

**TAB 5**

MICHAEL J. JACKSON

SECURED PROMISSORY NOTE DUE OCTOBER 12, 2007

U.S. \$20,000,000

Dated: March 31, 2006

FOR VALUE RECEIVED, the undersigned, MICHAEL J. JACKSON (the "**Borrower**"), having an address c/o White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attention: Villiers Terblanche and Joseph Brazil, HEREBY PROMISES TO PAY DBCG LLC, a Delaware limited liability company (the "**Lender**"), or its registered assigns, for the account of its Applicable Lending Office (as defined in the Loan and Security Agreement referred to below) on the Maturity Date (as defined in the Loan and Security Agreement referred to below) the principal amount of TWENTY MILLION AND NO/100THS United States Dollars (U.S. \$20,000,000). All capitalized terms used in this Promissory Note and not defined herein shall have the respective meanings assigned to such terms in the Loan and Security Agreement (Neverland Ranch), dated as of March 31, 2006 (as amended, amended and restated, supplemented or otherwise modified from time to time, the "**Loan and Security Agreement**") between the Borrower and the Lender from time to time party thereto.

The Borrower promises to pay interest on the unpaid principal amount of this Promissory Note from the date hereof until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Loan and Security Agreement.

Both principal and interest in respect of this Promissory Note are payable in lawful money of the United States of America to the Lender in immediately available funds at the Lender's Account.

This Promissory Note is the Note referred to in, and is entitled to the benefits of, the Loan and Security Agreement, and is secured by, among other things, (i) that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "**Mortgage**") and (ii) the other Loan Documents. All of the terms, covenants and conditions contained in the Loan and Security Agreement, the Mortgage, and the other Loan Documents are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Loan and Security Agreement, the terms and provisions of the Loan and Security Agreement shall govern. In the event of a conflict or inconsistency between the terms of this Note and the Mortgage, the terms and provisions of the Mortgage shall govern. In the event of a conflict or inconsistency between the terms of this Note and any Loan Document other than the Mortgage and the Loan and Security Agreement, the terms and provisions of this Note shall govern. The Loan and Security Agreement, among other things, (A) contains provisions for acceleration of the maturity hereof upon the occurrence of certain stated events and also for optional and mandatory prepayments on account of principal hereof prior to the Maturity Date upon the terms and conditions therein specified, and (B) secures the payment of this Promissory Note by the grant by the Borrower to the Lender of a security interest in certain Collateral as described in the Loan and Security Agreement.

Notwithstanding any provision to the contrary contained in this Note or the other Loan Documents, Borrower shall not be required to pay, and Lender shall not be permitted to collect,

any amount of interest in excess of the maximum amount of interest permitted by law ("Excess Interest"). If any Excess Interest is provided for, whether by the Eurodollar Rate, the Base Rate, the Default Rate, through any contingency or event, or otherwise, or is determined by a court of competent jurisdiction to have been provided for in this Note or in any of the other Loan Documents, then in such event: (1) the provisions of this Article shall govern and control; (2) Borrower shall not be obligated to pay any Excess Interest; (3) any Excess Interest that Lender may have received hereunder shall be, at Lender's option, to the fullest extent provided by applicable law: (a) applied as a credit against either or both of the outstanding principal balance of the Loan or accrued and unpaid interest thereunder (not to exceed the maximum amount permitted by law), (b) refunded to the payor thereof, or (c) any combination of the foregoing; (4) the interest rate under this Note and the Loan and Security Agreement shall be automatically reduced to the maximum lawful rate allowed from time to time under applicable law (the "Maximum Rate"), and this Note and the other Loan Documents shall be deemed to have been and shall be, reformed and modified to reflect such reduction; and (5) Borrower shall not have any action against Lender for any damages arising out of the payment or collection of any Excess Interest. Notwithstanding the foregoing, if for any period of time interest on any Obligation is calculated at the Maximum Rate rather than the applicable rate under this Note, and thereafter such applicable rate becomes less than the Maximum Rate, the rate of interest payable on such Obligations shall, to the extent permitted by law, remain at the Maximum Rate until Lender shall have received or accrued the amount of interest which Lender would have received or accrued during such period on Obligations had the rate of interest not been limited to the Maximum Rate during such period. If the Default Rate shall be finally determined to be unlawful, then the applicable interest rate payable under this Note and the Loan and Security Agreement shall be applicable during any time when the Default Rate would have been applicable hereunder, provided however that if the Maximum Rate is greater or lesser than the applicable interest rate payable under this Note and the Loan and Security Agreement, then the foregoing provisions of this paragraph shall apply.

Borrower acknowledges that the Mortgage contains the following provision, which is incorporated in this Note by this reference: "If all or part of the Property or any interest in it is Transferred without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust, and Lender may invoke any remedies permitted by this Deed of Trust without further notice or demand on Borrower."

THIS PROMISSORY NOTE WAS DELIVERED IN THE STATE OF NEW YORK, THE LOAN WAS MADE BY THE LENDER AND ACCEPTED BY THE BORROWER IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE LOAN DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY AND BY THE LOAN AND SECURITY AGREEMENT, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS PROMISSORY NOTE, THE LOAN AND SECURITY AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES

OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE OF CALIFORNIA, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL OTHER LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS ANY LOAN DOCUMENT OTHER THAN AS DESCRIBED HEREIN, AND ALL LOAN DOCUMENTS OTHER THAN THE MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5 1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS PROMISSORY NOTE, THE LOAN AND SECURITY AGREEMENT OR THE OTHER LOAN DOCUMENTS MAY BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5 1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER DOES HEREBY DESIGNATE AND APPOINT:

**CORPORATION SERVICE COMPANY  
1133 AVENUE OF THE AMERICAS, SUITE 3100  
NEW YORK, NEW YORK 10136**

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO BORROWER IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON BORROWER IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. BORROWER (I) SHALL GIVE PROMPT NOTICE TO LENDER OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (II) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (III) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN THE STATE OF NEW YORK, OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR. NEITHER THE FOREGOING, NOR ANY PROVISION OF ANY OTHER LOAN DOCUMENT SHALL LIMIT LENDER'S ABILITY TO BRING A SUIT OR ACTION IN ANY OTHER JURISDICTION AT ITS OPTION, INCLUDING WITHOUT LIMITATION EXERCISING ANY ALL RIGHTS OF LENDER UNDER THE MORTGAGE IN THE JURISDICTION WHERE THE PROPERTY IS LOCATED.

EACH OF THE BORROWER AND THE LENDER HEREBY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS PROMISSORY NOTE, THE LOAN AND SECURITY AGREEMENT, ANY OF THE OTHER LOAN DOCUMENTS, OR ANY DEALINGS BETWEEN THE BORROWER AND LENDER RELATING TO THE SUBJECT MATTER OF THIS PROMISSORY NOTE, THE LOAN TRANSACTION AND THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH OF THE BORROWER AND THE LENDER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THE LOAN AGREEMENT AND DELIVERY AND ACCEPTANCE OF THIS PROMISSORY NOTE, THAT EACH HAS ALREADY RELIED ON THE WAIVER IN ENTERING INTO THE LOAN AGREEMENT AND DELIVERING AND ACCEPTING, RESPECTIVELY, THIS PROMISSORY NOTE, AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THE FUTURE. EACH OF THE BORROWER AND THE LENDER FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS PROVISION AND EACH CORRESPONDING PROVISION OF THE LOAN DOCUMENTS, INCLUDING SECTION 11.09 OF THE LOAN AND SECURITY AGREEMENT, AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS PROMISSORY NOTE, THE LOAN AND SECURITY AGREEMENT, THE LOAN DOCUMENTS, OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOAN. IN THE EVENT OF LITIGATION, THIS LOAN AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Unless and until an Assignment and Acceptance effecting the assignment or transfer of this Promissory Note shall have been accepted by the Lender and recorded in the Register as provided in Section 10.01(e) of the Loan and Security Agreement, the Borrower shall be entitled to deem and treat the Lender as the owner and holder of this Promissory Note and the Loan evidenced hereby.

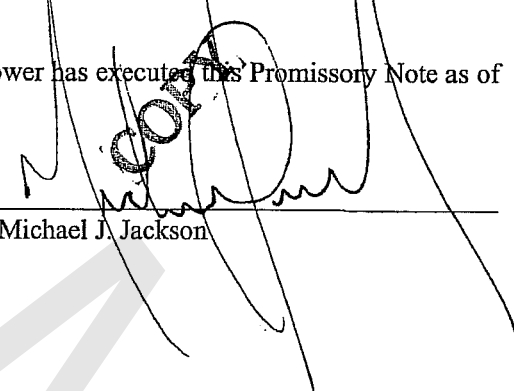
The terms of this Promissory Note are subject to amendment only in the manner provided in the Loan and Security Agreement.

This Promissory Note is subject to restrictions on transfer or assignment as provided in Section 10.01 of the Loan and Security Agreement.

No reference herein to the Loan and Security Agreement and no provision of this Promissory Note or the Loan and Security Agreement shall alter or impair the obligations of the Borrower, which are absolute and unconditional, to pay the principal of and interest on this Promissory Note at the place, at the respective times, and in the currency herein prescribed.

The Borrower promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in Section 11.04(a) of the Loan and Security Agreement, incurred in the collection and enforcement of this Promissory Note. The Borrower and any endorsers of this Promissory Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

IN WITNESS WHEREOF, the Borrower has executed this Promissory Note as of the date first above written.

  
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Michael J. Jackson