

# Whistleblower Policy

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## 1. APPLICABILITY

A reference to **Deep Yellow** in this Policy is a reference to:

- (a) Deep Yellow Limited ABN 97 006 391 948 (**Company**) and each of its related bodies corporate (together the **Group**); and
- (b) any joint ventures under a Group company’s operational control.

This policy applies to:

- (a) all directors, officers, employees, consultants, and contractors of Deep Yellow (**Personnel**);
- (b) Deep Yellow’s service providers, suppliers, and third-party contractors (**Third Parties**); and
- (c) individuals identified as eligible whistleblowers in paragraphs 2.2 of **Schedule 1** and **Schedule 2** of this Policy.

A reference to “you” in this Policy is a reference to a person to whom this Policy applies.

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## 2. PURPOSE

Deep Yellow is committed to fostering a culture of compliance, ethical behaviour and good corporate governance. Deep Yellow values teamwork, respect and integrity and wishes to encourage a culture where its Personnel do not suffer **detriment** because of speaking up about potential misconduct concerns. This Policy has been adopted to provide a safe and confidential environment for people to raise any such concerns without fear of **detriment**.

This Policy is an important part of Deep Yellow's risk management and governance framework, assisting Deep Yellow identify, and deter, unethical, unlawful or undesirable conduct.

This Policy sets out:

- (a) when you will be protected for speaking up about misconduct;
- (b) the protections that may be provided to you if you speak up; and
- (c) how disclosures made under this Policy will be handled by Deep Yellow.

All Personnel, wherever they are based, must comply with this Policy.

This Policy is available in the Corporate Governance section of our website.

This Policy does not form part of any employee's contract of employment with Deep Yellow and Deep Yellow may amend it at any time.

Terms in bold are defined in the glossary.

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## 3. HOW DOES THIS POLICY INTERACT WITH THE AUSTRALIAN WHISTLEBLOWER LAWS?

By making a disclosure in accordance with this Policy, you may be protected under the Australian whistleblower laws if the type of matter you disclose is protected by those laws.

While this Policy principally deals with internal disclosures, the protections afforded by the Australian whistleblower laws also include some types of disclosure made to external parties, such as:

- (a) legal representatives, to obtain advice or representation about the **Australian whistleblower laws**;
- (b) ASIC, APRA or the ATO; or

- (c) MPs or journalists, where you have reasonable grounds to believe that making the further disclosure would be in the public interest or the information concerns a substantial and imminent danger to the health or safety to one or more persons or to the natural environment, but only where prior disclosure has been made to ASIC, APRA or the ATO and Deep Yellow in certain circumstances. It is important you understand strict criteria apply and we recommend you obtain legal advice before making a disclosure to one of these people.

An **eligible whistleblower** will also qualify for the protections under the Corporations Act and the Taxation Administration Act if they make a disclosure that qualifies for protection under those Acts (please refer to **Schedule 1** and **Schedule 2** of this Policy for when a disclosure qualifies for protection, and the protections available under the Corporations Act and the Taxation Administration Act). A whistleblower can still qualify for protections under these Acts even if their disclosure turns out to be incorrect.

For more information about the **Australian whistleblower laws** (including how to make a disclosure directly to ASIC or the ATO), see the information available on the ASIC website (including Information Sheet 239 How ASIC handles whistleblower reports) and the ATO website.

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#### 4. WHO CAN MAKE A DISCLOSURE?

You can make a disclosure that may qualify for protection under the **Australian whistleblower laws** if you are or were:

- (a) an officer or employee of Deep Yellow, including permanent, part-time, fixed-term or temporary employees or interns and secondees;
- (b) a supplier of goods and services to Deep Yellow (whether paid or unpaid), including their employees (for example, contractors, consultants, service providers and business partners); or
- (c) an associate of Deep Yellow; or
- (d) a parent, grandparent, child, grandchild, sibling, spouse or dependent of any of those people.

Other Personnel and Third Parties can also make disclosures in accordance with this Policy but may not be protected under the **Australian whistleblower laws**.

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#### 5. WHAT CAN A DISCLOSURE BE ABOUT?

We encourage people to report a broad range of matters. Whilst not all matters will qualify for protection under the **Australian whistleblower laws**, we will treat all disclosures made under this Policy in the same way. However, disclosures cannot be made under this Policy relating solely to **personal work-related grievances**.

To be protected under the **Australian whistleblower laws**, you must make an eligible disclosure and must have reasonable grounds for that disclosure. You can still qualify for protection if your disclosure turns out to be incorrect, but you will not be protected if you make a deliberately false disclosure.

Disclosures do not have to be about breaking the law. Eligible disclosures can be about **misconduct or an improper state of affairs or circumstances in relation to Deep Yellow**. Without limiting the type of conduct that can be disclosed under this Policy, examples of conduct that it is appropriate to disclose under this Policy includes conduct that is:

- (a) fraudulent or corrupt, such as money laundering or misappropriation of funds;
- (b) in breach of a law administered by ASIC or APRA, and a law of the Commonwealth punishable by 12 months imprisonment or more. Examples of conduct in breach of the Corporations Act could include:
  - (i) insider trading;
  - (ii) insolvent trading;
  - (iii) breach of the continuous disclosure rules;
  - (iv) failure to keep accurate financial records;
  - (v) falsification of accounts; or
  - (vi) failure of a director, or another officer, to act with the care and diligence a reasonable person would exercise, or to act in good faith in the best interests of the corporation, or to give notice of any material personal interest relating to the affairs of Deep Yellow;
- (c) illegal, such as theft, the sale or use of prohibited substances, violence or threatened violence, harassment or criminal damage to property;
- (d) unethical, such as acting dishonestly, altering records without cause or permission, making false entries in records, engaging in questionable financial practices, offering or accepting a bribe;
- (e) contrary to, or a serious breach of, codes and practices (including work practices) of Deep Yellow;
- (f) potentially damaging to Deep Yellow, including conduct that may cause financial or non-financial loss to Deep Yellow, or is otherwise detrimental to its interests; or
- (g) engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure, or is believed or suspected to have made, or be planning to make, a disclosure under this Policy.

As noted above, disclosures about solely personal work-related grievances are not covered by this Policy and do not qualify for protection under the **Australian whistleblower laws** unless they also relate to any detriment or threat of detriment to you.

However, such a disclosure may still qualify for protection if:

- (a) it is a 'mixed' disclosure – meaning it includes information indicating other misconduct beyond your personal circumstances (for example, widespread bullying or harassment);
- (b) Deep Yellow has breached employment or other laws punishable by imprisonment for a period of 12 months or more;
- (c) Deep Yellow has engaged in conduct that represents a danger to the public;
- (d) you suffer from or are threatened with, detriment for making a disclosure; or
- (e) you seek legal advice or representation about the operation of the Australian whistleblower laws.

If your disclosure is solely a **personal work-related grievance**, you should make the disclosure to the Managing Director/CEO (for persons in Australia) and to the Human Resources Officer (for persons in Namibia). Further information about Deep Yellow's workplace policies can be obtained from the Company Secretary.

If unsure whether a grievance is a disclosable under this Policy, or a **personal work-related grievance** that is more appropriately managed through a relevant workplace behaviour Policy of Deep Yellow, you can seek guidance from the Whistleblower Officer.

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## 6. WHO CAN I MAKE A DISCLOSURE TO?

All of the people listed in this section 6 can receive disclosures that qualify for protection under the **Australian whistleblower laws**. However, we encourage you to make your disclosure to our dedicated Whistleblower Officer.

Contact details for our Whistleblower Officer are:

Ms Gillian Swaby  
Executive Director – Corporate  
Deep Yellow Limited  
Level 1  
502 Hay Street  
Subiaco Western Australia 6008  
Tel: + 61 8 9286 6999  
Email: [gillian.swaby@deepyellow.com.au](mailto:gillian.swaby@deepyellow.com.au)

If you prefer, you can instead make a disclosure to the following people:

Where the matter does not involve the tax affairs of Deep Yellow, with:

- (a) any officer or **senior manager** of Deep Yellow;
- (b) Deep Yellow's appointed auditor<sup>1</sup>, ASIC<sup>2</sup> or APRA<sup>3</sup>. Whistleblowers can make a disclosure directly to these entities without making a prior disclosure to Deep Yellow; or
- (c) in limited circumstances involving an emergency or public interest disclosure (see **Schedule 1**) to a journalist or a Member of Parliament. It is highly recommended that a person seek advice from an independent legal adviser before making an emergency or public interest disclosure.

Where the matter involves the tax affairs of Deep Yellow, with:

- (a) a director, secretary, or **senior manager** of Deep Yellow;
- (b) employees or officers of Deep Yellow who have functions or duties that relate to the tax affairs of Deep Yellow; or
- (c) Deep Yellow's appointed auditor<sup>4</sup>, registered tax or business activity statements (**BAS**) agent<sup>5</sup>, or the Commissioner of Taxation<sup>6</sup>. Whistleblowers can make a disclosure directly to these entities without making a prior disclosure to Deep Yellow.

A false disclosure could have significant effects on Deep Yellow's reputation, the reputation of other Personnel and may result in a considerable waste of time and effort. Any deliberately false disclosures (i.e. a disclosure that the discloser knows to be untrue) will be treated as a serious disciplinary matter.

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<sup>1</sup> The Company's auditor is Ernst & Young, 11 Mounts Bay Road, Perth, WA 6000, Australia. Telephone: +61 8 9429 2222. Contact person: Mr Gavin Buckingham.

<sup>2</sup> ASIC Office of the Whistleblower. GPO Box 9827, Brisbane, QLD 4001, Australia. Telephone: 1300 300 630 (within Australia) and +61 3 5177 3988 (outside Australia). [ASIC website](#).

<sup>3</sup> APRA. GPO Box 9836, Sydney, NSW 2001, Australia. Telephone: 1300 558 849 (within Australia) and +61 2 8037 9015 (outside Australia). [APRA website](#).

<sup>4</sup> See note 2 above.

<sup>5</sup> The Company's tax agent is BDO, Level 9, Mia Yellagonga Tower 2, 5 Spring St, Perth WA 6000, Australia. Telephone +61 9 6382 4600. Contact person: Mr David Ocello.

<sup>6</sup> Commissioner of Taxation. PO Box 900, Civic Square, ACT 2608, Australia. Telephone: 13 28 69 (within Australia) and +61 2 6216 1111 (outside Australia). [ATO website](#).

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## 7. HOW DO I MAKE A DISCLOSURE?

You can make a disclosure at any time to the people identified in section 6 in person, by email, post, or delivered by hand.

A template form for making a disclosure is attached to this Policy.

If you make a disclosure from or to a Deep Yellow email address, your email may be accessed by certain people within our IT department in accordance with Deep Yellow's policies. If you are concerned about those limited circumstances in which your email might be accessed, you may prefer to make your disclosure verbally or by mail.

You can make your disclosure anonymously (and stay anonymous throughout and after any investigation) and still qualify for protection under the **Australian whistleblower laws**.

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## 8. INVESTIGATION PROCEDURE

When a disclosure is made which may fall under this Policy, the following steps will be followed except where, in the opinion of the Whistleblower Officer, it would be inappropriate or unreasonable in the circumstances to do so.

**STEP 1:** The person who receives your disclosure will provide the information to the Whistleblower Officer (or to the Chairman if the disclosure is about the Whistleblower Officer), as soon as practicable, ensuring your identity is protected, unless you have consented otherwise.

**STEP 2:** The Whistleblower Officer (or Chairman) will determine whether your disclosure is covered by this Policy and, if appropriate, appoint an investigator with no personal interest in the matter to conduct an investigation. If required, an external investigator will be appointed to ensure the investigation is handled fairly and independently or where specialist skills or expertise are necessary.

**STEP 3:** The investigator(s) will conduct the investigation in an objective and fair manner, ensuring that they give any employee who is mentioned in the disclosure an opportunity to respond to the allegations prior to any adverse findings being made against them. Those employees are also entitled to access the support services referred to in section 10.

If you can be contacted (including through anonymous channels), we will give you regular updates on the status of the investigation as appropriate, with the frequency and timing of such updates depending on the nature of your disclosure.

The time taken to conclude the investigations will depend on the nature of your disclosure.

**STEP 4:** The outcome of the investigation will be reported to the Board (protecting your identity, if applicable) and may, if the Whistleblower Officer considers appropriate, be shared with you and any persons affected.

We encourage you to raise any concerns you have about the investigation of your disclosure, your treatment or any aspects of this Policy with the Whistleblower Officer or the person to whom you made your disclosure, and we will consider whether any further steps need to be taken.

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## 9. PROTECTION FOR WHISTLEBLOWERS

### 9.1 Identity Protections

If you make a **protected disclosure**, it is illegal for anyone to identify you or disclose any information that is likely to lead to you being identified, unless:

- (a) any disclosure of information does not include your identity and is reasonably necessary to investigate your disclosure (but all reasonable steps must be taken to reduce the risk that you will be identified from the information);
- (b) it is necessary to obtain legal advice about your disclosure and the whistleblower laws, in which case, we can pass the information on to our lawyer;
- (c) we need to disclose the information to the Australian Federal Police; ASIC; APRA; or the ATO, if the disclosure concerns Deep Yellow's tax affairs or the tax affairs of an **associate** of Deep Yellow; or
- (d) you consent to that disclosure.

### 9.2 Confidentiality and Secure Record Keeping

Subject to the exceptions allowed under section 9.1 of this Policy or otherwise by law, the identity of a whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential at all times during and after the investigation (including in any reporting to the Board or to any persons affected). All persons responsible for or involved in an investigation must take all reasonable steps to reduce the risk that a whistleblower will be identified.

Deep Yellow will keep your identity and your disclosure confidential and secure by:

- (a) obscuring your name and identifying features from any internal reporting about your disclosure (unless you agree for your identity to be known);
- (b) limiting access to all paper and electronic documents and materials to those directly involved in managing and investigating the disclosure; and
- (c) ensuring that anyone who is involved in handling and investigating your disclosure is aware of the confidentiality requirements.

Information relating to the disclosure will be stored confidentially and securely, and only available for access by the Whistleblower Officer and others involved in receiving, managing, and investigating the disclosure.

Whistleblowers making a disclosure under this Policy should be aware that people may be able to guess or establish their identity where they:

- (a) have mentioned to other people they are considering making a disclosure;
- (b) have complained or raised concerns with other people about the subject matter of the disclosure;
- (c) are one of a very small number of people with access to the information the subject of the disclosure; or
- (d) are disclosing information that has been told to them privately and in confidence.

### 9.3 Protection From Detriment

Deep Yellow is committed to protecting people who make disclosures under this Policy.

No one at Deep Yellow may cause or threaten any **detriment** to any person because they think a disclosure has been or might be made under this Policy.

However, Deep Yellow is entitled to take steps that:

- (a) are reasonably necessary to protect you from **detriment** (for example, moving you to another office to protect you from **detriment** if you have made a disclosure about your immediate work area); or
- (b) relate to managing unsatisfactory work performance in line with Deep Yellow's performance management framework.

### 9.4 Protection from Civil, Criminal and Administrative Liability

You will also be protected from any of the following in relation to your disclosure:

- (a) civil liability – for example, any legal action against you for breach of an employment contract, duty of confidentiality or another contractual obligation;
- (b) criminal liability – for example, prosecution for unlawfully releasing information or otherwise using your disclosure against you in a prosecution (other than for making a deliberately false disclosure); and
- (c) administrative liability – for example, disciplinary action for making a disclosure.

However, you may be liable for any personal misconduct revealed by your disclosure.

### 9.5 Compensation and Other Remedies

You may seek compensation and other remedies through the courts if:

- (a) you suffer loss, damage or injury because of a disclosure; and
- (b) Deep Yellow failed to take reasonable precautions and exercise due diligence to prevent detrimental conduct.

### 9.6 Support and Practical Protections

Deep Yellow has in place processes for protecting, supporting, and monitoring the welfare of anyone who makes a disclosure. This includes risk assessment of any potential detriment, work adjustment considerations and support services.

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## 10. FAIR TREATMENT OF PERSONS NAMED IN A DISCLOSURE

Deep Yellow will ensure the fair treatment of employees mentioned in a disclosure made under this Policy. Deep Yellow will:

- (a) to the extent that it is practical and appropriate in the circumstances, handle all disclosures confidentially;
- (b) assess each disclosure on its merits and investigate as appropriate, in accordance with section 8;
- (c) advise an employee who is the subject of a disclosure as and when required by principles of natural justice and procedural fairness, and where appropriate having regard to the nature of the disclosure, prior to:
  - (i) any external actions being taken, such as referring the disclosure to a regulator or law enforcement agency; and
  - (ii) commencing a formal investigation.
- (d) advise when conduct raised in a disclosure, if proven, could lead to allegations of misconduct being made against an employee the subject of a disclosure, leading to possible disciplinary consequences, including termination of employment;
- (e) provide details of the persons who can be contacted with issues, queries and concerns; and
- (f) advise the outcome of any investigation into the disclosure, in accordance with section 8, however, will not provide a copy of the investigation report or associated material.

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## 11. SEEKING ADVICE OR SUPPORT ABOUT THE APPLICATION OF THIS POLICY

Deep Yellow encourages whistleblowers, or other persons, to raise issues or ask questions if:

- (a) they are unsure:
  - (i) whether they are covered by this Policy;
  - (ii) whether their concerns qualify as a matter to be disclosed under this Policy; or
  - (iii) as to whom they should make a disclosure.
- (b) they are the subject of a disclosure or a witness in an investigation of a disclosure and seek support or assistance; and
- (c) they seek information about the type of protections and immunities available to whistleblowers, and other persons, under this Policy and the **Australian whistleblower laws**.

Issues, queries, and concerns regarding the application of this Policy and the type of matters considered above can be raised with:

- (a) your manager; or
- (b) the Whistleblower Officer; or
- (c) an independent lawyer if you want legal advice on the operation of the statutory whistleblower regime under the Corporations Act or the Taxation Administration Act.

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## 12. NON-COMPLIANCE WITH THIS POLICY

Any breach of this Policy by an officer, employee or contractor will be taken seriously by Deep Yellow and may be the subject of a separate investigation and/or disciplinary action.

A breach of this Policy may also amount to a civil or criminal contravention under the **Australian whistleblower laws**, giving rise to significant penalties.

We encourage you to raise any concerns about non-compliance with this Policy with the Whistleblower Officer in the first instance. You can also lodge any concerns to ASIC or the ATO for investigation.

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### **13. BOARD REPORTING**

The Whistleblower Officer must provide the Board at least quarterly reports on all active whistleblower matters, including information on:

- (a) the number and nature of disclosures made in the last quarter (for example, by who, who to and matter type);
- (b) how disclosures were reported;
- (c) the status of any investigations underway;
- (d) the frequency of communications with disclosers;
- (e) the outcomes of completed investigations and actions taken; and
- (f) the timeframes for responding and investigating disclosures.

The Whistleblower Officer must at all times observe the obligations of identity protection and confidentiality as outlined in sections 9.1 and 9.2 of this Policy when reporting to the Board.

The Board will also be immediately informed of any material incidents reported under this Policy, including any information that may be materially price sensitive in accordance with the Company's Continuous Disclosure Policy.

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### **14. TRAINING**

Our Whistleblower Officer and all eligible recipients of disclosures must attend compulsory training organised by Deep Yellow on responding appropriately to disclosures made under this Policy.

Our employees must attend compulsory training on our whistleblower program which will include information on how to make a disclosure, what the disclosure can be about, to whom a disclosure can make it, the protections and support available and when further information or independent legal advice might be sought.

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### **15. POLICY REVIEW**

This Policy will be reviewed by the Board with the assistance of the Whistleblower Officer annually to ensure it is operating effectively. Any recommended changes must be approved by the Board.

The Whistleblower Officer is authorised to make administrative and non-material amendments to this Policy provided that any such amendments are notified to the Board at or before its next meeting.

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## 16. GLOSSARY

**APRA** means the Australian Prudential Regulatory Authority.

**ASIC** means the Australian Securities and Investments Commission.

**associate** means an individual who is: (a) an associate within the meaning of the Corporations Act; or (b) if the disclosure relates to Deep Yellow's tax affairs

**ATO** means the Australian Commissioner of Taxation.

**Australian whistleblower laws** means either or both of the laws contained in Part 9.4AAA of the Corporations Act and Part IVD of the Taxation Administration Act.

**Corporations Act** means the Corporations Act 2001 (Cth).

**detriment** includes (without limitation) any of the following: dismissal of an employee; injury of an employee in his or her employment; alteration of an employee's position or duties to his or her disadvantage; discrimination between an employee and other employees of the same employer; harassment or intimidation of a person; harm or injury to a person, including psychological harm; damage to a person's property; damage to a person's reputation; damage to a person's business or financial position; and any other damage to a person.

**detrimental conduct** means conduct, or a threat to engage in conduct, that causes **detriment** to a whistleblower.

eligible whistleblower means those individuals identified as such in paragraphs 2.2 of **Schedule 1** and **Schedule 2** of this Policy.

**family member** means a **spouse**, parent, child, sibling or other relative of an individual or dependent on the individual or their **spouse**.

**misconduct or an improper state of affairs or circumstances in relation to Deep Yellow** means any of the following:

- (a) misconduct, or an improper state of affairs or circumstances, in relation to Deep Yellow;
- (b) misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of Deep Yellow, and where they consider the information may assist the recipient to perform functions and duties in relation to the tax affairs of Deep Yellow;
- (c) conduct in contravention of any law administered by ASIC or APRA<sup>7</sup>;

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<sup>7</sup> Misconduct is defined in section 9 of the Corporations Act to include fraud, negligence, default, breach of trust and breach of duty.

- (d) conduct that represents a danger to the public or the financial system (even if this conduct does not involve a breach of a particular law); or
- (e) conduct that is an offence against any law of the Commonwealth, where the offence is punishable by imprisonment for a period of 12 months or more.

**officer** has the same meaning as in the Corporations Act (which includes but is not limited to directors and company secretaries).

**personal work-related grievance** means a grievance about any matter in relation to an individual's employment, or former employment with Deep Yellow that has implications for the individual personally. Examples include complaints an employee, or former employee, may hold concerning:

- (a) the terms and conditions of their employment;
- (b) a decision that does not involve a breach of workplace laws;
- (c) a decision about the engagement, transfer, or promotion of a person;
- (d) an interpersonal conflict with another employee;
- (e) any disciplinary or performance management process; or
- (f) the suspension or termination of their employment.

**protected disclosure** means a disclosure that meets the conditions in paragraph 2.1 to paragraph 2.5 of **Schedule 1**; or the conditions in paragraph 3.1 of **Schedule 1**; or all of the requirements in paragraph 2.1 to 2.4 of **Schedule 2** as well as the disclosure in paragraph 2.5 of **Schedule 2**.

**relative** has the same meaning as in the Corporations Act.

**senior manager** means those persons other than a director or company secretary, who make, or participate in making, decisions that affect the whole, or a substantial part, of Deep Yellow or has the capacity to affect significantly its financial standing.

**spouse** means the married, de factor or registered partner of the individual.

**tax affairs** means affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Australian Commissioner of Taxation.

**Taxation Administration Act** means the Taxation Administration Act 1953 (Cth).

**Whistleblower** means a person who is eligible for protection as a whistleblower under this Policy or the Australian whistleblower laws.

**Whistleblower Officer** means the person named in section 6.

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## SCHEDULE 1 - PROTECTIONS FOR WHISTLEBLOWERS UNDER THE AUSTRALIAN CORPORATIONS ACT

### 1. PROTECTION UNDER THE CORPORATIONS ACT

- 1.1 Eligible whistleblowers may be able to obtain certain statutory protections and immunities where they make a disclosure that qualifies for protection under Part 9.4AAA of the Corporations Act.
- 1.2 This **Schedule 1** provides an overview of the requirements that must be met for a disclosure of information to qualify for protection under Part 9.4AAA of the Corporations Act. Although many of the protections and immunities are mirrored in this Policy, the protections in Part 9.4AAA of the Corporations Act are in addition to protections and immunities specified in this Policy.
- 1.3 This **Schedule 1** is intended for information purposes only and should not be taken as the provision of legal advice in respect of the operation and application of the whistleblower regime in Part 9.4AAA of the Corporations Act. Legal advice should be obtained from an independent legal practitioner.

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### 2. CONDITIONS THAT MUST BE MET FOR A DISCLOSURE TO QUALIFY FOR PROTECTION UNDER THE CORPORATIONS ACT

- 2.1 The information disclosed relates to conduct by a **regulated entity** (a term defined by the Corporations Act that includes a company, such as the Company and its Australian incorporated subsidiaries) or a related body corporate.
- 2.2 The whistleblower making the disclosure is an eligible whistleblower, defined in the Corporations Act as an individual who is, or has been, any of the following:
  - (a) an officer or employee of the regulated entity;
  - (b) a supplier of services or goods to the regulated entity (whether paid or unpaid), including their employees;
  - (c) an associate of the regulated entity; and
  - (d) a relative, dependant or spouse of an individual referred to in paragraph 2.2(a) to paragraph 2.2(c) of this **Schedule 1**.

- 2.3 The disclosure is made to a person who is eligible to receive a disclosure under Part 9.4AAA of the Corporations Act, which includes:
- (a) a person authorised by a regulated entity to receive a disclosure, which for the Company is the Whistleblower Officer;
  - (b) an officer or senior manager of a regulated entity;
  - (c) ASIC or APRA;
  - (d) an appointed auditor of a regulated entity, which for the Company is the entity identified in Section 6.3(b); and
  - (e) in limited circumstances, to a journalist or a member of a federal, state or territory Parliament (see paragraph 2.5 of this **Schedule 1**).
- 2.4 Subject to paragraph 2.5 of this **Schedule 1**, the disclosure is about matters the eligible whistleblower has reasonable grounds to suspect may concern the following conduct by the regulated entity (these matters are described in Section 5 as Disclosable Matters):
- (a) misconduct<sup>8</sup> or an improper state of affairs or circumstances in relation to the regulated entity (or a related body corporate);
  - (b) conduct that constitutes an offence against, or contravention of, a law administered by ASIC or APRA (see **Schedule 3** for an outline of the laws administered by ASIC or APRA);
  - (c) conduct that constitutes an offence against another law of the Commonwealth punishable by more than 12 months imprisonment; and
  - (d) conduct that is a danger to the public or the financial system.
- 2.5 The disclosure is not a personal work-related grievance, being a disclosure of information concerning a grievance about any matter in relation to the eligible whistleblower's employment, or former employment, or having (or tending to have) implications for the whistleblower personally. However, a personal work-related grievance will be disclosure qualifying for protection under Part 9.4AAA of the Corporations Act if it either:

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<sup>8</sup> Misconduct is defined in section 9 of the Corporations Act to include fraud, negligence, default, breach of trust and breach of duty.

- (a) has significant implications for the regulated entity to which it relates, or wider ramifications than those that are personal to the whistleblower; or
- (b) relates to a grievance by the eligible whistleblower about detrimental conduct suffered or threatened due to a person believing or suspecting that a disclosure qualifying for protection under Part 9.4AAA of the Corporations Act has been made, may be made, is proposed to be made, or could be made.

2.6 A disclosure that meets the conditions in paragraph 2.1 to paragraph 2.5 of this **Schedule 1** is referred to as a **qualifying disclosure**.

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### 3. OTHER DISCLOSURES THAT QUALIFY FOR PROTECTION UNDER THE CORPORATIONS ACT

3.1 there are two further categories of disclosure that may also be protected under Part 9.4AAA of the Corporations Act:

- (a) in extreme cases, where an eligible whistleblower makes a disclosure to the journalist or a Member of Parliament in relation to a regulated entity. To be protected, the whistleblower must already have made a qualifying disclosure (see paragraph 2.6 of this **Schedule 1**), certain written notifications in respect of that qualifying disclosure must have been made by the eligible whistleblower to the body that received it, and either:
  - (i) the disclosure was in respect of a substantial and imminent danger to someone's health and safety, or the natural environment; or
  - (ii) disclosing the information was in the public interest.

3.2 if the whistleblower makes a disclosure of information to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the whistleblower regime found in Part 9.4AAA of the Corporations Act. This category does not carry any of the requirements of the disclosure to be a qualifying disclosure (see paragraph 2.6 of this **Schedule 1**); and

3.3 a disclosure that meets the conditions in paragraph 3.1 of this **Schedule 1** is referred to as a protected disclosure.

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#### 4. PROTECTIONS AND IMMUNITIES AVAILABLE WHERE A QUALIFYING OR PROTECTED DISCLOSURE IS MADE UNDER THE CORPORATIONS ACT

Where a qualifying or protected disclosure is made (see paragraph 2.6 and paragraph 3.2 of this **Schedule 1**), Part 9.4AAA of the Corporations Act provides the following protections and immunities:

- (a) protection of a whistleblower's identity (see paragraph 5 of this **Schedule 1**).
- (b) protecting a whistleblower, or other person, from a range of detrimental conduct (often referred to as victimisation or retaliation) because another person believes or suspects that a qualifying or protected disclosure has been made, may be made, is proposed to be made, or could be made (see paragraph 6 of this **Schedule 1**); and
- (c) providing a whistleblower with a range of legal immunities for making a qualifying or protected disclosure.

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#### 5. PROTECTION OF THE ELIGIBLE WHISTLEBLOWER'S IDENTITY

5.1 Part 9.4AAA of the Corporations Act contains a number of provisions to protect the identity of a whistleblower who has made a qualifying or protected disclosure by:

- (a) allowing for whistleblowers to make anonymous disclosures.
- (b) subject to certain exceptions that authorise the disclosure of a whistleblower's identity (including with the whistleblower's consent or to a relevant regulator or the Australian Federal Police, or to a legal practitioner for the purpose of obtaining advice or representation in relation to the operation of Part 9.4AAA of the Corporations Act), making it a criminal and civil penalty offence for a person to whom a qualifying or protected disclosure is made, or any other person who has obtained the information directly or indirectly because of the qualifying disclosure, to disclose:
  - (i) the identity of the whistleblower; or
  - (ii) information that is likely to lead to the identification of the whistleblower.

- (c) Prohibiting the disclosure of a whistleblower's identity by the recipient of a qualifying or protected disclosure to a court or tribunal except where it is necessary to do so to give effect to Part 9.4AAA of the Corporations Act (which contains the whistleblower protection regime) or the Court or tribunal thinks it is necessary in the interests of justice to do so.
- 5.2 The offence referred to in paragraph 5.1(b) **DOES NOT APPLY** if the disclosure is not of the identity of the whistleblower and is reasonably necessary for the purposes of investigating a matter and all reasonable steps are taken to reduce the risk that the whistleblower will be identified as a result of the disclosure.

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## 6. PROTECTION AGAINST DETRIMENTAL CONDUCT

- 6.1 Part 9.4AAA of the Corporations Act protects persons from detrimental conduct when a qualifying or protected disclosure has been made, is believed or suspected to have been made, or could be made, and includes significant criminal and civil sanctions to perpetrators should such actions occur.
- 6.2 Detrimental conduct is defined broadly and includes (without limitation) conduct such as: dismissal of an employee; injury of an employee in their employment; alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees of the same employer; harassment or intimidation of a person; harm or injury to a person, including psychological harm; damage to a person's property; damage to a person's reputation; damage to a person's business or financial position any other damage to a person.
- 6.3 It is both a criminal and civil penalty offence to engage in detrimental conduct due to a belief or suspicion that a qualifying or protected disclosure has been made, is believed to have been made, or could be made. Features common to both sanctions include:
  - (a) a protection against detrimental conduct (see paragraph 6.2 of this **Schedule 1**);
  - (b) the victim protected may be a whistleblower or may be another person who has suffered damage because of a victimiser's conduct; and
  - (c) threats of detrimental conduct can be express or implied, conditional, or unconditional.

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## 7. IMMUNITIES

Where a qualifying or protected disclosure is made, the whistleblower is granted certain immunities from liability, including:

- (a) the whistleblower is not subject to civil, criminal, or administrative liability (including disciplinary action) for making the disclosure;
- (b) no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the whistleblower on the basis of the disclosure; and
- (c) the information will not be admissible in evidence against the whistleblower in criminal proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

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## SCHEDULE 2 - PROTECTIONS FOR WHISTLEBLOWERS UNDER THE AUSTRALIAN TAXATION ADMINISTRATION ACT

### 1. PROTECTION UNDER THE TAXATION ADMINISTRATION ACT

- 1.1 Eligible whistleblowers may be able to obtain certain statutory protections and immunities where they make a disclosure that qualifies for protection under Part IVD of the Tax Administration Act.
- 1.2 This **Schedule 2** provides an overview of the requirements that must be met for a disclosure of information to qualify for protection under Part IVD of the Taxation Administration Act. To avoid doubt, although many of the protections and immunities are mirrored in this Policy, the protections in Part IVD of the Taxation Administration Act are in addition to protections and immunities specified in this Policy.
- 1.3 This **Schedule 2** is intended for information purposes only and should not be taken as the provision of legal advice in respect of the operation and application of the whistleblower regime in Part IVD of the Taxation Administration Act. Legal advice should be obtained from an independent legal practitioner.

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### 2. CONDITIONS THAT MUST BE MET FOR A DISCLOSURE TO QUALIFY FOR PROTECTION UNDER THE TAXATION ADMINISTRATION ACT WHEN MADE TO AN ELIGIBLE RECIPIENT

- 2.1 The information disclosed relates to an entity (within the meaning of the *Income Tax Assessment Act 1997*) that includes a company, such as the Company.
- 2.2 The whistleblower making the disclosure is an eligible whistleblower, defined in the Taxation Administration Act as an individual who is, or has been, any of the following:
- (a) an officer (as defined in the Corporations Act) or employee of the entity;
  - (b) an individual who supplies services or goods to the entity, or the employee of a person who supplies services or goods to the entity;
  - (c) an individual who is an associate (as defined in section 318 of the Income Tax Assessment Act 1936) of the entity; and
  - (d) a spouse, or child of an individual referred to in paragraph 2.2(a) to paragraph 2.2(c) of this **Schedule 2**, or a dependant of an individual referred to above or such an individual's spouse.

2.3 The disclosure is made to a person eligible to receive a qualifying disclosure under Part IVD of the Taxation Administration Act, which includes:

- (a) an eligible recipient of the entity, which is:
  - (i) a person authorised by the entity to receive disclosures that may qualify for protection under Part IVD of the Taxation Administration Act, which for Deep Yellow is the Whistleblower Officer;
  - (ii) a director, secretary, or senior manager (within the meaning of the Corporations Act) of the entity;
  - (iii) any other employee or officer of the entity who has functions or duties that relate to the tax affairs<sup>9</sup> of the entity, who for Deep Yellow are the persons specified in Section 7.5(c);
  - (iv) any auditor of the entity, or a member of an audit team conducting an audit of the entity or a related body corporate; or
  - (v) a registered tax agent or BAS agent to the entity.
- (b) The Commissioner of Taxation.

2.4 Where the disclosure of information by an eligible whistleblower is:

- (a) made to the Commissioner of Taxation, and the eligible whistleblower considers that the information may assist the Commissioner to perform their functions or duties under a taxation law (as defined in the Income Tax Assessment Act 1997 (Cth)) in relation to the entity or an associate of the entity;

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<sup>9</sup> **Tax affairs** means affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Commissioner.

- (b) made to an eligible recipient of the entity, and the eligible whistleblower:
    - (i) has reasonable grounds to suspect the information indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of the entity or an associate of the entity; and
    - (ii) considers the information may assist the eligible recipient to perform functions or duties in relation to the tax affairs of the entity or an associate of the entity.
- 2.5 A disclosure of information may also qualify for protection under Part IVD of the Taxation Administration Act if the disclosure of information by an individual is made to a legal practitioner for the purpose of obtaining legal advice or representation in relation to the operation of Part IVD of the Taxation Administration Act.
- 2.6 A disclosure that meets all of the requirements in paragraph 2.1 to paragraph 2.4 of this **Schedule 2**, as well as the disclosure in paragraph 2.5 of this **Schedule 2**, is referred to as a **qualifying disclosure**.

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### 3. PROTECTIONS AND IMMUNITIES AVAILABLE WHEN A QUALIFYING DISCLOSURE IS MADE UNDER THE TAXATION ADMINISTRATION ACT

Where a qualifying disclosure is made (see paragraph 2.6 of this **Schedule 2**), Part IVD of the Taxation Administration Act provides the following protections and immunities:

- (a) Protection of a whistleblower's identity (see paragraph 4 of this **Schedule 2**).
- (b) Protecting a whistleblower, or other person, from a range of detrimental conduct (often referred to as victimisation or retaliation) because another person believes or suspects that a qualifying or protected disclosure has been made, may be made, is proposed to be made, or could be made (see paragraph 5 of this **Schedule 2**).
- (c) Providing a whistleblower with a range of legal immunities for making a qualifying or protected disclosure (see paragraph 6 of this **Schedule 2**).

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#### 4. PROTECTION OF THE ELIGIBLE WHISTLEBLOWER'S IDENTITY

4.1 Part IVD of the Taxation Administration Act contains a number of provisions to protect the identity of a whistleblower who has made a qualifying disclosure by:

- (a) allowing for whistleblowers to make anonymous disclosures.
- (b) Subject to a handful of exceptions that authorise the disclosure of a whistleblower's identity (including with the whistleblower's consent or to the Commissioner of Taxation or the Australian Federal Police, or to a lawyer for the purpose of obtaining advice about the operation of Part IVD of the Taxation Administration Act), making it a criminal offence for a person to whom a qualifying disclosure is made, or any other person who has obtained the information directly or indirectly, to disclose any of the following:

- (i) the identity of the whistleblower; and
- (ii) information that is likely to lead to the identification of the whistleblower.

- (a) Prohibiting the disclosure of a whistleblower's identity by the recipient of a qualifying disclosure to a court or tribunal.

4.1 It is not an offence for a person to disclose information regarding a qualifying disclosure without revealing the identity of the whistleblower.

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#### 5. PROTECTION FROM DETRIMENTAL CONDUCT

5.1 Part IVD of the Taxation Administration Act protects persons from detrimental conduct when a qualifying disclosure has been made, is believed, or suspected to have been made, or could be made, and includes significant criminal and civil sanctions to perpetrators should such actions occur.

5.2 Detrimental conduct is defined broadly and includes (without limitation) conduct such as: dismissal of an employee; injury of an employee in their employment; alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees of the same employer; harassment or intimidation of a person; harm or injury to a person, including psychological harm; damage to a person's property; damage to a person's reputation; damage to a person's business or financial position any other damage to a person.

- 5.3 It is both a criminal and civil penalty offence to engage detrimental conduct due to a belief or suspicion that a disclosure has been made, is believed to have been made, or could be made. Features common to both sanctions include:
- (a) a protection against detrimental conduct (see Paragraph 5.2 of this **Schedule 2**);
  - (b) the victim protected may be a whistleblower or may be another person who has suffered damage because of a victimiser's conduct; and
  - (c) threats of detrimental conduct can be express or implied, conditional or unconditional.
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## 6. IMMUNITIES

- 6.1 Where a qualifying disclosure is made, the whistleblower is granted certain immunities from liability, including:
- (a) the whistleblower is not subject to civil, criminal, or administrative liability;
  - (b) no contractual or other remedy may be enforced against the whistleblower; and
  - (c) information disclosed by the whistleblower is not admissible against them, other than in proceedings concerning the falsity of the information provided.

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### SCHEDULE 3 – DISCLOSURE FORM

A reference to Deep Yellow in this form is a reference to:

- (a) Deep Yellow Limited ABN 97 006 391 948 (**Company**) and each of its related bodies corporate (together the Group); and
- (b) any joint ventures under a Group company's operational control.

Deep Yellow is committed to fostering a culture of compliance, ethical behaviour and good corporate governance. Deep Yellow values teamwork, respect and integrity and wishes to encourage a culture where its Personnel do not suffer detriment because of speaking up about potential misconduct concerns. Deep Yellow appreciates you taking the time to bring matters of concern to our attention; thank you for speaking up.

This form can be used by anyone who is or was a director, other officer, employee, contractor, consultant, supplier, supplier's employee, as well as a parent, grandparent, child, grandchild, sibling, spouse or dependant of any of these individuals.

This form is part of Deep Yellow's whistleblower program and is intended to assist you make a disclosure by email or post relating to Deep Yellow, or an officer or employee of Deep Yellow, under Deep Yellow's Whistleblower Policy.

Use of this form (including provision of all information requested in it) is optional and it is open to you to make your disclosure in another way.

You can provide this form to Deep Yellow by email, post or by hand via:

**Whistleblower Officer**

Ms Gillian Swaby  
Executive Director – Corporate  
Deep Yellow Limited  
Level 1  
502 Hay Street  
Subiaco Western Australia 6008  
Tel: + 61 8 9286 6999  
Email: [gillian.swaby@deepyellow.com.au](mailto:gillian.swaby@deepyellow.com.au)

SECTION A: CONSENT	
<input type="checkbox"/>	I consent to my identity being shared in relation to this disclosure; OR
<input type="checkbox"/>	I wish for my identity to remain anonymous <i>(If you wish to remain anonymous, you do not need to complete section B and Section C)</i>
<input type="checkbox"/>	I consent to being contacted about my disclosure <i>(If so, please complete Section C)</i>
<input type="checkbox"/>	I wish to receive updates about my disclosure <i>(If so, please complete Section C)</i>
SECTION B: PERSONAL DETAILS	
<b>Name:</b>	
<b>Address:</b>	
<b>Location (if applicable):</b>	<input type="checkbox"/> Australia <input type="checkbox"/> [List other countries – if none, delete row]
<b>Department / Team (if applicable):</b>	
<b>Role / Position:</b>	
SECTION C: CONTACT DETAILS	
<b>Preferred telephone no:</b> <i>(this may be a private number; please include country and area code)</i>	
<b>Preferred email address:</b> <i>(this may be a private email address)</i>	
<b>Preferred contact method:</b> <i>(phone / email / in person)</i>	<input type="checkbox"/> Phone <input type="checkbox"/> Email <input type="checkbox"/> Mail <input type="checkbox"/> In person
<b>Best time to contact you:</b>	

**SECTION D: DISCLOSURE**

All questions are optional – however, the more information that you provide, the easier it will be for us to investigate and address your concerns.

<b>1.</b>	<p>A description of your concerns, including:</p> <ul style="list-style-type: none"> <li>• <i>Location</i></li> <li>• <i>Time</i></li> <li>• <i>Persons involved</i></li> </ul> <p><i>(You are encouraged to include with this disclosure any supporting evidence you may hold – you can use box 7 or a separate page if you run out of space)</i></p>	
<b>2.</b>	<p>How did you become aware of the situation?</p>	
<b>3.</b>	<p>Who was involved in the conduct, including any names, departments and position?</p>	
<b>4.</b>	<p>Does anyone else know about the matters you are concerned about?  <i>(If yes, please describe any steps you have taken to report or resolve your concern and the outcome, if applicable)</i></p>	
<b>5.</b>	<p>Do you have any concerns about you or any other person being discriminated against or unfairly treated because of this disclosure?</p>	

**SECTION D: DISCLOSURE**

All questions are optional – however, the more information that you provide, the easier it will be for us to investigate and address your concerns.

<p><b>6.</b></p>	<p>Do you think the reported conduct might happen again?</p>	
<p><b>7.</b></p>	<p>Please include any other details which you believe are relevant</p>	