



U.S. Small Business Administration

Office of Investment and Innovation

Model Opinion of Independent Counsel for Draws Against Accrual Debenture Commitment

Attached is a model Opinion of Counsel that includes the elements considered to be essential for SBA's acceptance of a draw against an Accrual Debenture commitment.

The Opinion of Counsel must be furnished by independent counsel under such counsel's or firm's letterhead. For the purpose of this Opinion of Counsel, independent counsel means counsel with no direct or indirect affiliation with the SBIC.

The form contains bracketed information provided for counsel to conform their opinion to the legal structure of the SBIC. Counsel should use only language applicable to the SBIC. Adjustments to the text should be made, as necessary, for opinions regarding Accrual SBICs with corporate or individual general partners.

(MODEL OPINION OF INDEPENDENT COUNSEL)

LETTERHEAD

[Date]

U.S. Small Business Administration
409 Third Street, S.W.
Washington, D.C. 20416

Ladies and Gentleman:

In connection with the application of _____ (“Licensee”) to you for the guaranty of its Accrual Debenture(s) and the sale of such Debenture(s) (collectively, the “Transaction”), [I/we] have reviewed:

The form of the original executed Accrual Debenture(s) (SBA Form 2536), which has not been completed except for the signature block;

The [Amended and Restated] Limited Partnership Agreement of the Licensee, dated as of _____, and the Certificate of Limited Partnership of the Licensee filed with the State of _____ ;

The [Limited Liability Company/Partnership] Agreement of _____ (“General Partner”), dated as of _____, and the Certificate of [Formation/Limited Partnership] of the General Partner filed with the State of _____ ;

A certified copy of the Resolution of the General Partner of Licensee dated _____, authorizing the issuance of the Debenture(s) and related action; and

Such provisions as [I/we] deemed necessary of (a) the Limited Partnership Law [and Limited Liability Company Law] of the State of _____ ; (b) the Small Business Investment Act of 1958, as amended, and the regulations issued thereunder;

Based on such review, [I am/we are] of the opinion that:

(1) Licensee is a limited partnership duly organized and validly existing under the laws of the State of _____, and the General Partner of Licensee is duly organized and validly existing under the laws of the State of _____ ;

(2) The Accrual Debenture(s), when properly completed and when the net proceeds of such Debenture(s) has been advanced to Licensee or its assigns, will be a valid and binding obligation of Licensee enforceable in accordance with its terms, except as limited by any subordination provision applicable to such Debentures(s), and;

(3) SBIC Funding Corporation has been duly authorized by the Licensee to act as its agent to sell the Accrual Debenture(s) at such price, on such date, at such interest rate, and on such terms and conditions as may be deemed proper and as approved by you.

This opinion may be relied upon by your counsel with respect to all or any part of the Transaction.

Very truly yours,