

# **EXCESS LINE ASSOCIATION OF NEW YORK WEB SITE TERMS OF USE AND PRIVACY POLICY**

Excess Line Association of New York (“ELANY”) operates the website located at [www.elany.org](http://www.elany.org) (the “Site”) to provide online access to information about services provided by ELANY (the “Information”) and to facilitate the stamping of excess line insurance linelaws (the “Services”).

By accessing and using the Site, you agree to each of the terms and conditions set forth herein (“Terms of Use”). These Terms of Use are referred to as this “Agreement.”

ELANY reserves the right to modify this Agreement at any time without giving you prior notice. Your use of the Site following any such modification constitutes your agreement to follow and be bound by the Agreement as modified. The last date this Agreement was revised is set forth above.

## **1. ACCESS TO THE SITE CONSTITUES ACCEPTANCE**

This Agreement will constitute a binding and enforceable agreement between you (individually and in your individual capacity as an employee, officer, agent, or partner of each organization you represent in connection with any use of the Site) and ELANY. By using the Site, you acknowledge that you have fully read and agree to be bound by the provisions of this Agreement, exactly as if it were printed on paper and signed by you. If you do not agree to be bound by this Agreement in its entirety, then you must immediately stop using the Site.

By using the Site in the course of your employment or business, you enter into this Agreement both on your own behalf and in your individual capacity as an employee, officer, agent or partner of such organization which you represent, and references in this Agreement to “you” shall mean both you as the individual user of the Site and you in your capacity as a representative of your organization.

Notwithstanding the forgoing, any signed agreement between you and ELANY will supersede any conflicting terms in this Agreement.

## **2. DESCRIPTION OF INFORMATION AND SERVICES**

The Site provides Information that comprises a variety of resources, and may include information about ELANY and its mission, reports and other documents related to ELANY, its organization and activities, information about contacting ELANY, links to the New York Department of Financial Services, and other excess line insurance resources, as well as other materials and information related to ELANY and excess line insurance. The

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Information, including any updates, enhancements, and new features are provided subject to the terms of this Agreement. ELANY also provides Services that include the creation and management of user accounts for the purpose of conducting transactions for the stamping of excess line insurance and the collection of stamping fees.

## **3. INTELLECTUAL PROPERTY**

The Information, the Services, the Site, and all information and content that you see, hear or otherwise experience on the Site (the “Content”) are protected by U.S. and international copyright, trademark and other laws, and belong to ELANY or its parent, partners, affiliates, contributors or third parties.

ELANY grants you a personal, non-exclusive, non-transferable license to use the Site, the Service and the Content and to download, print and store portions of the Content that you select, provided that you do not modify or alter the Content in any way, or delete or change any copyright or trademark notice. No right, title or interest in any downloaded Content or materials is transferred to you because of this license. ELANY reserves complete title and full intellectual property rights to any Content you download from the Site, subject to this limited license for you to make personal use of the Content as set forth herein.

You may not use any of the marks or logos appearing throughout the Site without express written consent from the trademark owner, except as permitted by applicable law.

You may not mirror, replicate, or frame the home page or any other pages of this Site on any other website or webpage.

If you wish to make any general complaint regarding any Content then please contact ELANY at [ELANYInfo@elany.org](mailto:ELANYInfo@elany.org).

ELANY's agent for notice purposes under 17 U.S.C. § 512 is (notices of infringement must be made in writing):

EXCESS LINE ASSOCIATION OF NEW YORK  
120 Wall Street, 24<sup>th</sup> Floor  
New York, NY 10005  
(646) 292-5500  
[ELANYINFO@elany.org](mailto:ELANYINFO@elany.org)

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### 4. DISCLAIMER OF WARRANTIES

ELANY PROVIDES THE ELANY WEB SITE AND ALL CONTENT AND SERVICES RELATED THERETO STRICTLY ON AN "AS-IS" BASIS. SAVE TO THE EXTENT REQUIRED BY ANY MANDATORY APPLICABLE LAW, NEITHER THE ELANY WEB SITE, NOR ANY CONTENT OR SERVICES PROVIDED ON OR IN CONNECTION WITH THE ELANY WEBSITE ARE SUBJECT TO ANY WARRANTY OR CONDITION, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, AND NON-INFRINGEMENT. ELANY DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF THE ELANY WEB SITE OR ITS CONTENTS. IN ADDITION, ELANY DOES NOT GUARANTEE THAT THE ELANY WEBSITE WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ANY SERVICE WILL CONTINUE TO BE AVAILABLE.

The information or content of this site is not intended to provide specific advice about individual legal, business, or other questions, and it is not a substitute for your independent research and evaluation of any issue. If specific legal or expert advice is required or desired, you should seek the services of an appropriate, competent professional.

### 5. ADDITIONAL DISCLAIMERS

Without limiting the disclaimers set forth in Section 3:

- A. **Correction of Errors and Inaccuracies.** The Content may contain typographical errors or other errors or inaccuracies and may not be complete or current. ELANY therefore reserves the right to correct any errors, inaccuracies or omissions and to change or update the Content at any time without prior notice. ELANY does not, however, guarantee that any errors, inaccuracies or omissions will be corrected.
- B. **Third-Party Links.** Hypertext links to third party web sites or information do not constitute or imply the endorsement, sponsorship or recommendation by ELANY of the third-party, the third-party web site, or the information contained therein, unless expressly stated on the Site. You acknowledge and agree that ELANY is not responsible for the availability of any such web sites and that ELANY does not endorse or warrant, and is not responsible or liable for, any such web site or the content thereon. You need to make your own decisions regarding your interactions or communications with any other web site. Further, you should consult the privacy statements or policies posted on third-party sites to determine how your personal information, if provided by you, may be

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utilized by the proprietors of such third-party sites. ELANY disclaims all responsibility and liability for the collection and transfer of information collected by such other third-party websites.

Further, all New York excess line insurance brokers are members of ELANY as a condition to holding an excess line insurance broker license from the New York Department of Financial Services. ELANY does not promote or endorse the services or products of one ELANY member over any other member. The Site may contain links to ELANY member websites, or contain links to websites containing products, services or publications other than those of ELANY. As stated above, ELANY does not endorse, approve, certify or control these external websites, and is not responsible for the content or operation of any site or content linked to the Site.

## **6. TEXT LINKS**

You may provide a hypertext link to the Site on your website if the usage of the link does not create an appearance of authorship, sponsorship, or endorsement by ELANY.

## **7. GEOGRAPHIC LIMITS ON USE**

Like most Internet websites, this Site is accessible worldwide. However, ELANY Information and Services are specific to the State of New York, and provision of the Information and Services are thusly limited. You agree to comply with all applicable laws and local rules of New York and of your jurisdiction regarding the transmission of technical data, acceptable content, and online conduct.

## **8. LIMITATION OF LIABILITY**

EXCEPT AS REQUIRED BY ANY APPLICABLE MANDATORY LAW, IN NO EVENT WILL ELANY, OR ANY OF ITS MEMBERS, EMPLOYEES, VENDORS, OR AGENTS BE LIABLE WITH RESPECT TO THIS AGREEMENT, THE SITE, OR ANY CONTENT FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE, OR EXEMPLARY DAMAGES, OR ANY LOSS OF PROFITS, DATA, OPPORTUNITY, SAVINGS OR INTEREST, OR ANY PENALTIES OR ASSESSMENTS IMPOSED UNDER APPLICABLE TAX LAWS OR OTHERWISE, EVEN IF ELANY, OR ITS AGENTS, HAS BEEN ADVISED OF THE LIKELIHOOD THEREOF.

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## **9. RESERVATION OF RIGHTS**

ELANY reserves the right in its sole discretion, and at any time (under no penalty or liability of any kind) to: (a) suspend or terminate access or use of all or any part of the Site; (b) change the format and contents of the Site; or (c) suspend, terminate operation, or block all or part of the Site.

## **10. INDEMNIFICATION**

ELANY provides the Site, Information, and Services solely as accommodation to you, and ELANY will not accept any risks arising from your use of the Site. You agree to indemnify, defend and hold harmless ELANY, its parent companies, subsidiaries, affiliated companies, joint venturers, business partners, licensors, employees, agents, contractors, and any third-party information providers to the Service from and against all claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorneys' fees, resulting from or arising out of your use, misuse, or inability to use the Services, the Site, the Information or any content, your reliance upon Information or any content contained on the Site, or any violation by you of this Agreement.

## **11. GENERAL PROVISIONS**

This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. No waiver by ELANY of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. If any part of the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, it will not impact any other provision of the Agreement, all of which will remain in full force and effect. Any and all disputes relating to the Agreement, or your use of the Site, the Service, or the Content (collectively, "Disputes") are governed by, and will be interpreted in accordance with, the laws of the State of New York, without regard to any conflict of laws or provisions. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any Dispute venue will be in a state or federal court situated in New York, New York, and you hereby irrevocably submit to the personal jurisdiction of such courts for that purpose.

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## 12. PRIVACY TERMS

ELANY or its service providers may record certain information about your visit, such as the name of the Internet service provider and the Internet Protocol ("IP") address through which you access the Internet, the date and time you access the Site, the uniform resource locator ("URLs") of the web sites and pages you visit (before, during, and after your visit to the Site), information about the computer hardware and software you use and other information that may be available. Also, ELANY or its service providers may use "cookies" to recognize you on return visits. Cookies enable ELANY to enhance your browsing experience, enable account functionality, as well as to collect additional relevant information about you.

You may adjust your browser settings or use other means to prevent cookies from being placed on your computer, but doing so may result in reduced functionality and a less personalized browsing experience.

This information is used by ELANY for several purposes:

- to monitor use of the Site;
- to improve Information, Services, and other content offered on the Site;
- to diagnose server issues;
- to solve technical problems;
- to collect information about attempted unauthorized access; and
- to administer the Site.

While performing its Services, ELANY must collect and make use of certain personal data for insurance licensees and their insured customers ("personal data").

The insurance licensees' personal data includes:

- name;
- address and other contact information; and
- the licensee's tax ID number and the licensee's insurance license number

Insured customers' personal data collected includes:

- name;
- address; and
- other contact information and insurance policy information.

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The personal data will be shared with the New York Department of Financial Services and other agencies to the extent necessary to carry out the excess line insurance stamping process, or otherwise as needed to carry out ELANY's obligations under state law.

Aggregated forms of personal data, with no personally identifiable information, will be used to generate reports on ELANY's activities, and may be shared publicly. Personal data will not be shared in any other way outside of ELANY without obtaining consent from the affected parties. ELANY will use the data internally among ELANY staff, leadership, or contractors as is necessary in the performance of ELANY's services and obligations. ELANY's use of personal data complies with applicable laws and regulations.

ELANY will safeguard, according to prudent security standards, information considered confidential by law. To protect against unauthorized access or use of this information, we maintain industry-standard electronic and procedural safeguards to guard your information.

### **13. USER CONDUCT**

You agree not to take any action that might compromise the security of the Site, render the Site inaccessible to others or otherwise cause damage to the Site or the Content. You agree not to add to, subtract from, or otherwise modify the Content. You agree not to use the Site in any manner that might interfere with the rights of third parties.

### **QUESTIONS, OBJECTIONS, OR ADDITIONAL INFORMATION.**

If you have questions regarding this Agreement, any objections you wish to raise regarding this Agreement, or wish to obtain additional information, please send an e-mail to at [ELANYinfo@elany.org](mailto:ELANYinfo@elany.org).