

COCONUT PALM BEACH RESORT II OWNER'S ASSOCIATION, INC.
(the "Association")
Action by Unanimous Written Consent
Effective June 30, 2019

WHEREAS, the Board of Directors (the "Board") have received and reviewed the Bulk Purchase Agreement (the "Agreement") for the purchase of RTX Premium Members for Association members who qualify, a copy of said Agreement being attached as Exhibit A and incorporated herein; and

WHEREAS, the Board wishes to confirm and approve the Agreement and authorize any one of the officers of the Association to execute the Agreement; and

WHEREAS, the Board deems it to be in the Association's best interest to enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED:

That the Board hereby approves the Agreement as presented herein and authorizes the President or any other officer to execute the Agreement or any other documents necessary to effectuate the Agreement; and

FURTHER RESOLVED, that all actions previously taken by the President or any Authorized Agent of the Association, in connection with the actions contemplated hereby, or to effect the purposes of the foregoing resolutions are authorized, ratified and confirmed in all respects; and

FUTHER RESOLVED, that this Consent Action may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute a written waiver of any notice required by law or by the Association's Articles of Incorporation or Bylaws.

The undersigned, constituting the Board of Directors of the Association, by signing this unanimous written consent, waive notice of the time, place and purpose of a special meeting of the Board of Directors and agree to the actions transacted hereby.

IN WITNESS WHEREOF, the undersigned have executed this Consent Action as of the 30th day of June 2019.

DIRECTORS:



Lou Klinker



Jared Resch

Kristin Ingram

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DIRECTORS:

Lou Klinker



Kristin Ingram

Jared Resch

Exhibit A

BULK PURCHASE AGREEMENT

This Bulk Purchase Agreement (the “**Agreement**”), dated as of June 30, 2019 (the “**Effective Date**”), is by and between Resort Travel & Xchange, Inc. (“**RTX**”) and Coconut Palms Beach Resort II Owner’s Association, Inc. (the “**Association**”).

RECITALS

WHEREAS, RTX is a company that provides travel and exchange services to its members; and

WHEREAS, a description of the various membership levels offered by RTX is attached hereto as Exhibit A, which is incorporated herein by reference; and

WHEREAS, subject to the terms and conditions set forth herein, Association desires to purchase RTX Premium Memberships for its Active Owners at the rates and under the terms set forth herein; and

WHEREAS, subject to the terms and conditions set forth herein, RTX desires to provide sell the Association RTX Premium Memberships at a discounted rate; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

- a. Active Owner. Active Owners are Resort Owners, as of September 1st of the current calendar year, who owe the equivalent of one year of annual maintenance fees or less to the Association. If a Resort Owner owns more than one interval interest at the Resort, they shall only be counted as one Active Owner for purposes of this Agreement.
- b. New Owners. New Owners are those Resort Owners who, as of September 1st of the current calendar year do not qualify as an Active Owner but who qualify as an Active Owner between September 2nd of the current calendar year and September 1st of the following calendar year (i.e. they bring their balances current so that they qualify as an Active Owner). New owners will also include any owner who purchases or acquires an interval interest in the

Resort between September 2nd of the current calendar year and September 1st of the following calendar year.

- c. Person. Person includes any person, firm, company, corporation, association, trust, or partnership (whether or not having separate legal personality) or two or more of the foregoing.
 - d. Resort. The Resort is the Coconut Palms Beach Resort II located at 611 S. Atlantic Avenue, New Smyrna Beach, FL 32169.
 - e. Resort Owners. Resort owners shall include Person who own an interval interest at the Resort.
 - f. RTX Premium Membership. RTX Premium Membership is the program offered by RTX that has all the benefits as outlined in Exhibit A of this Agreement.
2. **Term**. This Agreement shall begin on the date set forth above and shall continue for period of forty-two (42) months, from July 2019 to December 2022 (the “Initial Term”). At the expiration of the Initial Term, this Agreement will automatically renew for successive twelve (12) month periods (each a “Renewal Term” and collectively with the Initial Term the “Term”), unless earlier terminated pursuant to Paragraph 13 hereof.
3. **Bulk Purchase**. During the Term of this Agreement, the Association agrees to pay to for RTX Premium Memberships for all Active Owners and New Owners as set forth in Paragraph 5 below.
4. **Treatment of Current Owners**. If any Active Owner has already purchased an RTX Premium Membership, no refund will be provided to said owner. However, they will retain all deposits and rebates with expirations they acquired with their purchased membership.
5. **Payment**.
- a. Initial Upload. The Association shall provide RTX a list of all Active Owners as of the Effective Date. RTX will provide RTX Premium Memberships to all Active Owners on this list at no charge.

b. Payment Structure.

- i. The Enrollment Fee for New Members is One Hundred and Twenty-Seven dollars (\$127.00). RTX agrees to offer the first One Hundred (100) New Member enrollments during the Term of this Agreement to Association at a discounted rate of Seventy-Five dollars (\$75) each. Any subsequent New Members shall be enrolled at the One Hundred and Twenty-Seven dollar (\$127.00) rate.
- ii. A list of Active Owners as of July 1, 2019 will be provided by Association to RTX. No charges will be assessed for Active Owner Memberships for the July through December 2019 period of this agreement.
- iii. On September 1, 2019, the Association shall provide a new report of Active Owners to RTX. Any Resort Owners who no longer qualify as Active Owners will be removed from the list. No charges will be assessed for Active Owner Memberships for the January through December 2020 period of this Agreement.
- iv. On September 1, 2020, the Association shall provide a new report of Active Owners to RTX. Any Resort Owners who no longer qualify as Active Owners will be removed from the list. The Association shall pay RTX fifteen dollars (\$15) per Active Owner remaining on the list for the January through December 2021 period of this Agreement.
- v. On September 1, 2021, the Association shall provide a new report of Active Owners to RTX. Any Resort Owners who no longer qualify as Active Owners will be removed from the list. The Association shall pay RTX thirty dollars (\$30) per Active Owner remaining on the list for the January through December 2022 period of this Agreement.
- vi. On September 1, 2022 and every year thereafter during the Term, the Association shall provide a new Report of Active Owners to RTX. At this time, any Resort Owners who no longer qualify as Active Owners will be removed from the list. The Association shall pay RTX thirty dollars (\$30) per Active Owner remaining on the list. If between September 2nd of the current year and September 1st of the subsequent year, the Association desires to provide a RTX

Premium Membership to a New Owner, they shall pay RTX the Enrollment Fee for the New Member.

vii. Once a New Owner becomes an Active Owner, they shall remain an Active Owner as long as they meet all qualifications. For an Active Owner who becomes a New Owner, the Association will have to pay the Enrollment Fee.

c. Billing. RTX shall bill the Association for all Active Owner memberships (“Membership Fees”) on September 15th of each calendar year for the proceeding calendar year. The Membership Fees shall be payable in twelve (12) equal monthly installments due and payable in advance on the 1st day of each and every month for the Term of this Agreement. RTX shall bill the Association for Enrollment Fees for the New Members on a monthly basis, if applicable (“New Member Fees”). New Member Fees shall be due within 30 days of the bill date. If the Membership Fees or New Member Fees remain unpaid after thirty (30) days of the due date, RTX reserves the right to add interest at a rate of eighteen percent (18%) per year. Nothing in this paragraph shall limit RTX’s rights under Paragraphs 13 and 14 of this Agreement.

6. **Obligations of RTX.** RTX shall be obligated under this agreement to:

- a. Create a RTX member account in the RTX management software for each Active Owner;
- b. Grant Active Owners enrolled in RTX access to the RTX member website, which shall, in compliance with applicable law, include a digital copy in downloadable and printable form of the current RTX Disclosure Guide;
- c. Provide a toll-free number for RTX member services;
- d. Provide a RTX member services staff that can assist with questions regarding RTX;
- e. Make reservations and exchanges for any Active Owner;
- f. Take payments from any Active Owner; and

- g. Provide all benefits available to RTX members to Active Owners, which benefits are subject to change.

7. **Association Obligations.** The Association shall be obligated under this agreement to:

- a. Provide, as permitted by applicable law and the Resort's governing documents, RTX access to the data of Active Owners, including but not limited to contact information and Resort ownership information (including frequency of member use, number of Resort weeks owned, purchase date, and current maintenance fee balance) so that RTX may create and service each Resort Owner's RTX membership ("Membership Information").
- b. Permit RTX to market upgrades to Active Owners. All marketing communications from RTX including outbound call campaigns or emails shall be presented to the Association Board of Directors for approval prior to commencement.

8. **Compliance with Applicable Law.** Both Parties agree to comply with applicable laws, rules or regulations, which shall include but not be limited to all laws governing exchange programs, all Seller of Travel laws, all Timeshare laws, and all laws pertaining to marketing of exchange programs and/or timeshare.

9. **Other Representations and Warranties.** Each party represents and warrants to the other party that:

- a. it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;
- b. it has the full right, power, and authority to enter into this Agreement, to grant the rights granted hereunder, and to perform its obligations hereunder;
- c. the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party; and
- d. when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

10. Confidentiality. The Parties acknowledged that they will have access to information of the other Party that is treated as confidential and proprietary by the disclosing Party including, without limitation, the existence and terms of this Agreement, trade secrets, technology, and information pertaining to Resort Owners, in each case whether spoken, written, printed, electronic or in any other form or medium (collectively the “Confidential Information”). Each Party agrees to treat all Confidential Information of the other Party as strictly confidential, not to disclose Confidential Information or permit it to be disclosed, in whole or part, to any third party without the prior written consent of the disclosing Party in each instance, and not to use any Confidential Information for any purpose except as required in the performance of its duties under this Agreement. Each Party agrees to provide the other Party immediate notice of the unauthorized disclosure of any Confidential Information.

Confidential Information shall not include information that:

- a. Is or becomes generally available to the public other than through breach of this Agreement; or
- b. Is communicated by a third party that had no confidentiality obligations with respect to such information.

Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation or order. Each Party agrees to provide written notice of any such order to an authorized officer of the other Party within five (5) days of receiving such order, but in any event sufficiently in advance of making any disclosure to permit Company to contest the order or seek confidentiality protections.

11. Indemnification and Limitation of Liability.

- a. Indemnification. Each Party agrees to indemnify and hold harmless the other Party, its officers, employees, directors, parent company and affiliates, successors and assigns from and against any and all claims, suits, actions, settlements, fines, penalties, damages, losses and liabilities, and all related costs and expenses (including, but not limited to, reasonable attorneys’ fees) arising out of or in connection with any third party claim related to (i) the negligent or willful act or omission of the other party and their employees, (ii) failure to comply with applicable laws or regulations, and/or (iii) any

breach of any representation, covenant or warranty contained in this Agreement. The indemnified Party agrees to promptly notify the indemnifying Party in writing of any indemnifiable claim. The indemnified Party agrees to cooperate in all reasonable respects with the indemnifying Party and its attorneys in the investigation, trial, defense and settlement of such claim and any appeal arising therefrom. The indemnified Party may participate in such investigation, trial, defense and settlement of such claim and any appeal arising therefrom, through its attorneys or otherwise, at its own cost and expense. Neither Party may enter into a settlement agreement that may affect with rights of the other Party without that Party's prior written consent.

- b. Limitation of Liability. Except with respect to any indemnification obligations set out in this Agreement and any breach of confidentiality, neither Party will be liable to the other Party for any loss of profit, loss of business, loss of prospective economic advantage, loss of goodwill, or loss of data for any indirect, special, incidental or consequential loss or damages, whether or not foreseeable and whether or not based on a statutory liability, tort including negligence, warranty claims or otherwise in connection with the Agreement, and/or the products or services provided under the Agreement.

12. **Independent Contractor.** It is specifically agreed that the relationship of the parties hereto shall be that of a principal and independent contractor and not that of an employer and employee or principal and agent or partners. The parties agree that RTX shall not have the right to control the Association or its employees, and that The Association shall have full power and authority to select the means, manner, and method of performing the work and accomplishing the objectives of this Agreement without detailed direction or control by RTX. The parties hereto recognize and agree that no joint venture or partnership arrangement or agreement is intended or created hereby. No agent, employee or servant of either party shall be or shall be deemed to be the employee, agent or servant of the other, and each party shall be solely and entirely responsible for its acts and for the acts of its own agents, employees, servants and subcontractors during the performance of this Agreement. Each party shall be solely responsible for the compensation of its own agents, employees, servants and subcontractors. Neither party shall act on behalf of the other, nor shall either party represent itself directly or by implication as having authority to act on behalf of the other party, nor shall either party have the authority to create any obligation for or on behalf of or in the name of the other party, except as specifically set forth herein.

13. **Termination.** Either party shall have the right to immediately terminate this Agreement on notice upon the happening of an “Event of Default,” defined as follows:

- a. The failure to comply with any term or provision of this Agreement or any exhibit hereto; or
- b. The filing of a voluntary petition in bankruptcy by either party or the adjudication of either party as bankrupt or insolvent, or the execution by either party of an assignment for the benefit of creditors, or the appointment of a receiver for either party; or
- c. The violation by either party of any federal, state, or local law, ordinance, or code in the performance of this Agreement.

In the absence of any default, either party is free to terminate this Agreement upon ninety (90) days’ advance written notice to the other party. RTX agrees that it will honor any RTX Premium Memberships provided pursuant to this Agreement during this ninety (90) day notice period. Upon termination of this Agreement, the parties agree to establish a list of owners that RTX may still contact. Criteria for this list will be mutually agreed upon to include items such as members who have logged into their account within a specified time threshold, members who have active deposits on their accounts, owners who opt-in to continued communication from RTX, or other reasonable criteria.

14. **Default/Remedies.** In the event of a breach of this Agreement or default of the obligations hereunder by either party, then each party shall be entitled to all applicable rights and remedies as may be available under law or in equity, including the right to file an action seeking damages, or, in the event that damages are inadequate to remedy the breach, the non-defaulting party is entitled to file an action for equitable relief, including specific performance, injunctive relief, or a declaratory judgment, with the prevailing party entitled to recover its reasonable attorneys’ fees and the costs of the action.

15. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) when received if sent via electronic mail; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the

addresses indicated below or at such other address for a party as shall be specified in a notice given in accordance with this Section.

If to RTX: Resort Travel and Xchange, Inc.
 Attn: Kyle Smith
 One Vance Gap Road
 Asheville, NC 28805

With copy to: Legal Department
 One Vance Gap Road
 Asheville, NC 28805
 legal@zhcompany.com

If to the Association: Board of Directors
 One Vance Gap Road
 Asheville, NC 28805

16. Waiver of Jury Trial and Attorneys' Fees. Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

17. Choice of Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law, provision, or rule (whether of the State of North Carolina or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of North Carolina. Any legal suit, action, or proceeding arising out of, or related to, this Agreement or the Services provided hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of North Carolina, in each case located in the City of Asheville and County of Buncombe, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

18. Miscellaneous.

- a. For purposes of this Agreement, (a) the words "include," "includes," and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections and Schedules refer to the Sections and Schedules attached to this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof, and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.
- b. The Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.
- c. This Agreement, together with all Schedule and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- d. Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.
- e. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be

construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

- f. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

- g. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

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

Coconut Palms Beach Resort II



Name: Lou Klinker
Title: President

Resort Travel and Xchange, Inc.

By 

Name: Kyle Smith
Title: President

EXHIBIT A

RTX Membership Levels and Benefits

BASIC LEVEL MEMBERSHIP BENEFITS:

- Deposit life of 24 months based on the check in date of the deposited week.
- Exchange fee is \$127 for online bookings and \$147 for bookings by phone or Custom Search.
- RTX Getaways as low as \$199/week.
- \$47 Guest Certificates.
- View availability online prior to depositing your usage.
- Request First exchange searches with a valid deposit on file.
- Exchange any timeshare week you own (not limited to affiliated resorts).

PREMIUM LEVEL MEMBERSHIP BENEFITS:

- Deposit life of 36 months based on the check in date of the deposited week.
- Exchange fee is \$127 for online bookings and \$147 for bookings by phone or Custom Search.
- \$20 Rebates on your exchange fees.
- RTX Getaways as low as \$99/week.
- Custom Search Requests available with no deposit necessary.
- Split week exchanges (\$20 fee applies).
- \$27 Guest Certificates
- View availability online prior to depositing your usage.
- Request First exchange searches without having to deposit.
- Exchange any timeshare week you own (not limited to affiliated resorts).
- Cruise exchanges.
- Hotel, car, cruise, activity and excursion discounts.
- RTX Traveler Magazine (2 printed publications annually).

PREMIUM PLUS LEVEL MEMBERSHIP BENEFITS:

- Deposit life of 48 months based on the check in date of the deposited week.
- Exchange fee is \$127 for online bookings and \$147 for bookings by phone or Custom Search.
- \$40 Rebates on your exchange fees.

- Unit size upgrades (upsized by 1 bedroom for any existing availability within 60 days).
- RTX Getaways as low as \$49/week.
- Custom Search Requests available with no deposit necessary.
- Split week exchanges with no split week fee.
- No fee for Guest Certificates.
- View availability online prior to depositing your usage.
- Request First exchange searches without having to deposit.
- Exchange any timeshare week you own (not limited to affiliated resorts).
- Cruise exchanges.
- RTX Traveler Magazine (2 printed publications annually).
- Priority Pass airport lounge membership.
- Best hotel, car, cruise, activity, and excursion discounts.