

INSTRUMENT # 2011031278



2011031278

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

**FIRST AMENDMENT TO DECLARATION  
OF  
BLAKENEY PROFESSIONAL CONDOMINIUM V**

**THIS FIRST AMENDMENT TO DECLARATION OF BLAKENEY PROFESSIONAL CONDOMINIUM V** (the "First Amendment") is made and entered into this 16<sup>th</sup> day of March, 2011, by BLAKENEY OFFICE, LLC ("Blakeney Office"), BLAKENEY LAND HOLDINGS, LLC ("Blakeney Land"), EMPOWERMD, LLC ("EmpowerMD"), LBG PROPERTIES, LLC ("LBG") and BLAKENEY PROFESSIONAL CONDOMINIUM V ASSOCIATION, INC. (the "Association").

WITNESSETH:

WHEREAS, that certain Declaration of Blakeney Professional Condominium V (the "Condominium") was recorded in Book 18127 at Page 682, Mecklenburg County Public Registry (the "Declaration"); and

WHEREAS, the plans of the Condominium (the "Map") were recorded in Unit Ownership File No. 712, Page 1, Mecklenburg County Public Registry; and

WHEREAS, the Articles of Incorporation of the Association were filed with the Secretary of State of North Carolina; and

WHEREAS, the Property described in the Declaration was Lot 5, as shown on Blakeney Heath Limited Partnership Map 4, recorded in Map Book 42, at Page 351, Mecklenburg County Public Registry (the "Plat"); and

WHEREAS, by deed recorded in Book 18669, Page 838, Mecklenburg County Public Registry, Unit A of Blakeney Professional Condominium V was transferred and conveyed by Blakeney Office to

DRAWN BY AND MAIL TO:  
Susan K. Irvin  
P.O. Box 2376  
Davidson, NC 28036

EmpowerMD; and

WHEREAS, by deed recorded in Book 18307, Page 838, Mecklenburg County Public Registry, Unit B of Blakeney Professional Condominium V was transferred and conveyed by Blakeney Office to LBG; and

WHEREAS, by deed recorded in Book 25743, Page 895, Mecklenburg County Public Registry, Lot 20, as shown on map recorded in Map Book 52, Page 184, Mecklenburg County Public Registry, was transferred and conveyed to Blakeney Land; and

WHEREAS, due to surveyor error, the northwesternmost lot line of the Property, described on the Plat and in Exhibit A of the Declaration, was incorrectly located on the Map and on the Plat, resulting in a total area of 48,401 square feet for the Property; and

WHEREAS, the parties desire to relocate the northwesternmost lot line of the Property to include in the Property the area utilized by the Unit Owners for parking and to exclude from the Property the area northwest of the area utilized by the Unit Owners for parking, resulting in a total area of 45,963.77 square feet for the Property, such total area of 45,963.77 square feet being all of the area utilized by LBG and EmpowerMD for condominium purposes, including parking and improvements; and

WHEREAS, the legal description of the Property, described in Exhibit A of the Declaration, referenced the Plat and the parties desire that Exhibit A of the Declaration be amended to reference the plat recorded in Map Book 53, Page 67, Mecklenburg County Public Registry (the "Revised Plat"), which Revised Plat describes the total area of the Property as containing 45,963.77 square feet and includes the area utilized by the Unit Owners for parking; and

WHEREAS, the parties desire that the Map recorded in Unit Ownership File No. 712, Page 1 in the Mecklenburg County Public Registry be amended to conform to the Revised Plat; and

WHEREAS, the Association approves of this First Amendment and joins in this First Amendment to indicate its consent.

NOW, THEREFORE, Blakeney Office, Blakeney Land, EmpowerMD, LBG and the Association do hereby publish and declare and agree as follows:

1. Blakeney Office does hereby does grant, bargain, sell and convey unto EMPOWERMD, LLC and LBG PROPERTIES, LLC as Unit Owners pursuant to the Declaration, all of that certain property shown and identified as Lot 5 on the Revised Plat, TO HAVE AND TO HOLD the aforesaid property and all privileges and appurtenances thereto belonging to EMPOWERMD, LLC and LBG PROPERTIES, LLC in fee simple, making no warranty, express or implied, as to title to such property and such property shall be included in the Common Elements and allocated as undivided interests thereof to EMPOWERMD, LLC and LBG PROPERTIES, LLC in accordance with the Declaration.
2. EMPOWERMD, LLC, LBG PROPERTIES, LLC, and BLAKENEY OFFICE, LLC do hereby grant, bargain, sell and convey unto BLAKENEY LAND HOLDINGS, LLC, all of that certain property shown and identified as Lot 20 on the Revised Plat, TO HAVE AND TO HOLD the aforesaid property and all privileges and appurtenances thereto belonging to


BLAKENEY LAND HOLDINGS, LLC in fee simple, making no warranty, express or implied, as to title to such property.

3. Exhibit A, which is attached hereto and incorporated herein for all purposes, hereby replaces the Exhibit A attached to the Declaration. The parties hereto further hereby release all of Lot 20 as shown on the Revised Plat from the liens, easements, restrictions, terms and provisions of the Declaration and the Map, as if no part of said property was ever subjected to the Declaration or Plat.
4. The Map is hereby amended as shown on Unit Ownership File No. 712, Page 3 in the Mecklenburg County Public Registry.
5. The Declaration and Map, as amended herein, are hereby ratified by the parties hereto and shall remain in full force and effect, as amended hereby.

All capitalized terms not otherwise defined in this First Amendment shall have the same meanings as set forth in the Declaration.

IN WITNESS WHEREOF, Blakeney Office, Blakeney Land, EmpowerMD, LBG and the Association have caused this First Amendment to be executed by their respective duly authorized representatives, as of the day, month and year first above written.

BLAKENEY OFFICE, LLC, a North Carolina limited liability company

By: Crosland, LLC, a North Carolina limited liability company  
  
 Name: James E. Merrifield  
 Title: Vice President

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Betty J. Burkhart a Notary Public of the County and State aforesaid, certify that James E. Merrifield personally came before me this day and acknowledged that he is Vice President of Crosland, LLC, a North Carolina limited liability company, Manager of BLAKENEY OFFICE, LLC, a North Carolina limited liability company, and that he, as Vice President, being authorized to do so, executed the foregoing instrument on behalf of Crosland Manager, LLC, acting as Manager of BLAKENEY OFFICE, LLC.

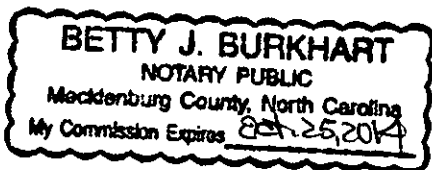
Witness my hand and official seal, this 22nd day of February, 2011.

[NOTARY SEAL]

Betty J. Burkhart  
 Notary Public

My commission expires: October 25, 2014

[SIGNATURES AND ACKNOWLEDGEMENTS CONTINUE ON FOLLOWING PAGES]



BLAKENEY LAND HOLDINGS, LLC,  
a North Carolina limited liability company

By: Crosland Manager, LLC, a North Carolina  
limited liability company, its Manager

By: James E. McFarland  
Name: James E. McFarland  
Title: Vice President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

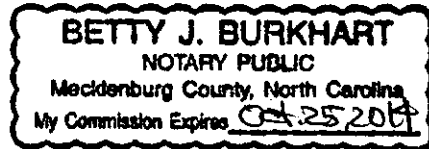
I, Betty J. Burkhardt a Notary Public of the County and State aforesaid, certify that ~~James E. McFarland~~, personally came before me this day and acknowledged that he is ~~Vice President~~ of Crosland Manager, LLC, a North Carolina limited liability company, Manager of BLAKENEY LAND HOLDINGS, LLC, a North Carolina limited liability company, and that he, as ~~Vice President~~, being authorized to do so, executed the foregoing instrument on behalf of Crosland Manager, LLC, acting as Manager of BLAKENEY LAND HOLDINGS, LLC.

Witness my hand and official seal, this 22nd day of February, 2011.

[NOTARY SEAL]

Betty J. Burkhardt  
Notary Public

My commission expires: October 25, 2014.



[SIGNATURES AND ACKNOWLEDGEMENTS CONTINUE ON FOLLOWING PAGES]

EMPOWERMD, LLC, a North Carolina limited liability company

By: *JAD*  
Name: Dr. Jefferey A. Ditesheim  
Title: Sole Member

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

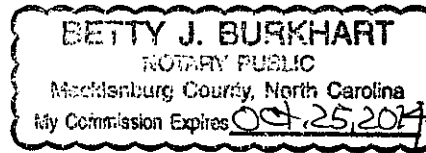
I, *Betty J. Burkhardt* a Notary Public of the County and State aforesaid, certify that Dr. Jefferey A. Ditesheim personally came before me this day and acknowledged that he is Sole Member of EMPOWERMD, LLC, a North Carolina limited liability company, and that he, as Sole Member, being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

Witness my hand and official seal, this *16<sup>th</sup>* day of *February*, 2011.

[NOTARY SEAL]

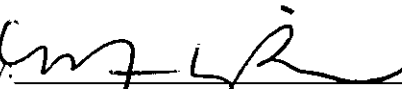
*Betty J. Burkhardt*  
Notary Public

My commission expires: *October 25, 2014*



[SIGNATURES AND ACKNOWLEDGEMENTS CONTINUE ON FOLLOWING PAGES]

LBG PROPERTIES, LLC, a South Carolina limited liability company

By:   
Mindy R. Goins, Managing Member

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, Hal Berger a Notary Public of the County and State aforesaid, certify that **Mindy R. Goins**, personally came before me this day and acknowledged that she is a **Managing Member** of **LBG PROPERTIES, LLC**, a South Carolina limited liability company, being authorized to do so, executed the foregoing instrument on behalf of the limited liability company.

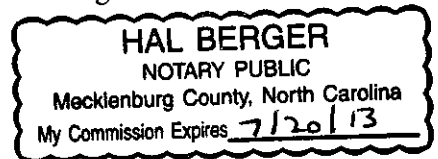
Witness my hand and official seal, this 21 day of February 2011.

[NOTARY SEAL]



Notary Public – Hal Berger

My commission expires: 07.20.13



[SIGNATURES AND ACKNOWLEDGEMENTS CONTINUE ON FOLLOWING PAGES]

BLAKENEY PROFESSIONAL  
CONDOMINIUM V ASSOCIATION, INC., a  
North Carolina non-profit corporation

James E. Merrifield  
By: James E. Merrifield  
Vice President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Betty J. Burkhart a Notary Public of the County and State aforesaid, certify that James E. Merrifield, personally came before me this day and acknowledged that he is Vice President of BLAKENEY PROFESSIONAL CONDOMINIUM V ASSOCIATION, INC., a North Carolina non-profit corporation, being authorized to do so, executed the foregoing instrument on behalf of the corporation.

Witness my hand and official seal, this 22nd day of February, 2011.

[NOTARY SEAL]

Betty J. Burkhart  
Notary Public

My commission expires: October 25, 2014

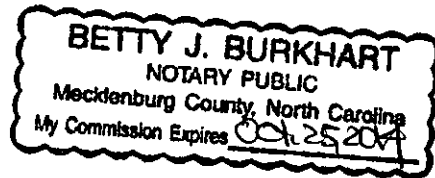


EXHIBIT A

**Legal Description**

Lot 5 as shown on plat entitled, "Recombination Plat for Lot 5, Map Book 42, Page 351, Lot 20, Map Book 52, Page 184," recorded in Map Book 53 at Page 67, Mecklenburg County Public Registry.



State of North Carolina

County of Mecklenburg

DRAWN BY Hal Berger, Attorney, ROD 124

CONSENT OF LENDER

WELLS FARGO BANK, NA successor to WACHOVIA BANK, NA a national banking association ("Bank"), being the Beneficiary under that certain Deed of Trust from LBG Properties, LLC, a limited liability company, to TRSTE, Inc., Trustee, dated January 31, 2005, and recorded in Book 18307 at Page 843 in the Office of the Mecklenburg County Register of Deeds (the "Deed of Trust"), does hereby consent to the recordation of the **FIRST AMENDMENT TO DECLARATION OF BLAKENEY PROFESSIONAL CONDOMINIUM V** (the "Amendment") and to the terms and provisions thereof; and Bank does hereby consent to the subordination of the lien of the Bank to the provisions of the Amendment to the extent set forth in the Declaration amended thereby. The execution of this Consent of Lender by Bank shall not be deemed or construed to have the effect of creating between Bank and any other party the relationship of partnership or of joint venture nor shall anything contained hereunder be deemed to impose upon Bank any of the liabilities, duties or obligations of any party under the Amendment. Bank executes this Consent of Lender solely for the purposes set forth herein. The Trustee joins in and executes this Consent of Lender for the purposes hereinabove set forth.

BANK: WELLS FARGO BANK,  
NA successor to WACHOVIA  
BANK, NA

By: Banu Boyd  
Banu Boyd, \_\_\_\_\_ Vice President

[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

STATE OF Virginia

COUNTY OF Henrico

I, Marlo Lashley, a Notary Public for said County and State, certify that **Banu Boyd** personally came before me this day and acknowledged that s/he is \_\_\_\_\_ Vice President of BANK: WELLS FARGO BANK, NA successor to WACHOVIA BANK, NA a national banking association, and that s/he, as \_\_\_\_\_ Vice President, being authorized to do so, executed the foregoing on behalf of the association.

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: \_\_\_\_\_ Vice President

February 18, 2011

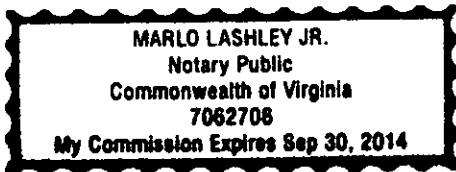
*Marlo Lashley Jr.*  
(Official Signature of Notary)

Notary's printed name: Marlo Lashley  
Notary Public

STAMP/SEAL

My commission expires: Sept 30 2014

[NOTARIAL SEAL]



[SIGNATURE AND ACKNOWLEDGEMENT ON FOLLOWING PAGE]

## CONSENT OF LENDER

First Citizens Bank, a national banking association, f/k/a First Citizens Bank and Trust Company ("Bank"), being the Beneficiary under that certain Deed of Trust from EMPOWERMD, LLC, a limited liability company ("Owner") to Neuse, Incorporated, Trustee, dated April 27, 2005, and recorded in Book 18669 at Page 843 in the Office of the Mecklenburg County Register of Deeds (the "Deed of Trust"), does hereby consent to the recordation of the **FIRST AMENDMENT TO DECLARATION OF BLAKENEY PROFESSIONAL CONDOMINIUM V** (the "Amendment") and to the terms and provisions thereof; and Bank does hereby consent to the subordination of the lien of the Bank to the provisions of the Amendment to the extent set forth in the Declaration amended thereby. The execution of this Consent of Lender by Bank shall not be deemed or construed to have the effect of creating between Bank and any other party the relationship of partnership or of joint venture nor shall anything contained hereunder be deemed to impose upon Bank any of the liabilities, duties or obligations of any party under the Amendment. Bank hereby releases to the Owner, its successors and assigns, the property identified as Lot 20 on the Revised Plat, as described in the Amendment, from the lien and operation of the Deed of Trust, TO HAVE AND TO HOLD said Lot 20, together with all privileges and appurtenances thereunto belonging, to the Owner, its successors and assigns, free and discharged from the lien and operation of the Deed of Trust; but it is agreed and intended that as to the property identified as Lot 5 on the Revised Plat, as described in the Amendment, the Deed of Trust shall remain in full force and effect. Bank executes this Consent of Lender solely for the purposes set forth herein.

BANK:

FIRST CITIZENS BANK, a national  
banking association

By: Kelly Love Sayasithsena  
Name: Kelly Love-Sayasithsena  
Title: Vice President

[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]

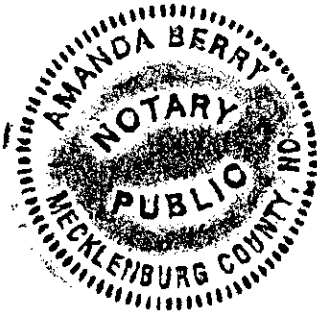
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Amanda Berry, a Notary Public for said County and State, certify that Kelly Love-Sayasithsena personally came before me this day and acknowledged that s/he is \_\_\_\_\_ Vice President of FIRST CITIZENS BANK, a national banking association, and that s/he, as Vice President, being authorized to do so, executed the foregoing on behalf of the association.

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Kelly Love-Sayasithsena.

March 15, 2011



STAMP/SEAL

[NOTARIAL SEAL]

Amanda Berry  
(Official Signature of Notary)

Notary's printed name: Amanda Berry  
Notary Public

My commission expires: Aug. 27, 2012

[SIGNATURE AND ACKNOWLEDGEMENT ON FOLLOWING PAGE]

TRUSTEE:

NEUSE, INCORPORATED

By: Thomas W. Davis  
Name: Thomas W. Davis  
Title: VICE PRESIDENT

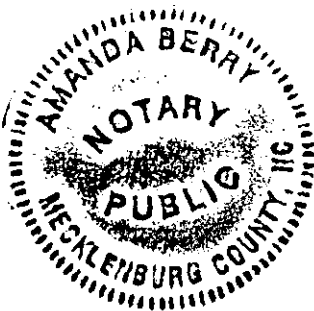
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Amanda Berry, a Notary Public for said County and State, certify that Thomas W. Davis personally came before me this day and acknowledged that s/he is V. President of NEUSE, INCORPORATED., a \_\_\_\_\_ corporation, and that s/he, as V. President, being authorized to do so, executed the foregoing on behalf of the corporation.

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Thomas W. Davis.

March 15, 2011



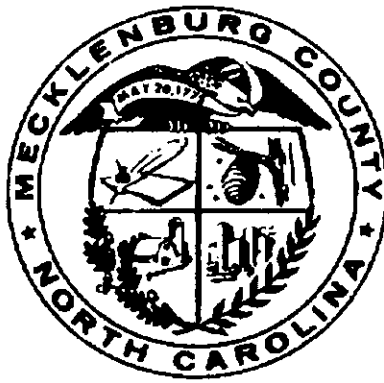
STAMP/SEAL

[NOTARIAL SEAL]

Amanda Berry  
(Official Signature of Notary)

Notary's printed name: Amanda Berry  
Notary Public

My commission expires: Aug. 27, 2012



J. DAVID GRANBERRY  
REGISTER OF DEEDS, MECKLENBURG  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE, NC 28202

**PLEASE RETAIN YELLOW TRAILER PAGE**

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**Document No.:** 2011031278  
DEC/U 14 PGS \$50.00  
**Recorder:** LYVANH PHETSARATH



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