

# LBO Case Study

BabyBurgers LLC – A Completely Fictional Company

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## **Katten**

The documents included in the addendum were developed as part of a collaborative effort between Katten Muchin Rosenman LLP (“Katten”) and [ASimpleModel.com](http://ASimpleModel.com). Katten is an innovative law firm with 600+ attorneys throughout the United States. To learn more about Katten please visit [Katten.com](http://Katten.com).

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## INTRODUCTION

### **DEVELOPED IN PARTNERSHIP WITH KATTEN MUCHIN ROSENMAN LLP:**

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## INSTRUCTIONS

### LBO Case Study Instructions:

In this exercise you are to assume the role of an independent sponsor. You will be provided with the information and documents outlined below, and asked to build a financial model that can be used to communicate returns to your investors:

- a. Confidential Information Memorandum
- b. Financial Statements and Historical Financial Model
- c. Summary Term Sheet from the Subordinated Lender
- d. Summary Term Sheet from the Senior Lender
- e. Letter of Intent

You will need to incorporate information contained in the two term sheets for the debt schedules in your model. You will also need to include the management fee detailed in the Letter of Intent. Otherwise the information required to complete this case study is contained in the Excel file associated with this exercise. As you will see, the assumed transaction date is 12/31/20 and for the purposes of this exercise, you may assume the associated financials for 2020 are all actuals. Obviously, the numbers beyond the current year are management projections and you may alter or adjust the forecast as you think appropriate.

**This is *not* a guided exercise.** No solution will be provided. If you forget any step of the process you can revisit the examples provided in the Leveraged Buyout Model video series.

**Task: Use the information provided to build an LBO model of BabyBurgers LLC with a 5-year projection. As you will see when you download the Excel file referenced, you will need to develop all of your own assumptions (assume any projected periods have been provided by management). Your model should include the following at a minimum:**

1. LBO model with a 5-year projection.
2. 50% cash flow sweep that pays down outstanding debt in order of priority.
3. Debt covenant analysis.
4. A standard 80 / 20 distribution waterfall for equity proceeds.
5. Exit analysis that shows returns both gross and net of fees (MOIC and IRR).

As it relates to item 3 above, for this exercise assume that you can borrow *up to* the amount listed on the associated term sheets. If you determine the debt burden to be excessive make an adjustment to reduce the likelihood of an event of default.

The process of building a model without a template will expose areas of weakness in your skill set. I would encourage you to attempt this exercise without downloading templates available on ASimpleModel.com. I would even avoid cutting and pasting line items for the financial statements. Typing them will improve retention and cause you to think through the structure of the financial statements. It also provides an opportunity to display information in your own format, which becomes increasingly important as you look at opportunities in different industries.

**Legal Documents:**

For this exercise we are including some of the legal documents you would typically encounter working towards a Letter of Intent. It has been my observation that analysts are too frequently focused on the financial modeling exercise without realizing the significance of the legal documents that consummate the transaction. It is a critical process, and early exposure may help accelerate your career.

**Confidentiality Agreement (“CA”):** The investment bank representing the transaction will require that anyone interested in reviewing the opportunity execute a confidentiality agreement. This holds you responsible for the confidential information shared as part of the process.

**Confidentiality Agreement with Non-Circumvent Language:** As an independent sponsor you will also want to share the information you prepare with the sources of capital you intend to work with. For this purpose, you require a confidentiality agreement with non-circumvent language to prevent the parties you share information with from completing the transaction without you.

**Indication of Interest (“IOI”):** This is typically a short document that states the valuation range at which you would be interested proceeding with the transaction described in the Teaser.

**Letter of Intent (“LOI”)** [Included as Addendum]: A letter of intent is essentially an elaborate indication of interest. The valuation range previously provided will be reduced to the precise value at which you are interested, and you will be asked to include information about capital structure, employment agreements, non-compete agreements and high-level representations and warranties, among other things.

**Subordinated Lender Term Sheet** [Included as Addendum]: A document summarizing the terms and conditions at which the subordinated lender is willing to finance the transaction.

**Senior Lender Term Sheet** [Included as Addendum]: A document summarizing the terms and conditions at which the senior lender is willing to finance the transaction.

To mirror how this process typically unfolds, we have described the sequence as it would occur if you were in fact pursuing this transaction in real life. I have included the names used in this case study for the purposes of the explanation.

**Sequence:**

1. You receive a teaser (a one- or two-page document that anonymously describes the business) and a confidentiality agreement for Project Ben Bersnacky from Banker Brothers Investment Banking (“Banker Brothers”).
2. Once you have executed the confidentiality agreement and returned it to Banker Brothers, they will follow up with a copy of the confidential information memorandum (“CIM”) describing the target company. A CIM is typically a 25- to 50-page document that describes the business in detail. In this exercise we have reduced the CIM to two pages.

3. Using the information contained in the CIM, you then do some initial due diligence to determine the valuation range at which you are interested. If you decide to move forward with the process you will provide the investment bankers with an Indication of Interest (“IOI”) to communicate this range.
4. If the valuation range provided is appealing to the selling shareholders, you would then be asked to provide a Letter of Intent. Preparing a Letter of Intent requires substantially more work than an Indication of Interest (please see the description and example document available above).
5. At this stage you would reach out to potential lenders to determine their level of interest in financing this transaction. Lenders generally indicate their level interest and the terms on which they would like to participate in the transaction as a summary of terms or in a term sheet.
6. As part of this process you would also start communicating with your potential equity investors. You would likely develop your own CIM and financial model to communicate the returns you believe are achievable with the investment you are proposing.
7. The final step is to submit the completed letter of intent. If this document is executed, you will have an exclusivity period (typically somewhere in the range of 60 to 120 days) to consummate the transaction.

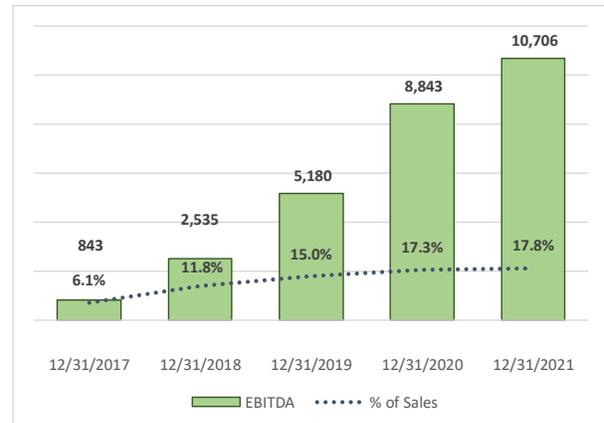
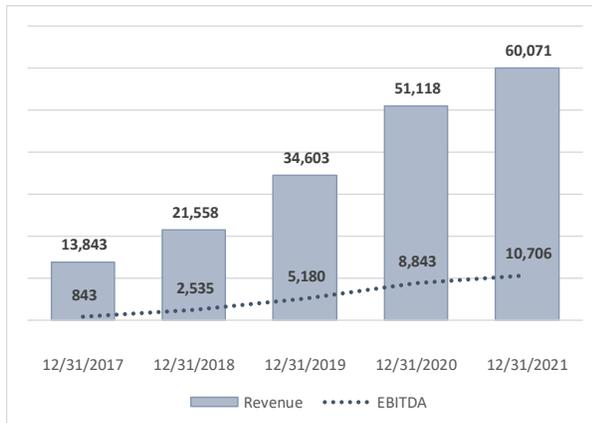
**This case study is intended to focus you on the financial modeling exercise required to complete step 6 above, and provide the confidence required to submit a letter of intent.**

## Project Ben Bersnacky

Banker Brothers Investment Banking is pleased to introduce Project Ben Bersnacky (“Bersnacky” or the “Company”), a high-growth company in the infant organic food industry.

The Company uses a proprietary recipe to develop a novel product currently unmatched in the marketplace. The Company sells its products direct to consumer and through select retailers.

### Select Financial Data (all figures in 000s)



### Investment Highlights

- **Recognized Brand:** Though the Company is young relative to its competition, it has developed an enthusiastic following.
- **Proprietary Process and Recipe:** The company has developed a proprietary process and recipe that allows it to offer high quality organic infant food that visually sets itself apart from the competition.
- **Direct-to-Consumer Model:** One of the few companies in the space that has managed to develop a strong direct-to-consumer model while simultaneously growing its wholesale footprint.
- **Benefiting from Trends:** The organic food trend is expected to continue for the foreseeable future. The company also benefits from the ongoing food-photography trend.

At this time the Company has elected to release limited information. If this opportunity is of interest please execute the attached NDA, and Banker Brothers Investment Banking will follow up with a Confidential Information Memorandum detailing the business.

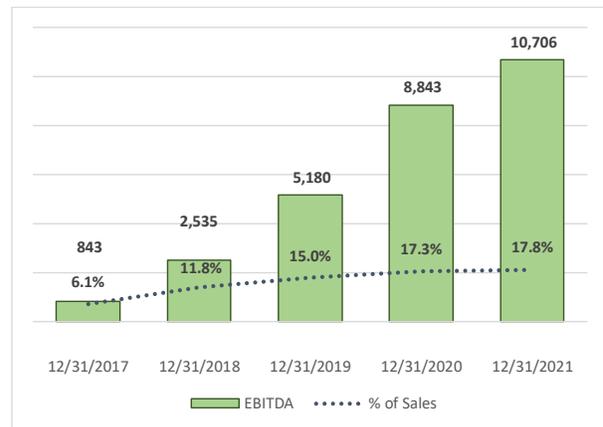
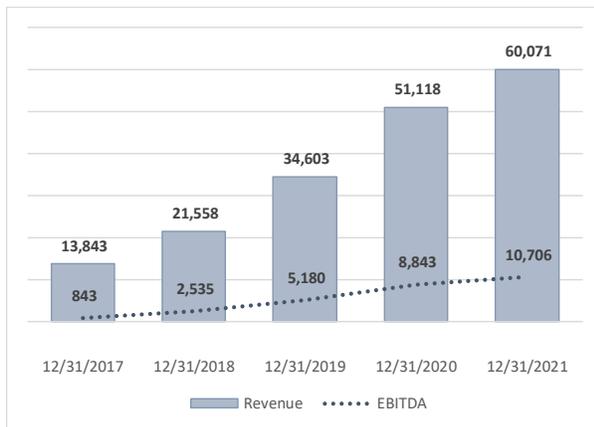
**BabyBurgers LLC: Confidential Information Memorandum (“CIM”)**

1. Company Overview
2. Company History
3. Product & Pricing
4. Competition
5. Financial Information

**Company Overview**

BabyBurgers LLC (“BabyBurgers” or the “Company”) uses a proprietary recipe to produce baby food shaped like favorite fast food dishes, BabyBurgers™, BabyNuggets™, and BabyShakes™ in miniature. This food technology immediately dissolves into semi-nutritious foodstuffs when it encounters the precise combination of heat and moisture found in a baby’s mouth. As CEO Madison English explains, BabyBurgers “melt in your mouth, not in your hand, a phrase I definitely invented.”

BabyBurgers sells its products direct to consumer and through select retailers. Select financial data provided below (*all figures in 000s*):



**Company History**

BabyBurgers was founded by the former chef of five-star restaurant Fifteen Gramercy Park, Madison English. Ms. English was appalled at the lack of infant diners at one of New York City’s best restaurants. The problem, she concluded, could be solved by providing infants, who are otherwise forced to consume food in liquid format, a solid option that would not create a choking hazard.

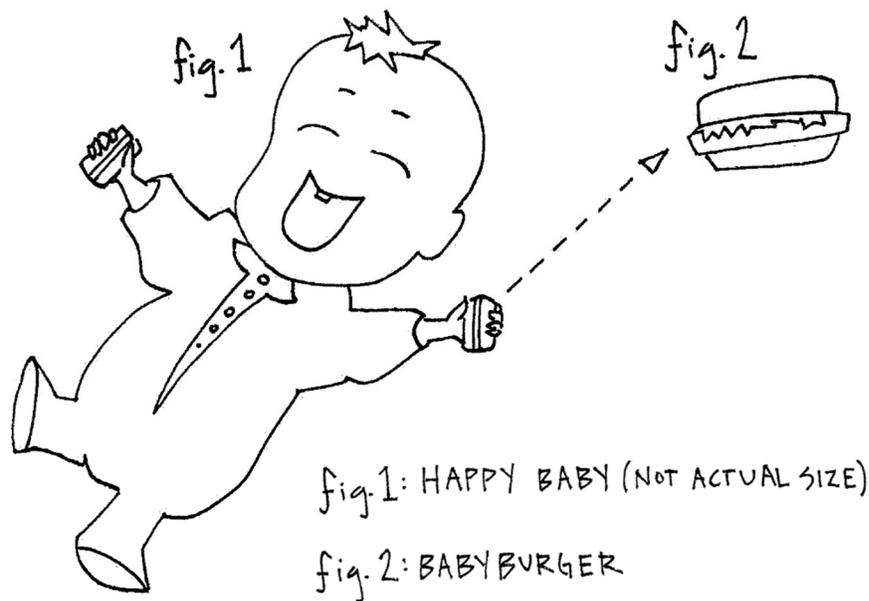
To the menu she one day quietly added BabyFoieGras and BabyPorterhouse using her new proprietary recipe that immediately dissolved in the appropriate environment (i.e. a baby’s mouth). Critics were aghast and Ms. English was banished from New York City’s culinary scene.

Mrs. English took her recipe and moved to Dallas, Texas where she temporarily worked at a day-care center to make ends meet. Having never really watched babies and toddlers eat before, she

was astounded by how sloppy they all were. “Why should babies eat sloppy soups?!” she demanded.

The following week she returned to work with a new prototype. This time her recipe was in the shape of a tiny burger. At lunch each child was provided three mouth-sized burger-shaped food objects made of hearty organic baby-growing nutrients. A mother that had arrived late noticed, gushed, and immediately produced her phone to photograph her child eating a delectable “burger” in one hand. The photograph was uploaded to Instagram with the caption “Let them eat like adults!!! \*heart-eyed emoji\*” It was an immediate sensation. BabyBurgers was born.

Today, BabyBurgers satisfies thousands of social media savvy parents tired of meal-time photographs ruined by liquid food.



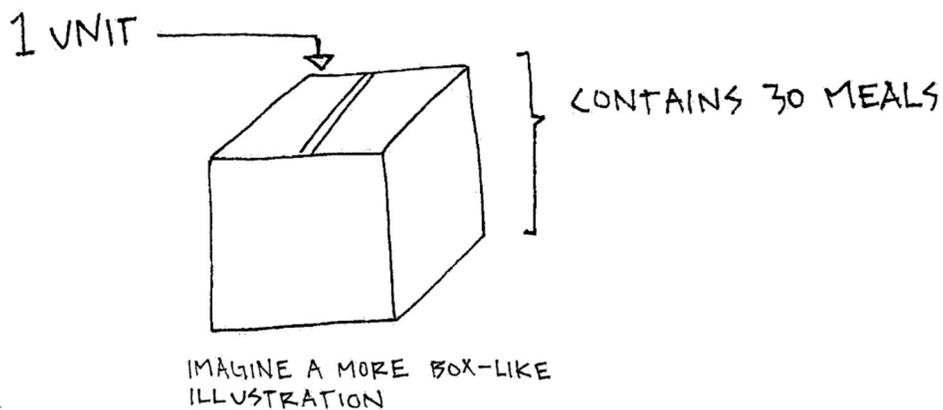
**Note:** Banker Brothers Investment Banking could not find a baby model that fit the budget for this CIM. So we had one of our analysts draw the baby at 2am after pulling an all-nighter the previous night.

## Product & Pricing

BabyBurgers sells its product direct-to-consumer and through wholesale channels. Regardless of point of sale, the product is always sold in the same packaging with 30 meals available per unit sold. Each box has five tiers of six units.

The management team believes additional sales could be achieved in the direct-to-consumer segment if more lower volume options were made available. The Company has not yet elected to take this on because of the additional cost associated with fulfillment, packaging and logistics.

Initially the product was priced at \$125 per unit, which translates to \$4.17 per meal. Since then the company has implemented two price increases, and currently the product sells for \$145 per unit or \$4.83 per meal. These price increases can be seen in the financial model provided by the Company.



## Competition

BabyBurger's CEO would argue that the company does not have any "real" competition because the product does not have an equal in quality and presentation. It is, however, the highest priced item in its category of high-quality, organic infant food.

Competitor Honestlé Foods Inc. ("Honestlé") makes a liquid product of equivalent nutritional value with similar high-quality ingredients that is sold in a pouch format at an average price of approximately \$3.75 per meal.

CONFIDENTIAL INFORMATION MEMORANDUM

Financial Information

Income Statement	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
<b>Revenue</b>	<b>13,842,500</b>	<b>21,558,250</b>	<b>34,602,910</b>	<b>51,118,010</b>	<b>60,070,683</b>
<i>Growth %</i>	39.6%	55.7%	60.5%	47.7%	17.5%
<b>Cost of Goods Sold</b>	<b>10,436,441</b>	<b>15,691,667</b>	<b>24,913,852</b>	<b>36,534,048</b>	<b>43,014,284</b>
<b>Gross Margin</b>	<b>3,406,059</b>	<b>5,866,583</b>	<b>9,689,058</b>	<b>14,583,962</b>	<b>17,056,399</b>
<i>% of Sales</i>	24.6%	27.2%	28.0%	28.5%	28.4%
<b>Total SG&amp;A</b>	<b>2,999,525</b>	<b>3,811,160</b>	<b>5,067,858</b>	<b>6,423,441</b>	<b>7,139,655</b>
<b>EBIT</b>	<b>406,534</b>	<b>2,055,423</b>	<b>4,621,200</b>	<b>8,160,522</b>	<b>9,916,744</b>
<i>% of Sales</i>	2.9%	9.5%	13.4%	16.0%	16.5%
<b>EBITDA</b>	<b>842,963</b>	<b>2,534,887</b>	<b>5,179,533</b>	<b>8,842,664</b>	<b>10,706,030</b>
<i>% of Sales</i>	6.1%	11.8%	15.0%	17.3%	17.8%
Balance Sheet	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
Cash	515,041	1,640,099	2,952,138	6,813,814	12,771,242
Accounts Receivable	1,365,000	2,209,815	3,506,100	4,934,785	5,481,000
Inventory	1,147,850	1,859,490	2,936,540	3,977,060	5,000,000
Current Assets	3,027,891	5,709,404	9,394,778	15,725,659	23,252,242
PP&E	1,958,333	2,153,869	2,395,536	2,763,393	3,224,107
<b>Total Assets</b>	<b>4,986,224</b>	<b>7,863,273</b>	<b>11,790,314</b>	<b>18,489,052</b>	<b>26,476,349</b>
Accounts Payable	583,500	945,324	1,490,484	1,991,372	2,500,000
Accrued Compensation	875,208	1,047,125	1,336,917	1,630,813	1,802,313
Current Liabilities	1,458,708	1,992,449	2,827,401	3,622,185	4,302,313
Revolving Line of Credit	-	-	-	-	-
Term Debt	3,600,000	4,200,000	3,800,000	3,400,000	3,000,000
<b>Total Liabilities</b>	<b>5,058,708</b>	<b>6,192,449</b>	<b>6,627,401</b>	<b>7,022,185</b>	<b>7,302,313</b>
Common Stock	750,000	750,000	750,000	750,000	750,000
Retained Earnings	(822,484)	920,824	4,412,913	10,716,867	18,424,037
Total Equity	(72,484)	1,670,824	5,162,913	11,466,867	19,174,037
<b>Total Liabilities &amp; Equity</b>	<b>4,986,224</b>	<b>7,863,273</b>	<b>11,790,314</b>	<b>18,489,052</b>	<b>26,476,349</b>
<i>Check</i>	-	-	-	-	-
Investments	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
<b>Capital Expenditures</b>	<b>600,000</b>	<b>675,000</b>	<b>800,000</b>	<b>1,050,000</b>	<b>1,250,000</b>
<i>% of Sales</i>	4.3%	3.1%	2.3%	2.1%	2.1%

## TRANSACTION ASSUMPTIONS

### Transaction Assumptions:

In this exercise we are leaving most of the assumptions about the future to you. In a real-world exercise you must develop your own assumptions and evaluate any projections provided with extreme skepticism.

As it relates to revenue growth, think through your customer base. How do you measure demand for this product? Because this is a fictional company you could develop your own thesis. For example, assume you believe only Instagram obsessed parents are willing to pay a premium for photo-friendly baby food. And to take it a step further, you might conclude that only parents that can broadcast this purchase widely will be consistent customers. You might then try to go through the exercise of determining how many of Instagram's users are parents with more than X,000 followers. Alternatively, if you are just trying to test your understanding of LBO mechanics, you can simply use historical averages to project the future.

We are also leaving the purchase price to you. We have included the sources of financing in the Term Sheets linked in this document, but the amount of leverage can be reduced if you determine that it would be prudent to do so. As you will see in the Sources & Uses table provided in the model, the amount of equity raised will be left to you as the independent sponsor driving the transaction.

<b>Transaction:</b>		<a href="#">12/31/2020</a>
		EBITDA
EBITDA at 12/31/2020		8,843
<b>Sources</b>		<b>Multiple</b>
Senior Term Debt	25,000	2.8x
Subordinated Debt	17,000	1.9x
Equity		0.0x
<b>TOTAL</b>	<b>42,000</b>	<b>4.7x</b>
<b>Uses</b>		<b>Multiple</b>
Seller Proceeds		0.0x
OldCo Debt		0.0x
Transaction Expenses		0.0x
Financing Fees		0.0x
<b>TOTAL</b>	<b>-</b>	<b>0.0x</b>

Remember, ultimately the objective is to build a model that allows you to demonstrate the returns achievable in the event of a successful exit. If at the conclusion of the exercise you do not believe the returns are attractive, revisit the capital structure you created to make adjustments. After all, the best way to control risk is with price. Good luck!

# Subordinated Debt: Summary of Terms

BabyBurgers LLC – A Completely Fictional Company

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## BabyBurgers LLC

### \$17,000,000 SUBORDINATED SECURED NOTES

#### SUMMARY OF TERMS

THIS TERM SHEET IS FOR DISCUSSION PURPOSES ONLY AND IS NOT AN OFFER, AGREEMENT, OR COMMITMENT TO LEND. THIS TERM SHEET REFLECTS THE BANK'S PRELIMINARY INTEREST IN EXPLORING THE POSSIBILITY OF A CREDIT ARRANGEMENT AND WILL NOT BE BINDING ON THE BANK OR THE ADDRESSEE.

- Issuer:** BabyBurgers LLC (“BabyBurgers” or the Company).
- Guarantors:** All future and existing subsidiaries of Borrower. All future and existing subsidiaries of Borrower.
- Purchaser:** Subordinated Lender
- Purpose:** To finance the acquisition of BabyBurgers LLC.
- Subordinated Notes:** \$17,000,000 Subordinated Secured Notes (“Subordinated Notes”) subject to a maximum 5.0x total gross leverage based on adjusted closing TTM EBITDA, with adjustments to be mutually agreed to by the parties.
- Maturity: Five years from closing.
- Interest Rate:** 12.0% per annum [*Advanced modeling option for ASM Reader: 10% current interest and 2% PIK.*]
- Default Rate:** The Interest Rate will accrue at an additional two percent per annum during all periods in which the Company has failed to make payments or failed to pay the redemption price when due. The definitive documentation will set forth a Default Rate for the breach of other covenants in the definitive documentation.
- Prepayment Protection:** Any voluntary or mandatory payments on the Sub Notes will be subject to a prepayment fee in the amount of:
- 3.0% prior to the first anniversary of the Closing Date;
  - 2.0% prior to the second anniversary of the Closing Date;
  - 1.0% prior to the third anniversary of the Closing Date; and
  - None thereafter.
- Senior Facility:** Borrower shall arrange a first lien credit facility including a revolving line of credit (“Revolver”) and a senior term loan. The funded amount under the Senior Facility on the Closing Date shall represent a maximum of 2.5x senior leverage.
- Information Rights:** Annual audited financial statements of Borrower shall be delivered within 120 days of fiscal year end; and

Quarterly company prepared financial statements shall be delivered within 45 days of each quarter end; and

Annual financial projections for Borrower shall be delivered within 60 days of fiscal year end; and

Notice of material litigation, material adverse effect, or event of default; and

Any information provided to equity holders.

**Financial Covenants:** The Note Purchase Agreement will include a gross total leverage covenant, a senior leverage covenant and a fixed charge covenant. The financial covenants for the Subordinated Notes will mirror the Senior Facility covenants.

**Collateral:** The Subordinated Notes will be secured by a second lien on substantially all assets of the Borrower and equity pledge of subsidiaries (collectively, the “Collateral”).

**Affirmative Covenants:** The Note Purchase Agreement will contain affirmative covenants customary for transactions of this type, including, but not limited to, the following: (i) maintenance of existence, books and records, and customary insurance; (ii) monthly financial reporting with associated MD&A and typical information rights; (iii) further assurances with respect to the collateral; (iv) compliance with environmental laws, other laws, and agreements; and (v) newly formed subsidiaries to become guarantors and to grant liens and security interests on the Collateral.

**Negative Covenants:** The Note Purchase Agreement will contain negative covenants customary for transactions of this type, including, but not limited to, the following: (i) limitations on investments and the incurrence of additional indebtedness; (ii) limitations on distributions, dividends, and redemptions; (iii) limitations on the sale of assets and the use of proceeds; (iv) limitations on liens and security interests; (v) limitations on acquisitions above a certain size (TBD); (vi) limitations on amendments to the Senior Facility; (vii) limitations on capital expenditures above mutually agreed levels; and (viii) limitations on transactions with affiliates.

**Reps and Warranties:** The Note Purchase Agreement will contain representations and warranties customary for transactions of this type.

**Events of Default:** The Note Purchase Agreement will contain events of default customary for transactions of this type, including, but not limited to, the following: (i) failure to make principal or interest payments when due; (ii) failure to satisfy any financial, affirmative, or negative covenant in the Note Purchase Agreement or any other transaction document; (iii) breaches of representations and warranties; (iv) the bankruptcy or insolvency of the Borrower; (v) judgments in excess of specified amounts; (vi) impairment of the Purchasers’ liens and security interests; (vii) change of control; and (viii) the invalidity of any transaction document.

**Board of Directors:** Purchasers shall have the right for one person to attend board meetings as a board observer and receive all information normally provided to directors.

**Financing Fee:** 2.0% of the face value of the Subordinated Notes.

# Senior Debt: Summary of Terms

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[INSERT SENIOR BANK NAME]  
 BabyBurgers LLC – Summary Terms and Conditions  
 Month XX, 20XX

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- Borrower:** BabyBurgers LLC (“BabyBurgers” or the Company).
- Guarantors:** All future and existing subsidiaries of Borrower. All future and existing subsidiaries of Borrower.
- Lender:** Senior Bank
- Purpose:** To finance the acquisition of BabyBurgers LLC.
- Term Debt:** \$25,000,000 Senior Secured Term Loan (“Term Loan”). Fully funded at close.
- Maturity: Five years from closing.
  - Excess Cash Flow Sweep: In addition to the repayment terms listed below, mandatory prepayments of the Term Loan will be required in amounts equal to 50% of Excess Cash Flow.
- Excess Cash Flow:** EBITDA less Cash Taxes less Mandatory Debt Payment less Cash Interest Expense less approved Capital Expenditures.
- Repayment:** Amortization Schedule [*Advanced modeling option for ASM Reader: Include quarterly principal payments in a model with monthly periods.*]:
- | Year         | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
|--------------|--------|--------|--------|--------|--------|
| Amortization | 10%    | 10%    | 15%    | 15%    | 20%    |
- Term Debt Pricing:** 5.0%
- Line of Credit:** \$5,000,000 Senior Secured Revolving Line of Credit (“Revolver”). No funding at close.
- Maturity: Five years from closing.
- Revolver Pricing:** 5.0%
- Information Rights:** Annual audited financial statements of Borrower shall be delivered within 120 days of fiscal year end; and
- Quarterly company prepared financial statements shall be delivered within 45 days of each quarter end; and
- Monthly borrowing base within 30 days of month end; and

Annual financial projections for Borrower shall be delivered within 60 days of fiscal year end; and

Notice of material litigation, material adverse effect, or event of default.

**Financial Covenants:**

Total Leverage Ratio – Borrower shall not permit the ratio of Funded Debt to EBITDA to exceed the following:

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Ratio	5.0x	4.75x	4.5x	4.25x	4.0x

Senior Leverage Ratio – Borrower shall not permit the ratio of Senior Funded Debt to EBITDA to exceed the following:

Year	Year 1	Year 2	Year 3	Year 4	Year 5
Ratio	3.0x	2.75x	2.5x	2.25x	2.0x

Fixed Charge Coverage Ratio – Borrower shall not permit the ratio of EBITDA less Capital Expenditures, Taxes and Distributions, divided by the sum of Cash Interest Expense and scheduled principal payments on Total Funded Debt to be less than 1.25x.

EBITDA shall be calculated on a trailing twelve-month basis.

**Affirmative Covenants:**

The Credit Agreement will contain affirmative covenants customary for transactions of this type, including, but not limited to, the following: (i) maintenance of existence, books and records, and customary insurance; (ii) monthly financial reporting with associated MD&A and typical information rights; (iii) further assurances with respect to the collateral; (iv) compliance with environmental laws, other laws, and agreements; and (v) newly formed subsidiaries to become guarantors and to grant liens and security interests on the Collateral.

**Negative Covenants:**

The Credit Agreement will contain negative covenants customary for transactions of this type, including, but not limited to, the following: (i) limitations on investments and the incurrence of additional indebtedness; (ii) limitations on distributions, dividends, and redemptions; (iii) limitations on the sale of assets and the use of proceeds; (iv) limitations on liens and security interests; (v) limitations on acquisitions above a certain size (TBD); (vi) limitations on capital expenditures above mutually agreed levels; and (vii) limitations on transactions with affiliates.

**Reps and Warranties:**

The Credit Agreement will contain representations and warranties customary for transactions of this type.

**Events of Default:**

The Credit Agreement will contain events of default customary for transactions of this type, including, but not limited to, the following: (i) failure to make principal or interest payments when due; (ii) failure to satisfy any financial, affirmative, or negative covenant in the Credit Agreement or any other transaction document; (iii) breaches of representations and warranties;

(iv) the bankruptcy or insolvency of the Borrower; (v) judgments in excess of specified amounts; (vi) impairment of the Lender's liens and security interests; (vii) change of control; and (viii) the invalidity of any transaction document.

**Origination Fee:** 1.0% of Term Debt.

# Letter of Intent (LOI) Example

BabyBurgers LLC – A Completely Fictional Company

[ASimpleModel.com](http://ASimpleModel.com)

## **Katten**

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This document was prepared with help from **Katten Muchin Rosenman LLP** (“Katten”). The founder of ASimpleModel.com has worked on control-equity, non-control equity and preferred equity investments with partners who are now at Katten for 10+ years. They have always been excellent to work with.

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Month XX, XXXX

Via Email

[NAME]  
[TITLE]  
[FIRM NAME]  
[EMAIL]

Dear [NAME]:

This letter sets forth a non-binding proposal, other than as expressly set forth herein, by which [INDPENPENDENT SPONSOR] (“SPONSOR”) would form a new limited liability company (the “Buyer”) to acquire all of the membership interests and other equity interests (the “Equity Interests”) of BabyBurgers LLC (“BabyBurgers” or the “Company”) from the sole member, Madison English (the “Seller”). Buyer would enter into employment and non-compete agreements with certain continuing members of BabyBurgers management (the “Management”) and the Seller to be determined during the course of due diligence. Except as expressly set forth herein, this is intended to be a nonbinding letter of intent (“Letter of Intent”).

1. Following the date of execution hereof, the Company and the Seller would afford to the Buyer upon prior notice and reasonable request through Buyer’s officers, attorneys, accountants, and authorized representatives and affiliates, free and full access to the offices, properties, books (including financial and operating data), records, audit reports, and income tax information relating to BabyBurgers during normal business hours in order to permit the Buyer to make such investigation of the business, properties, assets, liabilities and operations of BabyBurgers as the Buyer may deem necessary or desirable and the Company shall assist Buyer, its counsel, accountants and representatives, in their examination of such material.

2. The transaction would be documented pursuant to definitive agreements (the “Definitive Agreements”) mutually acceptable to the parties, containing, among other things, the terms and conditions set forth in Exhibit A attached hereto.

3. Until the earliest to occur of (a) written notice from Buyer to BabyBurgers that Buyer is not satisfied with the results of the due diligence investigation or financing agreements and has determined to terminate negotiations, (b) execution of Definitive Agreements to consummate the transaction contemplated herein, or (c) seventy-five (75) days from the date of execution hereof, BabyBurgers shall conduct its business in the ordinary course consistent with previous practices.

4. Until the earliest to occur of (a) seventy-five (75) days following the full execution hereof, (b) any Milestone Failure Date (as defined below), or (c) written statement by Buyer indicating that it is no longer pursuing the transaction, neither the Company nor any of its directors, officers, employees, agents or representatives nor the Seller will solicit, encourage or entertain proposals from or enter into negotiations with or furnish any nonpublic information to any other person or entity regarding the sale of any equity or debt securities of the Company, or regarding the acquisition of the Company, whether by sale of all or substantially all of its assets, merger, consolidation or equity interests, other than to the Buyer. A Milestone Failure Date is defined as the date of any Milestone, where the objectives of such Milestone have not been achieved by the designated date due to reasons within Buyer's control. Buyer agrees to immediately notify Seller in the event Buyer determines that it is no longer interested in pursuing the acquisition of the Company. The Milestones and their corresponding dates are as follows:

<u>Days from execution of Letter of Intent</u>	<u>Milestone</u>
5 days	Preliminary due diligence list
30 days	Submission of first draft of Definitive Agreements for the purchase all of the equity interests of the Company
60 days	Preliminary completion of financial due diligence
60 days	Preliminary completion of basic corporate governance due diligence

5. This Letter of Intent is intended to be a guide in the preparation of the Definitive Agreements in a form mutually satisfactory to the parties hereto. Nothing contained herein will be construed to preclude other provisions that are consistent with the terms of the transaction outlined herein from being included in the Definitive Agreements, provided such other provisions are satisfactory to all parties to the Definitive Agreements. This Letter of Intent will not be construed to impose any obligation on any party to execute the Definitive Agreements and Buyer will be free at any time if not satisfied with the results of its financing arrangements or investigations or otherwise upon written notice to BabyBurgers to abandon negotiations relative to the transaction and Buyer will incur no liability at law or in equity for abandoning such negotiations.

6. Notwithstanding anything to the contrary contained in this Letter of Intent, the terms and provisions of any definitive agreement entered into by the parties will supersede this Letter of Intent and control in the event of any conflict. This Letter of Intent, other than paragraphs 1, 3, 4 and 7 hereof (which are intended to be binding), is intended to be a nonbinding Letter of Intent.

7. Each of Buyer and Seller shall be responsible for their expenses in connection with the transactions contemplated by this Letter of Intent.

8. If this Letter of Intent is not duly executed by the Company and the Seller and delivered to the Buyer at the address below by MONTH XX, 20XX, it will expire:

[NAME]  
[TITLE]  
[FIRM NAME]  
[EMAIL]

If the foregoing expresses your understanding with respect to this matter, please have this Letter of Intent and its enclosed counterparts executed in the spaces provided below and return one fully executed copy to the undersigned.

SIGNATURE PAGE FOLLOWS

Sincerely,

[INDPENPENDENT SPONSOR]

[Name], [Title]

enclosure

The foregoing is accepted and agreed to in all respects as of this \_\_\_\_ day of \_\_\_\_\_,  
20XX by BabyBurgers and the Seller.

BABYBURGERS LLC

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Madison English, Founder and CEO

MADISON ENGLISH

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**EXHIBIT A**  
**PROPOSAL TO ACQUIRE**  
**100% OF THE EQUITY INTERESTS OF**  
**BABYBURGERS LLC**

1. Proposed Transaction. Buyer proposes to acquire good and marketable title to the membership interests or other equity interests of BabyBurgers, free and clear of all liens, claims, preemptive rights, rights of first refusal, voting and other restrictions and encumbrances.
2. Consideration. The aggregate consideration for 100% of the membership interests would consist of \$XX,XXX,XXX (the “Enterprise Value”). The Enterprise Value assumes a debt free and cash free transaction. Buyer would pay the Enterprise Value at the closing of the transaction (the “Closing”), less an escrow amount (as defined in Section 5 hereof) and less equity rolled by Seller, all as described below. In addition, to ensure that BabyBurgers is operating in the normal course prior to Closing, the Enterprise Value would be adjusted if BabyBurgers’s working capital as of Closing is outside a range of “normalized working capital” that Buyer and Seller would establish within thirty (30) days of execution hereof. All debt for borrowed funds, capital leases, deferred compensation, other indebtedness or other non-ordinary course liabilities outstanding as of the Closing will reduce the consideration paid to the Seller.
3. Proposed Capital Structure. The capital structure of Buyer would include approximately \$XX,XXX,XXX of equity, including the equity rolled by Seller in the equity of Buyer. Total debt would be approximately \$XX,XXX,XXX. The capital structure in the total amount of \$XX,XXX,XXX includes the purchase consideration of \$XX,XXX,XXX plus \$XXX,000 in transaction costs.

We have received terms sheets from multiple lenders that show a high degree of interest in providing financing for this transaction in this range.

While we have not selected a lender(s) and we would likely modify the terms from the term sheets offered or still forthcoming, we would be happy to provide copies of the terms provided should they be of interest to the Seller.

4. Equity Structure. The equity structure would consist of common units.

An incentive units pool would be created for certain members of Management. The incentive unit pool would be in an amount equal to approximately 10% of the units outstanding as of the Closing. The incentive units would vest based on the achievement of certain financial performance benchmarks. In the event of a sale prior to the five (5) year benchmark, there would be accelerated full vesting assuming that the interim financial tests were achieved.

5. Escrow. Absent a significant due diligence finding, Buyer would limit the escrow to \$X,000,000. Absent a claim, the escrow would be released after eighteen (18) months. The escrow would be available for indemnity claims and to settle any claims for working

capital. Subject to due diligence, Buyer may require a separate escrow for working capital claims.

6. Employment and Consulting Agreements. Concurrent with the purchase, Buyer would enter into employment agreements with certain members of BabyBurgers's management team on terms and conditions to be mutually agreed to, which would include non-competition and non-solicitation provisions.
  - a. Madison English and other members of management to be determined would enter employment agreements with Buyer with compensation to be determined by mutual agreement.
  - b. Madison English would have the title of President and CEO and serve as a member of the Board of Directors.
  - c. The employment agreements would include provisions related to non-competition and non-solicitation.
7. Non-Compete. Concurrent with the purchase, Buyer would enter into non-compete agreements with the Seller for a period of (5) years. The employment agreements for Seller and other members of management would have a two-year non-compete following termination of employment.
8. Schedule. The Closing of the Purchase would occur within seventy-five (75) days of the date of execution hereof.
9. Expenses. Except as provided herein, the Seller would be responsible for all costs and expenses incurred by the Seller and BabyBurgers in connection with the negotiation, documentation and consummation of the Definitive Agreements. Seller would have the responsibility for the payment of any and all fees due to their investment bankers. Buyer would be responsible for its own such costs and expenses.
10. Conditions to Closing. Without limiting the provisions hereof, the following conditions would be satisfied at Closing.
  - a. Execution of employment, consulting, non-compete and non-solicitation agreements with certain members of Management and non-compete agreements with the Seller.
  - b. Satisfaction of Buyer with its due diligence findings and financing arrangements in its sole discretion.
  - c. Negotiation of a long-term lease of the facilities currently utilized by BabyBurgers satisfactory to Buyer.

- d. Negotiation of Definitive Agreements satisfactory to Buyer in its sole discretion.
11. Indemnification. In the Definitive Agreements, the Seller would make representations and warranties that are customary in transactions of this type and size. Buyer would seek middle-of-the-road market indemnification provisions that we view to be fair and appropriate to both Buyer and Seller. Generally, Buyer would seek an indemnification package in line with the following:
- a. The Seller would indemnify Buyer without limit from and against any damages related to Taxes, Title to Assets and Real Property, Legal Organization, Legal Authority, Capitalization, Title to Membership Interests, Authorization, Related Party Transactions, Brokers, the Covenants or Fraud.
  - b. The Seller would indemnify Buyer up to 20% of the Enterprise Value for damages related to all other Representations for a period equal to eighteen (18) months after Closing. In addition, to the extent that Buyer identifies any risk for ERISA Matters or Environmental Matters, Buyer has the right to propose a separate basket for associated damages.
  - c. There would be an indemnity tipping basket of one-half a percent of the Enterprise Value and no minimum claim level.
  - d. Given the size of the business and earnings levels, we would expect minimal use of materiality clauses.
12. INDEPENDENT SPONSOR Management Fee. Sponsor would expect to charge an annual management fee that would consist of the greater of:
- a. \$350,000 escalating at 3% annually
  - b. 5% of EBITDA