**RIDER 5**

**TO PURCHASE AND SALE AGREEMENT**

**[FHA Financing Contingency]**

**DISCLAIMER: This document is not a final or complete instrument and should not be executed in its present form. The HBAA and its local chapters do not assume any liability for damages arising from the use of this document and give no opinion that any of the terms and conditions in this document should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated between the parties based upon the respective interests, objectives, and bargaining positions of all interested parties. Seek specific legal advice from your lawyer**.

The terms of this Rider (the “Rider”) are hereby incorporated into and made a part of the Purchase and Sale Agreement With Limited Warranty (the “Agreement”) dated the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Seller”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Buyer”). Defined terms as used herein shall have such meaning as may be ascribed to such terms in the Agreement. This Rider modifies and amends the Agreement and to the extent of any inconsistency in the terms and conditions of this Rider and the terms and conditions of the Agreement, the terms and conditions of this Rider shall control. Anything in the Agreement to the contrary notwithstanding, Seller and Buyer further agree as follows:

1. The following is added to and included in the Agreement as the last paragraph of Section 2 thereof:

“FHA Financing. This Agreement is subject to the Buyer being able to obtain an FHA loan in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Loan”). It is expressly agreed that, notwithstanding any other provisions of this Agreement, Buyer shall not be obligated to complete the purchase of the Property or to incur any penalty by forfeiture of any Earnest Money or otherwise unless the mortgage company (“Mortgagee”) has delivered to Buyer a written statement issued by the Federal Housing Commissioner or a Direct Endorsement Lender setting forth the appraised value of the Property (excluding closing costs) of not less than $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which statement Mortgagee shall deliver to Buyer promptly after such appraisal value statement is made available to Mortgagee. Buyer shall, however, have the privilege and option of proceeding with the consummation of this Agreement without regard to the amount of the appraisal valuation made by the Federal Housing Commissioner. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development (HUD) will insure. HUD does not warrant the value or the condition of the Property. Buyer should satisfy himself/herself that the Purchase Price and condition of the Property are acceptable. The FHA loan discount, if necessary to obtain the Loan, not to exceed \_\_\_\_\_\_\_\_\_\_\_ percent of the amount of the Loan, shall be paid by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Any additional discount points shall be paid by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Buyer agrees to make application for the Loan within ten (10) days after the date of this Agreement and to exert all reasonable effort and diligence to obtain approval of the Loan. Buyer agrees to keep Seller fully informed of the status of Buyer's efforts to secure the approval of the Loan. Buyer shall provide such evidence as may be required by Seller, including a written commitment for the Loan, to confirm the final approval of the Loan. Seller shall have the right to delay the commencement of the construction of the Dwelling, if applicable, or delay the completion of the construction of the Dwelling, if applicable, until such time as Seller has determined, to the satisfaction of Seller, that the Loan has been or is likely to be approved. Any such determination by Seller shall be for the sole benefit of Seller and may not be relied upon in any manner by Buyer. The failure of Buyer to secure and deliver to Seller, on or before                      days after the date of this Agreement, a commitment for the Loan in a form acceptable to Seller, shall entitle Seller, at the election of Seller, to terminate this Agreement, whereupon the Earnest Money, if any, shall be refunded by Seller to Buyer within thirty (30) days after such termination, without interest, and reduced in an amount equal to any out-of-pocket costs incurred by Seller in connection with or related to the application for the Loan or the process of the consideration thereof.”

1. The second complete sentence in Paragraph 12 in the Agreement entitled “Closing Costs” is deleted in its entirety and the following is substituted in lieu thereof:

“Buyer shall pay all loan closing costs, discount points, mortgage insurance premiums, prepaid items, and recording fees except as otherwise specifically provided elsewhere in this Agreement, and except such costs as are required to be paid by Seller pursuant to FHA regulations.”

1. All other terms and conditions of the Agreement shall remain the same and the parties hereto do ratify and affirm the Agreement as amended hereby.

The parties hereto have initialed below evidencing and agreeing that this Rider is a part of the Agreement described above. **SELLER: \_\_\_\_\_\_\_\_\_\_\_\_**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **BUYER:**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_**

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