

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): October 11, 2005 (October 4, 2005)

Build-A-Bear Workshop, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other
Jurisdiction of
Incorporation)

001-32320

(Commission
File Number)

43-1883836

(IRS Employer
Identification No.)

1954 Innerbelt Business Center Drive
St. Louis, Missouri

(Address of Principal Executive Offices)

63114

(Zip Code)

(314) 423-8000

(Registrant's Telephone Number, Including Area Code)

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))
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Item 1.01. Entry into a Material Definitive Agreement.

On October 4, 2005, Build-A-Bear Workshop, Inc. (the "Company"), through its wholly-owned Delaware subsidiary Build-A-Bear Workshop Franchise Holdings, Inc. ("Holdings"), entered into a Loan Agreement (the "Loan Agreement") with Amsbra, Ltd., an English corporation ("Amsbra") and current franchisee of Holdings. The Loan Agreement provides for a \$4.425 million line of credit to Amsbra through March 31, 2006. The purpose of the Loan Agreement is to provide Amsbra with financing opportunities, if necessary, to enable Amsbra to open additional locations of the Company's stores, as required pursuant to an amendment to the existing franchise agreement between Holdings and Amsbra.

The loan amounts outstanding from time to time will be represented by a Revolving Credit Note made by Amsbra in favor of Holdings (the "Note"). Pursuant to the Note, interest on each advance will accrue at the greater of (i) the prime rate plus 0.075% per year and (ii) 7.00% per year compounded monthly. On January 1, 2008 and on the first day of each month thereafter continuing to and including December 1, 2011, Amsbra is required to pay equal monthly installments consisting of the principal balance and all accrued and unpaid interest. At any time through March 31, 2006, Amsbra may borrow amounts under the Note subject to the terms, conditions and limits set forth in the Note and the Loan Agreement. Amounts borrowed may be paid in whole or in part without penalty at any time.

The revolving line of credit is secured by a Debenture dated October 11, 2005 (the "Debenture") by and between Amsbra and Holdings. The Debenture provides, among other things, that the floating charge created by the Debenture will automatically and without notice become a fixed charge in the event of an event of default under the Loan Agreement. The Debenture also prevents Amsbra from selling or otherwise disposing of the charged assets without Holdings' written consent.

Relationship to Amsbra

As noted above, Amsbra and Holdings are parties to a franchising agreement whereby Amsbra is a franchisee of Holdings.

The foregoing description of the Loan Agreement, the Note and Debenture is only a summary of certain terms and conditions of these documents and is qualified in its entirety by reference to the Loan Agreement, the Note and the Debenture, which have been filed as Exhibits 10.1, 10.2 and 10.3 respectively hereto and which are incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No. **Name of Exhibit**

- | | |
|------|--|
| 10.1 | <u>Loan Agreement by and between Amsbra, Ltd., as Borrower, and Build-A-Bear Workshop Franchise Holdings, Inc., as Lender, entered into on October 4, 2005 with an effective date of September 26, 2005.</u> |
| 10.2 | <u>Revolving Credit Note by Amsbra, Ltd., as Borrower, in favor of Build-A-Bear Workshop Franchise Holdings, Inc., dated as of September 26, 2005.</u> |
| 10.3 | <u>Debenture dated October 11, 2005 by and between Amsbra, Ltd. and Build-A-Bear Workshop Franchise Holdings, Inc.</u> |

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.

BUILD-A-BEAR WORKSHOP, INC.

Date: October 11, 2005

/s/ Tina Klocke
Name: Tina Klocke
Title: Chief Financial Bear, Secretary and
Treasurer

Exhibits

<u>Exhibit No.</u>	<u>Name of Exhibit</u>
10.1	<u>Loan Agreement by and between Amsbra, Ltd., as Borrower, and Build-A-Bear Workshop Franchise Holdings, Inc., as Lender, entered into on October 4, 2005 with an effective date of September 26, 2005.</u>
10.2	<u>Revolving Credit Note by Amsbra, Ltd., as Borrower, in favor of Build-A-Bear Workshop Franchise Holdings, Inc., dated as of September 26, 2005.</u>
10.3	<u>Debenture dated October 11, 2005 by and between Amsbra, Ltd. and Build-A-Bear Workshop Franchise Holdings, Inc.</u>

LOAN AGREEMENT

BUILD-A-BEAR WORKSHOP FRANCHISE HOLDINGS, INC., a Delaware corporation ("Lender"), and **AMSBRA, LTD.**, an English corporation ("Borrower"), hereby agree as follows effective as of October 4, 2005 (the "Effective Date"):

WHEREAS, Borrower has requested a revolving credit loan facility from the Lender in an aggregate principal amount of up to \$4,425,000 to be available to Borrower through March 31 2006; and

WHEREAS, the Lender is willing to make said revolving credit loans to the Borrower upon, and subject to, the terms, provisions and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the mutual promises, conditions, and covenants set forth herein, the receipt and/or sufficiency of which is hereby acknowledged, Borrower and Lender mutually covenant and agree as follows:

1. **Definitions.** Capitalized terms used herein and not otherwise defined herein will have the meanings given those terms in the second to last section of this Agreement.

2. **Credit Facilities.**

2.1 **Revolving Credit Loan.**

2.1.1 **Total Facility.** Lender will make available to Borrower through March 31 2006 a line of credit of up to \$4,425,000 ("Total Facility"), subject to the terms and conditions and made upon the representations and warranties of Borrower set forth in this Agreement. Amounts outstanding under the line of credit from time to time will be referred to as the "Revolving Credit Loan". The Revolving Credit Loan will be represented by the Revolving Credit Note of Borrower of even date herewith and all amendments, extensions and renewals thereto and restatements and replacements thereof (the "Revolving Credit Note"). The Revolving Credit Loan will bear interest and will be payable in the manner set forth in the Revolving Credit Note, the terms of which are incorporated herein by reference. After March 31 2006, Borrower will have no further right to advances under the Total Facility. The outstanding principal amount as of March 31 2006 will be repaid pursuant to the terms of the Revolving Credit Note.

2.1.2 **Advances.** Advances will be made as specified in the Revolving Credit Note.

2.1.3 **Extensions.** After the initial term of the Revolving Credit Note, Lender in its sole discretion may extend or renew the Total Facility and the Revolving Credit Note by accepting from Borrower one or more new notes, each of which will be deemed to be the Revolving Credit Note under this Agreement. In no event will Lender be under any obligation to extend or renew the Total Facility or the Revolving Credit Note beyond the initial term thereof.

2.1.4 **Voluntary Prepayment.** The Borrower may, upon notice to the Lender specifying that it is paying the Loans, pay without penalty or premium the Loans in whole at any time or in part from time to time, by paying the principal amount to be paid. Payments received will be applied in such order as Lender may elect. Any prepayments will serve to permanently reduce the amount of the Total Facility.

2.1.5 **Mandatory Prepayment.** In addition to the regularly scheduled principal payments due pursuant to the Revolving Credit Note and any voluntary prepayments made by the Borrower under Section 2.1.4 above, the Borrower hereby covenants and agrees to pay to the Lender as mandatory prepayments on the Loans (i) within ten (10) days after receipt thereof, One Hundred Percent (100%) of the net cash proceeds received by the Borrower from the issuance of any capital stock or other equity securities or from the issuance of any debt subsequent to the date of this Agreement; (ii) within ninety (90) days after receipt thereof, One Hundred Percent (100%) of the net cash proceeds received by the Borrower from the sale or other disposition of any property (other than the sale of inventory in the ordinary course of business, but including, without limitation, any insurance proceeds received from any insurance loss of any such property) to the extent the aggregate amount of such proceeds are not used within ninety (90) days after receipt thereof by the Borrower to purchase replacement assets, so long as such replacement assets are acceptable to Lender in its sole discretion; and (iii) within ninety (90) days after the end of each fiscal year of the Borrower (commencing with the fiscal year of the Borrower ending December 31, 2005), an amount equal to fifty percent (50%) of the Consolidated Excess Cash Flow. Payments received will be applied in such order as Lender may elect. Any prepayments will serve to permanently reduce the amount of the Total Facility.

2.2 **Additional Costs.**

2.2.1 **Taxes, Reserve Requirements, etc.** In the event that any applicable law, treaty, rule or regulation (whether domestic or foreign) now or hereafter in effect and whether or not presently applicable to Lender, or any interpretation or administration thereof by any governmental

authority charged with the interpretation or administration thereof, or compliance by Lender with any guideline, request or directive of any such authority (whether or not having the force of law), will: (a) affect the basis of taxation of payments to Lender of any amounts payable by Borrower under this Agreement (other than taxes imposed on the overall net income of Lender, by the jurisdiction, or by any political subdivision or taxing authority of any such jurisdiction, in which Lender has its principal office), (b) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by Lender, or (c) impose any other condition with respect to this Agreement, any Note executed in connection with this Agreement or any of the Loan Documents, and the result of any of the foregoing is to increase the cost of making, funding or maintaining any such Note or to reduce the amount of any sum receivable by Lender thereon, then Borrower will pay to Lender from time to time, upon request by Lender, additional amounts sufficient to compensate Lender for such increased cost or reduced sum receivable.

2.2.2 Certificate of Lender. A certificate of Lender setting forth such amount or amounts as will be necessary to compensate Lender as specified above will be delivered to Borrower and will be conclusive absent manifest error. Borrower will pay Lender the amount shown as due on any such certificate within 30 days after its receipt of the same. Failure on the part of Lender to deliver any such certificate will not constitute a waiver of Lender's rights to demand compensation for any particular period or any future period. The protection of this Section will be available to Lender regardless of any possible contention of invalidity or inapplicability of the law, regulation, etc., that results in the claim for compensation under this Section.

3. Collateral. The Collateral for the repayment of the Obligations will be that granted pursuant to the Security Documents.

4. Representations and Warranties. To induce Lender to enter into this Agreement and to make the advances herein contemplated, Borrower hereby represents and warrants as follows:

4.1 Organization. Borrower is formed under the laws of England and Wales. Borrower is duly organized and in good standing under the laws of the country of its formation, is duly qualified in all jurisdictions where required by the conduct of its business or ownership of its assets except where the failure to so qualify would not have a material adverse effect on its condition, financial or otherwise, and has the power and authority to own and operate its assets and to conduct its business as is now done.

- 4.2 **Latest Financials.** Its Current Financial Statements as delivered to Lender are true, complete and accurate in all material respects and fairly present its financial condition, assets and liabilities, whether accrued, absolute, contingent or otherwise and the results of its operations for the periods specified therein. The annual financial statements of all business entities included in the Current Financial Statements have been prepared in accordance with generally accepted accounting principles applied consistently with preceding periods subject to any comments and notes contained therein.
- 4.3 **Recent Adverse Changes.** Since the dates of its Current Financial Statements, Borrower has not suffered any damage, destruction or loss which has materially and adversely affected its business or assets and no event or condition of any character has occurred which has materially and adversely affected its assets, liabilities, business or financial condition, and Borrower has no knowledge of any event or condition which may materially and adversely affect its assets, liabilities, business or financial condition.
- 4.4 **Recent Actions.** Since the dates of its Current Financial Statements, its business has been conducted in the ordinary course, and Borrower has not: (a) incurred any obligations or liabilities, whether accrued, absolute, contingent or otherwise, other than liabilities incurred and obligations under contracts entered into in the ordinary course of business and other than liabilities to Lender; (b) discharged or satisfied any lien or encumbrance or paid any obligations, absolute or contingent, other than current liabilities, in the ordinary course of business; (c) mortgaged, pledged or subjected to lien or any other encumbrance any of its assets, tangible or intangible, or cancelled any debts or claims except in the ordinary course of business; or (d) made any loans or otherwise conducted its business other than in the ordinary course.
- 4.5 **Title.** Borrower has good title to the assets reflected on its Current Financial Statements, free and clear from all liens and encumbrances except for: (a) current taxes and assessments not yet due and payable, (b) liens and encumbrances, if any, reflected or noted on said balance sheet or notes, (c) any security interests, pledges or mortgages to Lender in connection with the closing of this Agreement, (d) assets disposed of in the ordinary course of business, and (e) Permitted Liens.
- 4.6 **Litigation, etc.** As of the date hereof, there are no actions, suits, proceedings or governmental investigations pending or, to its knowledge, threatened against Borrower which, if adversely determined, could result in a material and adverse change in its financial condition, business or assets; and there is no basis known to Borrower for any such actions, suits, proceedings or investigations.
- 4.7 **Taxes.** Except as to taxes not yet due and payable, Borrower has filed all notices, returns, computations, registrations and reports that are now required to be filed by Borrower in connection with any national, state, federal, municipal or local government tax, duty or charge levied, assessed or imposed upon Borrower or its

property, including PAYE, national insurance and similar taxes; and all of such taxes have been either paid or adequate reserve or other provision has been made therefor. Borrower has timely filed the payments of every tax and tax return with the appropriate taxation authorities, and Borrower has never incurred a penalty for failure to file or to file in a timely manner. If Borrower has currently filed an extension for the payment of taxes, Borrower has accrued sufficient funds for the payment of such tax in accordance with generally accepted accounting principles.

- 4.8** **Authority.** Borrower has full power and authority to enter into the transactions provided for in this Agreement. The documents to be executed by Borrower in connection with this Agreement, when executed and delivered by Borrower will constitute the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms except as such enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium or similar laws in effect from time to time affecting the rights of creditors generally and except as such enforceability may be subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in law or in equity).
- 4.9** **Other Defaults.** There does not now exist any default or violation by Borrower of or under any of the terms, conditions or obligations of: (a) its Memorandum or Articles of Association and Bylaws; (b) any material indenture, mortgage, deed of trust, franchise, permit, contract, agreement, or other material instrument to which Borrower is a party or by which Borrower is bound; or (c) any law, regulation, ruling, order, injunction, decree, condition or other requirement applicable to or imposed upon Borrower by any law or by any governmental authority, court or agency; and the transactions contemplated by this Agreement and the Loan Documents will not result in any such default or violation.
- 4.10** **Stock of Borrower.** Borrower has no outstanding options, warrants or contracts to issue additional securities of any kind except as identified in Schedule 4.10.
- 4.11** **Stock.** Except as disclosed on Schedule 4.11, Borrower does not own more than one percent (1%) of the issued and outstanding capital stock or other ownership interests of any corporation, firm or entity.
- 4.12** **Subsidiaries, Partnerships and Joint Ventures.** Borrower has no Subsidiaries and is not a party to any partnership agreement or joint venture agreement.
- 4.13** **Licenses, etc.** Borrower has obtained any and all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its properties and the conduct of its business. Borrower possesses adequate licenses, patents, patent applications, copyrights, trademarks, trademark applications, and trade names to continue to conduct its business as heretofore conducted by it, without any conflict with the rights of any other person or entity.

- 4.14 **Sufficient Capital.** Following the draw down of the Total Facility, borrower now has capital sufficient to carry on its business, all business and transactions in which Borrower is about to engage, and is now solvent and able to pay its debts as they mature.
- 4.15 **Name, Places of Business and Location of Assets.** The address of its principal place of business and every other place from which Borrower conducts business is as specified in Schedule 4.15. The assets of Borrower, and all books and records pertaining thereto are and will be located at the addresses indicated on Schedule 4.15. In the five years preceding the date hereof, Borrower has not conducted business under any name other than its current name nor maintained any place of business or any assets in any jurisdiction other than those disclosed on Schedule 4.15.
- 4.16 **No Margining of Stock.** No part of the proceeds of any Loans will be used to purchase or carry any margin stock.
- 4.17 **Closing Memo.** The information contained in each of the documents prepared by Borrower, executed by Borrower or provided by a third party at the request of Borrower listed on the Closing Memo to be executed or delivered by Borrower or relating to Borrower is complete and correct in all material respects.
- 4.18 **Environmental Matters.**
- 4.18.1 Borrower and the activities or operations on any of the real estate that Borrower owns or occupies (the "Property") are in compliance in all material respects with all Environmental Laws.
- 4.18.2 Borrower has obtained all approvals, permits, licenses, certificates, or satisfactory clearances from all governmental authorities required under Environmental Laws with respect to the Property and any activities or operations at the Property.
- 4.18.3 To the best of Borrower's knowledge, there have not been and are not now any solid waste, hazardous waste, hazardous or toxic substances, pollutants, contaminants, or petroleum in, on, under or about the Property, nor have or do any activities carried out at the Property generate any electricity, heat, vibration, noise or other radiation which cause harm or damage or other interference with the environment. The use which Borrower makes and intends to make of the Property will not result in the deposit or other release of any hazardous or toxic substances, solid waste, pollutants, contaminants or petroleum on, to or from the Property, or the generation of any electricity, heat, vibration, noise or other radiation which may or is liable to cause harm or damage or other interference with the environment.

- 4.18.4** To the best of Borrower's knowledge, there have been no complaints, citations, claims, notices, information requests, orders or directives on environmental grounds or under Environmental Laws (collectively "Environmental Claims") made or delivered to, pending or served on, or anticipated by Borrower or its agents, or of which Borrower or its agents, are aware or should be aware (i) issued by any governmental department or agency having jurisdiction over the Property or the activities or operations at the Property, or (ii) issued or claimed by any third party relating to the Property or the activities or operations at the Property.
- 4.18.5** To the best of Borrower's knowledge, no asbestos or asbestos-containing materials (as defined in the Asbestos Regulations 1969 and 1987) are installed, used or incorporated into the Property, and no asbestos-containing materials have been disposed of on the Property.
- 4.18.6** To the best of Borrower's knowledge, there are no latent or patent defects in the buildings and structures on or comprising the Property and in the construction of the buildings and its structures on or comprising the Property or any alterations thereto all materials used were in accordance with good design standards and good building practices at the time of construction of such building.
- 4.18.7** To the best of Borrower's knowledge, no polychlorinated biphenyls ("PCBs") are located at, on or in the Property in the form of electrical equipment or devices, including, but not limited to, transformers, capacitors, fluorescent light fixtures with ballasts, cooling oils or any other device or form.
- 4.18.8** To the best of Borrower's knowledge, there have not been and are not now any underground storage tanks located within or about the Property.
- 4.18.9** Borrower has provided Lender with copies of all environmental reports, audits and studies known to Borrower and accessible to Borrower, whether in Borrower's possession or otherwise, regarding the Property.
- 4.19** **Employment Matters.**
- 4.19.1** There are no material strikes or other material employment disputes against Borrower pending or, to its knowledge, threatened.
- 4.19.2** There are no amounts owing to present or former directors, officers employees or workers of the Borrower other than not more than one month's arrears of remuneration accrued or due or for reimbursement

of business expenses incurred within a period of three months preceding the date of this Agreement and no moneys or benefits other than in respect of remuneration or emoluments of employment are payable to or for the benefit of any present or former director, officer, employee or worker of the Borrower, nor any dependant of any present or former director, officer, employee or worker of the Borrower.

- 4.19.3** No liability has been incurred or is reasonably anticipated by the Company for breach of any contract of employment or worker's contract or for services or for severance payments or for redundancy payments or protective awards or for compensation for unfair dismissal or for failure to comply with any order for the reinstatement or re-engagement of any employee or for sex, race or disability discrimination or for any other liability accruing from the termination or variation of any contract of employment or for services or worker's contract;
- 4.19.4** The Borrower has in relation to each of its employees and workers (and so far as relevant to each of its former employees and workers) complied with:
- 4.19.4.1** all obligations imposed on it by all relevant statutes, regulations and codes of conduct and practice affecting its employment of any persons and all relevant orders and awards made thereunder and has maintained current, adequate and suitable records regarding the service, terms and conditions of employment of each of its employees and workers; and
 - 4.19.4.2** all collective agreements, recognition agreements and customs and practices for the time being affecting its employees and workers or their conditions of service.
- 4.19.5** The Borrower has not been served with any improvement and/or prohibition notices pursuant to sections 21 and 22, Health and Safety at Work etc. Act 1974, nor is any prosecution or sentence pending for any (alleged) offence under the Health and Safety at Work Act 1974.
- 4.19.6** There is no liability or claim against the Borrower outstanding or reasonably anticipated under the Equal Pay Act 1970, the Sex Discrimination Acts 1975 and 1986, the Race Relations Act 1976, the Disability Discrimination Act 1995, Employment Relations Act 1996, Transfer of Undertakings (Protection of Employment) Regulations 1981 ("TUPE"), the Social Security Contributions and Benefits Act 1992, Trade Union and Labour Relations (Consolidation) Act 1992

("TULRCA"), the Working Time Regulations 1998 or the National Minimum Wage Regulations 1999.

4.19.7 Within a period of one year preceding the date of this Agreement, the Borrower has not given notice of any redundancies to the Secretary of State or started consultations with any independent trade union or workers' representatives under the provisions of Part IV, TULRCA or under TUPE nor has the Company failed to comply with any such obligation under the said Part IV or TUPE.

4.19.8 The consummation of the transactions contemplated herein will not give rise to a right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which Borrower is a party or by which Borrower is bound.

5. Affirmative Covenants. From the date of execution of this Agreement until all Obligations to Lender have been fully paid and this Agreement terminated, Borrower will:

5.1 Existence. Do all things necessary to (i) preserve and keep in full force and effect at all times its corporate existence and all permits, licenses, franchises and other rights material to its business and (ii) be duly qualified to do business and be in good standing in all jurisdictions where the nature of its business or its ownership of property requires such qualification, except for those jurisdictions in which the failure to qualify or be in good standing could not reasonably be expected to have a material adverse effect.

5.2 Books, Records and Access. Maintain proper books of account and other records and enter therein complete and accurate entries and records of all of its transactions and, upon reasonable advance notice, give representatives of Lender access thereto at all reasonable times, including permission to examine, copy and make abstracts from any of such books and records and such other information as Lender may from time to time reasonably request. Borrower, upon reasonable advance notice, will give Lender reasonable access to its properties for the purposes of examining their assets and verifying their existence. Borrower will make available to Lender for examination copies of any reports, statements or returns which Borrower may make to or file with any governmental department, bureau or agency, and will furnish to Lender copies of any reports, statements, or returns and exhibits thereto that Borrower may make to or file with the Registrar of Companies. In addition, Borrower will be available to Lender, or cause its officers or general partners, as applicable, to be available from time to time upon reasonable notice to discuss the status of the Loans, its business and any statements, records or documents furnished or made available to Lender in connection with this Agreement.

- 5.3 **Monthly Statements.** Furnish Lender within 30 days after the end of each fiscal month internally prepared financial statements of Borrower with respect to such fiscal month, which financial statements will: (a) be in reasonable detail and in form reasonably satisfactory to Lender, (b) be accompanied by a Compliance Certificate, (c) include a balance sheet as of the end of such period, profit and loss and surplus statements for such period and a statement of cash flows for such period, (d) include prior year comparisons and (e) be on a consolidating and consolidated basis for Borrower and its Subsidiaries and for any entity in which Borrower's financial information is consolidated in accordance with generally accepted accounting principles.
- 5.4 **Annual Statements.** Furnish Lender within 120 days after the end of each fiscal year of Borrower annual audited financial statements which will: (a) include a balance sheet as of the end of such year, profit and loss and surplus statements and a statement of cash flows for such year; (b) be on a consolidated basis with Borrower, its Subsidiaries, if any, and any entity into which Borrower's financial information is consolidated in accordance with generally accepted accounting principles; (c) be accompanied by a Compliance Certificate, and (d) contain the unqualified opinion of an independent chartered accountancy and audit firm accredited by the Institute of Chartered Accountants of England and Wales and its examination will have been made in accordance with generally accepted auditing standards and such opinion will identify any generally accepted accounting principles not consistently applied from year to year, to the extent such inconsistency is material to the financing statements.
- 5.5 **Auditor's Letters, Etc.** Furnish any letter, other than routine correspondence, directed to Borrower by its auditors or independent accountants, relating to its financial statements, accounting procedures, financial condition, tax returns or the like since the date of the Current Financial Statements to Lender.
- 5.6 **Taxes.** Pay and discharge when due or within the offered grace period all indebtedness and all taxes, assessments, charges, levies and other liabilities imposed upon it, its income, profits, property or business, except those which currently are being contested in good faith by appropriate proceedings and for which Borrower has set aside adequate reserves or made other adequate provision with respect thereto, but any such disputed item will be paid forthwith upon the commencement of any proceeding for the foreclosure of any lien which may have attached with respect thereto, unless Lender has received an opinion in form and substance and from legal counsel acceptable to Lender that such proceeding is without merit.
- 5.7 **Operations.** Continue its business operations in substantially the same manner as at present, except where such operations are rendered impossible by a fire, strike or other events beyond its control; keep its real and personal properties in good operating condition and repair, allowing for fair wear and tear; make all necessary and proper repairs, renewals, replacements, additions and improvements thereto

and comply with the provisions of all leases to which Borrower is party or under which Borrower occupies or holds real or personal property so as to prevent any loss or forfeiture thereof or thereunder.

- 5.8** **Insurance.** Comply with the insurance requirements of the Loan Documents. In addition to the foregoing, keep its insurable real and personal property insured with responsible insurance companies against loss or damage by fire, windstorm and other hazards which are commonly insured against in an extended coverage endorsement in an amount equal to not less than 90% of the insurable value thereof on a replacement cost basis and also maintain public liability insurance in a reasonable amount. In addition, the parties delivering to Lender insurance certificates as listed on the Closing Memo will maintain extended liability insurance and property insurance of at least the amounts and coverages listed on such certificates delivered in connection with the Closing and in a form and with companies reasonably satisfactory to Lender. Notwithstanding the foregoing, such property insurance will at all times be in an amount so that such party will not be deemed a "co-insurer" under any co-insurance provisions of such policies. All such insurance policies will name Lender as an additional insured and, where applicable, as lender's loss payee under a loss payable endorsement satisfactory to Lender. All such policies will provide that ten (10) days prior written notice must be given to Lender before such policy is altered or cancelled. Schedules of all insurance will be submitted to Lender upon request. Such schedules will contain a description of the risks covered, the amounts of insurance carried on each risk, the name of the insurer and the cost of such insurance. Borrower will provide new schedules to Lender promptly to reflect any change in insurance coverage.
- 5.9** **Compliance with Laws.** Comply with all laws and regulations applicable to Borrower and to the operation of its business, including without limitation those relating to environmental and health matters, and do all things necessary to maintain, renew and keep in full force and effect all rights, permits, licenses, certificates, satisfactory clearances and franchises necessary to enable Borrower to continue its business.
- 5.10** **Environmental Violations.**
- 5.10.1** In the event that any hazardous or toxic substances, pollutants, contaminants, solid waste or hazardous waste, or petroleum are released at or from the Property, or are otherwise found to be in, on, under, about or migrating to or from the Property in violation of Environmental Laws or in excess of cleanup levels established under Environmental Laws, promptly will notify Lender in writing and will promptly commence such action as may be appropriate or required with respect to such conditions, including, but not limited to, investigation, removal and cleanup thereof, and deposit with Lender cash collateral, letter of credit, bond or other assurance of performance in form, substance and amount reasonably acceptable to Lender to

cover the cost of such action. Upon request, Borrower will provide Lender with updates on the status of Borrower's actions to resolve or otherwise address such conditions, until such time as such conditions are fully resolved to the satisfaction of Lender, as determined by Lender in the exercise of its reasonable discretion.

5.10.2 In the event Borrower receives notice of an Environmental Claim from any governmental agency or other third party alleging a violation of or liability under Environmental Laws with respect to the Property or Borrower's activities or operations at the Property, promptly notify Lender in writing and will commence such action as may be appropriate or required with respect to such Environmental Claim. Upon request, Borrower will provide Lender with updates on the status of Borrower's actions to resolve or otherwise address such Environmental Claim, until such claim has been fully resolved to the satisfaction of Lender, as determined by Lender in the exercise of its reasonable discretion.

5.10.3 In the event that any hazardous or toxic substances, pollutants, contaminants, solid waste or hazardous waste, or petroleum are released at or from the Property, or are otherwise found to be in, on, under, about or migrating to or from the Property in violation of Environmental Laws or in excess of cleanup levels established under Environmental Laws, promptly will notify Lender in writing and will promptly commence such action as may be appropriate or required with respect to such conditions, including, but not limited to, investigation, removal and cleanup thereof, and deposit with Lender cash collateral, letter of credit, bond or other assurance of performance in form, substance and amount reasonably acceptable to Lender to cover the cost of such action. Upon request, Borrower will provide Lender with updates on the status of Borrower's actions to resolve or otherwise address such conditions, until such time as such conditions are fully resolved to the satisfaction of Lender, as determined by Lender in the exercise of its reasonable discretion.

5.10.4 In the event Borrower receives notice of an Environmental Claim from any governmental agency or other third party alleging a violation of or liability under Environmental Laws with respect to the Property or Borrower's activities or operations at the Property, promptly notify Lender in writing and will commence such action as may be appropriate or required with respect to such Environmental Claim. Upon request, Borrower will provide Lender with updates on the status of Borrower's actions to resolve or otherwise address such Environmental Claim, until such claim has been fully resolved to the satisfaction of Lender, as determined by Lender in the exercise of its reasonable discretion.

- 5.11 **Environmental Audit and Other Environmental Information.** Provide copies of all environmental reports, audits, and studies obtained by Borrower from work conducted by Borrower or any other person or entity on the Property or property adjacent thereto as soon as such reports, audits and studies become available to it. If the submissions are considered inadequate or insufficient in order for Lender to adequately consider the environmental condition of the Property or the status of Borrower's environmental compliance or if the submissions are in error, then Lender may require Borrower, at Borrower's sole expense, to engage an independent engineering or consulting firm acceptable to Lender to conduct a complete environmental report, study, or audit in as timely as fashion as is reasonably possible. In addition, Borrower will provide Lender with information related to remedial action at its Property or adjacent to its Property as soon as such information becomes available to it.
- 5.12 **Business Names and Locations.** Promptly notify Lender of: (a) any change in the name under which Borrower conducts its business; (b) any change in the location of the assets of the Borrower or Borrower's principal place of business during such fiscal year; and (c) the opening or closing of any place from which Borrower conducts business during such fiscal year.
- 5.13 **Notice of Default.** Notify Lender in writing within five days after Borrower knows or has reason to know of the occurrence of an Event of Default.
- 5.14 **Sale and Leaseback.** Not directly or indirectly enter into any arrangement to sell or transfer all or any part of its assets then owned by Borrower and thereupon or within one year thereafter rent or lease any of the assets so sold or transferred.
- 5.15 **Line of Business.** Not enter into any lines or areas of business substantially different from the business or activities in which Borrower is presently engaged.
- 5.16 **Business Opportunities.** Not divert (or permit anyone to divert) any of its business or opportunities to any other corporate or business entity in which Borrower or its Affiliates may hold a direct or indirect interest.
- 5.17 **Waivers.** Not waive any right or rights of substantial value which, singly or in the aggregate, is or are material to its condition (financial or other), properties or business.
6. **Negative Covenants.** From the date of execution of this Agreement until all of the Obligations have been fully paid, Borrower will not without Lender's prior written consent:
- 6.1 **Debt.** Incur any Indebtedness other than: (a) the Loans and any subsequent Indebtedness to Lender; (b) open account obligations incurred in the ordinary course of business having maturities of less than 150 days; and (c) lease payments for real property.

- 6.2 **Liens.** Incur, create, assume, become or be liable in any way, or suffer to exist any mortgage, pledge, lien, charge or other encumbrance of any nature whatsoever on any of its assets, now or hereafter owned, other than Permitted Liens.
- 6.3 **Guarantees.** Guarantee, endorse or become contingently liable for the obligations of any person, firm or corporation, except in connection with the endorsement and deposit of checks in the ordinary course of business for collection.
- 6.4 **Dividends.** Declare or pay any dividends of any kind other than dividends payable solely on its Ordinary Share Capital
- 6.5 **Redemptions.** Purchase, retire, redeem or otherwise acquire for value, directly or indirectly, any shares of its Ordinary Share Capital now or hereafter outstanding.
- 6.6 **Investments.** Purchase or hold beneficially any stock, other securities or evidences of indebtedness of, or make any investment or acquire any interest whatsoever in, any other person, firm or corporation.
- 6.7 **Merger, Acquisition or Sale of Assets.** Merge or consolidate with or into any other entity or acquire all or substantially all the assets of any person, firm, partnership, joint venture, or corporation, or sell, lease or otherwise dispose of any of its assets except for dispositions in the ordinary course of business.
- 6.8 **Advances and Loans.** Lend money, give credit or make advances to any person, firm, joint venture or corporation, including, without limitation, Affiliates.
- 6.9 **Subsidiaries.** Acquire any Subsidiaries, create any Subsidiaries or enter into any partnership or joint venture agreements.
- 6.10 **Transactions with Affiliates.** Enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of property or the rendering of any service, with any Affiliate unless such transaction is otherwise permitted under this Agreement, is in the ordinary course of its business, and is on reasonable terms no less favorable to Borrower than Borrower would obtain in a comparable arm's length transaction with a non-Affiliate.
- 6.11 **Use of Proceeds.** Use the proceeds of the Loans for any purpose other than funding the organic growth of the Borrower by the opening of retail "Build-A-Bear Workshop" franchise stores in the United Kingdom.
- 6.12 **Fiscal Year.** Change its fiscal year.
7. **Events of Default.** Upon the occurrence of any of the following events with respect to Borrower:

- 7.1 **Non-Payment.** The non-payment of any principal amount of the Revolving Credit Note when due, whether by acceleration or otherwise, or the nonpayment of any interest upon any Note or any other amount due Lender pursuant to this Agreement;
- 7.2 **Covenants.** The default in the due observance of any covenant or agreement to be kept or performed by it under the terms of this Agreement or any of the Loan Documents.
- 7.3 **Representations and Warranties.** Any representation or warranty made by it in this Agreement, in any of the Loan Documents or in any report, certificate, opinion, financial statement or other document furnished in connection with the Obligations is false or erroneous in any material respect or any material breach thereof has been committed;
- 7.4 **Obligations.** Except as provided in Sections 7.1, 7.2 and 7.3 above, the default by it in the due observance of any covenant, negative covenant or agreement to be kept or performed by it under the terms of this Agreement, the Loan Documents or any document now or in the future executed in connection with any of the Obligations and the lapse of any applicable cure period provided therein with respect to such default, or, if so defined therein, the occurrence of any Event of Default or Default (as such terms are defined therein);
- 7.5 **Insolvency, etc.** The Borrower
- 7.5.1 is, or admits in writing that it is, unable generally to pay its debts as they fall due or otherwise is, or admits in writing that it is, insolvent; or
- 7.5.2 stops, or suspends payment of all or a material part of its debts or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness.
- 7.6 **Insolvency proceedings** Any corporate action, legal proceedings or other procedure or step is taken, and not reversed, dismissed or cured within sixty (60) days, in relation to:
- 7.6.1 the suspension of payments, a moratorium of any Indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Borrower;
- 7.6.2 a composition, compromise, assignment or arrangement with any creditor of the Borrower;

- 7.6.3 the appointment of a liquidator receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any member of the Group or any of its assets; or
- 7.6.4 enforcement of any security over any assets of the Borrower, or any analogous procedure or step is taken in any jurisdiction.
- 7.7 **Execution, Attachment, Etc.** The commencement of any foreclosure proceedings, proceedings in aid of execution, attachment actions, levies against, or the filing by any taxing authority of a lien against it or against any of its assets, except those liens being diligently contested in good faith which in the aggregate do not exceed \$100,000;
- 7.8 **Loss, Theft or Substantial Damage to Assets.** The loss, theft or substantial damage to its assets if the result of such occurrence (singly or in the aggregate) is the failure or inability to resume substantially normal operation of its business within 30 days of the date of such occurrence;
- 7.9 **Judgments.** Unless in the reasonable opinion of Lender it is adequately insured or bonded, the entry of a final judgment for the payment of money involving more than \$100,000 against it and the failure by it to discharge the same, or cause it to be discharged, within 10 days from the date of the order, decree or process under which or pursuant to which such judgment was entered, or to secure a stay of execution pending appeal of such judgment; the entry of one or more final monetary or non-monetary judgments or order which, singly or in the aggregate, does or could reasonably be expected to: (a) cause a material adverse change in the value of its assets or its condition (financial or otherwise), operations, properties or prospects, (b) have a material adverse effect on its ability to perform its obligations under this Agreement or the Loan Documents, or (c) have a material adverse effect on the rights and remedies of Lender under this Agreement, the Revolving Credit Note or any Loan Document;
- 7.10 **Impairment of Security.** (a) The validity or effectiveness of any Loan Document or its transfer, grant, pledge, mortgage or assignment by the party executing it in favor of Lender is impaired; (b) any party, other than Lender, to a Loan Document asserts that any Loan Document is not a legal, valid and binding obligation of it enforceable in accordance with its terms; (c) the security interest or lien purporting to be created by any of the Loan Documents ceases to be or is asserted by any party to any Loan Document (other than Lender) not to be a valid, perfected lien subject to no liens other than liens not prohibited by this Agreement or any Loan Document; or (d) any Loan Document is amended, subordinated, terminated or discharged, or any person is released from any of its covenants or obligations except to the extent that Lender expressly consents in writing thereto;

- 7.11 **Other Indebtedness of Lender's Affiliates.** A default with respect to any evidence of Indebtedness by it (other than to Lender pursuant to this Agreement) to any of Lender's Affiliates, if the effect of such default is to accelerate the maturity of such Indebtedness or to permit the holder thereof to cause such Indebtedness to become due prior to the stated maturity thereof, or if any Indebtedness of it for borrowed money (other than to Lender pursuant to this Loan Agreement) is not paid when due and payable, whether at the due date thereof or a date fixed for prepayment or otherwise (after the expiration of any applicable grace period);
- 7.12 **Other Indebtedness.** A default with respect to any evidence of Indebtedness in excess of \$100,000 by it (other than to Lender or Lender's Affiliate pursuant to this Agreement), if the effect of such default is to accelerate the maturity of such Indebtedness or to permit the holder thereof to cause such Indebtedness to become due prior to the stated maturity thereof, or if any Indebtedness of it in excess of \$100,000 for borrowed money (other than to Lender or Lender's Affiliate pursuant to this Loan Agreement) is not paid when due and payable, whether at the due date thereof or a date fixed for prepayment or otherwise (after the expiration of any applicable grace period);
- 7.13 **Leases.** Any declared material default, that is not cured within any applicable cure period, existing under more than two (2) of Borrower's real property leases at any one time;
- 7.14 **Franchise Agreement.** Any declared default, that is not cured within any applicable cure period, existing under the Franchise Agreement;
- 7.15 **Chance of Control Event.** The occurrence of any Change of Control Event;
- 7.16 **Security.** The Borrower will not have executed prior to 21 days following the date hereof a debenture granting security over its assets in a form and substance satisfactory to the Lender; then immediately upon the occurrence of any of the events described in Section 7.5 or 7.6 and at the option of the Lender upon the occurrence of any other Event of Default, the Loan, all notes and all other Obligations immediately will mature and become due and payable without presentment, demand, protest or notice of any kind which are hereby expressly waived. After the occurrence of any Event of Default, Lender is authorized without notice to anyone to offset and apply to all or any part of the Obligations all moneys, credits and other property of any nature whatsoever of Borrower now or at any time hereafter in the possession of, in transit to or from, under the control or custody of, or on deposit with (whether held by Borrower individually or jointly with another party), Lender or any of Lender's Affiliates. The rights and remedies of Lender upon the occurrence of any Event of Default will include but not be limited to all rights and remedies provided in the Loan Documents and all rights and remedies provided under applicable law. In furtherance but not in limitation of the foregoing, upon the occurrence of an Event of Default, Lender

may refuse to make any further advances under any Note included in the Obligations. Borrower waives any requirement of marshalling of the assets covered by the Loan Documents upon the occurrence of any Event of Default. Notwithstanding the foregoing, Borrower shall have the right to cure any Event of Default described in Sections 7.1, 7.2, 7.4, 7.8, 7.11, 7.12 7.13 and 7.14 within thirty (30) days of receiving notice from Lender of such Event of Default; provided, however, if, within such thirty (30) day cure period, Borrower commences to exercise best efforts to cure such Event of Default, as solely determined by Lender, Borrower's right to cure such Event of Default shall be extended to ninety (90) days of receiving notice from Lender of such Event of Default.

7.17 Conversion of the Note.

7.17.1 Optional Conversion Right. Upon the occurrence of an Event of Default, the Lender shall be entitled, at its option, to convert all or any portion of the outstanding and unpaid Conversion Amount (as defined below) into fully paid and nonassessable shares of Common Stock in accordance with Section 7.17, at the Conversion Rate (as defined below). The Borrower shall not issue any fraction of a share of Common Stock upon any conversion. If the issuance would result in the issuance of a fraction of a share of Common Stock, the Borrower shall round such fraction of a share of Common Stock up to the nearest whole share. The Borrower shall pay any and all documentary stamp, transfer or similar taxes that may be payable with respect to the issuance and delivery of Common Stock upon conversion of any Conversion Amount, and such amount shall not be offset against any Conversion Amount.

7.17.2 Conversion Rate. The number of shares of Common Stock issuable upon conversion of any Conversion Amount pursuant to Section 7.17 shall be determined by dividing (x) such Conversion Amount by (y) the Conversion Price (as defined below) (the "Conversion Rate").

7.17.3 "Conversion Amount" means the sum of (A) the portion of the Loan to be converted, redeemed or otherwise with respect to which this determination is being made, (B) accrued and unpaid Interest with respect to such Loan and (C) accrued and unpaid Late Charges with respect to such Principal and Interest.

7.17.4 "Conversion Price" means, as of any Conversion Date (as defined below) or other date of determination, and subject to adjustment as provided herein, fair market value as determined at the time by an independent firm of accountants.

7.18 **Mechanics of Conversion.**

- 7.18.1 **Notice of Conversion.** To convert any Conversion Amount into shares of Common Stock on any date (a "Conversion Date"), the Lender shall transmit by facsimile (or otherwise deliver), for receipt on or prior to 11:59 p.m., New York Time, on such date, a written notice of conversion (the "Conversion Notice") to the Borrower. On or before the third Business Day following the date of receipt of a Conversion Notice (the "Share Delivery Date"), the Borrower shall issue and dispatch by overnight courier to the address as specified in the Conversion Notice, a certificate, registered in the name of the Lender or its designee, for the number of shares of Common Stock to which the Lender shall be entitled. If the Note is physically surrendered for conversion and the outstanding Principal of the Note is greater than the Principal portion of the Conversion Amount being converted, then the Borrower shall as soon as practicable and in no event later than three Business Days after receipt of the Note and at its own expense, issue and dispatch by overnight courier to the Lender a new Note representing the outstanding Principal not converted. The Person or Persons entitled to receive the shares of Common Stock issuable upon a conversion of the Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date.
- 7.18.2 **Borrower's Failure to Timely Perform.** If the Borrower shall fail to issue a certificate to the Lender for the number of shares of Common Stock to which the Lender is entitled upon conversion of any Conversion Amount on or prior to the date which is five Business Days after the Conversion Date (in each case, a "Conversion Failure"), then (A) the Borrower shall pay damages to the Lender for each date of such Conversion Failure in an amount equal to __.0% of the Conversion Amount and (B) the Lender, upon written notice to the Borrower, may void its Conversion Notice with respect to, and retain or have returned, as the case may be, any portion of the Note that has not been converted pursuant to such Conversion Notice; provided that the voiding of a Conversion Notice shall not affect the Borrower's obligations to make any payments which have accrued prior to the date of such notice pursuant to this Section 7.17 or otherwise.
- 7.18.3 **Book-Entry.** Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of the Note in accordance with the terms hereof, the Lender shall not be required to physically surrender the Note to the Borrower unless the full Conversion Amount represented by the Note is being converted. The Lender and the Borrower shall maintain records showing the Principal, Interest and Late Charges converted and the dates of such conversions or shall use such other method, reasonably

satisfactory to the Lender and the Borrower, so as not to require physical surrender of the Note upon conversion.

7.18.4 Representation and Covenant with Respect to the Conversion Shares. The Borrower represents that the all corporate action on the part of the Borrower and its officers, directors and stockholders necessary for authorization, issuance, and delivery of the Shares of the Common Stock issuable upon conversion of the Note has been taken. The Common Stock issuable upon conversion of the Note has been duly and validly reserved and, upon issuance in accordance with the conversion provisions of this Agreement and the Note, shall be duly and validly issued, fully paid and nonassessable, and will be free of any liens, encumbrances and preemptive rights or rights of first refusal of existing and future stockholders, whether under the organizational documents of the Borrower, contractual agreements to which the Borrower or its stockholders are a party, or otherwise. The Borrower shall continue to reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the Note a number of its shares of Common Stock as shall be sufficient to effect the conversion of the Note, based on the good faith estimate of the Borrower. If at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of the entire outstanding principal amount of this Note, the Borrower will use its reasonable efforts to take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purposes, *provided that* the foregoing shall not be deemed to limit any other remedies as shall be available to the Lender.

8. Conditions Precedent.

8.1 At Closing. Lender's obligation to make any of the Loans is conditioned upon the receipt by Lender of all documents in form and substance acceptable to Lender listed on the Closing Memo, except for those specifically listed thereon as post-closing items.

8.2 Additional Advances. Lender's obligations to make any Loan and/or any advance under any Note on any date in the future (to the extent that there are funds remaining to be disbursed hereunder or under any Note) are subject to the conditions precedent that:

8.2.1 No Defaults. There does not exist any Default or Event of Default.

8.2.2 **Accuracy.** The representations and warranties contained in this Agreement, the Loan Documents, and in each document listed on the Closing Memo prepared by Borrower, executed by Borrower or provided by a third party at the request of Borrower, and in any document delivered in connection therewith will be true and accurate on and as of such date, except as such warranties and representations may be affected by: (a) this Agreement or transactions contemplated thereby, and (b) events occurring after the Closing Date as to those representations and warranties relating to the Current Financial Statements.

8.2.3 **Other Documents.** Lender will have received such other documents, instruments, opinions, certificates, or items of information which it may have reasonably required in connection with the transactions provided for in this Agreement.

8.3 **Borrowing Representations.** Each borrowing by Borrower hereunder will constitute a representation and warranty by Borrower as of the date of such borrowing that the conditions set forth in Section 8.2 have been satisfied.

9. **Post-Closing Expenses.** To the extent that Lender incurs any costs or expenses in protecting or enforcing its rights hereunder or observing or performing any of the conditions or obligations of Borrower or any Guarantor thereunder, including but not limited to reasonable Attorneys' Fees in connection with litigation, preparation of amendments or waivers, present or future stamp or documentary taxes, charges or similar levies which arise from any payment made hereunder or from the execution, delivery or registration of any Loan Document or this Agreement, such costs and expenses will be due on demand, will be included in the Obligations and will bear interest at the Default Rate if not paid within fifteen (15) days of becoming due.

10. **Representations and Warranties to Survive.** All representations, warranties, covenants, indemnities and agreements made by Borrower herein and in the Loan Documents will survive the execution and delivery of this Agreement, the Loan Documents and the issuance of any notes.

11. **Definitions.** For purposes hereof:

11.1 Each accounting term not defined or modified herein will have the meaning given to it under generally accepted accounting principles in effect on the Closing Date.

11.2 "Affiliate" will mean any person, partnership, joint venture, company or business entity under common control or having similar equity holders owning at least ten percent (10%) thereof, whether such common control is direct or indirect. All of Person's direct or indirect parent corporations, partners, Subsidiaries, and the officers, members, directors and partners of any of the foregoing and persons

related by blood or marriage to any of the foregoing will be deemed to be a Person's Affiliates for purposes of this Agreement.

- 11.3** "Attorneys Fees" will mean the reasonable value of the services (and all costs and expenses related thereto) of the attorneys (and all paralegals and other staff employed by such attorneys) employed by Lender from time to time to: (i) take any action in or with respect to any suit or proceedings (bankruptcy or otherwise) relating to this Agreement or the Revolving Credit Note; (ii) protect, collect, lease or sell, any of the assets of the Borrower; (iii) attempt to enforce any lien on any of such assets or to give any advice with respect to such enforcement; (iv) enforce any of Lender's rights to collect any of the Obligations; (v) give Lender advice with respect to this Agreement, including but not limited to advice in connection with any default, workout or bankruptcy; (vi) prepare any amendments, restatements, amendments or waivers to this Agreement or any of the documents executed in connection with any of the Obligations.
- 11.4** "Business Day" will mean any day excluding Saturday, Sunday and any other day on which banks are required or authorized to close in Missouri.
- 11.5** "Change of Control Event" will mean any event or series of events, or any agreement, contract, or arrangement of any kind entered into by Borrower which results, or which would result if consummated or completed, in (i) the existing investors in the Borrower as of the date of this Loan Agreement ceasing to own at least fifty one percent (51%) of the issued and outstanding stock of Borrower.
- 11.6** "Closing" will mean the execution and delivery of the documents listed on the Closing Memo.
- 11.7** "Closing Date" will mean the date on which this Agreement is executed.
- 11.8** "Closing Memo" will mean the Closing Memorandum between Borrower and Lender in connection with the transactions represented by this Agreement.
- 11.9** "Collateral" will mean any property, real or personal, tangible or intangible, now or in the future securing the Obligations, including but not limited to the property covered by the Loan Documents.
- 11.10** "Compliance Certificate" will mean a compliance certificate in form and substance reasonably acceptable to Lender and demonstrating the compliance of Borrower with certain of the covenants set forth herein.
- 11.11** "Consolidated EBITDA" will mean, with respect to any fiscal period, Borrower's and its Subsidiaries' consolidated net earnings (or loss), minus extraordinary gains and interest income, plus Interest Expense, income taxes, and depreciation and amortization for such period, in each case, as determined in accordance with GAAP.

- 11.12** "Consolidated Excess Cash Flow" means with respect to a fiscal year, an amount equal to (i) Consolidated EBITDA for such period, *minus* (ii) Interest Expense for such period, *minus* (iii) federal and state income taxes attributable to the income of Borrower and its Subsidiaries, *minus* (iv) capital expenditures of Borrower and its Subsidiaries.
- 11.13** "Current Financial Statements" will mean the following financial statements: (a) Borrower's audited balance sheet dated December 31, 2004 and statement of profit, loss and surplus for the fiscal year ended December 31, 2004; and (b) Borrower's internally prepared balance sheet dated June 30, 2005 and statement of profit, loss and surplus for the period January 1, 2005 through June 30, 2005. For the purposes of any future date on which the representations and warranties contained in Section 4 hereof are deemed to be remade, the most current financial statements, tax returns or other documents with respect to Borrower or any Guarantor delivered to Lender pursuant to Section 5 above will be deemed the "Current Financial Statements".
- 11.14** "Default Rate" will mean 4% per annum plus the highest rate of interest that would otherwise be in effect under any Note but not more than the highest rate permitted by applicable law.
- 11.15** "Default" will mean any event or condition that with the passage of time or giving of notice, or both, would constitute an Event of Default.
- 11.16** "Environmental Laws" will mean any and all laws, whether civil, criminal or administrative which have as a purpose or effect the protection of the environment, and/or the mitigation, abatement, containment or prevention of harm or damage or other interference with the environment and/or the provision of remedies in respect of such harm or damage, including European Community or European Union regulations, directives, decisions and recommendations; statutes and subordinate legislation; regulations, orders, ordinances; permits, licenses, consents, codes of practice, circulars, guidance notes and the like; common law, local laws and byelaws; judgments, notices, orders, directions, instructions or awards of any competent authority having regulatory authority under Environmental Laws and/or any court of law or tribunal;
- 11.17** "Event of Default" will mean any of the events listed in Section 7.
- 11.18** "Franchise Agreement" will mean that certain International Area Development and License Agreement by and between the Lender and the Borrower dated as of May 13, 2003.
- 11.19** "Funded Debt" will mean all Indebtedness to financial institutions or commercial lenders.

- 11.20** "GAAP" will mean means generally accepted accounting principles as in effect from time to time in the United States, consistently applied.
- 11.21** "Guarantees" will mean the guarantees of all or any part of the Obligations, now existing or hereafter arising, whether on a full, limited or non-recourse basis and such term will include any person or entity that hypothecates or otherwise pledges any property to Lender in connection with any of the Obligations and will include any amendments thereto and restatements thereof.
- 11.22** "Guarantor(s)" will mean any persons or entities that now or in the future deliver one or more Guarantees to Lender.
- 11.23** "Indebtedness" will mean, without duplication: (i) all obligations (including capitalized lease obligations) which in accordance with generally accepted accounting principles would be shown on a balance sheet as a liability; (ii) all obligations for borrowed money or for the deferred purchase price of property or services; and (iii) all guarantees, reimbursement, payment or similar obligations, absolute, contingent or otherwise, under acceptance, letter of credit or similar facilities.
- 11.24** "Interest Expense" will mean, for any period, the aggregate of the interest expense of Borrower and its Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP.
- 11.25** "Lender's Affiliate" will mean any person, partnership, joint venture, company or business entity under common control or having similar equity holders owning at least ten percent (10%) thereof with Lender, whether such common control is direct or indirect. All of Lender's direct or indirect parent corporations, sister corporations, and subsidiaries will be deemed to be a Lender's Affiliate for purposes of this Agreement.
- 11.26** "Loan(s)" will mean any and all advances of funds under this Agreement or the Revolving Credit Note whether before or after the signature date of this Agreement.
- 11.27** "Loan Documents" will mean this agreement and the agreements, pledges, mortgages, guarantees, or other documents delivered by Borrower, any Guarantor or any other person or entity to Lender or Lender's Affiliate previously, now or in the future related to the Obligations, including but not limited to those listed on the Closing Memo, and all amendments thereto and restatements thereof.
- 11.28** "Note(s)" will mean any note, now or in the future, between Borrower and Lender, and will include any amendments made thereto and restatements thereof, extensions and replacements, including without limitation, the Revolving Credit Note.

11.29 "Obligations" will mean and include all loans, advances, debts, liabilities, obligations, covenants and duties owing to Lender or any of Lender's Affiliates, from Borrower of any kind or nature, present or future, whether or not evidenced by any note, guaranty or other instrument, including but not limited to those arising under: (i) this Agreement, (ii) any International Swaps and Derivatives Association Master Agreement ("Master Agreement"), and including each Transaction (as such term is defined in the Master Agreement), as confirmed in the applicable confirmation of each such Transaction, (iii) any obligation of Borrower to Lender or any Lender's Affiliate under any other interest rate swap, cap, collar, floor, option, forward, or other type of interest rate protection, foreign exchange or derivative transaction agreement, (iv) the Revolving Credit Note, (v) under any other agreement, instrument or document, whether or not for the payment of money, whether arising by reason of an extension of credit, opening of a Letter of Credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment, participation, purchase, negotiation, discount or otherwise), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising and whether or not contemplated by Borrower or Lender or any Lender's Affiliate on the Closing Date; and as to all of the foregoing, including any amendments, modifications, or superceding documents to each of the foregoing; and all charges, expenses, fees, including but not limited to reasonable Attorneys' Fees, and any other sums chargeable to Borrower under any of the Obligations.

11.30 "Permitted Liens" will mean:

11.30.1 liens securing the payment of taxes, either not yet due or the validity of which is being contested in good faith by appropriate proceedings, and as to which Borrower has set aside on its books adequate reserves to the extent required by generally accepted accounting principles;

11.30.2 deposits under workers' compensation, unemployment insurance and social security laws, or to secure the performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, or to secure statutory obligations or surety or appeal bonds, or to secure indemnity, performance or other similar bonds in the ordinary course of business;

11.30.3 liens imposed by law, such as carrier's, warehousemen's or mechanics' liens, incurred by Borrower in good faith in the ordinary course of business, and liens arising out of a judgment or award against Borrower with respect to which Borrower will currently be prosecuting an appeal, a stay of execution pending such appeal having been secured;

11.30.4 liens in favor of Lender;

- 11.30.5** reservations, exceptions, encroachments and other similar title exceptions or encumbrances affecting real properties, provided such do not materially detract from the use or value thereof as used by the owner thereof;
- 11.30.6** attachment, judgment, and similar liens provided that execution is effectively stayed pending a good faith contest; and
- 11.30.7** liens by a bank on deposit accounts of Borrower that arise by operation of law, and that are otherwise in compliance with the terms of this Agreement.
- 11.31** "Person" will include an individual, a corporation, a limited liability company, an association, a partnership, a trust or estate, a joint stock company, an unincorporated organization, a joint venture, a government (foreign or domestic), any agency or political subdivisions thereof, or any other entity.
- 11.32** "Prime Rate" will mean the rate per annum established by U.S. Bank National Association from time to time. Subject to any maximum or minimum interest rate limitations specified herein or by applicable law, if and when such Prime Rate changes, then in each such event, the rate of interest payable under this Agreement, any Note, the Loan Documents or any other document evidencing the Obligations that is tied to the Prime Rate will change automatically without notice effective the date of such changes.
- 11.33** "Revolving Credit Loan" will have the meaning set forth in Section 2.1.1 above.
- 11.34** "Security Documents" will mean this agreement and the agreements, pledges, mortgages, guarantees, or other documents delivered by Borrower or any other person or entity to Lender, now or in the future to encumber the Collateral in favor of Lender, and all amendments thereto and restatements thereof.
- 11.35** "Subsidiaries" will mean a corporation of which shares of stock having ordinary voting power (other than stock having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by Borrower.
- 11.36** All other terms contained in this Agreement and not otherwise defined herein will, unless the context indicates otherwise, have the meanings provided for by the Uniform Commercial Code of the State of Missouri to the extent the same are defined therein.

12. **General.**

- 12.1 **Indemnity.** Borrower will indemnify, defend and hold harmless Lender, its directors, officers, counsel and employees, from and against all claims, demands, liabilities, judgments, losses, damages, costs and expenses, joint or several (including all accounting fees and Attorneys' Fees reasonably incurred), that Lender or any such indemnified party may incur arising under or by reason of this Agreement or any act hereunder or with respect hereto or thereto including but not limited to any of the foregoing relating to any act, mistake or failure to act in perfecting, maintaining, protecting or realizing on any collateral or lien thereon except the willful misconduct or gross negligence of such indemnified party. Without limiting the generality of the foregoing, Borrower agrees that if, after receipt by Lender of any payment of all or any part of the Obligations, demand is made at any time upon Lender for the repayment or recovery of any amount or amounts received by Borrower in payment or on account of the Obligations and Lender repays all or any part of such amount or amounts by reason of any judgment, decree or order of any court or administrative body, or by reason of any settlement or compromise of any such demand, this Agreement will continue in full force and effect and Borrower will be liable, and will indemnify, defend and hold harmless Lender for the amount or amounts so repaid. The provisions of this Section will be and remain effective notwithstanding any contrary action which may have been taken by Borrower in reliance upon such payment, and any such contrary action so taken will be without prejudice to Lender's rights under this Agreement and will be deemed to have been conditioned upon such payment having become final and irrevocable. The provisions of this Section will survive the expiration or termination of this Agreement.
- 12.2 **Continuing Agreement.** This Agreement is and is intended to be a continuing Agreement and will remain in full force and effect until the Loan is finally and irrevocably paid in full.
- 12.3 **No Third Party Beneficiaries.** Nothing express or implied herein is intended or will be construed to confer upon or give any person, firm, or corporation, other than the parties hereto, any right or remedy hereunder or by reasons hereof.
- 12.4 **No Partnership or Joint Venture.** Nothing contained herein or in any of the agreements or transactions contemplated hereby is intended or will be construed to create any relationship other than as expressly stated herein or therein and will not create any joint venture, partnership or other relationship.
- 12.5 **Waiver.** No delay or omission on the part of Lender to exercise any right or power arising from any Event of Default will impair any such right or power or be considered a waiver of any such right or power or a waiver of any such Event of Default or any acquiescence therein nor will the action or nonaction of Lender in case of such Event of Default impair any right or power arising as a result thereof or affect any subsequent default or any other default of the same or a different

nature. No disbursement of the Loans hereunder will constitute a waiver of any of the conditions to Lender's obligation to make further disbursements; nor, in the event that Borrower is unable to satisfy any such condition, will any such disbursement have the effect of precluding Lender from thereafter declaring such inability to be an Event of Default.

12.6 **Notices.** All notices, demands, requests, consents, approvals and other communications required or permitted hereunder will be in writing and will be conclusively deemed to have been received by a party hereto and to be effective if delivered personally to such party, or sent by telecopy (followed by written confirmation) or by overnight courier service, or by certified or registered mail, return receipt requested, postage prepaid, addressed to such party at the address set forth below or to such other address as any party may give to the other in writing for such purpose:

To Borrower: **AMSBRA, LTD.**
St. Stephens House
Arthur Road
Windsor, Berkshire, SL41RU
United Kingdom
Attention: Rupert Ashe

To Lender: **BUILD-A-BEAR WORKSHOP FRANCHISE HOLDINGS, INC.**
1954 Innerbelt Business Center Drive
St. Louis, Missouri 63114
Attention: T. William Alvey, III

All such communications, if personally delivered, will be conclusively deemed to have been received by a party hereto and to be effective when so delivered, or if sent by telecopy, on the day on which transmitted, or if sent by overnight courier service, on the day after deposit thereof with such service, or if sent by certified or registered mail, on the third Business Day after the day on which deposited in the mail.

12.7 **Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns, provided, however, that Borrower may not assign this Agreement in whole or in part without the prior written consent of Lender and Lender at any time may assign this Agreement in whole or in part.

12.8 **Modifications.** This Agreement, the Revolving Credit Note and the Loan Documents, and the documents listed on the Closing Memo, constitute the entire agreement of the parties and supersede all prior agreements and understandings regarding the subject matter of this Agreement, including but not limited to any proposal or commitment letters. No modification or waiver of any provision of

this Agreement, any Note, any of the Loan Documents or any of the documents listed on the Closing Memo, nor consent to any departure by Borrower therefrom, will be established by conduct, custom or course of dealing; and no modification, waiver or consent will in any event be effective unless the same is in writing and specifically refers to this Agreement, and then such waiver or consent will be effective only in the specific instance and for the purpose for which given. No notice to or demand on Borrower in any case will entitle Borrower to any other or further notice or demand in the same, similar or other circumstance.

- 12.9 Remedies Cumulative.** No single or partial exercise of any right or remedy by Lender will preclude any other or further exercise thereof or the exercise of any other right or remedy. All remedies hereunder and in any instrument or document evidencing, securing, guaranteeing or relating to any Loan or now or hereafter existing at law or in equity or by statute are cumulative and none of them will be exclusive of the others or any other remedy. All such rights and remedies may be exercised separately, successively, concurrently, independently or cumulatively from time to time and as often and in such order as Lender may deem appropriate.
- 12.10 Illegality.** If fulfillment of any provision hereof or any transaction related hereto or of any provision of the Revolving Credit Note or the Loan Documents, at the time performance of such provision is due, involves transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled will be reduced to the limit of such validity; and if any clause or provisions herein contained other than the provisions hereof pertaining to repayment of the Obligations operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision only will be void, as though not herein contained, and the remainder of this Agreement will remain operative and in full force and effect; and if such provision pertains to repayment of the Obligations, then, at the option of Lender, all of the Obligations of Borrower to Lender will become immediately due and payable.
- 12.11 Gender, etc.** Whenever used herein, the singular number will include the plural, the plural the singular and the use of the masculine, feminine or neuter gender will include all genders.
- 12.12 Headings.** The headings in this Agreement are for convenience only and will not limit or otherwise affect any of the terms hereof.
- 12.13 Time.** Time is of the essence in the performance of this Loan Agreement.
- 12.14 Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same agreement. Any party so executing this Agreement by facsimile transmission shall promptly deliver a manually executed counterpart,

provided that any failure to do so shall not affect the validity of the counterpart executed by facsimile transmission.

- 12.15 Costs and Attorneys' Fees.** If Lender or Borrower is required to enforce this Agreement in a judicial proceeding, the party prevailing in such proceeding shall recover from the other party its reasonable costs and expenses, including without limitation reasonable attorneys' fees (for attorneys and legal assistants), accountants' fees, and expert witness fees, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. If the Lender is required to engage legal counsel in connection with any failure by Borrower to comply with this Agreement, Borrower shall reimburse Lender for any of the above listed costs and expenses incurred by it.
- 12.16 Governing Law and Jurisdiction; No Jury Trial.** Lender and Borrower agree that, except to the extent governed by federal law, this Agreement shall be governed by the internal laws of the State of Missouri, U.S.A., exclusive of the choice of law and conflict of law rules of that state.
- 12.17 Arbitration.** All controversies, disputes or claims arising between the Lender, its Affiliates and their respective shareholders, partners, officers, directors, employees, agents and attorneys (in their representative capacity) and Borrower (and its Owners) arising out of or related to the relationship of the parties hereto, or this Loan Agreement, shall be submitted for arbitration to be administered by the American Arbitration Association ("AAA") on demand of either party.
- 12.17.1** Such arbitration proceedings shall be conducted in St. Louis, Missouri, before a panel of three (3) arbitrators and, except as otherwise provided in this Agreement, shall be conducted in accordance with the then current commercial arbitration rules of the AAA for international arbitrations. Lender and Borrower shall each appoint one arbitrator and the two arbitrators so appointed shall appoint a third arbitrator to act as Chairman of the tribunal. If a party fails to nominate an arbitrator within thirty (30) days from the date when the request for Arbitration has been communicated to the counter-party, such appointment shall be made by the AAA. The two arbitrators thus appointed shall attempt to agree upon the third arbitrator to act as Chairman. If said two arbitrators fail to nominate the Chairman within thirty (30) days from the date of appointment of the second arbitrator to be appointed, the Chairman shall be appointed by the AAA. Unless otherwise provided in this Paragraph 12.17.1, all matters within the scope of the Federal Arbitration Act of the United States (9 U.S.C. §1 et seq.) shall be governed by it.
- 12.17.2** The arbitrators shall have the right to award or include in their award any relief which they deem proper in the circumstances, including without limitation, money damages (with interest on unpaid amounts

from date due), specific performance, injunctive relief, legal fees and costs, provided that the arbitrators shall not have the authority to award exemplary or punitive damages. The award and decision of the arbitrators shall be conclusive and binding upon all parties hereto and judgment upon the award may be entered in any court of competent jurisdiction, and Borrower and Lender waive any right to contest the validity or enforceability of such award.

12.17.3 The parties further agree to be bound by the provisions of any applicable limitation on the period of time in which claims must be brought under applicable law or this Agreement, whichever is less. The parties further agree that in connection with any such arbitration proceeding each shall submit or file all claims which it has against the other party within the same proceeding as the claim to which it relates. Any such claim which is not submitted or filed as described above shall be barred. Borrower and Lender agree that arbitration shall be conducted on an individual, not a class-wide basis and that any arbitration proceeding between Lender and Borrower shall not be consolidated with any other arbitration proceeding involving Lender and any other person, corporation, partnership or entity. This arbitration provision shall continue in full force and effect subsequent to and notwithstanding expiration or termination of this Agreement.

12.17.4 Borrower and Lender agree that any action against Borrower arising out of or relating to this Agreement seeking the enforcement of an arbitration award may be brought in a state or federal court of competent jurisdiction in St. Louis County, Missouri. Borrower irrevocably submits to the jurisdiction of such courts and waives any objection it may have to either the jurisdiction or venue of such courts.

12.18 BORROWER HEREBY CONSENTS THAT ALL SERVICE OF PROCESS BE MADE BY CERTIFIED MAIL DIRECTED TO BORROWER AT BORROWER'S ADDRESS SET FORTH HEREIN FOR NOTICES AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED FIVE (5) BUSINESS DAYS AFTER THE SAME HAS BEEN DEPOSITED IN U.S. MAIL, POSTAGE PREPAID; PROVIDED THAT NOTHING CONTAINED HEREIN WILL PREVENT LENDER FROM BRINGING ANY ACTION OR EXERCISING ANY RIGHTS AGAINST ANY SECURITY OR AGAINST BORROWER INDIVIDUALLY, OR AGAINST ANY PROPERTY OF BORROWER, WITHIN ANY OTHER STATE OR NATION. BORROWER WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED HEREUNDER. BORROWER AND LENDER EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT, ANY DOCUMENTS EVIDENCING ANY OF THE

REVOLVING CREDIT NOTE

\$4,425,000

St. Louis, Missouri
September 26, 2005

FOR VALUE RECEIVED, **AMSBRA, LTD.** ("Borrower") promises to pay to the order of **BUILD-A-BEAR WORKSHOP FRANCHISE HOLDINGS, INC.** ("Lender") in lawful money in immediately available funds at its offices located at 1954 Innerbelt Business Center Drive, St. Louis, Missouri 63114, the principal sum of FOUR MILLION FOUR HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$4,425,000) ("Total Facility") or such lesser amount as may be outstanding hereunder, together with interest from the date of disbursement of funds hereunder at the interest rate per annum set forth below.

Capitalized terms used in this Note and not otherwise defined herein will have the same meanings given such terms in the Loan Agreement of even date herewith (the "Loan Agreement") between Borrower and Lender.

1. **Rate of Interest.** Interest on each advance (each, a "Prime Rate Loan") hereunder shall accrue at the greater of (a) the Prime Rate, as and when such rate changes, plus 0.075% per annum, and (b) 7.00% per annum, compounded monthly, subject to the applicability of the Default Rate. Interest calculations under this Note will be computed on the basis of 360 days per year for the actual number of days in each interest period.
 2. **Loan Documents.** This Note is issued in connection with the Loan Agreement. All references to the Loan Agreement will include all amendments thereto as made from time to time. The terms, covenants, conditions, stipulations and agreements contained in the Loan Agreement are hereby made a part hereof to the same extent and effect as if they were fully set forth herein. This Note, any Guarantee, the Loan Agreement, and all related loan and security documents are referred to herein as the "Loan Documents".
 3. **Payments and Application of Payments.**
 - 3.1 On January 1, 2008 and on the first day of each month thereafter continuing to and including December 1, 2011, the Borrower shall pay equal, monthly installments of the principal balance outstanding as of December 31, 2005, together with all accrued and unpaid interest on the principal balance outstanding as of such date.
 - 3.2 Any remaining outstanding principal balance of all Prime Rate Loans, all accrued and unpaid interest thereon, and all other amounts due under the Loan Documents will be due and payable in full on December 31, 2011.
 - 3.3 Borrower may prepay all or any portion of this Note at any time without premium or penalty. Payments received will be applied in such order as Lender may elect.
-

4. **Late Payments.** If Borrower fails to make any payment of principal, interest or other amount coming due pursuant to the provisions of this Note within 5 calendar days of the date due and payable, Borrower also shall pay to Lender a late charge equal to the greater of two and one-half percent (2.5%) of the amount of such payment or fifty dollars (\$50.00) (the "Late Charge").
5. **Advances.**
- 5.1 At any time through March 31, 2006, Borrower may borrow, repay, and reborrow under this Note subject to the terms, conditions, and limits set forth herein and in the Loan Agreement. Lender is authorized to record in its books and records the date and amount of each advance and payment hereunder, and other information related thereto, which books and records will constitute prima facie evidence of the accuracy of the information so recorded; provided, however, that failure of Lender to record, or any error in recording, any such information will not relieve Borrower of any of its obligations under this Note or any of the other Loan Documents. Notwithstanding the foregoing, Lender will not make any advance under this Note which would cause the outstanding principal balance under this Note to exceed the Total Facility.
- 5.2 Any request by Borrower for a Prime Rate Loan must be received by Lender not later than 3:00 p.m. (St. Louis, Missouri time) on the proposed borrowing date (which must be a Business Day). Each request for an advance under this Note will be irrevocable by Borrower. Lender will have no liability in acting upon any request that Lender believes in good faith to have been given on behalf of Borrower and will have no duty to verify the authenticity of the signature(s) appearing on any written request and no duty to verify the identity of any person making any telephonic request. Any disbursement of funds pursuant to a telephonic or written request for an advance under this Note will be subject to all of the terms and conditions of the Loan Agreement. Upon the making of any request for an advance, Borrower will be deemed to have made all of the representations and warranties set forth in the Loan Agreement on and as of the date of such request except for those representations and warranties which were made specific to the effective date of the Loan Agreement.
- 5.3 Each request for an advance under this Note will be subject to all of the terms and conditions of this Note and the Loan Agreement. Without limiting the generality of the foregoing, Lender will have no duty to make any advance hereunder if insufficient funds remain available pursuant to the Total Facility or any other maximum amount limitations set forth herein or in any of the Loan Documents.
6. **Events of Default.** Immediately and automatically upon the filing by or against Borrower or any Guarantor of a petition in bankruptcy, for a reorganization, arrangement or debt adjustment, or for a receiver, trustee, or similar creditors' representative for its, his or her property or any part thereof, (and if such petition or proceeding is an involuntary petition or proceeding filed against Borrower or such Guarantor without his, her or its acquiescence therein or thereto at any time, the same is not promptly contested and,

within 60 days of the filing of such involuntary petition or proceeding, dismissed or discharged), or the making of any general assignment by Borrower or any Guarantor for the benefit of creditors, or Borrower or any Guarantor dissolves or is the subject of any dissolution, winding up or liquidation or, at the option of Lender, immediately upon the occurrence and after the lapse of any applicable cure periods of any other Event of Default, in any case without demand or notice of any kind (which are hereby expressly waived): (a) the outstanding principal balance hereunder together with all accrued and unpaid interest thereon, and any additional amounts secured by the Loan Documents, will be accelerated and become immediately due and payable, (b) Borrower will pay to Lender all reasonable costs and expenses (including reasonable Attorneys' Fees) incurred by Lender in connection with Lender's efforts to collect the indebtedness evidenced hereby, (c) Lender may offset and apply to all or any part of the indebtedness evidenced hereby all moneys, credits and other property of any nature whatsoever of Borrower now or hereafter in the possession of, in transit to or from, under the control or custody of or on deposit with (whether held by Borrower individually or jointly with another party), Lender or any affiliate of Lender, and (d) Lender may exercise from time to time any of the rights and remedies available to Lender under the Loan Documents or applicable law. Upon and after the occurrence of any Event of Default or the maturity of this Note (by acceleration or otherwise), the principal balance of this Note, together with any arrearage of interest, will bear interest until paid in full, whether before or after judgment, at the Default Rate and Lender will have no further obligation to make advances under this Note or any of the Loan Documents. Borrower, all other makers, co-signers and indorsers waive presentment, demand, protest, and notice of demand, protest, non-payment and dishonor. Borrower also waives all defenses based on suretyship or impairment of collateral. If any Event of Default under this Agreement has occurred and is continuing, and after the expiration of any applicable cure periods, in addition to all of the other rights and remedies of the Lender, Lender may, at its option, convert this Note into shares of the Company's common stock, (the "**Common Stock**"), on the terms and conditions set forth in the Loan Agreement.

7. Miscellaneous.

7.1 Both the Late Charge and the Default Rate are imposed as liquidated damages for the purpose of defraying Lender's expenses incident to the handling of delinquent payments, but are in addition to, and not in lieu of, Lender's exercise of any rights and remedies hereunder, under the other Loan Documents or under applicable law, and any fees and expenses of any agents or reasonable fees and expenses of any attorneys which Lender may employ. In addition, the Default Rate reflects the increased credit risk to Lender of carrying a loan that is in default. Borrower agrees that the Late Charge and Default Rate are reasonable forecasts of just compensation for anticipated and actual harm incurred by Lender, and that the actual harm incurred by Lender cannot be estimated with certainty and without difficulty.

7.2 Nothing contained in this Note regarding late charges or the Default Rate will be construed in any way to extend the due date of any payment or waive any payment default, and each such right is in addition to, and not in lieu of, the other

and any other rights and remedies of Lender hereunder, under any of the Loan Documents or under applicable law (including, without limitation, the right to interest, reasonable Attorneys' Fees and other expenses).

- 7.3 After the initial term of this Note, Lender in its sole discretion may extend or renew the Total Facility and this Note by accepting from Borrower a new note which will be deemed to be the "Revolving Credit Note" referred to in the Loan Agreement. In no event will Lender be under any obligation to extend or renew the Total Facility or this Note beyond the initial term thereof.
- 7.4 This Note will bind Borrower and the successors and assigns of Borrower, and the benefits hereof will inure to the benefit of Lender and its successors and assigns. All references herein to "Borrower" and "Lender" will be deemed to apply to Borrower and Lender and their respective successors and assigns; provided, however, that Borrower may not assign this Note in whole or in part without the prior written consent of Lender, and Lender at any time may assign this Note in whole or in part (but no assignment by the Lender of less than all of this Note will operate to relieve Borrower from any duty to Lender with respect to the unassigned portion of this Note).
- 7.5 If any provision of this Note is prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision and without invalidating any other provision in this Note; provided, however, that if the provision that is the subject of such prohibition or invalidity pertains to repayment of this Note, then, at the option of Lender, all of the obligations hereunder will become immediately due and payable.
- 7.6 If from any circumstances whatsoever the fulfillment of any provision of this Note involves transcending the limit of validity prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then the obligation to be fulfilled will be reduced to the limit of such validity as provided in such statute or law, so that in no event will any exaction of interest be possible under this Note in excess of the limit of such validity. In no event will Borrower be bound to pay interest of more than the legal limit and the right to demand any such excess is hereby expressly waived by Lender.
- 7.7 No delay or failure on the part of Lender to exercise any right, remedy or power hereunder, under any of the other Loan Documents or under applicable law will impair or waive any such right, remedy or power (or any other right, remedy or power), be considered a waiver of or an acquiescence in any breach, Default or Event of Default or affect any other or subsequent breach, Default or Event of Default of the same or a different nature. No waiver of any breach, Default or Event of Default, nor any modification, waiver, discharge or termination of any provision of this Note, nor consent to any departure by Borrower therefrom, will be established by conduct, custom or course of dealing; and no modification,

waiver, discharge, termination or consent will in any event be effective unless the same is in writing, signed by Lender and specifically refers to this Note, and then such modification, waiver, discharge or termination or consent will be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Borrower in any case will entitle Borrower to any other or further notice or demand in the same or any similar or other circumstance.

- 7.8** No single or partial exercise of any right or remedy by Lender will preclude any other or further exercise thereof or the exercise of any other right or remedy. All remedies hereunder, under any of the other Loan Documents or now or hereafter existing at law or in equity are cumulative and none of them will be exclusive of the others or of any other right or remedy. All such rights and remedies may be exercised separately, successively, concurrently, independently or cumulatively from time to time and as often and in such order as Lender may deem appropriate.
- 7.9** If any demand is made at any time upon Lender for the repayment or recovery of any amount or amounts received by it in payment or on account of any of the Obligations and if Lender repays all or any part of such amount or amounts by reason of any judgment, decree or order of any court or administrative body or by reason of any settlement or compromise of any such demand, Borrower will be and remain liable hereunder for the amount or amounts so repaid or recovered to the same extent as if such amount or amounts had never been received originally by Lender. The provisions of this section will be and remain effective notwithstanding any contrary action which may have been taken by Borrower in reliance upon such payment, and any such contrary action so taken will be without prejudice to Lender's rights under this Note and will be deemed to have been conditioned upon such payment having become final and irrevocable.
- 7.10** Time is of the essence in the performance of this Note.
- 7.11** This Note has been delivered and accepted at and will be deemed to have been made at St. Louis, Missouri and will be interpreted and the rights and liabilities of Borrower and Lender determined in accordance with the laws of the State of Missouri, without regard to conflict of laws principles.
- 7.12** All controversies, disputes or claims arising between the Lender, its Affiliates and their respective shareholders, partners, officers, directors, employees, agents and attorneys (in their representative capacity) and Borrower arising out of or related to the relationship of the parties hereto, shall be resolved as set forth in the Loan Agreement. To the fullest extent provided in the Loan Agreement, Borrower hereby irrevocably agrees and submits to the jurisdiction of any state or federal court located within the City or County of St. Louis, Missouri.
- 7.13** Borrower and Lender each waive any right to trial by jury in any action or proceeding relating to this Note, the Loan Documents, the collateral described therein, or any actual or proposed transaction or other matter contemplated in or relating to any of the foregoing.

7.14 ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING PAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE, REGARDLESS OF THE LEGAL THEORY UPON WHICH IT IS BASED THAT IS IN ANY WAY RELATED TO THIS NOTE. TO PROTECT YOU (BORROWER) AND US (LENDER) FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

AMSBRA, LTD.

Borrower

By: _____ /s/ Rupert Ashe _____

Print Name: _____ Rupert Ashe _____

Title: _____

DEBENTURE

Relating To a Loan Agreement

Date: October 11, 2005

Parties:
BUILD-A-BEAR WORKSHOP FRANCHISE HOLDINGS, INC.
AMSBRA LIMITED



33 Cannon Street, London EC4M 5TE
tel: (+44) (0) 20 7246 5800 - fax: (+44) (0) 20 7246 5858

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DEBENTURE

THIS DEBENTURE is dated 11th day of October, 2005

BETWEEN

(1) **AMSBRA LIMITED** a company incorporated under the laws of England, having a registered number of 4537212 and having a registered office at St. Stephen's House, Arthur Road, Windsor, Berkshire SL4 1RU(the "Chargor")

in favour of

(2) **BUILD-A-BEAR WORKSHOP FRANCHISE HOLDINGS, INC.**, a company organised under the laws of the State of Delaware, United States of America, having its principal office at 1954 Innerbelt Business Center Drive, St. Louis, Missouri 63114, United States of America (the "Chargee")

NOW THIS DEED WITNESSETH as follows:

AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Debenture, unless the context otherwise requires the following words and expressions shall have the meanings attributed to them in this Clause 1.1

"Business Day" means any day other than a Saturday, Sunday or other day on which Chargees in St. Louis, Missouri or London are authorised to close.

"Charged Assets" means all the assets, property, undertaking, rights and revenues of the Chargor charged, (or which may at any time become charged) by or pursuant to this Debenture and includes any part or interest therein;

"Environmental Approvals" means and includes any permits, consents, licences, certificates, specifications, registrations and other authorisations and approvals (including without limitation any conditions which attach to the above) required under the Environmental Laws to be obtained in connection with the occupation, holding or use of the Charged Assets or the conduct of the Chargor business at the Charged Assets;

"Environmental Audit" means and includes the evaluation, measurement, sampling, inspection, review or analysis of whatever nature and whether carried out on behalf of the Chargor or the Chargee relating to compliance by the Chargor or in respect of the Charged Assets with Environmental Laws or Environmental Approvals;

"Environmental Laws" means and includes the following:
(a) all European Community, national or local statutes, treaty codes, or other laws or legislation concerning health,

safety or Environmental Matters which are applicable to the business or to the Charged Assets and all rules, regulations, ordinances, orders, notices, directives, circulars, codes of practice and guidance notes made thereunder including any amendment, re-enactment or consolidation thereof (where applicable at the date hereof);

(b) judicial and administrative interpretation of each of the foregoing;

"Environmental Matters"

means and includes in relation to the Chargor's business and the Charged Assets all matters related to pollution or protection of the environment including, without limitation, harm to the health of human beings, animals, and plants including without limitation public and employee health and safety, noise, emissions, discharges and releases of Hazardous Substances into air, water, sewage systems and land, and the manufacture, processing, distribution, use, treatment, storage, disposal, transport and handling of Hazardous Substances;

"Event of Default"

means any event of default described as such in the Loan Agreement;

"Investments"

means shares, stocks, options, debentures, bonds, warrants, certificates and other securities;

"Lease"

includes any letting, any underlease or sublease (howsoever remote) and any tenancy or licence to occupy, and any agreement for any lease, letting, underlease, sublease or tenancy;

"Loan Agreement"

means that loan agreement granting a revolving credit loan facility in the aggregate amount of \$4,425,000 dated on 4 October 2005 and made between the Chargor as borrower and the Chargee as lender;

"Loan Documents"

has the same meaning as attributed to it in the Loan Agreement.

"LPA"

means the Law of Property Act 1925;

"Permitted Lien"

has the same meaning as attributed to it in the Loan Agreement;

"Receiver"

means any receiver, administrator, manager or administrative receiver appointed or nominated by the Chargee pursuant to this Debenture;

"Security"

means all security constituted by or pursuant to this Debenture;

"Security Interest"

means any mortgage, charge, pledge, lien, assignment, encumbrance, right of set off, title transfer or retention arrangement or agreement, or any security interest whatsoever, howsoever created or arising.

“Security Period”	means the period commencing on the date of this Debenture and ending on the date when no Secured Obligations are due owing or incurred to Chargee and the Chargee’s commitment to make any advance under the Loan Agreement has terminated;
“Secured Obligations”	means any and all moneys obligations and liabilities now or in the future due owing or incurred to the Chargee by the Chargor whether actually or contingently and whether alone or jointly with any other person and whether as principal or surety and whether on any current or other account or otherwise including without limitation any and all sums which are or may become payable to the Chargee in respect of principal, interest, fees, costs or otherwise however by the Chargor under or in connection with the Loan Documents and references to the Secured Obligations include references to each such sum;

1.2 Interpretation

In this Debenture, unless the context otherwise requires:

- (a) words denoting the singular number only shall include the plural number also and vice versa;
- (b) words denoting the masculine gender only shall also include the feminine gender and vice versa;
- (c) words denoting persons only shall include corporations, partnerships, limited liability companies and unincorporated associations;
- (d) references to clauses, sub-clauses, paragraphs and schedules are to be construed as references to clauses, sub-clauses, paragraphs and schedules of this Debenture;
- (e) references to any party hereto shall, where relevant, be deemed to be references to or to include, as appropriate, their respective successors permitted assigns;
- (f) references in this Debenture to this Debenture or any other document include references to this Debenture or such other document as varied, supplemented, substituted and/or replaced in any manner from time to time;
- (g) any reference in this Debenture to any statute or statutory provision shall be construed as including a reference to that statute or statutory provision as from time to time amended modified extended or re-enacted whether before or after the date of this Debenture and to all statutory instruments orders and regulations for the time being made pursuant to it or deriving validity from it;
- (h) any reference in this Debenture to copyright, design right, know how, patent, registered design right, service mark, trade mark, or any other intellectual property right of any description shall be construed as a reference to all rights of such description subsisting under the laws of England and any and all analogous rights subsisting under the laws of each and every jurisdiction throughout the world; and
- (i) unless otherwise stated time shall be of the essence for the purpose of the

performance of the Chargor's obligations under this Debenture.

1.3 **Incorporation of Terms**

Words or expressions defined in the Loan Agreement shall, unless otherwise defined herein, have the same meaning herein.

2. **COVENANT TO PAY**

The Chargor hereby covenants with the Chargee that it will on demand of the Chargee discharge the Secured Obligations.

3. **CREATION OF CHARGE**

3.1 **Charge**

The Chargor with full title guarantee hereby charges in favour of the Chargee as security for the duration of the Security Period for the due performance by the Chargor of the Secured Obligations:

3.1.1 by way of first legal mortgage:

- (a) all freehold or leasehold property described in the Schedule to this Debenture; and
- (b) all other freehold and leasehold property now belonging to the Chargor;

3.1.2 by way of first fixed charge:

- (a) (to the extent it is not the subject of a mortgage under clause 3.1.1 above) any freehold or leasehold property now belonging to the Chargor;
- (b) all freehold and leasehold property acquired after the date of this deed by the Chargor;
- (c) all present and future goodwill of the Chargor and uncalled capital for the time being of the Chargor;
- (d) all rights in intellectual property for the time being owned or held by the Chargor including all fees, royalties and other rights derived therefrom or incidental thereto;
- (e) all the right, title and interest of the Chargor to and in any proceeds of any present or future insurances; and
- (f) all Investments and rights and options to acquire Investments for the time being owned by the Chargor and all rights in respect of or incidental thereto including all dividends, interest and other distributions and all accretions, benefits and advantages;

3.1.3 by way of first floating charge the undertaking of the Chargor and all its property, assets and rights, whatsoever and wheresoever, both present and future (including all stock in trade, book debts and including all freehold and leasehold property) and whether or not expressed to be mortgaged or charged to the Chargee under clause 3.1.1 or 3.1.2 above, if and to the extent such property, assets and rights are not or have ceased to be effectively mortgaged or charged by way of first mortgage or fixed charge

but in each case so that the covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 (the **LP (MP) Act**) in the mortgages and charges contained in or created pursuant to this Debenture are construed with the omission of:

- (a) the words "other than any charges, encumbrances or rights which that

person does not and could not reasonably be expected to know about" in section 3(1)(b) LP (MP) Act; and

(b) section 6(2) LP (MP) Act.

4. REGISTRATION OF RESTRICTION AGAINST REGISTERED TITLES

The Chargor applies to the Chief Land Registrar for the registration against the registered titles (if any) specified in the Schedule to this Debenture and any other registered title against which this Debenture may be noted of a restriction that, except under an order of the Registrar, no disposition or dealing by the registered proprietor of the land is to be registered without the consent of the Chargee.

5. CRYSTALLISATION OF FLOATING CHARGES

5.1 Automatic Crystallisation Upon Event of Default and Other Circumstances

Notwithstanding any other provision of this Debenture,

5.1.1 upon the occurrence of an Event of Default; or

5.1.2 if the Chargor attempts without the prior consent in writing by the Chargee to charge, pledge or otherwise encumber in favour of any person other than in respect of a Permitted Lien any of the Charged Assets subject to the floating charge created by Clause 3 (*Creation of Charge*); or

5.1.3 if any person levies or attempts to levy any distress, execution, sequestration or other process against any of the Charged Assets subject to the floating charge created by Clause 3 (*Creation of Charge*) and such levy is not discharged within 60 days;

the floating charge created pursuant to Clause 3 (*Creation of Charge*) shall automatically and without notice crystallise as a fixed charge over all the assets subject to such floating charge simultaneously as such event as described in this Clause 5.1 occurs and the Chargor shall do all things necessary in accordance with Clause 7 (*Further Assurance*) to effect such conversion.

5.2 Conversion of Floating Charge by Notice of Chargee

At any time before the occurrence of any event as described in Clauses 5.1.1, 5.1.2 and 5.1.3 the Chargee may by notice to the Chargor require that any assets subject to the floating charge created pursuant to Clause 3 (*Creation of Charge*) become subject to a fixed charge. Upon receipt of such notice, the Chargor shall do all things necessary in accordance with Clause 7 (*Further Assurance*) to effect such conversion.

5.3 Qualifying floating charge

Paragraph 14(2)(a) of schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.1.3 which is a "qualifying floating charge" for the purpose of paragraph 14(1) of schedule B1 to the Insolvency Act 1986.

6. WARRANTIES

6.1 Power and Authorisation

The Chargor hereby represents and warrants to the Chargee that the documents which contain or establish the Chargor's constitution include provisions which give power, and all necessary corporate authority has been obtained and action taken, for the Chargor to grant the charges contained in this Debenture and to execute and deliver, and perform

the covenants and obligations contained in this Debenture and that this Debenture constitutes valid and binding obligations of the Chargor enforceable in accordance with its terms.

6.2 Title

The Chargor represents and warrants to the Chargee with full title guarantee that it has title to all of the Charged Assets free from all Security Interests and claims whatsoever.

7. CHARGOR'S COVENANTS

The Chargor hereby covenants with the Chargee that during the continuance of the Security Period the Chargor will do the following:

7.1 Adherence to Chargor's Obligations

At all times to the extent permitted by law and at its own expense observe, perform and adhere to in all respects with all the Chargor's obligations, undertakings, covenants and liabilities express or implied by the Loan Documents.

7.2 Encumbrances

Without prejudice to the generality of Clause 7.1 (*Adherence to Chargors Obligations*), not, save for Permitted Liens, create or attempt to create or permit to subsist any mortgage, debenture, charge or pledge upon, or permit any lien or other encumbrance (save a lien arising by operation of law or any retention of title arising in the ordinary course of trading) to arise on or affect any of the Charged Assets.

7.3 Transfer

Except with the prior written consent of the Chargee, not transfer, sell, lend, lease, license or otherwise dispose of any of the Charged Assets, but so that the Chargor may dispose of property and assets either by sale of its property and assets which are for the time being subject to the floating charge contained in clause 3.1.3 (other than the undertaking of the Chargor) by way of bargain made at arm's length and in the usual course of the Chargor's day-to-day trading or by permitting a company within the same group as the Chargor and which has given a fixed and floating charge over its property and assets in favour of the Chargee on substantially similar terms to the terms of this Debenture (and in the case of real property where any other necessary consents have been obtained) to use or share any of the Chargor's property or assets which are subject to the terms of this Debenture;

7.4 Property

Except with the prior written consent of the Chargee:

- 7.4.1 not exercise or agree to exercise the statutory or other powers of making leases or of accepting or agreeing to accept surrenders of leases nor grant or agree to grant any licence or right to occupy any of the freehold or leasehold property for the time being owned by the Chargor;
- 7.4.2 not cancel, surrender, assign or permit to be forfeit any Lease or any part of any Lease or agree to do so whether such Lease is held by the Chargor or is superior thereto or is derived out of the Chargor's interest therein or to sub-let or permit to be cancelled, surrendered, assigned, sub-let or charged the whole or any part of the property comprised in such a Lease or agree to do so and if any of the freehold or leasehold property for the time being owned by the Chargor is tenanted operate all rent reviews (unless a review is likely to reduce the amount of any rent) and manage such property in a proper and efficient manner and not to agree the amount of any reviewed rent or grant any licence in respect of such

property and not to vary or release any covenant contained in any lease or licence affecting such property without the prior written consent of the Chargee;

- 7.4.3 not waive or vary nor permit to be waived or varied the terms of any of the documents relating to or affecting its freehold or leasehold property, and not in any manner or by any means to lessen the value of the Chargor's interest in any of the freehold or leasehold property for the time being owned by the Chargor and not to part with possession (otherwise than on determination of any tenancy or licence) of any of its freehold or leasehold property or to share occupation thereof with any other person;
- 7.4.4 not breach or make any application under the Town & Country Planning legislation or any laws or regulations intended to control or regulate the construction, demolition, alteration or change of use of land or buildings or to breach the Environmental Approvals or Environmental Laws and not to use the Charged Assets or to conduct business at or on the Charged Assets save in accordance with Environmental Approvals and Environmental Laws and not to carry out any other development of any of the freehold or leasehold property for the time being owned by the Chargor and not to do or permit to be done on any such property anything which will or might give rise to any charge to tax arising from ownership or occupation of any freehold or leasehold property on the part of the Chargee or any Receiver;
- 7.4.5 not enter into an agreement with a local authority, local planning authority or other statutory authority containing any obligation or provision which is or may become enforceable against the Chargee or any person deriving title under or through the Chargor or otherwise;
- 7.4.6 not make or permit to be made any alterations or additions to the freehold or leasehold property of the Chargor.

7.5 Book Debts

Except with the prior written consent of the Chargee not transfer, factor, discount, sell, release, compound, subordinate, defer or vary the terms of any book or other debts or moneys for the time being due, owing or payable to the Chargor, nor otherwise to deal with the same except by getting in the same in the usual course of business.

7.6 Capital

Not call up or receive in advance of calls all or any part of the uncalled capital for the time being of the Chargor.

7.7 Intellectual Property

Not grant any licence, registered user agreement or other rights over or permit the use by any other person of any of the Chargor's intellectual property rights.

7.8 Acquisitions

- 7.8.1 Forthwith inform the Chargee in writing if it acquires or agrees to acquire:
- (a) any freehold or leasehold property or any beneficial interest therein and in the case of the acquisition or agreement to acquire any beneficial interest to notify to the Chargee the names and addresses of the trustees thereof;
 - (b) any Investments or rights to acquire Investments;
 - (c) any intellectual property rights;

7.8.2 Forthwith inform the Chargee in writing of any notice or information received by the Chargor concerning:

- (a) any proposal for the compulsory acquisition of any of its freehold or leasehold property; or
- (b) any application which is made, or proposed to be made, by any person other than the Chargor for permission for any development which affects any of its freehold or leasehold property; or
- (c) any litigation or proceedings or claims which may give rise to litigation which affects any or all of the Chargor's intellectual property rights,

and, at the cost of the Chargor, to take any action regarding any such proposal, application, litigation, proceeding, claim or matter as the Chargee may reasonably require;

7.9 Insurance

7.9.1 comply to the satisfaction of the Chargee with the following obligations with respect to insurance:

- (a) to maintain the insurances set out in the schedule of insurances supplied to the Chargee by the Chargor;
- (b) punctually to pay all premiums and other sums payable in respect of all insurances effected by the Chargor, to comply with all warranties or other requirements relating thereto, and to produce to (or, if required, deposit with) the Chargee on demand all or any of the relevant policies and the receipts for the last premiums payable thereunder; and
- (c) to hold any moneys payable to or received by the Chargor on any insurance (whether maintained under any statutory provision, this Debenture or otherwise) upon trust to apply them either in replacing or repairing the property or assets in respect of which the moneys are received or (as the Chargee may require) in or towards discharging the Secured Obligations;
- (d) if and to the extent that any person other than the Chargor is obliged to insure any of the Charged Assets (which is the subject of a Lease and is land or an interest in land) against any or all of the risks mentioned in sub-clause **Error! Reference source not found.** above and otherwise against risks at least as extensive as those required by that sub-clause and:
 - (i) the Chargor would have statutory or other rights under the lease in the event of damage or destruction by any such risks to require the insurance moneys or equivalent moneys to be applied in or towards making good the loss or damage in respect of which such moneys are received; and
 - (ii) such rights as referred to in (i) above are at least as extensive as those which would be available under sub-clause (c) above if such sub-clause were in operation; and
 - (iii) a memorandum of the interests of the Chargor and of the Chargee as mortgagee in such insurance moneys has been endorsed on the policy relating thereto; and
 - (iv) the Chargor produces to the Chargee when so requested the policy of such insurance or full details thereof from time to time

and evidence of the payment of the current premium payable in respect thereof;

- (v) then and in such case the Chargee will accept such policy as satisfying pro tanto the obligations of the Chargor as to insurance required by sub-clauses (a) - (c) above.

7.10 Claims

Except with the prior written consent of the Chargee, which shall not be unreasonably withheld, not negotiate, compromise, abandon or settle any claim for compensation (whether payable under any enactment or otherwise) or any claim under any insurance in respect of any land or buildings for the time being owned by the Chargor or any other material compensation, insurance or other claim.

7.11 Plant and Machinery

Keep in a good state of repair and in proper working order and to renew and replace, when necessary, all buildings, structures, fixtures, fittings, plant, machinery and equipment belonging to or used by the Chargor.

7.12 Payments

7.12.1 Punctually pay all rents, hire, royalties and other sums reserved by, and to comply with all its other obligations under, any lease, hiring agreement or licence under which any of the Charged Assets is for the time being held or used, and to comply with all covenants and all statutory and other requirements affecting the Charged Assets;

7.12.2 Punctually pay all governmental, municipal or other taxes, duties, rates and outgoings assessed upon or payable with reference to the Charged Assets, and punctually to discharge all liabilities which by the general law would rank, or might come to rank, in priority to any of the charges contained in this Debenture;

7.13 Compliance with laws

Observe all legislation and regulations affecting the Charged Assets or the conduct of the Chargor's business;

7.14 Election for VAT

Notify the Chargee as soon as the Chargor becomes aware that the landlord of any leasehold property for the time being owned by the Chargor has made an election under paragraph 2 of Schedule 10 to the Value Added Tax Act 1994 in respect of the leasehold property for the time being owned by the Chargor and not without the prior written consent of the Chargee to make such an election in respect of any freehold or leasehold property for the time being owned by the Chargor;

7.15 The business

Carry on the business of the Chargor in a proper and efficient manner, to keep proper books of account and, except with the prior written consent of the Chargee, not to make any substantial alteration to the nature of its business;

7.16 Environment

7.16.1 Obtain all Environmental Approvals required under the Environmental Laws in connection with the use of the Charged Assets and/or the conduct of the Chargor's business and to ensure that such approvals remain in full force and effect;

7.16.2 Inform the Chargee in writing immediately:

- (a) of any proceeding or other action of whatever nature which is pending or threatened or under consideration seeking the suspension, revocation, variation or limitation of any such Environmental Approval or seeking to impose any penalty applicable under such Environmental Approval or under Environmental Laws;
- (b) of any facts or circumstances which will or are likely to result in any such Environmental Approval being suspended, revoked, varied or limited or which may prejudice their renewal;
- (c) of any appeal which is either pending or being contemplated in respect of the refusal of or conditions contained in any Environmental Approval or any action taken in respect of any Environmental Approval;
- (d) of any notice, order, judgment or demand letter requiring the taking of remedial or other action (including, without limitation, the withdrawal of any permission, licence or authority) in relation to Environmental Matters of any events, conditions, circumstances, activities, practices, instances, actions or plans which interfere with or prevent compliance or which give rise to any common law or statutory or administrative liability or otherwise form the basis of any claim, action, suit, proceeding, hearing or investigation related to Environmental Matters;
- (e) of any spill, leakage, discharge, emission, injection, escape, release or deposit (whether to water, land, sewage systems or air or a combination of these and whether from the Charged Assets or otherwise) of any Hazardous Substances on or near the Charged Assets or into the environment which is capable of causing harm to humans, flora or fauna or which may inhibit or restrict or make materially more costly any redevelopment or sale of the Charged Assets or any part thereof by reason of contamination or otherwise other than those released as permitted under the Environmental Approvals or Environmental Laws;
- (f) of the results of any Environmental Audit carried out at or on the Charged Assets or in relation to any part of the business of the Chargor;

7.17 Quiet Possession

In the event that the Chargee exercises its right to take possession of all or any of the Charged Assets to allow the Chargee peaceably and quietly to hold and enjoy such Charged Assets without any lawful interruption or disturbance from or by the Chargor or any person rightfully claiming under or in trust for the Chargor; and

8. FURTHER ASSURANCE

8.1 Documents

The Chargor shall, whether before or after the occurrence of an Event of Default, to the extent permitted by law, execute (in the Chargee's standard form or in such other form as the Chargee may reasonably require) and deliver to the Chargee such other documents as the Chargee may in its reasonable opinion think fit further to secure the payment or discharge to the Chargee of the Secured Obligations or to perfect the Security or to vest title in any Charged Asset in the Chargee or its nominees or any purchaser or for the purpose of the creation, perfection, protection, enforcement or maintenance of any

Security conferred or intended to be conferred on the Chargee by or pursuant to this Debenture.

8.2 Filings and Registrations

The Chargor shall, whether before or after the occurrence of an Event of Default, to the extent permitted by law, take all such action as is available to it (including making all filings and registrations) as may be necessary further to secure the payment or discharge to the Chargee of the Secured Obligations or to perfect the Security or to vest title in any Charged Asset in the Chargee or its nominees or any purchaser or for the purpose of the creation, perfection, protection, enforcement or maintenance of any Security conferred or intended to be conferred on the Chargee by or pursuant to this Debenture.

8.3 Consents

The Chargor shall, whether before or after the occurrence of an Event of Default, do all reasonable things required to obtain the consent of any third party as may be necessary to secure the payment or discharge to the Chargee of the Secured Obligations or to perfect the Security or to vest title in any Charged Asset in the Chargee or its nominees or any purchaser or for the purpose of the creation, perfection, protection, enforcement or maintenance of any Security conferred or intended to be conferred on the Chargee by or pursuant to this Debenture.

8.4 Information

The Chargor shall, whether before or after the occurrence of an Event of Default, from time to time on request of the Chargee, furnish the Chargee with such information as the Chargee may reasonably require about such Chargor's business and affairs, the Charged Assets and its compliance with the terms of this Debenture and the Chargor shall permit the Chargee, its representatives, professional advisers and contractors, free access to the extent permitted by the Loan Agreement to (a) inspect and take copies and extracts from the books, accounts and records of the Chargor and (b) to view the Charged Assets (without the Chargee becoming liable as mortgagee in possession).

9. POWER OF ATTORNEY

9.1 Appointment

By way of security and without prejudice to any other provision of this Debenture or any other Loan Document the Chargor hereby irrevocably appoints the Chargee (acting through any two duly authorised officers) and any Receiver jointly and severally as its attorney with full power of delegation for the Chargor and in its name and on its behalf and as its act and deed or otherwise to seal, deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required or may be deemed proper for any of the above purposes or otherwise in connection with the enforcement of this Debenture or any other Loan Document.

9.2 Ratification

Without prejudice to the generality of the provisions contained in Clause 9.1 (*Appointment*), the Chargor hereby covenants with the Chargee and will forthwith when so required by the Chargee covenant separately with any Receiver to ratify and confirm:

- 9.2.1 all transactions properly and lawfully entered into by the Chargee or the Receiver in the exercise of their powers granted by this Clause 9;
- 9.2.2 the signing, executing, delivering and otherwise perfecting any assignment, mortgage, charge, security, deed, assurance or act by the Chargee or the Receiver in the exercise of their powers granted by this Clause 9; and

the Chargor irrevocably acknowledges and agrees that such power of attorney is, inter alia, given to the Chargee and/or any Receiver to secure the performance of these obligations owed to the Chargee and/or any Receiver by the Chargor.

9.3 Liability of the Chargee and Any Receiver

Neither the Chargee nor any Receiver shall have any liability or responsibility of any kind to the Chargor arising out of the exercise or non-exercise of the rights conferred on the Chargee and any Receiver by this Debenture save for any negligence or manifest error on the behalf of the Chargee or the Receiver.

9.4 Sufficiency of Sums Received

Neither the Chargee nor any Receiver shall be obliged to make any enquiry as to the sufficiency of any sums received by either of them in respect of any Receivables or other debt or claim enforceable by either of them pursuant to this Debenture or to make any claim or to take any other action to collect in or enforce the same.

10. ENFORCEMENT

10.1 Enforcement of Security

At any time after the occurrence of an Event of Default the Security created by or pursuant to this Debenture is immediately enforceable and the Chargee may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- 10.1.1 enforce all or any part of the Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Charged Assets; and
- 10.1.2 whether or not the Chargee has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the LPA (as varied or extended by this Debenture) on mortgagees and by this Debenture on any Receiver or otherwise conferred by law on mortgagees or Receivers.

10.2 Subsequent Security Interests

If the Chargee at any time receives or is deemed to have received notice of any subsequent encumbrance affecting all or any part of the Charged Assets or any assignment or transfer of the Charged Assets which is prohibited by the terms of this Debenture or the Loan Documents, all payments thereafter by or on behalf of the Chargor to the Chargee shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Chargee received such notice.

10.3 No Liability as Mortgagee in Possession

Neither the Chargee nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Assets or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Assets to which a mortgagee in possession might otherwise be liable.

11. APPOINTMENT OF RECEIVER

After the occurrence of an Event of Default or if a petition is presented for the making of an administration order in relation to the Chargor or if requested to do so by the Chargor, the Chargee may by deed or otherwise (acting through an authorised officer of the Chargee), without prior notice to the Chargor;

- 11.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Charged Assets;

11.1.2 remove (so far as it is lawfully able) any Receiver so appointed; and

11.1.3 appoint any other person(s) as an additional or replacement Receiver(s).

12. CAPACITY OF RECEIVERS

Each person appointed to be a Receiver pursuant to Clause 11 (*Appointment of a Receiver*) shall be:

12.1.1 entitled to act individually or together with any other person appointed or substituted as Receiver;

12.1.2 for all purposes shall be deemed to be the agent of the Chargor, which shall be solely responsible for his acts, defaults and liabilities and for the payment of any Receiver's remuneration and no Receiver shall at any time act as agent for the Chargee; and

12.1.3 entitled to remuneration for his services at a rate to be fixed by the Chargee from time to time without being limited to the maximum rate specified by the LPA.

13. STATUTORY POWERS OF APPOINTMENT

The powers of appointment of any Receiver set out in this Debenture shall be in addition to all statutory and other powers of appointment of the Chargee under any statute and such powers shall also remain exercisable from time to time by the Chargee in respect of any part of the Charged Assets.

14. POWERS OF RECEIVER AND PROTECTION OF PURCHASERS

14.1 Powers of Receiver

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Assets (and any assets of any Chargor which, when got in, would be Charged Assets) in respect of which he was appointed, and as varied and extended by the provisions of this Debenture (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):

- (a) all the powers conferred by the LPA on mortgagors and on mortgagees in possession and on receivers appointed under that LPA;
- (b) all of the powers conferred by the Insolvency Act 1986;
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- (d) the power to enter upon, take possession of, get in and collect the Charged Assets (or such part thereof in respect of which he may be appointed) including rents and income whether accrued before or after the date of his appointment;
- (e) the power to carry on, manage, concur in or authorise the management of, or appoint a manager of the whole or any part of the business of the Chargor;
- (f) the power to sell, exchange, license, surrender, release, disclaim, abandon, return or otherwise dispose of or in any way whatsoever deal with the Charged Assets or any interest in the Charged Assets for such consideration (if any), including any Investments whatsoever, and upon such terms (including by deferred payment or payment by instalments) as he may think fit and to concur in any such transaction;

- (g) the power to sell or concur in selling the whole or any part of the Chargor's business whether as a going concern or otherwise;
- (h) the power to grant any leases whatsoever and to let on charter, sub-charter, hire, lease or sell on condition and to grant rights, options, licences or easements over the whole or any part of the Charged Assets and (with or without consideration) to rescind, surrender or disclaim or accept or agree to accept surrenders or disclaimers of leases, hire purchase contracts or agreements relating to or affecting the Charged Assets in such circumstances, to such persons (including, without limitation, to the Chargee), for such purposes and upon such terms whatsoever as he may think fit and also to vary the terms of any lease or contract affecting the Charged Assets and to act in relation to any review of the rent or provide payments under such a lease in such manner as he may think fit;
- (i) the power to appoint, engage, dismiss or vary the terms of employment of employees, officers, managers, agents and advisers of the Chargor upon such terms as to remuneration and otherwise and for such periods as he may determine;
- (j) the power to insure, protect, decorate, maintain, repair, alter, improve, replace, exploit, sever fixtures from, demolish, add to and develop or concur in so doing the Charged Assets or any part thereof in any manner and for any purpose whatsoever;
- (k) for such consideration and on such terms as he may think fit, the power to purchase outright or acquire by leasing, hiring, licensing or otherwise, any land, buildings, plant, equipment, vehicles or materials or any other property, assets or rights of any description which he considers necessary or desirable for the carrying on, improvement or realisation of any of the Charged Assets or the business of the Chargor or otherwise for the benefit of the Charged Assets;
- (l) in connection with the exercise or the proposed exercise of any of his powers or in order to obtain payment of his remuneration (whether or not it is already payable), the power to borrow or raise money from any person, including the Chargee, without security or on the security of the Charged Assets and generally in such manner and on such terms as he may think fit;
- (m) the power to bring, defend, submit to arbitration, negotiate, compromise, abandon and settle any claims, disputes and proceedings concerning the Charged Assets or any part thereof;
- (n) the power to transfer all or any of the Charged Assets and/or any of the liabilities of the Chargor to any other company or body corporate, whether or not formed or acquired for the purpose and to form a subsidiary or subsidiaries of the Chargor;
- (o) the power to call up or require the directors of the Chargor to call up all or any portion of the uncalled capital for the time being of the Chargor and to enforce payment of any call by action (in the name of the Chargor or the Receiver as may be thought fit);
- (p) the power to redeem, discharge or compromise any Security Interest from time to time having priority to or ranking pari passu with this

Debenture;

- (q) the power to effect or maintain indemnity insurance and other insurance and obtain bonds and performance guarantees;
- (r) in connection with the exercise of any of his powers, the power to execute or do, or cause or authorise to be executed or done, on behalf of or in the name of the Chargor or otherwise, as he may think fit, all documents, receipts, registrations, acts or things which he may consider appropriate;
- (s) to exercise any powers, discretions, voting, conversion or other rights or entitlements in relation to any of the Charged Assets or incidental to the ownership of or rights in or to any Charged Assets and to complete or effect any transaction entered into by the Chargor and complete, disclaim, abandon or modify all or any of the outstanding contracts or arrangements of the Chargor relating to or affecting the Charged Assets;
- (t) to exercise all powers as are described in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an **administrative receiver** as defined in that Act;
- (u) generally to carry out, or cause or authorise to be carried out, any transaction, scheme or arrangement whatsoever, whether similar or not to any of the foregoing, in relation to the Charged Assets which he may consider expedient as effectually as if he were solely and absolutely entitled to the Charged Assets.

14.2 Discharge

The receipt of the Chargee or any Receiver shall be conclusive discharge to any purchaser of any Charged Asset and, in making any sale or disposal of any of the Charged Assets or making any acquisition, the Chargee or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

14.3 No Obligation on Purchaser to Inquire

No purchaser or other person dealing with the Chargee or any Receiver shall be bound to inquire whether the right of the Chargee or any Receiver to exercise any power conferred by this Debenture has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Chargee or such Receiver in such dealings.

15. EXTENSION AND VARIATION OF THE LAW OF PROPERTY ACT 1925

15.1 Power of Sale

The power of sale or other disposal conferred on the Chargee and on any Receiver by this Debenture shall operate as a variation and extension of the statutory power of sale under Section 101 of the LPA and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Debenture.

15.2 Sections 93 and 103 of the LPA

The restrictions contained in Sections 93 and 103 of the LPA shall not apply to this Debenture or to the exercise by the Chargee of its right to consolidate all or any of the Security created by or pursuant to this Debenture with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Chargee without notice to the Chargor on or at any time after the occurrence of an Event of Default (which is continuing).

15.3 Powers of Leasing

The statutory powers of leasing may be exercised by the Chargee at any time on or after the occurrence of an Event of Default and the Chargee and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with any restrictions imposed by Section 99 and 100 of the LPA.

15.4 Law of Property Act 1925

15.4.1 The provisions of the 1925 Act relating to the power of sale and the other powers conferred by section 101(l) and (2) are hereby extended (as if such extensions were contained therein) to authorise the Chargee at its absolute discretion:

- (a) to sell all the Chargor's title to or interest in the Charged Assets, and to do so for any shares, debentures or other securities whatsoever, or in consideration of an agreement to pay all or part of the purchase price at a later date or dates, or an agreement to make periodical payments, whether or not the agreement is secured by a Security Interest or a guarantee, or for such other consideration whatsoever as the Chargee may think fit, and also to grant any option to purchase, and to effect exchanges;
- (b) with a view to selling the Charged Assets (or offering it for sale) to repair, replace and develop the Charged Assets and to apply for any appropriate permission, licence or approval;
- (c) to sever any fixtures and to sell them apart from the land or buildings on or to which they are affixed, and also to apportion any rent affecting the property sold, to charge such rent upon the property sold or retained and to agree to indemnify by any means any purchaser in respect of such rent or any covenants, or to take an indemnity or reserve powers of entry in respect of the property sold or retained;
- (d) with a view to or in connection with the sale of the Charged Assets, to carry out any transaction, scheme or arrangement which the Chargee may, in its absolute discretion, consider appropriate; and
- (e) to insure the Charged Assets against such risks and for such amounts as the Chargee may consider prudent.

16. APPLICATION OF MONEY

All money received, recovered or realised by the Chargee or any Receiver under the powers conferred by this Debenture shall, (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied in the following order:

- 16.1.1 first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers,
- 16.1.2 second in accordance with the application of payments under the Loan Agreement

provided that only money actually paid by the Receiver to the Chargee shall be capable of being applied by the Chargee in or towards satisfaction of any monies and liabilities owed by the Chargor to the Chargee or other sums hereby secured.

17. COSTS, CHARGES AND EXPENSES

17.1 General Liability

All costs, charges, losses and expenses (including all professional fees and disbursements and VAT thereon) and all other sums properly paid or incurred by the Chargee or any Receiver under or in connection with this Debenture or in respect of the property hereby charged or any part thereof, shall be recoverable (on a full indemnity basis) from the Chargor as a debt payable on demand, and if not disputed and not paid on demand, may be debited to any account of the Chargor, shall bear interest accordingly and shall be charged on the Charged Assets.

17.2 Costs Recoverable

Without prejudice to the generality of Clause 17.1 (*General Liability*), the costs recoverable by the Chargee and/or any Receiver hereunder shall include:

17.2.1 all reasonable and proper costs of all proceedings for the enforcement of security or for obtaining the payment of the money hereby secured or arising out of or in connection with the acts authorised hereunder;

17.2.2 all money reasonably expended and all costs arising out of the exercise of any power, right or discretion conferred by this Debenture;

17.2.3 all costs and losses arising from any default by the Chargor in the payment when due of any money and liabilities hereby secured or arising out of or in connection with the acts authorised hereunder or the performance of any of their obligations under this Debenture; and

17.2.4 all stamp, registration and other taxes to which this Debenture, the security contemplated in this Debenture or any judgment given in connection with it is or at any time may be subject and any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

17.3 Interest

If the Chargor fails to pay any sum due under this Debenture on the due date for payment of that sum the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at an annual rate of two percent (2%) in excess of the prime rate of the Chargee from time to time..

18. INDEMNITY

The Chargee and every Receiver, attorney, manager, agent or other person appointed by the Chargee under this Debenture shall be entitled to be indemnified out of the Charged Assets in respect of all liabilities, costs and expenses incurred directly or indirectly by any of them in the enforcement, execution or purported or attempted enforcement or execution of any of the powers, authorities or discretions vested in either of them under this Debenture and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets and the Chargee and any Receiver, attorney, manager, agent or other person appointed by the Chargee under this Debenture may retain and pay all sums in respect of such liabilities and expenses out of any money received under the powers conferred by this Debenture.

19. CONTINUING SECURITY

19.1 Independent Security

This Debenture shall be a continuing security for the Chargee notwithstanding any settlement of account or other matter or thing whatsoever and shall be without prejudice and is in addition to and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any guarantee, indemnity, lien, pledge, bill, note, mortgage, charge or other security (whether created by the deposit of documents or otherwise and whether or not held upon the whole or part of the property of the Chargor) now or hereafter held by or available to the Chargee and shall not be in any way prejudiced or affected thereby or by the invalidity thereof or by the Chargee now or hereafter dealing with it, exchanging, releasing, varying or abstaining from, perfecting or enforcing any of the same or any rights which it may now or hereafter have or give in time for payment or indulgence or compounding with any other person liable.

19.2 Security Additional

The Security comprised in this Debenture shall be in addition and without prejudice to each and every other remedy, lien or security which the Chargee may have for the money and liabilities hereby secured or any part thereof.

20. AVOIDANCE OF PAYMENTS

20.1 No Release

No assurance, security or payment which may be avoided or adjusted under the law, including under any enactment relating to bankruptcy or insolvency and no release, settlement or discharge given or made by the Chargee on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Chargee to recover the Secured Obligations from the Chargor (including any moneys which it may be compelled to pay or refund under the provisions of the Insolvency Act 1986 and any costs payable by it pursuant to or otherwise incurred in connection therewith) or to enforce the charges contained in this Debenture to the full extent of the Secured Obligations.

20.2 Retention of Charges

If the Chargee shall have grounds in its absolute discretion for believing that the Chargor may be insolvent or deemed to be insolvent pursuant to the provisions of the Insolvency Act 1986 as at the date of any payment made by the Chargor to the Chargee, the Chargee shall be at liberty to retain the charges contained in or created pursuant to this Debenture until the expiry of a period of one month plus such statutory period within which any assurance, security, guarantee or payment can be avoided or invalidated after the payment and discharge in full of all Secured Obligations notwithstanding any release, settlement, discharge or arrangement which may be given or made by the Chargee on, or as a consequence of, such payment or discharge of liability provided that, if at any time within such period, a petition shall be presented to a competent court for an order for the winding up or the making of an administration order in respect of the Chargor, or the Chargor shall commence to be wound up or to go into administration or any analogous proceedings shall be commenced by or against the Chargor, the Chargee shall be at liberty to continue to retain such security for such further period as the Chargee may determine and such security shall be deemed to continue to have been held as security for the payment and discharge to the Chargee of all Secured Obligations.

21. CURRENCY INDEMNITY

21.1 Payments in Currency Other than the Contractual Currency

If, under any applicable law or regulation or pursuant to a judgement or order being made or registered against the Chargor or the liquidation of the Chargor or without

limitation for any other reason, any payment under or in connection with this Debenture is made or fails to be satisfied in a currency (the "payment currency") other than the currency in which such payment is expressed by the Chargee to be due under or in connection with the Loan Documents (the "contractual currency") then, to the extent that the amount of such payment actually received by the Chargee, when converted into the contractual currency at the rate of exchange, falls short of the amount due under or in connection with this Debenture, the Chargor, as a separate and independent obligation, shall indemnify and hold harmless the Chargee against the amount of such shortfall.

21.2 Repayment of Excess

In the event that any such payment actually received by the Chargee, when converted with the contractual currency at the rate of exchange, exceeds the amount due under or in connection with this Debenture, the Chargee shall credit the account of the Chargor with such excess and if the Chargee's claims hereunder shall have been satisfied by the aforesaid payment, shall make payment of such excess forthwith to the Chargor. For the purposes of this clause, "rate of exchange" means the rate at which the Chargee is able on or about the date of such payment to purchase, in accordance with its normal practice; the contractual currency with the payment currency and shall take into account (and the Chargor shall be liable for) any premium and other costs of exchange including any taxes or duties incurred by reason of any such exchange.

22. SET-OFF

22.1 Application of Credit Balances

The Chargee may, without notice to the Chargor, apply all moneys, credits and other property of any nature whatsoever of Chargor now or at any time hereafter in the possession of, in transit to or from, under the control or custody of, or on deposit with (whether held by Chargor individually or jointly with another party), Chargee in or towards satisfaction of any sum then due and payable from the Chargor under this security.

22.2 Currency Conversion

For the purposes of exercising any rights under this Debenture, or any rights under the general law, the Chargee may convert and translate all or any part of such credit balance into another currency applying a rate which in the Chargee's opinion fairly reflects the relative prevailing rates of exchange.

22.3 No Obligation on Chargee

The Chargee is not obliged to exercise any of its rights under this clause, which shall be without prejudice and in addition to any rights of set-off, combination or consolidation of accounts, lien or similar right which the Chargee has under any applicable law.

23. NOTICES

23.1 Methods of Giving Notices

A demand for payment or any other demand or notice to the Chargor on behalf of the Chargee under this Debenture may be made or given by any duly authorised manager or officer of the Chargee in writing or facsimile transmission addressed to the Chargor at its address specified at the head of this Debenture or such other address(es) or facsimile number as may be notified in writing from time to time by the Chargor to the Chargee in accordance with this clause.

23.2 Time of Service

Any demand, notice or communication shall be deemed to have been duly served:

23.2.1 If delivered by hand, when left at the proper address for service;

23.2.2 If given or made by pre-paid first class post by recorded delivery, at the commencement of business hours on the second business day after posting; and

23.2.3 If given or made by facsimile equipment, at the time acknowledged as received by the Chargee's facsimile equipment

provided that where such delivery occurs outside the ordinary business hours of the recipient service shall be deemed to occur on the commencement of business on the next following Business Day and further provided that any communication or document to be made or delivered to the Chargee shall be effective only when received at its address shown in the heading to this debenture (or such other department or officer as the Chargee shall from time to time specify for this purpose).

24. VARIATION OF TERMS

No variation, amendment, supplement, extension, deletion or replacement however effected of this Debenture shall be considered valid and as constituting a part of this Debenture, unless such variation shall have been made in writing and signed by the Chargee and the Chargor.

25. MISCELLANEOUS

25.1 Delay

No delay or omission on the part of the Chargee in exercising any right or remedy under this Debenture shall impair that right or remedy or operate as or be taken to be a waiver of it; nor shall any single partial or defective exercise of any such right or remedy preclude any other or further exercise under this Debenture of that or any other right or remedy.

25.2 Rights Cumulative

The Chargee's rights under this Debenture are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Chargee deems to be expedient.

25.3 Waiver

Any waiver by the Chargee of any terms of this Debenture, or any consent or approval given by the Chargee under it, shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.

25.4 Certificate of the Chargee

Any certificate or determination of the Chargee as to any matter provided for in this Debenture shall in the absence of manifest error be prima facie evidence of the matters provided for therein.

25.5 Reorganisation of the Chargee

Any reconstruction, reorganisation or change in the constitution of the Chargee or its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any prejudice or affect its rights arising under this Debenture.

25.6 No Prejudice to Security

The Security created by or pursuant to this Debenture shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or

indulgence granted to the Chargor or any other person, or the Chargee (whether in its capacity as Chargee or otherwise) or by any variation of the terms of the trust upon which the Chargee holds the Security or by any other thing which might otherwise prejudice that Security.

25.7 Severability

If, at any time, any provision of this Debenture is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Debenture nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Debenture is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

25.8 Counterparts

This Debenture may be executed in any number of counterparts which taken together shall constitute a single deed.

25.9 Delivery

This Debenture shall be treated as having been executed and delivered as a deed only upon all counterparts being dated.

26. ASSIGNMENT

The Chargee may assign and transfer all or any of its rights and obligations under this Debenture. The Chargee shall be entitled to disclose such information concerning the Chargor and this Debenture as the Chargee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

27. REDEMPTION OF SECURITY

Upon the Security Obligations being discharged in full and the Chargee no longer being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other person under the Loan Agreement, the Chargee shall, at the request and cost of the Chargor release and cancel the Security constituted by this Debenture and procure the reassignment to the Chargor of the property and assets assigned to the Chargee pursuant to this Debenture, in each case subject to the terms of this Debenture and without recourse to, or any representation or warranty by, the Chargee or any of its nominees.

28. PAYMENTS FREE OF DEDUCTION

All payments to be made to the Chargee under this Debenture shall be made free and clear of and without deduction for or on account of tax unless the Chargor is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Chargor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retain had not such deduction or withholding been made or required to be made.

29. DISCRETION AND DELEGATION

29.1 Discretion

Any liberty of power which may be exercised or any determination which may be made hereunder by the Chargee or any Receiver may, subject to the terms and conditions of the Loan Agreement, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

29.2 Delegation

Each of the Chargee and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Debenture (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Chargee or the Receiver itself or any subsequent delegation or revocation thereof.

30. GOVERNING LAW

This Debenture shall be governed by and construed in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

31. JURISDICTION

31.1 English Courts

The courts of England have exclusive jurisdiction to settle any disputes (a "Dispute") arising out of, or connected with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or the consequences of its nullity).

31.2 Convenient Forum

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

31.3 Exclusive Jurisdiction

This Clause 31(*Jurisdiction*) is for the benefit of the Chargee only. As a result and notwithstanding Clause 31.1 (*English Courts*), it does not prevent the Chargee from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Chargee may take concurrent proceedings in any number of jurisdictions.

32. PERPETUITY

The perpetuity period applicable to any trusts created pursuant to this Debenture shall be 80 years.

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EXECUTION PAGE

IN WITNESS whereof this Debenture has been executed and delivered as a deed on the date first above written

Chargor

EXECUTED AS A DEED by

Build-A-Bear Workshop Franchise Holdings, Inc.

acting by:

/s/ Barry Erdos

Authorised Signatory

/s/ Bill Alvey

Witness

Chargee

EXECUTED AS A DEED by

Amsbra Limited

acting by:

/s/ Rupert Ashe

Director

/s/ Rupert Ashe

Director/Secretary