

Jean L. Kiddoo  
Russell M. Blau  
Brett P. Ferenchak  
jean.kiddoo@bingham.com  
russell.blau@bingham.com  
brett.ferenchak@bingham.com

April 30, 2010

*Via Electronic Filing and Overnight Courier*

Sara Miller-Williams, Assistant Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Joint Application of Megapath Inc., DSLnet Communications, LLC and  
CCGI Holding Corporation, Inc. for Approval of the Indirect Transfer of  
Control of DSLnet Communications, LLC**

Dear Ms. Miller-Williams:

On behalf of MegaPath Inc., DSLnet Communications, LLC (“DSLnet”) and CCGI (collectively, the “Applicants”), enclosed for filing with the Commission is one (1) copy of the above-referenced Joint Application. As required by the Commission’s rules, a filing fee in the amount of \$350.00 has been paid by credit card through the Commission’s eFiling system. This paper copy is being filed pursuant to the Commission’s current eFiling procedures.

Please date-stamp the extra copy and return it in the envelope provided. Should you have any questions concerning this filing, please do not hesitate to contact Brett Ferenchak at (202) 373-6697.

Respectfully submitted,



Jean L. Kiddoo  
Russell M. Blau  
Brett P. Ferenchak

Counsel to the Petitioners

Enclosure

Boston  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
Washington

Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC  
20006-1806

T +1.202.373.6000  
F +1.202.373.6001  
bingham.com

A/73359095.1

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

\_\_\_\_\_ )  
In the Matter of the Joint Application of )  
 )  
**Megapath Inc.,** )  
**DSLnet Communications, LLC** )  
 )  
and ) Docket No. \_\_\_\_\_  
 )  
**CCGI Holding Corporation** )  
 )  
For Approval of the Indirect Transfer of Control )  
of DSLnet Communications, LLC )  
\_\_\_\_\_ )

**JOINT APPLICATION**

MegaPath Inc. (“MegaPath”), its wholly owned direct subsidiary DSLnet Communications, LLC (“DSLnet”), and CCGI Holding Corporation (“CCGI”) (MegaPath, DSLnet and CCGI collectively, “Applicants”), through their undersigned counsel and pursuant to 66 Pa. Stat. § 1102(a) and the Pennsylvania Public Utility Commission’s (“Commission”) Policy Statement at 52 Pa. Code §69.901, respectfully request approval or such authority as may be necessary or required to enable the parties to consummate a transaction between CCGI and MegaPath through which CCGI will acquire indirect control of DSLnet Communications, LLC, a wholly owned direct subsidiary of MegaPath Inc.<sup>1</sup>

<sup>1</sup> The proposed transaction is not contingent on any party obtaining new or amended financing arrangements. In connection with that transaction, however, Applicants may refinance their existing indebtedness. If so, DSLnet may be a borrower and/or guarantor or pledge its assets as security under the new financing arrangements in which case DSLnet will separately request approval for those financing arrangements.

The Applicants request that the Commission act expeditiously to grant the authority requested herein as soon as possible, so that the Applicants can timely consummate the proposed transaction to meet important business objectives.

In support of their Application, the Applicants state as follows:

**I. DESCRIPTION OF THE APPLICANTS**

**A. MegaPath Inc. and DSLnet Communications, LLC**

MegaPath Inc. is a Delaware corporation with its principal office located at 555 Anton Boulevard, Suite 200, Costa Mesa, California 92626. MegaPath is the parent company of DSLnet Communications, LLC. MegaPath is a provider of a variety of managed Internet Protocol (“IP”) services including cable and satellite system broadband Internet access, mobility services such as digital certificates, global remote access, personal firewalls, and remote access virtual private networks (“VPN”), and security services. MegaPath does not currently offer any regulated telecommunications services and therefore does not hold any telecommunications authorizations from the Federal Communications Commission (“FCC”) or any state regulatory authority.

DSLnet Communications, LLC is a Delaware limited liability company with principal offices located at 50 Barnes Park North, Suite 104, Wallingford, Connecticut 06492. DSLnet provides highspeed access to the Internet services. DSLnet is authorized to provide intrastate telecommunications services in forty-seven (47) states and the District of Columbia, and DSLnet’s affiliate DSLnet Communications VA, Inc. is authorized to provide intrastate telecommunications services in Virginia.

In Pennsylvania, DSLnet is authorized to provide (1) resold toll services pursuant to a Certificate of Public Convenience (“Certificate) issued by the Commission in Docket No. A-

310824, (2) resold and facilities-based competitive local exchange services pursuant a Certificate issued by Commission in Docket No. A-310824F0002, (3) facilities-based interexchange telecommunications services pursuant to a Certificate issued by the Commission in A-310824F0003, and (4) competitive access provider services pursuant to a Certificate issued by the Commission in A-310824F0004. DSLnet is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

Further information concerning DSLnet's legal, technical, managerial and financial qualifications to provide service was submitted with its application for certification and other documents filed with the Commission and is, therefore, a matter of public record. DSLnet respectfully requests that the Commission take official notice of that information and incorporate it herein by reference.

**B. CCGI Holding Corporation**

CCGI Holding Corporation is a Delaware corporation with offices located at 360 North Crescent Drive, Beverly Hills, California 90210. CCGI is the parent company of Covad Communications Group, Inc. ("Covad"), a Delaware corporation that owns Covad Communications Company ("CCC"), a California corporation, and DIECA Communications, Inc. ("DIECA"), a Virginia corporation. Covad is a leading nationwide provider of integrated voice and data communications. Through its operating companies (CCC and DIECA), the company offers DSL, Voice Over IP, T1, Ethernet, Web hosting, managed security, IP and dial-up, wireless broadband, and bundled voice and data services directly through Covad's network and through Internet Service Providers, value-added resellers, telecommunications carriers and affinity groups to small and medium-sized businesses and home users. Covad broadband services are currently available across the nation in 44 states and 235 Metropolitan Statistical Areas

("MSAs") and can be purchased by more than 57 million homes and businesses, which represent over 50 percent of all US homes and businesses. In Pennsylvania, DIECA is authorized to provide facilities-based and resold local exchange, exchange access and interexchange telecommunications services in the Commonwealth of Pennsylvania pursuant to Certificates of Public Convenience and Necessity granted by the Commission on January 9, 1999 at Docket Nos. A-310696, A-310696 F0002 and on June 12, 2003 at Docket No. A-310696 F0003. Covad is also authorized by the FCC to provide international and domestic interstate telecommunications services as a non-dominant carrier.

CCGI is ultimately controlled by Platinum Equity LLC ("Platinum"). Neither CCGI nor Platinum offer any regulated telecommunications services. Platinum is a privately held Delaware limited liability company with offices located at 360 North Crescent Drive, Beverly Hills, California 90210. Platinum is a global firm specializing in the merger, acquisition and operation of companies that provide services and solutions to customers in a broad range of business markets, including information technology, telecommunications, logistics, manufacturing, and entertainment distribution.

Platinum indirectly controls several other telecommunications carriers: Matrix Telecom, Inc. ("Matrix"); and Americatel Corporation ("Americatel"). Matrix provides integrated communications services including local, 1+ long distance and toll-free voice services plus a wide range of data services, such as dedicated Internet access, frame relay and point-to-point transmission services, chiefly to enterprise customers. Americatel provides international and domestic facilities-based and resold long distance services, including "dial around" casual calling (i.e., 1010XXX) service and presubscribed 1+ calling services, in each of the 48 contiguous states, with a particular emphasis on serving the needs of United States customers with

connections to Latin America and the Caribbean. Through the ownership of these companies, Platinum has demonstrated its qualifications to obtain control of DSLnet.

## II. CONTACT INFORMATION

Questions or inquiries concerning this Application may be directed to:

For Applicants:

Jean L. Kiddoo, Esq.  
Russell M. Blau, Esq.  
Brett P. Ferenchak, Esq.  
Jeffrey R. Strenkowski, Esq.  
Bingham McCutchen LLP  
2020 K Street, N.W.  
Washington, DC 20006  
202-373-6000 (Tel)  
202-373-6001 (Fax)  
jean.kiddoo@bingham.com  
russell.blau@bingham.com  
brett.ferenchak@bingham.com  
jeffrey.strenkowski@bingham.com

For CCGI:

Eva Kalawski, Esq.  
Executive Vice President, General  
Counsel and Secretary  
Platinum Equity, LLC  
360 North Crescent Drive, South  
Building  
Beverly Hills, CA 90210  
310-712-1850 (Tel)  
310-712-1863 (Fax)  
ekalawski@platinumequity.com

and:

Anthony Hansel  
Assistant General Counsel  
Covad Communications Company  
1750 K Street, NW  
Suite 200  
Washington, DC 20006  
202-220-0410 (Tel)  
202-833-2026 (Fax)  
ahansel@covad.com

For MegaPath and DSLnet:

Steven B. Chisholm, Esq.  
MegaPath Inc.  
555 Anton Boulevard, Suite 200  
Costa Mesa, California 92626  
714-327-2041 (Fax)  
Steve.Chisholm@megapath.com

and:

Schula Hobbs  
Regulatory Affairs  
DSLnet Communications, LLC  
50 Barnes Park North, Suite # 104  
Wallingford, CT 06492  
203-284-6205 (fax)  
shobbs@megapath.com

### **III. DESCRIPTION OF THE TRANSACTION**

CCGI and MegaPath entered into an Agreement and Plan of Merger dated as of March 26, 2010 (the "Agreement"). Pursuant to the Agreement, a subsidiary of CCGI created specifically for this transaction, TMAC Merger Corporation, will merge with Megapath, with MegaPath surviving. As a result, MegaPath will become a wholly owned, direct subsidiary of CCGI and CCGI will acquire indirect control of DSLnet. Applicants therefore request authority to transfer indirect control of DSLnet to CCGI, and ultimately to Platinum. For the Commission's convenience, pre- and post-transaction corporate organizational structure charts are provided as Exhibit A.

Following the consummation of the proposed transaction, DSLnet's customers will continue to receive service under the same rates, terms and conditions of service as before. The proposed transaction will not involve a change in DSLnet's operating authority in Pennsylvania and DSLnet's tariffs will remain in effect. Thus, the proposed transaction will be seamless and virtually transparent to Pennsylvania consumers. Further, DSLnet's management will remain with the company following completion of the transaction and be supplemented by the management team of CCGI and Covad.

### **IV. PUBLIC INTEREST CONSIDERATIONS**

Applicants respectfully submit that the proposed transaction serves the public interest. In particular, Applicants submit that: (1) the proposed transaction will increase competition in the Pennsylvania telecommunications market by reinforcing the status of DSLnet as a viable competitor and (2) the proposed transaction will be virtually transparent to Pennsylvania consumers.


Immediately following the consummation of the proposed transaction, DSLnet will continue to offer service with no change in the rates or terms and conditions of service. Further,

DSLnet will continue to provide service to its customers under the same name, and will continue to be led by an experienced management team. Therefore, the transfer of control of DSLnet will be seamless and virtually transparent to consumers in Pennsylvania. Nor will the transfer of control of DSLnet impact DIECA's ongoing operations in Pennsylvania.

V. **CONCLUSION**

For the reasons stated above, Applicants respectfully submit that the public interest will be furthered by a grant of this Application. Accordingly, Applicants respectfully request expedited treatment to permit Applicants to complete the proposed transaction as soon as possible.

Respectfully submitted,

By:   
Jean L. Kiddoo  
Russell M. Blau  
Brett P. Ferenchak  
Jeffrey R. Strenkowski  
BINGHAM MCCUTCHEN LLP  
2020 K Street, NW  
Washington, D.C. 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001  
jean.kiddoo@bingham.com  
russell.blau@bingham.com  
brett.ferenchak@bingham.com  
jeffrey.strenkowski@bingham.com

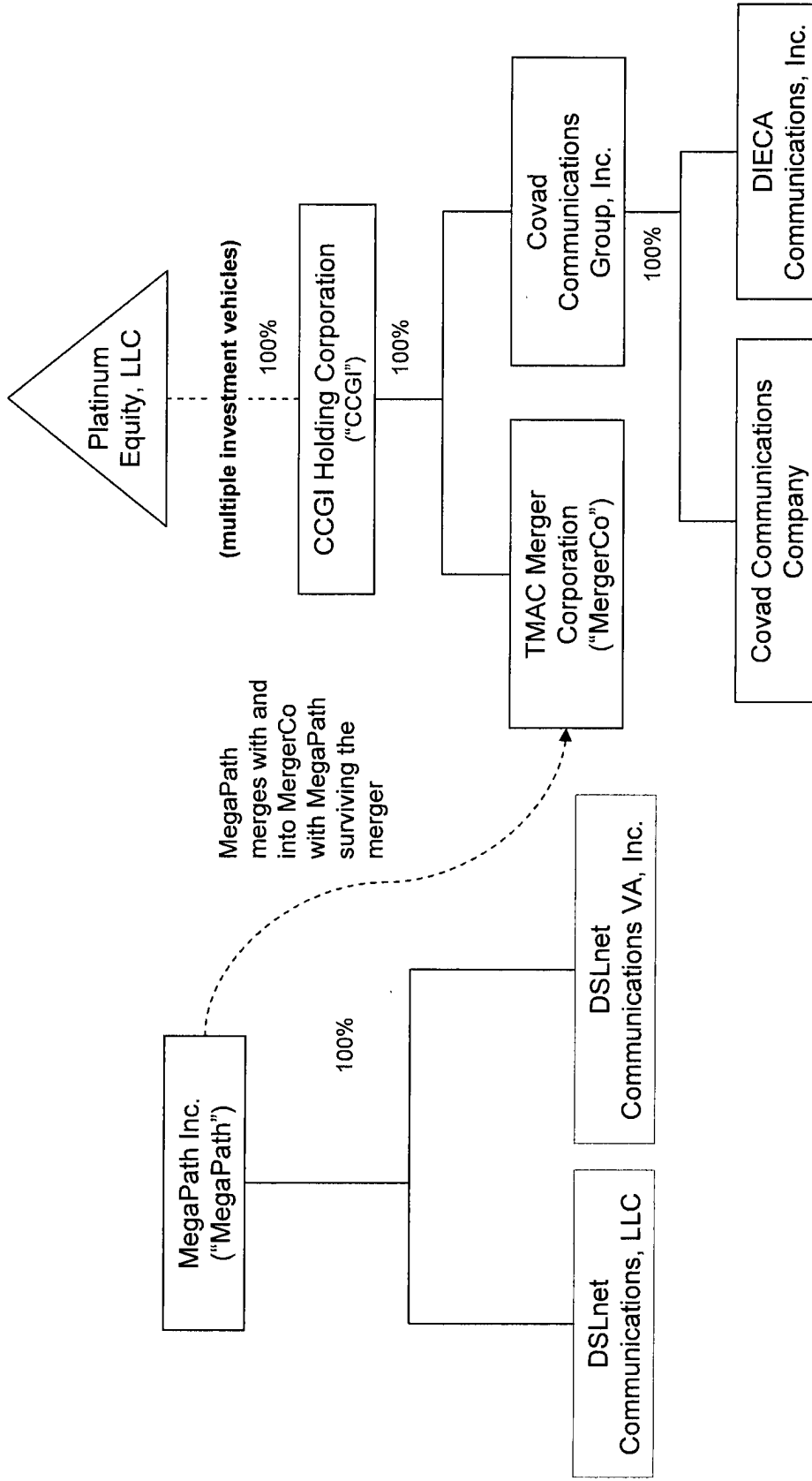
COUNSEL FOR APPLICANTS

Dated: April 30, 2010

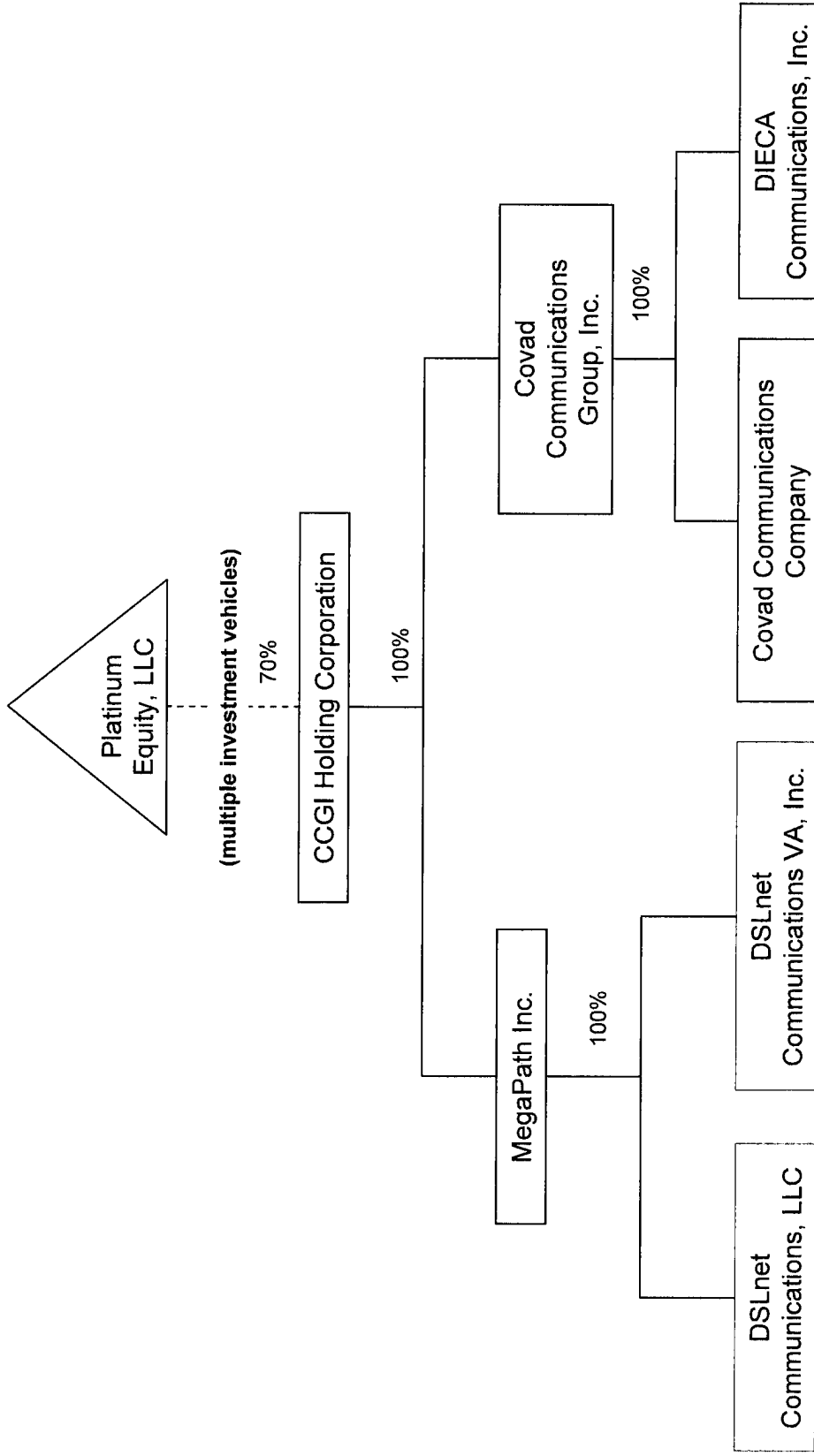
**EXHIBIT A**

**Pre- and Post-Transaction Corporate Organizational Structure**

# Pre-Transaction Ownership of DSLnet and CCGI



# Post-Transaction Ownership of DSLnet and CCGI



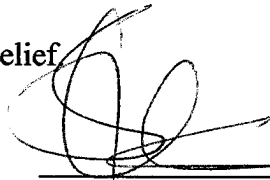
## **Verifications**

STATE OF CALIFORNIA  
COUNTY OF ORANGE

§  
§     ss:  
§

**VERIFICATION**

Steven B. Chisholm, being duly sworn, deposes and say that I am the Senior Vice President, of MegaPath Inc. and DSLnet Communications, LLC (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

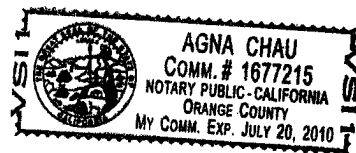


\_\_\_\_\_  
Steven B. Chisholm  
Senior Vice President  
MegaPath Inc. and DSLnet Communications, LLC

Sworn and subscribed before me this 14 day of April, 2010.

  
\_\_\_\_\_  
Notary Public

My commission expires: July 20, 2010

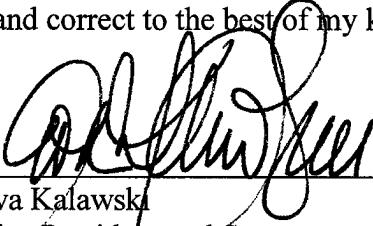


STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

§  
§ SS:  
§

**VERIFICATION**

Eva Kalawski, being duly sworn, deposes and say that I am the Vice President and Secretary of CCGI Holding Corporation (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Eva Kalawski  
Vice President and Secretary  
CCGI Holding Corporation

**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC**

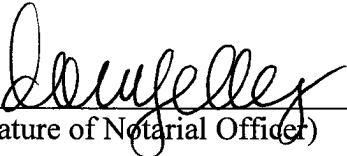
STATE OF CALIFORNIA  
COUNTY OF Los Angeles

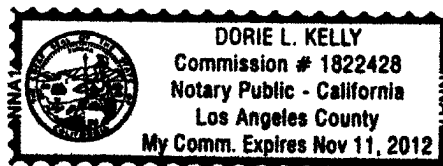
On April 29, 2010, before me, the undersigned notary public, personally appeared Eva M. Kalawski, personally know to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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.

[Notary Seal, if any]:

  
\_\_\_\_\_  
(Signature of Notarial Officer)



Notary Public for the State of California

My commission expires: Nov. 11, 2012