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OFFICIAL RECORDS

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TOP FLIGHT

APN: 1318-22-002-001; 1318-22-002-002

Recording Requested By and  
When Recorded Return to:

Seyfarth Shaw LLP  
620 Eighth Avenue  
New York, New York 10018  
Attention: Tracey A. Leitman, Esq.

DOUGLAS COUNTY RECORDERS  
Karen Ellison - Recorder

Page: 1 of 18 Fee: \$ 31.00  
Bk: 0713 Pg: 3939



Deputy sd

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons (per Nevada Revised Statutes 239B.030)

### FIRST MODIFICATION AGREEMENT

**THIS FIRST MODIFICATION AGREEMENT** (this "**Agreement**"), dated as of May 10, 2013, is by and among **TAHOE SHORES LLC**, a Nevada limited liability company (the "**Borrower**"), having an address at c/o Robert M. Mecay, 170 Highway 50, Stateline, Nevada 89449; and **GARY B. SABIN**, an individual, having an address at 18000 Sunset Point Road, Poway, California 92064, **GARY B. SABIN**, trustee of the Gary B. Sabin Family Trust, having an address at 18000 Sunset Point Road, Poway, California 92064, **ROBERT M. MECAY**, an individual, having an address at 170 Highway 50, Stateline, Nevada 89449, and **ROBERT M. MECAY**, trustee of the Mecay Family Trust, having an address at 170 Highway 50, Stateline, Nevada 89449, jointly and severally (the foregoing individuals and trustees are sometimes hereafter collectively referred to as the "**Guarantors**" and individually as a "**Guarantor**," and together with the Borrower, collectively referred to as the "**Borrower Parties**"); and **DB PRIVATE WEALTH MORTGAGE LTD.**, a New York banking corporation (together with its successors and assigns, the "**Lender**"), with an office at 345 Park Ave, 14th Floor, New York, New York, 10154.

### RECITALS

A. Lender made a loan to Borrower in the original principal amount of \$11,500,000 (the "**Loan**"), evidenced by that certain Promissory Note dated as of July 29, 2011, executed by Borrower, as maker, payable to the order of Lender, as payee (the "**Note**"), which Note is secured by, among other instruments, (i) that certain Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement, dated as of July 29, 2011, made by Borrower, as trustor, to **FIRST AMERICAN TITLE INSURANCE COMPANY**, a California corporation, as trustee, for the benefit of Lender, as beneficiary, and recorded in the Official Records of Douglas County, Nevada (the "**Official Records**") on July 29, 2011 (the "**Security Instrument**"), and (ii) that certain Assignment of Leases and Rents, dated as of July 29, 2011 executed by Borrower, as assignor, in favor of Lender, as assignee, and recorded on July 29, 2011 in the Official Records as Instrument No. 787257 (the "**Assignment of Leases**"). The Security Instrument encumbers the Mortgaged Premises (as defined therein). The Loan is further evidenced by that certain unrecorded Term Loan Agreement by and between Borrower and

Lender dated as of July 29, 2011 (the "**Loan Agreement**"). Initially capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

B. Pursuant to that certain Guaranty, dated as of July 29, 2011 (the "**Guaranty**"), Guarantors guaranteed certain obligations of Borrower.

C. The Borrower Parties and Lender have agreed to amend the documents evidencing, securing, or otherwise relating to the Loan (collectively, the "**Loan Documents**") so as to modify certain financial covenants set forth in the Guaranty. The Borrower Parties and Lender are entering into this Agreement in order to amend the Loan Documents to reflect such modification of said financial covenants.

### AGREEMENT

NOW, THEREFORE, with reference to the foregoing recitals, in reliance thereon and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Incorporation of Recitals. Each of the foregoing recitals is fully incorporated herein as if fully set forth herein.

2. Amendment of Guaranty.

a. Minimum Deposit Amount. Section 10(c) of the Guaranty is hereby deleted in its entirety and replaced with the following:

“(c) Minimum Deposit. At all times during the term hereunder, Borrower and Guarantors, together with all entities owned and controlled by Borrower and/or any Guarantor (collectively, "Borrower Parties"), shall maintain a minimum balance of Three Million and 00/100 Dollars (\$3,000,000.00) in Unencumbered Liquid Assets with Lender or an Affiliate of Lender in the United States (the "Minimum Deposit Amount"); provided that up to Seven Hundred Thousand and 00/100 Dollars (\$700,000.00) of Unencumbered Liquid Assets that is deposited with Lender's Affiliate, DB Schweiz AG (Account # CH31 0865 9504 3078 8400 1), shall be credited towards Borrower Parties' obligation to maintain the Minimum Deposit Amount. The Minimum Deposit Amount shall be factored into Lender's calculations under Section 10(a) and 10(b) above to the extent such sums are maintained exclusively by one (1) or more Guarantor. If at any time during the term hereunder, Borrower Parties fail to maintain the Minimum Deposit Amount solely as a result of an investment loss (and not as a result of a withdrawal by any of the Borrower Parties) in the amount of funds held in such account, and such failure continues for more than thirty (30) days after written notice from Lender, such failure shall constitute an Event of Default.”

b. Compliance Certificate. The Compliance Certificate attached to the Guaranty as Exhibit 1 is hereby deleted in its entirety and replaced with the Compliance Certificate attached hereto as Exhibit 1.

3. Reaffirmation of Loan Documents. By their signatures below, Borrower and each of the Guarantors hereby consent to and approve the terms and conditions of this Agreement and all other documents executed in connection with the modification of the Loan provided for in this Agreement, and ratify, confirm and restate all of their undertakings, obligations, agreements, guarantees and indemnities as set forth in the Guaranty and other Loan Documents, as modified hereby.

4. Representations, Warranties, and Covenants of Borrower and Guarantors. Borrower and each of the Guarantors hereby represents and warrants to Lender, as of the date hereof that: (i) no default or Event of Default has occurred or is continuing; (ii) all provisions of the Loan Documents, as modified by the provisions of this Agreement, are in full force and effect; and (iii) the representations and warranties made in the Loan Documents and in any other documents or instruments delivered in connection with the Loan Documents are true, on and as of the date hereof (subject to such changes as shall have occurred from and after the closing of the Loan that are not expressly prohibited under the Loan Documents).

5. Release. Borrower and Guarantors each hereby (a) releases, acquits and forever discharges Lender and its agents, employees, officers, directors, servants, representatives, attorneys, affiliates, successors and assigns, including, without limitation, Seyfarth Shaw LLP and all of its attorneys and employees (collectively, the "**Released Parties**") from any and all liabilities, claims, suits, debts, liens, losses, causes of action, demands, rights, damages, costs and expenses of any kind, character or nature whatsoever, known or unknown, fixed or contingent, that Borrower or any Guarantor may have or claim to have against Lender or any or all of the Released Parties arising out of the Loan or connected with any act or commission or omission of Lender or any or all of the Released Parties existing or occurring on or prior to the date hereof, including, without limitation, any claims, liabilities or obligations relating to or arising out of or in connection with the Note, the Loan Agreement or the other Loan Documents (including, without limitation, arising out of or in connection with the initiation, negotiation, closing or administration of the transactions contemplated thereby or related thereto), from the beginning of time until the execution and delivery hereof (the "**Released Claims**") and (b) agrees forever to refrain from commencing, instituting or prosecuting any lawsuit, action or other proceeding against any or all of the Released Parties with respect to any or all of the Released Claims.

6. Binding Obligations. Borrower and each of the Guarantors covenant and agree that the Loan Documents, as modified herein, are and remain the valid and binding obligations of Borrower and each of the Guarantors, as applicable, enforceable in accordance with their terms, and that they otherwise remain in full force and effect.

7. References. It is hereby acknowledged and agreed that any and all references in any of the Loan Documents evidencing, securing or otherwise relating to the Loan, the "Note", the "Security Instrument", the "Guaranty", the "Loan Documents", "thereunder", "thereof", or words of like import referring thereto shall mean the Note, the Security Instrument, the Guaranty or the Loan Documents, as amended by this Agreement. Furthermore, the term

“Loan Documents” as defined in the Security Instrument shall also expressly include this Agreement.

8. No Impairment. The execution and delivery hereof shall not extinguish any obligations or the indebtedness due under the Note nor will it impair the lien of the Security Instrument or Assignment of Leases and Rents given by Borrower in favor of Lender securing the obligations of Borrower pursuant to the Note and the other Loan Documents, and no part of the same shall be disturbed, discharged, cancelled or impaired by the execution of this instrument or the execution and delivery of any further instruments evidencing or securing the indebtedness due under the Note and any other indebtedness of Borrower or Guarantors to Lender now or hereafter existing.

9. Payments. In addition to any and all fees, costs, taxes, expenses and other payments required in connection with the execution, recordation and delivery of this Agreement, Borrower and Guarantors shall be jointly and severally responsible for the payment, to Lender, upon demand from time to time, all of the fees, costs, taxes and expenses incurred by Lender in connection herewith (including, without limitation, the costs and expenses of the attorneys for Lender).

10. Effective Date. No provision of this Agreement shall be effective until such time as it has been executed and delivered by all parties hereto and Borrower and Guarantors shall have fulfilled the conditions as required hereunder and made the payments required at this time as set forth herein or otherwise required by Lender.

11. Due Authorization. Each of the undersigned signatories (other than Lender) represents and warrants to Lender that: (a) the execution, delivery and performance by such signatory of this Agreement have been duly authorized and do not and will not violate, or result in the breach of, or constitute a default under, or require any consent under, or result in the creation of any lien upon any property or assets of such signatory pursuant to, any contractual obligation or requirement of law of, or applicable to, such signatory and (b) this Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of such signatory enforceable in accordance with its terms.

12. Miscellaneous.

a. Except as expressly modified by the provisions of this Agreement, the terms of the Loan Documents shall continue in full force and effect and are hereby ratified and confirmed in all respects.

b. This Agreement may be executed by facsimile or electronic (.pdf) signature(s), which shall have the same effect as original signatures, and in any number of counterparts by the parties, and when each party has signed and delivered at least one such counterpart to the other party, each counterpart shall be deemed an original and taken together, shall constitute one and the same Agreement. The parties shall promptly thereafter, exchange counterparts of all modification or other documents with original signatures.

c. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

d. No failure on the part of Lender or any of its agents to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder or under the Loan Documents shall operate as a waiver thereof.

e. This Agreement may only be amended or revised by a written instrument or instruments executed by each signatory hereof.

f. Each of the undersigned signatories (other than Lender) represents and warrants that he/she or it is represented by legal counsel of his/her or its choice, is fully aware of the terms contained in this Agreement and has voluntarily and without coercion or duress of any kind entered into this Agreement.

**g. BORROWER, EACH OF THE GUARANTORS AND LENDER EXPRESSLY WAIVE ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, COUNTERCLAIM OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS AGREEMENT.**

h. In the event that any provision of this Agreement or the application thereof to Borrower, Guarantors or any circumstance in any jurisdiction governing this Agreement shall, to any extent, be invalid or unenforceable under any applicable statute, regulation or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform to such statute, regulation or rule of law, and the remainder of this Agreement and the application of any such invalid or unenforceable provision to parties, jurisdictions or circumstances other than to whom or to which it is held invalid or unenforceable shall not be affected thereby, nor shall same affect the validity or enforceability of any other provision of this Agreement.

i. The captions of the paragraphs of this Agreement are for the purposes of convenience only and are not intended to be part of this Agreement and shall not be deemed to modify, explain, enlarge or restrict any of the provisions hereof.

j. Borrower and each of the Guarantors shall, on the request of Lender and at the expense of Borrower and Guarantors, jointly and severally: (a) promptly execute, acknowledge, deliver and record or file such instruments and promptly do such acts as may be necessary, desirable or proper to carry out more effectively the purposes of this Agreement and the Loan Documents and (b) promptly execute, acknowledge, deliver, procure and record or file any document or instrument deemed advisable by Lender to protect, continue or perfect the liens or the security interests created under the Loan Documents against the rights or interests of third persons.

k. This Agreement shall be binding upon Borrower and each of the Guarantors and their respective successors, assigns, heirs and personal representatives and shall inure to the benefit of Lender and its successors and assigns.

[Signatures Begin on Next Page]

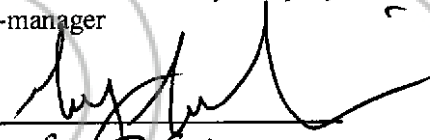
IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed as of the day and year first above written.

**BORROWER:**

**TAHOE SHORES LLC,**  
a Nevada limited liability company

By: South Shore Tahoe, LLC,  
a Nevada limited liability company,  
its sole member

By: Bluelake Partners, LLC  
a Nevada limited liability company,  
its co-manager

By:   
Name: Gary B Sabin  
Title: Manager

By: KBM Enterprises LLC,  
a Nevada limited liability company,  
its co-manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signatures Continue on Next Page]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed as of the day and year first above written.

**BORROWER:**

**TAHOE SHORES LLC,**  
a Nevada limited liability company

By: South Shore Tahoe, LLC,  
a Nevada limited liability company,  
its sole member

By: Bluelake Partners, LLC  
a Nevada limited liability company,  
its co-manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: KBM Enterprises LLC,  
a Nevada limited liability company,  
its co-managers

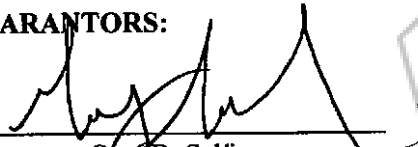
By: *R. M. Meck*

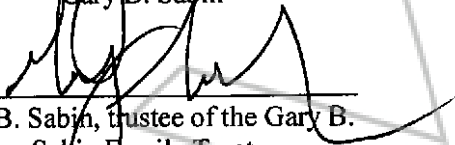
Name: *R. M. Meck*

Title: *Co-Manager*

[Signatures Continue on Next Page]

**GUARANTORS:**

  
\_\_\_\_\_  
Gary B. Sabin

  
\_\_\_\_\_  
Gary B. Sabin, trustee of the Gary B.  
Sabin Family Trust

\_\_\_\_\_  
Robert M. Mecay

\_\_\_\_\_  
Robert M. Mecay, trustee of the  
Mecay Family Trust


[Signatures Continue on Next Page]

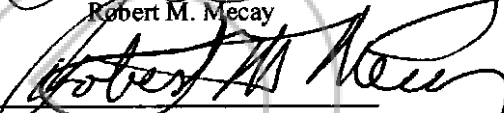


**GUARANTORS:**

\_\_\_\_\_  
Gary B. Sabin

\_\_\_\_\_  
Gary B. Sabin, trustee of the Gary B.  
Sabin Family Trust

  
\_\_\_\_\_  
Robert M. Mecay

  
\_\_\_\_\_  
Robert M. Mecay, trustee of the  
Mecay Family Trust

[Signatures Continue on Next Page]

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of San Diego} ss.

On May 7, 2013 before me, Jennifer Sattley, Notary Public, personally appeared Gary B. Sabin, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



*Jennifer Sattley*  
Signature

(seal)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of San Diego} ss.

On May 7, 2013 before me, Jennifer Sattley, Notary Public, personally appeared Gary B. Sabin, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



*Jennifer Sattley*  
Signature

BK : 0713  
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7/17/2013  
0827168 Page : 10 of 18

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of San Diego) ss.

On May 7, 2013 before me, Jennifer Sattley, Notary Public, personally appeared Gary B. Sabin, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.



*Jennifer Sattley*  
Signature

(seal)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

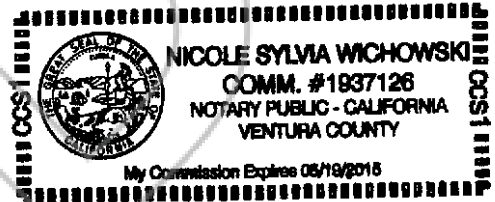
State of California  
County of Santa Barbara

On May 10, 2013, before me, Nicole Sylvia Wichowski, a  
Notary Public in and for said State, personally appeared  
Robert Mecay, who proved to me on the basis of satisfactory  
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),  
and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

State of California  
County of Santa Barbara

On May 10, 2013, before me, Nicole Sylvia Wichowski  
Notary Public in and for said State, personally appeared  
Robert Mecay, who proved to me on the basis of satisfactory  
evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),  
and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

State of California  
County of Santa Barbara

On May 10, 2013, before me, Ms Nicole Sylvia Wichowski,  
Notary Public in and for said State, personally appeared

Robert McCoy, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

State of California  
County of \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, a  
Notary Public in and for said State, personally appeared

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

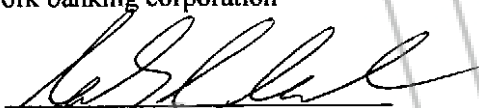
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.


WITNESS my hand and official seal.

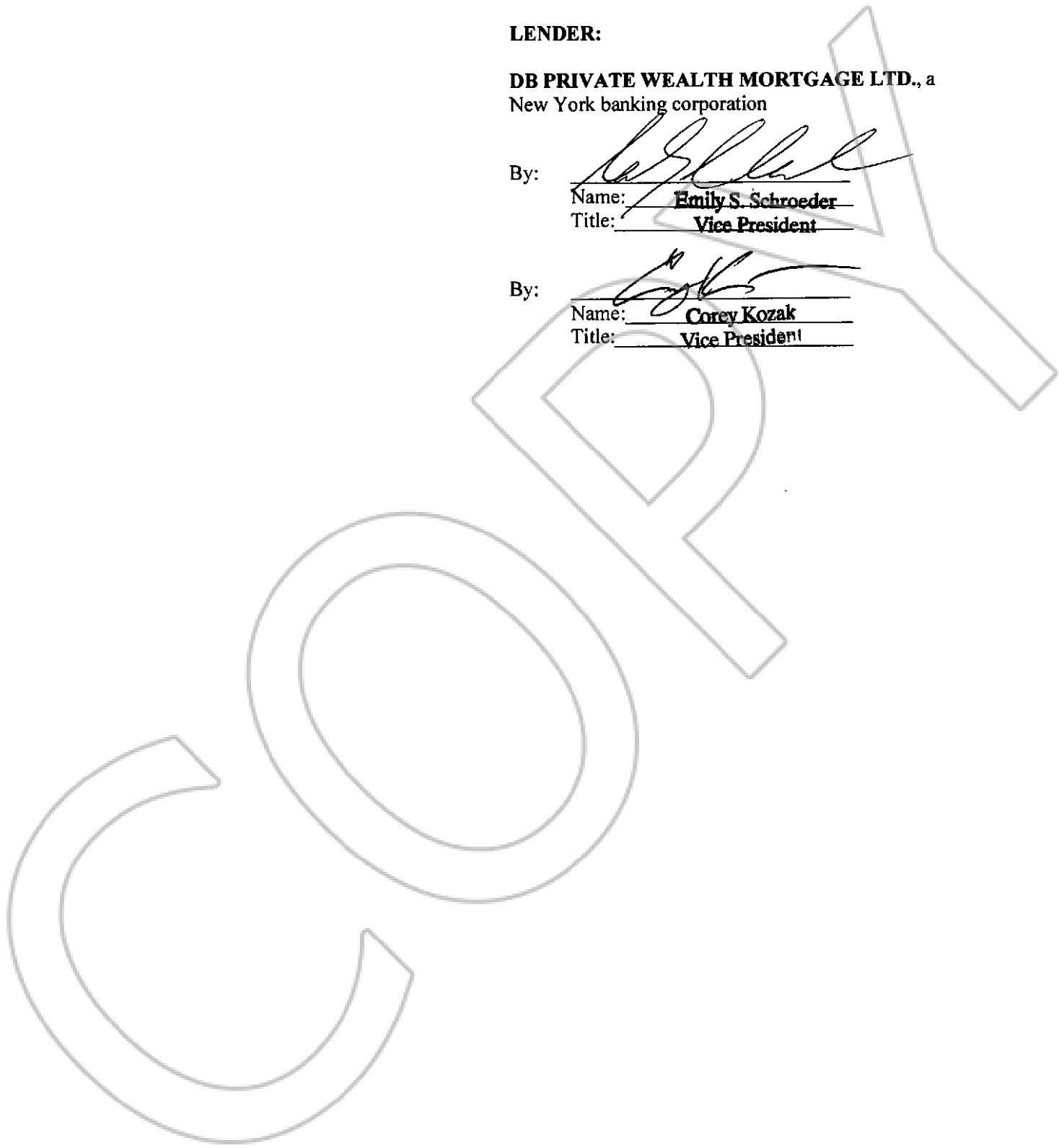
Signature \_\_\_\_\_ (Seal)

**LENDER:**

**DB PRIVATE WEALTH MORTGAGE LTD., a**  
New York banking corporation

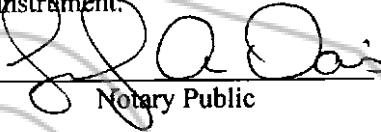
By:   
Name: Emily S. Schroeder  
Title: Vice President

By:   
Name: Corey Kozak  
Title: Vice President



STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NEW YORK )

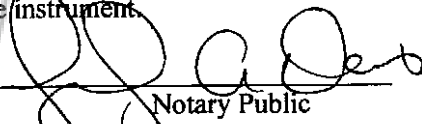
(a) On the 15 day of May, before me, the undersigned, a notary public in and for said state, personally appeared Emily Schroeder, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

JENNIFER A. DAVIS  
Notary Public, State of New York  
No. 01DA6259737  
Qualified in New York County  
Commission Expires April 16, 2016

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NEW YORK )

(b) On the 15 day of May, before me, the undersigned, a notary public in and for said state, personally appeared Cory Kozak, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
Notary Public

JENNIFER A. DAVIS  
Notary Public, State of New York  
No. 01DA6259737  
Qualified in New York County  
Commission Expires April 16, 2016

EXHIBIT 1

to

Guaranty, dated as of July 29, 2011

from

Gary B. Sabin, an individual, Gary B. Sabin, trustee of the Gary B. Sabin Family Trust,  
Robert M. Mecay, an individual, and Robert M. Mecay, trustee of the Mecay Family Trust, collectively as  
Guarantors,

to

DB Private Wealth Mortgage Ltd., as Lender

**COMPLIANCE CERTIFICATE**

FOR  ENDED

DATE: [DATE]

**LENDER:** DB Private Wealth Mortgage Ltd.

**GUARANTORS:** Gary B. Sabin, an individual, Gary B. Sabin, trustee of the Gary B. Sabin Family Trust, Robert M. Mecay, an individual, and Robert M. Mecay, trustee of the Mecay Family Trust

**BORROWER:** Tahoe Shores LLC

This certificate is delivered under the Guaranty (as same may be amended, supplemented, renewed, extended, replaced, or restated from time to time, together with all attachments hereto, the "Guaranty"), dated as of July 29, 2011, and given by Guarantors to Lender as required under the Guaranty. Capitalized terms not defined herein shall have the meanings assigned to such terms in the Agreement and the Guaranty, as the case may be.

Guarantors hereby certify to Lender as of the date hereof that as of **[date at the end of the period indicated above]** (the "Reporting Date") (as applicable (please check applicable box below and insert the applicable date below):

1. Financial Statements:

- Attached hereto are Guarantors' unaudited financial statements (including their balance sheet and statements of cash flow, bank statements and/or brokerage statements, net worth and contingent liabilities) for the calendar year ended [\_\_\_\_\_], together with the Summary as of such date.

The foregoing presents fairly in all material respects the financial condition of Guarantors and \_\_\_\_\_ at the period presented.

2. Net Worth. The Net Worth of Guarantors for the calendar year ended [\_\_\_\_\_] is not less than Fifty-Nine Million and 00/100 Dollars (\$59,000,000.00). In respect thereof, Guarantors':

Total Assets equal \$ \_\_\_\_\_ [A]  
 Liabilities are \$ \_\_\_\_\_ [B]  
 Adjusted contingent liabilities are \$ \_\_\_\_\_ [C]  
 Guarantors' Net Worth ([A] minus [B] and [C]) equals \$ \_\_\_\_\_.



3. **Unencumbered Liquid Assets.** The value of Guarantors' Unencumbered Liquid Assets at all times was, and as of [December 31, \_\_\_\_\_] is, not less than Ten Million and 00/100 Dollars (\$10,000,000.00). In respect thereof, as of such date, Guarantors':

Cash and Cash Equivalents have an aggregate market value of [ \$ \_\_\_\_\_ ] as detailed on (please check applicable boxes below):

i. The brokerage statement(s) as at such date attached hereto.

ii. The Schedule of Unencumbered Liquid Assets as at such date attached hereto.

iii. Other. [ \_\_\_\_\_ ].

4. **Minimum Deposit.** Borrower and Guarantors, together with all entities owned and controlled by Borrower and/or any Guarantor maintain a minimum balance of Three Million and 00/100 Dollars (\$3,000,000.00) in Unencumbered Liquid Assets with Lender or an Affiliate of Lender in the United States.

5. Guarantors know of no Event of Default which has occurred and is continuing, except as set forth below:

[State "None" or specify the nature and period of existence of the Event of Default and the action Guarantors have taken or propose to take thereto to cure such Event of Default].

6. All of the representations and warranties made by Borrower under the Agreement and the Loan Documents applicable to Borrower, and by Guarantors under the Guaranty and the Loan Documents applicable to Guarantors remain true and correct in all material respects as of the date hereof.

[REMAINDER OF PAGE INTENTIONALLY BLANK.  
SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the undersigned Guarantors have executed this Compliance Certificate as of the date set forth above.

**GUARANTORS:**

\_\_\_\_\_  
Gary B. Sabin

\_\_\_\_\_  
Gary B. Sabin, trustee of the Gary B.  
Sabin Family Trust

\_\_\_\_\_  
Robert M. Mecay

\_\_\_\_\_  
Robert M. Mecay, trustee of the Mecay  
Family Trust

