



thedocyard Limited  
Employee Share Ownership Plan (ESOP)

Adopted by the Board on 17 October 2019

## Table of contents

1.	Purpose .....	1
2.	Operation of the Plan .....	1
3.	Unvested Awards .....	2
4.	Vesting of Awards .....	3
5.	Ceasing employment .....	5
6.	Variations of capital .....	6
7.	Divestment of a material business or subsidiary .....	6
8.	Liquidity Event .....	7
8.1	Treatment upon a Liquidity Event .....	7
9.	Clawback and lapse for fraud or breach .....	7
10.	Amendments by the Board .....	8
11.	Shares subject to the Plan .....	9
12.	General terms and conditions .....	9
13.	Interpretation and Definitions .....	11

## **1. Purpose**

1.1.1 The Plan is designed to allow the Board to make grants of Awards to Employees which provide the opportunity to acquire Shares to assist with:

- (a) incentivising employees to grow the Company and share in its financial success;
- (b) delivering rewards to Employees for Company growth and performance;
- (c) allowing Employees the opportunity to become Shareholders;
- (d) aligning the interests of Employees with those of Shareholders; and
- (e) attracting, motivating and retaining Employees.

## **2. Operation of the Plan**

### **2.1 Grant of Awards**

2.1.1 The Board may, from time to time, in its absolute discretion, operate the Plan and:

- (a) invite an Employee to apply for a grant of; or
- (b) grant to an Employee,

Awards upon the terms of the Plan and upon such additional terms and conditions as the Board determines.

### **2.2 Information to be provided**

2.2.1 At the time of the invitation under rule 2.1.1(a) or grant under rule 2.1.1(b), the Board will provide each Employee with an Invitation which contains the following information regarding the Awards (to the extent it is relevant):

- (a) the number or value of Awards being granted, or the method or formula for determining the number or value of Awards;
- (b) the grant date;
- (c) the method and form of applying for, or rejecting, a grant of Awards as applicable;
- (d) any amount payable upon the grant of Awards;
- (e) whether any applicable Conditions, including performance and / or service conditions, apply in respect of the Awards, and the details of those Conditions and the applicable Period;
- (f) if Conditions apply in respect of the Awards, the time or times at which Conditions will be tested in respect of the relevant Period (at which time, the Awards may Vest and become exercisable, if applicable);
- (g) the period or periods during which Awards may be exercised, the manner of exercise of those Awards, the Exercise Price and Exercise Restrictions (if any);
- (h) details of any Trading Restrictions on Shares allocated following exercise of Awards, whether on a mandatory or voluntary basis;
- (i) the time and circumstances when Awards lapse; and
- (j) any other relevant terms and conditions to be attached to the Awards granted or Shares allocated under the Plan.

### **2.3 No payment on grant of Awards**

2.3.1 Unless otherwise stated in the Invitation, in accordance with rule 2.2.1(d), a Participant is not required to pay for a grant of Awards.

## **2.4 Differing terms**

2.4.1 The Board may decide to invite Employees to apply for, or make a grant of, Awards on terms which are different for different Employees. In making this decision, the Board may have regard to:

- (a) the Employee's length of service with the Group;
- (b) the Employee's position and remuneration; and
- (c) any other matter the Board considers relevant.

## **2.5 Terms of the grant of Awards**

2.5.1 An Employee who is granted Awards is deemed to have agreed to be bound by:

- (a) these Rules and the terms and conditions set out in the Invitation;
- (b) the Shareholder's Agreement (and agrees to become a Shareholder) in respect of Shares allocated upon exercise of Awards; and
- (c) any relevant Group policies (including any Share Trading Policy),  
including any modifications applicable from time to time.

2.5.2 Unless the Board determines otherwise, a grant of Awards will not be made in part.

2.5.3 The Board reserves the right to reject an application for a grant of Awards to an Employee who has received an Invitation. If the Board determines to exercise this discretion, the grant shall be deemed never to have been made.

2.5.4 Nothing limits the Board's ability to treat the conduct of an Employee (including failure to return an "opt out" form or other election not to participate within the specified time) as valid acceptance of the relevant grant.

2.5.5 To the extent of any inconsistency, the terms and conditions of a grant contained within the Invitation, will prevail over any other provision of these Rules.

## **2.6 Title to Awards**

2.6.1 Unless the Board determines otherwise:

- (a) Subject to rule 3.3.1, a grant of Awards is personal to the Participant and cannot be transferred to other persons or entities; and
- (b) Awards may only be registered in the name of the Participant.

## **3. Unvested Awards**

### **3.1 Shareholder entitlements**

3.1.1 A Participant shall not be entitled to vote, receive dividends or have any other rights of a Shareholder in respect of the Awards until the underlying Shares are allocated to the Participant following Vesting and valid exercise of the Awards (if applicable).

### **3.2 Lapse of Awards**

3.2.1 Subject to the Board's overriding discretion, a Participant's unvested Awards will lapse upon the earliest to occur of:

- (a) the date specified by the Board for the purposes of rule 2.2.1(i);
- (b) a relevant event or circumstance pursuant to these Rules that results in the lapse of Awards, including a relevant event or circumstance described in any of rule 3.3 (Restrictions on transfer and hedging of Awards), rule 4.1.3 (Authorised unpaid absence), rule 5 (Ceasing employment), rule 6 (Variations of capital), rule 7 (Divestment of a material business or subsidiary), rule 8 (Liquidity Event), or rule 9 (Clawback and lapse for fraud and breach);
- (c) failure to satisfy the Conditions by the end of the Period following testing under rule 4.1; or
- (d) the 10<sup>th</sup> anniversary of the date of grant of the Awards.

- 3.2.2 The Board may specify in the Invitation additional circumstances in which a Participant's Awards may lapse prior to Vesting.

### **3.3 Restrictions on transfer and hedging of Awards**

- 3.3.1 A Participant is only permitted to dispose of or transfer an interest in an Award in the following circumstances (unless the Board determines otherwise):
- (a) by force of law upon death to the Participant's legal personal representative;
  - (b) upon bankruptcy to the Participant's trustee in bankruptcy;
  - (c) in accordance with rules 4.3.2 or 4.4; or
  - (d) as part of a Liquidity Event / Change of Control in accordance with rule 8.
- 3.3.2 A Participant must not deal in Awards in a manner that may alter the economic benefit to be derived from any Awards that remain subject to these Rules, irrespective of future changes in the market value of Shares.
- 3.3.3 Where a Participant deals with any Award other than in accordance with rules 3.3.1 to 3.3.2 above, the Board may determine that all of the Participant's Awards immediately lapse or deem that the disposal, transfer or dealing in Awards never occurred.
- 3.3.4 Where a Participant receives any amount as a result of dealing in Awards in a manner that is contrary to rule 3.3.2, the Participant will be required to pay that amount to the Company.

## **4. Vesting of Awards**

### **4.1 Testing of Conditions**

- 4.1.1 Awards will only Vest once the Board, in its discretion, determines that any applicable Conditions have been satisfied. Where Awards are not subject to any Conditions, the Awards will be Vested at the time of grant and will not be subject to testing under this rule 4.1.
- 4.1.2 Following the end of the Period, the Board will:
- (a) test the applicable Conditions (including any service conditions, if relevant) and determine the extent to which the Conditions have been satisfied and Awards Vest (and become exercisable, if applicable, subject to any Exercise Restrictions);
  - (b) determine the time when the Awards Vest (and become exercisable, if applicable, subject to any Exercise Restrictions); and
  - (c) within a reasonable timeframe, notify Participants of the extent to which any applicable Conditions have been satisfied and Awards will Vest or have Vested.
- 4.1.3 Where a Participant remains an Employee but takes a period of authorised unpaid absence during a Period, the Board has discretion to determine that a pro-rated number (based on the proportion of the Period during which the Participant has been on authorised unpaid absence), or such other number, of the Participant's Awards will lapse and will not be tested at the end of the applicable Period.
- 4.1.4 Re-testing of Conditions in respect of a Period shall not be permitted unless:
- (a) provided for in the Invitation; or
  - (b) where the Board, in its discretion, determines otherwise.
- 4.1.5 Notwithstanding rule 4.1.1, the Board may in its discretion, determine that an Award Vests prior to the end of a Period.

### **4.2 Exercise Restrictions**

- 4.2.1 Unless specified otherwise in the Invitation pursuant to rule 2.2.1(g), or otherwise determined by the Board, Vested Awards will be subject to an Exercise Restriction until the earlier of:
- (a) 6 months prior to the applicable expiry date of Awards;
  - (b) a Liquidity Event occurring (or the Board determining that a Liquidity Event is about to occur); or

(c) any other date, as determined by the Board.

### **4.3 Exercise of Awards (if applicable)**

4.3.1 Where the Exercise Restrictions applicable to a Vested Award have lifted, such Awards may be exercised by the Participant, unless the Board makes a determination under rule 4.3.2.

4.3.2 The Board may, in its discretion, determine that some or all of the Vested Award may not be exercised by the Participant under rule 4.3.1 and instead procure that the relevant number of Vested Awards be acquired or cancelled for consideration in the form of Shares and / or cash and the value of the consideration paid for each Vested Award that is acquired or cancelled will be equivalent to the Fair Market Value (less any applicable Exercise Price), as determined by the Board, in its sole discretion, acting in good faith.

4.3.3 Unless the Board determines otherwise, any cash payment made in accordance with rule 4.3.2 will be paid after deductions required by law (including Taxes and other withholdings) and after deduction of any statutory superannuation contributions which the Company or a Group Company is required to make on the Participant's behalf in relation to the cash payment.

### **4.4 Settlement of Awards**

4.4.1 Upon:

(a) Vesting of an Award; or

(b) if applicable, the valid exercise of an Award pursuant to rule 4.3 and subject to rule 4.3.2 not applying,

the Group must allocate or procure the transfer of one Share for each Vested Award (or if applicable, for each validly exercised Award) to, or for the benefit of, the Participant.

4.4.2 An Award is validly exercised if no Exercise Restrictions apply and the Participant:

(a) follows the process relating to the exercise of Awards as set out in the Invitation; and

(b) pays the Exercise Price (if any) to the Group.

4.4.3 If a Participant purports to exercise an Award in contravention of any applicable Exercise Restriction, the Award will be deemed to have been exercised on the first date the Exercise Restriction ceases to apply, subject to payment of the relevant Exercise Price.

### **4.5 Share settlement**

4.5.1 All Shares issued under the Plan will rank equally in all respects with other Shares for the time being on issue by the Group:

(a) except as regards to any rights attaching to such other Shares by reference to a record date prior to the date of their allocation or transfer; and

(b) unless a contrary intention appears in the Invitation.

4.5.2 Subject to the Shareholders' Agreement, any other applicable Group policy, or as specified in the Invitation in accordance with rule 2.2.1(h), no Trading Restrictions shall apply to any Shares allocated under the Plan.

## **5. Ceasing employment / directorship**

### **5.1 General Rule**

- 5.1.1 Subject to rules 5.2.1 and 5.3.1, if a Participant ceases to be an Employee or director of the Group prior to the end of a Period, Awards will not lapse on cessation, and:
- (a) where the Conditions include performance conditions, those Awards will be tested following the end of the Period, and Vest to the extent that the Conditions have been satisfied; and
  - (b) where the Conditions include service conditions, those Awards will Vest following the end of the Period (but only to the extent the Awards Vest pursuant to rule 5.1.1(a), if applicable).
- 5.1.2 Any Awards which do not Vest following testing in respect of the relevant Period under rule 5.1.1, lapse immediately.
- 5.1.3 Subject to rule 5.3.1, if a Participant ceases to be an Employee or director due to death, all unvested Awards will be transferred to the Participant's estate in accordance with all relevant Laws, and will be treated in accordance with this rule 5.1.

### **5.2 Exceptions**

- 5.2.1 If a Participant ceases to be employed by the Group, or ceases to be a director of the Group prior to the end of a Period, by reason of:
- (a) resignation; or
  - (b) fraudulent or dishonest conduct; or
  - (c) termination for cause (including gross/serious misconduct or material breach of contract),

any Awards which have not Vested will lapse upon cessation of employment with the Group, subject to an overriding Board discretion to determine an alternate treatment in accordance with rule 5.3.

### **5.3 Board discretion to determine treatment**

- 5.3.1 If a Participant ceases to be employed by the Group, or ceases to be a director of the Group prior to the end of a Period for any reason, then the Board may, in respect of any Awards which have not Vested at the date of cessation of the Participant's employment or directorship, determine that:
- (a) all or a proportion, of the Participant's unvested Awards will Vest to the extent that the Conditions have been satisfied when tested following the end of the applicable Period (and where the Conditions include service related conditions, the service related conditions will be deemed to have been satisfied);
  - (b) all or a proportion, of the Participant's unvested Awards will Vest to the extent that the Conditions have been satisfied when tested at the time of cessation of employment or directorship;
  - (c) any applicable Conditions or Periods in respect of some or all of the Awards will be modified or waived; or
  - (d) some or all of the unvested Awards lapse (and that such lapse will occur on the date employment or directorship ceases),

and, in making any determination, the Board may have regard to any matter the Board considers relevant, including the proportion of the Period that has elapsed at the time of cessation of employment or cessation of directorship and the degree to which the Conditions have been (or are estimated to have been) achieved.

### **5.4 Vested Awards**

- 5.4.1 Subject to rules 5.4.2 and 5.4.3, where a Participant ceases to be employed by the Group, or ceases to be a director of the Group for any reason, all Vested but unexercised Awards held at the time of cessation (including Awards that Vest pursuant to rule 5.1) will be retained subject to the terms and conditions of the Plan (including any applicable Exercise Restrictions), unless the Board determines otherwise.
- 5.4.2 The Board may in its discretion:
- (a) within 3 months of a Participant ceasing employment or directorship, procure that the relevant number of Vested Awards, including those that Vest pursuant to rule 5.1, be acquired or

cancelled for cash consideration and the consideration paid for each Vested Award that is acquired or cancelled will be equal to the Fair Market Value (less any applicable Exercise Price) at the time the Board exercises its discretion (any such cash payment being made after deductions required by law (including Taxes and other withholdings) and after deduction of any statutory superannuation contributions which the Company or a Group Company is required to make on the Participant's behalf in relation to the cash payment; or

- (b) require that the Participant exercise their Vested Options or Rights within 3 months of ceasing employment or directorship (and deem that the Exercise Restriction (if any) ceases to apply).

5.4.3 Where a Participant's employment or directorship is terminated for cause (including gross / serious misconduct), all Vested but unexercised Awards will automatically lapse on termination of employment or directorship, subject to the Board's discretion to apply a different treatment at the time of termination.

## **5.5 When employment / directorship ceases**

5.5.1 For the purposes of this Plan, a Participant will not be treated as ceasing employment until such time as the Participant is no longer employed by or a director of the Group.

5.5.2 Unless the Board determines otherwise, Awards will not Vest during any unpaid leave of absence. If the unpaid leave of absence includes a part of a month, no Vesting will occur in that month.

## **5.6 Overseas transfers**

5.6.1 If a Participant remains employed by the Group, or continues to be a director of the Group but is transferred to work in another country, or changes tax residence status, and as a result would:

- (a) become subject to restrictions on his or her ability to hold or deal in Awards or receive any proceeds of sale from the sale of Shares due to the securities laws or exchange control laws of the country to which he or she is transferred; or

- (b) suffer a tax disadvantage (or cause a member of the Group to suffer a tax disadvantage),

the Board, in its discretion, may determine that Awards Vest on such date, to such extent and on such terms as they determine, before or after the Employee's transfer takes effect.

## **6. Variations of capital**

### **6.1 Capital reorganisations, bonus issues and rights issues**

6.1.1 If, prior to the exercise of Awards, a Variation of Capital Event occurs, then:

- (a) the number of Awards to which each Participant is entitled may be adjusted (including lapsing Awards) in the manner determined by the Board. It is intended that the Board would exercise its discretion under this rule to ensure that Participants do not enjoy a windfall gain and do not suffer a material detriment as a result of any corporate action; and
- (b) if new Awards are granted as part of such an adjustment, such Awards will, unless the Board determines otherwise, be subject to the same terms and conditions as the original Awards, including without limitation, any Condition.

## **7. Divestment of a material business or subsidiary**

7.1.1 Where the Company divests, or disposes of, a business or asset designated by the Board for this purpose as 'material', the Board may make special rules that apply to Participants in relation to the Awards held pursuant to the Plan (and any other entitlements or shares that may arise in relation to those Shares). Without limiting the Board's discretion, such rules may include:

- (a) varying the Condition applying to the Participant's Awards to take into account the divestment of the business (if applicable); and

- (b) deeming that the Participant remains employed by the Group or continues to be a director of the Group, for a specific period.



- 7.1.2 In order to bind a Participant, any special rules made under this rule 7 must be notified to a Participant pursuant to rule 10.1.2.

## **8. Liquidity Event**

### **8.1 Treatment upon a Liquidity Event**

- 8.1.1 Where a Liquidity Event occurs prior to the Vesting of Awards, the Board may determine in its absolute discretion, the treatment of the Participant's unvested Awards and the timing of such treatment, which may include determining that the unvested Awards:

- (a) Vest (whether subject to further Conditions or not);
- (b) lapse or are forfeited;
- (c) remain subject to the applicable Conditions and/or Period(s);
- (d) become subject to substitute or varied Conditions and/or Period(s); or
- (e) may only be settled with securities other than Shares,

having regard to any matter the Board considers relevant, including, without limitation, the circumstances of the event (including the value being proposed to Shareholders as relevant), the extent to which the applicable Conditions have been satisfied (or estimated to have been satisfied) at the time of the event and/or the proportion of the Period that has passed at the time of the Liquidity Event.

- 8.1.2 Where a Participant holds a Vested Award at the date of a Liquidity Event (including those that Vest pursuant to rule 8.1.1) and the Liquidity Event is not an IPO, he or she will have 60 days from the date of the Liquidity Event, or such other period as the Board determines, in which to exercise the Awards, if applicable. Any Awards not exercised, cancelled or acquired within this period will automatically lapse.

### **8.2 Notification to Participants**

- 8.2.1 If a Liquidity Event occurs, or the Board considers that a Liquidity Event is about to occur, the Company will immediately notify all affected Participants.

### **8.3 Acquisition of shares in another company**

- 8.3.1 If a company (**Acquiring Company**) obtains control of the Company, and the Acquiring Company, the Company and the Participant agree, a Participant may be provided with options or other equity awards in the Acquiring Company (or its parent or its subsidiary) in substitution for the Awards, on substantially the same terms and subject to substantially the same Conditions as the Awards, but with appropriate adjustments as to the number and type of awards or shares.

## **9. Clawback and lapse for fraud or breach**

### **9.1 Actions of the Participant**

- 9.1.1 Where, in the opinion of the Board, a Participant has obtained, or will obtain, an unfair benefit as a result of an act which:

- (a) constitutes fraud, or dishonest or gross misconduct in relation to the affairs of any member of the Group;
- (b) brings the Company or any member of the Group into disrepute;
- (c) is in breach of his or her obligations to the Company or any Group Company, including compliance with any other applicable Company policy;
- (d) constitutes a failure to perform any act reasonably and lawfully requested of the Participant; or
- (e) has the effect of delivering strong performance for the Company or any Group Company in a manner which is unsustainable or involves unacceptably high risk, and results or is likely to result in a detrimental impact on the performance of the Company or any Group Company

following the end of the Period,  
the Board may exercise its discretion under rule 9.3 to ensure that no unfair benefit is obtained by the Participant.

## **9.2 Actions of any person**

9.2.1 Where, in the opinion of the Board:

- (a) an Award, which would not have otherwise Vested, Vests or may Vest as a result directly or indirectly of:
  - (1) the fraud, dishonesty or breach of obligations (including, without limitation, a material misstatement of financial information) of any person; or
  - (2) any other action or omission (whether intentional or inadvertent) of any person,the Board may make a determination under rule 9.3 to ensure that no unfair benefit is obtained by any Participant; or
- (b) an Award, which may otherwise have Vested, has not Vested as a result directly or indirectly of any circumstance referred to in this rule 9.2.1, the Board may reconsider the level of satisfaction of the applicable Conditions and reinstate and Vest any Award that may have lapsed to the extent that the Board determines appropriate in the circumstances or make a new grant of Awards that reflect the terms of the original Awards.

## **9.3 Board discretion**

9.3.1 In the circumstances set out in rules 9.1 and 9.2 above, the Board may, in its absolute discretion, and subject to applicable Laws, determine any treatment in relation to an Award, including, without limitation, to:

- (a) reset the Conditions and/or alter the Period applying to the Award;
- (b) deem all or any Awards which have not Vested to have lapsed or to have been forfeited (as relevant);
- (c) deem all or any Awards, including any Shares allocated following exercise of an Option which may otherwise not be subject to any further restrictions under this Plan, to have lapsed or to have been forfeited (as relevant);
- (d) where Shares that have been allocated to a Participant following exercise of an Option under the Plan have been subsequently sold, require that the Participant repay the net proceeds of such a sale; and
- (e) where cash payment has been made to a Participant pursuant to the terms of the Plan, whether under rule 4.3.2 or otherwise, require that the Participant repay a sum equal to that cash payment.

# **10. Amendments by the Board Amendments to the Plan and terms**

## **10.1 Amendments by the Board**

10.1.1 Subject to rule 10.2, the Board may at any time and from time to time in its sole discretion amend, supplement or revoke, including by way of schedule, all or any of these Rules or all or any of the rights or obligations of the Participants or any one or more of them.

10.1.2 The Board must provide written notification to Participants affected by any amendment made pursuant to rule 10.1 as soon as reasonably practicable after any such amendment has been made.

## **10.2 Amendments which reduce rights**

10.2.1 Despite rule 10.1.1, no amendment of these Rules may materially reduce the rights of any Participant attaching to Awards granted under the Plan prior to the date of the amendment or formulation, unless the amendment is made primarily for the purpose of complying with present or future Laws applicable to the Plan or a member of the Group, to correct any manifest error or mistake, or with the consent of the relevant Participants.

### **10.3 Retrospective effect**

- 10.3.1 Subject to rule 10.2.1, any amendments made pursuant to rule 10 may be given such retrospective effect, if so determined by the Board.

### **10.4 Non-residents of Australia**

- 10.4.1 Notwithstanding anything in these Rules, the Board may at any time, and from time to time, amend, supplement or revoke, including by way of schedule, any of these Rules, to apply to an Employee or Participant, employed in, resident in, or who are citizens of, countries other than Australia.
- 10.4.2 Any different rules made under rule 10.4.1 shall be restricted in their application to those Employees and Participants employed in, resident in, or who are citizens of the foreign country or countries specified by the Board, and may be amended, supplemented or revoked in accordance with rule 10.1.
- 10.4.3 For the purposes of clarification, any different rules that are adopted under rule 10.4.1 may have an adverse impact upon Employees or Participants. However, any different rules that may apply must comply, to the extent legally practicable, with the basic principles of the Plan.

## **11. Shares subject to the Plan**

### **11.1 Total shares reserved for issuance under the Plan**

- 11.1.1 The total number of Shares that shall be reserved for issuance under this Plan shall not exceed ten percent (10%) of the Shares in the Company as at the date of approval of this Plan or at any time during the operation of this Plan, subject to adjustment due to a Variation of Capital Event occurring.
- 11.1.2 If any change is made in the terms or provisions of the Shares subject to this Plan (whether by reason of a Variation of Capital Event occurring, or otherwise), then appropriate adjustments shall be made to the maximum number of Awards granted under this Plan without any action by the Board.

## **12. General terms and conditions**

### **12.1 Awards and obligations of Participants**

- 12.1.1 Unless the subject of an express provision in an employment contract, the rights and obligations of any Participant under the terms of their office, employment or contract with the Company (or any Group Company), are not affected by their participation in the Plan.
- 12.1.2 Except where expressly contemplated, these Rules will not form part of and are not incorporated into any contract between any Participant (whether or not they are an Employee) and the Company. The grant of Awards on a particular basis in any year does not create any right or expectation of the grant of Awards on the same basis, or at all, in any future year.
- 12.1.3 No Participant has any right to compensation for any loss in relation to the Plan.
- 12.1.4 Each Participant appoints the company secretary of the Company (or any other officer of the Company authorised by the Board for this purpose) as his or her agent to do anything necessary to:
- (a) allocate Shares to the Participant in accordance with these Rules; and
  - (b) execute transfers of Shares in accordance with these Rules.

### **12.2 Power of the Board**

- 12.2.1 The Board administers the Plan and has absolute and unfettered discretion in exercising any power or discretion concerning the Plan, and may:
- (a) delegate to any person for the period and on the terms it decides the exercise of any of its powers or discretions under the Plan;
  - (b) decide on appropriate procedures for administering the Plan consistent with these Rules;
  - (c) establish and implement a Share Trust, and delegate authority to a Trustee, for the purposes of delivering and holding Shares on behalf of Participants;

- (d) resolve conclusively all questions of fact or interpretation concerning the Plan and these Rules and any dispute of any kind that arises under the Plan;
- (e) subject to rule (e), amend, add to or waive any provision of the Plan (including this rule 12.2) or any term or condition (including a Condition or other restriction) relating to the Awards;
- (f) determine to suspend or cease operation of the Plan at any time and take any actions required to effect the winding up of the Plan;
- (g) act or refrain from acting at its discretion under these Rules or concerning the Plan or the Awards held under the Plan; and
- (h) waive any breach of a provision of the Plan.

12.2.2 Except as otherwise expressly provided in the Plan, the Board has absolute and unfettered discretion to act or refrain from acting under or in connection with the Plan and in the exercise of any power or discretion under the Plan.

### **12.3 Waiver of terms and conditions**

Notwithstanding any other provisions of the Plan, the Board may at any time waive in whole or in part any terms or conditions (including any Condition) in relation to any Awards granted to a Participant under the Plan and the Rules.

### **12.4 Dispute or disagreement**

In the event of any dispute, disagreement or uncertainty as to the interpretation of the Plan, or as to any question or right arising from or related to the Plan or to any Awards or Shares granted under it, the decision of the Board is final and binding.

### **12.5 Calculations**

12.5.1 Where any calculation, amendment or adjustment to be made pursuant to this Plan produces a result which contains a fraction of a percentage, cents or Shares, the fraction will be disregarded.

12.5.2 If the Board determines there is an error in the calculation of the Conditions, the Board may revise the number of Awards or Shares allocated or Vested (as applicable), or amount to be paid to the Participant, as the Board in its absolute discretion determines appropriate.

### **12.6 Personal information**

Subject to compliance with the Privacy Policy, the Privacy Act and all applicable Laws, each Participant consents to the Group or its agents (and each of their related parties) collecting, holding and using personal information that the Participant provides in the application to participate in the Plan or otherwise provides to the Group or its agents (and each of their related parties) as part of their employment, in order to carry out the administration and operation of the Plan in accordance with these Rules, including providing relevant information to:

- (a) the Plan manager or another entity that manages or administers the Plan on behalf of the Group;
- (b) any broker or external service provider, including a tax or financial adviser;
- (c) the trustee of any Share Trust;
- (d) any government department or body; and
- (e) any other person or body as required or authorised by law.

### **12.7 Notices**

A notice or other communication under or concerning the Invitation or the Rules is validly given to a Participant if:

- (a) delivered personally to the Participant;
- (b) sent by prepaid post to the Participant's last known residential address;
- (c) sent to the Participant by facsimile, email or other electronic means at the Participant's place of work; or
- (d) posted on an electronic notice board maintained by or on behalf of any member of the Group

and accessible by the Participant,  
and will in the case of (a), (c) and (d) above, be treated as being received immediately following the time it was sent, posted, or delivered, and where it is sent by regular post it will be treated as received 48 hours after it was posted.

## **12.8 Laws governing Plan**

The Plan and any Awards granted and Shares allocated under it are governed by the laws of New South Wales and the Commonwealth of Australia. Any agreement made under the Plan is entered into in New South Wales and each Participant submits to the exclusive jurisdiction of courts of that state to herein determine matters arising under the Plan.

## **12.9 Cash payments under the Plan**

12.9.1 Any cash payment made under the Plan will be:

- (a) made in Australian dollars; and
  - (b) treated in accordance with rule 12.10,
- unless the Board determines otherwise.

## **12.10 Tax**

12.10.1 Unless otherwise required by Law, no member of the Group is responsible for any Taxes which may become payable by a Participant as a consequence of or in connection with the grant of any Awards, the allocation or transfer of any Shares or any dealing with any Awards or any Shares.

12.10.2 The Group or the Trustee will have the right to withhold or collect from a Participant such Taxes as any member of the Group or the Trustee is obliged, or reasonably believes it is obliged, to account for to any taxation authority. In exercising this right, the Group or the Trustee may:

- (a) require the Participant to provide sufficient funds (by way of salary deduction or otherwise); or
- (b) sell Shares to be issued or transferred to the Participant, including the sale of sufficient Shares to cover any costs of such sale.

# **13. Interpretation and Definitions**

## **13.1 Interpretation**

In the Plan, the following rules apply unless a contrary intention appears:

- (a) capitalised terms have the meanings provided in rule 13.2;
- (b) the word person includes a firm, a body corporate, an unincorporated association, an authority and an entity (as that term is defined in the Corporations Act);
- (c) headings are for convenience only and do not affect the interpretation of the Plan;
- (d) any reference to any statute or statutory instrument includes a reference to that statute or statutory instrument as amended, supplemented or replaced;
- (e) any reference to any document includes an amendment or supplement to, or replacement of, that document;
- (f) any words denoting the singular include the plural and words denoting the plural include the singular;
- (g) any words denoting the masculine apply equally to the feminine equivalent; and
- (h) where any word or phrase is given a definite meaning in this Plan, any part of speech or other grammatical form of that word or phrase has a corresponding meaning.

## 13.2 Definitions

ASX	Australian Securities Exchange
Award	An Option or a Right to acquire a Share granted to a Participant under the Plan on the terms and conditions determined by the Board
Board	The board of directors of the Company, or any committee, person or body to which the Board duly delegates its powers and authorities to under this Plan
Business Sale	A sale to a third party purchaser of all, or substantially all, of the assets and business undertaking of the Group, including by way of a sale of shares of any Group Company (provided that no sale or transfer undertaken in respect of a Variation of Capital Event shall constitute a Business Sale)
Change of Control	Occurs where, as a result of any event or transaction, a person or entity not previously entitled to 50% (or more) of the Shares becomes entitled to 50% (or more) of the Shares (provided that no sale or transfer undertaken in respect of a Variation of Capital Event or IPO shall constitute a Change of Control)
Company	Thedocyard Limited (ACN 602 586 407)
Condition	One or more performance or service related conditions (including any condition as determined by the Board) which must be satisfied before an Award Vests
Corporations Act	Means the <i>Corporations Act 2001</i> (Cth)
Employee	Any employee (including any executive director) of a Group Company, or any other person so designated by the Board
Exercise Price	The amount payable on exercise of an Option as determined by the Board and specified for the purposes of rule 2.2.1(g) (which may be nil)
Exercise Restriction	Restrictions on the ability of a Participant to exercise a Vested Option as specified for the purposes of rule 2.2.1(g)
Fair Market Value	As of any date, the fair market value of a Share (as determined by the Board in good faith, as it deems appropriate) on the relevant day
Group	The Company, its holding company, its subsidiaries and any other entity declared by the Board to be a member of the Group for the purposes of the Plan, and <b>Group Company</b> means any member of the Group
Invitation	A letter or document, in any form, provided by the Company (or Group Company) to an Employee setting out the terms and conditions of the grant of Awards, including the information set out in rule 2.2.1 (as applicable)
IPO	An initial public offering of shares of an IPO Entity in connection with a Listing

IPO Entity	A Group Company or a special purpose vehicle formed for the purpose of a Listing which directly or indirectly (including through one or more interposed entities) owns at least 50% (based on earnings or assets) of the business of the Company
Law	The laws applicable to the operation of the Plan from time to time, including any applicable securities laws of the jurisdiction in which an Employee receiving an Invitation under the Plan is located
Liquidity Event	Means: (a) an IPO; (b) a Business Sale; (c) a Change of Control; or (d) such other event determined by the Board to be a Liquidity Event.
Listing	An initial public offering of an IPO Entity to the official list of the ASX or any other recognised stock exchange
Option	A right to acquire a Share which may be subject to satisfaction of Conditions and compliance with the applicable exercise procedure (including payment of any applicable Exercise Price), granted to a Participant under the Plan on the terms and conditions determined by the Board
Participant	An Employee who has been granted Awards under the Plan
Period	The period or periods over which the Conditions are measured or tested as specified by the Board for the purpose of an Award
Plan	Thedocyard Limited Employee Share Ownership Plan
Privacy Act	The <i>Privacy Act 1988</i> (Cth) or the equivalent legislation in any other jurisdiction in which Awards are granted
Privacy Policy	The privacy policy that applies to the Group from time to time
Right	A right, being an entitlement to acquire a Share subject to satisfaction of Conditions, granted to a Participant under the Plan on the terms and conditions determined by the Board
Rules	The rules of the Plan
Share Trust	A trust established by the Company to hold Shares on behalf of Employees
Share	A share in the capital of the Company
Shareholder	A registered holder of a Share
Shareholder's Agreement	The shareholder's agreement in force, as amended from time to time, between the Company and the shareholders (including the Shareholders)
Tax Act	Means the <i>Income Tax Assessment Act 1936</i> (Cth), the <i>Income Tax Assessment Act 1997</i> (Cth) or the equivalent legislation in any other jurisdiction in which Awards are granted, as the context requires
Taxes	Any tax, levy, contribution or duty (including any associated penalty or interest amount), social security liability or other liability

	imposed by any Law, governmental, semi-governmental, judicial or other authority
Tax Market Value	The value of a Share for Australian income tax purposes based on the methodology set out in the Legislative Instrument - Income Tax Assessment (Methods for Valuing Unlisted Shares) Approval 2015 for the purposes of subsection 83A-33(5) of the Tax Act.
Trading Restriction	A restriction on transfer imposed on Shares allocated under the Plan
Trustee	The trustee from time to time of the Share Trust
unpaid leave of absence	Means an approved unpaid leave of absence or an approved unpaid authorized absence in accordance with the <i>Fair Work Act 2009</i> (Cth)
Variation of Capital Event	Means an event where one of the following occurs: <ul style="list-style-type: none"> <li>(a) any reorganisation (including consolidation, subdivision, reduction or return) of the issued capital of the Company;</li> <li>(b) Shares are issued to the Company's Shareholders by way of a bonus issue; or</li> <li>(c) Shares are offered to the Company's Shareholders by way of a rights issue</li> </ul>
Vest	Satisfaction of Conditions in relation to an Award, and Vested or Vesting shall be construed accordingly.