

TERMS AND CONDITIONS

Welcome to Elios Optical (<https://eliosoptical.com/>) (“Elios”, “we”, “us”, or “our”). These Terms and Conditions (“Terms” or “Terms and Conditions”) govern your use of our website software, portals, products, communications and services available from this web site or offered as part of or in conjunction with this website (“Site”) and any services offered through it. By accessing or using our website(s), you agree to be bound by these Terms. Please read these Terms carefully before accessing or using the Site. Throughout the Terms, you are referred to as “you” or “user(s).” We will also refer to the Site, our retail locations, and the services available through them as the “Services”.

Your access and use of the Services bind you to the Terms and Conditions. If you do not agree to the Terms and Conditions, you may not use the Services.

THESE TERMS CONTAIN A MANDATORY ARBITRATION PROVISION AND A CLASS ACTION WAIVER THAT REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES.

IF YOU ARE AN INDIVIDUAL ACCESSING THE SITE ON BEHALF OF, OR FOR THE BENEFIT OF AN ORGANIZATION WITH WHICH YOU ARE ASSOCIATED, THEN YOU AGREE TO THESE TERMS ON BEHALF OF YOURSELF AND SUCH ORGANIZATION, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH ORGANIZATION TO THESE TERMS. BY USING THE SITE, YOU ALSO AFFIRM THAT YOU ARE OF LEGAL AGE AND CAPACITY TO ENTER INTO THIS AGREEMENT.

We may modify these Terms and Conditions at any time as we may choose to do so. Any modifications made to the Terms and Conditions will be effective immediately upon posting on the Site. By accessing or using the Site and/or Services, you agree to be bound by all of the Terms and Conditions as posted at the time of your access or use. You agree to review the Terms and Conditions posted each time you use the Site and/or Services so that you are aware of any modifications made to these Terms and Conditions. A printed version of these Terms and Conditions shall be admissible in judicial or administrative proceedings based upon or relating to use of the Site and/or

Services to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

GENERAL DISCLAIMER

THE SERVICES AND ANY INFORMATION CONTAINED ON OR PROVIDED THROUGH THE SITE IS PROVIDED ON AN “AS IS” BASIS. ANY ACCESS TO THE SITE IS VOLUNTARY. WE WILL REGARD ALL ACCESS AS VOLUNTARY AND AT THE SOLE RISK OF THE USER.

We do not operate, control, supply, endorse, warrant or guarantee any information, products, services or merchandise that is not clearly identified as information, products, services or merchandise supplied by us. We also do not warrant or guarantee that files available for downloading through the Site or the Services will be free of infections or viruses, worms, Trojan horses or other code that contains contaminating or destructive properties.

We, and our content providers, cannot and do not guarantee or warrant against errors, omissions, delays, interruptions or losses, including loss of data. Users of the Site and Services are responsible for maintaining a means external to the Site for the reconstruction of any lost data.

We reserve the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Site, the Services, or any part thereof, with or without notice.

YOUR ACCOUNT

You may be able to navigate some of the Site and/or Services without creating a user account (“Account”); but certain Services may require you to create an Account. If you create an Account, you are solely responsible for any activity that occurs through your Account or through your personal device in connection with the Services. Similarly, for any Services that you are able to access without creating an Account, you are solely responsible for any activity that occurs through your personal device in connection with the Services. In order for Us to provide you the best possible service, you agree to

provide Us with complete, accurate, and updated information for your Account at all times. If any information is incorrect or outdated, it can lead to errors or delays, for which We will not be responsible. You should not share your Account information with others nor should You use someone else's Account without their permission. You are solely responsible for keeping your Account and Account password secure and for any consequence resulting from your failure to do so. You should never publish, distribute, or post login information for your Account.

SERVICES

Through the Site, we may offer you the ability to (a) Book eye exams at any of our Florida locations; (b) Submit a request to try on frames; (c) Sign up for promotional newsletters and updates.

We reserve the right to modify or discontinue any service without notice.

To use certain features of the Site, you may be asked to provide your name, email address, phone number, and other information.

We collect, use, and store your information in accordance with our [Privacy Policy](#). By submitting your information, you consent to our collection and use of your data for communication and service purposes.

In order to use the Site, you must be 18 years or older and have the power to enter into a binding contract with us and not be barred from doing so under any applicable laws; or 16 years or older and have your parent or guardian's consent to the Agreement. The Site is not intended for children under the age of 16 and no person under the age of 16 may use the Site. If you use the Site, you are confirming that you are at least 16 years old. This Site is directed at users in U.S. only.

By using the Site, you are also agreeing to these Terms.

BOOKINGS AND CANCELLATIONS

Through the Site, you may have the option to book an eye exam at one of our physical locations throughout the State of Florida. The eye exams are provided by a third-party, licensed optometrist or ophthalmologist. As such, you understand and agree that Elios is not responsible for the results of the eye exam. Appointments made through the Site

are subject to availability. We reserve the right to cancel or reschedule any appointment at our discretion. We encourage users to notify us at least 24 hours in advance to cancel or modify their appointment.

NO MEDICAL ADVICE OR SERVICES

The information provided to you by us through the Site and Services is made available with the express understanding that neither Elios, nor its employees, agents, independent contractors or service providers, nor the Site itself are dispensing medical advice, diagnosis or treatment. The Site are not intended to be a substitute for professional medical advice, diagnosis or treatment. The content on this Site is for informational purposes only and does not constitute medical advice. Eye exams, vision assessments, and all related services must be performed by a licensed optometrist or ophthalmologist. Please consult a qualified professional regarding any eye health concerns. ANY GENERAL HEALTH INFORMATION ON THE SITE IS ONLY INTENDED TO FACILITATE COMMUNICATION TO BOOK YOUR EYE EXAM. IT IS NOT INTENDED FOR DIAGNOSIS OR AS A SUBSTITUTE FOR SEEKING PROFESSIONAL MEDICAL ADVICE. ALL SPECIFIC MEDICAL QUESTIONS SHOULD BE DIRECTED TO A PROFESSIONAL HEALTHCARE PROVIDER.

COMMUNICATING WITH US

By acknowledging these Terms & Conditions, you are opting-in receive text messages and/or emails from Us (including text messages and emails sent on behalf of our affiliates), some of which may be considered marketing under certain laws and may be sent using an autodialer. You also represent that you are the owner or authorized user of the mobile device you use to subscribe for the mobile service and that you are authorized to approve the applicable charges. You'll be responsible for all messaging and data charges that may apply. You can opt-out of receiving text messages from Us at any time by texting "STOP" from the mobile device receiving the messages.

FORCE MAJEURE

You agree that Elios Optical and any of its affiliates, employees, independent contractors or service providers, and agents shall not be liable for any and all losses,

damages, costs, claims, and other liabilities that arise as a result of any delay or interruption in, or any non-delivery, or missed delivery or failure of the Site and any services provided through the Site due to circumstances beyond the reasonable control of Elios Optical or any of our employees, agents, independent contractors or service providers (including, but not limited to, fire, lightning, explosion, war, disorder, flood, industrial dispute, sabotage, weather conditions or acts of local or central Government or other competent authorities).

WARRANTIES AND LIMITATION OF LIABILITY

ELIOS OPTICAL DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE OR NONINFRINGEMENT, OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH REGARD TO THE SITE, OR WITH RESPECT TO ANY INFORMATION, PRODUCT, SERVICE, MERCHANDISE OR OTHER MATERIAL PROVIDED ON OR THROUGH THE SITE. Neither ELIOS OPTICAL nor its employees, agents, independent contractors, third-party information providers, merchants, licensors or the like warrant that the Site, the Services, or its operation will be reliable, uninterrupted or error-free. No agent or representative of ELIOS OPTICAL has the authority to create any warranty regarding the Site or the Services on behalf of ELIOS OPTICAL. ELIOS OPTICAL reserves the right to change or discontinue at any time any aspect or feature of the Site.

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, SHALL ELIOS OPTICAL OR ANYONE ELSE INVOLVED IN CREATING, PRODUCING, STORING OR DISTRIBUTING THE SITE OR THE SERVICES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES AND EXPENSES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, AND DAMAGES ARISING FROM LOST DATA OR BUSINESS INTERRUPTION) ARISING OUT OF OR IN ANY WAY CONNECTED WITH USE OF THE SITE OR THE SERVICES, DELAY OR INABILITY TO USE THE SITE OR THE SERVICES, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS OR SERVICES OBTAINED THROUGH THE SITE OR SERVICES, WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU SPECIFICALLY AGREE THAT NO LICENSOR, SUPPLIER OR INFORMATION PROVIDER TO ELIOS OPTICAL OR ITS

AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, INDEPENDENT CONTRACTORS OR ANY OF THEIR SUCCESSORS OR ASSIGNS, SHALL HAVE ANY LIABILITY TO YOU FOR ANY REASON OR UNDER ANY THEORY WHATSOEVER, BASED UPON THE INFORMATION PROVIDED ON OR THROUGH THE SITE OR THE SERVICES.

ELIOS OPTICAL IS NOT RESPONSIBLE FOR THIRD-PARTY WARRANTIES OR FOR ANY EFFECT THAT THE SERVICES MAY HAVE ON THOSE WARRANTIES. THIRD-PARTY PRODUCTS SHALL BE EXCLUSIVELY SUBJECT TO THE TERMS AND CONDITIONS BETWEEN USER AND THE MANUFACTURER OF SUCH THIRD-PARTY PRODUCTS. "THIRD-PARTY PRODUCTS" MEANS ANY HARDWARE, SOFTWARE, OR SERVICES THAT USER PROVIDES OR REQUIRES TO BE USED IN CONNECTION WITH THE SITE.

USERS AGREEMENT

Users will not upload or transmit any communications or content of any type that infringes or violates any rights of any party. Users will not use the Site or Services for any purpose in violation of local, state, national or international laws. Users will not publicly post identifiable "protected health information" as defined by the Health Insurance Portability and Accountability Act ("HIPAA") regulations. Users will not use the Site or Services as a means to distribute advertising or other unsolicited material to any third party. Users will not post material that is unlawful, obscene, defamatory, threatening, harassing, abusive, slanderous, hateful or embarrassing to any other person or entity as determined by us in our sole discretion. Users shall not impersonate another person.

Users will not hold us or any of our affiliates, subsidiaries or parent company liable for damages including (but not limited to), negligence, loss of wages, revenue or business because of any services related to or provided by this Site or the Services. The sole and exclusive remedy for dissatisfaction with the Site or Services will be to stop using the Site and/or Services.

User agrees and understands that some of the products and/or services provided by the Site or the Services are not in the direct control or ownership of ELIOS OPTICAL. As such, Users agrees that ELIOS OPTICAL shall not be liable for any use, misuse, or

issues that may arise out of the products or services offered through the Site or the Services, including but not limited to accuracy in any eye-exam performed by a third party.

Users will indemnify us and any of our parent or subsidiary companies or organizations, and any of our successors, assigns or licensees, together with any of their respective officers, directors employees, agents and independent contractors, against any damages, losses, liabilities, judgments, costs or expenses (including reasonable attorneys' fees and costs) arising out of a claim by a third party relating to use of the Site or the Services, or any breach or violation of these Terms and Conditions or any other term or condition contained on the Site or the Services. Users agree to comply with all user responsibilities and obligations as stated in these Terms and Conditions.

TERMINATION OF PRIVILEGES

ELIOS OPTICAL reserves the right (but is not obligated) to terminate your privilege of using all or any portion of the Site or Services if you breach any of these Terms and Conditions. If ELIOS OPTICAL receives notice or otherwise discovers that you have uploaded or posted information that infringes a third party's copyright or trademark rights, violates a third party's privacy rights, or is illegal, harassing, abusive or disruptive, ELIOS OPTICAL may terminate your access to the Site or Services, including all of your privileges or accounts that you may have established in connection with the Site or Services.

ELIOS OPTICAL also reserves the right (but is not obligated) to delete data and communications that fail to conform to the Terms and Conditions and edit or delete any communications regardless of whether such communications violate the Terms and Conditions. ELIOS OPTICAL may, in its sole discretion, discontinue providing the Site and Services, or any portion thereof.

These actions are in addition to and not in lieu or limitation of any other right or remedy we may have available at law. Further, we shall not be liable to you or any third party for any such termination or discontinuance.

PROTECTED HEALTH INFORMATION

We understand that Protected Health Information (PHI) is personal and private, and we are dedicated to maintaining the accessibility, integrity, and security of PHI. As such, we ensure that your PHI is only used as provided for within our Privacy Policy as authorized by you, and that to the extent possible, your PHI is de-identified according to HIPAA standards and stored in a secure encrypted compliant manner.

MISCELLANEOUS PROVISIONS

We do not guarantee continuous, uninterrupted or secure access to the Services, and operation of the Site may be interfered with by numerous factors outside of our control. You agree that the Terms and Conditions and all incorporated agreements between ELIOS OPTICAL and you may be automatically assigned by ELIOS OPTICAL, in our sole discretion, to a third party in the event of a merger, acquisition or liquidation.

We may modify the Site or the Services, or delete features at any time and for any reason. We may cancel or suspend your access to the Site or Services at any time. Our cancellation or suspension may be without cause and/or without notice. Upon cancellation, your right to use the Site and Services stops immediately.

Our failure to act with respect to a breach by you or others of the Terms and Conditions does not waive our right to act with respect to subsequent or similar breaches.

These Terms and Conditions, along with ELIOS OPTICAL's Privacy Policy and any applicable consent agreements between You and us, set forth the entire understanding and agreement between ELIOS OPTICAL and any user with respect to the Services, the Site, and its uses and services.

If any of the provisions of the Terms and Conditions are held to be not enforceable by a court or other tribunal of competent jurisdiction, then such provisions shall be limited or eliminated to the minimum extent necessary so that the Terms and Conditions shall otherwise remain in full force and effect.

The Terms and Conditions may not be modified, in whole or in part, except as described elsewhere in the Terms and Conditions. Anything contained on the Site or Services inconsistent with or conflicting with the terms of these Terms and Conditions is

superseded by the terms of these Terms and Conditions. If you have confidentiality obligations related to the Site or the Services, those obligations remain in force. The section titles in the Terms and Conditions do not limit the terms of these Terms and Conditions.

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The marks ELIOS OPTICAL and any logos, slogans, or names used within the Site or the Services, are trademarks of ELIOS OPTICAL and are protected by state and federal trademark laws, regardless of whether they are registered trademarks. Other trademarks appear on the Site or Services with permission from their respective owners. You are not authorized to use any of these trademarks by your access to the Services. Please contact ELIOS OPTICAL for any necessary consent. Your unauthorized use of trademarks appearing on the Services may constitute trademark infringement, which could subject you to substantial civil penalties.

Except for material in the public domain under United States copyright law, all material contained on the Site or the Services (including but not limited to all software, HTML code, Java applets, Active X controls and other code) is protected by United States and foreign copyright laws. Except as otherwise expressly provided in these Terms and Conditions, you may not copy, distribute, transmit, display, perform, reproduce, publish, license, modify, rewrite, create derivative works from, transfer, or sell any material contained on the Site or the Services without the prior consent of the copyright owner. None of the material contained on the Site or available through the Site and/or Services may be reverse-engineered, disassembled, decompiled, transcribed, stored in a retrieval system, translated into any language or computer language, retransmitted in any form or by any means, resold or redistributed without the prior written consent of ELIOS OPTICAL. Violation of this provision may result in severe civil and criminal penalties.

NOTICES

These Terms and Conditions are in electronic form. There may be information regarding the Site and the Services provided through the Site that the law requires us to send you. We may send you this information in electronic form. We may provide required information to you: by e-mail at the e-mail address you specified when you signed up for

a Service provided through the Site or the Services, if any; by access to a web site that will be designated in an e-mail notice sent to you at the time the information is available; or by access to a web site that will be generally designated in advance for this purpose.

Notices provided to you via e-mail will be deemed given and received on the transmission date of the e-mail. As long as you can access and use the Site or the Services, you have the necessary software and hardware to receive these notices. If you do not consent to receive any notices electronically, you must stop using the Services.

LINKS AND ADVERTISEMENTS TO THIRD PARTIES

The Site and the Services may contain hyperlinks to web sites offered by parties other than ELIOS OPTICAL. Such hyperlinks are provided for your reference and convenience only. ELIOS OPTICAL is not responsible for the privacy practices or the content of such web sites; nor does ELIOS OPTICAL's inclusion of hyperlinks to such web sites imply any endorsement of the material on such web sites or any association with their operators, including any web sites that may indicate a special relationship or partnership with ELIOS OPTICAL (such as co-branded pages or "powered by" or "in cooperation with" relationships). Unless otherwise specifically stated on the Site, ELIOS OPTICAL does not endorse any product or service or make any representation regarding the reliability, quality or accuracy of any products or services featured in, or linked to, any advertisement, article or other content appearing on the Site.

ELIOS OPTICAL does not disclose personally identifiable information or unique identifiers to those responsible for the linked web sites. The linked web sites, however, may collect personal information from you that is not subject to ELIOS OPTICAL's control. To ensure protection of your privacy, always review the privacy policy of the web sites you may visit by linking from this Site or Services.

COOKIES

We use cookies on the Site to provide you with the best user experience. We use Cookies to track how you access and use the services offered on our website, to learn when and how you visit the website, to learn which search terms are used, and to learn which websites direct you to the Site. We also use cookies to help display certain

information about services and to improve your enjoyment and convenience when using or visiting the Site; for example, by remembering your contact and other information when you access or use the Site.

NO CLASS ACTIONS

YOU AND ELIOS OPTICAL AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

JURISDICTION

The Site and Services are controlled and operated by ELIOS OPTICAL from its principal office in Florida, United States of America. ELIOS OPTICAL makes no representation that materials on the Site or through the Services are appropriate or available for use in other locations. Those who choose to access the Site or Services from other locations are responsible for compliance with local laws, if and to the extent local laws are applicable.

You agree that the Terms and Conditions are governed by and shall be construed in accordance with the laws of the State of Florida, exclusive of its choice of law or conflicts of law provisions.

EXCEPT FOR DISPUTES THAT QUALIFY FOR SMALL CLAIMS COURT, ALL DISPUTES ARISING OUT OF OR RELATED TO THESE TERMS, RELATED TO THE SITE, OR ANY ASPECT OF THE RELATIONSHIP BETWEEN YOU AND US (WHETHER BASED IN CONTRACT, TORT, STATUTE, FRAUD, MISREPRESENTATION, OR ANY OTHER LEGAL THEORY) WILL BE RESOLVED THROUGH FINAL AND BINDING ARBITRATION BEFORE A NEUTRAL ARBITRATOR IN THE STATE OF FLORIDA INSTEAD OF A COURT. YOU HEREBY WAIVE THE RIGHT TO A JURY TRIAL. YOU AGREE THAT ANY ARBITRATION UNDER THESE TERMS WILL TAKE PLACE ON AN INDIVIDUAL BASIS. CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED, AND YOU ARE AGREEING TO GIVE UP THE ABILITY TO PARTICIPATE IN A CLASS ACTION. UNLESS BOTH SIDES AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN

ONE PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE IN ANY FORM OF CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDINGS.

Prior to initiating the arbitration, the initiating party will give written notice to the other party of its claim, and the parties will have 60 days to negotiate and attempt to resolve the dispute, after which time unresolved claims may proceed to arbitration. The arbitration will be conducted in Palm Beach County, Florida before one arbitrator. The parties will share the costs of arbitration equally, provided that each party will be solely responsible for its own attorneys' fees and costs. The arbitrator shall not be empowered to award punitive damages to any party.

In any claim or action by you directly or indirectly arising under these Terms and Conditions or related to the Site which qualify for small claims court, you and we each irrevocably agree to submit to the exclusive personal jurisdiction of the courts of Palm Beach County, Florida, and you and we each waive any jurisdictional, venue or inconvenient forum objections to such court. In the event that any legal action be taken to enforce these Terms and Conditions, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

Notwithstanding any of the foregoing, nothing in these Terms and Conditions will preclude us from seeking any injunctive relief or other provisional remedy in U.S. state or federal courts for protection of its intellectual property rights (including the rights of its licensors), and you agree to exclusive jurisdiction of the state and federal courts located in Palm Beach County, Florida for such claims; and you waive any jurisdictional, venue, or inconvenient forum objections to such courts.

CONTACTING US

If you have any questions about the Terms and Conditions, the practices of the Site, the Services or your dealing with ELIOS OPTICAL, you may contact us at:

info@eliosoptical.com or 305-649-4011