

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of report (Date of earliest event reported) January 10, 2007

MERITAGE HOMES CORPORATION

(Exact Name of Registrant as Specified in Charter)

Maryland
(State or Other Jurisdiction
of Incorporation)

1-9977
(Commission File
Number)

86-0611231
(IRS Employer
Identification No.)

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

85255
(Zip Code)

(480) 609-3330
(Registrant's telephone number, including area code)

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**ITEM 5.02 DEPARTURE OF DIRECTORS OR PRINCIPAL OFFICERS; ELECTION OF DIRECTORS; APPOINTMENT OF CERTAIN OFFICERS;
COMPENSATORY ARRANGEMENTS OF CERTAIN OFFICERS**

On January 10, 2007, Meritage Homes Corporation (the "Company") entered into an amended and restated employment agreement and an amended and restated change of control agreement with each of Steven J. Hilton, its Chairman and CEO and Larry W. Seay, its Executive Vice President and Chief Financial Officer. Following is a description of the key provisions of each agreement.

Employment and Change of Control Agreement With Steven J. Hilton

The Second Amended and Restated Employment Agreement (the "Hilton Employment Agreement") is effective January 1, 2007 and expires December 31, 2008. The Hilton Employment Agreement is subject to automatic one year renewal provisions, unless on or before September 15, 2007 (or September 15 of any renewal term), either Mr. Hilton or the Company notifies the other that it wishes to terminate the agreement. Pursuant to the Hilton Employment Agreement, Mr. Hilton will receive a base salary of \$1,017,500 per year. The Hilton Employment Agreement also provide that Mr. Hilton is entitled to reimbursement of customary business expenses, payments to purchase a \$5 million term life insurance policy, payments to purchase disability insurance providing for monthly benefit payments of approximately \$20,000, participation in the Company's Executive Supplemental Savings Plan (which enables deferred compensation in excess of 401(k) limitations) and use of a Company-provided automobile.

The Hilton Employment Agreement contemplates that Mr. Hilton will be provided long-term incentive compensation in 2007 through the grant of an option to acquire 90,000 shares of Meritage common stock at an exercise price equal to the closing price on the date of grant. These options vest ratably over five years and have a seven-year life. In addition, in 2007 Mr. Hilton will be granted 18,000 shares of restricted stock. The restricted shares will vest in equal increments over the three-year period beginning on the anniversary of the date of grant. Unvested shares are subject to forfeiture if Mr. Hilton terminates his employment with the Company within three years from the date of grant. After 2007, Mr. Hilton may receive equity-based awards in such amounts and forms of the Board of Directors determines.

The Hilton Employment Agreement also provides for an annual cash incentive bonus based on the Company's attainment of defined performance objectives. In 2007, Mr. Hilton is entitled to a bonus equal to 0.825% of EBITDA if the Company's return on assets is in the top half of public homebuilders having revenues of \$500 million or more, and an additional 0.825% of EBITDA if the Company's return on equity is in the top half of these public homebuilders. If either measurement falls within the 33% to 49% percentile, the bonus shall be 0.5363% of EBITDA for the applicable measurement, and if either measurement falls below the 33% threshold, then there will not be any formula bonus paid with respect to such measurement; provided, however that the Executive Compensation Committee of the Board of Directors has complete discretion to act reasonably to increase or reduce the amount of this bonus component (including reducing the bonus to zero), regardless if the Company meets the goals discussed above.

The Hilton Employment Agreement provides Mr. Hilton with severance benefits in certain situations upon his termination of employment.

If Mr. Hilton voluntarily terminates his employment with the Company without “good reason” (as defined in the Hilton Employment Agreement), he will be entitled to receive from the Company (i) his base salary through the date of termination, (ii) a \$5 million severance payment in monthly installments of \$208,333.33 over a period of two years and (iii) reimbursement of COBRA premiums.

If Mr. Hilton voluntarily terminates his employment with good reason, he will be entitled to receive from the Company (i) his base salary through the date of termination, (ii) reimbursement of COBRA premiums and (iii) a severance payment equal to the sum of (x) two times Mr. Hilton’s base salary on the date of termination and (y) two times the average of Mr. Hilton’s actual bonus compensation earned in the two years prior to his termination of employment; provided, however the severance payment shall not be less than \$5 million and shall not exceed \$10 million.

If the Company terminates Mr. Hilton without “cause” (as defined in the Hilton Employment Agreement), he will be entitled to receive from the Company (i) his base salary through the date of termination, and, if such termination occurs during the final three months of the fiscal year, a pro rata portion of the bonus then in effect for that year, (ii) reimbursement of COBRA premiums and (iii) a severance payment equal to the sum of (x) two times Mr. Hilton’s base salary on the date of termination and (y) two times the average of the actual bonus compensation earned by Mr. Hilton in the two years prior to his termination of employment; provided, however the severance payment shall not be less than \$5 million and shall not exceed \$10 million. In addition, any options granted to Mr. Hilton after January 1, 2007 will become fully vested and exercisable and all restrictions on restricted stock awards will lapse.

If the Company terminates Mr. Hilton with “cause”, he will be entitled to receive only his base salary through the date of termination.

The Second Amended and Restated Change of Control Agreement (the “Hilton Change of Control Agreement”) provides that Mr. Hilton is entitled to severance benefits if his employment is terminated by the Company without “cause” (as defined in the Hilton Change of Control Agreement) at any time within 90 days prior to or within two years following a “change of control” (as defined in the Hilton Change of Control Agreement). The severance benefits include a payment equal to the sum of (i) three times the higher of (x) Mr. Hilton’s annual base salary on the date of termination or (y) his base salary on the date preceding the change of control and (ii) three times the highest of (x) Mr. Hilton’s average annual incentive compensation for the two years prior to termination of employment or (y) his annual incentive compensation for the year preceding the year in which the change of control occurred. The severance payment is subject to a cap equal to the lesser of (i) the amount that could be paid on account of a change of control that is not subject to imposition of an excise tax under IRS Code Section 4999 and is not subject to the non-deductibility provisions of Code Section 280G or (ii) \$15 million. In addition, any stock options and restricted stock awards granted to Mr. Hilton shall accelerate and become vested without further action.

The Hilton Employment Agreement and Hilton Change of Control Agreement are structured so that Mr. Hilton is entitled to the greater benefit under the two agreements, but is not entitled to duplicative benefits.

Employment and Change of Control Agreement With Larry W. Seay

The Second Amended and Restated Employment Agreement (the “Seay Employment Agreement”) is effective January 1, 2007 and expires December 31, 2008. The Seay Employment Agreement is subject to automatic one year renewal provisions, unless on or before September 15, 2007 (or September 15 of any renewal term), either Mr. Seay or the Company notifies the other that it wishes to terminate the agreement. Pursuant to the Seay Employment Agreement, Mr. Seay will receive a base salary of \$450,000 per year. The Seay Employment Agreement also provide that Mr. Seay is entitled to reimbursement of customary business expenses, a \$1,200 per month automobile allowance and such other benefits as are regularly provided by the Company to its management. The Seay Employment Agreement also provides that the Company will provide Mr. Seay with up to \$20,000 annually to purchase a \$3 million term life insurance policy.

The Seay Employment Agreement contemplates that Mr. Seay will be provided long-term incentive compensation in 2007 through the grant of an option to acquire 36,667 shares of Meritage common stock at an exercise price equal to the closing price on the date of grant. These options vest ratably over five years and have a seven-year life. In addition, in 2007 Mr. Seay will be granted 7,333 shares of restricted stock. The restricted shares will vest in equal increments over the three-year period beginning on the anniversary of the date of grant. Unvested shares are subject to forfeiture if Mr. Seay terminates his employment with the Company within three years from the date of grant. After 2007, Mr. Seay may receive equity-based awards in such amounts and forms of the Board of Directors determines.

The Seay Employment Agreement also provides for an annual cash incentive bonus based on the Company’s attainment of defined performance objectives. In 2007, Mr. Seay is entitled to a bonus equal to 0.20% of EBITDA if the Company’s return on assets is in the top half of public homebuilders having revenues of \$500 million or more, and an additional 0.20% of EBITDA if the Company’s return on equity is in the top half of these public homebuilders. If either measurement falls within the 33% to 49% percentile, the bonus shall be 0.13% of EBITDA for the applicable measurement, and if either measurement falls below the 33% threshold, then there will not be any formula bonus paid with respect to such measurement; provided, however that the Executive Compensation Committee of the Board of Directors has complete discretion to act reasonably to increase or reduce the amount of this bonus component (including reducing the bonus to zero), regardless if the Company meets the goals discussed above.

The Seay Employment Agreement provides Mr. Seay with severance benefits in certain situations upon his termination of employment.

If Mr. Seay voluntarily terminates his employment with “good reason” (as defined in the Seay Employment Agreement) he will be entitled to receive from the Company (i) his base salary through the date of termination, (ii) reimbursement of COBRA premiums and (iii) a

severance payment equal to the sum of (x) Mr. Seay’s base salary on the date of termination and (y) the average of Mr. Seay’s actual bonus compensation earned in the two years prior to his termination of employment; provided, however the severance payment shall not exceed \$3 million.

If the Company terminates Mr. Seay without “cause” (as defined in the Seay Employment Agreement), he will be entitled to receive from the Company (i) his base salary through the date of termination, and, if such termination occurs during the final three months of the fiscal year, a pro rata portion of the bonus then in effect for that year, (ii) reimbursement of COBRA premiums and (iii) a severance payment equal to the sum of (x) Mr. Seay’s base salary on the date of termination and (y) the average of the actual bonus compensation earned by Mr. Seay in the two years prior to his termination of employment; provided, however the severance payment shall not exceed \$3 million. In addition, any options granted to Mr. Seay after January 1, 2007 will become fully vested and exercisable and all restrictions on restricted stock awards will

lapse.

If the Company terminates Mr. Seay with "cause", or he resigns without "good reason" he will be entitled to receive only his base salary through the date of termination, and, in the case of a termination by Mr. Seay without good reason, reimbursement of COBRA premiums.

The Second Amended and Restated Change of Control Agreement (the "Seay Change of Control Agreement") provides that Mr. Seay is entitled to severance benefits if his employment is terminated by the Company without "cause" (as defined in the Seay Change of Control Agreement) at any time within 90 days prior to or within two years following a "change of control" (as defined in the Seay Change of Control Agreement). The severance benefits include a payment equal to the sum of (i) two times the higher of (x) Mr. Seay's annual base salary on the date of termination or (y) his base salary on the date preceding the change of control and (ii) two times the highest of (x) Mr. Seay's average annual incentive compensation for the two years prior to termination of employment or (y) his annual incentive compensation for the year preceding the year in which the change of control occurred. The severance payment is subject to a cap equal to the lesser of (i) the amount that could be paid on account of a change of control that is not subject to imposition of an excise tax under IRS Code Section 4999 and is not subject to the non-deductibility provisions of Code Section 280G or (ii) \$6 million. In addition, any stock options and restricted stock awards granted to Mr. Seay shall accelerate and become vested without further action.

The Seay Employment Agreement and Seay Change of Control Agreement are structured so that Mr. Seay is entitled to the greater benefit under the two agreements, but is not entitled to duplicative benefits.

The Second Amended and Restated Employment Agreements and Second Amended and Restated Change of Control Agreements for each of Steven J. Hilton and Larry W. Seay are filed as exhibits to this Form 8-K and are incorporated by reference herein.

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ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits

- 10.1 Second Amended and Restated Employment Agreement between the Company and Steven J. Hilton
- 10.2 Second Amended and Restated Employment Agreement between the Company and Larry W. Seay
- 10.3 Second Amended and Restated Change of Control Agreement between the Company and Steven J. Hilton
- 10.4 Second Amended and Restated Change of Control Agreement between the Company and Larry W. Seay

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: January 11, 2007

MERITAGE HOMES CORPORATION

/s/ Larry W. Seay
By: Larry W. Seay
Executive Vice President and Chief
Financial Officer

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STEVEN J. HILTON
SECOND AMENDED AND RESTATED
EMPLOYMENT AGREEMENT
(Effective as of January 1, 2007)

This Employment Agreement ("Agreement") is entered into on January 10, 2007 by and between Meritage Homes Corporation, a Maryland corporation ("Company") and Steven J. Hilton, an individual ("Executive") effective as of January 1, 2007 ("Effective Date").

RECITALS

WHEREAS, the Company and the Executive previously entered into an amended and restated employment agreement defining the terms and conditions of Executive's employment with the Company, dated as of July 1, 2003, as subsequently amended ("Original Agreement");

WHEREAS, under the Original Agreement, Executive's title was Co-Chairman and Co-Chief Executive Officer of the Company;

WHEREAS, pursuant to a change in the Company's executive personnel, the Board of Directors of the Company ("Board") has changed the Executive's title to Chairman and Chief Executive Officer of the Company;

WHEREAS, the Original Agreement provided Executive with a certain benefits, including a right to benefits under the Company's Supplemental Executive Retirement Benefits Program ("SERBP");

WHEREAS, the Company and Executive believe that is in the best interest of each to make certain other changes to Executive's terms and conditions of his employment with the Company, including the Executive waiving any rights to any benefits under the SERBP; and

WHEREAS, the Company desires to continue to obtain the services of Executive, and Executive desires to provide services to the Company, in accordance with the terms, conditions and provisions of this Agreement.

NOW THEREFORE, in consideration of the covenants and mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in reliance upon the representations, covenants and mutual agreements contained herein, the Company and Executive agree to amend and restate the Original Agreement as follows:

1. **Employment.** Subject to the terms and conditions of this Agreement, the Company agrees to employ Executive as Chairman and Chief Executive Officer of the Company, and Executive agrees to diligently perform the duties associated with such positions. Executive will report directly to the Board. Executive will devote substantially all of his business time, attention and energies to the business of the Company and will comply with the charters, policies and guidelines established by the Company from time to time applicable to its directors and senior management executives.

2. **Term.** Executive will be employed under this Agreement until December 31, 2008, unless Executive's employment is terminated earlier pursuant to Section 7. Thereafter, the Agreement will automatically renew for additional periods of one year ("Renewal Term(s)"), unless on or before September 15, 2007 (or September 15 of any Renewal Term), either Executive or the Company notifies the other in writing that it wishes to terminate employment under this Agreement at the end of the term then in effect.

3. **Director Status.** For so long as Executive is Chief Executive Officer, the Company shall use commercially reasonable efforts, subject to applicable law and regulation of the New York Stock Exchange ("NYSE"), to cause Executive to be nominated for election as a director and to be recommended to the stockholders for election as a director. Upon any termination of employment as Chief Executive Officer, Executive will be deemed to have resigned from the Board, unless (a) the Executive is not terminated for Cause (as defined below) and owns 5% or more of the Company's common stock then outstanding, or (b) within 30 days thereof a majority of the independent directors of the Board (as defined by rules of the NYSE) vote to enable Executive to continue serving on the Board through the balance of his term.

4. **Base Salary.** The Company will pay Executive a base salary ("Base Salary") at the annual rate of \$1,017,500 per year. The Board may adjust Executive's Base Salary from time to time, provided that the Base Salary may not be reduced without Executive's consent. The Base Salary will be payable in accordance with the payroll practices of the Company in effect from time to time.

5. **Incentive Compensation.**

(a) **Bonus.** Executive may, as determined in the discretion of the Compensation Committee of the Board ("Committee"), be entitled to annual incentive compensation based on the achievement of certain goals and performance criteria established pursuant to the Company's 2006 Executive Management Incentive Plan as specified in Exhibit A hereto (the "Bonus"). The Committee has the complete discretion to act reasonably to reduce the amount of the annual incentive compensation established pursuant to Exhibit A (including to zero) (the "Actual Bonus") and such Actual Bonus, if any, will be due and payable in accordance with Exhibit A.

(b) **Long-Term Incentives.** During 2007, the Committee shall grant the Executive an option to acquire 90,000 shares of the Company's stock under the Company's 2006 Stock Incentive Plan ("2006 Plan"). The option will have an exercise price equal to the closing stock price on the date of grant, shall have a seven-year term, and shall vest ratably over five years from the date of grant. The option will also be subject to the terms and conditions set forth in the 2006 Plan and the Company's form of option agreement. In addition, the Committee shall grant the Executive 18,000 shares of the Company's stock under the 2006 Plan, which shares shall be subject to transfer restrictions which shall lapse in equal increments over the three-year period beginning on the first anniversary of the date of grant. The restricted stock grant will also be subject to the terms and conditions set forth in the 2006 Plan and in the Company's form of restricted stock award agreement. For periods beginning after 2007, Executive may receive awards under the 2006 Plan (or any successor plan) in such amount (if any) and form and subject to such terms and conditions as determined in the Board's sole and absolute discretion. The

awards granted shall also be subject to the accelerated vesting and other provisions set forth in the Second Amended and Restated Change in Control Agreement between Executive and the Company, effective as of January 1, 2007 ("CIC Agreement").

6. **Executive Benefits.** During the term of this Agreement, Executive will be entitled to reimbursement of reasonable and customary business expenses. The Company will provide Executive with such fringe benefits and other Executive benefits as are regularly provided by the Company to its senior management (e.g., health and

long-term disability insurance, paid vacation, etc.); provided, however, that nothing herein shall preclude the Company from amending or terminating any employee or general executive benefit plans or programs. In addition, the Company shall provide the Executive with the benefits set forth on Exhibit B, which benefits may not be terminated or reduced during the term hereof. By signing this Agreement, Executive hereby knowingly and voluntarily waives his right to any payment under the SERBP.

7. **Termination.**

(a) **Voluntary Resignation by Executive without Good Reason.** If Executive voluntarily terminates his employment with the Company without Good Reason, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; (ii) no Bonus shall be payable for the fiscal year in which the termination occurs; (iii) the Company will pay Executive \$5 million (the Consulting, Severance and Non-Competition Payment"), in monthly installments of \$208,333.33 in cash or by check, over the next two years (the "Consulting Period") (subject to Executive's compliance with this Agreement, including Sections 8 and 9 as provided therein); (iv) the Company shall reimburse Executive for COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; and (v) at the Company's option, the Executive shall render reasonable consulting services during the Consulting Period to the Company as may be requested from time to time by the Chairman of the Committee.

(b) **Voluntary Resignation by Executive with Good Reason.** If Executive voluntarily terminates his employment with the Company with Good Reason, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; (ii) no Bonus shall be payable for the fiscal year in which the termination occurs; (iii) the Company shall reimburse Executive for COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; (iv) at the Company's option, the Executive shall render reasonable consulting services to the Company during the 24-month period following termination of employment as may be requested from time to time by the Chairman of the Committee; and (v) the Company will pay Executive an amount equal to the sum of (A) two times Executive's Base Salary on the Date of Termination of employment, and (B) two times the average of the Actual Bonus compensation Executive earned in the two years prior to his termination of employment; provided, however that the total amount set forth in this Section 7(b)(v) shall not be less than \$5 million and shall not exceed \$10 million. Unless otherwise provided in this Agreement, this amount shall be paid over the two year period following Executive's termination of employment ("Severance Period"). The Company intends that the benefits provided under this Section 7(b) shall be paid in lieu of, and not in addition to,

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any benefit to which the Executive may be entitled pursuant to his termination of employment with the Company without Good Reason, as set forth in Section 7(a).

(c) **Termination without Cause by the Company.** If the Company terminates Executive without Cause, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; (ii) no Bonus shall be payable for the fiscal year in which the termination occurs, except if the Company terminates Executive's employment without Cause during the last three months of the Company's fiscal year, Executive will be paid a pro rata bonus based upon the Company's performance for the fiscal year, payable at the time set forth in Exhibit A; (iii) the Company shall reimburse Executive for COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; (iv) any options granted after the Effective Date will become fully vested and exercisable and all restrictions on awards will lapse; (v) at the Company's option, the Executive shall render reasonable consulting services to the Company during the 24-month period following termination of employment as may be requested from time to time by the Chairman of the Committee; and (vi) the Company will pay Executive an amount equal to the sum of sum of (A) two times Executive's Base Salary on the Date of Termination of employment, and (B) two times the average of the Actual Bonus compensation Executive earned in the two years prior to his termination of employment; provided, however that the total amount set forth in this Section 7(c)(vi) shall not be less than \$5 million and shall not exceed \$10 million. Unless otherwise provided in this Agreement, this amount shall be paid over the Severance Period.

(d) **Termination for Cause by the Company.** If the Company terminates Executive's employment for Cause, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination, and (ii) no Bonus shall be payable for the fiscal year in which the termination occurs. Upon a termination for Cause by the Company, the provisions of Section 8 (Restrictive Covenant) shall automatically become applicable for the two-year period set forth therein, without any further payment due Executive. Executive acknowledges and agrees that the compensation herein is adequate consideration for such covenants.

(e) **Termination upon Death or Disability.** If Executive's employment is terminated as a result of Executive's death or Disability, then the Company will be obligated to pay (i) Executive's then current Base Salary through the Date of Termination, (ii) a pro rated amount of Executive's Actual Bonus for the year, payable at the time set forth in Exhibit A, (iii) Executive's COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; and (iv) any options granted after the Effective Date will become fully vested and exercisable and all restrictions on awards will lapse and, to the extent permitted under the plan's governing documents, Executive (or Executive's beneficiary(ies)) shall have a period of one year from the Date of Termination of employment to exercise such options. If Executive dies or becomes Disabled during any period that the Company is obliged to make payments under Section 7(a), (b) or (c), the Company shall make a lump sum payment to Executive (or his estate) of any unpaid amount within thirty (30) days of such death or Disability.

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(f) **Definitions.** For purposes of this Agreement:

(1) **"Cause"** and **"Good Reason"** shall have the meanings ascribed to them in the CIC Agreement, provided, that Good Reason also exists under this Agreement if (A) the Company fails to cause any successor to immediately assume the terms of this Agreement, and (B) the Company materially breaches its obligations under this Agreement and such breach is not cured within a reasonable period of time not to exceed 30 days after written notice from the Executive;

(2) **"Date of Termination"** shall mean (i) if this Agreement is terminated as a result of Executive's death, the date of Executive's death, (ii) if this Agreement is terminated by Executive, the date on which he notifies the Company in writing (but following the Company's opportunity to cure as provided in the CIC Agreement), (iii) if this Agreement is terminated by the Company for Disability, the date a notice of termination is given, (iv) if this Agreement is terminated by the Company for Cause, the date a final determination is provided to Executive by the Company (following the procedures set forth in the CIC Agreement), or (v) if this Agreement is terminated by the Company without Cause, the date notice of termination is given to Executive by the Company; and

(3) **"Disability"** shall mean if, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, Executive is receiving income replacement benefits for a period of not less than six months under an accident and health plan established by the Company for its employees.

(g) **Procedures for Notices of Termination.** The procedures set forth in Section 10 (a), (b) and (d) of the CIC Agreement shall apply under this Agreement in connection with a notice of termination as to the kind of termination events described in those subsections.

(h) **Compliance with Section 409A of the Internal Revenue Code** Any payment under this Section 7 shall be subject to the provisions of this Section 7(h) (except for a payment pursuant to Section 7(e)). If Executive is a "Specified Employee" of the Company for purposes of Internal Revenue Code Section 409A ("Code Section 409A") at the time of a payment event set forth in Sections 7 (a), (b), (c) or (d) then no severance or other payments pursuant to Section 7 shall be made to Executive

by the Company until the amount of time has passed that is necessary to avoid incurring excise taxes under Code Section 409A. Should this paragraph 7(h) result in a delay of payments to Executive, on the first day any such payments may be made without incurring a penalty pursuant to Section 409A (the "409A Payment Date"), the Company shall begin to make such payments as described in this paragraph 7, provided that any amounts that would have been payable earlier but for the application of this paragraph 7(h), shall be paid in lump-sum on the 409A Payment Date along with accrued interest at the rate of interest announced by Bank of America, Arizona from time to time as its prime rate from the date that payments to you should have been made under this Agreement. The balance of such severance payments shall be payable in accordance with regular payroll timing and the COBRA premiums shall be reimbursed monthly. For purposes of this provision, the term Specified Employee shall have the meaning set forth in Section 409A(2)(B)(i) of the Internal Revenue

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Code of 1986, as amended or any successor provision and the treasury regulations and rulings issued hereunder.

8. **Restrictive Covenant.** In consideration of Executive's employment, but subject to Section 7, Executive agrees to the following:

(a) During the Restriction Period (as defined below), Executive will not, directly or indirectly, either as an executive, partner, owner, lender, director, adviser or consultant or in any other capacity or through any entity:

(1) engage in any production homebuilding or home sales within 100 miles of any Company project, provided, that, for purposes of this Section 8(a)(1), Executive (a) may own stock in the Company and less than 1% of any other publicly traded homebuilder, and (b) may engage in custom homebuilding (up to 5 homes annually for third parties and 2 for family members), land banking or lot or land development; provided, however, that Executive may not directly or indirectly engage in the sale of finished lots within the restricted area described above, unless at least 10 business days prior to any offer to a third party, the lots are offered to the Company, and if the Company (or its nominee) determines to purchase the property, the applicable selling party negotiates a sale in good faith. If no such sale is then consummated, then the applicable selling party may pursue a sale with a third party. If the terms of such third-party sale are materially different than the offer made to the Company, the Company (or its nominee) will have the right of first refusal to purchase the lots within three business days of notice of the proposed sale to such a third party. This notice must contain the specific terms and conditions thereof and the proposed buyer. If the Company (or a nominee) does not respond in writing to the right of first offer within 10 days or the right of first refusal within three days, the Company will be deemed to have waived the applicable right. The Company or a nominee can substitute cash for any non-cash consideration (at the fair market value thereof). This right will arise again if the third party offer is materially modified or amended.

(2) directly or indirectly, hire or solicit for employment for any other business entity (other than the Company) any person who is, or within the six month period preceding the date of such activity was, an employee of or consultant to the Company (other than as a result of a general solicitation for employment); or

(3) solicit any customer or supplier of the Company (including lot developers and land bankers) for a production homebuilding business or otherwise attempt to induce any such customer or supplier to discontinue or materially modify its relationship with the Company. During the Restriction Period, Executive may utilize the services of Company suppliers for business operations permitted under Section 8(a)(1), *i.e.*, custom homebuilding, land banking and land or lot development, so long as these activities do not disrupt or adversely affect the Company's relationships with such suppliers.

(b) The provisions of this Section 8 shall begin as of the date hereof, will survive the termination of this agreement under Section 7 and will expire two years from the

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Date of Termination, provided that, to the extent required, the notices under Section 7 are given and the payments made as provided therein ("Restriction Period").

(c) Executive represents to the Company that he is willing and able to engage in businesses that are not competing businesses hereunder and that enforcement of the restrictions set forth in this Section 8 would not be unduly burdensome to Executive. Executive hereby agrees that the period of time provided for in this Section 8 and other provisions and restrictions set forth herein are reasonable and necessary to protect the Company and its successors and assigns in the use and employment of the goodwill of the business conducted by Executive. Executive agrees that, if Executive in any material respect violates the terms of this Section 8(A) or Section 9, the Company shall not be obliged to pay any remaining Consulting, Severance, and Non-Competition Payments and any other payments or benefits specified in Section 7, provided that the Company must first provide Executive with written notice of such violation and the opportunity to provide within thirty (30) days any information showing that he has not in any material respect breached such Agreement. During any notice period or any dispute regarding the violation of the terms of this Section 8 or Section 9, the Company will place such payments in an interest bearing escrow account at Bank of America, Phoenix, or its successor. Executive further agrees that damages cannot adequately compensate the Company in the event of a violation of this Section 8 and that, if such violation should occur, injunctive relief shall be essential for the protection of the Company and its successors and assigns. Accordingly, Executive hereby covenants and agrees that, in the event any of the provisions of this Section 8 shall be violated or breached, the Company shall be entitled to obtain injunctive relief against the party or parties violating such covenants without bond but upon due notice, in addition to such further or other relief as may be available at equity or law. An injunction by the Company shall not be considered an election of remedies or a waiver of any right to assert any other remedies which the Company has at law or in equity. No waiver of any breach or violation hereof shall be implied from forbearance or failure by the Company to take action thereof. The prevailing party in any litigation, arbitration or similar dispute resolution proceeding to enforce this provision will recover any and all reasonable costs and expenses, including attorneys' fees.

(d) Executive agrees that the period of time in which this Section 8 is in effect shall be extended for a period equal to the duration of any breach of this Section 8 by Executive.

(e) For purposes of Sections 8 and 9, the term "Company" includes Meritage Homes Corporation and its subsidiaries and affiliates. For purposes hereunder, an affiliate shall be deemed to be any corporation or other business entity in which the Company or its subsidiaries owns a controlling interest.

9. **Non-Disclosure of Confidential Information.**

(a) It is understood that in the course of Executive's employment with Company, Executive will become acquainted with Company Confidential Information (as defined below). Executive recognizes that Company Confidential Information has been developed or acquired at great expense, is proprietary to the Company, and is and shall remain the exclusive property of the Company. Accordingly, Executive agrees that he will not, disclose to others, copy, make any use of, or remove from Company's premises any Company Confidential Information, except as Executive's duties may specifically require, without the

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express written consent of the Company, during Executive's employment with the Company and thereafter until such time as Company Confidential Information becomes generally known, or readily ascertainable by proper means by persons unrelated to the Company.

(b) Upon any termination of employment, Executive shall promptly deliver to the Company the originals and all copies of any and all materials, documents, notes, manuals, or lists containing or embodying Company Confidential Information, or relating directly or indirectly to the business of the Company, in the possession or control of Executive, unless Executive remains a member of the Board, and in such case Executive may retain and receive all Company Confidential Information provided to other Board members.

(c) Executive hereby agrees that the period of time provided for in this Section 9 and other provisions and restrictions set forth herein are reasonable and necessary to protect the Company and its successors and assigns in the use and employment of the goodwill of the business conducted by Executive. Executive further agrees that damages cannot adequately compensate the Company in the event of a violation of this Section 9 and that, if such violation should occur, injunctive relief shall be essential for the protection of the Company and its successors and assigns. Accordingly, Executive hereby covenants and agrees that, in the event any of the provisions of this Section 9 shall be violated or breached, the Company shall be entitled to obtain injunctive relief against the party or parties violating such covenants, without bond but upon due notice, in addition to such further or other relief as may be available at equity or law. Obtainment of such an injunction by the Company shall not be considered an election of remedies or a waiver of any right to assert any other remedies which the Company has at law or in equity. No waiver of any breach or violation hereof shall be implied from forbearance or failure by the Company to take action thereof. The prevailing party in any litigation, arbitration or similar dispute resolution proceeding to enforce this provision will recover any and all reasonable costs and expenses, including attorneys' fees.

(d) "Company Confidential Information" shall mean confidential, proprietary information or trade secrets of Company and its subsidiaries and affiliates including without limitation the following: (1) customer lists and customer information as compiled by Company; (2) Company's internal practices and procedures; (3) Company's financial condition and financial results of operation; (4) supply of materials information, including sources and costs, designs, information on land and lot inventories, and current and prospective projects; (5) strategic planning, manufacturing, engineering, purchasing, finance, marketing, promotion, distribution, and selling activities; (6) all other information which Executive has a reasonable basis to consider confidential or which is treated by Company as confidential; and (7) all information having independent economic value to Company that is not generally known to, and not readily ascertainable by proper means by, persons who can obtain economic value from its disclosure or use. Notwithstanding the foregoing provisions, the following shall not be considered "Company Confidential Information": (i) the general skills of the Executive as an experienced real estate and homebuilding entrepreneur and senior management level employee; (ii) information generally known by senior management executives within the homebuilding and/or land development industry; (iii) persons, entities, contacts or relationships of Executive that are also generally known in the industry; and (iv) information which becomes available on a non-confidential basis from a source other than Executive which source is not prohibited from disclosing such confidential information by legal, contractual or other obligation.

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10. **Cooperation; No Disparagement.** During the Restriction Period, Executive agrees to provide reasonable assistance to the Company (including assistance with litigation matters), upon the Company's request, concerning the Executive's previous employment responsibilities and functions with the Company. Additionally, at all times after the Executive's employment with the Company has terminated, Company and Executive agree to refrain from making any disparaging or derogatory remarks, statements and/or publications regarding the other, its employees or its services.

11. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any applicable law, then such provision will be deemed to be modified to the extent necessary to render it legal, valid and enforceable, and if no such modification will make the provision legal, valid and enforceable, then this Agreement will be construed as if not containing the provision held to be invalid, and the rights and obligations of the parties will be construed and enforced accordingly.

12. **Assignment by Company.** Nothing in this Agreement shall preclude the Company from consolidating or merging into or with, or transferring all or substantially all of its assets to, another corporation or entity that assumes this Agreement and all obligations and undertakings hereunder. Upon such consolidation, merger or transfer of assets and assumption, the term "Company" as used herein shall mean such other corporation or entity, as appropriate, and this Agreement shall continue in full force and effect.

13. **Entire Agreement.** This Agreement, the CIC Agreement, and any agreements concerning stock options or other benefits, embody the complete agreement of the parties hereto with respect to the subject matter hereof and supersede any prior written, or prior or contemporaneous oral, understandings or agreements between the parties that may have related in any way to the subject matter hereof. This Agreement may be amended only in writing executed by the Company and Executive. Notwithstanding the foregoing, nothing in this Agreement is intended to affect any previous agreements pertaining to the grant of options to the Executive prior to the Effective Date, including without limitation, provisions in Executive's prior Change of Control Agreement, providing for acceleration upon a change of control.

14. **Governing Law.** This Agreement and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed in accordance with the internal laws, and not the law of conflicts, of the State of Arizona.

15. **Notice.** Any notice required or permitted under this Agreement must be in writing and will be deemed to have been given when delivered personally or by overnight courier service or three days after being sent by mail, postage prepaid, at the address indicated below or to such changed address as such person may subsequently give such notice of:

if to Parent or Company:

Meritage Homes Corporation
17851 N. 85th Street, Suite 300
Scottsdale, Arizona 85255
Attention: Chairman of the Committee

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with a copy to:

Snell & Wilmer L.L.P.
One Arizona Center
400 E. Van Buren Street
Phoenix, Arizona 85004-2202
Phone: (602) 382-6252

Fax: (602) 382-6070
Attn: Steven D. Pidgeon, Esq.

if to Executive:

Steven J. Hilton
9586 E. Havasupai Drive
Scottsdale, Arizona 85255
Phone: (480) 515-0480

with a copy to:

Gallagher & Kennedy
2575 E. Camelback Road
Phoenix, Arizona 85016
Phone: (602) 530-8407
Fax: (602) 530-8500
Attn: Jay A. Zweig, Esq.

16. **Arbitration.** Any dispute, controversy, or claim, whether contractual or non-contractual, between the parties hereto arising directly or indirectly out of or connected with this Agreement, relating to the breach or alleged breach of any representation, warranty, agreement, or covenant under this Agreement, unless mutually settled by the parties hereto, shall be resolved by binding arbitration in accordance with the Employment Arbitration Rules of the American Arbitration Association (the "AAA"). The parties agree that before the proceeding to arbitration that they will mediate their disputes before the AAA by a mediator approved by the AAA. Any arbitration shall be conducted by arbitrators approved by the AAA and mutually acceptable to Company and Executive. All such disputes, controversies or claims shall be conducted by a single arbitrator, unless the dispute involves more than \$50,000 in the aggregate in which case the arbitration shall be conducted by a panel of three arbitrators. If the parties hereto are unable to agree on the mediator or the arbitrator(s), then the AAA shall select the arbitrator(s). The resolution of the dispute by the arbitrator(s) shall be final, binding, nonappealable, and fully enforceable by a court of competent jurisdiction under the Federal Arbitration Act. The arbitrator(s) shall award damages to the prevailing party. The arbitration award shall be in writing and shall include a statement of the reasons for the award. The arbitration shall be held in the Phoenix/Scottsdale metropolitan area. The Company shall pay all AAA, mediation, and arbitrator's fees and costs. The arbitrator(s) shall award reasonable attorneys' fees and costs to the prevailing party.

17. **Withholding; Release; No Duplication of Benefits.** All of Executive's compensation under this Agreement will be subject to deduction and withholding authorized or required by applicable law. The Company's obligation to make any post-termination payments hereunder (other than salary payments and expense reimbursements through a date of termination), shall be subject to receipt by the Company from Executive of a mutually agreeable release, and compliance by Executive with the covenants set forth in Sections 8 and 9 hereof. If there is any conflict between the provisions of the CIC Agreement and this Agreement, such

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conflict shall be resolved so as to provide the greater benefit to Executive. However, in order to avoid duplication of any monetary benefits, any payments or benefits due under Executive's CIC Agreement or under any employee severance plan to the extent such a plan exists or is subsequently implemented by the Company, will be reduced by any payments or benefits provided hereunder. Any payment required under the CIC Agreement to be paid in a lump sum, as set forth in the CIC Agreement, shall be so paid, and the remainder, if any, due under this Agreement will be paid in equal monthly installments over the Consulting Period or the Severance Period, as applicable, except that in no event shall the payment of the Consulting, Non-Competition and Severance payment be accelerated.

18. **Effect of Restatement of Financial Results.** Notwithstanding anything in this Agreement to the contrary, to the extent any financial results are misstated as a result of Executive's willful misconduct or gross negligence, and as a result such financial results are subsequently restated downward resulting in lower levels of bonuses pursuant to Section 5 and the accompanying Exhibit A, offsets shall be made against future bonuses. If such future bonuses are insufficient to offset the full difference between awarded bonuses and restated bonuses and/or if such restatement occurs at the end of the Agreement Term and subsequent Renewal Term(s), if any, bonuses previously earned and delivered under this Agreement may be clawed-back.

19. **Successors and Assigns.** This Agreement is solely for the benefit of the parties and their respective successors, assigns, heirs and legatees. Nothing herein shall be construed to provide any right to any other entity or individual.

20. **Related Party Transactions.** Executive may not engage in any related party transactions with the Company unless approved in the specific instance by the Audit Committee of the Board.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

MERITAGE HOMES CORPORATION, a
Maryland corporation

By: /s/ Ray Oppel
Name: Ray Oppel
Title: Exec. Compensation Committee Chairman

EXECUTIVE: STEVEN J. HILTON

/s/ Steven J. Hilton

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EXHIBIT A
INCENTIVE COMPENSATION SCHEDULE
Executive Bonus Compensation

**2007 and
any Renewal Term**

For 2007 (and any Renewal Term), Executive may, in the Board's reasonable discretion, be entitled to a maximum bonus equal to .825% of the EBITDA if Company's ROA is in the top 1/2 of public homebuilders having revenues of \$500 million or more per year, and an additional .825% of EBITDA if the Company's ROE is in the top 1/2 of these public homebuilders. If either measurement falls within the 33% to 49% percentile, the bonus shall be .5363% of EBITDA for the applicable measurement. If either measurement falls below the 33% threshold, then there will not be any formula bonus paid with respect to such measurement. This bonus is established pursuant to, and its terms and conditions shall be subject to, the Company's 2006 Executive Management Incentive Plan. For bonuses to be considered for 2008 and subsequent years, the Board and Executive agree to discuss the bonus formula on or before September 30, 2007, and in each subsequent year.

Part II – Payment

Any bonus shall be paid in the form and time as determined by the Board in its reasonable discretion, provided that the bonus shall be paid in cash no later than the later of (i) March 15 of the year following the calendar year to which the payment relates, or (ii) the date that is two and one-half months following the end of the Company's fiscal year to which the payment relates.

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EXHIBIT B

SPECIFIED BENEFITS

1. Payments annually for Executive to purchase life insurance in the amount of \$5,000,000.
2. Payments annually for Executive to purchase disability insurance providing for monthly payments of an estimated \$20,000 per month.
3. Executive Supplemental Savings Plan enabling deferred compensation in excess of 401(k) limitations.
4. Use of any airplane owned or leased by the Company for business use purposes only pursuant to the Company's travel policy in effect from time to time and subject to review annually.
5. Use of Company car (same as current policy) pursuant to the Company's travel policy in effect from time to time and subject to review annually.
6. Taxes related to any payments and benefits above shall be the sole responsibility of the Executive.

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LARRY W. SEAY
SECOND AMENDED AND RESTATED
EMPLOYMENT AGREEMENT
(Effective as of January 1, 2007)

This Employment Agreement ("Agreement") is entered into on January 10, 2007 by and between Meritage Homes Corporation, a Maryland corporation ("Company") and Larry W. Seay, an individual ("Executive") effective as of January 1, 2007 ("Effective Date").

RECITALS

WHEREAS, the Executive is currently employed by the Company as its Chief Financial Officer, Executive Vice President and Secretary of the Company;

WHEREAS, Company and the Executive previously entered into an amended and restated employment agreement defining the terms and conditions of Executive's employment with the Company, dated as of July 1, 2003, as subsequently amended ("Original Agreement");

WHEREAS, the Original Agreement provided Executive with a certain benefits, including a right to benefits under the Company's Supplemental Executive Retirement Benefits Program ("SERBP");

WHEREAS, the Company and Executive believe that is in the best interest of each to make certain other changes to Executive's terms and conditions of his employment with the Company, including the Executive waiving any rights to any benefits under the SERBP; and

WHEREAS, the Company desires to continue to obtain the services of Executive, and Executive desires to provide services to the Company, in accordance with the terms, conditions and provisions of this Agreement.

NOW THEREFORE, in consideration of the covenants and mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in reliance upon the representations, covenants and mutual agreements contained herein, the Company and Executive agree to amend and restate the Original Agreement as follows:

1. **Employment.** Subject to the terms and conditions of this Agreement, the Company agrees to employ Executive as Executive Vice President and Chief Financial Officer of the Company, and Executive agrees to diligently perform the duties associated with such positions. Executive will report directly to the Chairman and Chief Executive Officer. Executive will devote substantially all of his business time, attention and energies to the business of the Company and will comply with the charters, policies and guidelines established by the Company from time to time applicable to its senior management executives.

2. **Term.** Executive will be employed under this Agreement until December 31, 2008, unless Executive's employment is terminated earlier pursuant to Section 6. Thereafter, the Agreement will automatically renew for additional periods of one year ("Renewal Term(s)"), unless on or before September 15, 2007 (or September 15 of any Renewal Term), either Executive or the

Company notifies the other in writing that it wishes to terminate employment under this Agreement at the end of the term then in effect.

3. **Base Salary.** The Company will pay Executive a base salary ("Base Salary") at the annual rate of \$450,000 per year. The Board may adjust Executive's Base Salary from time to time, provided that the Base Salary may not be reduced without Executive's consent. The Base Salary will be payable in accordance with the payroll practices of the Company in effect from time to time.

4. **Incentive Compensation.**

A. **Bonus.** Executive may, as determined in the discretion of the Compensation Committee of the Board ("Committee"), be entitled to annual incentive compensation based on the achievement of certain goals and performance criteria established pursuant to the Company's 2006 Executive Management Incentive Plan as specified in Exhibit A hereto ("Bonus"). The Committee has the complete discretion to act reasonably to reduce the amount of the annual incentive compensation established pursuant to Exhibit A (including to zero) (the "Actual Bonus") and any such Actual Bonus, if any, will be due and payable in accordance with Exhibit A.

B. **Long-Term Incentives.** During 2007, the Committee shall grant the Executive an option to acquire 36,667 shares of the Company's stock under the Company's 2006 Stock Incentive Plan ("2006 Plan"). The option will have an exercise price equal to the closing stock price on the date of grant, shall have a seven-year term, and shall vest ratably over five years from the date of grant. The option will also be subject to the terms and conditions set forth in the 2006 Plan and the Company's form of option agreement. In addition, the Committee shall grant the Executive 7,333 shares of the Company's stock under the 2006 Plan, which shares shall be subject to transfer restrictions which shall lapse in equal increments over the three-year period beginning on the first anniversary of the date of grant. The restricted stock grant will also be subject to the terms and conditions set forth in the 2006 Plan and in the Company's form of restricted stock award agreement. For periods beginning after 2007, Executive may receive awards under the 2006 Plan (or any successor plan) in such amount (if any) and form and subject to such terms and conditions as determined in the Board's sole and absolute discretion. The awards granted shall also be subject to the accelerated vesting and other provisions set forth in the Second Amended and Restated Change in Control Agreement between Executive and the Company, effective as of January 1, 2007 ("CIC Agreement").

5. **Executive Benefits.** During the term of this Agreement, Executive will be entitled to reimbursement of reasonable and customary business expenses. The Company will provide to Executive a \$1,200 per month automobile allowance, such fringe benefits and other Executive benefits as are regularly provided by the Company to its management (e.g., health and life insurance, paid vacation, etc.); provided, however, that nothing herein shall preclude the Company from amending or terminating any employee or general executive benefit plans or programs. The Company shall provide Executive with \$3,000,000 of term life insurance (subject to the Executive's insurability), to which the Company will pay up to \$20,000 of annual premium payments towards the purchase of such life insurance. By signing this Agreement, Executive hereby knowingly and voluntarily waives his right to any payment under the SERBP.

6. **Termination.**

A. **Voluntary Resignation by Executive without Good Reason.** If Executive voluntarily terminates his employment with the Company without Good Reason, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; (ii) no Bonus shall be payable for the fiscal year in which the termination occurs; and (iii) the Company shall reimburse Executive for COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter

of law.

B. Voluntary Resignation by Executive with Good Reason. If Executive voluntarily terminates his employment with the Company with Good Reason, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; (ii) no Bonus shall be payable for the fiscal year in which the termination occurs; (iii) the Company shall reimburse Executive for COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; (iv) at the Company's option, the Executive shall render reasonable consulting services to the Company during the 12-month period following termination of employment as may be requested from time to time by the Chairman of the Committee; and (v) the Company will pay Executive an amount equal to the sum of (A) one times Executive's Base Salary on the Date of Termination of employment, and (B) one times the average of the Actual Bonus compensation Executive earned in the two years prior to his termination of employment; provided, however that the total amount set forth in this Section 6(b)(v) shall not exceed \$3 million. Unless otherwise provided in this Agreement, this amount shall be paid over the one year period following Executive's termination of employment ("Severance Period").

C. Termination without Cause by the Company. If the Company terminates Executive without Cause, then (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; (ii) no Bonus shall be payable for the fiscal year in which the termination occurs, except if the Company terminates Executive's employment without Cause during the last three months of the Company's fiscal year, Executive will be paid a pro rata bonus based upon the Company's performance for the fiscal year, payable at the time set forth in Exhibit A; (iii) the Company shall reimburse Executive for COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; (iv) any options granted after the Effective Date will become fully vested and exercisable and all restrictions on awards will lapse; (v) at the Company's option, the Executive shall render reasonable consulting services to the Company during the 12-month period following termination of employment as may be requested from time to time by the Chairman of the Committee; and (vi) the Company will pay Executive an amount equal to the sum of sum of (A) one times Executive's Base Salary on the Date of Termination of employment, and (B) the average of the Actual Bonus compensation Executive earned in the two years prior to his termination of employment; provided, however that the amount set forth in this Section 6(c)(vi) shall not exceed \$3 million. Unless otherwise provided in this Agreement, this amount shall be paid over Severance Period.

D. Termination for Cause by the Company. If the Company terminates Executive's employment for Cause, then, (i) the Company will be obligated to pay Executive's Base Salary through the Date of Termination; and (ii) no Bonus shall be payable for the fiscal year in which the termination occurs. Upon a termination for Cause by the Company, the provisions of Section 7 (Restrictive Covenant) shall automatically become applicable for the six-month period set

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forth therein, without any further payment due Executive. Executive acknowledges and agrees that the compensation herein is adequate consideration for such covenants.

E. Termination upon Death or Disability. If Executive's employment is terminated as a result of Executive's death or Disability, then the Company will be obligated to pay (i) Executive's then current Base Salary through the Date of Termination, (ii) a pro rated amount of Executive's Actual Bonus for the year, payable at the time set forth in Exhibit A, (iii) Executive's COBRA premiums for the period that the Company is required to offer COBRA coverage as a matter of law; and (iv) any options granted after the Effective Date will become fully vested and exercisable and all restrictions on awards will lapse and, to the extent permitted under the plan's governing documents, Executive (or Executive's beneficiary(ies)) shall have a period of one year from the Date of Termination of employment to exercise such options. If Executive dies or becomes Disabled during any period that the Company is obliged to make payments under Section 6(b) or (c), the Company shall make a lump sum payment to Executive (or his estate) of any unpaid amount within thirty (30) days of such death or Disability.

F. Definitions. For purposes of this Agreement:

(1) "**Cause**" and "**Good Reason**" shall have the meanings ascribed to them in the CIC Agreement, provided, that Good Reason also exists under this Agreement if (A) the Company fails to cause any successor to immediately assume the terms of this Agreement, and (B) the Company materially breaches its obligations under this Agreement and such breach is not cured within a reasonable period of time not to exceed 30 days after written notice from the Executive;

(2) "**Date of Termination**" shall mean (i) if this Agreement is terminated as a result of Executive's death, the date of Executive's death, (ii) if this Agreement is terminated by Executive, the date on which he notifies the Company in writing (but following the Company's opportunity to cure as provided in the CIC Agreement), (iii) if this Agreement is terminated by the Company for Disability, the date a notice of termination is given, (iv) if this Agreement is terminated by the Company for Cause, the date a final determination is provided to Executive by the Company (following the procedures set forth in the CIC Agreement), or (v) if this Agreement is terminated by the Company without Cause, the date notice of termination is given to Executive by the Company; and

(3) "**Disability**" shall mean if, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, Executive is receiving income replacement benefits for a period of not less than six months under an accident and health plan established by the Company for its employees.

G. Procedures for Notices of Termination. The procedures set forth in Section 8 (a), (b) and (d) of the CIC Agreement shall apply under this Agreement in connection with a notice of termination as to the kind of termination events described in those subsections.

H. Compliance with Section 409A of the Internal Revenue Code Any payment under this Section 6 shall be subject to the provisions of this Section 7(h) (except for a payment pursuant to Section 6(e)). If Executive is a "Specified Employee" of the Company for purposes of

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Internal Revenue Code Section 409A ("Code Section 409A") at the time of a payment event set forth in Sections 6 (b) or (c), then no severance or other payments pursuant to Section 6 shall be made to Executive by the Company until the amount of time has passed that is necessary to avoid incurring excise taxes under Code Section 409A. Should this paragraph 6(h) result in a delay of payments to Executive, on the first day any such payments may be made without incurring a penalty pursuant to Section 409A (the "409A Payment Date"), the Company shall begin to make such payments as described in this paragraph 6, provided that any amounts that would have been payable earlier but for the application of this paragraph 6(h), shall be paid in lump-sum on the 409A Payment Date along with accrued interest at the rate of interest announced by Bank of America, Arizona from time to time as its prime rate from the date that payments to you should have been made under this Agreement. The balance of such severance payments shall be payable in accordance with regular payroll timing and the COBRA premiums shall be reimbursed monthly. For purposes of this provision, the term Specified Employee shall have the meaning set forth in Section 409A(2)(B)(i) of the Internal Revenue Code of 1986, as amended or any successor provision and the treasury regulations and rulings issued hereunder.

7. Restrictive Covenant.

A. Executive hereby covenants and agrees that for a period of six months from the Date of Termination, Executive will not engage, directly or indirectly, either as a principal, partner, joint venturer, consultant or independent contractor, agent, or proprietor or in any other manner participate in the ownership,

management, operation, or control of any person, firm, partnership, limited liability company, corporation, or other entity which engages in the business of providing any products or services, including, without limitation, homebuilding products or services, which are competitive with those products or services offered or sold by Company or its subsidiaries within any jurisdiction in which Company or its subsidiaries does or proposes to do business. But nothing in this Agreement shall prohibit Executive from engaging in land banking or lot or land development.

B. Executive hereby covenants and agrees that for a period of one year from the Date of Termination, Executive will not:

(1) Directly or indirectly hire or solicit for employment for any other business entity other than the Company (whether as an employee, consultant, independent contractor, or otherwise) any person who is, or within the six month period preceding the date of such activity was, an employee, independent contractor or the like of the Company or any of its subsidiaries, unless Company gives its written consent to such employment or offer of employment.

(2) Call on or directly or indirectly solicit or divert or take away from Company or any of its subsidiaries (including, without limitation, by divulging to any competitor or potential competitor or company or its subsidiaries) any person, firm, corporation, or other entity who was a customer or prospective customer of the Company during Executive's term of employment.

C. The covenants set forth in this Section 7 shall begin as of the date hereof and will survive the Executive's termination of employment under Section 6.

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8. **Non-Disclosure of Confidential Information**

A. It is understood that in the course of Executive's employment with Company, Executive will become acquainted with Company Confidential Information (as defined below). Executive recognizes that Company Confidential Information has been developed or acquired at great expense, is proprietary to the Company, and is and shall remain the exclusive property of the Company. Accordingly, Executive agrees that he will not, disclose to others, copy, make any use of, or remove from Company's premises any Company Confidential Information, except as Executive's duties may specifically require, without the express written consent of the Company, during Executive's employment with the Company and thereafter until such time as Company Confidential Information becomes generally known, or readily ascertainable by proper means by persons unrelated to the Company.

B. Upon any termination of employment, Executive shall promptly deliver to the Company the originals and all copies of any and all materials, documents, notes, manuals, or lists containing or embodying Company Confidential Information, or relating directly or indirectly to the business of the Company, in the possession or control of Executive.

C. Executive hereby agrees that the period of time provided for in this Section 8 and other provisions and restrictions set forth herein are reasonable and necessary to protect the Company and its successors and assigns in the use and employment of the goodwill of the business conducted by Executive. Executive further agrees that damages cannot compensate the Company in the event of a violation of this Section 8 and that, if such violation should occur, injunctive relief shall be essential for the protection of the Company and its successors and assigns. Accordingly, Executive hereby covenants and agrees that, in the event any of the provisions of this Section 8 shall be violated or breached, the Company shall be entitled to obtain injunctive relief against the party or parties violating such covenants, without bond but upon due notice, in addition to such further or other relief as may be available at equity or law. Obtainment of such an injunction by the Company shall not be considered an election of remedies or a waiver of any right to assert any other remedies which the Company has at law or in equity. No waiver of any breach or violation hereof shall be implied from forbearance or failure by the Company to take action thereof. The prevailing party in any litigation, arbitration or similar dispute resolution proceeding to enforce this provision will recover any and all reasonable costs and expenses, including attorneys' fees.

D. "Company Confidential Information" shall mean confidential, proprietary information or trade secrets of Company and its subsidiaries and affiliates including without limitation the following: (1) customer lists and customer information as compiled by Company; (2) Company's internal practices and procedures; (3) Company's financial condition and financial results of operation; (4) supply of materials information, including sources and costs, designs, information on land and lot inventories, and current and prospective projects; (5) strategic planning, manufacturing, engineering, purchasing, finance, marketing, promotion, distribution, and selling activities; (6) all other information which Executive has a reasonable basis to consider confidential or which is treated by Company as confidential; and (7) all information having independent economic value to Company that is not generally known to, and not readily ascertainable by proper means by, persons who can obtain economic value from its disclosure or use. Notwithstanding the foregoing provisions, the following shall not be considered "Company Confidential Information": (i) the general skills of the Executive as an experienced real estate and homebuilding senior management level employee; (ii) information generally known by senior management executives

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within the homebuilding and/or land development industry; (iii) persons, entities, contacts or relationships of Executive that are also generally known in the industry; and (iv) information which becomes available on a non-confidential basis from a source other than Executive which source is not prohibited from disclosing such confidential information by legal, contractual or other obligation.

9. **Cooperation; No Disparagement**. During the one-year period following the Executive's Date of Termination, Executive agrees to provide reasonable assistance to the Company (including assistance with litigation matters), upon the Company's request, concerning the Executive's previous employment responsibilities and functions with the Company. Additionally, at all times after the Executive's employment with the Company has terminated, Company and Executive agree to refrain from making any disparaging or derogatory remarks, statements and/or publications regarding the other, its employees or its services.

10. **Severability**. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any applicable law, then such provision will be deemed to be modified to the extent necessary to render it legal, valid and enforceable, and if no such modification will make the provision legal, valid and enforceable, then this Agreement will be construed as if not containing the provision held to be invalid, and the rights and obligations of the parties will be construed and enforced accordingly.

11. **Assignment by Company**. Nothing in this Agreement shall preclude the Company from consolidating or merging into or with, or transferring all or substantially all of its assets to, another corporation or entity that assumes this Agreement and all obligations and undertakings hereunder. Upon such consolidation, merger or transfer of assets and assumption, the term "Company" as used herein shall mean such other corporation or entity, as appropriate, and this Agreement shall continue in full force and effect.

12. **Entire Agreement**. This Agreement, the CIC Agreement, and any agreements concerning stock options or other benefits, embody the complete agreement of the parties hereto with respect to the subject matter hereof and supersede any prior written, or prior or contemporaneous oral, understandings or agreements between the parties that may have related in any way to the subject matter hereof. This Agreement may be amended only in writing executed by the Company and Executive. Notwithstanding the foregoing, nothing in this Agreement is intended to affect any previous agreements pertaining to the grant of options to the Executive prior to the

Effective Date, including without limitation, provisions in Executive's prior Change of Control Agreement, providing for acceleration upon a change of control.

13. **Governing Law.** This Agreement and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed in accordance with the internal laws, and not the law of conflicts, of the State of Arizona.

14. **Notice.** Any notice required or permitted under this Agreement must be in writing and will be deemed to have been given when delivered personally or by overnight courier service or three days after being sent by mail, postage prepaid, at the address indicated below or to such changed address as such person may subsequently give such notice of:

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if to Parent or Company: Meritage Homes Corporation
17851 N. 85th Street, Suite 300
Scottsdale, Arizona 85255
Attention: Chief Executive Officer

with a copy to: Snell & Wilmer L.L.P.
One Arizona Center
400 E. Van Buren Street
Phoenix, Arizona 85004-2202
Phone: (602) 382-6252
Fax: (602) 382-6070
Attn: Steven D. Pidgeon, Esq.

if to Executive: Larry W. Seay
802 W. El Caminito Dr.
Phoenix, Arizona 85021
Phone: (602) 943-3128

with a copy to: Gallagher & Kennedy, P.A.
2575 E. Camelback Road, Suite 1100
Phoenix, Arizona 85016-9225
Phone: (602) 530-8407
Fax: (602) 530-8500
Attn: Jay A. Zweig, Esq.

15. **Arbitration.** Any dispute, controversy, or claim, whether contractual or non-contractual, between the parties hereto arising directly or indirectly out of or connected with this Agreement, relating to the breach or alleged breach of any representation, warranty, agreement, or covenant under this Agreement, unless mutually settled by the parties hereto, shall be resolved by binding arbitration in accordance with the Employment Arbitration Rules of the American Arbitration Association (the "AAA"). The parties agree that before the proceeding to arbitration that they will mediate their disputes before the AAA by a mediator approved by the AAA. Any arbitration shall be conducted by arbitrators approved by the AAA and mutually acceptable to Company and Executive. All such disputes, controversies, or claims shall be conducted by a single arbitrator, unless the dispute involves more than \$50,000 in the aggregate in which case the arbitration shall be conducted by a panel of three arbitrators. If the parties hereto are unable to agree on the mediator or the arbitrator(s), then the AAA shall select the arbitrator(s). The resolution of the dispute by the arbitrator(s) shall be final, binding, nonappealable, and fully enforceable by a court of competent jurisdiction under the Federal Arbitration Act. The arbitrator(s) shall award damages to the prevailing party. The arbitration award shall be in writing and shall include a statement of the reasons for the award. The arbitration shall be held in the Phoenix/Scottsdale metropolitan area. The Company shall pay all AAA, mediation, and arbitrator's fees and costs. The arbitrator(s) shall award reasonable attorneys' fees and costs to the prevailing party.

16. **Withholding; Release; No Duplication of Benefits.** All of Executive's compensation under this Agreement will be subject to deduction and withholding authorized or required by applicable law. The Company's obligation to make any post-termination payments hereunder (other than salary payments and expense reimbursements through a date of termination),

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shall be subject to receipt by the Company from Executive of a mutually agreeable release, and compliance by Executive with the covenants set forth in Sections 7 and 8 hereof. If there is any conflict between the provisions of the CIC Agreement and this Agreement, such conflict shall be resolved so as to provide the greater benefit to Executive. However, in order to avoid duplication of any monetary benefits, any payments or benefits due under Executive's CIC Agreement or under any employee severance plan to the extent such a plan exists or is subsequently implemented by the Company, will be reduced by any payments or benefits provided hereunder. Any payment required under the CIC Agreement to be paid in a lump sum, as set forth in the CIC Agreement, shall be so paid, and the remainder, if any, due under this Agreement will be paid in equal monthly installments over the Severance Period.

17. **Effect of Restatement of Financial Results.** Notwithstanding anything in this Agreement to the contrary, to the extent any financial results are misstated as a result of Executive's willful misconduct or gross negligence, and as a result such financial results are subsequently restated downward resulting in lower levels of bonuses pursuant to Section 4 and the accompanying Exhibit A, offsets shall be made against future bonuses. If such future bonuses are insufficient to offset the full difference between awarded bonuses and restated bonuses and/or if such restatement occurs at the end of the Agreement Term and subsequent Renewal Term(s), if any, bonuses previously earned and delivered under this Agreement may be clawed-back.

18. **Successors and Assigns.** This Agreement is solely for the benefit of the parties and their respective successors, assigns, heirs and legatees. Nothing herein shall be construed to provide any right to any other entity or individual.

19. **Related Party Transactions.** Executive may not engage in any related party transactions with the Company unless approved in the specific instance by the Audit Committee of the Board.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

By: /s/ Ray Oppel
Name: Ray Oppel
Title: Exec. Compensation Committee Chairman

EXECUTIVE: LARRY W. SEAY

/s/ Larry W. Seay

EXHIBIT A

INCENTIVE COMPENSATION SCHEDULE

CFO Bonus Compensation

Part I – Bonus

**2007 and any
Renewal
Term**

For 2007 (and any Renewal Term), Executive may, in the Board's reasonable discretion, be entitled to a maximum bonus equal to .20% of the EBITDA if Company's ROA is in the top 1/2 of public homebuilders having revenues of \$500 million or more per year, and an additional .20% of EBITDA if the Company's ROE is in the top 1/2 of these public homebuilders. If either measurement falls within the 33% to 49% percentile, the bonus shall be .13% of EBITDA for the applicable measurement. If either measurement falls below the 33% threshold, then there will not be any formula bonus paid with respect to such measurement. This bonus is established pursuant to, and its terms and conditions shall be subject to, the Company's 2006 Executive Management Incentive Plan. For bonuses to be considered for 2008 and subsequent years, the Board and Executive agree to discuss the bonus formula on or before September 30, 2007, and in each subsequent year.

Part II – Payment

Any bonus shall be paid in the form and time as determined by the Board in its reasonable discretion, provided that the bonus shall be paid in cash no later than the later of (i) March 15 of the year following the calendar year to which the payment relates, or (ii) the date that is two and one-half months following the end of the Company's fiscal year to which the payment relates.

**SECOND AMENDED AND RESTATED
CHANGE OF CONTROL AGREEMENT**

Effective January 1, 2007
(Original Date: February 1, 2000)

Dear Steve:

The Board of Directors believes that it is in the best interests of Meritage Homes Corporation (“Meritage”), and its shareholders to take appropriate steps to allay any concerns you (sometimes referred to herein as “Executive”) may have about your future employment opportunities with Meritage and its subsidiaries (Meritage and its subsidiaries are collectively referred to as the “Company”). As a result, the Board has decided to offer to you the benefits described below.

1. **Term of Agreement**

This Agreement is effective immediately and will continue in effect as long as you are employed by Meritage, unless you and Meritage agree in writing to its termination.

2. **Severance Payment**

If your employment with the Company is terminated without “Cause” (as defined in Section 7) at any time within 90 days prior to or within two years following a “Change of Control” (as defined in Section 5), you will receive the “Severance Payment” described below. You will also receive the Severance Payment if you terminate your employment for “Good Reason” (as defined in Section 6) at any time within two years following a Change of Control.

The Severance Payment equals the sum of (i) three times the higher of (x) your annual base salary on the date of termination of your employment, or (y) your annual base salary on the date preceding the Change of Control, and (ii) three times the highest of the following: (x) your average annual incentive compensation for the two years prior to termination of your employment or (y) your annual incentive compensation for the year preceding the year in which the Change of Control occurred. Notwithstanding the above, the Severance Payment shall not exceed the lesser of (i) an amount that could be paid on account of a Change of Control that is not subject to the imposition of any excise tax under Code Section 4999 and is not otherwise subject to the non-deductibility provisions of Code Section 280G, or (ii) \$15 million.

The Severance Payment will be paid in one lump sum as soon as administratively feasible following termination of your employment, but in no event more than 30 days following termination of your employment; provided that if you are a “specified employee” (as defined in Section 409A of the Internal Revenue Code of 1986, as amended (“Code”)) and the payment does not comply with either the short-term deferral or separation pay exception to the requirements of Code Section 409A, as described in Prop. Treas. Reg. §§ 1.409A-1(b)(4) and 1.409A-1(b)(9)(iii) (or successor provisions in the final 409A regulations), or any other exception to Section 409A, the above payment will be paid to you in one lump sum on the first day any such payments may be made without incurring a penalty pursuant to the Code along with accrued interest at the rate of interest announced by Bank of America, Arizona from time to

time as its prime rate (the “Prime Rate”) from the date that payments to you should have been made under this Agreement. If you die after your termination of employment but before receiving the above payment, the Company will distribute the benefits to your beneficiary as soon as administratively feasible following the date of your death.

You are not entitled to receive the Severance Payment if your employment is terminated for Cause, if you terminate your employment without Good Reason, or if your employment is terminated by reason of your “Disability” (as defined in Section 8(d)) or your death (unless death or Disability occurs after a Notice of Termination). In addition, you are not entitled to receive the Severance Payment if your employment is terminated by you or the Company for any or no reason prior to 90 days before a Change of Control occurs or more than two years after a Change of Control has occurred.

In order to receive the Severance Payment, you must execute any mutual release reasonably requested by the Company.

The Severance Payment will be paid to you without regard to whether you look for or obtain alternative employment following termination of your employment with the Company.

3. **Benefits Continuation**

If you are entitled to severance under Section 2, you will continue to receive life, disability, accident and group health insurance benefits substantially similar to those which you were receiving immediately prior to termination of your employment for a period of 24 months following termination of your employment. Such benefits shall be provided on substantially the same terms and conditions as they were provided prior to the Change of Control, provided that, if coverage for such benefits is not available under the plans of the Company, the Company shall pay you an amount in cash equal to the cost of your obtaining such alternative coverage.

Benefits otherwise receivable pursuant to this Section also shall be reduced or eliminated if and to the extent that you receive comparable benefits from any other source (for example, another employer); provided, however, you shall have no obligation to seek, solicit or accept employment from another employer in order to receive such benefits.

4. **Stock Option Acceleration**

Notwithstanding anything in this Agreement or in any option agreement to the contrary, upon a Change of Control, any stock options and restricted stock granted to you shall accelerate and become vested without further action and, to the extent permitted under the plan’s governing documents, Executive shall have a period of one year from the date of termination to exercise such options. In addition, all restrictions on awards granted shall lapse.

5. **Change of Control Defined**

For purposes of this Agreement, the term “Change of Control” shall mean and include the following transactions or situations:

(a) The acquisition of beneficial ownership, directly or indirectly, of securities having 35% or more of the combined voting power of Meritage’s then outstanding securities by any “Unrelated Person” or “Unrelated Persons” acting in concert with one another. For purposes of this Section, 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 Securities

Exchange Act of 1934 (the "Act"). For purposes of this Section, the term "Unrelated Person" shall mean and include any Person other than the Company, or an employee benefit plan of the Company, or any officer, director, or 10% or more shareholder of the Company as of the date of this Agreement.

(b) A sale, transfer, or other disposition through a single transaction or a series of transactions of all or substantially all of the assets of Meritage to an Unrelated Person or Unrelated Persons acting in concert with one another.

(c) Any consolidation or merger of Meritage with or into an Unrelated Person, unless immediately after the consolidation or merger the holders of the common stock of Meritage 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.

(d) A change during any period of two consecutive years of a majority of the members of the Board of Directors of Meritage for any reason, unless the election, or the nomination for election by the Company's shareholders, of each director was approved by the vote of a majority of the directors then still in office who were directors at the beginning of the period.

6. **Good Reason Defined**

For purposes of this Agreement, the term "Good Reason" shall include the following circumstances: (a) if the Company assigns you duties that are materially inconsistent with, or constitute a material reduction of powers or functions associated with, your position, duties, or responsibilities with the Company, or a material adverse change in your titles, authority, or reporting responsibilities, or in conditions of your employment, (b) if your base salary is reduced, (c) if the Company fails to cause any successor to expressly assume and agree to be bound by the terms of this Agreement, (d) any purported termination by the Company of your employment for grounds other than for "Cause," (e) if the Company relieves you of your duties other than for "Cause," (f) if you are required to relocate to an employment location that is more than fifty (50) miles from Scottsdale, Arizona, or (g) the Company materially breaches its obligations under this Agreement and such breach is not cured within a reasonable period of time after written notice from the Executive. The Company and you further acknowledge and agree that, if following a Change of Control, you do not serve or are not serving as Chairman and Chief Executive Officer of the parent corporation of the surviving organization, you have experienced a material reduction of powers or functions associated with your position, duties or responsibilities with the Company such that Good Reason shall be deemed to exist.

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7. **Cause Defined**

For purposes of this Agreement, the term "Cause" will exist if Executive, during the term of this Agreement as set forth in Section 1, (i) has engaged in malfeasance, willful or gross misconduct, or willful dishonesty that materially harms the Company or its stockholders, (ii) is convicted of a felony that is materially detrimental to the Company or its stockholders, (iii) is convicted of or enters a plea of *nolo contendere* to a felony that materially damages the Company's financial condition or reputation or to a crime involving fraud; (iv) is in material violation of the Company's ethics/policy code, including breach of duty of loyalty in connection with the Company's business; (v) willfully fails to perform duties under this Agreement or under the Second Amended and Restated Employment Agreement between you and the Company effective as of January 1, 2007 ("Employment Agreement") after notice by the Board and an opportunity to cure; (vi) impedes, interferes or fails to reasonably cooperate with an investigation authorized by the Board or fails to follow a legal and proper Board directive; and (vii) a restatement of financial results that occurs as the result of your willful misconduct or gross negligence pursuant to the Sarbanes-Oxley Act.

8. **Termination Notice And Procedure**

Any termination by the Company or you of your employment shall be communicated by written Notice of Termination to you if such Notice of Termination is delivered by the Company and to the Company if such Notice of Termination is delivered by you, all in accordance with the following procedures:

(a) The Notice of Termination shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances alleged to provide a basis for termination.

(b) Any Notice of Termination by the Company shall be in writing signed by the Chairman of the Compensation Committee (the "Committee") of the Board of Directors of the Company specifying in detail the basis for such termination.

(c) If the Company shall furnish a Notice of Termination for Cause and you in good faith notify the Company that a dispute exists concerning such termination within the 30-day period following your receipt of such notice, you may elect to continue your employment (or you may be placed on paid administrative leave, at the Company's option), during such dispute. If it is thereafter determined that (i) Cause did exist, your "Termination Date" shall be the earlier of (A) the date on which the dispute is finally determined, either by mutual written agreement of the parties or pursuant to the alternative dispute resolution provisions of Section 15, or (B) the date of your death; or (ii) Cause did not exist, your employment shall continue as if the Company had not delivered its Notice of Termination and there shall be no Termination Date arising out of such notice. A determination of Cause shall be made by a majority of the members of the Board only after the Executive and his counsel, if any, have been giving an opportunity to meet with the Board in advance of the Board's vote on the matter.

(d) If the Company shall furnish a Notice of Termination by reason of Disability and you in good faith notify the Company that a dispute exists concerning such

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termination within the 30-day period following your receipt of such notice, you may elect to continue your employment during such dispute (or you may be placed on paid administrative leave, at the Company's option). The dispute relating to the existence of a Disability shall be resolved by the opinion of the licensed physician selected by Meritage, provided, however, that if you do not accept the opinion of the licensed physician selected by Meritage, the dispute shall be resolved by the opinion of a licensed physician who shall be selected by you; provided further, however, that if Meritage does not accept the opinion of the licensed physician selected by you, the dispute shall be finally resolved by the opinion of a licensed physician selected by the licensed physicians selected by Meritage and you, respectively. If it is thereafter determined that (i) a Disability did exist, your Termination Date shall be the earlier of (A) the date on which the dispute is resolved, or (B) the date of your death, or (ii) a Disability did not exist, your employment shall continue as if the Company had not delivered its Notice of Termination and there shall be no Termination Date arising out of such notice. For purposes of this Agreement, "Disability" shall be given the meaning ascribed to such term in your Employment Agreement at the time the Disability determination is being made.

(e) If you in good faith furnish a Notice of Termination for Good Reason and the Company notifies you that a dispute exists concerning the termination within the 30-day period following the Company's receipt of such notice, you may elect to continue your employment (or you may be placed on paid administrative leave with pay, at the Company's option), during such dispute. If it is thereafter determined that (i) Good Reason did exist, your Termination Date shall be the

earlier of (A) the date on which the dispute is finally determined, either by mutual written agreement of the parties or pursuant to the alternative dispute resolution provisions of Section 15, (B) the date of your death, or (C) one day prior to the second anniversary of a Change of Control, and your payments hereunder shall reflect events occurring after you delivered Notice of Termination; or (ii) Good Reason did not exist, your employment shall continue after such determination as if you had not delivered the Notice of Termination asserting Good Reason. The Company shall be given an opportunity to cure the event causing Good Reason within the 15-day period following Executive's Notice of Termination for Good Reason.

(f) If you do not elect to continue employment pending resolution of a dispute regarding a Notice of Termination, and it is finally determined that the reason for termination set forth in such Notice of Termination did not exist, if such notice was delivered by you, you shall be deemed to have voluntarily terminated your employment other than for Good Reason and if delivered by the Company, the Company will be deemed to have terminated you other than by reason of Disability or with Cause.

9. **Successors.**

Meritage will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of Meritage or any of its subsidiaries to expressly assume and agree to perform this Agreement in the same manner and to the same extent that Meritage or any subsidiary would be required to perform it if no such succession had taken place. Failure of Meritage to obtain such assumption and agreement prior to the effectiveness of any such succession shall be a material breach of this Agreement by Meritage and shall entitle you to compensation in the same amount and on the

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same terms to which you would be entitled hereunder if you terminate your employment for Good Reason following a Change of Control, except that for purposes of implementing the foregoing, the date on which any such succession becomes effective shall be deemed the Termination Date. As used in this agreement "Company" shall mean Company, as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumes and agrees to perform this Agreement by operation of law or otherwise.

10. **Binding Agreement.**

This Agreement shall inure to the benefit of and be enforceable by you and your personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If you should die while any amount would still be payable to you hereunder had you continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to your devisee, legatee or other designee or, if there is no such designee, to your estate.

11. **Notice.**

For purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States certified or registered mail, return receipt requested, postage prepaid, addressed as shown in the Employment Agreement, provided that all notices to Meritage shall be directed to the attention of the Chairman of the Committee with a copy to the Secretary of Meritage, or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of a change of address shall be effective only upon receipt.

12. **Miscellaneous.**

No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by you and the Chairman of the Committee. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreement or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Arizona without regard to its conflicts of law principles. All references to sections of the Act or the Code shall be deemed also to refer to any successor provisions to such sections. Any payments provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law. The obligations of Meritage that arise prior to the expiration of this Agreement shall survive the expiration of the term of this Agreement.

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13. **Validity.**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

14. **Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

15. **Alternative Dispute Resolution.**

All claims, disputes and other matters in question between the parties arising under this Agreement shall, unless otherwise provided herein (such as in Section 8), be resolved in accordance with the arbitration and mediation provisions included in your Employment Agreement.

16. **Expenses and Interest.**

If a good faith dispute shall arise with respect to the enforcement of your rights under this Agreement or if any arbitration or legal proceeding shall be brought in good faith to enforce or interpret any provision contained herein, or to recover damages for breach hereof, the prevailing party shall recover any reasonable attorneys' fees and necessary costs and disbursements incurred as a result of such dispute or legal proceeding, and prejudgment interest on any money judgment obtained calculated at the Prime Rate from the date that payments were or should have been made under this Agreement.

17. **Payment Obligations Absolute.**

Meritage's obligation to pay you the compensation and to make the arrangements in accordance with the provisions herein shall be absolute and unconditional and

shall not be affected by any circumstances. All amounts payable by Meritage in accordance with this Agreement shall be paid without notice or demand. If Meritage has paid you more than the amount to which you are entitled under this Agreement, Meritage shall have the right to recover all or any part of such overpayment from you or from whomsoever has received such amount.

18. **Effect on Employment Agreement**

This Agreement supplements, and does not replace, your Employment Agreement. If there is any conflict between the provisions of this Agreement and your Employment Agreement, such conflict shall be resolved so as to provide the greater benefit to you. However, the Company does not intend to provide duplicative payments, severance or benefits with in the Employment Agreement or under any employee severance plan to the extent such a plan exists or is subsequently implemented by the Company. As a result, benefits otherwise receivable pursuant to this Agreement shall be reduced or eliminated if and to the extent that you receive severance, consulting or non-competition payments or benefits pursuant to the Employment

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Agreement, including, but not limited to, payments or benefits pursuant to Section 7 of the Employment Agreement, or pursuant to an employee severance plan.

19. **Entire Agreement**

This Agreement, your Employment Agreement and your option grant documents set forth the entire agreement between you and the Company concerning the subject matter discussed in this Agreement and supersede all prior agreements, promises, covenants, arrangements, communications, representations, or warranties, whether written or oral, by any officer, employee or representative of the Company. Any prior agreements or understandings with respect to the subject matter set forth in this Agreement are hereby terminated and canceled. Notwithstanding the foregoing, nothing in this Agreement is intended to affect any previous agreements pertaining to the grant of options to the Executive, including without limitation, provisions set forth in Executive's prior Change of Control Agreement providing for acceleration upon a change of control.

20. **Deferral of Payments.**

To the extent that any payment under this Agreement, when combined with all other payments received during the year that are subject to the limitations on deductibility under Code Section 162(m), exceeds the limitations on deductibility under Code Section 162(m), such payment shall be deferred to the next calendar year. The determination of deductibility under the preceding sentence shall be made by legal counsel, certified public accountants, and/or executive compensation consultants selected by Meritage but who shall be reasonably acceptable to you. Meritage will notify you as soon as it becomes aware of specific information that may cause it to exercise its discretion to require deferral and shall provide you with access to all information on which its decision is based. If the date for payment of any amount is deferred pursuant to this Section 20, then Meritage will transfer an amount in cash equal to the deferred amount to a trust which shall be in substantially the same form as is set forth in Revenue Procedure 92-64, 1992-2 C.B. 422. The terms of the trust, including the designation of trustee, shall be determined by Meritage but shall be reasonably acceptable to you. All deferred amounts held in the trust shall bear interest at the Prime Rate from the date that the payment would have been made to you but for this Section 20 to the date that such payment is actually made to you. Payment of the deferred amounts shall be made no later than the 30th day after the end of the calendar year in which the deferral occurs, provided that such payment, when combined with any other payments subject to the Section 162(m) limitations received during the year, does not exceed the limitations on deductibility under Code Section 162(m).

21. **Parties.**

This Agreement is an agreement between you and Meritage and all successors and assigns of Meritage. In certain cases, though, obligations imposed upon Meritage may be satisfied by a subsidiary of Meritage. Any payment made or action taken by a subsidiary of Meritage shall be considered to be a payment made or action taken by Meritage for purposes of determining whether Meritage has satisfied its obligations under this Agreement.

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If you would like to participate in this special benefits program, please sign and return the extra copy of this letter which is enclosed.

Sincerely,

MERITAGE HOMES CORPORATION

By: /s/ Ray Oppel

Name: Ray Oppel

Its: Exec. Compensation Committee Chairman

Enclosure

ACCEPTANCE

I hereby accept the offer to participate in this special benefits program and I agree to be bound by all of the provisions noted above.

STEVEN J. HILTON

/s/ Steven J. Hilton

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**SECOND AMENDED AND RESTATED
CHANGE OF CONTROL AGREEMENT**

Effective January 1, 2007
(Original Date: February 1, 2000)

Dear Larry:

The Board of Directors believes that it is in the best interests of Meritage Homes Corporation (“Meritage”), and its shareholders to take appropriate steps to allay any concerns you (sometimes referred to herein as “Executive”) may have about your future employment opportunities with Meritage and its subsidiaries (Meritage and its subsidiaries are collectively referred to as the “Company”). As a result, the Board has decided to offer to you the benefits described below.

1. **Term of Agreement**

This Agreement is effective immediately and will continue in effect as long as you are employed by Meritage, unless you and Meritage agree in writing to its termination.

2. **Severance Payment**

If your employment with the Company is terminated without “Cause” (as defined in Section 7) at any time within 90 days prior to or within two years following a “Change of Control” (as defined in Section 5), you will receive the “Severance Payment” described below. You will also receive the Severance Payment if you terminate your employment for “Good Reason” (as defined in Section 6) at any time within two years following a Change of Control.

The Severance Payment equals the sum of (i) two times the higher of (x) your annual base salary on the date of termination of your employment, or (y) your annual base salary on the date preceding the Change of Control, and (ii) two times the highest of the following: (x) your average annual incentive compensation for the two years prior to termination of your employment or (y) your annual incentive compensation for the year preceding the year in which the Change of Control occurred. Notwithstanding the above, the Severance Payment shall not exceed the lesser of (i) an amount that could be paid on account of a Change of Control that is not subject to the imposition of any excise tax under Code Section 4999 and is not otherwise subject to the non-deductibility provisions of Code Section 280G, or (ii) \$6 million.

The Severance Payment will be paid in one lump sum as soon as administratively feasible following termination of your employment, but in no event more than 30 days following termination of your employment; provided that if you are a “specified employee” (as defined in Section 409A of the Internal Revenue Code of 1986, as amended (“Code”)) and the payment does not comply with either the short-term deferral or separation pay exception to the requirements of Code Section 409A, as described in Prop. Treas. Reg. §§ 1.409A-1(b)(4) and 1.409A-1(b)(9)(iii) (or successor provisions in the final 409A regulations), or any other exception to Section 409A, the above payment will be paid to you in one lump sum on the first day any such payments may be made without incurring a penalty pursuant to the Code along with accrued interest at the rate of interest announced by Bank of America, Arizona from time to

time as its prime rate (the “Prime Rate”) from the date that payments to you should have been made under this Agreement. If you die after your termination of employment but before receiving the above payment, the Company will distribute the benefits to your beneficiary as soon as administratively feasible following the date of your death.

You are not entitled to receive the Severance Payment if your employment is terminated for Cause, if you terminate your employment without Good Reason, or if your employment is terminated by reason of your “Disability” (as defined in Section 8(d)) or your death (unless death or Disability occurs after a Notice of Termination). In addition, you are not entitled to receive the Severance Payment if your employment is terminated by you or the Company for any or no reason prior to 90 days before a Change of Control occurs or more than two years after a Change of Control has occurred.

In order to receive the Severance Payment, you must execute any mutual release reasonably requested by the Company.

The Severance Payment will be paid to you without regard to whether you look for or obtain alternative employment following termination of your employment with the Company.

3. **Benefits Continuation**

If you are entitled to severance under Section 2, you will continue to receive life, disability, accident and group health insurance benefits substantially similar to those which you were receiving immediately prior to termination of your employment for a period of 24 months following termination of your employment. Such benefits shall be provided on substantially the same terms and conditions as they were provided prior to the Change of Control, provided that, if coverage for such benefits is not available under the plans of the Company, the Company shall pay you an amount in cash equal to the cost of your obtaining such alternative coverage.

Benefits otherwise receivable pursuant to this Section also shall be reduced or eliminated if and to the extent that you receive comparable benefits from any other source (for example, another employer); provided, however, you shall have no obligation to seek, solicit or accept employment from another employer in order to receive such benefits.

4. **Stock Option Acceleration**

Notwithstanding anything in this Agreement or in any option agreement to the contrary, upon a Change of Control, any stock options and restricted stock granted to you shall accelerate and become vested without further action and, to the extent permitted under the plan’s governing documents, Executive shall have a period of one year from the date of termination to exercise such options. In addition, all restrictions on awards granted shall lapse.

5. **Change of Control Defined**

For purposes of this Agreement, the term “Change of Control” shall mean and include the following transactions or situations:

(a) The acquisition of beneficial ownership, directly or indirectly, of securities having 35% or more of the combined voting power of Meritage’s then outstanding securities by any “Unrelated Person” or “Unrelated Persons” acting in concert with one another. For purposes of this Section, 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 Securities

Exchange Act of 1934 (the "Act"). For purposes of this Section, the term "Unrelated Person" shall mean and include any Person other than the Company, or an employee benefit plan of the Company, or any officer, director, or 10% or more shareholder of the Company as of the date of this Agreement.

(b) A sale, transfer, or other disposition through a single transaction or a series of transactions of all or substantially all of the assets of Meritage to an Unrelated Person or Unrelated Persons acting in concert with one another.

(c) Any consolidation or merger of Meritage with or into an Unrelated Person, unless immediately after the consolidation or merger the holders of the common stock of Meritage 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.

(d) A change during any period of two consecutive years of a majority of the members of the Board of Directors of Meritage for any reason, unless the election, or the nomination for election by the Company's shareholders, of each director was approved by the vote of a majority of the directors then still in office who were directors at the beginning of the period.

6. Good Reason Defined

For purposes of this Agreement, the term "Good Reason" shall include the following circumstances: (a) if the Company assigns you duties that are materially inconsistent with, or constitute a material reduction of powers or functions associated with, your position, duties, or responsibilities with the Company, or a material adverse change in your titles, authority, or reporting responsibilities, or in conditions of your employment, (b) if your base salary is reduced, (c) if the Company fails to cause any successor to expressly assume and agree to be bound by the terms of this Agreement, (d) any purported termination by the Company of your employment for grounds other than for "Cause," (e) if the Company relieves you of your duties other than for "Cause," (f) if you are required to relocate to an employment location that is more than fifty (50) miles from Scottsdale, Arizona, or (g) the Company materially breaches its obligations under this Agreement and such breach is not cured within a reasonable period of time after written notice from the Executive. The Company and you further acknowledge and agree that, if following a Change of Control, you do not serve or are not serving as Chief Financial Officer of the parent corporation of the surviving organization, you have experienced a material reduction of powers or functions associated with your position, duties or responsibilities with the Company such that Good Reason shall be deemed to exist.

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7. Cause Defined

For purposes of this Agreement, the term "Cause" will exist if Executive, during the term of this Agreement as set forth in Section 1, (i) has engaged in malfeasance, willful or gross misconduct, or willful dishonesty that materially harms the Company or its stockholders, (ii) is convicted of a felony that is materially detrimental to the Company or its stockholders, (iii) is convicted of or enters a plea of *nolo contendere* to a felony that materially damages the Company's financial condition or reputation or to a crime involving fraud; (iv) is in material violation of the Company's ethics/policy code, including breach of duty of loyalty in connection with the Company's business; (v) willfully fails to perform duties under this Agreement or under the Second Amended and Restated Employment Agreement between you and the Company effective as of January 1, 2007 ("Employment Agreement") after notice by the Board and an opportunity to cure; (vi) impedes, interferes or fails to reasonably cooperate with an investigation authorized by the Board or fails to follow a legal and proper Board directive; and (vii) a restatement of financial results that occurs as the result of your willful misconduct or gross negligence pursuant to the Sarbanes-Oxley Act.

8. Termination Notice And Procedure

Any termination by the Company or you of your employment shall be communicated by written Notice of Termination to you if such Notice of Termination is delivered by the Company and to the Company if such Notice of Termination is delivered by you, all in accordance with the following procedures:

(a) The Notice of Termination shall indicate the specific termination provision in this Agreement relied upon and shall set forth in reasonable detail the facts and circumstances alleged to provide a basis for termination.

(b) Any Notice of Termination by the Company shall be in writing signed by the Chairman of the Compensation Committee (the "Committee") of the Board of Directors of the Company specifying in detail the basis for such termination.

(c) If the Company shall furnish a Notice of Termination for Cause and you in good faith notify the Company that a dispute exists concerning such termination within the 30-day period following your receipt of such notice, you may elect to continue your employment (or you may be placed on paid administrative leave, at the Company's option), during such dispute. If it is thereafter determined that (i) Cause did exist, your "Termination Date" shall be the earlier of (A) the date on which the dispute is finally determined, either by mutual written agreement of the parties or pursuant to the alternative dispute resolution provisions of Section 15, or (B) the date of your death; or (ii) Cause did not exist, your employment shall continue as if the Company had not delivered its Notice of Termination and there shall be no Termination Date arising out of such notice. A determination of Cause shall be made by a majority of the members of the Board only after the Executive and his counsel, if any, have been giving an opportunity to meet with the Board in advance of the Board's vote on the matter.

(d) If the Company shall furnish a Notice of Termination by reason of Disability and you in good faith notify the Company that a dispute exists concerning such

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termination within the 30-day period following your receipt of such notice, you may elect to continue your employment during such dispute (or you may be placed on paid administrative leave, at the Company's option). The dispute relating to the existence of a Disability shall be resolved by the opinion of the licensed physician selected by Meritage, provided, however, that if you do not accept the opinion of the licensed physician selected by Meritage, the dispute shall be resolved by the opinion of a licensed physician who shall be selected by you; provided further, however, that if Meritage does not accept the opinion of the licensed physician selected by you, the dispute shall be finally resolved by the opinion of a licensed physician selected by the licensed physicians selected by Meritage and you, respectively. If it is thereafter determined that (i) a Disability did exist, your Termination Date shall be the earlier of (A) the date on which the dispute is resolved, or (B) the date of your death, or (ii) a Disability did not exist, your employment shall continue as if the Company had not delivered its Notice of Termination and there shall be no Termination Date arising out of such notice. For purposes of this Agreement, "Disability" shall be given the meaning ascribed to such term in your Employment Agreement at the time the Disability determination is being made.

(e) If you in good faith furnish a Notice of Termination for Good Reason and the Company notifies you that a dispute exists concerning the termination within the 30-day period following the Company's receipt of such notice, you may elect to continue your employment (or you may be placed on paid administrative leave with pay, at the Company's option), during such dispute. If it is thereafter determined that (i) Good Reason did exist, your Termination Date shall be the

earlier of (A) the date on which the dispute is finally determined, either by mutual written agreement of the parties or pursuant to the alternative dispute resolution provisions of Section 15, (B) the date of your death, or (C) one day prior to the second anniversary of a Change of Control, and your payments hereunder shall reflect events occurring after you delivered Notice of Termination; or (ii) Good Reason did not exist, your employment shall continue after such determination as if you had not delivered the Notice of Termination asserting Good Reason. The Company shall be given an opportunity to cure the event causing Good Reason within the 15-day period following Executive's Notice of Termination for Good Reason.

(f) If you do not elect to continue employment pending resolution of a dispute regarding a Notice of Termination, and it is finally determined that the reason for termination set forth in such Notice of Termination did not exist, if such notice was delivered by you, you shall be deemed to have voluntarily terminated your employment other than for Good Reason and if delivered by the Company, the Company will be deemed to have terminated you other than by reason of Disability or with Cause.

9. **Successors.**

Meritage will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of Meritage or any of its subsidiaries to expressly assume and agree to perform this Agreement in the same manner and to the same extent that Meritage or any subsidiary would be required to perform it if no such succession had taken place. Failure of Meritage to obtain such assumption and agreement prior to the effectiveness of any such succession shall be a material breach of this Agreement by Meritage and shall entitle you to compensation in the same amount and on the

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same terms to which you would be entitled hereunder if you terminate your employment for Good Reason following a Change of Control, except that for purposes of implementing the foregoing, the date on which any such succession becomes effective shall be deemed the Termination Date. As used in this agreement "Company" shall mean Company, as hereinbefore defined and any successor to its business and/or assets as aforesaid which assumes and agrees to perform this Agreement by operation of law or otherwise.

10. **Binding Agreement.**

This Agreement shall inure to the benefit of and be enforceable by you and your personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees. If you should die while any amount would still be payable to you hereunder had you continued to live, all such amounts, unless otherwise provided herein, shall be paid in accordance with the terms of this Agreement to your devisee, legatee or other designee or, if there is no such designee, to your estate.

11. **Notice.**

For purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given when delivered or mailed by United States certified or registered mail, return receipt requested, postage prepaid, addressed as shown in the Employment Agreement, provided that all notices to Meritage shall be directed to the attention of the Chairman of the Committee with a copy to the Secretary of Meritage, or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notice of a change of address shall be effective only upon receipt.

12. **Miscellaneous.**

No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by you and the Chairman of the Committee. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. No agreement or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Arizona without regard to its conflicts of law principles. All references to sections of the Act or the Code shall be deemed also to refer to any successor provisions to such sections. Any payments provided for hereunder shall be paid net of any applicable withholding required under federal, state or local law. The obligations of Meritage that arise prior to the expiration of this Agreement shall survive the expiration of the term of this Agreement.

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13. **Validity.**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

14. **Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

15. **Alternative Dispute Resolution.**

All claims, disputes and other matters in question between the parties arising under this Agreement shall, unless otherwise provided herein (such as in Section 8), be resolved in accordance with the arbitration or mediation provisions included in your Employment Agreement.

16. **Expenses and Interest.**

If a good faith dispute shall arise with respect to the enforcement of your rights under this Agreement or if any arbitration or legal proceeding shall be brought in good faith to enforce or interpret any provision contained herein, or to recover damages for breach hereof, the prevailing party shall recover any reasonable attorneys' fees and necessary costs and disbursements incurred as a result of such dispute or legal proceeding, and prejudgment interest on any money judgment obtained calculated at the Prime Rate from the date that payments were or should have been made under this Agreement.

17. **Payment Obligations Absolute.**

Meritage's obligation to pay you the compensation and to make the arrangements in accordance with the provisions herein shall be absolute and unconditional and

shall not be affected by any circumstances. All amounts payable by Meritage in accordance with this Agreement shall be paid without notice or demand. If Meritage has paid you more than the amount to which you are entitled under this Agreement, Meritage shall have the right to recover all or any part of such overpayment from you or from whomsoever has received such amount.

18. **Effect on Employment Agreement**

This Agreement supplements, and does not replace, your Employment Agreement. If there is any conflict between the provisions of this Agreement and your Employment Agreement, such conflict shall be resolved so as to provide the greater benefit to you. However, the Company does not intend to provide duplicative payments, severance or benefits with in the Employment Agreement or under any employee severance plan to the extent such a plan exists or is subsequently implemented by the Company. As a result, benefits otherwise receivable pursuant to this Agreement shall be reduced or eliminated if and to the extent that you receive severance, consulting or non-competition payments or benefits pursuant to the Employment

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Agreement, including, but not limited to, payments or benefits pursuant to Section 6 of the Employment Agreement, or pursuant to an employee severance plan.

19. **Entire Agreement**

This Agreement, your Employment Agreement and your option grant documents set forth the entire agreement between you and the Company concerning the subject matter discussed in this Agreement and supersede all prior agreements, promises, covenants, arrangements, communications, representations, or warranties, whether written or oral, by any officer, employee or representative of the Company. Any prior agreements or understandings with respect to the subject matter set forth in this Agreement are hereby terminated and canceled. Notwithstanding the foregoing, nothing in this Agreement is intended to affect any previous agreements pertaining to the grant of options to the Executive, including without limitation, provisions set forth in Executive's prior Change of Control Agreement providing for acceleration upon a change of control.

20. **Deferral of Payments.**

To the extent that any payment under this Agreement, when combined with all other payments received during the year that are subject to the limitations on deductibility under Code Section 162(m), exceeds the limitations on deductibility under Code Section 162(m), such payment shall be deferred to the next calendar year. The determination of deductibility under the preceding sentence shall be made by legal counsel, certified public accountants, and/or executive compensation consultants selected by Meritage but who shall be reasonably acceptable to you. Meritage will notify you as soon as it becomes aware of specific information that may cause it to exercise its discretion to require deferral and shall provide you with access to all information on which its decision is based. If the date for payment of any amount is deferred pursuant to this Section 20, then Meritage will transfer an amount in cash equal to the deferred amount to a trust which shall be in substantially the same form as is set forth in Revenue Procedure 92-64, 1992-2 C.B. 422. The terms of the trust, including the designation of trustee, shall be determined by Meritage but shall be reasonably acceptable to you. All deferred amounts held in the trust shall bear interest at the Prime Rate from the date that the payment would have been made to you but for this Section 20 to the date that such payment is actually made to you. Payment of the deferred amounts shall be made no later than the 30th day after the end of the calendar year in which the deferral occurs, provided that such payment, when combined with any other payments subject to the Section 162(m) limitations received during the year, does not exceed the limitations on deductibility under Code Section 162(m).

21. **Parties.**

This Agreement is an agreement between you and Meritage and all successors and assigns of Meritage. In certain cases, though, obligations imposed upon Meritage may be satisfied by a subsidiary of Meritage. Any payment made or action taken by a subsidiary of Meritage shall be considered to be a payment made or action taken by Meritage for purposes of determining whether Meritage has satisfied its obligations under this Agreement.

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If you would like to participate in this special benefits program, please sign and return the extra copy of this letter which is enclosed.

Sincerely,

MERITAGE HOMES CORPORATION

By: /s/ Ray Oppel

Name: Ray Oppel

Its: Exec. Compensation Committee Chairman

Enclosure

ACCEPTANCE

I hereby accept the offer to participate in this special benefits program and I agree to be bound by all of the provisions noted above.

LARRY W. SEAY

/s/ Larry W. Seay

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