

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
WASHINGTON, DC 20549

FORM S-8

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

MERITAGE HOMES CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Maryland
(State or Other Jurisdiction of
Incorporation or Organization)

86-0611231
(I.R.S. Employer Identification No.)

**17851 North 85th Street
Suite 300
Scottsdale, Arizona**
(Address of Principal Executive Offices)

85255
(Zip Code)

MERITAGE HOMES CORPORATION 2006 STOCK INCENTIVE PLAN
(Full Title of the Plan)

Larry W. Seay
Executive Vice President and Chief Financial Officer
Meritage Homes Corporation
17851 North 85th Street
Suite 300
Scottsdale, Arizona 85255
480-609-3330
(Name, Address and Telephone
Number, Including Area Code, of Agent For Service)

With a copy to:

Steven D. Pidgeon
Snell & Wilmer L.L.P.
One Arizona Center
400 East Van Buren Street
Phoenix, Arizona 85004
602-382-6000

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities To Be Registered	Amount To Be Registered	Proposed Maximum Offering Price Per Share (3)	Proposed Maximum Aggregate Offering Price (3)	Amount of Registration Fee
Common stock, \$0.01 par value(2)				
Shares not previously registered	700,000	\$ 55.25	\$ 38,675,000	\$ 4,138
Shares registered under Former Plan	501,350(1)	n/a(1)	n/a(1)	n/a(1)
Total	1,201,350(1)	\$ 55.25	\$ 38,675,000	\$ 4,138

(1) Shares to be offered or sold under the Meritage Homes Corporation 2006 Stock Incentive Plan (the "**2006 Plan**") include 501,350 shares previously registered for offer or sale under the Meritage Homes Corporation Stock Option Plan (the "**Former Plan**") that were not issued under the Former Plan and that may be offered or sold under the 2006 Plan (the "**Carried Forward Shares**") as of May 17, 2006 (the "**Effective Date**"). The Carried Forward Shares, which have been adjusted to reflect a 2-for-1 stock split in January 2005, were registered on a Form S-8 registration statement filed on June 7, 2004 (file no. 333-116243) and Meritage Homes Corporation ("**Meritage**") paid a total fee of \$6,857, of which \$2,149 related to the Carried Forward Shares. Pursuant to Interpretation 89 under Section G of the Manual of Publicly Available Telephone Interpretations of the Division of Corporation Finance of the Securities and Exchange Commission (July 1997) and Instruction E to the General Instructions to Form S-8, Meritage has carried forward the registration fee for the Carried Forward Shares. Meritage is concurrently filing a Post-Effective Amendment No. 1 to the Registration Statement on Form S-8 (file no. 333-116243), relating to shares registered pursuant to the Former Plan, to deregister the unissued shares under the Former Plan.

(2) In addition, pursuant to Rule 416 under the Securities Act of 1933, as amended (the "**Securities Act**"), this Registration Statement also covers an indeterminate number of shares of common stock that may be offered or issued by reason of stock splits, stock dividends or similar transactions.

(3) Estimated solely for purposes of calculating the registration fee pursuant to Securities Act Rules 457(c) and (h). The proposed maximum offering price per share,

proposed maximum aggregate offering price and the amount of the registration fee are based on the average of the high and low prices of Meritage's common stock reported on the New York Stock Exchange on May 25, 2006 (i.e., \$55.25).

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information.*

Item 2. Registrant Information and Employee Plan Annual Information.*

* Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this registration statement in accordance with Securities Act Rule 428 and the Introductory Note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents which have been filed by Meritage with the Securities and Exchange Commission (the "*Commission*") are incorporated herein by reference:

- (a) Meritage's Annual Report on Form 10-K for the fiscal year ended December 31, 2005;
- (b) All other reports filed pursuant to Sections 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended ("*Exchange Act*"), since December 31, 2005; and
- (c) Description of Meritage's common stock contained or incorporated in the registration statements filed by Meritage under the Exchange Act, including any amendments or reports filed for the purpose of updating such description.

All documents subsequently filed by Meritage with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part of this Registration Statement from the date of filing of such documents.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Under the provisions of the Maryland General Corporation Law, a corporation's charter may, with certain exceptions, include any provision expanding or limiting the liability of its directors and officers to the corporation or its stockholders for money damages, but may not include any provision that restricts or limits the liability of its directors or officers to the corporation or its stockholders to the extent that (i) it is proved that the person actually received an improper benefit or profit in money, property, or services for the amount of the benefit or profit in money, property, or services actually received, or (ii) a judgment or other final adjudication adverse to the person is entered in a proceeding based on a finding in the proceeding that the person's action, or failure to act, was the result of active and deliberate dishonesty and was material to the cause of action adjudicated in the proceeding. Meritage's charter contains a provision limiting the personal liability of officers and directors to Meritage and its stockholders to the fullest extent permitted under Maryland law.

In addition, the provisions of the Maryland General Corporation Law permit a corporation to indemnify its present and former directors and officers, among others, against liability incurred, unless it is established that (i) the act or omission of the director or officer was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty, or (ii) the director or officer actually received an improper personal benefit in money, property, or services, or (iii) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. Meritage's charter provides that it will indemnify its directors, officers and others so designated by its board of directors to the full extent permitted under Maryland law.

As permitted under Maryland General Corporation law, Meritage has purchased and maintains insurance on behalf of its directors and officers against liability asserted against such directors and officers in their capacities as such, whether or not Meritage would have the power to indemnify such persons under the provisions of Maryland law governing indemnification.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

A list of exhibits is set forth on the Exhibit Index that immediately precedes the exhibits and which is incorporated by reference herein.

Item 9. Undertakings.

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

Provided, however, that paragraphs (1)(i) and (1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Scottsdale, State of Arizona, on this 31st day of May, 2006.

MERITAGE HOMES CORPORATION

By: /s/ Larry W. Seay

Larry W.
Seay
Executive
Vice
President and
Chief
Financial
Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each whose signature appears below constitutes and appoints Steven J. Hilton and Larry W. Seay, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this registration statement, and to file the same, with all exhibits thereto, and other documents in connection therewith with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as he or she might or could do in person hereby ratifying and confirming all that said attorneys-in-fact and agents, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Steven J. Hilton</u> Steven J. Hilton	Chairman, Chief Executive Officer and Director	May 31, 2006
<u>/s/ Larry W. Seay</u>	Executive Vice President and	May 31, 2006

<u>Larry W. Seay</u>	Chief Financial Officer (Principal Financial Officer)	
<u>/s/ Vicki L. Biggs</u> Vicki L. Biggs	Controller and Chief Accounting Officer (Principal Accounting Officer)	May 31, 2006
<u>/s/ Robert G. Sarver</u> Robert G. Sarver	Director	May 31, 2006
<u>/s/ Richard T. Burke</u> Richard T. Burke	Director	May 31, 2006
<u>/s/ Raymond Oppel</u> Raymond Oppel	Director	May 31, 2006
<u>/s/ Peter L. Ax</u> Peter L. Ax	Director	May 31, 2006
<u>/s/ William G. Campbell</u> William G. Campbell	Director	May 31, 2006

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Gerald W. Haddock</u> Gerald W. Haddock	Director	May 31, 2006

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EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>	<u>Page or Method of Filing</u>
4.1	Meritage Homes Corporation 2006 Stock Incentive Plan	Filed herewith
4.2	Representative Form of Restricted Stock Agreement	Filed herewith
4.3	Representative Form of Non-Qualified Stock Option Agreement	Filed herewith
4.4	Representative Form of Incentive Stock Option Agreement	Filed herewith
4.5	Representative Form of Stock Appreciation Rights Agreement	Filed herewith
5.1	Opinion of Venable LLP	Filed herewith
23.1	Consent of Deloitte & Touche LLP	Filed herewith
23.2	Consent of KPMG LLP	Filed herewith
23.3	Consent of Counsel	Included as part of Exhibit 5.1
24.0	Power of Attorney	See Signature Page

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**MERITAGE HOMES CORPORATION
2006 STOCK INCENTIVE PLAN**

**EFFECTIVE DATE: MAY 17, 2006
APPROVED BY STOCKHOLDERS: MAY 17, 2006
TERMINATION DATE: MAY 16, 2016**

**ARTICLE 1
PURPOSE**

1.1 **GENERAL.** The purpose of the Meritage Homes Corporation 2006 Stock Incentive Plan (the "Plan") is to promote the success and enhance the value of Meritage Homes Corporation (the "Company") by linking the personal interests of the members of the Board, employees, officers, executives, consultants and advisors to those of Company stockholders and by providing such individuals with an incentive for outstanding performance to generate superior returns to Company stockholders. The Plan is further intended to provide flexibility to the Company in its ability to motivate, attract, and retain the services of Board members, employees, officers, executives, consultants and advisors upon whose judgment, interest, and special effort the successful conduct of the Company's operation is largely dependent.

**ARTICLE 2
EFFECTIVE AND EXPIRATION DATE**

2.1 **EFFECTIVE DATE.** The Plan is effective as of the date the Plan is approved by the Company's stockholders (the "Effective Date").

2.2 **EXPIRATION DATE.** The Plan will expire on, and no Award may be granted under the Plan after, the tenth anniversary of the Effective Date. Any Awards that are outstanding on the tenth anniversary of the Effective Date shall remain in force according to the terms of the Plan and the Award Agreement.

**ARTICLE 3
DEFINITIONS AND CONSTRUCTION**

3.1 **DEFINITIONS.** The following words and phrases shall have the following meanings:

- (a) "Award" means any Option, Stock Appreciation Right, Restricted Stock Award, Performance Share Award, or Performance-Based Award granted to a Participant under the Plan.
- (b) "Award Agreement" means any written agreement, contract, or other instrument or document evidencing an Award.
- (c) "Board" means the Board of Directors of the Company.
- (d) "Cause" means and will exist in the following circumstances in which the Participant: (i) is convicted of a felony, (ii) engages in any fraudulent or other dishonest act to the detriment of the Company, (iii) fails to report for work on a regular basis, except for periods of authorized absence or bona fide illness, (iv) misappropriates trade secrets, customer lists, or other proprietary information belonging to the Company for his or her own benefit or for the benefit of a competitor, (v) engages in any willful misconduct designed to harm the Company or its stockholders, or (vi) fails to perform properly his or her assigned duties.
- (e) "Change of Control" means and includes each of the following:
 - (1) A sale, transfer, or other disposition by the Company through a single transaction or a series of transactions of securities of the Company representing 50% or more of the combined

voting power of the Company's then outstanding securities to any "Unrelated Person" or "Unrelated Persons" acting in concert with one another. For purposes of this definition, the term "Person" shall mean and include any individual, partnership, joint venture, association, trust, corporation, or other entity (including a "group" as referred to in Section 13(d)(3) of the Exchange Act). For purposes of this definition, the term "Unrelated Person" shall mean and include any Person other than the Company, or an employee benefit plan of the Company; or

- (2) A sale, transfer, or other disposition through a single transaction or a series of related transactions of all or substantially all of the assets of the Company to an Unrelated Person or Unrelated Persons acting in concert with one another; or
- (3) Any consolidation or merger of the Company with or into an Unrelated Person, unless immediately after the consolidation or merger the holders of the common stock of the Company immediately prior to the consolidation or merger are the beneficial owners of securities of the surviving corporation representing at least 50% of the combined voting power of the surviving corporation's then outstanding securities.
- (f) "Code" means the Internal Revenue Code of 1986, as amended.
- (g) "Committee" means the committee of the Board described in Section 4.1.
- (h) "Covered Employee" means an employee who is, or could be, a "covered employee" within the meaning of Section 162(m) of the Code.
- (i) "Disability" means, for purposes of this Plan, that the Participant qualifies to receive long term disability payments under the Company's long term disability insurance program, as it may be amended from time to time.
- (j) "Exchange Act" means the Securities Exchange Act of 1934, as amended.
- (k) "Fair Market Value" means, as of any given date, the fair market value of Stock on a particular date determined by such methods or procedures as may be established from time to time by the Committee. Unless otherwise determined by the Committee, the Fair Market Value of Stock as of any date shall be the closing price for the Stock as reported on the New York Stock Exchange (or on any national securities exchange on which the Stock is then listed) for that date or, if no such prices are reported for that date, the average of the high and low trading prices on the next preceding date for which such prices were reported.
- (l) "Incentive Stock Option" means an Option that is intended to meet the requirements of Section 422 of the Code or any successor provision thereto.
- (m) "Non-Employee Director" means a member of the Board who qualifies as a "Non-Employee Director" as defined in Rule 16b-3(b)(3) of the Exchange Act, or any successor definition adopted by the Board.

(n) “Non-Qualified Stock Option” means an Option that is not intended to be an Incentive Stock Option.

(o) “Option” means a right granted to a Participant pursuant to Article 7 of the Plan to purchase Stock at a specified price during specified time periods. An Option may be either an Incentive Stock Option or a Non-Qualified Stock Option.

(p) “Participant” means a person who, as a member of the Board, employee, officer, or executive of, or consultant or advisor to, the Company or any Subsidiary, has been granted an Award pursuant to the Plan.

(q) “Performance-Based Awards” means the Performance Share Awards and Restricted Stock Awards granted to select Covered Employees pursuant to Articles 9 and 10, respectively, but which are

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subject to the terms and conditions set forth in Article 11. All Performance-Based Awards are intended to qualify as “performance-based compensation” pursuant to Section 162(m) of the Code.

(r) “Performance Criteria” means the criteria that the Committee selects for purposes of establishing the Performance Goal or Performance Goals for a Participant for a Performance Period. The Performance Criteria that will be used to establish Performance Goals are limited to the following: pre- or after-tax net earnings, earnings before interest expense (including interest amortized to cost of sales) and income taxes (“EBIT”), earnings before interest expense (including interest amortized to cost of sales), income taxes, depreciation and amortization (“EBITDA”), revenue growth, operating income, operating cash flow, return on net assets, return on shareholders’ equity, return on assets, return on capital, share price growth, shareholder returns, gross or net profit margin, earnings per share, price per share, and market share, any of which may be measured either in absolute terms or as compared to any incremental increase or as compared to results of a peer group. The Committee shall, within the time prescribed by Section 162(m) of the Code, define in an objective fashion the manner of calculating the Performance Criteria it selects to use for such Performance Period for such Participant.

(s) “Performance Goals” means, for a Performance Period, the goals established in writing by the Committee for the Performance Period based upon the Performance Criteria. Depending on the Performance Criteria used to establish such Performance Goals, the Performance Goals may be expressed in terms of overall Company performance or the performance of a division, business unit, or an individual. The Committee, in its discretion, may, within the time prescribed by Section 162(m) of the Code, adjust or modify the calculation of Performance Goals for such Performance Period in order to prevent the dilution or enlargement of the rights of Participants (i) in the event of, or in anticipation of, any unusual or extraordinary corporate item, transaction, event, or development, or (ii) in recognition of, or in anticipation of, any other unusual or nonrecurring events affecting the Company, or the financial statements of the Company, or in response to, or in anticipation of, changes in applicable laws, regulations, accounting principles, or business conditions.

(t) “Performance Period” means the one or more periods of time, which may be of varying and overlapping durations, as the Committee may select, over which the attainment of one or more Performance Goals will be measured for the purpose of determining a Participant’s right to, and the payment of, a Performance-Based Award.

(u) “Performance Share Award” means a right granted to a Participant pursuant to Article 9, to receive cash, Stock, or other Awards, the payment of which is contingent upon achieving certain performance goals established by the Committee.

(v) “Plan” means this Meritage Homes Corporation 2006 Stock Incentive Plan, as amended.

(w) “Restricted Stock Award” means Stock granted to a Participant pursuant to Article 10 that is subject to certain restrictions and to risk of forfeiture.

(x) “Stock” means the common stock of the Company and such other securities of the Company that may be substituted for Stock pursuant to Article 13.

(y) “Stock Appreciation Right” or “SAR” means a right granted to a Participant under Article 8 to receive the appreciation on Stock.

(z) “Subsidiary” means any corporation or other entity of which a majority of the outstanding voting stock or voting power is beneficially owned directly or indirectly by the Company.

ARTICLE 4 ADMINISTRATION

4.1 **COMMITTEE.** The Plan shall be administered by the Executive Compensation Committee of the Board. The Committee (or subcommittee thereof) shall consist of at least two individuals, each of whom

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qualifies as (i) a Non-Employee Director, and (ii) an “outside director” pursuant to Section 162(m) of the Code and the regulations issued thereunder.

4.2 **ACTION BY THE COMMITTEE.** A majority of the Committee shall constitute a quorum. The acts of a majority of the members present at any meeting at which a quorum is present, and acts approved in writing by a majority of the Committee in lieu of a meeting, shall be deemed the acts of the Committee. Each member of the Committee is entitled to, in good faith, rely or act upon any report or other information furnished to that member by any officer or other employee of the Company or any Subsidiary, the Company’s independent registered public accountants, or any executive compensation consultant or other professional retained by the Company to assist in the administration of the Plan.

4.3 **AUTHORITY OF COMMITTEE.** Subject to any specific designation in the Plan, the Committee has the exclusive power, authority and discretion to:

(a) designate Participants to receive Awards;

(b) determine the type or types of Awards to be granted to each Participant;

(c) determine the number of Awards to be granted and the number of shares of Stock to which an Award will relate;

(d) determine the terms and conditions of any Award granted pursuant to the Plan, including, but not limited to, the exercise price, grant price, or purchase price, any restrictions or limitations on the Award, any schedule for lapse of forfeiture restrictions or restrictions on the exercisability of an Award, and accelerations or waivers thereof, based in each case on such considerations as the Committee in its sole discretion determines; provided, however, that the Committee shall not (i) have the

authority to accelerate the vesting or waive the forfeiture of any Performance-Based Awards, or (ii) take any action or fail to take any action with respect to the operation of the Plan that would cause all or part of the payment under any Award to be subject to the additional tax under Section 409A of the Code;

- (e) determine whether, to what extent, and pursuant to what circumstances an Award may be settled in, or the exercise price of an Award may be paid in, cash, Stock, other Awards, or other property, or an Award may be canceled, forfeited, or surrendered;
- (f) prescribe the form of each Award Agreement, which need not be identical for each Participant;
- (g) decide all other matters that must be determined in connection with an Award;
- (h) establish, adopt, or revise any rules and regulations as it may deem necessary or advisable to administer the Plan;
- (i) interpret the terms of, and any matter arising pursuant to, the Plan or any Award Agreement; and
- (j) make all other decisions and determinations that may be required pursuant to the Plan or as the Committee deems necessary or advisable to administer the Plan.

4.4 **DECISIONS BINDING.** The Committee's interpretation of the Plan, any Awards granted pursuant to the Plan, any Award Agreement and all decisions and determinations by the Committee with respect to the Plan are final, binding, and conclusive on all parties.

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ARTICLE 5 SHARES SUBJECT TO THE PLAN

5.1 **NUMBER OF SHARES.** Subject to adjustment provided in Article 13, the aggregate number of shares of Stock reserved and available for grant pursuant to the Plan shall be 700,000, plus (i) the number of shares of Stock available for grant pursuant to the Meritage Homes Corporation Stock Option Plan ("Prior Plan") as of the Effective Date, and (ii) the number of shares of Stock that were previously granted pursuant to the Prior Plan and that either terminate, expire, or lapse for any reason after the Effective Date. Any shares of Stock issued in connection with Awards other than Options and Stock Appreciation Rights shall be counted against the shares available for grant pursuant to the previous sentence as 1.38 shares for every one share issued in connection with such Award or by which the Award is valued by reference. Notwithstanding the above, the maximum number of shares of Stock that may be awarded as Incentive Stock Options under the Plan is 1,200,000.

5.2 **LAPSED OR ASSUMED AWARDS.** To the extent that an Award terminates, expires, or lapses for any reason, any shares of Stock subject to the Award will again be available for the grant of an Award pursuant to the Plan. Additionally, to the maximum extent permitted by applicable law or any securities exchange rule, shares of Stock issued in assumption of, or in substitution for, any outstanding awards of any entity acquired in any form of combination by the Company or any Subsidiary shall not be counted against shares of Stock available for grant pursuant to this Plan. However, for avoidance of doubt, the exercise of a stock-settled SAR or net-cashless exercise of an Option (or a portion thereof) will reduce the number of shares of Stock available for issuance hereunder by the entire number of shares of Stock subject to that SAR or Option (or applicable portion thereof), even though a smaller number of shares of Stock will be issued upon such an exercise. Also, shares of Stock tendered to pay the exercise price of an Option or to satisfy a tax withholding obligation arising in connection with an Award will not become available for grant or sale under the Plan.

5.3 **STOCK DISTRIBUTED.** Any Stock distributed pursuant to an Award may consist, in whole or in part, of authorized and unissued Stock, treasury Stock or Stock purchased on the open market.

5.4 **LIMITATION ON NUMBER OF SHARES SUBJECT TO AWARDS.** Notwithstanding any provision in the Plan to the contrary, and subject to the adjustment in Article 13, the maximum number of shares (counted, as described in Section 5.1 above, as 1.38 shares awarded for every one share issued in connection with such Award or by which the Award is valued by reference) of Stock with respect to one or more Awards that may be granted to any one Participant during a calendar shall be 100,000.

ARTICLE 6 ELIGIBILITY AND PARTICIPATION

6.1 **ELIGIBILITY.**

(a) **General.** Persons eligible to participate in this Plan include all members of the Board, employees, officers, and executives of, and consultants and advisors providing services to, the Company or a Subsidiary, as determined by the Committee.

(b) **Foreign Participants.** In order to assure the viability of Awards granted to Participants employed in foreign countries, the Committee may provide for such special terms as it may consider necessary or appropriate to accommodate differences in local law, tax policy, or custom. Moreover, the Committee may approve such supplements to, or amendments, restatements, or alternative versions of, the Plan as it may consider necessary or appropriate for such purposes without thereby affecting the terms of the Plan as in effect for any other purpose; provided, however, that no such supplements, amendments, restatements, or alternative versions shall increase the share limitations contained in Article 5 of the Plan.

6.2 **ACTUAL PARTICIPATION.** Subject to the provisions of the Plan, the Committee may, from time to time, select from among all eligible individuals, those to whom Awards shall be granted and shall determine the nature and amount of each Award. No individual shall have any right to be granted an Award pursuant to this Plan.

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ARTICLE 7 STOCK OPTIONS

7.1 **GENERAL.** The Committee is authorized to grant Options to Participants on the following terms and conditions:

(a) **Exercise Price.** The exercise price per share of Stock pursuant to an Option shall be determined by the Committee and set forth in the Award Agreement; provided that the exercise price for any Option shall not be less than the Fair Market Value as of the date of grant.

(b) **Time and Conditions of Exercise.** The Committee shall determine the time or times at which an Option may be exercised in whole or in part provided that the term of any Option granted under the Plan shall not exceed ten years. The Committee shall also determine the performance or other conditions, if any, that must be satisfied before all or part of an Option may be exercised. Unless otherwise provided in an Award Agreement, an Option will lapse immediately if a Participant's employment is terminated for Cause.

(c) **Payment.** The Committee shall determine the methods by which the exercise price of an Option may be paid, the form of payment, including, without limitation, cash, promissory note, shares of Stock held for longer than six months (through actual tender or by attestation), or other property acceptable to the Committee (including broker-assisted "cashless exercise" arrangements), and the methods by which shares of Stock shall be delivered or deemed to be delivered to Participants.

(d) **Evidence of Grant.** All Options shall be evidenced by a written Award Agreement between the Company and the Participant in the form attached to this Plan as Exhibit A. The Award Agreement shall include such additional provisions as may be specified by the Committee.

7.2 **INCENTIVE STOCK OPTIONS.** Incentive Stock Options shall be granted only to employees and the terms of any Incentive Stock Options granted pursuant to the Plan must comply with the following additional provisions of this Section 7.2:

(a) **Exercise Price.** Subject to Section 7.2(d), the exercise price per share of Stock shall be set by the Committee, provided that the exercise price for any Incentive Stock Option may not be less than the Fair Market Value as of the date of the grant.

(b) **Exercise.** In no event, may any Incentive Stock Option be exercisable for more than ten years from the date of its grant.

(c) **Lapse of Option.** An Incentive Stock Option shall lapse pursuant to the following circumstances.

(1) The Incentive Stock Option shall lapse ten years from the date it is granted, unless an earlier time is set in the Award Agreement.

(2) The Incentive Stock Option shall lapse upon termination of employment for Cause or for any other reason other than the Participant's death or Disability, unless otherwise provided in the Award Agreement.

(3) If the Participant terminates employment on account of Disability or death before the Option lapses pursuant to paragraph (1) or (2) above, the Incentive Stock Option shall lapse, unless it is previously exercised, on the earlier of (i) the scheduled termination date of the Option; or (ii) 12 months after the date of the Participant's termination of employment on account of Disability or death. Upon the Participant's Disability or death, any Incentive Stock Options exercisable at the Participant's Disability or death may be exercised by the Participant's legal representative or representatives, by the person or persons entitled to do so pursuant to the Participant's last will and testament, or, if the Participant fails to make testamentary disposition of such Incentive

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Stock Option or dies intestate, by the person or persons entitled to receive the Incentive Stock Option pursuant to the applicable laws of descent and distribution.

(d) **Individual Dollar Limitation.** The aggregate Fair Market Value (determined as of the time an Award is made) of all shares of Stock with respect to which Incentive Stock Options are first exercisable by a Participant in any calendar year may not exceed \$100,000.00 or such other limitation as imposed by Section 422(d) of the Code, or any successor provision. To the extent that Incentive Stock Options are first exercisable by a Participant in excess of such limitation, the excess shall be considered Non-Qualified Stock Options.

(e) **Ten Percent Owners.** An Incentive Stock Option shall be granted to any individual who, at the date of grant, owns stock possessing more than ten percent of the total combined voting power of all classes of Stock of the Company only if such Option is granted at a price that is not less than 110% of Fair Market Value on the date of grant and the Option is exercisable for no more than five years from the date of grant.

(f) **Expiration of Incentive Stock Options.** No Award of an Incentive Stock Option may be made pursuant to this Plan after the tenth anniversary of the Effective Date.

(g) **Right to Exercise.** Except as provided in Section 12.5, during a Participant's lifetime, an Incentive Stock Option may be exercised only by the Participant.

ARTICLE 8 STOCK APPRECIATION RIGHTS

8.1 **Grant Of SARs.** The Committee is authorized to grant SARs to Participants on the following terms and conditions:

(a) **Right to Payment.** Upon the exercise of a SAR, the Participant to whom it is granted has the right to receive the excess, if any, of:

(1) the Fair Market Value of a share of Stock on the date of exercise; over

(2) the grant price of the SAR as determined by the Committee, which shall not be less than the Fair Market Value of a share of Stock on the date of grant.

(b) **Other Terms.** All SARs grants will be evidenced by an Award Agreement. The terms, methods of exercise, methods of settlement, and any other terms and conditions of any SAR will be determined by the Committee at the time of the grant of the Award and as set forth in the Award Agreement; provided that the form of consideration payable in settlement of a SAR shall be Stock.

ARTICLE 9 PERFORMANCE SHARES

9.1 **GRANT OF PERFORMANCE SHARES.** The Committee is authorized to grant Performance Shares to Participants on such terms and conditions as may be selected by the Committee. The Committee shall have the complete discretion to determine the number of Performance Shares granted to each Participant. All Awards of Performance Shares shall be evidenced by an Award Agreement.

9.2 **RIGHT TO PAYMENT.** A grant of Performance Shares gives the Participant rights, valued as determined by the Committee, and payable to, or exercisable by, the Participant to whom the Performance Shares are granted, in whole or in part, as the Committee shall establish at grant or thereafter. Subject to the terms of the Plan, the Committee shall set performance goals and other terms or conditions to payment of the Performance Shares in its discretion which, depending on the extent to which they are met, will determine the number and value of Performance Shares that will be paid to the Participant.

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9.3 **OTHER TERMS.** Performance Shares may be payable in cash, Stock, or other property, and have such other terms and conditions as determined by the

Committee and reflected in a written Performance Share Award Agreement. Unless otherwise provided in an Award Agreement, Performance Shares will lapse immediately if a Participant's employment is terminated for Cause.

ARTICLE 10 RESTRICTED STOCK AWARDS

10.1 **GRANT OF RESTRICTED STOCK.** The Committee is authorized to make Awards of Restricted Stock to Participants in such amounts and subject to such terms and conditions as determined by the Committee. All Awards of Restricted Stock shall be evidenced by a written Restricted Stock Award Agreement.

10.2 **ISSUANCE AND RESTRICTIONS.** Restricted Stock shall be subject to such restrictions on transferability and other restrictions as the Committee may impose (including, without limitation, limitations on the right to vote Restricted Stock or the right to receive dividends on the Restricted Stock). These restrictions may lapse separately or in combination at such times, pursuant to such circumstances, in such installments, or otherwise, as the Committee determines at the time of the grant of the Award or thereafter.

10.3 **FORFEITURE.** Except as otherwise determined by the Committee at the time of the grant of the Award or thereafter, upon termination of employment during the applicable restriction period, Restricted Stock that is at that time subject to restrictions shall be forfeited; provided, however, that the Committee may provide in any Restricted Stock Award Agreement that restrictions or forfeiture conditions relating to Restricted Stock will be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part restrictions or forfeiture conditions relating to Restricted Stock. Unless otherwise provided in an Award Agreement, Restricted Stock will be forfeited immediately if a Participant's employment is terminated for Cause.

10.4 **CERTIFICATES FOR RESTRICTED STOCK.** Restricted Stock granted pursuant to the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing shares of Restricted Stock are registered in the name of the Participant, certificates must bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Stock, and the Company may, at its discretion, retain physical possession of the certificate until such time as all applicable restrictions lapse.

ARTICLE 11 PERFORMANCE-BASED AWARDS

11.1 **PURPOSE.** The purpose of this Article 11 is to provide the Committee the ability to qualify the Performance Share Awards pursuant to Article 9 and the Restricted Stock Awards pursuant to Article 10 as "performance-based compensation" pursuant to Section 162(m) of the Code. If the Committee, in its discretion, decides to grant a Performance-Based Award to a Covered Employee, the provisions of this Article 11 shall control over any contrary provision contained in Articles 9 or 10.

11.2 **APPLICABILITY.** This Article 11 shall apply only to those Covered Employees selected by the Committee to receive Performance-Based Awards. The Committee may, in its discretion, grant Restricted Stock Awards or Performance Share Awards to Covered Employees that do not satisfy the requirements of this Article 11. The designation of a Covered Employee as a Participant for a Performance Period shall not in any manner entitle the Participant to receive an Award for the period. Moreover, designation of a Covered Employee as a Participant for a particular Performance Period shall not require designation of such Covered Employee as a Participant in any subsequent Performance Period and designation of one Covered Employee as a Participant shall not require designation of any other Covered Employees as a Participant in such period or in any other period.

11.3 **DISCRETION OF COMMITTEE WITH RESPECT TO PERFORMANCE AWARDS.** With regard to a particular Performance Period, the Committee shall have full discretion to select the length of such Performance Period, the type of Performance-Based Awards to be issued, the kind and/or level of the Performance Goal, and whether the Performance Goal is to apply to the Company, a Subsidiary or any division or business unit

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thereof. Unless otherwise provided in an Award Agreement, Performance-Based Awards will be forfeited if a Participant's employment is terminated for Cause.

11.4 **PAYMENT OF PERFORMANCE AWARDS.** Unless otherwise provided in the relevant Award Agreement, a Participant must be employed by the Company or a Subsidiary on the day a Performance Award for such Performance Period is paid to the Participant. Furthermore, a Participant shall be eligible to receive payment pursuant to a Performance-Based Award for a Performance Period only if the Performance Goals for such period are achieved. In determining the actual size of an individual Performance-Based Award, the Committee may reduce or eliminate the amount of the Performance-Based Award earned for the Performance Period, in its sole and absolute discretion, such reduction or elimination is appropriate.

11.5 **MAXIMUM AWARD PAYABLE.** The maximum Performance-Based Award payable to any one Participant pursuant to the Plan for a Performance Period is 100,000 shares (counted, as described in Section 5.1 above, as 1.38 shares awarded for every one share issued in connection with such Award or by which the Award is valued by reference) of Stock.

ARTICLE 12 PROVISIONS APPLICABLE TO AWARDS

12.1 **STAND-ALONE AND TANDEM AWARDS.** Awards granted pursuant to the Plan may, in the discretion of the Committee, be granted either alone, in addition to, or in tandem with, any other Award granted pursuant to the Plan. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards.

12.2 **TERM OF AWARD.** The term of each Award shall be for the period as determined by the Committee, provided that in no event shall the term of any Option or Stock Appreciation Right granted in tandem with the Incentive Stock Option exceed a period of ten years from the date of its grant.

12.3 **FORM OF PAYMENT FOR AWARDS.** Subject to the terms of the Plan and any applicable law or Award Agreement, payments or transfers to be made by the Company or a Subsidiary on the grant or exercise of an Award may be made in such forms as the Committee determines at or after the time of grant, including, without limitation, cash, promissory note, Stock held for more than six months, other Awards, or other property, or any combination, and may be made in a single payment or transfer, in installments, or on a deferred basis, in each case determined in accordance with rules adopted by, and at the discretion of, the Committee.

12.4 **LIMITS ON TRANSFER.**

(a) **General.** Except as provided in Section 12.4(b) or Section 12.5, no right or interest of a Participant in any Award may be pledged, encumbered, or hypothecated to, or in favor of, any party other than the Company or a Subsidiary, or shall be subject to any lien, obligation, or liability of such Participant to any other party other than the Company or a Subsidiary. Except as provided in Section 12.4(b) or Section 12.5, and except as otherwise provided by the Committee, no Award shall be assigned, transferred, or otherwise disposed of by a Participant other than by will or the laws of descent and distribution.

(b) **Transfers to Family Members.** The Committee shall have the authority, in its discretion, to grant (or to sanction by way of amendment to an existing Award) Awards which may be transferred by the Participant during his or her lifetime to any Family Member (as defined below). Unless transfers for the Participant have been previously approved by the Committee, a transfer of an Award pursuant hereto may only be affected by the Company at the written request of the Participant. In

the event an Award is transferred as contemplated herein, such transferred Award may not be subsequently transferred by the transferee (other than another transfer meeting the conditions herein) except by will or the laws of descent and distribution. A transferred Award shall continue to be governed by and subject to the terms and limitations of the Plan and relevant Award Agreement, and the transferee shall be entitled to the same rights as the Participant, as if the transfer had not taken place. For purposes of this Section 12.4(b), the term "Family Member" means spouse and any parent, stepparent,

grandparent, child, stepchild, or grandchild, including adoptive relationships or a trust or any other entity in which these persons (or the Participant) have more than 50% of the beneficial interest.

12.5 **BENEFICIARIES**. Notwithstanding Section 12.4, a Participant may, in the manner determined by the Committee, designate a beneficiary to exercise the rights of the Participant and to receive any distribution with respect to any Award upon the Participant's death. A beneficiary, legal guardian, legal representative, or other person claiming any rights pursuant to the Plan is subject to all terms and conditions of the Plan and any Award Agreement applicable to the Participant, except to the extent the Plan and Award Agreement otherwise provide, and to any additional restrictions deemed necessary or appropriate by the Committee. If the Participant is married and resides in a community property state, a designation of a person other than the Participant's spouse as his beneficiary with respect to more than 50% of the Participant's interest in the Award shall not be effective without the prior written consent of the Participant's spouse. If no beneficiary has been designated or survives the Participant, payment shall be made to the person entitled thereto pursuant to the Participant's will or the laws of descent and distribution. Subject to the foregoing, a beneficiary designation may be changed or revoked by a Participant at any time provided the change or revocation is provided to the Committee.

12.6 **STOCK CERTIFICATES**. Notwithstanding anything herein to the contrary, the Company shall not be required to issue or deliver any certificates evidencing shares of Stock pursuant to the exercise of any Award, unless and until the Board has determined, with advice of counsel, that the issuance and delivery of such certificates is in compliance with all applicable laws, regulations of governmental authorities and, if applicable, the requirements of any exchange on which the shares of Stock are listed or traded. All Stock certificates delivered pursuant to the Plan are subject to any stop-transfer orders and other restrictions as the Committee deems necessary or advisable to comply with Federal, state, or foreign jurisdiction, securities or other laws, rules and regulations and the rules of any national securities exchange or automated quotation system on which the Stock is listed, quoted, or traded. The Committee may place legends on any Stock certificate to reference restrictions applicable to the Stock. In addition to the terms and conditions provided herein, the Board may require that a Participant make such reasonable covenants, agreements, and representations as the Board, in its discretion, deems advisable in order to comply with any such laws, regulations, or requirements.

12.7 **ACCELERATION UPON A CHANGE OF CONTROL**. If a Change of Control occurs and Awards are converted, assumed, or replaced by a successor, the Committee shall have the discretion to cause all outstanding Awards to become fully exercisable and all restrictions on outstanding Awards to lapse. If a Change of Control occurs and Awards are not converted, assumed, or replaced by a successor, all outstanding Awards shall automatically become fully exercisable and all restrictions on outstanding Awards shall lapse. To the extent that this provision causes Incentive Stock Options to exceed the dollar limitation set forth in Section 7.2(d), the excess Options shall be deemed to be Non-Qualified Stock Options. Upon, or in anticipation of, such an event, the Committee may cause every Award outstanding hereunder to terminate at a specific time in the future and shall give each Participant the right to exercise Awards during a period of time as the Committee, in its sole and absolute discretion, shall determine.

ARTICLE 13 CHANGES IN CAPITAL STRUCTURE

13.1 **SHARES AVAILABLE FOR GRANT**. In the event of any change in the number of shares of Stock outstanding by reason of any stock dividend or split, recapitalization, merger, consolidation, combination or exchange of shares or similar corporate change, the maximum aggregate number of shares of Stock with respect to which the Committee may grant Awards, the number of shares of Stock subject to any Award, and any numeric limitation expressed in the Plan shall be appropriately adjusted by the Committee.

13.2 **OUTSTANDING AWARDS – INCREASE OR DECREASE IN ISSUED SHARES WITHOUT CONSIDERATION**. Subject to any required action by the stockholders of the Company, in the event of any increase or decrease in the number of issued shares of Stock resulting from a subdivision or consolidation of shares of Stock or the payment of a stock dividend (but only on the shares of Stock), or any other increase or decrease in the number of such shares effected without receipt or payment of consideration by the Company, the Committee shall proportionally adjust the number of shares of Stock subject to each outstanding Award and the exercise price per share of Stock of each such Award.

13.3 **OUTSTANDING AWARDS – CERTAIN MERGERS**. Subject to any required action by the stockholders of the Company, in the event that the Company shall be the surviving corporation in any merger or consolidation (except a merger or consolidation as a result of which the holders of shares of Stock receive securities of another corporation), each Award outstanding on the date of such merger or consolidation shall pertain to and apply to the securities that a holder of the number of shares of Stock subject to such Award would have received in such merger or consolidation.

13.4 **OUTSTANDING AWARDS – OTHER CHANGES**. In the event of any other change in the capitalization of the Company or corporate change other than those specifically referred to in Article 13, the Committee may, in its absolute discretion, make such adjustments in the number and class of shares subject to Awards outstanding on the date on which such change occurs and in the per share exercise price of each Award as the Committee may consider appropriate to prevent the dilution or enlargement of rights relating to Awards granted under the Plan.

13.5 **NO OTHER RIGHTS**. Except as expressly provided in the Plan, no Participant shall have any rights by reason of any subdivision or consolidation of shares of stock of any class, the payment of any dividend, any increase or decrease in the number of shares of stock of any class or any dissolution, liquidation, merger, or consolidation of the Company or any other corporation. Except as expressly provided in the Plan, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Stock subject to an Award or the exercise price of any Award.

ARTICLE 14 AMENDMENT, MODIFICATION, AND TERMINATION

14.1 **AMENDMENT, MODIFICATION, AND TERMINATION**. With the approval of the Board, at any time and from time to time, the Committee may terminate, amend or modify the Plan; provided, however, that (i) to the extent necessary and desirable to comply with any applicable law, regulation, or stock exchange rule, the Company shall obtain stockholder approval of any Plan amendment in such a manner and to such a degree as required, (ii) shareholder approval is required for any amendment to the Plan that (A) increases the number of shares available under the Plan (other than any adjustment as provided by Article 13), (B) permits the Committee to grant Options with an exercise price that is below Fair Market Value on the date of grant, (C) permits the Committee to extend the exercise period for an Option beyond ten years from the date of grant, or (D) permits the Committee to reprice previously granted Options, and (iii) no such action shall be taken that would cause all or part of the payment under any Award to be subject to the additional tax under Section 409A of the Code.

14.2 **AWARDS PREVIOUSLY GRANTED**. No termination, amendment, or modification of the Plan shall adversely affect in any material way any Award

previously granted pursuant to the Plan without the prior written consent of the Participant.

**ARTICLE 15
GENERAL PROVISIONS**

15.1 **NO RIGHTS TO AWARDS.** No Participant, employee, or other person shall have any claim to be granted any Award pursuant to the Plan, and neither the Company nor the Committee is obligated to treat Participants, employees, and other persons uniformly.

15.2 **NO STOCKHOLDERS RIGHTS.** No Award gives the Participant any of the rights of a stockholder of the Company unless and until shares of Stock are in fact issued to such person in connection with such Award.

15.3 **WITHHOLDING.** The Company or any Subsidiary shall have the authority and the right to deduct or withhold, or require a Participant to remit to the Company, an amount sufficient to satisfy Federal, state, and local taxes (including the Participant's FICA obligation) required by law to be withheld with respect to any taxable event concerning a Participant arising as a result of this Plan. With the Committee's consent, a Participant

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may elect to (i) have the Company withhold from those shares of Stock that would otherwise be received upon the exercise of any Option, a number of shares having a Fair Market Value equal to the minimum statutory amount necessary to satisfy the Company's applicable federal, state, local or foreign income and employment tax withholding obligations with respect to such Participant, or (ii) tender previously-owned shares of Stock held by the Participant for six months or longer to satisfy the Company's applicable federal, state, local, or foreign income and employment tax withholding obligations with respect to the Participant.

15.4 **NO RIGHT TO EMPLOYMENT OR SERVICES** Nothing in the Plan or any Award Agreement shall interfere with or limit in any way the right of the Company or any Subsidiary to terminate any Participant's employment or services at any time, nor confer upon any Participant any right to continue in the employ or service of the Company or any Subsidiary.

15.5 **UNFUNDED STATUS OF AWARDS.** The Plan is intended to be an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant pursuant to an Award, nothing contained in the Plan or any Award Agreement shall give the Participant any rights that are greater than those of a general creditor of the Company or any Subsidiary.

15.6 **INDEMNIFICATION.** To the extent allowable pursuant to applicable law, each member of the Committee or of the Board shall be indemnified and held harmless by the Company from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by such member in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action or failure to act pursuant to the Plan and against and from any and all amounts paid by him or her in satisfaction of judgment in such action, suit, or proceeding against him or her provided he or she gives the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled pursuant to the Company's Articles of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

15.7 **RELATIONSHIP TO OTHER BENEFITS.** No payment pursuant to the Plan shall be taken into account in determining any benefits pursuant to any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company or any Subsidiary.

15.8 **EXPENSES.** The expenses of administering the Plan shall be borne by the Company and its Subsidiaries.

15.9 **TITLES AND HEADINGS.** The titles and headings of the Sections in the Plan are for convenience of reference only and, in the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

15.10 **FRACTIONAL SHARES.** No fractional shares of Stock shall be issued and the Committee shall determine, in its discretion, whether cash shall be given in lieu of fractional shares or whether such fractional shares shall be eliminated by rounding up or down as appropriate.

15.11 **SECURITIES LAW COMPLIANCE.** With respect to any person who is, on the relevant date, obligated to file reports pursuant to Section 16 of the Exchange Act, transactions pursuant to this Plan are intended to comply with all applicable conditions of Rule 16b-3 or its successors pursuant to the Exchange Act. To the extent any provision of the Plan or action by the Committee fails to so comply, it shall be void to the extent permitted by law and voidable as deemed advisable by the Committee.

15.12 **GOVERNMENT AND OTHER REGULATIONS.** The obligation of the Company to make payment of awards in Stock or otherwise shall be subject to all applicable laws, rules, and regulations, and to such approvals by government agencies as may be required. The Company shall be under no obligation to register pursuant to the Securities Act of 1933, as amended, any of the shares of Stock paid pursuant to the Plan. If the shares paid pursuant to the Plan may in certain circumstances be exempt from registration pursuant to the Securities

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Act of 1933, as amended, the Company may restrict the transfer of such shares in such manner as it deems advisable to ensure the availability of any such exemption.

15.13 **GOVERNING LAW.** The Plan and all Award Agreements shall be construed in accordance with and governed by the laws of the State of Maryland.

15.14 **SECTION 409A.** If any payments under this Plan are subject to the provisions of Section 409A of the Code, it is intended that the terms of this Plan will comply fully with and meet all the requirements of Section 409A of the Code.

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**MERITAGE HOMES CORPORATION
RESTRICTED STOCK AGREEMENT**

This Restricted Stock Agreement (“Agreement”) is between Meritage Homes Corporation (“Company”), and (“Grantee”), as of the day of _____, 2006 (“Date of Grant”).

RECITALS

- A. The Company has adopted the Meritage Homes Corporation 2006 Stock Incentive Plan (“Plan”) to provide incentives to attract and retain those individuals whose services are considered unusually valuable by providing them an opportunity to own stock in the Company.
- B. The Company believes that entering into this Agreement with the Grantee is consistent with those purposes. Any capitalized term not defined in this Agreement will have the meaning as set forth in the Plan.

NOW, THEREFORE, the Company and Grantee agree as follows:

AGREEMENT

1. **GRANT OF RESTRICTED SHARES.** Subject to the terms of this Agreement and Article 10 of the Plan, the Company grants to Grantee shares (“Restricted Shares”) of the Company’s non-voting common stock (“Stock”). The delivery of any document evidencing the Restricted Shares is subject to the provisions of Section 10.4 of the Plan.
2. **RIGHTS OF GRANTEE.** Subject to the provisions of this Agreement and the Plan, as of the Date of Grant, Grantee shall be a stockholder with respect to all of such Restricted Shares and shall have all of the rights of a stockholder in the Company with respect to the Restricted Shares.
3. **RESTRICTIONS ON RESTRICTED SHARES**
- A. **Limitations on Transfer.** Grantee agrees to not sell, transfer, pledge, exchange, hypothecate, grant any security interest in, or otherwise dispose of, any Restricted Shares before the date on which the restrictions lapse under Section 4.A., or enter into any agreement or make any commitment to do so. Any attempted sale, transfer, pledge, exchange, hypothecation or disposition of the Restricted Shares shall be null and void, and the Company shall not recognize or give effect to such transaction on its books and records (including the books and records of the Company’s transfer agent) or recognize the person or persons to whom such sale, transfer, pledge, exchange, hypothecation or disposition has been made as the legal or beneficial owner of the Restricted Shares.
- B. **Permitted Transfers.** Notwithstanding 3.A., or any other provision of this Agreement, Grantee may, upon the approval of the Committee, assign and transfer some or all of the Restricted Shares as provided in Section 12.4(b) of the Plan, provided the transferee remains subject to the restrictions and limitations in Section 3.A.
4. **LAPSE OF RESTRICTIONS.**
- A. **Schedule.** Subject to the other conditions in this Agreement, the restrictions on the Stock set forth in Section 3 will lapse under the following schedule:
- Notwithstanding the above, (i) the restrictions on the Stock shall lapse upon a Change of Control as provided in Section 12.7 of the Plan, and (ii) if the Grantee’s service is terminated for any reason (whether with or

without cause) the Grantee will be required to transfer all shares of Stock (that remain subject to restrictions under Section 3) back to the Company for no consideration.

- B. **Condition That Must be Satisfied Before Restrictions Lapse.** Except as set forth in Section 4.A above, the restrictions on the Stock will not lapse unless the Grantee remains in the service of the Company (or a Subsidiary) as of the date the restrictions lapse in accordance with the above schedule.
- C. **Issuance of Certificates.** The Company shall only be required to issue stock certificates representing those Restricted Shares on which restrictions have lapsed in accordance with the provisions of this Agreement. Within 60 days after restrictions on some or all of the Stock have lapsed, the Company shall issue to Grantee a stock certificate representing those shares of Stock that have become unrestricted.
5. **ACKNOWLEDGEMENTS AND REPRESENTATION OF GRANTEE.** In connection with Grantee’s receipt of the Restricted Shares, Grantee hereby acknowledges the following:

- A. **Further Limitations on Disposition.** Grantee understands and acknowledges that Grantee may not make any sale, assignment, transfer or other disposition (including transfer by gift or operation of law) of all or any portion of the Restricted Shares except in accordance with this Agreement. Further, Grantee agrees to make no sale, assignment, transfer or other disposition of all or any portion of the Restricted Shares unless there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement, or Grantee has obtained an opinion of the Company’s counsel that such disposition does not require registration under the Securities Act of 1933.
- B. **Section 83(b) Election.** Grantee understands that Section 83 of the Internal Revenue Code of 1986, as amended (“Code”) taxes as ordinary income the difference between the amount paid for the Restricted Shares and the Fair Market Value of the Restricted Shares as of the date any restrictions on the Restricted Shares lapse. In this context, “restriction” means the restrictions set forth in Section 3 hereof. Grantee understands that Grantee may elect to be taxed at the time the Restricted Shares are granted rather than when and as the Restricted Shares vest by filing an election under Section 83(b) of the Code with the Internal Revenue Service within thirty (30) days from the Date of Grant. Grantee understands that failure to make this filing timely shall result in the recognition of ordinary income by Grantee on the Fair Market Value of the Restricted Shares at the time such restrictions lapse.

THE GRANTEE ACKNOWLEDGES THAT IT IS THE GRANTEE’S SOLE RESPONSIBILITY, AND NOT THE COMPANY’S, TO FILE TIMELY THE ELECTION UNDER SECTION 83(b) OF THE CODE, EVEN IF THE GRANTEE REQUESTS THE COMPANY OR ITS REPRESENTATIVES TO MAKE THIS FILING ON THE GRANTEE’S BEHALF.

6. **FEDERAL AND STATE TAXES.** Grantee may incur certain liabilities for Federal, state, or local taxes in connection with the grant of the Restricted Shares hereunder, and the Company may be required by law to withhold such taxes. Upon determination of the year in which such taxes are due and the determination by the Company of the amount of taxes required to be withheld, Grantee shall pay an amount equal to the amount of Federal, state, or local taxes required to be withheld to the Company. If Grantee fails to make such payment in a timely manner, the Company may withhold and set-off against compensation payable to Grantee the amount of such required payment.

7. **ADJUSTMENT OF SHARES.** The number of Restricted Shares issued to Grantee pursuant to this Agreement shall be adjusted by the Committee pursuant to Article 13 of the Plan, in its discretion, in the event of a change in the Company's capital structure.

8. **AMENDMENT OF AGREEMENT.** This Agreement may only be amended with the written approval of Grantee and the Company.

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9. **GOVERNING LAW.** This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the State of Maryland, without regard to conflicts-of-laws principles that would require the application of any other law.

10. **SEVERABILITY.** If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held to be unenforceable or invalid by any court of competent jurisdiction or under any applicable law, the parties hereto shall negotiate an equitable adjustment to the provisions of this Agreement with the view to effecting, to the greatest extent possible, the original purpose and intent of this Agreement, and in any event, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire, final, and complete agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, promises, understandings, negotiations, representations, and commitments, both written and oral, between the parties hereto with respect to the subject matter hereof. Neither party hereto shall be bound by or liable for any statement, representation, promise, inducement, commitment, or understanding of any kind whatsoever not expressly set forth in this Agreement.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized representative and Grantee has signed this Agreement, in each case as of the day and year first written above.

MERITAGE HOMES CORPORATION

By: _____
Its: _____

GRANTEE:

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**MERITAGE HOMES CORPORATION
NON-QUALIFIED STOCK OPTION AGREEMENT**

This Non-Qualified Stock Option Agreement ("Agreement") is between Meritage Homes Corporation ("Company") and (the "Optionee"), as of the _____ day of _____, 2006 ("Date of Grant").

RECITALS

- A. The Company has adopted the Meritage Homes Corporation 2006 Stock Incentive Plan ("Plan") to provide incentives to attract and retain those individuals whose services are considered unusually valuable by providing them an opportunity to own stock in the Company.
- B. The Company believes that entering into this Agreement with the Optionee is consistent with those purposes. Any capitalized term not defined in this Agreement will have the meaning as set forth in the Plan.

NOW, THEREFORE, the Company and Optionee agree as follows:

AGREEMENT

1. **GRANT OF OPTION.** Subject to the terms of this Agreement and Article 7 of the Plan, the Company grants to the Optionee the right and option to purchase from the Company for cash all or any part of an aggregate of _____ shares of Common Stock ("Option") of the Company ("Stock"). The delivery of any document evidencing the Option is subject to the provisions of Section 7.1(d) of the Plan. The Option granted under this Agreement is **not** intended to be an "incentive stock option" under Section 422 of the Internal Revenue Code of 1986, as amended.

2. **PURCHASE PRICE.** The purchase price under this Agreement is \$ _____ per share of Stock, as determined by the Committee, which shall not be less than the Fair Market Value of a share of Stock on the Date of Grant.

3. **VESTING OF OPTION.** The Option shall vest and be exercisable according to the following schedule:

[insert vesting schedule]

4. **EXERCISE OF OPTION.** This Option may be exercised, to the extent vested (under 3 above), in whole or in part at anytime before the Option expires by delivery of a written notice of exercise (under 5 below) and payment of the purchase price. The purchase price may be paid in cash or such other method permitted by the Committee under Section 7.1(c) of the Plan and communicated to the Optionee before the date the Optionee exercises the Option.

5. **METHOD OF EXERCISING OPTION.** Subject to the terms of this Agreement, the Option may be exercised by timely delivery to the Company of written notice, which notice shall be effective on the date received by the Company. The notice shall state the Optionee's election to exercise the Option and the number of underlying shares in respect of which an election to exercise has been made. Such notice shall be signed by the Optionee, or if the Option is exercised by a person or persons other than the Optionee because of the Optionee's death, such notice must be signed by such other person or persons and shall be accompanied by proof acceptable to the Company of the legal right of such person or persons to exercise the Option.

6. **TERM OF OPTION.** The Option granted under this Agreement expires, unless sooner terminated, ten (10) years from the Date of Grant, through and including the normal close of business of the Company on the tenth (10th) anniversary of the Date of Grant ("Expiration Date").

7. **TERMINATION OF EMPLOYMENT.**

a. If the Optionee terminates employment for any reason other than death, voluntary termination of employment, or involuntary termination of employment for Cause, the Optionee may at any time within 90 days after the date of his or her termination of employment exercise the Option to the extent that the Optionee was entitled to exercise the Option at the date of termination, provided that in no event shall the Option be exercisable after the Expiration Date. If the Optionee dies while employed by the Company or within three months following termination of such employment (except in case of voluntary termination of employment, or involuntary termination of employment for Cause) the Option to the extent it is then exercisable may nevertheless be exercised by the Optionee's personal representative within the three-month period following the date of death of the Optionee, provided that in no event shall the Option be exercisable after the Expiration Date..

b. If the Optionee ceases to be employed by the Company by reason of his voluntary termination (other than death) or by reason of involuntary termination by the Company for Cause, this Option shall expire to the extent that it is unexercised at the time of such termination of employment.

8. **NON-TRANSFERABILITY OF RIGHTS.** Optionee may not assign or transfer Optionee's rights under this Agreement, nor may Optionee subject such rights (or any of them) to execution, attachment, garnishment, or similar process, except as permitted under Section 12.5(b) of the Plan. Any such impermissible attempted assignment or transfer by Optionee shall be null and void and shall not be recognized by the Company.

9. **RIGHTS OF OPTIONEE.** The Optionee will have no rights as a shareholder of the Company with respect to the grant of the Option under this Agreement until the Option is exercised and the Company issues shares of Stock to the Optionee.

10. **FEDERAL AND STATE TAXES.** Optionee may incur certain liabilities for Federal, state, or local taxes in connection with the exercise of the Option hereunder, and the Company may be required by law to withhold such taxes. Upon determination of the year in which such taxes are due and the determination by the Company of the amount of taxes required to be withheld, Optionee shall pay an amount equal to the amount of Federal, state, or local taxes required to be withheld to the Company. If Optionee fails to make such payment in a timely manner, the Company may withhold and set-off against compensation payable to the Optionee the amount of such required payment.

11. **ADJUSTMENT OF SHARES.** The number of shares of Stock issued to Optionee pursuant to this Agreement shall be adjusted by the Committee pursuant to Article 13 of the Plan, in its discretion, in the event of a change in the Company's capital structure.

12. **AMENDMENT OF AGREEMENT.** This Agreement may only be amended with the written approval of Optionee and the Company.

13. **GOVERNING LAW.** This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the state of Maryland, without regard to conflicts-of-laws principles that would require the application of any other law.

14. **SEVERABILITY.** If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held to be unenforceable or invalid by any court of competent jurisdiction or under any applicable law, the parties hereto shall negotiate an equitable adjustment to the provisions of this Agreement with

the view to effecting, to the greatest extent possible, the original purpose and intent of this Agreement, and in any event, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

15. ENTIRE AGREEMENT. This Agreement constitutes the entire, final, and complete agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, promises, understandings, negotiations, representations, and commitments, both written and oral, between the parties hereto with respect to the subject matter hereof. Neither party hereto shall be bound by or liable for any statement, representation, promise, inducement, commitment, or understanding of any kind whatsoever not expressly set forth in this Agreement.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized representative and Optionee has signed this Agreement, in each case as of the day and year first written above.

MERITAGE HOMES CORPORATION

By: _____
Its:

OPTIONEE:

**MERITAGE HOMES CORPORATION
INCENTIVE STOCK OPTION AGREEMENT**

This Incentive Stock Option Agreement ("Agreement") is between Meritage Homes Corporation ("Company") and (the "Optionee"), as of the day of _____, 2006 ("Date of Grant").

RECITALS

- A. The Company has adopted the Meritage Homes Corporation 2006 Stock Incentive Plan ("Plan") to provide incentives to attract and retain those individuals whose services are considered unusually valuable by providing them an opportunity to own stock in the Company.
- B. The Company believes that entering into this Agreement with the Optionee is consistent with those purposes. Any capitalized term not defined in this Agreement will have the meaning as set forth in the Plan.

NOW, THEREFORE, the Company and Optionee agree as follows:

AGREEMENT

1. **GRANT OF OPTION.** Subject to the terms of this Agreement and Article 7 of the Plan, the Company grants to the Optionee the right and option to purchase from the Company for cash all or any part of an aggregate of _____ shares of Common Stock ("Option") of the Company ("Stock"). The delivery of any document evidencing the Option is subject to the provisions of Section 7.1(d) of the Plan. The Option granted under this Agreement is intended to be an "incentive stock option" under Section 422 of the Internal Revenue Code of 1986, as amended (the "Code").
2. **PURCHASE PRICE.** The purchase price under this Agreement is \$ _____ per share of Stock, as determined by the Committee, which shall not be less than the Fair Market Value of a share of Stock on the Date of Grant.
3. **VESTING OF OPTION.** The Option shall vest and be exercisable according to the following schedule:
- [insert vesting schedule]**
4. **EXERCISE OF OPTION.** This Option may be exercised, to the extent vested (under 3 above), in whole or in part at anytime before the Option expires by delivery of a written notice of exercise (under 5 below) and payment of the purchase price. The purchase price may be paid in cash or such other method permitted by the Committee under Section 7.1(c) of the Plan and communicated to the Optionee before the date the Optionee exercises the Option.
5. **METHOD OF EXERCISING OPTION.** Subject to the terms of this Agreement, the Option may be exercised by timely delivery to the Company of written notice, which notice shall be effective on the date received by the Company. The notice shall state the Optionee's election to exercise the Option and the number of underlying shares in respect of which an election to exercise has been made. Such notice shall be signed by the Optionee, or if the Option is exercised by a person or persons other than the Optionee because of the Optionee's death, such notice must be signed by such other person or persons and shall be accompanied by proof acceptable to the Company of the legal right of such person or persons to exercise the Option.
6. **TERM OF OPTION.** The Option granted under this Agreement expires, unless sooner terminated, ten (10) years from the Date of Grant, through and including the normal close of business of the Company on the tenth (10th) anniversary of the Date of Grant ("Expiration Date").

7. TERMINATION OF EMPLOYMENT.

a. If the Optionee terminates employment for any reason other than death, voluntary termination of employment, or involuntary termination of employment for Cause, the Optionee may at any time within 90 days after the date of his or her termination of employment exercise the Option to the extent that the Optionee was entitled to exercise the Option at the date of termination, provided that in no event shall the Option be exercisable after the Expiration Date. If the Optionee dies while employed by the Company or within three months following termination of such employment (except in case of voluntary termination of employment, or involuntary termination of employment for Cause) the Option to the extent it is then exercisable may nevertheless be exercised by the Optionee's personal representative within the three-month period following the date of death of the Optionee, provided that in no event shall the Option be exercisable after the Expiration Date..

b. If the Optionee ceases to be employed by the Company by reason of his voluntary termination (other than death) or by reason of involuntary termination by the Company for Cause, this Option shall expire to the extent that it is unexercised at the time of such termination of employment.

8. **NON-TRANSFERABILITY OF RIGHTS.** Optionee may not assign or transfer Optionee's rights under this Agreement, nor may Optionee subject such rights (or any of them) to execution, attachment, garnishment, or similar process, except as permitted under Section 12.5(b) of the Plan. Any such impermissible attempted assignment or transfer by Optionee shall be null and void and shall not be recognized by the Company.

9. **RIGHTS OF OPTIONEE.** The Optionee will have no rights as a shareholder of the Company with respect to the grant of the Option under this Agreement until the Option is exercised and the Company issues shares of Stock to the Optionee.

10. **FEDERAL AND STATE TAXES.** Optionee may incur certain liabilities for Federal, state, or local taxes in connection with the exercise of the Option hereunder, and the Company may be required by law to withhold such taxes. Upon determination of the year in which such taxes are due and the determination by the Company of the amount of taxes required to be withheld, Optionee shall pay an amount equal to the amount of Federal, state, or local taxes required to be withheld to the Company. If Optionee fails to make such payment in a timely manner, the Company may withhold and set-off against compensation payable to the Optionee the amount of such required payment.

11. **ADJUSTMENT OF SHARES.** The number of shares of Stock issued to Optionee pursuant to this Agreement shall be adjusted by the Committee pursuant to Article 13 of the Plan, in its discretion, in the event of a change in the Company's capital structure.

12. **AMENDMENT OF AGREEMENT.** This Agreement may only be amended with the written approval of Optionee and the Company.

13. **GOVERNING LAW.** This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the state of Maryland, without regard to conflicts-of-laws principles that would require the application of any other law.

14. **SEVERABILITY.** If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held to be unenforceable or invalid by any court of competent jurisdiction or under any applicable law, the parties hereto shall negotiate an equitable adjustment to the provisions of this Agreement with

the view to effecting, to the greatest extent possible, the original purpose and intent of this Agreement, and in any event, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

15. ENTIRE AGREEMENT. This Agreement constitutes the entire, final, and complete agreement between the parties hereto with respect to the subject matter hereof and supersede all prior agreements, promises, understandings, negotiations, representations, and commitments, both written and oral, between the parties hereto

with respect to the subject matter hereof. Neither party hereto shall be bound by or liable for any statement, representation, promise, inducement, commitment, or understanding of any kind whatsoever not expressly set forth in this Agreement.

16. TAX INFORMATION AND NOTICE OF DISQUALIFYING DISPOSITION This Option is intended to be eligible for treatment as an Incentive Stock Option under Section 422 of the Code. Whether this Option will receive such tax treatment will depend, in part, on the actions by the Optionee after exercise of this Option. For example, if the Optionee disposes of any of the Stock acquired under this Option within two years after the Date of Grant and within one year of the date of exercise of this Option, the Optionee may lose the benefits of Section 422 of the Code. Accordingly, the Company makes no representations by way of the Plan, this Agreement, or otherwise, with respect to the actual tax consequences of the grant or exercise of this Option or the subsequent disposition of the Stock acquired under this Option.

If the Optionee sells or makes a disposition (within the meaning of Section 422 of the Code) of any of the Stock acquired under this Option prior to the later of (i) one year from the date of exercise of such Stock, or (ii) two years from the Date of Grant, the Optionee agrees to give written notice to the Company of such disposition. The notice shall include the Optionee's name, the number, exercise price and exercise date of the shares of Stock disposed of, and the date of disposition.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized representative and Optionee has signed this Agreement, in each case as of the day and year first written above.

MERITAGE HOMES CORPORATION

By: _____
Its: _____

OPTIONEE:

**MERITAGE HOMES CORPORATION
STOCK APPRECIATION RIGHTS AGREEMENT**

This Stock Appreciation Rights Agreement ("Agreement") is between Meritage Homes Corporation ("Company") and ("Grantee"), as of the day of _____, 2006 ("Date of Grant").

RECITALS

- A. The Company has adopted the Meritage Homes Corporation 2006 Stock Incentive Plan ("Plan") to provide incentives to attract and retain those individuals whose services are considered unusually valuable by providing them an opportunity to own stock in the Company.
- B. The Company believes that entering into this Agreement with the Grantee is consistent with those purposes. Any capitalized term not defined in this Agreement will have the meaning as set forth in the Plan.

NOW THEREFORE, the Company and Grantee agree as follows:

AGREEMENT

1. **GRANT OF SAR.** Subject to the terms of this Agreement and Article 8 of the Plan, the Company grants to Grantee the right to exercise the Stock Appreciation Right (the "SAR") measured by _____ shares of the common stock of the Company ("Stock"). The delivery of any document evidencing the SAR is subject to the provisions of Section 8.1(a) of the Plan.

2. **GRANT PRICE.** The Grant Price under this Agreement is \$ _____ per share of Stock, as determined by the Committee, which shall not be less than the Fair Market Value of a share of Stock on the Date of Grant.

3. **VESTING OF SAR.** The SAR shall vest and be exercisable according to the following schedule:

[insert schedule]

4. **PAYMENT FOR EXERCISE OF SAR.** The SAR awarded under this Agreement and pursuant to Article 8 of the Plan permits the Grantee to receive, after exercise, the excess of a number of shares of Stock equal to (1) the Fair Market Value of a share of Stock on the date of exercise, over (2) the Grant Price of the SAR.

5. **METHOD OF EXERCISING SAR.** Subject to the terms and conditions of this Agreement, the SAR may be exercised by timely delivery to the Company of written notice, which notice shall be effective on the date received by the Company. The notice shall state the Grantee's election to exercise the SAR and the number of underlying shares in respect of which an election to exercise has been made. Such notice shall be signed by the Grantee. In the event the SAR is exercised by a person or persons other than Grantee because of the Grantee's death, such notice shall be signed by such other person or persons and shall be accompanied by proof acceptable to the Company of the legal right of such person or persons to exercise the SAR.

6. **TERM OF SAR.** The SAR granted under this Agreement expires, unless sooner surrendered, ten (10) years from the Date of Grant, through and including the normal close of business of the Company on the tenth (10th) anniversary of the Date of Grant ("Expiration Date").

7. **TERMINATION OF SERVICE.** The Grantee is deemed to have exercised the vested portion of the SAR if his or her service with the Company is terminated for any reason other than for Cause. The vested portion of the SAR is forfeited and immediately cancelled if his or her service with the Company is terminated for Cause. The unvested portion of the SAR is forfeited and immediately cancelled on the date his or her service with the Company is terminated.

8. **NON-TRANSFERABILITY OF RIGHTS.** Grantee may not assign or transfer Grantee's rights under this Agreement, nor may Grantee subject such rights (or any of them) to execution, attachment, garnishment, or similar process, except as permitted under Section 12.4(b) of the Plan. Any such impermissible attempted assignment or transfer by Grantee shall be null and void and shall not be recognized by the Company.

9. **RIGHTS OF GRANTEE.** The Grantee will have no rights as a shareholder of the Company with respect to the grant of the SAR under this Agreement until the SAR is exercised and the Company issues shares of Stock to the Grantee.

10. **FEDERAL AND STATE TAXES.** Grantee may incur certain liabilities for Federal, state, or local taxes in connection with the exercise of the SAR hereunder, and the Company may be required by law to withhold such taxes. Upon determination of the year in which such taxes are due and the determination by the Company of the amount of taxes required to be withheld, Grantee shall pay an amount equal to the amount of Federal, state, or local taxes required to be withheld to the Company. If Grantee fails to make such payment in a timely manner, the Company may withhold and set-off against compensation payable to Grantee the amount of such required payment.

11. **ADJUSTMENT OF SHARES.** The number of shares of Stock issued to Grantee pursuant to this Agreement shall be adjusted by the Committee pursuant to Article 13 of the Plan, in its discretion, in the event of a change in the Company's capital structure.

12. **AMENDMENT OF AGREEMENT.** This Agreement may only be amended with the written approval of Grantee and the Company.

13. **GOVERNING LAW.** This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the state of Maryland, without regard to conflicts-of-laws principles that would require the application of any other law.

14. **SEVERABILITY.** If any provision of this Agreement, or the application of any such provision to any person or circumstance, is held to be unenforceable or invalid by any court of competent jurisdiction or under any applicable law, the parties hereto shall negotiate an equitable adjustment to the provisions of this Agreement with the view to effecting, to the greatest extent possible, the original purpose and intent of this Agreement, and in any event, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

15. **ENTIRE AGREEMENT.** This Agreement constitutes the entire, final, and complete agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, promises, understandings, negotiations, representations, and commitments, both written and oral, between the parties hereto with respect to the subject matter hereof. Neither party hereto shall be bound by or liable for any statement, representation, promise, inducement, commitment, or understanding of any kind whatsoever not expressly set forth in this Agreement.

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed by its duly authorized representative and Grantee has signed this Agreement, in each case as of the day and year first written above.

By: _____
Its: _____

GRANTEE:

[LETTERHEAD OF VENABLE LLP]

May 31, 2006

Meritage Homes Corporation
 17851 North 85th Street
 Suite 300
 Scottsdale, Arizona 85255

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have served as Maryland counsel to Meritage Homes Corporation, a Maryland corporation (the "Company"), in connection with certain matters of Maryland law arising out of the registration of up to 1,201,350 shares (the "Shares") of common stock, \$.01 par value per share (the "Common Stock"), of the Company issuable under the Company's 2006 Stock Incentive Plan (the "Plan"), covered by the above-referenced Registration Statement (the "Registration Statement") filed by the Company with the United States Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "1933 Act"), on or about the date hereof. Unless otherwise defined herein, capitalized terms used herein shall have the meanings assigned to them in the Registration Statement.

In connection with our representation of the Company, and as a basis for the opinion hereinafter set forth, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents (hereinafter collectively referred to as the "Documents"):

1. The Registration Statement;
2. The charter of the Company (the "Charter"), certified as of a recent date by the State Department of Assessments and Taxation of Maryland (the "SDAT");
3. The Bylaws of the Company, certified as of the date hereof by an officer of the Company;
4. A certificate of the SDAT as to the good standing of the Company, dated as of a recent date;
5. Resolutions adopted by the Board of Directors of the Company relating to the approval of the Plan and the authorization of the issuance of the Shares (the "Resolutions"), certified as of the date hereof by an officer of the Company;

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6. The Plan;
 7. A certificate executed by an officer of the Company, dated as of the date hereof; and
 8. Such other documents and matters as we have deemed necessary or appropriate to express the opinion set forth below, subject to the assumptions, limitations and qualifications stated herein.

In expressing the opinion set forth below, we have assumed the following:

1. Each individual executing any of the Documents, whether on behalf of such individual or any other person, is legally competent to do so.
2. Each individual executing any of the Documents on behalf of a party (other than the Company) is duly authorized to do so.
3. Each of the parties (other than the Company) executing any of the Documents has duly and validly executed and delivered each of the Documents to which such party is a signatory, and such party's obligations set forth therein are legal, valid and binding and are enforceable in accordance with all stated terms.
4. All Documents submitted to us as originals are authentic. The form and content of all Documents submitted to us as unexecuted drafts do not differ in any respect relevant to this opinion from the form and content of such Documents as executed and delivered. All Documents submitted to us as certified or photostatic copies conform to the original documents. All signatures on all such Documents are genuine. All public records reviewed or relied upon by us or on our behalf are true and complete. All representations, warranties, statements and information contained in the Documents are true and complete. There has been no oral or written modification of or amendment to any of the Documents, and there has been no waiver of any provision of any of the Documents, by action or omission of the parties or otherwise.
5. Upon any issuance of Shares, the total number of shares of Common Stock issued and outstanding will not exceed the total number of shares of Common Stock that the Company is then authorized to issue under the Charter.

Based upon the foregoing, and subject to the assumptions, limitations and qualifications stated herein, it is our opinion that:

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1. The Company is a corporation duly incorporated and existing under and by virtue of the laws of the State of Maryland and is in good standing with the SDAT.
 2. The issuance of the Shares has been duly authorized and, when issued and delivered by the Company pursuant to the Resolutions and the Plan and otherwise in accordance with the Registration Statement, the Shares will be validly issued, fully paid and nonassessable.

The foregoing opinion is limited to the substantive laws of the State of Maryland, and we do not express any opinion herein concerning any other law. We express no opinion as to the applicability or effect of any federal or state securities laws, including the securities laws of the State of Maryland, or as to federal or state laws regarding fraudulent transfers. To the extent that any matter as to which our opinion is expressed herein would be governed by the laws of any jurisdiction other than the State of Maryland, we do not express any opinion on such matter.

The opinion expressed herein is limited to the matters specifically set forth herein and no other opinion shall be inferred beyond the matters expressly stated. We assume no obligation to supplement this opinion if any applicable law changes after the date hereof or if we become aware of any fact that might change the

opinion expressed herein after the date hereof.

This opinion is being furnished to you solely for submission to the Commission as an exhibit to the Registration Statement, and, accordingly, may not be relied upon by, quoted in any manner to, or delivered to any other person or entity without, in each instance, our prior written consent. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the use of the name of our firm therein. In giving this consent, we do not admit that we are within the category of persons whose consent is required by Section 7 of the 1933 Act.

Very truly yours,

/s/ Venable LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated March 10, 2006, relating to the financial statements of Meritage Homes Corporation and subsidiaries and to management's report on the effectiveness of internal control over financial reporting, appearing in the Annual Report on Form 10-K of Meritage Homes Corporation for the year ended December 31, 2005.

/s/ Deloitte & Touche LLP

Phoenix, Arizona
May 30, 2006

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Meritage Homes Corporation:

We consent to the use of our report dated February 16, 2004, with respect to the consolidated statements of earnings, stockholders' equity, and cash flows of Meritage Homes Corporation and subsidiaries, formerly Meritage Corporation, for the year ended December 31, 2003, which report appears in the Annual Report on Form 10-K of Meritage Homes Corporation for the year ended December 31, 2005, incorporated herein by reference.

/s/ KPMG LLP

Phoenix, Arizona
May 30, 2006
