

IN THE MATTER OF BULLION BOURSE PTY LTD (IN LIQUIDATION) ACN 140 221 067

**NEIL RAYMOND CRIBB AS LIQUIDATOR OF BULLION BOURSE PTY  
LTD (IN LIQUIDATION) ACN 140 221 067**

Plaintiff

---

**MINUTE OF PROPOSED ORDERS**

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Date of document: 30 August 2019

Filed on behalf of: The Plaintiff

Date of filing:

Prepared by:  
HWL Ebsworth Lawyers  
Level 20  
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PERTH WA 6000

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Reference: RMJ:CAB:941450  
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**Confidential affidavit in support**

1. The second affidavit of Neil Raymond Cribb sworn 30 August 2019 and filed in these proceedings be sealed on the court file and kept confidential.

**Timing of execution of deed of release**

2. Paragraph 19 of the orders made in these proceedings on 30 July 2019 (**July Orders**) be vacated.
3. The plaintiff is justified, and is otherwise acting reasonably, in requiring that, prior to confirming, and as a pre-requisite to, a collection appointment in respect of Identified Goods, the following is to be provided to him:
  - (a) a release in the form set out at Annexure 'A', 'B' and 'C' of these orders (as applicable) duly signed by the Owner;
  - (b) if applicable, payment of any outstanding rent or storage fees relating to the Identified Goods; and
  - (c) if applicable, payment to the plaintiff of the relevant Collection Levy.

**FILED**

**2 SEP 2019**

Via eLodgment  
**CENTRAL OFFICE  
SUPREME COURT**

PREC:  
Doc ID 665232513/v1

4. Paragraph 3 of these Orders is to have retrospective effect.

#### **Identification of 'extra large' safety deposit boxes (ELBs)**

5. The plaintiff is justified, and is otherwise acting reasonably, in using as many of the keys in his possession and control that he considers reasonably necessary to open as many compartments within the six safes located at the Company premises as he considers reasonably necessary to identify the location of each of the ELBs.
6. The plaintiff is justified, and is otherwise acting reasonably, in imposing a Collection Levy of \$3,300 (including GST) per collection appointment in respect of the SDB Holders of ELBs (**ELB Collection Levy**) and treating the ELB Collection Levy as the applicable Collection Levy for the ELBs for the purposes of the July Orders.
7. Further and alternatively, the plaintiff is justified, and is otherwise acting reasonably, in treating his costs and expenses incurred in relation to the identification of the ELBs as a cost of the winding up.

#### **Treatment of the Loose Goods**

8. In respect of the loose goods located in vaults 2 and 3 (**Loose Goods**), the plaintiff is justified, and is otherwise acting reasonably, in declining to make a determination as to the ownership of the Loose Goods until after 30 November 2019.
9. Where the plaintiff is able to identify, to his reasonable satisfaction, the owner of any Loose Goods that are serial numbered (**Serial Numbered Loose Goods**), he is justified, and is otherwise acting reasonably, in:
  - (a) treating the Serial Numbered Loose Goods as the property of that person (**Loose Goods Owner**) and as Identified Goods for the purposes of the July Orders;
  - (b) treating the Loose Goods Owner as an Owner for the purposes of the July Orders;
  - (c) asserting an entitlement to an indemnity secured by an equitable lien against the Serial Numbered Loose Goods, for the payment of his costs, expenses and remuneration relating to identifying, preserving and facilitating the return of the Serial Numbered Loose Goods limited to the ELB Collection Levy plus the plaintiff's actual costs exclusively referable to the Serial Numbered Loose Goods of the relevant Loose Goods Owner, calculated on a time basis (**Serial Numbered Loose Goods Levy**); and

- (d) treating the Serial Numbered Loose Goods Levy as the applicable Collection Levy for Serial Numbered Loose Goods for the purposes of the July Orders.

[Redacted text block containing multiple paragraphs of blacked-out content]

**General**

- 11. The plaintiff's costs of this proceeding and of undertaking the processes authorised by these Orders that are not satisfied by receipt of the Collection Levy, be paid out of the assets of the Company as an expense of the winding up.
- 12. There be liberty to apply, including by any person affected by these Orders on 48 hours' notice.



## Deed of Release and Indemnity Safety Deposit Box

**Bullion Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

and

**Neil Raymond Cribb in his capacity as liquidator of Bullion  
Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

and

**The Customers listed in Schedule 1**

Ref RMJ:CAB:941450

Doc ID 657888463/v1

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## Deed of Release and Indemnity

Date

2019

Parties

**Bullion Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

of c/- RSM Australia Partners, Level 32 Exchange Tower, 2 The Esplanade, Perth, Western Australia

(Company)

**Neil Raymond Cribb in his capacity as liquidator of Bullion Bourse Pty Ltd (In liquidation) ACN 140 221 067**

of c/- RSM Australia Partners, Level 32 Exchange Tower, 2 The Esplanade, Perth, Western Australia

(Liquidator)

**Each person listed in Schedule 1**

(Customers)

Recitals

- A. The Liquidator was appointed as liquidator of the Company on the Appointment Date.
- B. Prior to the Appointment Date, the Customers entered into an agreement with the Company to store the Goods in the Box.
- C. The Liquidator accepts that the Customers are the owners of the Goods and are entitled to retrieve the Goods.
- D. The Customers have requested that the Liquidator allow them access to the Box for the purpose of retrieving the Goods.
- E. The Liquidator has agreed to provide the Customers with access to the Box and to allow the Customers to retrieve the Goods on the terms and conditions outlined in this Deed.

This Deed witnesses that in consideration of, among other things, the mutual promises contained in this Deed the parties agree as follows:

## 1. Definitions and interpretation clauses

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### 1.1 Definitions

In this Deed:

- Appointment** means the Liquidator's appointment as liquidator of the Company.
- Appointment Date** means 2 July 2019.
- Authorised Person** means the person whose details are set out at Schedule 2 of this Deed (if any).
- Box** means the safety deposit box(es) bearing the box number(s) set out in Schedule 1 to this Deed.
- Business Day** means a day on which banks are open for business in Perth excluding a Saturday, Sunday or public holiday in that city.
- Claims** includes an allegation, claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, Loss, cost, expense or Liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this Deed.
- Collecting Person** means:
- (a) if there is an Authorised Person, the Authorised Person; or
  - (b) otherwise:
    - (i) if there is one Customer and:
      - (A) the Customer is an individual, the Customer; or
      - (B) the Customer is a body corporate, a director of the Customer; or
    - (ii) if there is more than one Customer and:
      - (A) the Customers are individuals, all of the Customers; or



(B) the Customers are body corporates, at least one director of each of the Customers.

<b>Company</b>	means Bullion Bourse Pty Ltd (In Liquidation) ACN 140 221 067.
<b>Cost Recovery Fee</b>	means the sum of \$350 per attendance at the Premises for the purposes of collecting the Goods.
<b>Deed</b>	means this deed.
<b>Customers</b>	means each and all of the persons specified as the primary, registered and nominated persons in any Storage Agreements and as described in Schedule 1 of this Deed.
<b>Effective Time</b>	means the date on which the last Party to execute this Deed, executes this Deed.
<b>Goods</b>	means the goods contained in the Box at the time it is opened in accordance with this Deed.
<b>Government Agency</b>	means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity: it includes any self-regulatory organisation established under statute and any stock exchange.
<b>Liability</b>	means any liability or obligation (whether actual, contingent or prospective), including for any Loss irrespective of when the acts, events or things giving rise to the liability occurred.
<b>Liquidator's Costs</b>	means the Liquidator's remuneration and fees in connection with the Appointment and all costs, expenses, taxes, actions, demands suits, proceedings, debts, Claims, Losses, damages or other Liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) arising out of, during the course of, in connection with or incidental to the Appointment.
<b>Loss</b>	means all damage, loss, cost, Claim, Liability or expense (including legal costs and expenses of whatsoever nature or description).

<b>Missing Goods</b>	means any goods that the Customers allege were stored, or were provided to the Company to be stored, in the Box but which are not Goods.
<b>Premises</b>	means 180 Wright Street, Cloverdale, Western Australia.
<b>Storage Agreements</b>	means any storage agreements between the Customers and the Company.
<b>Trust</b>	means any trust for which any Customer acts as trustee in relation to the Storage Agreements or the Goods.

## 1.2 Interpretation

In this Deed unless a contrary intention is expressed:

- (a) headings and italicised, highlighted or bold type do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Government Agency (whether or not having a separate legal personality);
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.1(f) implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed and a reference to this Deed includes any clause, annexure, exhibit and schedule;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to any document includes that party's successors and permitted assigns;
- (j) a reference to an agreement other than this Deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;

- (k) a reference to a document includes any agreement or contract in writing, or any certificate, notice, deed, instrument or other document of any kind;
- (l) a provision of this Deed may not be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Deed or the preparation or proposal of that provision;
- (m) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (n) a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- (o) if a period of time is specified and dates from a day or the day of an act, event or circumstance, that period is to be determined exclusive of that day;
- (p) if an act or event must occur or be performed on or by a specified day and occurs or is performed after 5:00 pm on that day, it is taken to have occurred or been done on the next day; and
- (q) a reference to '\$', 'A\$', 'AUD', 'dollars' or 'Dollars' is a reference to the lawful currency of the Commonwealth of Australia.

## 2. Acknowledgements and warranties

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### 2.1 Warranties

Each of the Customers warrants in favour of the Company and the Liquidator that they beneficially own, or are entitled to exclusive possession of, the Goods.

### 2.2 Acknowledgements

Each of the Customers acknowledges and agrees that:

- (a) without limiting clause 6.1, they have no Claim against the Liquidator in relation to the Goods, any Missing Goods, the Storage Agreements or the Appointment;
- (b) the Liquidator has not accessed the Box to verify the Goods or their condition;
- (c) the Customers bear the risk in the Goods and the Missing Goods; and
- (d) the Liquidator has no Liability in respect of the Goods or their condition, any Missing Goods, the Storage Agreements or the Appointment;
- (e) the Liquidator was only able to gain access and control to the Premises on 9 July 2019;

- (f) if there is more than one Customer and not all of the Customers will attend the Premises together to collect the Goods, the Customers must specify an Authorised Person (which may be one of the Customers);
- (g) no more than two Authorised Persons may be specified by the Customers; and
- (h) if anyone other than the Collecting Person(s) attend(s) the Premises, the Liquidator may refuse collection of the Goods at that time.

### 3. Authority to collect

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- 3.1 This clause 3 applies only if an Authorised Person is specified in Schedule 2 to this Deed.
- 3.2 Provided that the Authorised Person is able to produce photographic identification, to the Liquidator's reasonable satisfaction, at collection, each of the Customers hereby absolutely and irrevocably:
  - (a) authorise the Authorised Person to collect the Goods on their behalf in accordance with this Deed; and
  - (b) authorise and direct the Liquidator to allow the Authorised Person to collect the Goods on their behalf in accordance with this Deed.

### 4. Access to the Box and retrieval of the Goods

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- (a) On or before collection, the Customers must pay to the Liquidator (without set-off, counterclaim or deduction):
  - (i) all outstanding rent, storage fees and other amounts payable by the Customers to the Company in relation to the Box; and
  - (ii) the Cost Recovery Fee.
- (b) Subject to:
  - (i) the Customers complying with their obligations pursuant to clause 4(a); and
  - (ii) the Collecting Person complying with their obligations pursuant to clause 4(c),

the Liquidator must, allow the Collecting Person access to the Box and permit the Collecting Person to take possession of the Goods, provided that the Collecting Person provides adequate photo identification at the time for the purpose of verifying his or her identity.
- (c) Immediately upon taking delivery of the Goods, the Collecting Person must provide the Liquidator with an acknowledgement in writing (in the terms set out in Schedule 3 of this Deed or terms otherwise acceptable to the Liquidator in his discretion) that he or she has taken delivery of the Goods.

## 5. No representations, warranties or undertaking

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Each of the Customers acknowledge and agree that, save as expressly set out in this Deed, they have not relied on any representation, warranty or undertaking of any kind made by or on behalf of the Company, the Liquidator or any of their respective employees (including former employees of the Company), advisers and agents.

## 6. Indemnity and release

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### 6.1 Release

Upon execution of this Deed by each Customer, each Customer absolutely and irrevocably releases, waives and forever discharges the Liquidator and any of his partners, employees, officers, advisers and agents, RSM Australia Partners and RSM Australia Pty Ltd from any and all Claims which the Customers have or, but for the execution of this Deed, may have against the Liquidator and any of his partners, employees, officers, advisers and agents, RSM Australia Partners and RSM Australia Pty Ltd arising from or otherwise relating to or connected in any way with any of the following, whether occurring before, on or after the Effective Time:

- (a) the Goods;
- (b) any Missing Goods;
- (c) the Storage Agreements;
- (d) if applicable, the collection of the Goods by the Authorised Person in accordance with this Deed;
- (e) this Deed; and
- (f) the Appointment.

### 6.2 Bar

The Liquidator and any of his partners, employees, officers, advisers and agents, RSM Australia Partners and RSM Australia Pty Ltd may plead this Deed as a bar to any Claims made or actual proceedings commenced by a Customer (or anybody claiming through them or any of them) against the Liquidator or any of his employees, officers, advisers and agents.

### 6.3 Indemnity

Each Customer each hereby agrees to indemnify and keep indemnified at all times the Liquidator against:

- (a) any and all Loss, Liability or Claim of or against the Liquidator to the extent that such Loss, Liability or Claim arises from, or is connected with any breach of any of the warranties made by any Customer (including, without limitation, those at clauses 2.1 or the breach of any other provision of this Deed);

- (b) any and all Loss, Liability or Claim of or against the Liquidator arising from, or connected with, any of the warranties in clause 2.1 not being true and correct; and
- (c) any and all Loss, Liability or Claim of or against the Liquidator arising from, or connected with, the collection of the Goods by the Collecting Person in accordance with this Deed.

#### 6.4 Continuing obligation

The release and indemnities in clauses 6.1 and 6.3 respectively are continuing obligations, separate and independent from the other obligations set out in this Deed and survive termination of this Deed.

#### 6.5 Indemnities survive retirement of Liquidator

The parties acknowledge and agree that the indemnities given by each Customer to the Liquidator in this Deed are continuing obligations and are not revoked, affected, compromised or prejudiced by the retirement of the Liquidator as liquidator of the Company or finalisation of the liquidation of the Company.

## 7. No waiver

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### 7.1 No waiver

The failure of a party at any time to require performance of any obligation under this Deed is not a waiver of that Party's right:

- (a) to claim damages for breach of that obligation;
- (b) to enforce any indemnity that they take the benefit of under this Deed; and
- (c) at any other time to require performance of that or any other obligation under this Deed,

unless written notice to that effect is given in accordance with this Deed.

### 7.2 Waiver

Waiver of any provision of or right under this Deed:

- (a) save for in relation to clause 4(a), must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

## 8. Joint and several obligations

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### 8.1 Parties jointly and severally bound

Any provision in this Deed which binds more than one party binds all of those parties jointly and each of them individually.

### 8.2 Separate obligations

Each obligation imposed on a party by this Deed in favour of another is a separate obligation.

## 9. Costs

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Each party to this Deed must bear and pay its own legal costs and expenses in relation to the negotiation, preparation and execution of, and the satisfaction of the conditions precedent under, this Deed.

## 10. Counterparts

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### 10.1 Parts

This Deed may be executed in counterparts by the respective parties, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same deed. This Deed shall take effect immediately upon it having been executed (whether together or by execution of different counterparts) by all of the parties.

### 10.2 Facsimile and PDF copies

An executed facsimile or PDF copy of this Deed is acceptable as an original.

## 11. Confidentiality

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The parties undertake that they will not disclose the contents of this Deed or any information relating to it to any third party, unless the disclosure is:

- (a) for the purposes of enforcing this Deed;
- (b) with the written consent of the other parties;
- (c) to the Party's professional advisers; or
- (d) required by law.

## 12. Severability

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Part or all of any provision of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining provisions of this Deed will continue in force.

## 13. Entire agreement

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This Deed constitutes the entire agreement between the parties with respect to the subject matter of this Deed and contains all of the representations, warranties, covenants and agreements of the parties in relation to the subject matter of this Deed.

## 14. Time of the essence

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Time is of the essence in this Deed in relation to any obligation to pay money or in relation to any obligation to satisfy conditions precedent.

## 15. Variation

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A variation of any term of this Deed will be of no force or effect unless it is in writing and signed by each of the parties.

## 16. Jurisdiction

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This Deed shall be governed by and construed in accordance with the laws of Western Australia and the parties submit themselves to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia.

## 17. Trustees

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Each of the Customers enter into this Deed in their own capacity and as trustee of the relevant Trust (if applicable).

## 18. Further assurances

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Each party must promptly execute all documents and do all things necessary or desirable to give full effect to the arrangements set out in this Deed.



**Schedule 1** Customer(s) and Box details**Customer(s)**

	<b>Customer Name</b>	<b>Addresses</b>
1.		
2.		
3.		
4.		

**Box number(s)**

--

Schedule 2      Authorised Person(s)

	Name	Addresses
1.		
2.		

### Schedule 3 Form of acknowledgement of collection

<b>Customer(s):</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Customer(s) Address:</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Collecting Person(s):</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Collecting Person(s) Address:</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Date:</b>	DO NOT COMPLETE - SAMPLE ONLY

I/we, the Collecting Person(s), hereby acknowledge that:

1. I am / we are the Collecting Person(s), as that term is defined in the Deed of Release and Indemnity signed by the Customer (**Deed**); and
2. I / we jointly hereby take possession and control of the Goods (as that term is defined in the Deed).

**This letter is executed as a deed poll**

**Signed, sealed and delivered by**  
 \_\_\_\_\_ in the presence of:

\_\_\_\_\_  
 Signature of witness

**DO NOT SIGN - SAMPLE ONLY**

\_\_\_\_\_  
 Signature of Collecting Person

\_\_\_\_\_  
 Full name of witness (print)

\_\_\_\_\_  
 Address of witness (print)

**Signed, sealed and delivered by**  
 \_\_\_\_\_ in the presence of:

\_\_\_\_\_  
 Signature of witness

**DO NOT SIGN - SAMPLE ONLY**

\_\_\_\_\_  
 Signature of Collecting Person

\_\_\_\_\_  
 Full name of witness (print)

\_\_\_\_\_  
 Address of witness (print)

**Executed** as a deed.

**Executed by Bullion Bourse Pty Ltd  
(ACN 140 221 067) (In Liquidation)** by its  
liquidator:

---

Signature of Neil Raymond Cribb, liquidator  
of Bullion Bourse Pty Ltd (ACN 140 221  
067) (In Liquidation)

**Signed, sealed and delivered by Neil  
Raymond Cribb** in the presence of:

---

Signature of witness

---

Signature of Neil Raymond Cribb

---

Full name of witness (print)

---

Address of witness (print)

**Sign here if Customer(s) is an / are individual(s):**

**Signed, sealed and delivered** by  
\_\_\_\_\_ **[name]** in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ **[name]**

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ **[name]** in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ **[name]**

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ **[name]** in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ **[name]**

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ **[name]** in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of  
\_\_\_\_\_ **[name]**

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Sign here if Customer is a company:**

**Executed by**

\_\_\_\_\_ [company name]

ACN: \_\_\_\_\_ in accordance with  
section 127 of the *Corporations Act 2001* (Cth)

by:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Full name (print)

\_\_\_\_\_  
Full name (print)





**Deed of Release and Indemnity  
Allocated Storage**

**Bullion Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

and

**Neil Raymond Cribb in his capacity as liquidator of Bullion  
Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

and

**The Customers listed in Schedule 1**

Ref GWS:NB:677136

Doc ID 657906323/v1

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<b>13.</b>	<b>Entire agreement</b>	<b>12</b>
<b>14.</b>	<b>Time of the essence</b>	<b>12</b>
<b>15.</b>	<b>Variation</b>	<b>12</b>
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## Deed of Release and Indemnity

Date

2019

Parties

**Bullion Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

of c/- RSM Australia Partners, Level 32 Exchange Tower, 2 The Esplanade, Perth, Western Australia

**(Company)**

**Neil Raymond Cribb in his capacity as liquidator of Bullion Bourse Pty Ltd (In liquidation) ACN 140 221 067**

of c/- RSM Australia Partners, Level 32 Exchange Tower, 2 The Esplanade, Perth, Western Australia

**(Liquidator)**

**Each person listed in Schedule 1**

**(Customers)**

Recitals

- A. The Liquidator was appointed as liquidator of the Company on the Appointment Date.
- B. Prior to the Appointment Date, the Customers entered into an agreement with the Company to store the Goods on the Premises.
- C. The Liquidator accepts that the Customers are the owners of the Goods and are entitled to retrieve the Goods.
- D. The Customers have requested that the Liquidator allow them access to the Premises for the purpose of retrieving the Goods.
- E. The Liquidator has agreed to provide the Customers with access to the Premises and to allow the Customers to retrieve the Goods on the terms and conditions outlined in this Deed.

This Deed witnesses that in consideration of, among other things, the mutual promises contained in this Deed the parties agree as follows:

## 1. Definitions and interpretation clauses

### 1.1 Definitions

In this Deed:

- Appointment** means the Liquidator's appointment as liquidator of the Company.
- Appointment Date** means 2 July 2019.
- Authorised Person** means the person whose details are set out at Schedule 2 of this Deed (if any).
- Business Day** means a day on which banks are open for business in Perth excluding a Saturday, Sunday or public holiday in that city.
- Claims** includes an allegation, claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, Loss, cost, expense or Liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this Deed.
- Collecting Person** means:
- (a) if there is an Authorised Person, the Authorised Person; or
  - (b) otherwise:
    - (i) if there is one Customer and:
      - (A) the Customer is an individual, the Customer; or
      - (B) the Customer is a body corporate, a director of the Customer; or

- (ii) if there is more than one Customer and:
- (A) the Customers are individuals, all of the Customers; or
  - (B) the Customers are body corporates, at least one director of each of the Customers.

<b>Company</b>	means Bullion Bourse Pty Ltd (In Liquidation) ACN 140 221 067.
<b>Cost Recovery Fee</b>	means the sum of \$350 per attendance at the Premises for the purposes of collecting the Goods.
<b>Customers</b>	means each and all of the persons specified as the primary, registered and nominated persons in any Storage Agreements or any other documents to the reasonable satisfaction of the Liquidator and as described in Schedule 1.
<b>Deed</b>	means this deed.
<b>Effective Time</b>	means the date on which the last Party to execute this Deed, executes this Deed.
<b>Goods</b>	means the goods described in Schedule 1 to this Deed.
<b>Government Agency</b>	means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity: it includes any self-regulatory organisation established under statute and any stock exchange.
<b>Liability</b>	means any liability or obligation (whether actual, contingent or prospective), including for any Loss irrespective of when the acts, events or things giving rise to the liability occurred.
<b>Liquidator's Costs</b>	means the Liquidator's remuneration and fees in connection with the Appointment and all costs, expenses, taxes, actions, demands suits, proceedings, debts, Claims, Losses, damages or other Liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) arising

out of, during the course of, in connection with or incidental to the Appointment.

<b>Loss</b>	means all damage, loss, cost, Claim, Liability or expense (including legal costs and expenses of whatsoever nature or description).
<b>Missing Goods</b>	means any goods that the Customers allege were stored, or were provided to the Company to be stored, on the Premises but which are not Goods.
<b>Premises</b>	means 180 Wright Street, Cloverdale, Western Australia.
<b>Storage Agreements</b>	means any storage agreements between the Customers and the Company.
<b>Trust</b>	means any trust for which any Customer acts as trustee in relation to the Storage Agreements or the Goods.

## 1.2 Interpretation

In this Deed unless a contrary intention is expressed:

- (a) headings and italicised, highlighted or bold type do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Government Agency (whether or not having a separate legal personality);
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.1(f) implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed and a reference to this Deed includes any clause, annexure, exhibit and schedule;

- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to any document includes that party's successors and permitted assigns;
- (j) a reference to an agreement other than this Deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (k) a reference to a document includes any agreement or contract in writing, or any certificate, notice, deed, instrument or other document of any kind;
- (l) a provision of this Deed may not be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Deed or the preparation or proposal of that provision;
- (m) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (n) a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- (o) if a period of time is specified and dates from a day or the day of an act, event or circumstance, that period is to be determined exclusive of that day;
- (p) if an act or event must occur or be performed on or by a specified day and occurs or is performed after 5:00 pm on that day, it is taken to have occurred or been done on the next day; and
- (q) a reference to '\$', 'A\$', 'AUD', 'dollars' or 'Dollars' is a reference to the lawful currency of the Commonwealth of Australia.

## 2. Acknowledgements and warranties

---

### 2.1 Warranties

Each of the Customers warrants in favour of the Company and the Liquidator that they beneficially own, or are entitled to exclusive possession of, the Goods.

### 2.2 Acknowledgements

Each of the Customers acknowledges and agrees that:

- (a) without limiting clause 6.1, they have no Claim against the Liquidator in relation to the Goods, any Missing Goods, the Storage Agreements or the Appointment;



- (b) the Customers bear the risk in the Goods and the Missing Goods;
- (c) the Liquidator has no Liability in respect of the Goods or their condition, any Missing Goods, the Storage Agreements or the Appointment; and
- (d) the Liquidator was only able to gain access and control to the Premises on 9 July 2019;
- (e) if there is more than one Customer and not all of the Customers will attend the Premises together to collect the Goods, the Customers must specify an Authorised Person (which may be one of the Customers);
- (f) no more than two Authorised Persons may be specified by the Customers; and
- (g) if anyone other than the Collecting Person(s) attend(s) the Premises, the Liquidator may refuse collection of the Goods.

### 3. Authority to collect

---

- 3.1 This clause 3 applies only if an Authorised Person is specified in Schedule 2 to this Deed.
- 3.2 Provided that the Authorised Person is able to produce photographic identification, to the Liquidator's reasonable satisfaction, at collection, each of the Customers hereby absolutely and irrevocably:
  - (a) authorise the Authorised Person to collect the Goods on their behalf in accordance with this Deed; and
  - (b) authorise and direct the Liquidator to allow the Authorised Person to collect the Goods on their behalf in accordance with this Deed.

### 4. Access to the Premises and retrieval of the Goods

---

- (a) On or before collection, the Customers must pay to the Liquidator (without set-off, counterclaim or deduction):
  - (i) all outstanding rent, storage fees and other amounts payable by the Customers to the Company in relation to the Storage Agreements or Goods; and
  - (ii) the Cost Recovery Fee.
- (b) Subject to:
  - (i) the Customers complying with their obligations pursuant to clause 4(a); and

- (ii) the Collecting Person complying with their obligations pursuant to clause 4(c),

the Liquidator must, allow the Collecting Person access to the Premises and permit the Collecting Person to take possession of the Goods, provided that the Collecting Person provides adequate photo identification at the time for the purpose of verifying his or her identity.

- (c) Immediately upon taking delivery of the Goods, the Collecting must provide the Liquidator with an acknowledgement in writing (in the terms set out in Schedule 3 of this Deed or terms otherwise acceptable to the Liquidator in his discretion) that he or she has taken delivery of the Goods.

## 5. No representations, warranties or undertaking

---

Each of the Customers acknowledge and agree that, save as expressly set out in this Deed, they have not relied on any representation, warranty or undertaking of any kind made by or on behalf of the Company, the Liquidator or any of their respective employees (including former employees of the Company), advisers and agents.

## 6. Indemnity and release

---

### 6.1 Release

Upon execution of this Deed by each Customer, each Customer absolutely and irrevocably releases, waives and forever discharges the Liquidator and any of his partners, employees, officers, advisers and agents and RSM Australia Pty Ltd from any and all Claims which the Customers have or, but for the execution of this Deed, may have against the Liquidator and any of his partners, employees, officers, advisers and agents and RSM Australia Pty Ltd arising from or otherwise relating to or connected in any way with any of the following, whether occurring before, on or after the Effective Time:

- (a) the Goods;
- (b) any Missing Goods;
- (c) the Storage Agreements;
- (d) if applicable, the collection of the Goods by the Authorised Person in accordance with this Deed;
- (e) this Deed; and
- (f) the Appointment.

## 6.2 Bar

The Liquidator and any of his partners, employees, officers, advisers and agents, RSM Australia Partners and RSM Australia Pty Ltd may plead this Deed as a bar to any Claims made or actual proceedings commenced by a Customer (or anybody claiming through them or any of them) against the Liquidator or any of his employees, officers, advisers and agents.

## 6.3 Indemnity

Each Customer each hereby agrees to indemnify and keep indemnified at all times the Liquidator against:

- (a) any and all Loss, Liability or Claim of or against the Liquidator to the extent that such Loss, Liability or Claim arises from, or is connected with any breach of any of the warranties made by any Customer (including, without limitation, those at clauses 2.1 or the breach of any other provision of this Deed);
- (b) any and all Loss, Liability or Claim of or against the Liquidator arising from, or connected with, any of the warranties in clause 2.1 not being true and correct; and
- (c) any and all Loss, Liability or Claim of or against the Liquidator arising from, or connected with, the collection of the Goods by the Collecting Person in accordance with this Deed.

## 6.4 Continuing obligation

The release and indemnities in clauses 6.1 and 6.3 respectively are continuing obligations, separate and independent from the other obligations set out in this Deed and survive termination of this Deed.

## 6.5 Indemnities survive retirement of Liquidator

The parties acknowledge and agree that the indemnities given by each Customer to the Liquidator in this Deed are continuing obligations and are not revoked, affected, compromised or prejudiced by the retirement of the Liquidator as liquidator of the Company or finalisation of the liquidation of the Company.

# 7. No waiver

---

## 7.1 No waiver

The failure of a party at any time to require performance of any obligation under this Deed is not a waiver of that Party's right:

- (a) to claim damages for breach of that obligation;

- (b) to enforce any indemnity that they take the benefit of under this Deed; and
- (c) at any other time to require performance of that or any other obligation under this Deed,

unless written notice to that effect is given in accordance with this Deed.

## 7.2 Waiver

Waiver of any provision of or right under this Deed:

- (a) save for in relation to clause 4(a), must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

## 8. Joint and several obligations

---

### 8.1 Parties jointly and severally bound

Any provision in this Deed which binds more than one party binds all of those parties jointly and each of them individually.

### 8.2 Separate obligations

Each obligation imposed on a party by this Deed in favour of another is a separate obligation.

## 9. Costs

---

Each party to this Deed must bear and pay its own legal costs and expenses in relation to the negotiation, preparation and execution of, and the satisfaction of the conditions precedent under, this Deed.

## 10. Counterparts

---

### 10.1 Parts

This Deed may be executed in counterparts by the respective parties, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same deed. This Deed shall take effect immediately upon it having been executed (whether together or by execution of different counterparts) by all of the parties.

## 10.2 Facsimile and PDF copies

An executed facsimile or PDF copy of this Deed is acceptable as an original.

## 11. Confidentiality

---

The parties undertake that they will not disclose the contents of this Deed or any information relating to it to any third party, unless the disclosure is:

- (a) for the purposes of enforcing this Deed;
- (b) with the written consent of the other parties;
- (c) to the Party's professional advisers; or
- (d) required by law.

## 12. Severability

---

Part or all of any provision of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining provisions of this Deed will continue in force.

## 13. Entire agreement

---

This Deed constitutes the entire agreement between the parties with respect to the subject matter of this Deed and contains all of the representations, warranties, covenants and agreements of the parties in relation to the subject matter of this Deed.

## 14. Time of the essence

---

Time is of the essence in this Deed in relation to any obligation to pay money or in relation to any obligation to satisfy conditions precedent.

## 15. Variation

---

A variation of any term of this Deed will be of no force or effect unless it is in writing and signed by each of the parties.

## 16. Jurisdiction

---

This Deed shall be governed by and construed in accordance with the laws of Western Australia and the parties submit themselves to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia.

## 17. Trustees

---

Each of the Customers enter into this Deed in their own capacity and as trustee of the relevant Trust (if applicable).

## 18. Further assurances

---

Each party must promptly execute all documents and do all things necessary or desirable to give full effect to the arrangements set out in this Deed.

**Schedule 1** Customer(s) and Goods details**Customer(s)**

	<b>Customer Name</b>	<b>Addresses</b>
1.		
2.		
3.		
4.		

**Description of Goods**

--





**Schedule 2**    **Authorised Person(s)**

	<b>Name</b>	<b>Addresses</b>
1.		
2.		

### Schedule 3 Form of acknowledgement of collection

<b>Customer(s):</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Customer(s) Address:</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Collecting Person(s):</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Collecting Person(s) Address:</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Date:</b>	DO NOT COMPLETE - SAMPLE ONLY

I/we, the Collecting Person(s), hereby acknowledge that:

1. I am / we are the Collecting Person(s), as that term is defined in the Deed of Release and Indemnity signed by the Customer (**Deed**); and
2. I / we jointly hereby take possession and control of the Goods (as that term is defined in the Deed).

**This letter is executed as a deed poll**

**Signed, sealed and delivered by**  
\_\_\_\_\_ in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**DO NOT SIGN - SAMPLE ONLY**

\_\_\_\_\_  
Signature of Collecting Person

**Signed, sealed and delivered by**  
\_\_\_\_\_ in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**DO NOT SIGN - SAMPLE ONLY**

\_\_\_\_\_  
Signature of Collecting Person

**Executed** as a deed.

**Executed by Bullion Bourse Pty Ltd  
(ACN 140 221 067) (In Liquidation) by its  
liquidator:**

\_\_\_\_\_  
Signature of Neil Raymond Cribb, liquidator  
of Bullion Bourse Pty Ltd (ACN 140 221  
067) (In Liquidation)

**Signed, sealed and delivered by Neil  
Raymond Cribb** in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of Neil Raymond Cribb

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Sign here if Customer(s) is an / are individual(s):**

**Signed, sealed and delivered** by  
\_\_\_\_\_ [name] in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ [name]

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ [name] in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ [name]

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ [name] in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ [name]

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ **[name]** in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ **[name]**

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Sign here if Customer is a company:**

**Executed by**

\_\_\_\_\_ [company name]

ACN: \_\_\_\_\_ in accordance with  
section 127 of the *Corporations Act 2001* (Cth)

by:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Company Secretary

\_\_\_\_\_  
Full name (print)

\_\_\_\_\_  
Full name (print)





## Deed of Release and Indemnity Sales Orders

**Bullion Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

and

**Neil Raymond Cribb in his capacity as liquidator of Bullion  
Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

and

**The Customers listed in Schedule 1**

Ref RMJ:CAB:441450

Doc ID 657911843/v1

Level 11, Westralia Plaza, 167 St Georges Terrace, Perth WA 6000 Australia  
PO Box 7222, Cloisters Square WA 6850 Australia

Telephone +61 8 9420 1500  
Facsimile 1300 704 211 (Australia) +61 2 8507 6580 (International)  
hwlebsworth.com.au

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<b>2.</b>	<b>I / we jointly hereby take possession and control of the Goods (as that term is defined in the Deed).</b>	<b>18</b>

## Deed of Release and Indemnity

Date

2019

Parties

**Bullion Bourse Pty Ltd (ACN 140 221 067) (In Liquidation)**

of c/- RSM Australia Partners, Level 32 Exchange Tower, 2 The Esplanade, Perth, Western Australia

**(Company)**

**Neil Raymond Cribb in his capacity as liquidator of Bullion Bourse Pty Ltd (In liquidation) ACN 140 221 067**

of c/- RSM Australia Partners, Level 32 Exchange Tower, 2 The Esplanade, Perth, Western Australia

**(Liquidator)**

**Each person listed in Schedule 1**

**(Customers)**

Recitals

- A. The Liquidator was appointed as liquidator of the Company on the Appointment Date.
- B. Prior to the Appointment Date, the Customers placed the Sales Order to purchase goods including, but not necessarily limited to, the Goods from the Company.
- C. Subject to payment by the Customers of any Amount Due, the Liquidator accepts that the Customers are the owners of the Goods and are entitled to retrieve the Goods.
- D. The Customers have requested that the Liquidator allow them access to the Premises for the purpose of retrieving the Goods.
- E. The Liquidator has agreed to provide the Customers with access to the Premises and to allow the Customers to retrieve the Goods on the terms and conditions outlined in this Deed.

This Deed witnesses that in consideration of, among other things, the mutual promises contained in this Deed the parties agree as follows:

## 1. Definitions and interpretation clauses

### 1.1 Definitions

In this Deed:

- Amount Due** means any amount that the Liquidator cannot verify as having been received by the Company under the Sales Order in relation to the Goods.
- Appointment** means the Liquidator's appointment as liquidator of the Company.
- Appointment Date** means 2 July 2019.
- Authorised Person** means the person whose details are set out at Schedule 2 of this Deed (if any).
- Business Day** means a day on which banks are open for business in Perth excluding a Saturday, Sunday or public holiday in that city.
- Claims** includes an allegation, claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, Loss, cost, expense or Liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this Deed.
- Collecting Person** means:
- (a) if there is an Authorised Person, the Authorised Person; or
  - (b) otherwise:
    - (i) if there is one Customer and:

- (A) the Customer is an individual, the Customer; or
- (B) the Customer is a body corporate, a director of the Customer; or
- (ii) if there is more than one Customer and:
  - (A) the Customers are individuals, all of the Customers; or
  - (B) the Customers are body corporates, at least one director of each of the Customers

<b>Company</b>	means Bullion Bourse Pty Ltd (In Liquidation) ACN 140 221 067.
<b>Cost Recovery Fee</b>	means the sum of \$350 per attendance at the Premises for the purposes of collecting the Goods or the postage costs if delivery of the Goods is requested.
<b>Deed</b>	means this deed.
<b>Effective Time</b>	means the date on which the last Party to execute this Deed, executes this Deed.
<b>Goods</b>	means the goods described in the Sales Order that the Liquidator authorises for collection from the Premises under this Deed.
<b>Government Agency</b>	means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity: it includes any self-regulatory organisation established under statute and any stock exchange.
<b>Liability</b>	means any liability or obligation (whether actual, contingent or prospective), including for any Loss irrespective of when the acts, events or things giving rise to the liability occurred.
<b>Liquidator's Costs</b>	means the Liquidator's remuneration and fees in connection with the Appointment and all costs, expenses, taxes, actions, demands suits, proceedings, debts, Claims, Losses, damages or other Liabilities (whether present or future, certain or

contingent, ascertained or sounding only in damages) arising out of, during the course of, in connection with or incidental to the Appointment.

<b>Loss</b>	means all damage, loss, cost, Claim, Liability or expense (including legal costs and expenses of whatsoever nature or description).
<b>Nominated Address</b>	means the address, if any, specified in Schedule 1 to this Deed.
<b>Premises</b>	means 180 Wright Street, Cloverdale, Western Australia.
<b>Sales Order</b>	means the sales order described in Schedule 1 to this Deed.
<b>Trust</b>	means any trust for which any Customer acts as trustee in relation to the Sales Order or the Goods.
<b>Unfulfilled Goods</b>	means any goods the subject of the Sales Order which are not the Goods.

## 1.2 Interpretation

In this Deed unless a contrary intention is expressed:

- (a) headings and italicised, highlighted or bold type do not affect the interpretation of this deed;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) a reference to a 'person' includes any individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Government Agency (whether or not having a separate legal personality);
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.1(f) implies that performance of part of an obligation constitutes performance of the obligation;

- (g) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed and a reference to this Deed includes any clause, annexure, exhibit and schedule;
- (h) a reference to a document (including this Deed) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party to any document includes that party's successors and permitted assigns;
- (j) a reference to an agreement other than this Deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (k) a reference to a document includes any agreement or contract in writing, or any certificate, notice, deed, instrument or other document of any kind;
- (l) a provision of this Deed may not be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Deed or the preparation or proposal of that provision;
- (m) a reference to a body, other than a party to this Deed (including an institute, association or authority), whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (n) a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- (o) if a period of time is specified and dates from a day or the day of an act, event or circumstance, that period is to be determined exclusive of that day;
- (p) if an act or event must occur or be performed on or by a specified day and occurs or is performed after 5:00 pm on that day, it is taken to have occurred or been done on the next day; and
- (q) a reference to '\$', 'A\$', 'AUD', 'dollars' or 'Dollars' is a reference to the lawful currency of the Commonwealth of Australia.

## 2. Acknowledgements and warranties

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### 2.1 Warranties

Each of the Customers warrants in favour of the Company and the Liquidator that they beneficially own, or are entitled to exclusive possession of, the Goods.



## 2.2 Acknowledgements

Each of the Customers acknowledges and agrees that:

- (a) without limiting clause 7.1, they have no Claim against the Liquidator in relation to the Goods, the Sales Order, the Unfulfilled Goods or the Appointment;
- (b) the Customers bear the risk in the Goods;
- (c) the Liquidator has no Liability in respect of the Goods or their condition, the Sales Order, the Unfulfilled Goods or the Appointment;
- (d) the Liquidator was only able to gain access and control to the Premises on 9 July 2019;
- (e) if there is more than one Customer and not all of the Customers will attend the Premises together to collect the Goods, the Customers must specify an Authorised Person (which may be one of the Customers);
- (f) no more than two Authorised Persons may be specified by the Customers; and
- (g) if anyone other than the Collecting Person attends the Premises, the Liquidator may refuse collection of the Goods.

## 3. Authority to collect/deliver

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- 3.1 This clause 3 applies only if an Authorised Person is specified in Schedule 2 to this Deed.
- 3.2 Provided that the Authorised Person is able to produce photographic identification, to the Liquidator's reasonable satisfaction, at collection or (in the case of delivery to the Nominated Address), each of the Customers hereby absolutely and irrevocably:
  - (a) authorise the Authorised Person to collect the Goods on their behalf in accordance with this Deed; and
  - (b) authorise and direct the Liquidator to:
    - (i) allow the Authorised Person to collect the Goods on their behalf; or
    - (ii) cause the Goods to be delivered to the Collecting Person at the Nominated Address,
 in accordance with this Deed.

## 4. Access to the Premises and retrieval of the Goods

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- (a) On or before collection or delivery of the Goods in accordance with this Deed, the Customers must:

- (i) confirm whether they wish for the Goods to be collected in accordance with clause 4(b)(iii) or delivered to the Nominated Address in accordance with clause 4(b)(iv); and
  - (ii) pay to the Liquidator (without set-off, counterclaim or deduction):
    - (A) any Amount Due; and
    - (B) the Cost Recovery Fee.
- (b) Subject to:
- (i) the Customers complying with their obligations pursuant to clause 4(a); and
  - (ii) the Collecting Person complying with their obligations pursuant to clause 4(c),
- the Liquidator must:
- (iii) allow the Collecting Person access to the Premises and permit the Collecting Person to take possession of the Goods, provided that the Collecting Person provides adequate photo identification at the time for the purpose of verifying his or her identity; or
  - (iv) cause the Goods to be delivered to the Collecting Person at the Nominated Address, provided that the Collecting Person provides adequate photo identification at the time of execution of this Deed and confirmation of the Nominated Address.
- (c) Where clause 4(b)(iii) applies, immediately upon taking delivery of the Goods, the Collecting Person must provide the Liquidator with an acknowledgement in writing (in the terms set out in Schedule 3 to this Deed or terms otherwise acceptable to the Liquidator in his discretion) that he or she has taken delivery of the Goods.

## 5. Unfulfilled Goods

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- 5.1 This clause 5 applies if there are any Unfulfilled Goods in respect of which the Customers have paid any amounts to the Company prior to the Appointment Date.
- 5.2 The Liquidator acknowledges and agrees that, if this clause 5 applies, that the Customers are entitled to prove in the liquidation of the Company for any amounts paid by them to the Company prior to the Appointment Date in respect of any Unfulfilled Goods.

## 6. No representations, warranties or undertaking

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Each of the Customers acknowledge and agree that, save as expressly set out in this Deed, they have not relied on any representation, warranty or undertaking of any kind made by or on behalf of the Company, the Liquidator or any of their respective employees, advisers and agents.

## 7. Indemnity and release

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### 7.1 Release

Upon execution of this Deed by each Customer, each Customer absolutely and irrevocably releases, waives and forever discharges the Liquidator and any of his partners, employees, officers, advisers and agents and RSM Australia Pty Ltd from any and all Claims which the Customers have or, but for the execution of this Deed, may have against the Liquidator and any of his partners, employees, officers, advisers and agents, RSM Australia Partners and RSM Australia Pty Ltd arising from or otherwise relating to or connected in any way with any of the following, whether occurring before, on or after the Effective Time:

- (a) the Goods;
- (b) the Sales Order;
- (c) the Unfulfilled Goods;
- (d) if applicable, the collection of the Goods by the Authorised Person in accordance with this Deed;
- (e) this Deed; and
- (f) the Appointment.

### 7.2 Bar

The Liquidator and any of his partners, employees, officers, advisers and agents, RSM Australia Partners and RSM Australia Pty Ltd may plead this Deed as a bar to any Claims made or actual proceedings commenced by a Customer (or anybody claiming through them or any of them) against the Liquidator or any of his employees, officers, advisers and agents.

### 7.3 Indemnity

Each Customer each hereby agrees to indemnify and keep indemnified at all times the Liquidator against:

- (a) any and all Loss, Liability or Claim of or against the Liquidator to the extent that such Loss, Liability or Claim arises from, or is connected with any breach of any

of the warranties made by any Customer (including, without limitation, those at clauses 2.1 or the breach of any other provision of this Deed;

- (b) any and all Loss, Liability or Claim of or against the Liquidator arising from, or connected with, any of the warranties in clause 2.1 not being true and correct; and
- (c) any and all Loss, Liability or Claim of or against the Liquidator arising from, or connected with, the collection of the Goods by the Collecting Person in accordance with this Deed.

#### 7.4 **Continuing obligation**

The release and indemnities in clauses 7.1 and 7.3 respectively are continuing obligations, separate and independent from the other obligations set out in this Deed and survive termination of this Deed.

#### 7.5 **Indemnities survive retirement of Liquidator**

The parties acknowledge and agree that the indemnities given by each Customer to the Liquidator in this Deed are continuing obligations and are not revoked, affected, compromised or prejudiced by the retirement of the Liquidator as liquidator of the Company or finalisation of the liquidation of the Company.

## 8. **No waiver**

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### 8.1 **No waiver**

The failure of a party at any time to require performance of any obligation under this Deed is not a waiver of that Party's right:

- (a) to claim damages for breach of that obligation;
- (b) to enforce any indemnity that they take the benefit of under this Deed; and
- (c) at any other time to require performance of that or any other obligation under this Deed,

unless written notice to that effect is given in accordance with this Deed.

### 8.2 **Waiver**

Waiver of any provision of or right under this Deed:

- (a) save for in relation to clause 4(a), must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

## 9. Joint and several obligations

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### 9.1 Parties jointly and severally bound

Any provision in this Deed which binds more than one party binds all of those parties jointly and each of them individually.

### 9.2 Separate obligations

Each obligation imposed on a party by this Deed in favour of another is a separate obligation.

## 10. Costs

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Each party to this Deed must bear and pay its own legal costs and expenses in relation to the negotiation, preparation and execution of, and the satisfaction of the conditions precedent under, this Deed.

## 11. Counterparts

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### 11.1 Parts

This Deed may be executed in counterparts by the respective parties, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same deed. This Deed shall take effect immediately upon it having been executed (whether together or by execution of different counterparts) by all of the parties.

### 11.2 Facsimile and PDF copies

An executed facsimile or PDF copy of this Deed is acceptable as an original.

## 12. Confidentiality

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The parties undertake that they will not disclose the contents of this Deed or any information relating to it to any third party, unless the disclosure is:

- (a) for the purposes of enforcing this Deed;
- (b) with the written consent of the other parties;
- (c) to the Party's professional advisers; or

(d) required by law.

### 13. Severability

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Part or all of any provision of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining provisions of this Deed will continue in force.

### 14. Entire agreement

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This Deed constitutes the entire agreement between the parties with respect to the subject matter of this Deed and contains all of the representations, warranties, covenants and agreements of the parties in relation to the subject matter of this Deed.

### 15. Time of the essence

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Time is of the essence in this Deed in relation to any obligation to pay money or in relation to any obligation to satisfy conditions precedent.

### 16. Variation

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A variation of any term of this Deed will be of no force or effect unless it is in writing and signed by each of the parties.

### 17. Jurisdiction

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This Deed shall be governed by and construed in accordance with the laws of Western Australia and the parties submit themselves to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia.

### 18. Trustees

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Each of the Customers enter into this Deed in their own capacity and as trustee of the relevant Trust (if applicable).

## 19. Further assurances

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Each party must promptly execute all documents and do all things necessary or desirable to give full effect to the arrangements set out in this Deed.

**Schedule 1** Customer(s) and Sale Order details**Customer(s)**

	<b>Customer Name</b>	<b>Addresses</b>
1.		
2.		

**Sales Order number(s)**

--

**Nominated Address**

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**Schedule 2**      **Authorised Person(s)**

	<b>Name</b>	<b>Addresses</b>
1.		
2.		



### Schedule 3 Form of acknowledgement of collection

<b>Customer(s):</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Customer(s) Address:</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Collecting Person(s):</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Collecting Person(s) Address:</b>	DO NOT COMPLETE - SAMPLE ONLY
<b>Date:</b>	DO NOT COMPLETE - SAMPLE ONLY

I/we, the Collecting Person(s), hereby acknowledge that:

1. I am / we are the Collecting Person(s), as that term is defined in the Deed of Release and Indemnity signed by the Customer (**Deed**); and
2. I / we jointly hereby take possession and control of the Goods (as that term is defined in the Deed).

**This letter is executed as a deed poll**

**Signed, sealed and delivered by**  
 \_\_\_\_\_ in the presence of:

\_\_\_\_\_  
 Signature of witness

**DO NOT SIGN - SAMPLE ONLY**

\_\_\_\_\_  
 Signature of Collecting Person

\_\_\_\_\_  
 Full name of witness (print)

\_\_\_\_\_  
 Address of witness (print)

**Signed, sealed and delivered by**  
\_\_\_\_\_ in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**DO NOT SIGN - SAMPLE ONLY**

\_\_\_\_\_  
Signature of Collecting Person

**Executed** as a deed.

**Executed by Bullion Bourse Pty Ltd  
(ACN 140 221 067) (In Liquidation) by its  
liquidator:**

\_\_\_\_\_  
Signature of Neil Raymond Cribb, liquidator  
of Bullion Bourse Pty Ltd (ACN 140 221  
067) (In Liquidation)

**Signed, sealed and delivered by Neil  
Raymond Cribb** in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of Neil Raymond Cribb

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Sign here if Customer(s) is an / are individual(s):**

**Signed, sealed and delivered** by  
\_\_\_\_\_ [name] in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ [name]

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ [name] in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ [name]

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ [name] in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ [name]

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Signed, sealed and delivered** by  
\_\_\_\_\_ **[name]** in the presence  
of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of \_\_\_\_\_ **[name]**

\_\_\_\_\_  
Full name of witness (print)

\_\_\_\_\_  
Address of witness (print)

**Sign here if Customer is a company:****Executed by**

\_\_\_\_\_ [company name]

ACN: \_\_\_\_\_ in accordance with  
section 127 of the *Corporations Act 2001* (Cth)

by:

\_\_\_\_\_  
Signature of Director\_\_\_\_\_  
Signature of Director/Company Secretary\_\_\_\_\_  
Full name (print)\_\_\_\_\_  
Full name (print)

