
SHARE PURCHASE AGREEMENT

Made as of October 26, 2018

Between

AUSTRALIS CAPITAL INC.

and

RTHM TECHNOLOGIES INC.

and

THE SHAREHOLDERS OF RTHM TECHNOLOGIES INC.

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SHARE PURCHASE AGREEMENT

This Agreement is made as of October 26, 2018, between

AUSTRALIS CAPITAL INC. a corporation existing under the laws of
Alberta
(the “**Purchaser**”)

and

RTHM TECHNOLOGIES INC. a corporation existing under the laws
of Canada
(the “**Corporation**”)

and

THE SHAREHOLDERS OF RTHM TECHNOLOGIES INC. as set
forth and described in Schedule A
(the “**Vendors**”)

RECITALS

- A. The Vendors are the registered and beneficial owner of all of the issued and outstanding common shares of the Corporation (the “**Purchased Interests**”).
- B. The Purchaser wishes to purchase, and each Vendor wishes to sell, its Purchased Interests on and subject to the terms and conditions of this Agreement.
- C. The Vendors have agreed to make an election pursuant to Section 85 of the Tax Act with respect to the purchase and sale of the Purchased Interests.

FOR VALUE RECEIVED, the Parties agree as follows:

ARTICLE 1 – INTERPRETATION

Section 1.1 Definitions

In this Agreement:

- (1) “**Affiliate**” of a Person means any Person that directly or indirectly Controls, is Controlled by, or is under common Control with, that Person, and for greater certainty includes a subsidiary.
- (2) “**Agreement**” means this agreement and all schedules to this agreement.
- (3) “**Applicable Law**” means, in respect of any Person, property, transaction, event or other matter, any present or future law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty or Order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and, whether or not having the force of law, all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction, event or other matter and regarded by such Governmental Authority as requiring compliance.

- (4) **“Books and Records”** means books, records, files and papers in the possession of the Corporation including sales and advertising materials, sales and purchase correspondence, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, computer programs (including source code), software programs, manuals and data, and the minute and share certificate books of the Corporation and all records, data and information stored electronically, digitally or on computer-related media.
- (5) **“Business”** means the business of creating and developing digital health and fitness applications.
- (6) **“Business Day”** means a day on which banks are generally open for business in both Vancouver, British Columbia and Toronto, Ontario, but does not include a Saturday, Sunday and any other day which is a legal holiday in either such city.
- (7) **“Closing”** means the completion of the Purchase on the Closing Date.
- (8) **“Closing Cash Payment”** has the meaning given to it in Section 2.3(b).
- (9) **“Closing Date”** means November 2, 2018, or such other date as may be agreed to by the Purchaser and the Corporation and in any event no later than the Outside Date.
- (10) **“Closing Shares”** has the meaning given to it in Section 2.3(a).
- (11) **“Consent”** means any consent, approval, ratification, permit, waiver, ruling, exemption or acknowledgement from any Person which is provided for or required in respect of or pursuant to the terms of any Contract in connection with the sale of the Purchased Interests to the Purchaser on the terms contemplated in this Agreement, to permit the Corporation to carry on the Business after the Closing Date or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement.
- (12) **“Consideration Shares”** has the meaning given to it in Section 4.1(7).
- (13) **“Contracts”** means all written or oral pending and executory contracts, agreements, leases, licences, arrangements, sale orders or other legally binding agreement, instrument, arrangement, promise, obligation, understanding, undertaking or commitment, whether express or implied, to which the Corporation is a party or by which the Corporation or any of its properties or assets or the Business is bound or under which the Corporation has rights.
- (14) **“Control”** of a Person by another Person means that the second Person directly or indirectly possesses the power to direct or cause the direction of the management and policies of the first Person, whether through the ownership of securities, by contract or by any other means and **“controlled by”** and **“under common control with”** have corresponding meanings.
- (15) **“Corporation Options”** means 142,923 options with each option entitling the holder thereof to purchase one non-voting common share in the capital of the Corporation.
- (16) **“Corporation Shares”** means voting common shares and non-voting common shares in the capital of the Corporation.
- (17) **“Deferred Cash Payment”** has the meaning given to it in Section 2.3(c).
- (18) **“Disclosure Letter”** means the disclosure letter dated the date of this Agreement and delivered by the Corporation to the Purchaser with this Agreement.

- (19) **“Encumbrance”** means any charge, mortgage, lien, pledge, claim, restriction, security interest or other encumbrance whether created or arising by agreement, statute or otherwise at law, attaching to property, interests or rights and shall be construed in the widest possible terms and principles known under the law applicable to such property, interests or rights.
- (20) **“Good Standing”** denotes, when used in reference to a corporation or other entity, that such corporation or entity has not been discontinued or dissolved under the laws of its incorporating jurisdiction or jurisdiction of formation, that no steps or proceedings have been taken to authorize or require such discontinuance or dissolution and that such corporation or other entity is current in filing notices or returns of corporate information and all other filings required by Applicable Law to be submitted by it to any Governmental Authority.
- (21) **“Governmental Authority”** means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any government department, body, ministry, agency, self-regulatory organization (including a stock exchange) tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.
- (22) **“Gross Revenue”** means total revenue arising from in-app sales, m-commerce sales, advertising and sponsorships.
- (23) **“IFRS”** means International Financial Reporting Standards applicable to the Corporation formulated by the International Accounting Standards Board, as updated and amended from time to time.
- (24) **“Indebtedness”** of a Person means, without duplication:
- (a) all debts and liabilities of that Person for borrowed money; and
 - (b) all debts and liabilities of that Person representing the deferred acquisition cost of property and services; and
- (25) **“Indemnified Persons”** has the meaning given to it in Section 6.4(5)(b).
- (26) **“Intellectual Property”** means all intellectual property rights owned or used by the Corporation in carrying on, or arising from the operation of, the Business, in any jurisdiction throughout the world, including:
- (a) all patents, patent rights, patent applications, registrations, continuations, continuations in part, divisional applications or analogous rights thereto, and inventions owned or used by the Corporation in the Business;
 - (b) all trade-marks, trade names, trade mark applications and registrations, trade name registrations, service marks, logos, slogans and brand names;
 - (c) all copyrights and copyright applications and registrations;
 - (d) all industrial designs and applications for registration of industrial designs and industrial design rights, design patents and industrial design registrations
 - (e) all business names, corporate names, telephone numbers (not including mobile phone numbers), domain names, domain name registrations, website names and worldwide web addresses and other communications addresses;

- (f) all proprietary software, including all documentation relating thereto and the latest revisions of all related object and source codes therefor;
 - (g) all licences granted by the Corporation of the intellectual property described in paragraphs (a) to (f) above;
 - (h) all future income and proceeds from any of the intellectual property listed in paragraphs (a) to (e) above and the licences described in paragraph (f) above;
 - (i) all rights to damages and profits by reason of the infringement of any of the intellectual property described in paragraphs (a) to (e) above and the licences described in paragraph (f) above; and
 - (j) all goodwill associated with any of the foregoing.
- (27) **“Leased Premises”** means premises leased to the Corporation pursuant to any of the Real Property Leases.
- (28) **“Licence”** means any licence, permit, authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for the Corporation by any Governmental Authority.
- (29) **“Listing”** means the Purchaser’s listing of Purchaser Shares on the Canadian Securities Exchange.
- (30) **“Material Adverse Effect”** means any material adverse effect on the assets, properties, condition (financial or otherwise), operations of the Corporation or the Purchaser, as applicable, provided, however, that a Material Adverse Effect shall not include: (i) changes in the national or world economy or financial markets as a whole or changes in general economic conditions that affect the industries in which the Corporation or the Purchaser, as applicable, conducts its business, so long as such changes or conditions do not adversely affect the Corporation or the Purchaser, as applicable, in a materially disproportionate manner relative to other similarly situated participants in the industries or markets in which it operates; (ii) any change in Applicable Law or IFRS or interpretation thereof after the date hereof, so long as such changes do not adversely affect the Corporation or the Purchaser, as applicable, in a materially disproportionate manner relative to other similarly situated participants in the industries or markets in which it operates; (iii) the transactions contemplated by this Agreement becoming public; or (iv) compliance with the terms of, and taking any action required by, this Agreement.
- (31) **“Material Contracts”** means all Contracts falling within the following categories to which the Corporation is a party or its assets or properties are bound:
- (a) any Contract that is reasonably expected to involve payments to or from the Corporation in excess of \$50,000 over the term of such Contract in any calendar year;
 - (b) any partnership, joint venture, strategic alliance, revenue-sharing or other similar Contract;
 - (c) all Contracts evidencing Indebtedness of the Corporation;
 - (d) any Contract that limits the freedom of the Corporation to engage in any line of business or to compete with any Person or in any area;

- (e) any Contract that requires the payment of royalties, commissions, finders' fees or similar payments (other than employment Contracts that provide for payment of commissions in the Ordinary Course of Business); and
 - (f) any other Contract which is otherwise material to the Corporation or entered into outside of the Ordinary Course of Business.
- (32) **“Milestone I”** means an aggregate of 1,000,000 downloads of the Corporation's Apple and Android digital application at any time within 2.5 years of the Closing Date;
 - (33) **“Milestone II”** means the Corporation has earned \$5,000,000 in aggregate Gross Revenue at any time within 2.5 years of the Closing Date;
 - (34) **“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
 - (35) **“Ordinary Course of Business”** means the ordinary and usual course of the routine daily affairs of the Business, consistent with past practice.
 - (36) **“Outside Date”** means November 15, 2018.
 - (37) **“Party”** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **“Parties”** means every Party.
 - (38) **“Performance Shares”** has the meaning given to it in Section 2.5.
 - (39) **“Permitted Encumbrances”** means (a) Encumbrances for Taxes, assessments or governmental charges or levies which relate to obligations not yet due or delinquent, (b) easements, servitudes, encroachments and other minor imperfections of title which do not, individually or in the aggregate, detract from the value of, or impair the use or marketability of, any real property, (c) undetermined or inchoate Encumbrances arising under statutory provisions which have not at the time been filed or registered in accordance with Applicable Laws or of which written notice has not been given in accordance with Applicable Laws, and (d) Encumbrances described in Schedule 3.7(5) of the Disclosure Letter.
 - (40) **“Person”** is to be broadly interpreted and includes an individual, a partnership, a corporation, a trust, a joint venture, any Governmental Authority or any incorporated or unincorporated entity or association of any nature and the executors, administrators, or other legal representatives of an individual in such capacity.
 - (41) **“Purchase”** means the transaction of purchase and sale of the Purchased Interests contemplated by this Agreement.
 - (42) **“Purchase Price”** has the meaning given to it in Section 2.2.
 - (43) **“Purchased Interest”** means 100% of the issued and outstanding shares in the capital of the Corporation outstanding immediately prior to Closing and, for any Vendor, is the Vendor's portion of the Purchased Interest immediately prior to Closing.
 - (44) **“Purchaser Shares”** means common shares in the capital of the Purchaser and any securities exchanged or converted therefor in connection with a reorganization or similar corporate transaction.

- (45) **“Real Property Lease”** has the meaning given to it in Section 3.4(2).
- (46) **“registered Intellectual Property”** has the meaning given to it in Section 3.5(1)(a).
- (47) **“Regulatory Approval”** means any approval, consent, ruling, authorization, notice, permit or acknowledgement that may be required from any Person pursuant to Applicable Law or under the terms of any Licence or the conditions of any Order in connection with the sale of the Purchased Interests to the Purchaser on the terms contemplated in this Agreement, to permit the Corporation to carry on the Business after the Closing Date or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement.
- (48) **“Required Consents”** means all third party consents required by the Corporation in connection with the Purchase as set forth in Schedule 3.7(6) of the Disclosure Letter.
- (49) **“Rthm Financial Statements”** means the financial statements of the Corporation as at and for the fiscal year ended December 31, 2017 consisting of a balance sheet, statement of profit and loss, statement of retained earnings and deficit and statement of changes in financial position for the period then ended, together with the notes to such financial statements, a copy of which is attached as Schedule 3.3(1) of the Disclosure Letter.
- (50) **“Securities Filings”** has the meaning given to it in Section 5.2(1).
- (51) **“Securities Rules and Regulations”** has the meaning given to it in Section 5.2(1).
- (52) **“Shareholders’ Agreement”** means that certain Shareholders’ Agreement, dated September 18, 2015, by and among the Corporation and the parties thereto and all subsequent amendments.
- (53) **“Significant Shareholders”** means Alexander Mosa, Anthony Mouchantaf and WenZhong Zhang.
- (54) **“Tax”** or **“Taxes”** includes all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Authority, including income, capital (including large corporations), withholding, consumption, sales, use, transfer, goods and services, harmonized sales or other value-added, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment, health, education, business, school, property, local improvement, development, education development and occupation taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and charges, and other assessments or similar charges in the nature of a tax, together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges, whether disputed or not.
- (55) **“Tax Act”** means the *Income Tax Act* (Canada).
- (56) **“Tax Returns”** means returns, declarations, elections, filings, forms, reports, claims for refund, information returns or other documents (including any related or supporting schedules, statements or information), and including any amendment thereof, filed or required to be filed with any Governmental Authority in connection with the determination, assessment, reassessment, or collection of Taxes of any party or the administration of any Applicable Law relating to any Taxes.

Section 1.2 **Actions on Non-Business Days**

If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

Section 1.3 **Currency**

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

Section 1.4 **Calculation of Time**

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 3:00 p.m. (Vancouver, British Columbia time) on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 3:00 p.m. (Vancouver, British Columbia time) on the next succeeding Business Day.

Section 1.5 **Knowledge**

Any statement in this Agreement expressed to be made to “the Corporation’s knowledge” shall be understood to be made on the basis of the actual knowledge of any director or officer of the Corporation, after reasonable inquiry or investigation, of the relevant subject matter or on the basis of such knowledge of the relevant subject matter as such individual would have had if he or she had conducted such reasonable inquiry (including inquiry of any other employee of the Corporation who has responsibility with respect to, or who could reasonably be expected to have knowledge of the matters in question) or investigation.

Section 1.6 **Additional Rules of Interpretation**

- (1) **Gender and Number.** In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (2) **Headings and Table of Contents.** The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (3) **Section References.** Unless the context requires otherwise, references in this Agreement to Sections or Schedules are to Sections or Schedules of this Agreement.
- (4) **Words of Inclusion.** Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set out an exhaustive list.
- (5) **Statute References.** Unless otherwise indicated, all references in this Agreement to any statute include the regulations under that statute, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference in this Agreement to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith and which are legally binding.

- (6) **Writing.** References to “in writing”, “written” and similar expressions include material that is printed, handwritten, typewritten, faxed, emailed, or otherwise capable of being visually reproduced at the point of reception.

ARTICLE 2 – PURCHASE AND SALE

Section 2.1 Purchase and Sale of the Purchased Interests

Upon and subject to the terms and conditions of this Agreement, each Vendor shall sell, and the Purchaser shall purchase the applicable Vendor’s Purchased Interests in consideration for its allocation of the Purchase Price and the Performance Shares as provided in Section 2.6.

Section 2.2 Purchase Price

The purchase price for the Purchased Interests shall be \$3,875,308.15 in the aggregate and shall be comprised of (i) the Closing Shares, (ii) the Closing Cash Payment, and (iii) the Deferred Cash Payment (the “**Purchase Price**”).

Section 2.3 Payment of Purchase Price

The Purchase Price shall be paid and satisfied by the Purchaser making the following payments to the Vendors on the Closing Date:

- (a) Closing Shares. The Purchaser shall issue to the Vendors an aggregate of 1,742,611 Purchaser Shares with a deemed aggregate value of \$2,875,308.15 (the “**Closing Shares**”);
- (b) Closing Cash Payment. The Purchaser shall make a cash payment to the Vendors in the aggregate amount of \$800,000 (the “**Closing Cash Payment**”); and
- (c) Deferred Cash Payment. The Purchaser shall issue promissory notes of the Purchaser in the form attached to Schedule B to the Vendors in the aggregate amount of \$200,000 (“**Deferred Cash Payment**”).

Section 2.4 Allocation of Purchase Price

The Purchaser and the Vendors agree (i) that the Purchase Price will be allocated among the Vendors *pro rata* to their Purchased Interest as provided in Section 2.6; (ii) that, in respect of the non-competition provisions of Section 6.3(1) and any related restrictive covenants, it is their intent and understanding that the conditions of subsection 56.4(7) of the Tax Act are met, and, without limiting the generality of the foregoing, they agree that no proceeds are receivable for granting the restrictive covenants and that such restrictive covenants are integral to this Agreement and will be so granted to maintain and preserve the value of the Purchased Interests sold and transferred in accordance with this Agreement; and (iii) to file all tax returns on the basis of this allocation. If such allocation is disputed by any taxation or other Governmental Authority, the Party receiving notice of such dispute will promptly notify the other Party and the parties will use their reasonable commercial efforts to sustain the allocation.

Section 2.5 Performance Shares

Within 10 Business Days of such time that the Corporation achieves:

- (a) Milestone I, the Purchaser shall issue to the Vendors that number of Purchaser Shares determined by dividing \$625,000 by the greater of (i) \$0.20 and (ii) the closing price of the Purchaser Shares at the time that Milestone I is achieved; and
- (b) Milestone II, the Purchaser shall issue to the Vendors that number of Purchaser Shares determined by dividing \$625,000 by the greater of (i) \$0.20 and (ii) the closing price of the Purchaser Shares at the time that Milestone II is achieved.

(together, the “**Performance Shares**”)

Section 2.6 *Pro Rata Allocation of Consideration*

The number, amount or value of the Closing Shares, Performance Shares, Closing Cash Payment and promissory note pursuant to the Deferred Cash Payment to be received by each Vendor shall be calculated by multiplying the total issued and outstanding Corporation Shares held by each Vendor as of the open of business on the Closing Date by the aggregate amount of such payments and divided by the total issued and outstanding Corporation Shares as of the open of business on the Closing Date, provided that in the event that any fractional Closing Shares or Performance Shares, as applicable, that would otherwise be payable to a Vendor will be rounded down to the nearest whole number of Closing Shares or Performance Shares, as applicable. All such payments shall be paid in accordance with the instructions contained in Schedule C hereto, unless a Vendor gives notice of alternative payment instructions for such Vendor’s portion of the Purchase Price.

Section 2.7 *Election for Tax Purposes*

The Purchaser and Vendors agree to prepare, execute and file the election prescribed by subsection 85(1) of the Tax Act, within the time limits prescribed in subsection 85(6) thereof, at an elected amount for the Purchased Interests determined at the sole discretion of the Vendors, subject to the limitations prescribed by subsection 85(1) of the Tax Act. The Purchaser’s obligation hereunder is limited to executing such election provided by a Vendor (completed in accordance with the requirements of subsection 85(1) of the Tax Act) and delivering such executed election to the particular Vendor within five (5) business days of receipt by the Purchaser.

ARTICLE 3– REPRESENTATIONS AND WARRANTIES OF THE CORPORATION

The Corporation represents and warrants to the Purchaser as stated below and acknowledges that the Purchaser is relying on the accuracy of each such representations and warranties in entering into this Agreement and completing the Purchase.

Section 3.1 *Corporate Matters*

- (1) **Status and Capacity of the Corporation.** The Corporation has been duly formed and organized, and is in Good Standing under the laws of the jurisdiction in which it is organized, and has the corporate power and capacity to own or lease its property and to carry on its business as now carried on in each jurisdiction in which it owns or leases property or carries on business.
- (2) **Qualification of the Corporation.** The Corporation is registered, licensed or otherwise qualified to carry on business and to own and operate its assets under the laws of each jurisdiction in which the nature of the Business or the character, ownership or operation of the Corporation’s assets makes such registration, licensing or qualification necessary under Applicable Law, except to the extent that the failure to be so qualified would not result in a Material Adverse Effect on the Corporation or the Business.

- (3) **Corporate Records.** The minute books and other corporate records of the Corporation, copies of which have been provided to the Purchaser, have been maintained in accordance with Applicable Law. The stock ledger of the Corporation is complete, accurate and current. The Corporation is not in breach, default or violation (and no event has occurred that with notice or the lapse of time or both would constitute a breach, default or violation) of any term, condition or provision of its articles of incorporation or by-laws, except to the extent that would not result in a Material Adverse Effect on the Corporation or the Business.
- (4) **Shareholders' Agreements, etc.** Except for the Shareholders Agreement, there are no shareholders' agreements, pooling agreements, voting trusts or other similar agreements with respect to the ownership or voting of any shares of the Corporation.
- (5) **Authorized and Issued Capital.** The authorized capital of the Corporation consists of an unlimited number of common shares, issuable in series, of which, as of the date of this Agreement, 1,102,495 voting common shares and 145,284 non-voting common shares are issued and outstanding as fully paid and non-assessable. Other than 142,923 Corporation Options, which will be cancelled in connection with Closing, there are no other securities convertible, exercisable or exchangeable into shares of the Corporation issued or outstanding.

Section 3.2 Dividends

Except as disclosed in the Books and Records, the Corporation has not, directly or indirectly, authorized, declared or paid any dividends or declared or made any other distribution or return of capital in respect of any of its shares of any class and has not, directly or indirectly, redeemed, purchased or otherwise acquired any of its shares of any class or agreed to do so.

Section 3.3 Financial Matters

- (1) **Financial Statements.** The Rthm Financial Statements have been prepared in accordance with IFRS applied on a basis consistent with financial statements of previous years, subject to Applicable Law or change in accounting practices in the Ordinary Course of Business and, to the Corporation's knowledge, present fairly the assets, liabilities (whether accrued, absolute, contingent or otherwise), revenues, earnings, results of operations and financial condition of the Corporation as at the date of such financial statements and for the periods to which they relate.
- (2) **Liabilities of the Corporation.** There are no liabilities or obligations of any nature (whether known or unknown, liquidated or unliquidated, due or to become due and whether absolute, accrued, contingent or otherwise) of the Corporation of any kind whatsoever, and there is no basis for any assertion against the Corporation of any liabilities or obligations, other than:
 - (g) the liabilities disclosed, reflected or provided for in the Rthm Financial Statements;
 - (h) liabilities incurred since the date of the Rthm Financial Statements which were incurred in the Ordinary Course of Business and, in the aggregate, which would not have a Materially Adverse Effect on the Business; and
 - (i) other liabilities or obligations disclosed in this Agreement, including the schedules hereto.
- (3) **Accounts Receivable.** All accounts receivable, book debts, insurance claims and other debts owing to the Corporation are recorded in the Rthm Financial Statements, arose from *bona fide* transactions in the Ordinary Course of Business and are good, valid, enforceable and fully collectible at the aggregate recorded amounts thereof. Such receivables are not subject to any

defence, set-off or counterclaim and none of such receivables is due from an Affiliate of the Corporation.

- (4) **Debt Obligations.** Except as disclosed in Schedule 3.3(4) of the Disclosure Letter, the Corporation does not have any liability or obligation for Indebtedness.
- (5) **Non-Arm's Length Matters.** Except as disclosed in Schedule 3.3(5) of the Disclosure Letter, the Corporation is not a party to or bound by any agreement (other than employment agreements) with, is not indebted to, and no amount is owing to the Corporation by, the Vendors or any of the Vendors' Affiliates or any officers, former officers, directors, former directors, shareholders, former shareholders, employees or former employees of the Corporation or any Person not dealing at arm's length with any of the foregoing within the meaning of the Tax Act (other than amounts owing in respect of employment agreements). Since the date of the Rthm Financial Statements, the Corporation has not made or authorized any payments to the Vendors or any of the Vendors' Affiliates, or any officers, former officers, directors, former directors, shareholders, former shareholders, employees or former employees of the Corporation or to any Person not dealing at arm's length with any of the foregoing within the meaning of the Tax Act except for salaries and other employment compensation payable to employees of the Corporation in the Ordinary Course of Business and at regular rates payable to them.

Section 3.4 **Property of the Corporation**

- (1) **Title to and Sufficiency of Assets.** The Corporation is the owner of and has good and marketable title to or has the valid right to use pursuant to a lease, license or similar agreement all of its properties and assets. There are no agreements or commitments to purchase property or assets by the Corporation, other than in the Ordinary Course of Business.
- (2) **Real Properties.** The Corporation does not own any real property. Schedule 3.4(2) of the Disclosure Letter contains a list of all leases and subleases (collectively, the "**Real Property Leases**") under which the Corporation is a lessee (or sublessor or sublessee). The Corporation has made available to the Purchaser a true and complete copy of each Real Property Lease. To the Corporation's knowledge, (a) all Real Property Leases are valid and binding contracts of the Corporation and are in full force and effect (except for those that have terminated or will terminate by their own terms), and (b) neither the Corporation nor any other party thereto is in violation or breach of or default (or with notice or lapse of time, or both, would be in violation or breach of or default) under the terms of any Real Property Lease, in each case, except where such default would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Corporation or the Business.
- (3) **Personal Property.** Schedule 3.4(3) of the Disclosure Letter lists all locations where any items of personal or movable property of the Corporation are situated. The Corporation is not the lessee of any personal or movable property and is not a party to any conditional sale or other title retention agreement except as disclosed in Schedule 3.4(3) of the Disclosure Letter.
- (4) **Work Orders and Deficiencies.** To the Corporation's knowledge, there are no outstanding work orders, non-compliance orders, deficiency notices or other such notices relating to the Leased Premises which have been issued by any Governmental Authority including any police or fire department, sanitation, environment, labour or health department, and there are no matters under discussion between the Corporation and any Governmental Authority relating to work orders, non-compliance orders, deficiency notices or other such notices, except as set forth in Schedule 3.4(4) of the Disclosure Letter.

Section 3.5 **Intellectual Property and Technology**

(1) **Intellectual Property.**

- (a) Schedule 3.5(1) of the Disclosure Letter lists, to the best of the Corporation's knowledge, all Intellectual Property which has been registered (the "**registered Intellectual Property**") or for which applications for registration have been filed and have not expired, by or on behalf of the Corporation and includes particulars of all such registrations and applications for registration and any actions that must be taken with respect to such registrations and applications within 180 days of the Closing Date. The registered Intellectual Property is, to the best of the Corporation's knowledge, valid, enforceable and subsisting. There are no facts that, to the best of the Corporation's knowledge, reasonably could be expected to render any of the registered Intellectual Property invalid or unenforceable or adversely affect the ability of the Corporation to use the registered Intellectual Property immediately following the Closing Date in the same manner used and contemplated to be used by the Corporation prior to the Closing Date.
- (b) To the best of the Corporation's knowledge, the Corporation has good and valid title to all of the Intellectual Property, free and clear of any and all Encumbrances, except in the case of any Intellectual Property licensed to the Corporation as disclosed in Schedule 3.5(1) of the Disclosure Letter. Copies of all agreements whereby any rights in any of the Intellectual Property have been granted or licensed to the Corporation have been provided to the Purchaser. All such agreements, to the best of the Corporation's knowledge, are in good standing and in full force and effect and enforceable by the Corporation in accordance with their terms. No royalty or other fee is required to be paid by the Corporation to any other Person in respect of the use of any of the Intellectual Property except as provided in such agreements delivered to the Purchaser.
- (j) Schedule 3.5(1) of the Disclosure Letter lists any agreements whereby any rights in any of the Intellectual Property have been granted or licensed by the Corporation to any other Person. Copies of all such agreements have been provided to the Purchaser. Except in the case of Intellectual Property licensed to or by Corporation as indicated in Schedule 3.5(1) of the Disclosure Letter, the Corporation has the exclusive right to use all of the Intellectual Property and has not granted any license or other rights to any other Person in respect of the Intellectual Property, except customer licences, if any, necessary in the Ordinary Course of Business.
- (k) Except as disclosed in Schedule 3.5(1) of the Disclosure Letter, to the best of the Corporation's knowledge, there are no restrictions on the ability of the Corporation or any successor to or assignee from the Corporation to use and exploit all rights in the Intellectual Property. All statements contained in all applications for registration of the Intellectual Property, to the best of the Corporation's knowledge, were true and correct as of the date of such applications. Each of the trademarks and trade names included in the Intellectual Property is in use. None of the rights of the Corporation in the Intellectual Property will be impaired or affected in any way by the Purchase.
- (l) The conduct of the Business and the use of the Intellectual Property, to the best of the Corporation's knowledge, do not infringe, misappropriate or otherwise violate or conflict with any intellectual property or proprietary right of any other Person. The Corporation has not received any notice, complaint, threat or claim alleging infringement or misappropriation of any intellectual property or proprietary right of any other Person. No Person, to the best of the Corporation's knowledge, has challenged or threatened to

challenge the validity, enforceability or registrability of the Intellectual Property or the rights of the Corporation to any of the Intellectual Property. Without limiting the foregoing, the Corporation has not received any offers or invitations to enter into a licence with respect to patents or copyrights included in the Intellectual Property or to pay for a release for patent infringement.

- (m) Nothing has come to the attention of the Corporation to the effect that any Person may be infringing or misappropriating any rights in the Intellectual Property and there is no claim pending, asserted or threatened by the Corporation against any Person concerning the foregoing.

Section 3.6 **Employment Matters**

- (1) **Employees.** To the best of the Corporation's knowledge, it is in compliance with all Applicable Laws relating to employment and labour matters, including any provision thereof relating to wages, hours of work, vacation pay, pay equity, employment equity, overtime pay, occupational health and safety, workers' compensation, human rights and freedoms and conditions of employment except where the failure to so comply would not result in a Material Adverse Effect and there are no outstanding claims, complaints, investigations or orders under any Applicable Laws. To the best of the Corporation's knowledge, it has withheld all amounts required by Applicable Law to be withheld from payments made to employees, contractors and consultants, including without limitation, those with respect to income Tax withholdings, pension plan contributions and employment or unemployment insurance premiums and remittances, and the Corporation has remitted such amounts to the appropriate Governmental Authority within the times required by Applicable Law.
- (2) **Exceptions.** Schedule 3.6 of the Disclosure Letter contains a correct and complete list of each current employee of the Corporation whether actively at work or not, listed by their name, salaries, expense allowance, commissions, bonus arrangements and benefits. Schedule 3.6 of the Disclosure Letter also contains a list of any employment agreements and services agreements of the Corporation with their employees, directors, officers, independent contractors and consultants, as the case may be, as well as any confidentiality agreements, change of control agreements, retention agreements or similar agreements. The Corporation has furnished the Purchaser with true and complete copies of any such agreements. Other than as listed in Schedule 3.6, no employee, director or officer of the Corporation has any agreement as to length of notice, severance or termination payment required to terminate his employment other than such as results by Applicable Law from the employment of an employee without an agreement as to notice or severance.
- (3) **Independent Contractors.** None of the independent contractors, consultants or other such persons providing services of the Corporation have been held by any Governmental Authority to be an employee of the Corporation for any purpose, to the Corporation's knowledge, and no facts or circumstances exist which would cause any such independent contractor, consultant or other such person to be declared an employee of the Corporation for any purpose. Without limiting the foregoing, all persons providing services to the Corporation as an independent contractor, consultant or otherwise, and all relationships with such persons, have been, to the Corporation's knowledge, accurately and appropriately characterized in accordance with Applicable Laws except where the failure to characterize such relationships would not result in a Material Adverse Effect.

(4) **Employee Plans.**

- (a) Schedule 3.6 of the Disclosure Letter lists all Employee Plans. The Corporation has furnished to the Purchaser true, correct and complete copies of all the Employee Plans as at the date of this Agreement, together with all related material documentation, including, where applicable, summary plan descriptions and all material correspondence with any Governmental Authority;
- (b) All of the Employee Plans are and have been established, administered and, where required by Applicable Law, registered, in all material respects, in accordance with their terms and all Applicable Laws, including all Tax laws where same is required for preferential Tax treatment;
- (c) To the Corporation's knowledge, all contributions or premiums required to be paid by the Corporation under the terms of each Employee Plan or by Applicable Law have been made in a timely fashion in accordance with such Applicable Law and the terms of the Employee Plans and are accurately reflected in the Rthm Financial Statements in all material respects;
- (d) No commitments or promises to improve or otherwise amend any Employee Plan have been made by the Corporation except as required by Applicable Law;
- (e) No insurance policy or any other agreement affecting any Employee Plan requires or permits a retroactive increase in contributions, premiums or other payments due thereunder; and
- (f) None of the Employee Plans provide benefits to retired employees or to the beneficiaries or dependants of retired employees.

Section 3.7 Conduct of Business

- (1) **Absence of Certain Changes or Events.** Since the date of the Rthm Financial Statements, the Business has been carried on in the Ordinary Course of Business and there has not been any material change in the affairs, prospects, operations, assets or financial condition of the Business or of the Corporation. Since the date of the Rthm Financial Statements, the Corporation has not:
 - (a) incurred any obligation or liability (fixed or contingent) or Indebtedness, except normal trade or business obligations incurred in the Ordinary Course of Business, the presence of which not resulting in a Material Adverse Effect to the Corporation or the Business;
 - (b) paid or satisfied any obligation or liability (fixed or contingent), except:
 - (i) current liabilities included in the Rthm Financial Statements;
 - (ii) current liabilities incurred since the date of the Rthm Financial Statements in the Ordinary Course of Business; and
 - (iii) scheduled payments pursuant to obligations under loan agreements or other contracts or commitments described in this Agreement;
 - (c) waived, cancelled or written off any rights, claims, accounts receivable or any amounts payable to the Corporation, except in the Ordinary Course of Business;

- (d) entered into any transaction, contract, agreement or commitment, except in the Ordinary Course of Business;
 - (e) terminated, discontinued, closed or disposed of any plant, facility or business operation;
 - (f) made any material change with respect to any method of management, operation or accounting in respect of the Business;
 - (g) suffered any damage, destruction or loss (whether or not covered by insurance) which is likely to have a Material Adverse Effect on the financial condition of the Corporation;
 - (h) suffered any extraordinary loss relating to the Business;
 - (i) made or incurred any material change, financial or otherwise, in, or become aware of any event or condition which is likely to result in a material change, financial or otherwise, in, the Business or in the condition of the Corporation or its relationships with its customers, suppliers or employees; or
 - (j) authorized, agreed or otherwise become committed to do any of the foregoing.
- (2) **Necessary Assets.** The properties and assets owned or leased by the Corporation constitute all the property and assets used or held for use in connection with the Business and are sufficient for the conduct of the Business as currently conducted and include all proprietary rights, trade secrets and other property and assets, tangible and intangible, applicable to or used in connection with the Business. Neither the Vendors nor any other Person own any assets which are being used in or are reasonably necessary to carry on the Business in the Ordinary Course of Business, except assets leased to the Corporation.
- (3) **Restrictions on Doing Business.** The Corporation is not a party to or bound by any agreement or commitment which would restrict or limit its rights to carry on or compete in any business or activity or to solicit business from any Person or in any geographical area or otherwise to conduct the Business as currently conducted and as proposed to be conducted. The Corporation is not subject to any legislation or any judgment, Order or requirement of any court or other Governmental Authority which is not of general application to Persons carrying on a business similar to the Business. To the Corporation's knowledge, there are no facts or circumstances which could materially adversely affect the ability of the Corporation to continue to operate the Business as presently conducted after Closing.
- (4) **Contracts.** Schedule 3.7(4) of the Disclosure Letter lists or identifies all Material Contracts. The Corporation is not, nor to the Corporation's knowledge is any other party to any Contract in default under any Contract and to the Corporation's knowledge there has not occurred any event which, with the lapse of time or giving of notice or both, would constitute a default under any Contract by the Corporation or any other party to any Contract. Each Contract is in full force and effect, unamended by written or oral agreement except where a copy of such amendment has been provided to the Purchaser, and the Corporation is entitled to the full benefit and advantage of each Contract in accordance with its terms. The Corporation has not received any notice of a default by the Corporation under any Contract or of a dispute between the Corporation and any other Person in respect of any Contract. Except for the receipt of the Required Consents, the completion of the Purchase will not afford any party to any of the Leases or other Material Contracts or any other Person the right to terminate any Lease or other Material Contract nor will the completion of such transactions result in any additional or more onerous obligation on the Corporation under any Lease or other Contract.

- (5) **Licences and Compliance with Law.** Schedule 3.7(5) of the Disclosure Letter lists all material Licences of the Corporation and such Licences are the only material Licences, permits, authorizations or approvals of a Governmental Authority required for the operation of the Business. Such Licences are held by the Corporation free and clear of any and all Encumbrances, other than Permitted Encumbrances. The Business is being conducted by the Corporation in all material respects in accordance with all terms and conditions of the Licences and in all material respects in compliance with Applicable Law. All the material Licences are valid and are in full force and effect, the Corporation is not in violation of any material term or provision or requirement of any Licence, and to the Corporation's knowledge no Person has threatened to revoke, amend or impose any condition in respect of, or commenced proceedings to revoke, amend or impose conditions in respect of, any material Licence.
- (6) **Consents and Regulatory Approvals.** Except for the Required Consents, filing, declarations, registrations and notices as specified in Schedule 3.7(6) of the Disclosure Letter, no Consent of, or filing, declaration or registration with, or notice to any Governmental Authority or any other Person, which has not been received or made, is required to be obtained or made by the Corporation for the execution and delivery of this Agreement or for the consummation of the transactions contemplated by this Agreement. Each Required Consent has been obtained and is in full force and effect. Except for the Required Consents, the Corporation is not under any obligation, contractual or otherwise, to request or obtain any Consent or Regulatory Approval or to give any notice to any Governmental Authority or other Person:
- (a) by virtue of or in connection with the execution, delivery or performance by the Vendors of this Agreement or the completion of the Purchase;
 - (b) to avoid the loss of any Licence or to avoid the violation, breach or termination of, or any default under, or the creation of any Encumbrance under the terms of, any Applicable Law;
 - (c) to avoid conflicting with, resulting in a violation or breach of, resulting in the loss of any material benefit under, constituting a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, resulting in the termination, modification or cancellation of or a right of termination, modification or cancellation under, or accelerating the performance required under, any Contract related to the Business; or
 - (d) in order that the authority and ability of the Corporation to carry on the Business in the Ordinary Course of Business and in the same manner as presently conducted remains in good standing and in full force and effect as of and following the Purchase.
- (7) **Compliance with Constatting Documents, Agreements and Laws.** The execution, delivery and performance of this Agreement and each of the other agreements contemplated or referred to in this Agreement by the Vendors and the Corporation, and the completion of the Purchase, will not constitute or result in a violation or breach of or default under, or cause the acceleration of any obligations of the Vendors or the Corporation under any of the following, except to the extent that any such violation, breach, default or acceleration would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Corporation or the Business:
- (a) any term or provision of any of the articles, by-laws or other constating documents of the Corporation;
 - (b) the terms of any agreement (written or oral), indenture, instrument or understanding or other obligation or restriction to which the Vendors or the Corporation is a party or by which either of them is bound; or

- (c) any order of any court or Governmental Authority or regulatory body of any Applicable Law of any jurisdiction in which the Business is carried on.
- (8) **Compliance with Laws.** The Corporation, in carrying on the Business, is not, to the Corporation's knowledge, in violation of any Applicable Law, including laws relating to its operations, products, services, advertising, sales or employment practices, except where the failure to so comply with such laws would not result in a Material Adverse Effect on the Corporation or the Business.
- (9) **Insurance.** Attached as Schedule 3.7(9) of the Disclosure Letter is a list of all insurance policies (including the name of the insurer, policy number, coverage limits, amount of deductible, type of insurance, expiry date, annual premiums and details of pending claims) maintained by the Corporation in respect of its assets, business operations, directors, officers and employees. All such insurance policies are valid and enforceable and in full force and effect, are underwritten by unaffiliated and reputable insurers, are sufficient for all applicable requirements of law and provide insurance, including liability and product liability insurance, in such amounts and against such risks as is customary for corporations engaged in businesses similar to that carried on by the Corporation to protect the employees, properties, assets, Business and operations of the Corporation. Schedule 3.7(9) of the Disclosure Letter sets forth and describes all pending claims under any of such insurance policies and identifies the most recent inspection reports, if any, received from insurance underwriters as to the condition or insurance value of the insured property and assets, copies of which have been made available to the Purchaser. The Corporation is not in default with respect to the payment of any premium or compliance with any of the provisions contained in any such insurance policy and has not failed to give any notice or present any claim within the appropriate time. There are no circumstances under which the Corporation would be required to or, in order to maintain its coverage, should give any notice to the insurers under any such insurance policy which has not been given. The Corporation has not received notice from any of the insurers regarding cancellation or non-renewal of any such insurance policy. The Corporation has not received notice from any of its insurers denying any claims. No such insurance policy is subject to any special or unusual terms or restrictions or provides for a premium in excess of the stipulated or normal rate. To the Corporation's knowledge, there are no circumstances or occurrences which would or might form the basis of a material increase in premiums for the current insurance coverage maintained by the Corporation.
- (10) **Litigation.** Except as disclosed in Schedule 3.7(10) of the Disclosure Letter, there are no actions, applications, complaints, claims, suits or proceedings, judicial or administrative (whether or not purportedly on behalf of the Corporation) pending or, to the Corporation's knowledge, threatened, by or against or affecting the Corporation, at law or in equity, or before or by any court or other Governmental Authority, domestic or foreign, nor to the Corporation's knowledge are there grounds on which any such action, suit or proceeding might be commenced with any reasonable likelihood of success.

Section 3.8 Tax Matters

- (1) The Corporation has duly and on a timely basis prepared and filed with each Governmental Authority all Tax Returns required to be filed by Applicable Law, and such Tax Returns are complete and correct in all material respects. Copies of (i) all Tax Returns filed in respect of the three fiscal years of the Corporation ending prior to the date hereof, and (ii) all Tax Returns filed with a Governmental Authority in respect of the current fiscal year of the Corporation, have been provided to the Purchaser.

- (2) The Corporation has paid, collected and remitted all Taxes and instalments on account of Taxes which are due and payable, collectible or remittable, as the case may be. Adequate provision has been made in the Rthm Financial Statements for all Taxes for the periods covered by the Rthm Financial Statements. The Corporation has no liability for Taxes other than those provided for in the Rthm Financial Statements and those arising in the Ordinary Course of Business since the date of the Rthm Financial Statements. There are no Encumbrances for Taxes upon the Corporation's assets (other than Taxes not yet due and payable).
- (3) There are no actions, suits, proceedings, investigations, audits or claims now pending or, to the Corporation's knowledge, threatened, against the Corporation in respect of Taxes and there has at no time within the past five years been a matter under discussion, dispute, audit or appeal with any Governmental Authority relating to Taxes. No reassessments of the Corporation's Taxes have been issued and are outstanding. The Corporation has not received any indication from any Governmental Authority that an assessment or reassessment of the Corporation is proposed in respect of any Taxes, regardless of its merits.
- (4) There are no agreements, waivers or other arrangements providing for any extension of time with respect to the filing of any Tax Return or the payment of any Taxes by the Corporation or the period for any assessment or reassessment of Taxes. The Corporation has not requested, received or entered into any advance Tax rulings or advance pricing agreements with any Governmental Authority.
- (5) The Corporation has withheld from each amount paid or credited to any Person the amount of Taxes required to be withheld and has remitted such Taxes to the proper Governmental Authority within the time required under Applicable Law.
- (6) No claim has ever been made by any Governmental Authority in a jurisdiction where the Corporation does not presently file Tax Returns that it is or may be subject to taxation by that jurisdiction or is required to file Tax Returns in that jurisdiction.

Section 3.9 **General Matters**

- (1) **Broker Fees.** Neither the Corporation, nor its Affiliates and representatives, have employed any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by this Agreement who might be entitled to a fee or any commission from the Corporation upon consummation of the transactions.
- (2) **Full Disclosure.** The representations and warranties of the Corporation contained in this Agreement and in any certificate or other material delivered under this Agreement are accurate and complete, do not contain any untrue statement of a material fact or, considered in the context in which presented, omit to state a material fact necessary in order to make the statements and information contained in this Agreement or in such certificate or other material not misleading. Without restricting the generality of the foregoing, there are no facts known to the Corporation which should be disclosed to the Purchaser in order to make any of the representations and warranties contained in this Agreement not misleading.

ARTICLE 4- REPRESENTATIONS AND WARRANTIES OF THE VENDORS

Each of the Vendors, on its own behalf and not on behalf of any other Vendor, hereby severally (and, for greater certainty, not jointly with any other Vendor) represents and warrants to the Purchaser as stated below and acknowledge that the Purchaser is relying on the accuracy of each such representations and warranties in entering into this Agreement and completing the Purchase.

Section 4.1 Vendors Matters

- (1) **Status and Capacity of the Vendors.** Such Vendor has the power and capacity to own, sell and dispose of its Corporation Shares and to execute and deliver this Agreement and to consummate the Purchase and otherwise perform their obligations under this Agreement.
- (2) **Authorization of Purchase.** If such Vendor is a corporate entity, the execution and delivery of this Agreement and the consummation of the Purchase have been duly and validly authorized by all necessary corporate actions on the part of such Vendor.
- (3) **Enforceability.** This Agreement has been duly and validly executed and delivered by such Vendor and is a valid and legally binding obligation of such Vendor enforceable against such Vendor in accordance with its terms, subject only, as to enforcement, to laws of equity, to bankruptcy, insolvency and other laws affecting creditors' rights generally and to general principles of equity.
- (4) **Shareholdings.** The Vendor is the registered and beneficial holder of that number of Corporation Shares set forth opposite the Vendor's name in Schedule A, with good and marketable title thereto, free and clear of all liens, mortgages, security interests, pledges, demands, claims and other encumbrances of any nature whatsoever, except as provided in the Shareholders' Agreement, and the Vendor has no rights or options to receive or acquire additional Corporation Shares other than pursuant to Corporation Options which will be cancelled in connection with the Closing.
- (5) **No Other Purchase Agreements.** Except as provided for in the Shareholders' Agreement, no Person other than the Purchaser has any written or oral agreement, option, understanding or commitment, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement, option or commitment, including a right of conversion or exchange attached to convertible securities, warrants or convertible obligations of any nature, for the purchase or other acquisition from such Vendor of any of such Vendor's Corporation Shares.
- (6) **Residence.** Such Vendor is resident at the address set forth in the Corporation's share register.
- (7) **Prospectus Exempt Distribution.** The Vendor acknowledges that no prospectus has been filed by the Purchaser with any securities commission or similar authority in connection with the issuance to the Vendor of the Closing Shares and Performance Shares (collectively, the "**Consideration Shares**"), and accordingly:
 - (a) such Vendor is restricted from using certain civil remedies available under applicable securities laws;
 - (b) such Vendor may not receive information that might otherwise be required to be provided to it under such applicable securities laws;
 - (c) the Purchaser is relieved from certain obligations that would otherwise apply under such legislation; and
 - (d) such Vendor has been advised to consult its own legal advisors with respect to the merits and risks of an investment in the Consideration Shares and with respect to applicable resale restrictions and it is solely responsible for compliance with applicable resale restrictions.

ARTICLE 5– REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Corporation and the Vendors as stated below and acknowledges that the Corporation and the Vendors are relying on the accuracy of each such representations and warranties in entering into this Agreement and completing the Purchase.

Section 5.1 Purchaser Matters

- (1) **Status and Capacity of Purchaser.** The Purchaser has been duly incorporated and organized, is a subsisting corporation in Good Standing under the laws of the jurisdiction in which it is organized and has the corporate power and capacity to own, sell and operate its property, carry on its business, issue the Consideration Shares and make the cash payments as described in Section 2.2 and to execute and deliver this Agreement and to consummate the Purchase and otherwise perform its obligations under this Agreement.
- (2) **Authorization of Purchase.** The execution and delivery of this Agreement and the consummation of the Purchase have been duly and validly authorized by the Purchaser and no other corporate proceedings on the part of the Purchaser are necessary to authorize this Agreement or the Purchase.
- (3) **Enforceability.** This Agreement has been duly and validly executed and delivered by the Purchaser and is a valid and legally binding agreement of the Purchaser enforceable against the Purchaser in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency and other laws affecting creditors' rights generally and to general principles of equity.

Section 5.2 Securities Law Matters

- (1) **Securities Filings.** The Purchaser is listed and its common shares are trading on the Canadian Securities Exchange, it is a “reporting issuer” under the securities legislation of all provinces and territories of Canada, is in compliance with all continuous disclosure obligations thereunder, and is not in default of such legislation or any regulation thereunder, and it is current in its filings (the “**Securities Filings**”) required under Applicable Law and it is not listed on the list of defaulting issuers maintained by the British Columbia Securities Commission. As of their respective dates, the Securities Filings complied in all material respects with the requirements of the law, rules and regulations of applicable securities laws and the Canadian Securities Exchange (the “**Securities Rules and Regulations**”), and none of the Securities Filings, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The Purchaser has not filed any confidential material change report with any securities regulatory authority that at the date of this Agreement remains confidential. The financial statements of the Purchaser and each subsidiary, if any, included in the Securities Filings complied in all material respects with applicable accounting requirements and the Securities Rules and Regulations as in effect at the time of filing.
- (2) **Consideration Shares.** The Consideration Shares have been duly authorized for issuance and sale by all necessary action on the part of the Purchaser and, when issued by the Purchaser and delivered by the Purchaser, will be validly issued, will be outstanding as fully paid and non-assessable, will be free from all Encumbrances, will rank *pari passu* in all respects with all other outstanding Purchaser Shares and will not have been issued in violation of or subject to any preemptive rights or other contractual rights to purchase securities issued by the Purchaser, subject only to any restrictions on resale as imposed by the *Securities Act* (British Columbia) and such other requirements of securities laws and regulatory authorities having jurisdiction.

- (3) **Consents.** The Purchaser will take, at its cost, all such steps and proceedings as may be reasonably required to obtain all necessary consents or approvals from the Governmental Authorities and the shareholders of the Purchaser with respect to the transactions contemplated hereunder and will comply with all Applicable Laws to obtain the required Regulatory Approvals herein.
- (4) **Full Disclosure.** The representations and warranties of the Purchaser contained in this Agreement and in any certificate or other material delivered under this Agreement are accurate and complete, do not contain any untrue statement of a material fact or, considered in the context in which presented, omit to state a material fact necessary in order to make the statements and information contained in this Agreement or in such certificate or other material not misleading. Without restricting the generality of the foregoing, there are no facts known to the Purchaser which should be disclosed to the Corporation in order to make any of the representations and warranties contained in this Agreement not misleading.

ARTICLE 6 — COVENANTS

Section 6.1 Mutual Covenants

Each of the Parties hereby covenants and agrees as follows:

- (1) to use commercially reasonable efforts to satisfy (or cause the satisfaction of) the conditions precedent to its obligations hereunder which are reasonably under its control and to take, or cause to be taken, all other actions and to do, or cause to be done, all other things necessary, proper or advisable under applicable laws and regulations to complete the Purchase in accordance with the terms of this Agreement;
- (2) to promptly notify each of the other Parties if any representation or warranty made by it in this Agreement ceases to be true and correct in all respects (in the case of any representation or warranty containing any materiality or Material Adverse Effect qualifier) or in all material respects (in the case of any representation or warranty without any materiality or Material Adverse Effect qualifier) and of any failure to comply in any material respect with any of its obligations under this Agreement;
- (3) to co-operate with each of the other parties hereto in good faith in order to ensure the timely completion of the Purchase;
- (4) to use commercially reasonable efforts to co-operate with each of the other Parties hereto in connection with the performance by the other of its obligations under this Agreement; and
- (5) subject to applicable laws, not take any action, refrain from taking any action, or permit any action to be taken or not taken inconsistent with this Agreement or which would reasonably be expected to significantly impede, hinder or delay the consummation of the Purchase.

Each of the Corporation and the Significant Shareholders hereby further covenants and agrees as follows:

- (1) to use commercially reasonable efforts to obtain, before the Closing Date, all Consents as are necessary for the consummation of the transactions contemplated herein; and
- (2) to use commercially reasonable efforts to defend or cause to be defended any lawsuits or other legal proceedings brought against it challenging this Agreement or the completion of the Purchase. No Party will settle or compromise any claim brought against them in connection with

the transactions contemplated by this Agreement prior to the Closing Date without the prior written consent of each of the others, such consent not to be unreasonably withheld or delayed.

Section 6.2 Corporation Covenants

The Corporation hereby covenants and agrees as follows:

- (1) if requested by the Purchaser, to make available and afford the Purchaser and its authorized representatives and provide a copy of all contracts, financial statements, minute books, share certificate books, if any, share registers, plans, reports, licences, orders, permits, books of account, accounting records, constating documents and all other documents, information and data relating to the Corporation;
- (2) to take all such corporate and other action as required to cause the Corporation Options to be cancelled prior to on as of the Closing Date;
- (3) to conduct and operate its business and affairs only in the ordinary course consistent with past practice and use commercially reasonable efforts to preserve its business organization, goodwill and material business relationships with other persons and, for greater certainty, it will not enter into any material transaction out of the Ordinary Course of Business consistent with past practice without the prior consent of the Purchaser, and the Corporation will keep the Purchaser fully informed as to the material decisions or actions required or required to be made with respect to the operation of its business, provided that such disclosure is not otherwise prohibited by reason of a confidentiality obligation owed to a third party for which a waiver could not be obtained;
- (4) except as may be necessary or desirable in order to effect the Purchase as contemplated hereunder, not alter or amend its constating documents as they exist at the date of this Agreement; and
- (5) not merge into or with, or amalgamate or consolidate with, or enter into any other corporate reorganization or arrangement with, or transfer its undertaking or assets as an entirety or substantially as an entirety to, any other person or perform any act which would render inaccurate in any material way any of its representations and warranties set forth herein as if such representations and warranties were made at a date subsequent to such act and all references to the date of this Agreement were deemed to be such later date, except as contemplated in this Agreement, and without limiting the generality of the foregoing, it will not:
 - (a) make any distribution by way of dividend, distribution of property or assets, return of capital or otherwise to or for the benefit of its shareholders;
 - (b) increase or decrease its paid-up capital or purchase or redeem any shares; or
 - (c) Except as disclosed in Schedule 6.2 of the Disclosure Letter, issue or enter into any commitment to issue any of its shares or securities convertible into, or rights, warrants or options to acquire, any such shares, except as contemplated by this Agreement.

Section 6.3 Vendors Covenants

Each of the Significant Shareholders hereby covenants and agrees as follows:

- (1) the Significant Shareholder will not, directly or indirectly, for period of four years after the Closing Date for any reason in any manner whatsoever:

- (a) Non-Compete: anywhere in North America, carry on, engage in, or be concerned with or interested in any business that is, or has any interest in any business that is, similar to or competitive with the Business as currently conducted, provided that, notwithstanding this, the Significant Shareholder may purchase or hold securities of any company (including any competitive company) in aggregate representing no more than 5% of the votes and equity attached to all issued securities of that company,
 - (b) Non-Solicitation: solicit any customers or suppliers of the Corporation to transfer business from the Corporation, or
 - (c) No Hire: seek in any way to persuade or entice any person to terminate an employment or consulting position with the Corporation or hire or retain the services of any such person, provided that nothing in this provision will prevent the Significant Shareholder from directly or indirectly hiring or retaining any person pursuant to general, public job advertisements, posting or other form of general solicitation that are not targeted to the Corporation or any of its personnel, or any solicitation by a bona fide search firm that has not been directed to solicit any or all of the Corporation's personnel.
- (2) the Significant Shareholder agrees that
- (a) all restrictions contained in Section 6.3(1) are reasonable and valid in the circumstances and all defences to the strict enforcement thereof by the Purchaser and the Corporation are hereby waived by the Significant Shareholder,
 - (b) each of the restrictions contained in Section 6.3(1) are each separate and distinct covenants, severable one from the other and if any such covenant or covenants are determined to be invalid or unenforceable, such invalidity or unenforceability will attach only to the covenant or covenants as so determined and all other such covenants will continue in full force and effect, and
 - (c) monetary damages for any breach of Section 6.3(1) would be inadequate for the immediate and irreparable harm that would be suffered by the Purchaser and the Corporation for any such breach, and so, on any application to a court, the Corporation will be entitled to temporary and permanent injunctive relief against the Vendor without the necessity of proving actual damage to the Purchaser or the Corporation.

Section 6.4 **Purchaser Covenants**

The Purchaser hereby covenants and agrees as follows:

- (1) to make all filings of the Purchaser in connection with this Agreement and the Purchase as required by the Canadian Securities Exchange and any other Governmental Authority;
- (2) if requested by the Corporation, to make available and afford the Corporation and its authorized representatives and provide a copy of all contracts, financial statements, minute books, share certificate books, if any, share registers, plans, reports, licences, orders, permits, books of account, accounting records, constating documents and all other documents, information and data relating to the Purchaser;
- (3) to take all necessary corporate action and proceedings to approve and authorize the issuance of the Consideration Shares;

- (4) to prepare and file with all applicable securities commissions such notifications and fees necessary to permit, or that are required in connection with, the issuance of the Consideration Shares on a basis exempt from the prospectus requirements of the applicable securities laws;
- (5)
 - (a) the Purchaser shall, from and after the Effective Time, honour all rights to indemnification or exculpation now existing in favour of present and former employees, officers and directors of the Corporation to the extent that they are contained in the constating documents of the Corporation, and acknowledges that such rights shall continue in full force and effect in accordance with their terms for a period of not less than six (6) years from the Closing Date; and
 - (b) this Section 6.4(5) shall survive the consummation of the transactions contemplated by this Agreement and is intended to be for the benefit of, and shall be enforceable by, the present and former directors and officers of the Corporation and their respective heirs, executors, administrators and personal representatives (the “**Indemnified Persons**”) and shall be binding on the Purchaser, the Corporation and their respective successors and assigns, and, for such purpose, the Corporation hereby confirms that it is acting as agent on behalf of the Indemnified Persons.

ARTICLE 7 CONDITIONS

Section 7.1 Purchaser’s Conditions

The obligations of the Purchaser under this Agreement are subject to the conditions set out in this Section 7.1, which are for the exclusive benefit of the Purchaser and all or any of which may be waived, in whole or in part, by the Purchaser in its sole discretion by notice given to the Corporation. The Corporation and the Vendors shall take all commercially reasonable actions, steps and proceedings within their control to cause each of such conditions to be fulfilled or performed at or before the time specified for Closing.

- (1) **Truth of Representation and Warranties.** All representations and warranties of the Corporation and the Vendors contained in this Agreement shall have been true in all material respects, except for representations and warranties that contain a materiality qualification which shall be true in all respects, as of the date of this Agreement and shall be true in all material respects on the Closing Date, except to the extent that such representations and warranties speak as of an earlier date, in which event such representations and warranties shall be true and correct as of such earlier date.
- (2) **Vendors’ Obligations.** The Corporation and the Vendors shall have performed each of their obligations under this Agreement to the extent required to be performed on or before the Closing Date.
- (3) **Shareholder Approval and Consents.** All appropriate action of the Corporation and the Vendors shall have been taken and all requisite shareholder consents and approvals, shall have been obtained to transfer the Purchased Interests to the Purchaser.
- (4) **Approvals, Consents, etc.** All material Regulatory Approvals and Required Consents shall have been received and shall be absolute or on terms reasonably acceptable to the Purchaser, including but not limited to the acceptance for filing of this Agreement by all Governmental Authorities having jurisdiction, including, without limitation the Canadian Securities Exchange, and the issuance of all other necessary Regulatory Approvals, exemptions and consents.

- (5) **Material Adverse Effect.** There shall not have been after the date of this Agreement any Material Adverse Effect with respect to the Corporation.
- (6) **Prospectus Exemption.** The issuance of the Consideration Shares will be made pursuant to appropriate exemptions from the formal takeover bid, registration and prospectus (or equivalent) requirements of the Applicable Law.
- (7) **Employment Agreements.** Each of Alexander Mosa, Anthony Mouchantaf and WenZhong Zhang shall have entered into employment agreements with the Corporation on terms acceptable to the Purchaser.
- (8) **Payment.** The payments owed as of the Closing Date under Article 2 of this Agreement will be promptly paid by the Purchaser in good faith.

Section 7.2 The Corporation's and the Vendors' Conditions

The obligations of the Corporation and the Vendors under this Agreement are subject to the conditions set out in this Section 7.2 which are for the exclusive benefit of the Corporation and the Vendors and all or any of which may be waived, in whole or in part, by the Corporation in its sole discretion (on its own behalf and on behalf of the Vendors) by notice given to the Purchaser. The Purchaser shall take all commercially reasonable actions, steps and proceedings within its control to cause each of such conditions to be performed at or before the time specified for closing.

- (1) **Truth of Representations and Warranties.** All representations and warranties of the Purchaser contained in this Agreement shall have been true in all material respects, except for representations and warranties that contain a materiality qualification, which shall be true in all respects, as of the date of this Agreement and shall be true in all material respects except to the extent that such representations and warranties speak as of an earlier date, in which event such representations and warranties shall be true and correct as of such earlier date.
- (2) **Purchaser's Obligations.** The Purchaser shall have performed each of its obligations under this Agreement to the extent required to be performed on or before the Closing Date.
- (3) **Corporate Action.** All appropriate action of the directors, shareholders and officers of the Purchaser shall have been taken and all requisite consents and approvals shall have been obtained to acquire the Purchased Interests from the Vendors and to issue to the Vendors the Consideration Shares.
- (4) **Approvals, Consents, etc.** All Regulatory Approvals and Consents shall have been received and shall be absolute or on terms reasonably acceptable to the Vendors, including but not limited to the acceptance for filing of this Agreement by all Governmental Authorities having jurisdiction, including, without limitation the Canadian Securities Exchange, and the issuance of all other necessary Regulatory Approvals, exemptions and consents.
- (5) **Material Adverse Effect.** There shall not have been after the date of this Agreement any Material Adverse Effect with respect to the Purchaser.
- (6) **Prospectus Exemption.** The issuance of the Consideration Shares will be made pursuant to appropriate exemptions from the formal takeover bid, registration and prospectus (or equivalent) requirements of the Applicable Law.

ARTICLE 8 – CLOSING

Section 8.1 Closing

Closing shall take place at 10:00 a.m. (Vancouver, British Columbia time) on the Closing Date by way of electronic exchange of documents.

Section 8.2 Corporation's Deliveries

At the Closing, the Corporation shall deliver or cause to be delivered to the Purchaser or the Purchaser's Solicitors, in each case duly executed and in form and substance acceptable to the Purchaser, acting reasonably:

- (a) a certificate signed by the secretary of the Corporation dated as of the Closing Date, certifying (a) the constating documents of the Corporation and (b) the resolutions of the directors of the Corporation consenting to the transfer of the Purchased Interests pursuant to the terms of the Agreement;
- (b) a good standing certificate with respect to the Corporation dated as of a date not more than three (3) Business Days prior to the Closing Date;
- (c) any Required Consents, duly executed and in full force and effect;
- (d) the Books and Records and other property of the Corporation; and
- (e) each of the directors and officers of the Corporation shall have delivered to the Purchaser executed resignations (together with customary mutual releases) at the time and in the manner requested by the Purchaser, effective as of the Closing Date, with the nominees of the Purchaser to be appointed to the board of directors of the Corporation in connection with the resignations of the current directors of the Corporation.

Section 8.3 Vendors' Deliveries

At the Closing, each of the Vendors shall deliver or cause to be delivered to the Purchaser or the Purchaser's Solicitors, in each case duly executed and in form and substance acceptable to the Purchaser, acting reasonably, the certificate(s) representing such Vendor's Corporation Shares, duly endorsed for transfer or, together with a duly endorsed stock transfer form, to or as directed by the Purchaser.

Section 8.4 Purchaser's Deliveries

At the Closing, the Purchaser shall deliver or cause to be delivered to the Corporation (on its own behalf and on behalf of each of the Vendors) or the Corporation's Solicitors, in each case duly executed and in form and substance acceptable to the Corporation:

- (a) the Closing Cash Payment in accordance with Article 2;
- (b) share certificate(s) or other evidence of issuance of the Closing Shares;
- (c) a certificate signed by the secretary of the Purchaser dated as of the Closing Date, certifying (a) the constating documents of the Purchaser and (b) the resolutions of the directors of the Purchaser consenting to the issuance of the of the Consideration Shares pursuant to the terms of the Agreement; and

- (d) a good standing certificate with respect to the Purchaser dated as of a date not more than three (3) Business Days prior to the Closing Date.

ARTICLE 9 - MISCELLANEOUS

Section 9.1 Termination

This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time before the Closing Date only:

- (a) by the mutual written consent of the Purchaser and the Corporation;
- (b) by the Purchaser, if the transactions contemplated by this Agreement are not consummated by the Outside Date and the Purchaser has not caused undue delays to Closing; and
- (c) by the Corporation (on its behalf and on behalf of the Vendors), if the transactions contemplated by this Agreement are not consummated by the Outside Date and none of the Vendors or the Corporation caused undue delays to Closing.

Section 9.2 Effect of Termination

If this Agreement is terminated in accordance with Section 9.1(a), this Agreement shall forthwith become void and no Party hereto (or any of its Affiliates, directors, officers, representatives or agents) will have any liability or further obligation to any other Party to this Agreement, except for: (i) this Section 9.2; and (ii) in the case of termination in accordance with Section 9.1(b) or Section 9.1(c), this Article 9 and any liability arising out of breach of this Agreement prior to such termination.

Section 9.3 Power of Attorney.

Until Closing, each of the Vendors hereby severally and irrevocably appoints the Corporation and each of the officers and directors of the Corporation as its agent and attorney to take any action that is required under the Agreement or to execute and deliver any documents on their behalf, including without limitation, for the purposes of all Closing matters (including without limitation, the receipt of certificates representing the Consideration Shares) and deliveries of documents and do and cause to be done all such acts and things as may be necessary or desirable in connection with the closing matters for the Purchase. Without limiting the generality of the foregoing, until Closing the Corporation may, on its own behalf and on behalf of the Vendors, extend the Closing Date, modify or waive any conditions as are contemplated herein, negotiate, settle and deliver the final forms of any documents that are necessary or desirable to give effect to the Purchase, extend such time periods as may be contemplated herein or terminate this Agreement, in its absolute discretion, as it deems appropriate. Each of the Vendors hereby acknowledges and agrees that any decision or exercise of discretion made by the Corporation at or prior to Closing under this Agreement, will be final and binding upon the Vendors so long as such decision or exercise was made in good faith. The Purchaser will have no duty to enquire into the validity of any document executed or other action taken by the Corporation on behalf of the Vendors pursuant to this Section 9.3.

Section 9.4 Further Assurances

Each Party shall from time to time promptly execute and deliver all further documents and take all further action as a Party may reasonably request to give effect to the provisions and intent of this Agreement and to complete the Purchase.

Section 9.5 **Notice**

Unless otherwise specified, each notice to a Party must be given in writing and delivered personally or by courier, sent by prepaid registered mail (but not by facsimile or electronic mail) to the Party as follows:

- (a) If to the Corporation or the Vendors:

Rthm Technologies Inc.
Address: 675 King Street West, Suite 201
Toronto, Ontario
M5V 1M9

Attention: Anthony Mouchantaf

- (b) If to the Purchaser:

Australis Capital Inc.
Address: Suite 900, 510 Seymour Street
Vancouver, BC
V6B 1V5

Attention: Scott Dowty

or to any other address or Person that the Party designates. Any notice, if delivered: (a) personally or by courier, will be deemed to have been given and received on the day it is so delivered and at such address; or (b) by pre-paid registered mail, will be deemed to have been given and received on the fourth Business Day following the date of its mailing.

Section 9.6 **Time**

For every provision of this Agreement, time is of the essence.

Section 9.7 **Governing Law**

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable therein, without regard to conflict of law principles.

Section 9.8 **Legal and Accounting Fees**

Each of the Parties will pay its own legal, accounting and other fees and expenses incurred in connection with the Agreement and the Closing and all other costs and expenses whatsoever and howsoever incurred.

Section 9.9 **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter and supersedes all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set out in this

Agreement. The Parties are not relying on any other information, discussion or understanding in entering into this Agreement and completing the Purchase.

Section 9.10 Amendment

No amendment, supplement, restatement or termination of any provision of this Agreement is binding unless it is in writing and signed by each Person that is a party to this Agreement at the time of the amendment, supplement, restatement or termination.

Section 9.11 Waiver

No waiver of any provision of this Agreement is binding unless it is in writing and signed by all the Parties to this Agreement entitled to grant the waiver. No failure to exercise, indulgence, forbearance or other accommodation, and no delay in exercising, any right or remedy, under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision.

Section 9.12 Severability

If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability of that provision in any other jurisdiction.

Section 9.13 Assignment and Enurement

No Party may assign its rights or obligations under this Agreement without the prior written consent of the other Parties. The Purchaser may, without such consent in writing, assign, directly or indirectly, its rights (but not its obligations) hereunder to any of its wholly-owned subsidiaries, provided, however, that no such assignment shall relieve the Purchaser of its obligations hereunder. Any purported assignment of rights or delegation of obligations in violation of this Section 9.13 shall be null and void, and of no effect. This Agreement enures to the benefit of and binds the Parties and their respective successors and permitted assigns.

Section 9.14 Counterparts Electronic Signatures

This Agreement and other documents to be delivered pursuant to this Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by electronic transmission and such transmissions shall constitute effective delivery of an executed copy of this Agreement to the receiving Party for all purposes.

[The remainder of this page is intentionally left blank.]

The Parties have executed this Agreement.

AUSTRALIS CAPITAL INC.

By: "Scott Dowty"
Name: Scott Dowty
Title: Chief Executive Officer

RTHM TECHNOLOGIES INC.

By: "Anthony Mouchantaf"
Name: Anthony Mouchantaf
Title: Chief Executive Officer

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Schedule A – Vendors

(See attached)

[Redacted]

Schedule B – Promissory Note

(See attached)

AUSTRALIS CAPITAL INC.

PROMISSORY NOTE

Dated: ●

FOR VALUE RECEIVED, the undersigned, Australis Capital Inc. (the **Maker**), acknowledges itself indebted and promises to pay to, or to the order of, ● (the **Holder**) at its offices at ● or such other place as the Holder may, from time to time, designate, the principal amount of \$● (the **Principal Amount**).

All undefined capitalized terms in this Note refer to terms defined in the Share Purchase Agreement between Australis Capital Inc., RTHM Technologies Inc. and the shareholders of RTHM Technologies Inc. dated October 26, 2018 (the **Agreement**).

The Principal Amount shall not bear interest.

This Note is payable within 10 Business Days of the patents set forth in Schedule A hereto (the **Patents**) being granted to the Corporation.

If, within 18 months of the Closing Date, the Patents have not been granted to the Corporation, the Principal Amount shall be reduced nil and the Note shall be cancelled without payment.

To the fullest extent permitted by law, the Maker waives:

- (a) diligence, presentment, demand and protest, and notice of presentment, dishonour, intent to accelerate, acceleration, protest, non-payment, release, compromise, settlement, extension or renewal of this Note; and
- (b) the benefit of all applicable valuation, appraisal and exemption laws.

The Maker agrees that all amounts under this Note are payable without set-off, withholding, deduction, claim, counterclaim, defence or recoupment, all of which are hereby waived by the Maker.

Any limitation periods under the *Limitations Act, 2002* (Ontario), as amended, applicable to this Note are excluded and shall not apply. The Maker also acknowledges and agrees that this Note is a “business agreement” for purposes of such Act.

Time is of the essence with this Note.

This Note is binding upon the Maker and its successors and assigns and enures to the benefit of the Holder and its successors and assigns. The Holder may at any time assign all or any of its rights and benefits hereunder and all references to the “Holder” are deemed to include a reference to its successors and assigns. The Maker may not assign any of its rights or obligations hereunder.

This Note is governed by and is to be interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Maker irrevocably attorns to the exclusive jurisdiction of the courts of Ontario.

IN WITNESS WHEREOF the Maker has executed and delivered this Note as of the date first above written.

AUSTRALIS CAPITAL INC.

By:

Authorized Signing Officer

(Signature Page to Note)

Schedule A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Schedule C – Payment Instructions

(See attached)

[Redacted]