

Terms of Use



Version: March 2021

This website (“**Site**”) is operated by Eyetelligence Pty Ltd A.C.N. 635 812 234 (“**we**”, “**us**”, “**our**” or “**Eyetelligence**”) and these terms of use govern your access to, and use of, the Site.

The Site provides you with information about our services, including the services we offer (our “**Services**”) and also operates as an e-store, allowing the ordering of the Services.

1. **Terms of use**

- 1.1. By using the Site, each visitor (“**you**”, “**your**”) agrees to be bound by these terms of use (“**Terms of Use**”). Please read them carefully. Your use of the Site indicates your acceptance of these Terms of Use. Your use or purchase of our Services also indicates your acceptance of these Terms of Use.
- 1.2. If you are using the Site on behalf of a corporate entity, you represent and warrant that you are authorised by such entity to bind it to these Terms of Use.
- 1.3. We may vary these Terms of Use at any time and at our discretion. Your continued use of the Site or the Services following any changes indicates your acceptance of the changes. You should check regularly if these Terms of Use are updated.
- 1.4. We reserve the right to prohibit anyone from using the Site for any reason.
- 1.5. To the extent that there is any inconsistency between the Terms of Use and any other terms contained in any forms provided by Eyetelligence to you in the supply of Services, those terms will prevail unless otherwise stated in writing.

2. **Account registration**

- 2.1. You can browse the Site without creating an account, however, we may require you to create an account to access certain functions of the Site (“**Account**”).
- 2.2. You are responsible for maintaining the confidentiality of your password and registration attached to your Account and are fully responsible for all activities that occur under your Account.

3. Privacy

- 3.1. Your use of this Site and/or our Services may involve the transmission to us of certain personal information. Our policies with respect to the collection and use of such personal information are governed according to our Privacy Policy which is incorporated into these Terms of Use verbatim.

4. Prices and GST

- 4.1. The prices on the Site are expressed in Australian dollars (\$AUD) and are inclusive of GST unless otherwise stated.
- 4.2. Prices are subject to change if an error in pricing has been made or at the sole discretion of Eyetelligence from time to time.
- 4.3. We reserve the right to cancel your order and provide you with a full refund in instances where an error in pricing has occurred notwithstanding that your order has been processed.

5. Payment

- 5.1. Any payment for any Services must be by credit or debit card or any other payment method listed on the checkout page of the Site. Your payment method will be billed as soon as your order is placed.
- 5.2. If you have selected the purchase of a Service that is provided on a subscription basis, you will be informed of the billing period, cost and duration of your subscription before you agree to the subscription. The terms of use of the Service, including terms associated with the provision of the Service will be provided to you at checkout and your completion of the purchase will be deemed acceptance of those terms.

6. Use of the Site

- 6.1. You agree not to do any of the following:
- a) Harvest, scrape or in any other way extract data from or on this Site or its users, using an automated, manual or other process;
 - b) Resell or make any commercial use of the Site or any Site content;
 - c) Modify, adapt, translate, reverse engineer, decompile, disassemble or convert into human readable form any of the Site content not intended to be so read, including using or directly viewing the underlying HTML or other code from the Site except as interpreted and displayed in a web browser;

- d) Mirror, copy, imitate, download or store the Site or any Site content by any means, including but not limited to electronic, manual, mechanical or otherwise;
- e) Do anything that imposes an unreasonable or disproportionately large load on the Site, or interferes or disrupts the Site or any network or other website connected to the Site;
- f) Use the Site in any manner that is contrary to our directions as may be made from time to time.

7. No medical advice

- 7.1. This Site and any of the Services provided is not intended to provide any medical or optical care, opinion, advice, diagnosis or treatment. Any and all information found on the Site is general in nature and cannot replace a doctor's or other medical professional's recommendations. Any information found on the Site or created from the use of the Services is only to be used as a reference and cannot be relied upon as medical advice.
- 7.2. Always seek the guidance of your doctor, optometrist, licensed Optician, ophthalmologist and/or other qualified health or optical professional with any questions you may have regarding your health or a medical and/or optical condition.
- 7.3. To the fullest extent permitted by law, Eyetelligence disclaims all warranties, express or implied, including, but not limited to, fitness for a particular purpose as to the results that may be obtained from the use of the Services.

8. Liability and indemnity

- 8.1. Eyetelligence shall use reasonable efforts consistent with prevailing industry standards to maintain the Site and the Services in a manner which minimizes errors and interruptions in your use of the Site or Services.
- 8.2. We expressly disclaim all warranties, express or implied, of any kind with respect to the Site and the Services sold on the Site. The Site and/or the Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Eyetelligence or by third-party providers, or because of other causes beyond Eyetelligence's reasonable control. We do not warrant that the Site or Services will be uninterrupted or error free.
- 8.3. Eyetelligence, its directors, officers, employees and representatives will not be liable to you for any losses and damages, including special, direct, indirect, incidental, consequential or punitive losses and damages (including for loss of profits, goodwill, use, data and/or other intangible losses) related to the Site and/or the Services.

- 8.4. To the maximum extent of the law, you release us from any and all liability in relation to the use of the Site and/or Services howsoever occurring.
- 8.5. You indemnify and hold Eyetelligence and our related entities, affiliates, and our and their respective officers, agents, and employees, harmless from and against any and all claims, demands, proceedings, losses and damages (actual, special, aggravated and consequential) of every kind and nature, known and unknown, including reasonable legal fees, made by any third party due to or arising out of your breach of these Terms of Use. For the avoidance of doubt, this indemnity is in addition to any indemnity granted by you under any terms and conditions associated with the provision of Services.

9. Intellectual Property

- 9.1. The Site is owned and operated by Eyetelligence. Unless otherwise specified, all material appearing on the Site remains the property of Eyetelligence, including the text, audio, video, site design, logos, graphics, icons and images, photographs, graphics, typefaces and other material (collectively, the “**Content**”) as well as the selection, assembly and arrangement thereof.
- 9.2. The Content is protected by copyrights, trademarks, or other intellectual property laws and rights. Unauthorised use of the Content may violate copyright, trademark, and other laws.
- 9.3. We grant you a non-exclusive, revocable, non-sublicensable licence to access and display the Content for the sole, personal and non-commercial purpose of you accessing the Site and placing an order with us. Otherwise, you have no rights in or to the Content, and you will not use the Content except as permitted under these Terms of Use. No other use is permitted without prior written consent from us. You may not sell, transfer, assign, license, sublicense, or modify the Content or reproduce, display, publicly perform, make a derivative version of, distribute, or otherwise use the Content. All goodwill generated from the use of any of our trademarks inures to our benefit.

10. General

- 10.1. These Terms are governed by the laws in force in the State of Victoria and the parties hereby submit to the non-exclusive jurisdiction of the Courts of Victoria.
- 10.2. These Terms of Use constitute the entire agreement between Eyetelligence and you and govern your use of the Site. You will also be subject to additional terms and conditions when you purchase and use a Service.

- 10.3. Our failure to exercise or enforce any right or provision of the Terms of Use shall not constitute a waiver of such right or provision.
- 10.4. In the event that a provision of these Terms is held to be invalid or unenforceable, that provision will be read down and the remaining provisions of these Terms of Use will remain in full force and effect.
- 10.5. Nothing in these Terms of Use will be taken as giving rise to a relationship of employment, agency, partnership or joint venture.