

## ARRANGEMENT AGREEMENT

**THIS ARRANGEMENT AGREEMENT** is dated as of the 22<sup>nd</sup> day of March, 2018.

### **BETWEEN:**

**LITHIUM CHILE INC.**, a corporation existing under the *Business Corporations Act* (Alberta)

("LITH")

### **AND:**

**KAIROS METALS CORP.**, a corporation existing under the *Business Corporations Act* (Alberta)

("SpinCo")

### **WHEREAS:**

(A) LITH is the registered and beneficial owner of all of the issued and outstanding SpinCo Shares;

(B) LITH and SpinCo wish to proceed with a corporate restructuring by way of a statutory arrangement under the ABCA, pursuant to which LITH and SpinCo will participate in a series of transactions whereby, among other things, LITH will reduce the stated capital account maintained in respect of the LITH Shares and distribute the SpinCo Shares such that the holders of LITH Shares (other than Dissenting Shareholders) will become holders of SpinCo Shares and LITH will cease to hold any SpinCo Shares;

(C) LITH proposes to convene a meeting of the LITH Shareholders to consider the Arrangement pursuant Section 193 of the ABCA, on the terms and conditions set forth in the Plan of Arrangement attached as Exhibit I hereto; and

(D) Each of the parties to this Agreement has agreed to participate in and support the Arrangement.

**NOW THEREFORE**, in consideration of the premises and the respective covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto hereby covenant and agree as follows:

## **ARTICLE 1 DEFINITIONS, INTERPRETATION AND EXHIBIT**

**1.1 Definitions.** In this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following capitalized words and terms shall have the following meanings:

- (a) "**ABCA**" means the Business Corporations Act, R. S. A., 2000, c. B-Q, as amended;
- (b) "**Agreement**" means this arrangement agreement, including the exhibits attached hereto as the same may be supplemented or amended from time to time;

- (c) "**Arrangement**" means the arrangement pursuant to the Arrangement Provisions of this Agreement and the Plan of Arrangement;
- (d) "**Arrangement Provisions**" means the provisions set forth in Section 193 of the ABCA;
- (e) "**Arrangement Resolution**" means the special resolution of the LITH Shareholders to approve the Arrangement, as required by the Interim Order and the ABCA;
- (f) "**Board of Directors**" means the current and existing board of directors of LITH;
- (g) "**Business Day**" means a day which is not a Saturday, Sunday or statutory holiday in Calgary, Alberta;
- (h) "**CGS Claims**" means LITH's prospective copper, gold and silver claims in Chile on properties known as "Salvadora" (which includes the Salvadora Property), "La Fortuna", "Nancagua", "Carmona", "Apolo" and "San Carron" held by Compania Minera Kairos Chile Limitada, a Chilean formed limited liability company owned by LITH;
- (i) "**Constituting Documents**" means, in respect of each of LITH and SpinCo, their Articles of Incorporation, as amended, pursuant to the provisions of the ABCA;
- (j) "**Court**" means the Court of Queen's Bench of Alberta;
- (k) "**Dissent Rights**" means the right of a registered LITH Shareholder to dissent from the Arrangement Resolution in accordance with the provisions of the ABCA, and the Interim Order, and to be paid the fair value of the LITH Shares in respect of which the holder dissents;
- (l) "**Distribution**" means the proposed distribution in kind of that number of SpinCo Shares to be distributed to LITH Shareholders on the basis of one (1) SpinCo Share for every four (4) LITH Shares;
- (m) "**Distribution Record Date**" means the record date for the Distribution, which is proposed to be set after Court approval of the Arrangement, in conjunction with the approval of the TSXV;
- (n) "**Effective Date**" shall be the date the Arrangement becomes effective pursuant to the ABCA, being the date shown on the Certificate of Arrangement;
- (o) "**Final Order**" means the final order of the Court approving the Arrangement;
- (p) "**Information Circular**" means the management information circular of LITH, including all schedules thereto, to be sent to the LITH Shareholders in connection with the LITH Meeting, together with any amendments or supplements thereto;
- (q) "**Intercompany Loan**" means the loan of US\$1,100,000 to be made from LITH to SpinCo;
- (r) "**Interim Order**" means the interim order of the Court providing advice and directions in connection with the LITH Meeting and the Arrangement;

- (s) "**LITH Meeting**" means the special meeting of the LITH Shareholders and any adjournment(s) or postponement(s) thereof to be held to, among other things, consider and, if deemed advisable, approve the Arrangement;
- (t) "**LITH Shareholder**" means a holder of LITH Shares;
- (u) "**LITH Shares**" means the issued and outstanding common shares of LITH as the same are constituted on the date hereof;
- (v) "**LITH Stock Option Plan**" means the existing stock option plan of LITH, as updated and amended from time to time;
- (w) "**Mineral Claims Purchase and Sale Agreement**" means the mineral claims purchase and sale agreement made as of March 9, 2018 whereby Compania Minera San Lorenzo Limitada, a Chilean formed limited liability company owned by SpinCo, will acquire the CGS Claims from Compania Minera Kairos Chile Limitada, a Chilean formed limited liability company owned by LITH;
- (x) "**party**" means either LITH or SpinCo and "**parties**" means, collectively, LITH and SpinCo;
- (y) "**Person**" means and includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, a trustee, executor, administrator or other legal representative and the Crown or any agency or instrumentality thereof;
- (z) "**Plan of Arrangement**" means the plan of arrangement attached to this Agreement as Exhibit I, as the same may be amended from time to time;
- (aa) "**Promissory Note**" means the promissory note issued by SpinCo to LITH in the amount of US\$1,150,000 evidencing the Intercompany Loan and SpinCo's agreed share of the costs of the Arrangement of US\$50,000, which note has a two year term and which will bear interest at a rate of two percent (2%) per year;
- (bb) "**Registrar**" means the Registrar of Corporations for the Province of Alberta duly appointed under Section 263 of the ABCA;
- (cc) "**SpinCo Options**" means share purchase options to be issued pursuant to the SpinCo Stock Option Plan;
- (dd) "**SpinCo Shares**" means all of the issued and outstanding common shares of SpinCo;
- (ee) "**SpinCo Stock Option Plan**" means the stock option plan to be adopted by SpinCo in accordance with Section 4.3 of this Agreement on substantially similar terms as the LITH Stock Option Plan and as may otherwise be modified, amended or restated as more particularly set forth in the Information Circular; and
- (ff) "**TSXV**" means the TSX Venture Exchange Inc.

**1.2 Currency.** All amounts of money which are referred to in this Agreement are expressed in lawful money of Canada unless otherwise specified.

**1.3 Interpretation Not Affected by Headings.** The division of this Agreement into articles, sections, subsections, paragraphs and subparagraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the provisions of this Agreement. The terms "this Agreement", "hereof", "herein", "hereunder" and similar expressions refer to this Agreement and the exhibits hereto as a whole and not to any particular article, section, subsection, paragraph or subparagraph hereof and include any agreement or instrument supplementary or ancillary hereto.

**1.4 Number and Gender.** In this Agreement, unless the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing the use of either gender shall include both genders and neuter and words importing persons shall include firms and corporations.

**1.5 Date for any Action.** In the event that any date on which any action is required to be taken hereunder by LITH or SpinCo is not a Business Day in the place where the action is required to be taken, such action shall be required to be taken on the next succeeding day which is a Business Day in such place.

**1.6 Meaning.** Words and phrases used herein and defined in the ABCA shall have the same meaning herein as in the ABCA unless the context otherwise requires.

**1.7 Exhibits.** Attached hereto and deemed to be incorporated into and form part of this Agreement as Exhibit I is the Plan of Arrangement.

## **ARTICLE 2 ARRANGEMENT**

**2.1 Arrangement.** The parties agree to effect the Arrangement pursuant to the Arrangement Provisions on the terms and subject to the conditions contained in this Agreement and the Plan of Arrangement.

**2.2 Effective Date of Arrangement.** The Arrangement shall become effective on the Effective Date as set out in the Plan of Arrangement.

**2.3 Commitment to Effect.** Subject to termination of this Agreement pursuant to Article 6 hereof, the parties shall each use all reasonable efforts and do all things reasonably required to cause the Plan of Arrangement to become effective by no later than May 15, 2018, or by such other date as LITH and SpinCo may determine, and in conjunction therewith to cause the conditions described in Section 5.1 to be complied with prior to the Effective Date. Without limiting the generality of the foregoing, the parties shall proceed forthwith to apply for the Interim Order and LITH shall call the LITH Meeting and mail the Information Circular to the LITH Shareholders.

**2.4 Filing of Final Order.** Subject to the rights of termination contained in Article 6 hereof, upon the LITH Shareholders approving the Arrangement by special resolution in accordance with the provisions of the Interim Order and the ABCA, LITH obtaining the Final Order and the other conditions contained in Article 5 hereof being complied with or waived, LITH on its behalf and on behalf of SpinCo shall file with the Registrar:

- (a) the records and information required by the Registrar pursuant to the Arrangement Provisions; and
- (b) a copy of the Final Order.

**ARTICLE 3  
REPRESENTATIONS AND WARRANTIES**

**3.1 Representations and Warranties.** Each of the parties hereby represents and warrants to the other party that:

- (a) it is a corporation duly incorporated and validly subsisting under the laws of its jurisdiction of incorporation, and has full capacity and authority to enter into this Agreement and to perform its covenants and obligations hereunder;
- (b) it has taken all corporate actions necessary to authorize the execution and delivery of this Agreement and to consummate the transactions contemplated herein and this Agreement has been duly executed and delivered by it;
- (c) neither the execution and delivery of this Agreement nor the performance of any of its covenants and obligations hereunder will constitute a material default under, or be in any material contravention or breach of (i) any provision of its Constatng Documents or other governing corporate documents, (ii) any judgment, decree, order, law, statute, rule or regulation applicable to it, or (iii) any agreement or instrument to which it is a party or by which it is bound; and
- (d) no dissolution, winding up, bankruptcy, liquidation or similar proceedings has been commenced or are pending or proposed in respect of it.

**ARTICLE 4  
COVENANTS**

**4.1 Covenants.** Each of the parties covenants with the other that it will do and perform all such acts and things, and execute and deliver all such agreements, assurances, notices and other documents and instruments, as may reasonably be required to facilitate the carrying out of the intent and purpose of this Agreement.

**4.2 Interim Order and Final Order.** The parties acknowledge that LITH will apply to and obtain from the Court, pursuant to the Arrangement Provisions, the Interim Order providing for, among other things, the calling and holding of the LITH Meeting for the purpose of considering and, if deemed advisable, approving and adopting the Arrangement Resolution. The parties each covenant and agree that if the approval of the Arrangement by the LITH Shareholders as set out in Section 5.1(b) hereof is obtained, LITH will thereafter (subject to the exercise of any discretionary authority granted to LITH's directors) take the necessary actions to submit the Arrangement to the Court for approval and apply for the Final Order and, subject to compliance with any of the other conditions provided for in Article 5 hereof and to the rights of termination contained in Article 6 hereof, file the material described in Section 2.4 with the Registrar.

**4.3 SpinCo Stock Option Plan.** In connection with, but prior to, the Arrangement, SpinCo shall adopt the SpinCo Stock Option Plan, which shall be substantially in the form attached to the Information Circular.

## **ARTICLE 5 CONDITIONS**

**5.1 Conditions Precedent.** The respective obligations of the parties to complete the transactions contemplated by this Agreement shall be subject to the satisfaction of the following conditions:

- (a) the Interim Order shall have been granted in form and substance satisfactory to LITH;
- (b) the Arrangement Resolution, with or without amendment, shall have been approved and adopted at the LITH Meeting by the LITH Shareholders in accordance with the Arrangement Provisions, the Constatting Documents of LITH, the Interim Order and the requirements of any applicable regulatory authorities;
- (c) the Final Order shall have been obtained in form and substance satisfactory to each of LITH and SpinCo;
- (d) the TSXV shall have conditionally approved the Arrangement;
- (e) all other consents, orders, regulations and approvals, including regulatory and judicial approvals and orders required or necessary or desirable for the completion of the transactions provided for in this Agreement and the Plan of Arrangement shall have been obtained or received from the Persons, authorities or bodies having jurisdiction in the circumstances each in form acceptable to LITH;
- (f) there shall not be in force any order or decree restraining or enjoining the consummation of the transactions contemplated by this Agreement and the Plan of Arrangement;
- (g) no law, regulation or policy shall have been proposed, enacted, promulgated or applied which interferes or is inconsistent with the completion of the Arrangement and Plan of Arrangement, including any material change to the income tax laws of Canada or Chile, which would reasonably be expected to have a material adverse effect on any of LITH, the LITH Shareholders or SpinCo if the Arrangement is completed;
- (h) the closing of the Mineral Claims Purchase and Sale Agreement;
- (i) the funding of the Intercompany Loan;
- (j) the issuance of the Promissory Note;
- (k) notices of dissent pursuant to Article 5 of the Plan of Arrangement shall not have been delivered by LITH Shareholders holding greater than 1% of the outstanding LITH Shares; and
- (l) this Agreement shall not have been terminated under Article 6 hereof.

Except for the conditions set forth in Sections 5.1(a), (b), (c), (d) and (l), which may not be waived, any of the other conditions in this Section 5.1 may be waived by either LITH or SpinCo in their discretion.

**5.2 Pre-Closing.** Unless this Agreement is terminated earlier pursuant to the provisions hereof, the parties shall meet at the offices of Burstall Winger Zammit LLP, Suite 1600, 333 – 7th Avenue S.W., Calgary, Alberta, T2P 2Z1, at 10:00 a.m. on the Business Day immediately preceding the Effective Date,

or at such other location or at such other time or on such other date as they may mutually agree, and each of them shall deliver to the other of them:

- (a) the documents required to be delivered by it hereunder to complete the transactions contemplated hereby, provided that each such document required to be dated the Effective Date shall be dated as of, or become effective on, the Effective Date and shall be held in escrow to be released upon the occurrence of the Effective Date; and
- (b) written confirmation as to the satisfaction or waiver by it of the conditions in its favour contained in this Agreement.

**5.3 Merger of Conditions.** The conditions set out in Section 5.1 hereof shall be conclusively deemed to have been satisfied, waived or released upon the occurrence of the Effective Date.

**5.4 Merger of Representations, Warranties and Covenants.** The representations and warranties in Section 3.1 shall be conclusively deemed to be correct as of the Effective Date and the covenants in Section 4.1 hereof shall be conclusively deemed to have been complied with in all respects as of the Effective Date, and each shall accordingly merge in and not survive past the Effective Date.

## **ARTICLE 6 AMENDMENT AND TERMINATION**

**6.1 Amendment.** Subject to any mandatory applicable restrictions under the Arrangement Provisions or the Final Order, this Agreement, including the Plan of Arrangement, may at any time and from time to time before or after the holding of the LITH Meeting, but prior to the Effective Date, be amended by the written agreement of the parties hereto without, subject to applicable law, further notice to or authorization on the part of the LITH Shareholders.

**6.2 Termination.** Subject to Section 6.3, this Agreement may at any time before or after the holding of the LITH Meeting, and before or after the granting of the Final Order, but in each case prior to the Effective Date, be terminated by direction of the Board of Directors of LITH without further action on the part of the LITH Shareholders and nothing expressed or implied herein or in the Plan of Arrangement shall be construed as fettering the absolute discretion by the Board of Directors of LITH to elect to terminate this Agreement and discontinue efforts to effect the Arrangement for whatever reasons it may consider appropriate.

**6.3 Cessation of Right.** The right of LITH or SpinCo or any other party to amend or terminate the Plan of Arrangement pursuant to Section 6.1 and Section 6.2 shall be extinguished upon the occurrence of the Effective Date.

## **ARTICLE 7 GENERAL**

**7.1 Notices.** All notices which may or are required to be given pursuant to any provision of this Agreement shall be given or made in writing and shall be delivered or sent by facsimile or email, addressed as follows:

- (a) in the case of LITH:  
  
900, 903 - 8<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 0P7

Attention: Steven Cochrane  
Email: steve@lithiumchile.ca

(b) in the case of Kairos:

900, 903 - 8<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 0P7

Attention: Al Kroontje  
Email: al@kasten.ca

(c) in each case with a copy to:

Burstall Winger Zammit LLP  
Suite 1600, 333 – 7<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 2Z1

Attention: Dale Burstall  
Email: dale@burstall.com

**7.2 Assignment.** Neither of the parties may assign its rights or obligations under this Agreement or the Arrangement without the prior written consent of the other.

**7.3 Binding Effect.** This Agreement and the Arrangement shall be binding upon and shall enure to the benefit of the parties and their respective successors and permitted assigns.

**7.4 Waiver.** Any waiver or release of the provisions of this Agreement, to be effective, must be in writing and executed by the party granting such waiver or release.

**7.5 Governing Law.** This Agreement shall be governed by and be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

**7.6 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

**7.7 Expenses.** All expenses incurred by a party in connection with this Agreement, the Arrangement and the transactions contemplated hereby and thereby shall be borne by the party that incurred the expense or as otherwise mutually agreed by the parties.

**7.8 Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written, of the parties.

**7.9 Time is of the Essence.** Time is of the essence of this Agreement.

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**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first above written.

**LITHIUM CHILE INC.**

Per: (signed) "Steven Cochrane"  
Authorized Signatory

**KAIROS METALS CORP.**

Per: (signed) "Al Kroontje"  
Authorized Signatory

## EXHIBIT I

### TO THE ARRANGEMENT AGREEMENT DATED AS OF THE 22<sup>ND</sup> DAY OF MARCH, 2018 BETWEEN LITHIUM CHILE INC. AND KAIROS METALS CORP.

#### PLAN OF ARRANGEMENT UNDER SECTION 193 OF THE BUSINESS CORPORATIONS ACT (ALBERTA)

#### ARTICLE 1 DEFINITIONS AND INTERPRETATION

**1.1 Definitions.** In this plan of arrangement, unless there is something in the subject matter or context inconsistent therewith, the following capitalized words and terms shall have the following meanings:

- (a) "**ABCA**" means the Business Corporations Act, R. S. A., 2000, c. B-Q, as amended;
- (b) "**Arrangement**" means the arrangement pursuant to Section 193 of the ABCA, on the terms and conditions set forth in this Plan of Arrangement, as supplemented, modified or amended;
- (c) "**Arrangement Agreement**" means the arrangement agreement dated as of March 22, 2018, between LITH and SpinCo, as may be supplemented or amended from time to time;
- (d) "**Board of Directors**" means the current and existing board of directors of LITH;
- (e) "**Business Day**" means a day which is not a Saturday, Sunday or statutory holiday in Calgary, Alberta;
- (f) "**Court**" means the Court of Queen's Bench of Alberta;
- (g) "**Dissent Rights**" means the rights of dissent granted in favour of registered holders of LITH Shares in accordance with Article 5 of this Plan of Arrangement;
- (h) "**Dissenting Shareholder**" means a registered holder of LITH Shares who dissents in respect of the Arrangement in strict compliance with the Dissent Procedures and who has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights;
- (i) "**Dissent Procedures**" means the rules pertaining to the exercise of Dissent Rights as set forth in the Interim Order and in Article 5 of this Plan of Arrangement;
- (j) "**Distribution Record Date**" means the close of business on the Business Day immediately preceding the Effective Date for the purpose of determining the LITH Shareholders entitled to receive SpinCo Shares under the Arrangement or such other date as the Board of Directors may select;
- (k) "**Effective Date**" means the date the Arrangement becomes effective under the ABCA, being the date shown on the proof of filing to be issued by the Registrar in respect of the Articles of Arrangement;

- (l) "**Effective Time**" means 12:01 a.m. on the Effective Date or such other time on the Effective Date as agreed to in writing by LITH and SpinCo;
- (m) "**Final Order**" means the final order of the Court approving the Arrangement;
- (n) "**Interim Order**" means the interim order of the Court providing advice and directions in connection with the LITH Meeting and the Arrangement;
- (o) "**LITH**" or the "**Company**" means Lithium Chile Inc., a corporation existing under the ABCA;
- (p) "**LITH Meeting**" means the annual and special meeting of the LITH Shareholders and any adjournments thereof to be held to, among other things, consider and, if deemed advisable, approve the Arrangement;
- (q) "**LITH Shareholders**" means holders of LITH Shares;
- (r) "**LITH Shares**" means the voting common shares without par value which LITH is authorized to issue as the same are constituted on the date hereof;
- (s) "**Plan of Arrangement**" means this plan of arrangement, as the same may be amended from time to time;
- (t) "**Registrar**" means the Registrar of Companies under the ABCA;
- (u) "**SpinCo**" means Kairos Metals Corp., a company existing under the ABCA;
- (v) "**SpinCo Shareholder**" means a holder of SpinCo Shares;
- (w) "**SpinCo Shares**" means the no par value shares which SpinCo is authorized to issue as the same are constituted on the date hereof;
- (x) "**SpinCo Stock Option Plan**" means the stock option plan adopted by SpinCo, in substantially the form set forth in the management information circular of LITH, to be sent to LITH Shareholders in connection with the LITH Meeting;
- (y) "**Tax Act**" means the *Income Tax Act* (Canada), R.S.C. 1985 (5th Supp.) c.1, as amended;
- (z) "**Transfer Agent**" means Computershare Trust Company of Canada at its principal office in Calgary, Alberta; and
- (aa) "**TSXV**" means the TSX Venture Exchange Inc.

**1.2 Interpretation Not Affected by Headings.** The division of this Plan of Arrangement into articles, sections, subsections, paragraphs and subparagraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Plan of Arrangement. Unless otherwise specifically indicated, the terms "this Plan of Arrangement", "hereof", "hereunder" and similar expressions refer to this Plan of Arrangement as a whole and not to any particular article, section, subsection, paragraph or subparagraph and include any agreement or instrument supplementary or ancillary hereto.

**1.3 Number and Gender.** Unless the context otherwise requires, words importing the singular number only shall include the plural and vice versa, words importing the use of either gender shall include both genders and neuter and words importing persons shall include firms and corporations.

**1.4 Meaning.** Words and phrases used herein and defined in the ABCA shall have the same meaning herein as in the ABCA, unless the context otherwise requires.

**1.5 Date for any Action.** If any date on which any action is required to be taken under this Plan of Arrangement is not a Business Day, such action shall be required to be taken on the next succeeding Business Day.

**1.6 Governing Law.** This Plan of Arrangement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

## **ARTICLE 2 ARRANGEMENT AGREEMENT**

**2.1 Arrangement Agreement.** This Plan of Arrangement is made pursuant and subject to the provisions of the Arrangement Agreement.

**2.2 Arrangement Effectiveness.** The Arrangement and this Plan of Arrangement shall become final and conclusively binding on LITH, the LITH Shareholders (including Dissenting Shareholders) and SpinCo Shareholders at the Effective Time without any further act or formality as required on the part of any person, except as expressly provided herein.

## **ARTICLE 3 THE ARRANGEMENT**

**3.1 The Arrangement.** Commencing at the Effective Time, the following shall occur and be deemed to occur in the following chronological order without further act or formality notwithstanding anything contained in the provisions attaching to any of the securities of LITH or SpinCo, but subject to the provisions of Article 5:

- (a) the stated capital account maintained in respect of the LITH Shares will be reduced by an amount equal to the fair market value of the SpinCo Shares, estimated to be \$1,200 or such other estimated amount as determined by the Board of Directors; and
- (b) LITH will distribute to the LITH Shareholders one (1) SpinCo Share for each four (4) LITH Shares held by a LITH Shareholder.

**3.2 Deemed Fully Paid and Non-Assessable Shares.** All SpinCo Shares issued pursuant hereto shall be deemed to be validly issued and outstanding as fully paid and non-assessable shares for all purposes of the ABCA.

**3.3 No Fractional Shares.** Notwithstanding any other provision of this Arrangement, no fractional SpinCo Shares shall be distributed to the LITH Shareholders and, as a result, the number of SpinCo Shares issued to such LITH Shareholder will be rounded up to the nearest whole number of SpinCo Shares if the fractional entitlement is equal to or greater than 0.5 and shall, without any additional compensation, be rounded down to the nearest whole number of SpinCo Shares if the fractional entitlement is less than 0.5. In calculating such fractional interests, all LITH Shares registered in the name of or beneficially owned by such LITH Shareholder shall be aggregated.

**3.4 Distribution Record Date.** In Section 3.1(b) the reference to a LITH Shareholder shall mean a person who is a LITH Shareholder on the Distribution Record Date, subject to the provisions of Article 5.

**3.5 Supplementary Actions.** Notwithstanding that the transactions and events set out in Section 3.1 shall occur and shall be deemed to occur in the chronological order therein set out without any act or formality, each of LITH and SpinCo shall be required to make, do and execute or cause and procure to be made, done and executed all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may be required to give effect to, or further document or evidence, any of the transactions or events set out in Section 3.1, including, without limitation, any resolutions of directors authorizing the issue, transfer or redemption of shares, any share transfer powers evidencing the transfer of shares and any receipt therefor, any necessary additions to or deletions from share registers, and agreements for stock options.

**3.6 No Liens.** Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any liens, restrictions, adverse claims or other claims of third parties of any kind.

#### **ARTICLE 4 CERTIFICATES**

**4.1 SpinCo Share Certificates.** As soon as practicable following the Effective Date, SpinCo shall deliver or cause to be delivered to the Transfer Agent certificates representing the SpinCo Shares required to be issued to registered holders of LITH Shares as at immediately prior to the Effective Time in accordance with the provisions of Section 3.1(b) of this Plan of Arrangement, which certificates shall be held by the Transfer Agent as agent and nominee for such holders for distribution thereto in accordance with the provisions of Section 6.1 hereof.

**4.2 Interim Period.** Any LITH Shares traded after the Distribution Record Date shall not carry any rights to receive SpinCo Shares.

#### **ARTICLE 5 RIGHTS OF DISSENT**

**5.1 Dissent Right.** Registered holders of LITH Shares may exercise Dissent Rights with respect to their LITH Shares in connection with the Arrangement and pursuant to the Interim Order in the manner set forth in the Dissent Procedures, as they may be amended by the Interim Order, Final Order or any other order of the Court, and provided that such dissenting LITH Shareholder delivers a written notice of dissent to LITH at least two Business Days before the day of the Meeting or any adjournment or postponement thereof.

**5.2 Dealing with Dissenting Shares.** LITH Shareholders who duly exercise Dissent Rights with respect to their Dissenting Shares and who:

- (a) are ultimately entitled to be paid fair value for their LITH Shares shall be deemed to have transferred their LITH Shares to LITH for cancellation as of the Effective Time; or
- (b) for any reason are ultimately not entitled to be paid for their LITH Shares, shall be deemed to have participated in the Arrangement on the same basis as a non-dissenting LITH Shareholder and shall receive SpinCo Shares on the same basis as every other non-dissenting LITH Shareholder.

**5.3 Reservation of SpinCo Shares.** If a LITH Shareholder exercises Dissent Rights, LITH shall, on the Effective Date, set aside and not distribute that portion of the SpinCo Shares which is attributable to the LITH Shares for which Dissent Rights have been exercised. If the dissenting LITH Shareholder is ultimately not entitled to be paid for their Dissenting Shares, LITH shall distribute to such LITH Shareholder his or her pro rata portion of the SpinCo Shares. If a LITH Shareholder duly complies with the Dissent Procedures and is ultimately entitled to be paid for their Dissenting Shares, then LITH shall retain the portion of the SpinCo Shares attributable to such LITH Shareholder and such shares will be dealt with as determined by the Board of Directors of LITH in its discretion.

## **ARTICLE 6 DELIVERY OF SHARES**

**6.1 Delivery of Shares.** Upon delivery to the Transfer Agent of such documents and instruments as the Transfer Agent may reasonably require, each LITH Shareholder shall be entitled to receive, and the Transfer Agent shall deliver to such holder following the Effective Time, a certificate representing the SpinCo Shares that such holder is entitled to receive in accordance with Section 3.1 hereof.

**6.2 Paramountcy.** From and after the Effective Time: (i) this Plan of Arrangement shall take precedence and priority over any and all LITH Shares issued prior to the Effective Time; and (ii) the rights and obligations of the registered holders of LITH Shares and of LITH, SpinCo, the Transfer Agent and any transfer agent or other Transfer Agent therefor, shall be solely as provided for in this Plan of Arrangement.

## **ARTICLE 7 AMENDMENTS & WITHDRAWAL**

**7.1 Amendments.** LITH, in its sole discretion, reserves the right to amend, modify and/or supplement this Plan of Arrangement from time to time at any time prior to the Effective Time provided that any such amendment, modification or supplement must be contained in a written document that is filed with the Court and, if made following the Meeting, approved by the Court.

**7.2 Amendments Made Prior to or at the Meeting.** Any amendment, modification or supplement to this Plan of Arrangement may be proposed by LITH at any time prior to or at the Meeting with or without any prior notice or communication, and if so proposed and accepted by the LITH Shareholders voting at the Meeting, shall become part of this Plan of Arrangement for all purposes.

**7.3 Amendments Made After the Meeting.** Any amendment, modification or supplement to this Plan of Arrangement may be proposed by LITH after the Meeting but prior to the Effective Time and any such amendment, modification or supplement which is approved by the Court following the Meeting shall be effective and shall become part of the Plan of Arrangement for all purposes. Notwithstanding the foregoing, any amendment, modification or supplement to this Plan of Arrangement may be made following the granting of the Final Order unilaterally by LITH, provided that it concerns a matter which, in the reasonable opinion of LITH, is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement and is not adverse to the financial or economic interests of any holder of LITH Shares or SpinCo Shares.

**7.4 Withdrawal.** Notwithstanding any prior approvals by the Court or by LITH Shareholders, the Board of Directors may decide not to proceed with the Arrangement and to revoke the Arrangement Resolution at any time prior to the Effective Time, without further approval of the Court or the LITH Shareholders.