

## CANOPY INSURANCE LIMITED

### TERMS AND CONDITIONS

This **AGREEMENT** is made between Canopy Insurance Limited (“**Canopy**”, “**us**” or “**we**”) and you (“**you**”, “**your**” or “**the User**”) and contains the terms and conditions governing your use of the Application offered by Canopy from time to time.

By creating a user account and/or using the Application you agree to be bound by this Agreement and the terms and conditions for use of the Application as may be amended by Canopy at any time and from time to time. The revised terms and conditions will be effective once posted on or made available to you through the Application. Your continued use of the Application constitutes your acceptance of such changes. If you do not agree to these terms and conditions, do not use or access the Application.

You understand that by creating a user account and/or using the Application you confirm that:

- (i) you have carefully read and understood the terms and conditions set out below;
- (ii) you understand, among other things, that all the risks associated with using the Application are entirely and solely yours;
- (iii) you are entering into a contract with Canopy as detailed in these terms and conditions; and
- (iv) you agree to be bound by the said terms and conditions of this entire Agreement as same may be amended at any time and from time to time by Canopy in its sole discretion.

#### **1. Definitions and Interpretation**

In this Agreement the terms and expressions identified below shall have the following meanings:

“the Application” means the website, web application or mobile application made available by Canopy;

“Computer” means a personal computer or other screen-based electronic device such as a smart phone or tablet;

“Instructions” means all message(s) and communication including requests for inquiry and Transactions, sent to Canopy using the Application;

“Services” means the online services offered by Canopy through the Application from time to time;

“Transaction” means submitting a claim, requesting a change, submitting information and/or any other operation which may be conducted by you from time to time using the Application.

In this Agreement:

- i) The section titles used in this Agreement are for convenience only and do not have any legal or contractual effect.
- ii) The preamble and preliminary recitals set forth above are by this reference incorporated in and made a part of this Agreement.

- iii) Where the context permits, words importing the singular shall be construed as importing the plural and vice versa.
- iv) Words importing persons may, as applicable, be construed as importing a corporate body and/or a partnership and vice versa.
- v) Where any party comprises of more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.

## **2. Use of the Application**

- 2.1. For valuable consideration, including, among other things, the payment of fees (if applicable) and upon the terms and conditions herein contained, Canopy agrees to make available to you the Application and such of the Services as it deems appropriate in its sole discretion from time to time.
- 2.2. You warrant that you are duly authorized and able to enter into this Agreement and agree to take all the steps necessary, from time to time, to comply with the warranties, requirements, terms and conditions set out in this Agreement.
- 2.3. You agree to use the Application for lawful purposes only, in accordance with these terms and conditions.
- 2.4. Save as is expressly otherwise provided herein you, hereby authorise Canopy to accept, and you agree to be responsible for, any Instructions given through the Application.
- 2.5. We reserve the right to modify, suspend, remove or disable access to the Application and/or any Service, content or other materials that are offered via the Application at any time without notice.
- 2.6. Canopy controls and maintains this site from Jamaica and makes no representation that materials are appropriate or available for use in other locations. If you use this site from other locations, you do so on your own initiative and are responsible for compliance with applicable local laws

## **3. User Guidelines**

- 3.1. You are solely responsible for keeping your login credentials secured, including your user name and password. You must immediately advise Canopy if you believe or suspect that your account or login credentials have been compromised.
- 3.2. Save as is otherwise expressly provided herein you shall be responsible for all Transactions, losses, costs and liabilities resulting from the unauthorised use of the Services and/or the Application ("Unauthorised Use").

- 3.3. Every Instruction has the same status and legal value as a written instruction signed by you. Accordingly, you agree not to challenge the legal effect, validity or enforceability of an Instruction issued to Canopy via the Application.
- 3.4. You may be required by Canopy to provide information to verify that you are the account holder or otherwise identify yourself and to provide an e-mail address or other contact information and you agree to comply with any such request.
- 3.5. You may not (by yourself or through others) modify, make derivative works of, disassemble, de-compile or reverse engineer any part of the Application.
- 3.6. You may not collect, harvest, obtain or process information about other users or customers of Canopy via the Application.
- 3.7. You may not insert or submit a third party's personal data or confidential information into the Application without such third party's consent or do any act which would violate a third party's rights, including data protection and intellectual property rights.
- 3.8. You may not use the Application for any unlawful, illegal or immoral purpose, or for any activity which would negatively affect the reputation or goodwill of Canopy.
- 3.9. You may not use the Application, or allow the Application to be used for any activity that may constitute, or encourages conduct that may constitute, a criminal offense, give rise to civil liability or otherwise violate any law of Jamaica or any jurisdiction in which you are located.
- 3.10. You may not do anything to interfere with or impair the intended operation of the Application, such as deliberately imposing an unreasonably or disproportionately large load or burden on the Application, or otherwise attempt to misuse the Application.

#### **4. Risk**

- 4.1. You are responsible for the installation, maintenance and operation of your Computer and the relevant software and shall bear the risk of error, failure or non-performance due to faulty operation, malfunction, lack of maintenance or any other reason.
- 4.2. You hereby acknowledge and accept that the use of the Application carries certain inherent risks. You further acknowledge and accept that the way in which you choose to use and personalise the Application may increase or reduce the associated risk, for example selecting a Computer as a 'trusted device' and the complexity of the password chosen.
- 4.3. By using the Application you assume full responsibility for the risks which risks include, among others, the following possibilities –
  - 4.3.1. your account being accessed by a third party e.g. where you have permitted your password to be disclosed;
  - 4.3.2. delays in the transmission of your Instructions; or
  - 4.3.3. transmission of viruses.

- 4.4. You acknowledge that Electronic-mail transmissions and online chat systems may not be secure and that Canopy urges its customers not to request sensitive information relating to their accounts or policies via any e-mail or online chat system.
- 4.5. By using the Application, you agree to accept the electronic communications and acknowledge that you are able to electronically access and retain electronic communications relating to the Services.
- 4.6. You acknowledge that you are responsible for checking your Account at regular intervals to ensure that your Instructions have been carried out.

## **5. No Warranties or Representations**

- 5.1. To the fullest extent permissible pursuant to applicable law, the Application and all content, materials, information, products and Services provided via the Application, are provided on an 'as is' and 'as available' basis. Canopy expressly disclaims all warranties of any kind, whether express or implied, including, without limitation, the implied warranties of merchantability, fitness for a particular purpose, title, non-infringement, integration, non-interference with enjoyment, and security and accuracy, as well as all warranties arising by usage of trade, course of dealing or course of performance.
- 5.2. Canopy makes no warranty, and expressly disclaims any obligation, that: (i) the Application will meet your requirements or will be available on an uninterrupted, timely, secure, or error-free basis; (ii) the material will be up-to-date, complete, comprehensive, accurate or applicable to your circumstances; (iii) the results that may be obtained from the use of the Application or any services offered through the Application will be accurate or reliable; (iv) the quality of any products, services, information, or other material obtained by you through the Application will meet your expectations; or (v) that defects, if any, will be corrected. The information on the Application is not intended to be legal, accounting or other professional advice.
- 5.3. You understand and agree that any content, material and/or data downloaded or otherwise obtained via the Application is used at your own risk. Canopy shall not be liable for and you will be solely responsible for any losses or damages whatsoever arising from or relating to your use of the Application, including without limit, damage to your computer system or mobile device or data loss resulting from the downloading of such content, material and/or data, as well as all decisions made by you based upon such downloaded information.

## **6. Limitation of Liability**

In no event shall Canopy, its directors, officers, employees, agents, representatives, successors, assigns or Affiliates be liable for direct, indirect, general, special, incidental, consequential or punitive damages, arising out of your use of or inability to use the Application

or any Canopy products or Services, or any damages directly or indirectly arising out of: (i) the use of or reliance on the information or materials presented on or generated by the Application; (ii) the use of or unavailability of the Application; (iii) any claim attributable to errors, omissions, unavailability, incompleteness or any inaccuracy of the information or materials presented on or generated by the Application; (iv) any other matter connected to the Application, howsoever arising, even if Canopy has been advised of the possibility of such damages, and whether based on warranty, contract, tort or any other legal theory.

## **7. Indemnity**

Without prejudice to any other term of this Agreement, you agree to indemnify, defend and hold harmless Canopy its officers, directors, employees, representatives and Affiliates from and against any and all loss, damage, demands, claims, expenses, costs (including reasonable attorneys' fees), actions, penalties and liabilities (whether criminal or civil) resulting from or arising in connection with the Services, unauthorised transactions, unauthorised use of the Application, the provision of the Services by Canopy, any act, omission or default of Canopy or its directors, officers, employees or representatives in the provision of the Services (save for cases of gross negligence), your use of the Services or the Application (whether purported, attempted or actual), the act or omission of a third party involved in the provision of the Services or the maintenance of the Application and without limitation, those resulting from your act, omission, neglect or default (including breach of this Agreement). This obligation will survive the termination of this Agreement.

## **8. Sharing of Data**

You hereby consent to and agree that Canopy may disclose information regarding you to any of its Affiliates, agents and subcontractors for operational or any other legitimate business purpose. You hereby agree that Canopy may provide such information to its Affiliates, agents and subcontractors who conduct their business from various countries in order to be able to provide the Services to you.

## **9. Data Protection**

You recognise that, in the process of accessing and using the Application and the Services, you will be required to supply personal data to Canopy. You hereby consent to the processing of your personal data in accordance with our Privacy Policy as may be amended from time to time (the terms of which are incorporated herein by reference).

## **10. Availability of Services**

10.1. Canopy will endeavour to make the Application and the Services available for twenty-four (24) hours per day, seven (7) days per week except on such days or at such times during which Canopy or other networks will be carrying out maintenance work on its computer system and other systems and equipment necessary for the provision of the Services. Canopy does not however guarantee that the Application or the Services will always be available and you agree that Canopy shall not be liable for any losses suffered by you or any third party as a result of any unavailability of the Application or the Services.

- 10.2. Canopy only processes Instructions and updates information on Business Days during business hours or such other times as prescribed by Canopy, in its sole discretion, from time to time and at any time. Each Instruction you make/submit on a non-Business Day, or after any relevant Cut-Off Time on any Business Day, will be considered given on the following Business Day.
- 10.3. The Services may not be available from time to time for scheduled or unscheduled maintenance but Canopy will endeavour to ensure that such interruptions in service are reduced to the minimum.

## **11. Unauthorised Use**

Canopy shall not be liable for any damage, loss or injury incurred by you as a result of any unauthorised transactions or unauthorised use of the Services or the Application. Without prejudice to any other provisions regarding liability or indemnity in this Agreement, you agree to indemnify and hold Canopy, its officers, directors, employees, representatives and Affiliates harmless from and against all claims, losses, damage, injury, suits, actions and/or proceedings (including all costs relating to legal services) made or brought by any person in relation to any unauthorised transaction(s) or unauthorised use of the Services or the Application.

## **12. Third Party Websites and Content**

The Application may contain links to third-party websites, including social networking websites ("Linked Sites"). Canopy makes no claim or representations regarding and accepts no responsibility directly or indirectly for the quality, content, nature, or reliability of Linked Sites. The Linked Sites are not under the control of Canopy and Canopy has not reviewed the Linked Sites and is not responsible for the contents of any Linked Site, including without limitation any link contained in a Linked Site, the privacy practices of the Linked Sites, the terms, conditions, or policies of the Linked Sites, or any changes or updates to Linked Sites, regardless of whether or not such Linked Sites are affiliated with Canopy. You should review any terms and policies of any site to which you navigate away from the Applications. Your participation in any promotions, correspondence, or dealings, including business dealings, with any third party found on or through the Application, including the delivery of and the payment for goods and services, and any other terms, conditions, warranties, or representations associated with such dealings or promotions, are solely between you and the third party and at your own risk. Canopy shall not be responsible or liable for any part of any such dealings or promotions, including any claims, loss, damage, or injury suffered by you in connection therewith.

## **13. Intellectual Property**

You will not acquire any title, ownership interest or intellectual property right in the Application. You are hereby granted a limited, revocable, non-exclusive and non-transferable licence to access and use the Application. You may not sublicense, assign, or transfer any licence granted to you by Canopy and any attempt to sublicense, assign, or transfer same shall

be null and void. The display of trademarks and other material by Canopy on this website does not imply that a licence of any kind is being or has been granted.

## **14. Termination**

- 14.1. Canopy has the right to terminate this Agreement (and/or the availability of the Application or any of the Services) at any time without it being necessary to state any reason or explanation for such termination. Canopy will ordinarily send you notice of any termination, but Canopy is not required to do so unless applicable law requires such notice. Once Canopy terminates this Agreement, no further or pending Instructions will be actioned, including but not limited to any Instructions scheduled in advance or any preauthorised recurring Instructions.
- 14.2. This Agreement may be terminated by you by giving not less than five (5) days' notice in writing to Canopy without it being necessary to state any reason or explanation for such termination. However, any Instructions from you will continue in effect until Canopy has received your written notice of termination and has had a reasonable opportunity to act upon it. Once Canopy has acted upon your notice, no further or pending Instructions will be executed.
- 14.3. You will remain liable to Canopy for any and all Transactions requested while your Account is active and any and all claims arising from such Transactions and from the Agreement in general.

## **15. Severance**

If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable then such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect. The parties agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

## **16. Waiver**

The failure by Canopy to enforce at any time or for any period any one or more of the terms and conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of the Agreement.

## **17. Notices**

- 17.1. Save as is otherwise expressly provided in this Agreement, any notice required to be given by you under this Agreement must be in writing and served by registered post or by hand delivery to Canopy at:
  - 17.1.1. its head office or at any other address the party has notified in writing to the other party for the purpose; or
  - 17.1.2. its registered office.

- 17.2. Any notice sent via registered post shall be deemed received by the addressee within five (5) days of posting and any notice hand delivered shall be deemed to be received by the addressee at the actual time of delivery.
- 17.3. Any notice to be issued by Canopy shall be deemed to have been duly served if given by mail, registered mail, electronic mail, SMS, notification on the Canopy website, notification through the Application or such other reasonable means of communication as Canopy may determine from time to time.

## **18. Entire Agreement**

- 18.1. This Agreement (including the Schedules hereto) and the Privacy Policy constitute the complete and exclusive statement of the agreement between us with respect to the subject matter hereof and supersedes any prior agreement(s) between us with respect to such subject matter.
- 18.2. In the event performance of the Services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or policy then this Agreement shall, save and except where otherwise prescribed by Canopy be deemed amended to the extent necessary to comply with any such statute, regulation or policy, and Canopy, shall incur no liability to you as a result of such violation or amendment.
- 18.3. Nothing in this Agreement (or any of the arrangements contemplated hereby) shall be deemed to create a partnership or joint venture between the parties.

## **19. Assignment**

- 19.1. Canopy may assign this Agreement at any time without your consent.
- 19.2. You may not assign the Agreement or any rights or duties hereunder to any person without the prior written consent of Canopy.

## **20. Binding Agreement**

This Agreement shall be binding upon and enure to the benefit of the parties and their respective legal representatives, successors and assigns.

## **21. Governing Law**

This Agreement is governed by and shall be construed in accordance with the laws of Jamaica. Each party irrevocably agrees to submit to the exclusive jurisdiction of the Courts of Jamaica over any claim or matter arising under or in connection with this Agreement or the legal relationships established by this Agreement.