We (or our Third Party Licensors) retain all right, title, and interest in and to the Site (including, without limitation, the Licensed Content and the Licensed Technology), and all Intellectual Property Rights in the Site. Nothing in this Agreement will be deemed to grant, by implication, estoppel or otherwise, a license under any of our existing or future patents. You are on notice that the Site is protected by copyright law, and you acknowledge that the Licensed Technology accessible through the Site and its structure, organization, algorithms, and source code constitute valuable trade secrets of, and shall remain confidential and proprietary to, us. You will not remove, alter, or obscure any proprietary notices (including copyright notices) of ours on the Licensed Technology or Licensed Content or any printed reports. Nothing in this Agreement shall be interpreted as granting you a license to use the Service Marks or any Third Party Licensor's trademarks, trade names, logos, service marks, or other identifying or marketing materials. All trademarks, service marks and trade names of REALscore used in the site are trademarks or registered trademarks of REALscore

8. Payment of License or Report Fees.

Subscription. REALscore™ and REALtools™ License Fees and subscriptions must be paid in advance on a monthly or otherwise agreed upon basis. Monthly subscriptions automatically auto-renew each month until the term expires or the User notifies REALscore to cancel the subscription. No pro-rata refunds are allowed.

- Unless approved by REALscore, a valid credit card is required for payment for the Services. REALscore may store your credit card information in compliance with accepted standards for safeguarding. REALscore may revise its subscription rates, run credit policy or any other fees at any time, effective for any subsequent subscription.
- Upgrades/Downgrades (if applicable). If multiple subscription levels are available, Users can change subscription levels at any time. Payment by credit card is required at the time of upgrade. The subscription term starts over at the time of upgrade and replaces any remaining subscription period on the existing account. There are no upgrade refunds for pro-rated months (i.e., credits for partial service months).
- No Subscription/Product Refunds. If you terminate your account or stop using your account, which you may do at any time, with or without notice to us, no refunds for any remaining subscription period or pro-rated months will be provided. We are not liable for any loss resulting from subscription cancellation. In addition, once an order is placed, no refunds on REALscore Reports, Products, Consulting Services or other Services will be provided.
- Credits. REALscore™ subscriptions may include REALscore and GPS location scoring run credits. Each run credit represents one location for which a REALscore or GPS score is obtained. The subscription allows for unlimited scoring, but the run credits may be used to monitor usage for reasonableness. REALscore, at its sole discretion, may limit the number of run credits or cancel the subscription if there are license violations or signs of misuse or abuse. There will be no refunds or credits allowed for any abuse of the account REALtools™. A subscription to REALscore™ comes with all features of a REALtools™ subscription for the term of the subscription. A subscription to REALtools™ may not always allow access to features of a REALscore subscription.
- Taxes. License and Subscription fees are exclusive of taxes or levies imposed by taxing authorities. You agree to pay all related sales or use taxes or levies imposed now, retroactively or in the future, and to reimburse us for all collection costs and interest for any overdue amounts or chargebacks imposed on your account. User will pay REALscore for the Services without any reduction for these amounts. If REALscore is obligated to collect or pay Taxes, the Taxes will be billed in addition to the subscription fee to User, unless User provides REALscore with a valid tax exemption certificate authorized by the appropriate taxing authority. If User is required by law to withhold any Taxes from its payments to REALscore, User must provide REALscore with an official tax receipt or other appropriate documentation to support this withholding.

9. Services. For as long as we continue to offer the Services, we seek to update, improve and expand the Services, therefore, we reserve the right to modify, supplement or replace the terms of the Agreement, effective upon posting at www.REALscore.com or notifying you otherwise. We may modify prices for all or part of the Services. All of these changes shall be effective upon their posting on our site or by direct communication. For purposes of service messages and notices about the Services to you, we may place a banner notice across its pages to alert you to certain changes such as modifications to this Agreement. Alternatively, notice may consist of an email from us to an email address associated with your account, even if we have other contact information. You also agree that we may communicate with you through your account or through other means including email, mobile number, telephone, or delivery services including the postal service about your account or our Services. You acknowledge and agree that we shall have no liability associated with or arising from your failure to maintain accurate contact or other

information, including, but not limited to, your failure to receive critical information about the Service. We have the authority to grant the rights in this Agreement, and, to our knowledge, the Site does not infringe any United States patent or copyright. We agree to provide a SSL (Secure Socket Layer) certificate to ensure data sent to our credit card processor is encrypted, but assume no liability whatsoever for any data breaches by any processor.

10. Unavailability of Site. Access to, or use of, the Site may be subject to limitations, interruptions, delays, and other problems inherent in the use of the Internet and electronic communications. REALscore does not represent or warrant that the functions contained in the site will be uninterrupted or error-free, that the defects will be corrected, or that this site or the server that makes the site available are free of viruses or other harmful components. We are not responsible for any delays, delivery failures, or other damage resulting from such problems. You understand and acknowledge that due to circumstances both within and outside of our control Site access may be interrupted, suspended or terminated. REALscore retains the right at our sole discretion to deny service, or access to the Site to anyone or an account, at any time and for any reason. We may schedule routine maintenance or upgrade times during which the Site may be inaccessible. We will use good faith efforts to schedule routine maintenance at times when it is least likely to disrupt your use of the Site.

REALscore is not liable to due to internet provider disruptions which may cause delays in sending or receiving the Services.

11. DISCLAIMER OF WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, THE SITE, INCLUDING THE LICENSED TECHNOLOGY, LICENSED CONTENT, AND THE THIRD PARTY IP, IS PROVIDED "AS IS". NEITHER REALSCORE, ITS SUBSIDIARIES, AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, MERCHANTS, THIRD-PARTY CONTENT PROVIDERS, CO-BRANDING PARTNERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, MAKE ANY WARRANTY AS TO (i) THE RESULTS THAT MAY BE OBTAINED FROM USE OF THIS SITE OR THE SERVICES, OR (ii) THE ACCURACY, RELIABILITY OR CONTENT OF ANY INFORMATION OR SERVICES PROVIDED THROUGH THIS SITE, AND EXPRESSLY DISCLAIM WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF DATA OR NONINFRINGEMENT. YOU ACKNOWLEDGE THAT YOU HAVE RELIED ON NO WARRANTIES WITH RESPECT TO THE SITE WHEN ENTERING INTO THIS AGREEMENT.

USE OF REALSCORE IS NOT A SUBSTITUTE FOR REAL ESTATE DUE DILIGENCE ON SPECIFIC PROPERTIES. YOU SHOULD CONSULT A LICENSED REAL ESTATE BROKER. REALSCORE ASSUMES NO LIABILITY FOR ANY CUSTOMER OR 3RD PARTY BUSINESS DECISIONS. REALSCORE HAS NO CONTROL OVER AND FULLY DISCLAIMS ALL LIABILITY FOR DATA PROVIDED THROUGH THIRD PARTY PROVIDERS, NOR THE FREQUENCY AND RELIABILITY OF UPDATES, INCLUDING BUT NOT LIMITED TO HEALTH CARE DATA SOLUTIONS, ESRI AND GOOGLE. HEALTHCARE DATA SOLUTIONS USES COMMERCIALY REASONABLE EFFORTS TO PROVIDE BEST IN CLASS DATA THROUGH INDUSTRY-LEADING PARTNERS, DATA STANDARDIZATION, HYGIENE, AND MATCHING PROCESSES. HOWEVER, THE ACCURACY OR COMPLETENESS OF DATA IS SUBJECT TO THE LIMITS OF THE DATA SOURCES. REALSCORE DISCLAIMS ALL LIABILITY FOR IDENTITY THEFT OR ANY OTHER MISUSE OF YOUR IDENTITY OR INFORMATION.

12. LIMITATION OF REMEDIES AND LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL REALSCORE, ITS SUBSIDIARIES, AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, MERCHANTS, PARTNERS, THIRD-PARTY CONTENT PROVIDERS, CO-BRANDING PARTNERS OR LICENSORS, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY CONSEQUENTIAL,

INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES, INCLUDING BUSINESS DECISIONS, ANY LOST DATA OR LOST PROFITS. OUR TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SITE (INCLUDING THE THIRD PARTY IP) WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF PRODUCT OR LICENSE FEES YOU PAID TO US. IN NO EVENT WILL WE BE LIABLE FOR YOUR OR ANY 3RD PARTY CUSTOMER OR ANY RELATED PERSON OR ENTITY OF YOURS IN ANY RESPECT FOR SERVICES OR RESULTS OF DECISIONS MADE OR ACTIONS TAKEN BASED UPON USE OF THE SITE OR SERVICES. YOU ACKNOWLEDGE THAT THE PROVISIONS OF SECTIONS 11 AND 12 ARE A MATERIAL FACTOR IN OUR DETERMINATION OF THE LICENSE FEE AND THE COST OF THE SITE AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. IF YOU ARE DISSATISFIED OR HARMED BY REALSCORE OR ANYTHING RELATED TO REALSCORE, YOU MAY CLOSE YOUR REALSCORE ACCOUNT AND TERMINATE THIS AGREEMENT AND SUCH TERMINATION SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY.

13. Indemnification. To the extent allowable by law, you or any 3rd party customer or any related person or entity of yours in any respect who becomes a user of the Services shall at all times during the term of this Agreement and thereafter, indemnify, defend and hold REALscore, its officers, directors, employees, agents, licensors, co-branding partners and suppliers harmless against all claims, proceedings, demands, loss, cost, damage, or expense, including legal expenses and reasonable attorneys' fees, arising from any violation of these terms and conditions, from your breach of any of your obligations under this Agreement. or any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing the site using your Internet account.

14. Termination. REALscore may restrict, suspend or terminate access to the Site and/or the account of any User who abuses or misuses the Services or fails to comply with the terms and conditions of this Agreement. Misuse of the Services includes using the Services commercially without REALscore's authorization, infringing any intellectual property rights, or any other behavior that REALscore, in its sole discretion, deems contrary to its purpose. If you commit fraud or falsify information in connection with your use of the Site or in connection with your REALscore account, your account will be terminated immediately and we reserve the right to hold you liable for any and all damages that we suffer, to pursue legal action through relevant local and national law enforcement authorities and to notify your Internet Service Provider of any fraudulent activity we associate with you or your use of the Site.

15. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio without giving effect to any choice or conflict of law provision. Any controversy or claim arising out of or relating to this Agreement shall be submitted to a court of competent jurisdiction in Franklin County, Ohio, and each party waives any and all challenges to jurisdiction and venue in that court.

16. Submissions. By submitting ideas, suggestions, documents, and/or proposals ("Contributions") to us through our suggestion or feedback webpages, you acknowledge and agree that: (a) your Contributions do not contain confidential or proprietary information; (b) we are not under any obligation of confidentiality, express or implied, with respect to the Contributions; (c) we are entitled to use or disclose (or choose not to use or disclose) such Contributions for any purpose, in any way, in any media worldwide; (d) we may have something similar to the Contributions already under consideration or in development; (e) you irrevocably assign to us all rights to your Contributions; and (f) you are not entitled to any compensation or reimbursement of any kind from REALscore under any circumstances.

17. Registration Information. You acknowledge, consent and agree that we may access, preserve, and disclose your registration and any other information you provide if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary in our opinion to: (a)

comply with legal process, including, but not limited to, civil and criminal subpoenas, court orders or other compulsory disclosures; (b) enforce this Agreement; (c) respond to claims of a violation of the rights of third parties, whether or not the third party is a User, individual, or government agency; (d) respond to User service inquiries; or (e) protect the rights, property, or personal safety of REALscore, our Users or the public.

18. Typographical Errors

In the event that a REALscore product is mistakenly listed at an incorrect price, REALscore reserves the right to refuse or cancel any orders placed for product listed at the incorrect price. REALscore reserves the right to refuse or cancel any such orders whether or not the order has been confirmed and your credit card charged. If your credit card has already been charged for the purchase and your order is cancelled, REALscore shall issue a credit to your credit card account in the amount of the incorrect price

19. Miscellaneous.

Assignment. You may not assign this Agreement. You acknowledge and agree that we may assign this Agreement and our rights, duties, and obligations under this Agreement to an entity that will assume all operations relating to the licensing and support of the Site.

Waiver. No delay in enforcement or extension of time or failure to exercise any right hereunder will be deemed to be a waiver of any right by either party. No waiver of any earlier breach of this Agreement will be construed as a waiver of a later breach.

Entire Agreement. This Agreement contains the entire understanding between us regarding the subject matter of this Agreement and supersedes any prior discussions or agreements concerning such subject matter. We hereby object to and will not agree to any additional or conflicting terms contained in any of your past or future proposals, purchase orders, or other communications.

Force Majeure. We will not be liable for failure to deliver or delays caused by acts of God, labor difficulties, transportation difficulties, laws, government regulations or requests, act of war or terrorism, riot, Internet disturbance or any other cause beyond our control.

Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, void, or unenforceable, the unenforceable provision will be modified so as to render it enforceable and effective to the maximum extent possible in order to effect the intention of the provision; and if a court finds the modified provision invalid, illegal, void or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement will not be affected in any way.

User's Name. You agree that we may include User's name or Brand Features in a list of our Users, whether online or in offline promotional materials. You also agree that we may verbally reference User as a User of the REALscore™ Services.

No Links, No Endorsement. We do not intend to endorse any third-party websites or materials provided or referenced by the Site. In an attempt to provide increased value to our visitors, REALscore may link to sites operated by third parties. Any links to third-party websites are for information only and we make no representations whatsoever about any linked site or the content therein. However, even if the third party is affiliated with REALscore, REALscore has no control over these linked sites, all of which have separate privacy and data collection practices, independent of REALscore. These linked sites are only for your convenience and therefore you access them at your own risk. Additionally, we make no representations or warranties related to, or endorsement of, any Third Party IP, which may be incorporated in or used with the Site.

Nonetheless, REALscore seeks to protect the integrity of its web site and the links placed upon it and therefore requests any feedback on not only its own site, but for sites it links to as well (including if a specific link does not work).

If you have any questions or concerns regarding this agreement, please contact us at legal@realscore.com.

EXHIBIT A TO USER AGREEMENT ("AGREEMENT")

REALscore LLC BUSINESS ASSOCIATE AGREEMENT

You have contracted with us for use of our Site, Licensed Content, and Licensed Technology as set forth in the Agreement you have acknowledged and accepted. We and you are entering into this Business Associate Agreement to address the potential for disclosure of Protected Health Information from you to us while we are providing the Services. The terms and conditions of this Business Associate Agreement shall supersede, modify, and control over the Agreement as such terms and conditions relate to our use or disclosure of Protected Health Information. Your acceptance of the terms and conditions of the Agreement shall be deemed acceptance of this Business Associate Agreement. In consideration of the mutual promises herein and in the Agreement, we and you agree as follows:

- I. **Definitions.** Capitalized terms used in this Exhibit A and not otherwise defined herein shall have the meanings set forth in the Agreement. As used in this Exhibit A, the following terms shall have the following meaning:
 - A. "Availability" shall have the same meaning as the term "availability" in 45 CFR § 164.304.
 - B. "We", "us", or "our" shall mean REALscore LLC.
 - C. "Breach" shall have the same meaning as the term "breach" in 45 CFR § 164.402.
 - D. "Business Associate" shall have the same meaning as the term "business associate" in 45 CFR § 160.103.
 - E. "You" or "your" shall mean the Individual or entity that has agreed to the terms and conditions of the Agreement and this Business Associate Agreement in return for our provision of Services to you.
 - F. "Confidentiality" shall have the same meaning as the term "confidentiality" in 45 CFR § 164.304.
 - G. "Covered Entity" shall have the same meaning as the term "covered entity" in 45 CFR § 160.103.
 - H. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR §160.103, limited to the information created, received, maintained, or transmitted by us from or on your behalf in connection with the Services.
 - I. "HIPAA" shall mean Health Insurance Portability and Accountability Act of 1996, as amended, Title XIII, Subtitle D, of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), known as the Health Information Technology for Economic and Clinical Health Act, as amended ("HITECH Act"), and the implementing regulations for HIPAA and the HITECH Act, including without limitation, the Standards for Privacy of Individually Identifiable Health Information, set forth at 45 C.F.R. Part 160 and Part 164 (Subparts A and E) (the "Privacy Rule"), the Security Standards for the Protection of Electronic Protected Health Information, set forth at 45 C.F.R. Part 160 and Part 164 (Subparts A and C) (the "Security Rule"), the Standards for Electronic Transactions, set forth at 45 C.F.R. Parts 160 and 162 (the "Electronic Transactions Rule"), and Breach Notification for Unsecured Protected Health Information, set forth at 45 C.F.R. Parts 160 and 164 (Subpart D) (the "Breach Notification Rule"), as such implementing regulations may have been or may in the future be amended from time to time (the Privacy Rule, the Security Rule, the Electronic Transactions Rule and the Breach Notification Rule, as amended from time to time, are collectively referred to as the "HIPAA").

- J. "Individual" shall have the same meaning as the term "individual" in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502 (g).
- K. "Integrity" shall have the same meaning as the term "integrity" in 45 CFR § 164.304.
- L. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR §160.103, limited to the information created or received by We from or on behalf of You in connection with the Services.
- M. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR §160.103.
- N. "Secretary" shall mean the Secretary of the Department of Health and Human Services, or his designee.
- O. "Security Incident" shall have the same meaning as the term "security incident" in 45 CFR § 164.304.

II. **Our Obligations and Activities**

- A. For the purposes of this Business Associate Agreement, we shall be deemed your Business Associate, and you shall be deemed the Covered Entity.
- B. We agree not to use or disclose Protected Health Information other than as permitted or required by or in connection with the Services, as permitted by law, or as Required by Law.
- C. We agree to use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- D. We agree to implement appropriate administrative, physical, and technical safeguards to protect the Confidentiality, Integrity, and Availability of Electronic Protected Health Information that we create, receive, maintain, or transmit on your behalf.
- E. We agree to report to you any use or disclosure of Protected Health Information not provided for by this Business Associate Agreement after we have actual knowledge of such use or disclosure. If we discover any Breach of Protected Health Information that we access, maintain, retain, modify, record, store, destroy, or otherwise hold, use, or disclose on your behalf, we shall (i) notify you of the Breach within 60 days of our knowledge of such Breach, (ii) provide to you, to the extent possible, the identification of each Individual whose Protected Health Information has been, or is reasonably believed by us to have been, accessed, acquired, used, or disclosed during the Breach, and (iii) provide to you any other available information that you are required to include in any notification to an Individual pursuant to 45 CFR §164.404(c) at the time of the Breach notification required by this Section II.E or promptly thereafter as information becomes available to us.
- F. We agree to include in any written agreement with any agent, including a subcontractor, to whom we provide Protected Health Information (which includes Electronic Protected Health Information), requirements that such agent agrees to restrictions, conditions, and safeguards with respect to such information that are at least as restrictive as those that apply through this Business Associate Agreement to us.
- G. Upon reasonable notice, we agree to make Protected Health Information and books and records

relating to the use and disclosure of Protected Health Information available to the Secretary at your expense in a reasonable time and manner, for purposes of the Secretary determining your compliance with the HIPAA.

- H. We agree to report to the security official appointed by you any successful Security Incident of which it becomes aware that results in the successful unauthorized access, use, disclosure, modification or destruction of your Electronic Protected Health Information. We will report the aggregate number of unsuccessful, unauthorized attempts to access, use, disclose, modify, or destroy Electronic Protected Health Information or interfere with systems operations in an information system containing Electronic Protected Health Information, provided that (A) such reports will be provided only upon Covered Entity's request made at least ten (10) days before the reporting period in question but no more than once per year, and (B) if the definition of "Security Incident" is amended to remove the requirement for reporting "unsuccessful" attempts to use, disclose, modify, or destroy Electronic Protected Health Information, then the requirements of this sentence shall no longer apply as of the effective date of such amendment.

III. Our Permitted Uses and Disclosures

- A. Except as otherwise limited in this Business Associate Agreement, we may use or disclose Protected Health Information (i) as is reasonably necessary to perform functions, activities, or services for, or on your behalf as specified in the Agreement; (ii) for our proper management and administration; (iii) to carry out our legal responsibilities; (iv) as may otherwise be Required by Law; provided that we may disclose Protected Health Information for the purposes described in clauses (ii) and (iii) of this Section III.A only if the disclosure is Required by Law or we obtain reasonable assurances from any person to whom the information is disclosed that (a) such information will be held confidentially and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and (b) that the person will notify us of any instances of which it is aware in which the confidentiality of the information has been breached.
- B. We shall refer to you all requests by Individuals for information about or accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- C. We agree to document disclosures of Protected Health Information, other than for treatment, payment, or healthcare operations, or disclosures that are incidental to another permissible disclosure, to the extent required for you to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- D. We agree to provide to you, within fifteen (15) business days via US Mail, information collected in accordance with Section III.C above to the extent required to permit you to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528. You shall provide to us within thirty (30) days of the effective date of this Business Associate Agreement, a written explanation of your requirements under this Section III.D in sufficient detail to enable us to comply with such requirements. You agree to respond promptly to requests from us for clarification of such requirements, and we may rely on such responses. The parties agree to work together in good faith to resolve any disagreement over the requirements of 45 CFR §164.528.
- E. We may use Protected Health Information to report violations of law to appropriate Federal and state authorities, consistent with 45 CFR §164.502(j)(1).
- F. We may use Protected Health Information for data aggregation services relating to your health care operations.

- G. To the extent we maintain Protected Health Information in a designated record set, within ten (10) days of receiving a written request from you, we agree to make available information necessary for you to respond to an Individual's request for access to Protected Health Information about them as is necessary for Covered Entity to comply with 45 C.F.R. §164.524. In the event an Individual contacts us, or our agents or subcontractors, directly requesting access to Protected Health Information, we will not grant access to Protected Health Information but will notify you in writing within five (5) business days of such contact.
- H. To the extent we maintain Protected Health Information in a designated record set, within fifteen (15) fifteen days of receiving a written request from you, we agree to incorporate any amendments or corrections to Protected Health Information as necessary for us to comply with 45 C.F.R. §164.526. In the event an Individual contacts you, or your agents or subcontractors, directly about making amendment to Protected Health Information, we will not make any amendments to Protected Health Information but will notify you in writing within five (5) business days of such contact.

IV. Your Obligations

- A. You agree not to use or disclose Protected Health Information other than as permitted or required by this Business Associate Agreement, as Required by Law or as permitted by HIPAA.
- B. You agree to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- C. You shall notify us of any changes in your notice of privacy practices that may affect our use or disclosure of Protected Health Information. We shall have a reasonable period of time to act on such notices.
- D. You shall provide us with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect our permitted or required uses and disclosures thereof. We shall have a reasonable period of time to act on such notice.
- E. You shall notify us of any restriction on the use or disclosure of Protected Health Information prior to your acceptance of such restriction in accordance with 45 CFR §164.522 so that we can determine whether it is feasible to comply with such restriction. Once agreed to, we shall have a reasonable period of time to act on such notice.
- F. You represent and warrant to us that you will not disclose any Protected Health Information to us unless you have obtained any consents and authorizations that may be Required by Law or otherwise necessary for such disclosure.
- G. You shall have access to our information pursuant to the terms and conditions of this Business Associate Agreement, and the Agreement. The information shall remain confidential and proprietary information. The information shall not be disclosed to any third person, business, or corporation, including any person who serves as your agent, except as otherwise agreed to in writing by us. Nothing in this Business Associate Agreement shall be construed as granting you any rights by license or any other intellectual property rights of ours to the information.

V. Permissible Requests

You warrant that you shall not request us to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by you.

VI. Term and Termination

- A. This Business Associate Agreement shall continue for as long as the Agreement is in effect or until Protected Health Information is no longer being exchanged by you and us, whichever is earlier.
- B. If either party determines, in good faith, that the other party has violated a material term of this Business Associate Agreement, such non-breaching party may either (a) provide an opportunity for the other party to cure the breach or end the violation, and terminate this Business Associate Agreement and the Agreement if the other party does not cure the breach or end the violation within the time period specified by the non-breaching party, (b) immediately terminate this Business Associate Agreement and the Agreement effective upon the other party's receipt of written notice from the non-breaching party, if the non-breaching party determines in its discretion that cure of any such breach is not possible; or (c) report the violation to the Secretary, if neither termination of this Business Associate Agreement nor cure is possible.
- C. We will return or destroy Protected Health Information upon termination of the Agreement or upon termination of this Business Associate Agreement. If destruction or return of Protected Health Information is not commercially feasible, we will maintain the protection required under this Business Associate Agreement of that Protected Health Information for the period of time required under applicable law.

VII. General Provisions

- A. A specific waiver, if waiveable, by either party of any provision of this Business Associate Agreement on any particular occasion and for any reason will not be deemed to be a basis for any automatic waiver of the same or any other provision in the future.
- B. Any approvals required by either party to this Business Associate Agreement shall not be unreasonably withheld.
- C. UNLESS FURTHER LIMITED ELSEWHERE IN THIS BUSINESS ASSOCIATE AGREEMENT, OUR AGGREGATE LIABILITY FOR DAMAGES FOR ANY CAUSE RELATED TO OR ARISING OUT OF THIS BUSINESS ASSOCIATE AGREEMENT, WHETHER IN CONTRACT, NEGLIGENCE OR TORT, WILL NOT EXCEED THE TOTAL FEES AND CHARGES PAID BY YOU TO US FOR THE SERVICES GIVING RISE TO THE LIABILITY DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE YOUR CAUSE OF ACTION ACCRUED. IN NO EVENT SHALL WE BE LIABLE FOR (I) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY THEREOF INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR INFORMATION OF ANY KIND, LOST PROFITS, BREACH NOTIFICATION COSTS, LOST BUSINESS REVENUE OR FAILURE TO REALIZE EXPECTED SAVINGS AND REGARDLESS OF WHETHER ANY CLAIM FOR SUCH RECOVERY IS BASED UPON THEORIES OF CONTRACT, NEGLIGENCE OR TORT (INCLUDING STRICT LIABILITY).
- D. You agree to defend, indemnify and hold us, our subsidiaries, affiliates, officers, directors and employees, harmless from any claim, demand, damages, costs and expenses (including reasonable attorneys' fees), arising from any third party, Individual, or government entity claim against us due to or arising out of (i) your use or misuse of Protected Health Information, (ii) your failure to comply with the Breach Notification Rule, or (iii) our use of Protected Health Information if such use was in accordance with the Agreement and in furtherance of your instructions and directions to us for such use of Protected Health Information.

- E. It is mutually agreed that neither party shall be responsible to the other party for damage caused by delay or failure to perform hereunder, when such delay or failure is due to government regulation, war, terrorism, act of God, fire, flood, disaster, civil disorder, strike, or labor disruption or other cause that is beyond the reasonable control of the party that has delayed or failed to perform or that makes it illegal or impossible to perform this Business Associate Agreement or any of its terms.
- F. All modifications to this Business Associate Agreement shall be in writing and signed by both parties.
- G. This Business Associate Agreement is intended to bind only the parties hereto and their corporate successors, and may not be otherwise assigned by either party without the express written consent of the other.
- H. This Business Associate Agreement constitutes the entire agreement between the parties concerning the subject herein, and supersedes all prior oral or written agreements between the parties on same.
- I. The parties agree that nothing express or implied in this Business Associate Agreement is intended to confer any rights, remedies, obligations or liabilities to or on, and there shall be no, incidental or intended third-party beneficiaries under this Business Associate Agreement.