No. 2026-58
August 6, 2026

RESOLUTION OF THE CANNABIS CONTROL BOARD, PURSUANT TO SECTION 10 OF THE CANNABIS LAW, MAKING FINDINGS AND DIRECTING CORRECTIVE ACTION REGARDING THE SOLE CONTROL AND PROPORTIONALITY OF GOTHAM BUDS LLC, A CONDITIONAL ADULT-USE RETAIL DISPENSARY ("CAURD") LICENSEE

WHEREAS, Section 204 of the State Administrative Procedure Act ("SAPA"), allows persons to petition an agency for a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the agency, and the Cannabis Control Board (the "Board") is the body authorized to issue such a ruling with respect to the Cannabis Law and its implementing regulations;

WHEREAS, Article 2, Section 10(16) of the Cannabis Law empowers the Board to issue regulations, declaratory rulings, guidance, and industry advisories;

WHEREAS, the Board received a petition for a declaratory ruling from Jorge Vasquez, Esq. on behalf of the qualifying justice-involved majority owner, of a Conditional Adult Use Retail Dispensary (CAURD) licensee, Gotham Buds (the "Licensee"), seeking a ruling from the Board confirming that the Licensee's current governance and ownership structure described in the Licensee's Amended and Restated Limited Liability Company Agreement dated August 21, 2023 (the "Operating Agreement"), complies with the Cannabis Law and its implementing regulations;

WHEREAS, the Office of Cannabis Management (the "OCM") reviewed and analyzed the Operating Agreement, found that the Operating Agreement, as currently written, violates the sole control and proportionality requirements applicable to the Licensee under 9 NYCRR §§ 116.4, 116.7(c)(4), (5), 118.1(a)(28), and 118.1(a)(101);

WHEREAS, the Board has independently reviewed the OCM's findings and analysis, the Operating Agreement, and the full record before it; identified no material errors or omissions in the OCM's findings and, on the basis of its own independent review of the record, agrees that the Operating Agreement, as currently written, fails to satisfy the sole control and proportionality requirements applicable to the Licensee; and the Board hereby makes the following findings set forth in the Declaratory Ruling attached hereto as Exhibit A; now, therefore, be it

RESOLVED, that the Board hereby adopts and issues the Declaratory Ruling attached hereto as Exhibit A and incorporated herein by reference, setting forth the Board's findings, conclusions, and determinations with respect to the Licensee's compliance with the Cannabis Law and its implementing regulations; and be it further

RESOLVED, that the Licensee shall comply with the directives, deadlines, and requirements set forth in the Declaratory Ruling attached hereto as Exhibit A; and be it further

RESOLVED, that this Resolution shall take effect immediately.

EXHIBIT A

STATE OF NEW YORK
CANNABIS CONTROL BOARD

In the Matter of the Petition of
GOTHAM BUDS LLC
for a Declaratory Ruling Pursuant to
Section 204 of the State Administrative Procedure Act

Case No. TPB-25-00012
Declaratory Ruling No. DR-2026-00001

DECLARATORY RULING

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I. Introduction and Procedural History

1. Gotham Buds LLC is the holder of a Conditional Adult-Use Retail Dispensary license, License No. OCM-CAURD-23-000023 (the "Licensee").

2. On February 3, 2026, the Board received a petition for a declaratory ruling pursuant to SAPA § 204 from Jorge Vasquez, Esq., attorney of record for the qualifying justice-involved individual, seeking a ruling confirming that the Licensee's current governance and ownership structure complies with the Cannabis Law and its implementing regulations.

3. The OCM, through its Office of General Counsel's Trade Practices Bureau, reviewed the Licensee's Amended and Restated Limited Liability Company Agreement dated August 21, 2023 (the "Operating Agreement") and identified several distinct categories of provisions presenting material deficiencies under the sole control and proportionality requirements of Title 9 of the New York Codes, Rules and Regulations ("9 NYCRR") §§ 116.4, 118.1(a)(28), 118.1(a)(101), and 116.7(c)(4)–(5).

4. By letter dated March 23, 2026, the OCM advised the Licensee of the deficiencies in the Operating Agreement, thereby affording the Licensee opportunities to understand applicable regulatory requirements and submit amended documentation to establish compliance with those regulations.

5. The parties' effort to resolve these deficiencies has not, to date, resulted in an amended agreement that is compliant with the sole control and proportionality requirements.

6. The Board has independently reviewed OCM's findings and analysis, the (previously submitted) Operating Agreement, and the requestor's petition. For the reasons set forth below, the Board concurs with, and adopts, the OCM's determination that the Operating Agreement, as currently written, fails to satisfy the sole control and proportionality requirements applicable to the Licensee.

II. Jurisdiction and Regulatory Framework

7. Pursuant to SAPA § 204, a person may petition an agency for a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the agency, and the Board is the body authorized to issue such a ruling with respect to the Cannabis Law and its implementing regulations.

8. Cannabis Law § 10 outlines the Cannabis Control Board (the "Board")'s broad authority to superintend compliance with the Cannabis Law and its implementing regulations, including the power to revoke, cancel, or suspend any license, registration, or permit for a violation of the Cannabis Law or any regulation promulgated thereunder (Section 10(3)); the authority to impose or recover a civil penalty against any person found to have violated any provision of the Cannabis Law, whether or not a registration, license, or permit has been issued to such person (Section 10(3-a)); and the authority to draft and issue regulations, declaratory rulings, guidance, and industry advisories (Section 10(16)).

9. Pursuant to Article 4 of the Cannabis Law, which governs adult-use cannabis retail dispensary licenses, including the CAURD licenses at issue in this matter, the Board is vested with direct authority over the licensing, oversight, and regulation of adult-use retail dispensary licensees, including the Licensee, and has direct and sustained familiarity with the design, history, and operation of the CAURD program, including its eligibility criteria, its licensing process, and the conditions under which CAURD licensees have entered and continue to operate within the New York cannabis market.

10. The Board established and oversees the CAURD program as a signature initiative of New York's social and economic equity framework, with the deliberate and historic purpose of ensuring that the individuals and communities most harmed by the enforcement of cannabis prohibition are among the first to participate in, and benefit from, the legal adult-use market as genuine owners exercising genuine ownership and control of their businesses, and not merely as nominal title-holders whose names appear on a license while practical authority rests elsewhere.

11. 9 NYCRR § 116.3(a)(7) provides that a licensee's failure to maintain the ownership and control requirements of 9 NYCRR § 116.4 shall be deemed a surrender of the license, as determined by the OCM.

12. 9 NYCRR § 116.8 governs the suspension, revocation, and deemed surrender of CAURD licenses, and provides that a licensee's failure to comply with the Cannabis Law and applicable state and local laws, regulations, or guidance relating to CAURD and adult-use retail dispensaries, including those promulgated after an applicant submits its application for a license, shall be deemed a surrender of the license, subject to a thirty (30) day notice and opportunity to cure under 9 NYCRR § 116.8(a).

13. 9 NYCRR § 118.1(a)(28) defines "control or controlling interest" to include, among other things, the authority to order or direct the management, operations, managers, or policies of a person, including the power to approve operating and capital budgets; to adopt, approve, or direct fiscal operating policies and procedures; to approve contracts for management of facility services; to hire or dismiss executive personnel; to maintain and control the books and financial records; to encumber the assets of the person by way of mortgage or other indebtedness; and to dissolve the person or arrange for sale or transfer to new ownership or control.

14. 9 NYCRR § 118.1(a)(101) defines "sole control" to require, among other things, real, substantial, and continuing ownership of a 51% equity share; the right to execute material contracts; the ability to materially influence the day-

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to-day business decisions, operations, strategic priorities, capital allocations, acquisitions, and divestments of the entity; the absence of any timed or triggered recusal provision or side agreement; and the ability to direct decisions, voting or otherwise, such that no other person may control the majority of voting rights or appoint or remove the majority of corporate officers or their equivalent on the governing body.

15. 9 NYCRR §§ 116.7(c)(4) and (5) require that the ownership interest of the qualifying justice-involved individual be proportionate to that individual's interest in the capital, assets, and profits and losses of the licensee, and that this proportionality, together with the ownership and sole control requirements, be maintained continuously throughout the four-year Conditional Period.

16. The definitions of sole control and control, and the proportionality requirements, set forth in 9 NYCRR §§ 118.1(a)(28), 118.1(a)(101), and 116.7(c)(4)–(5) are not procedural formalities or technical conditions, but are the structural safeguards through which the promise of equity is substantively delivered, ensuring that the revenues, asset value, employment, and community reinvestment that flow from licensure accrue to the justice-involved individual who bore the costs of prohibition, rather than being captured by non-qualifying parties.

III. Equitable Context

17. The Board finds that many social and economic equity licensees, including the Licensee, entered the market undercapitalized and without access to the sophisticated legal and business counsel routinely available to well-resourced participants, and frequently entered into complex governance and financing agreements under the pressure of opening rapidly in a new regulatory environment. Because cannabis remains federally illegal, conventional bank financing and federal Small Business Administration lending are largely unavailable to these licensees, even though industry analysts estimate that opening a cannabis retail business requires at least $250,000 in startup capital (Yang, Berg & Burris, Cannabis Equity Initiatives: Progress, Problems, and Potentials, 113 Am. J. Pub. Health 5 (May 2023)). Equity operators are therefore frequently driven to private financing at interest rates commonly reported in the range of 20 to 40 percent, often coupled with demands for a substantial equity or control stake (NPR, Planet Money, Cannabis, Social Equity, and Developing a Just Market (Dec. 19, 2023)). The Office's own New York Social and Economic Equity Plan documents this dynamic: informed by roundtables with more than 400 New York residents, the Plan reports that social and economic equity groups consistently identified both the need for capital and the threat of predatory practices, and that equity applicants are commonly targeted for exploitation across real estate, legal, banking, accounting, and capital-raising services (N.Y. Office of Cannabis Mgmt., New York Social and Economic Equity Plan p. 15–17.

18. The Board further finds that this capital gap gives rise to a recurring dynamic in which a better-resourced party supplies capital or management services to an under-resourced equity licensee in exchange for governance and economic terms that displace the equity owner's actual control. The New York Social and Economic Equity Plan catalogs the specific terms through which such arrangements operate, including severe dilution of the equity owner's stake; reservation of management rights and decisions to a capital or management partner rather than the equity owner; inequitable profit distributions and excessive above-the-line fees and rents; forced-sale provisions permitting acquisition of the business at a predetermined, below-market price; and supermajority requirements that strip the equity owner of management control (N.Y. Office of Cannabis Mgmt., New York Social and Economic Equity Plan p. 16–17), and leaving the qualifying owner an effective minority stakeholder. OCM has reviewed more than 40 similar agreements that illustrated these described issues. The Board recognizes that this pattern is a foreseeable consequence of these resource disparities and is precisely the harm the sole control and proportionality requirements exist to prevent. The credibility of the equity framework depends on public confidence that equity licenses are held

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and controlled by genuine equity owners.

19. The Board issues this Declaratory Ruling from a data-rich vantage point and at a specific stage in the development of New York's adult-use market, a market the Board has worked to build and stabilize, comprising more than 683 licensed adult-use retail dispensaries and over $3.6 billion in cumulative legal adult-use sales as of June of 2026, of which the approximately 351 CAURD licensees were the first to be awarded. The Board determines, based on its administration of the CAURD program, its ongoing oversight of the adult-use market, the written community input it receives, and the public comments provided during its monthly public meetings, and at this stage of market development, that meaningful enforcement of the sole control requirement is what assures equity entrepreneurs that the framework will protect genuine equity owners from displacement, and that a failure to enforce would erode confidence in the entire social and economic equity program.

20. The findings and determinations set forth in this Declaratory Ruling are grounded in the specific facts and regulatory provisions at issue in this matter, are intended to provide guidance to the Licensee and to the licensed community regarding the Board's expectations concerning the ownership and control minimums required by 9 NYCRR § 116.4, with the requirement to maintain control, a controlling interest, or sole control as defined in 9 NYCRR §§ 118.1(a)(28) and 118.1(a)(101), and with the proportionality requirement set forth in 9 NYCRR § 116.7(c)(4) and (5).

IV. Findings

21. **Finding No. 1 (Documented Ownership and Financial Interests):** As evidenced by the Operating Agreement's Exhibit A, the qualifying justice-involved individual, Jeffrey Lopez, holds a 51% ownership (voting) interest but only a 14% financial (economic) interest and serves as Chief Operating Officer. Two non-qualifying minority members, Gregory Gray and Omar Tejeda, each hold a 19.5% ownership interest, but each receive a 32% financial interest and serve, respectively, as Chief Executive Officer and Chief Financial Officer; all three are designated managers. Two additional non-qualifying minority members, Malika Bellamy and Issa Minkah, each hold a 5% ownership interest, but each receive an 11% financial interest. These allocations fail to satisfy the proportionality requirement of 9 NYCRR § 116.7(c)(4)–(5).

22. **Finding No. 2 (Requisite Member Consent):** The Requisite Member Consent framework, defined in Section 1.2 of the Operating Agreement, conditions no fewer than ten categories of material business decisions (Section 3.1.3), including capital distributions, loans to the company, capital expenditures, mergers and restructurings, asset disposals, debt incurrence, issuance or redemption of membership interests, amendments to the agreement, budget approval, and the settlement of tax matters — on the consent of the non-qualifying minority members. Furthermore, Section 2.2.2 requires Requisite Member Consent before the Manager can withdraw any capital from the Company. Section 2.2.5 requires Requisite Member Consent before the Manager can make loans to the Company. Section 3.1.3 lists ten specific categories of actions that cannot be taken without Requisite Member Consent. Section 3.2.1 requires Requisite Member Consent for member votes on critical matters. Section 3.6 requires Requisite Member Consent to adjust reserve levels beyond twenty-four percent of net cash flow. Section 3.7.2 requires Requisite Member Consent to select a new partnership representative. Section 3.7.4 requires Requisite Member Consent before entering IRS agreements or settling tax audits. Section 4.1 allows Requisite Member Consent to waive monthly distributions. Section 6.6 requires Requisite Member Consent to approve the annual budget. This framework vests joint decision-making and "control," as defined in 9 NYCRR § 118.1(a)(28), in the non-qualifying minority members, strips the qualifying justice-involved individual of the authority required under 9 NYCRR § 116.4, and violates 9 NYCRR §§ 118.1(a)(28) and 118.1(a)(101).

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23. **Finding No. 3 (Collective Management Structure):** Section 3.1.1 of the Operating Agreement establishes that the company will be managed by three managers collectively: Omar Tejeda, Gregory Gray, and Jeffrey Lopez. The provision states that "A change in the Manager shall require Requisite Member Consent," which means that all three managers are locked into their positions unless both Mr. Tejeda and Mr. Gray agree to a change, irrespective of any input of Mr. Lopez, whether for or against. This Operating Agreement establishes a three-person co-manager structure and requires Requisite Member Consent to effect any change in management, which prohibits the qualifying justice-involved individual from removing or replacing co-manager. All strategic and financially significant decisions require Requisite Member Consent under Section 3.1.3, which returns us to the problem of needing both the minority members to consent. Because the ability to replace management is a fundamental attribute of control, its absence violates 9 NYCRR § 116.4 and 9 NYCRR § 118.1(a)(101), and in particular § 118.1(a)(101)(v).

24. **Finding No. 4 (Nominal Officer Designations):** The Operating Agreement, Section 3.1.4, designates specific officers with defined responsibilities, and vests responsibility for compliance and regulatory reporting in Mr. Gray, a minority member, and responsibility for financial decisions in Mr. Tejeda, a minority member, while the Requisite Member Consent constraints render Mr. Lopez's responsibilities as Chief Operating Officer nominal, as he cannot make any significant operations-related decision without said Requisite Member Consent. This fragmentation of authority violates the sole control and control requirements of 9 NYCRR §§ 116.4, 118.1(a)(28), and 118.1(a)(101).

25. **Finding No. 5 (Disproportionate Economic Structure):** As evidenced by the Operating Agreement's Exhibit A, the qualifying justice-involved individual holds a 51% ownership interest but only a 14% financial interest, a thirty-seven percentage-point disparity, while two non-qualifying minority members each receives a 32% financial interest against a 19.5% ownership interest, and two additional non-qualifying minority members each receive an 11% financial interest against a 5% ownership interest. In the aggregate, the four non-qualifying minority members hold 49% of ownership but capture 86% of economic returns. The Operating Agreement's Section 4.2 compounds this disparity by directing that the first $99,577 in distributable cash return capital contributions to the non-qualifying minority members before the qualifying justice-involved individual receives any distribution. This structure violates the continuous proportionality mandate of 9 NYCRR § 116.7(c)(4)–(5).

26. **Finding No. 6 (Asymmetric Transfer Restrictions):** The Operating Agreement's Section 7.1.1 subjects transfers by the qualifying justice-involved individual to Requisite Member Consent while imposing no comparable restriction on transfers by the non-qualifying minority members. This asymmetry enables the non-qualifying minority members to block the qualifying individual's exit, makes his ownership contingent on their consent rather than his own volition, contrary to the "real, substantial, and continuing" ownership standard of 9 NYCRR § 118.1(a)(101)(i), and imposes disparate treatment based on the social-equity status that qualifies the Licensee for the license. Because 9 NYCRR § 120.9(e) and (g) vest transfer-approval authority in the Board, a private agreement cannot create an approval requirement that transfers that regulatory authority to non-qualifying minority members.

27. **Finding No. 7 (Budget Control as Operational Constraint):** Section 6.6 requires that the annual budget be approved through Requisite Member Consent, meaning both Mr. Tejeda and Mr. Gray must approve the budget, requiring no input from Mr. Lopez. Section 3.1.2(d) then limits the Manager's authority to "enter into any agreement for the provision of any goods or services to or for the benefit of the Company which expenditures are provided for in the Budget," and states that "The Manager shall at all times operate the Company in accordance with the Budget." The requirement that the annual budget be approved through Requisite Member Consent, combined with the mandate that the manager operate the Licensee strictly in accordance with the approved budget, places the practical scope of all management authority, including vendor, inventory, marketing, staffing, and operational matters nominally within

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the qualifying justice-involved individual's Chief Operating Officer role, in the hands of the two non-qualifying minority members. This arrangement violates the sole control and control requirements of 9 NYCRR §§ 116.4, 118.1(a)(28), and 118.1(a)(101).

28. **Finding No. 8 (Failure to Cure):** By letter dated March 23, 2026, the OCM advised the Licensee of the deficiencies in the Operating Agreement it submitted and afforded an opportunity to the Licensee to submit compliant amendments. The Licensee has not submitted amendments that cure those deficiencies.

V. Determination, Order, and Directives

IT IS HEREBY DETERMINED AND DECLARED that the Amended and Restated Limited Liability Company Agreement of Gotham Buds LLC dated August 21, 2023, as currently written, fails to comply with the ownership and control minimums required by 9 NYCRR § 116.4, with the requirement to maintain control, a controlling interest, or sole control as defined in 9 NYCRR §§ 118.1(a)(28) and 118.1(a)(101), and with the proportionality requirement set forth in 9 NYCRR § 116.7(c)(4)–(5); and it is further

DETERMINED that the disparity between the qualifying justice-involved individual's 51% ownership interest and his 14% financial interest, together with the capital-return priority set forth in Section 4.2 of the Operating Agreement, violates the continuous proportionality requirement of 9 NYCRR § 116.7(c)(4)–(5); and it is further

DETERMINED that the cumulative effect of the provisions described in the Findings above diverts practical control of the Licensee to the non-qualifying minority members, contrary to the requirement that the qualifying justice-involved individual maintain sole control of the Licensee throughout the four-year Conditional Period required by 9 NYCRR § 116.7(c)(5); and

IT IS FURTHER ORDERED that this Declaratory Ruling, together with notice of the Board's determination, constitutes the Board's notice to the Licensee for purposes of the Licensee's opportunity to be heard under Cannabis Law § 10(3), and that the following process shall govern that notice and opportunity to be heard:

(a) **Preparation and issuance.** The Board directs the OCM to prepare a written notice, on the Board's behalf, that transmits this Declaratory Ruling. The OCM shall issue notice within three (3) business days following the Board meeting at which the Board acts on the accompanying Resolution.

(b) **Service on all parties.** The OCM shall serve the notice and this Declaratory Ruling on the Licensee, on each member of the Licensee (including any member who is not represented by counsel), and on the Licensee's counsel of record, by both certified mail, return receipt requested, and electronic mail to the addresses on file with the OCM, with service being considered complete upon the earlier of documented email delivery or certified-mail receipt.

(c) **Proof of receipt.** The OCM shall retain the certified-mail receipts and return cards, the electronic-mail transmission and delivery confirmations, and a dated affidavit of service, so that the fact and date of service and receipt are documented in the administrative record.

(d) **Two paths for the Licensee's response.** Assuming that the Licensee does not surrender the license under 9 NYCRR § 116.8(b) following service of the notice, the Licensee shall proceed by one of the following two paths:

1. **Cure the Aforementioned Deficiencies Within Thirty (30) Days.** The Licensee may accept the Board's determinations and cure the identified deficiencies by submitting, within thirty (30) calendar days of the date

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of service, an amended and restated operating agreement and the supporting documentation required below, consistent with the thirty (30) day notice and opportunity to cure provided under 9 NYCRR § 116.8(a). Upon receipt of the Licensee's submission, the OCM shall, within ten (10) calendar days, prepare and submit to the Board a written report responding to the submission and stating whether, in the OCM's assessment, the submission cures the identified deficiencies. The OCM shall concurrently serve its report on the Licensee in the manner provided in subparagraph (b) above. If the OCM's report states that the submission does not cure the identified deficiencies, the Licensee may, within seven (7) calendar days of the date of service of the report, submit to the Board and the OCM a written response to the report, request an opportunity to present to the Board in the manner provided in subparagraph (d)(2) below, or both. The Licensee's election to proceed under this subparagraph shall not constitute a waiver of the Licensee's opportunity to be heard, and the Board shall not issue its determination under subparagraph (e) below until the periods provided in this subparagraph have run. The Licensee's submission and the OCM's report shall both be placed before the Board.

2. **Contest the Board's Findings.** In the alternative, if the Licensee does not intend to cure in the manner set forth by the Board and instead seeks to contest the Board's determinations, the Licensee may request an opportunity to present to the Board. The Licensee shall communicate any such request in writing within seven (7) calendar days of the date of service. Any such presentation shall be scheduled for the next regularly scheduled meeting of the Board or as the Board otherwise directs, shall be limited to the time allotted by the Board for presentations, which shall be no more than three (3) minutes, and shall be recorded or transcribed and made part of the administrative record. The Licensee may appear and present through counsel of its choosing, and may submit written materials in support of, or in lieu of, its oral presentation, provided such materials are submitted to the Board and the OCM no later than ten (10) calendar days before the scheduled presentation. Questions posed by Board members, and the Licensee's answers to those questions, shall not be counted against the time allotted for the presentation. Following the Licensee's presentation, the Board may direct OCM to submit a written reply to the Licensee's presentation; any such reply shall be served on the Licensee and its counsel of record, and the Licensee may submit a written response within ten (10) calendar days of service of the OCM's reply. The Board shall not issue its determination under subparagraph (e) until the expiration of that period.

(e) **Board review and final determination**. Under either path, the Board shall review the complete record, comprising this Declaratory Ruling, the notice and its proofs of service and receipt, the Licensee's written submission and any response or presentation record (as applicable), and any OCM report or response, and shall determine whether the Licensee has achieved compliance, whether additional time or proceedings are warranted, or whether the Board will proceed to any remedy available to it under the Cannabis Law and its implementing regulations, including under Cannabis Law § 10(3) and 9 NYCRR § 116.8. The Board's determination under either path shall constitute the Board's final determination with respect to the declaratory relief requested in the petition and shall be subject to judicial review only in a proceeding under Article 78 of the Civil Practice Law and Rules. Any subsequent imposition of a civil penalty, or any deemed surrender, suspension, or revocation of the license, shall constitute a separate action, shall be preceded by its own notice and opportunity to be heard as set forth below, and shall not be final for purposes of judicial review until the conclusion of that process.

(f) **Failure to cure or to request a presentation**. If the Licensee neither submits a curative amendment nor requests an opportunity to present within the periods prescribed, the Board may issue a follow-up resolution finding that the applicable period has lapsed without cure and without a request to be heard, and directing such remedy as is available to it under the Cannabis Law and its implementing regulations, including under Cannabis Law § 10(3) and 9 NYCRR § 116.8. Any follow-up resolution issued by the Board shall recite the procedural history, the proofs of service and

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receipt, the lapse of both periods without response, and the record basis for the remedy selected.

(g) **Administrative record.** The OCM shall maintain the administrative record of the foregoing in a form suitable for use in any subsequent administrative or judicial proceeding, including any proceeding under Article 78 of the Civil Practice Law and Rules; and it is further

ORDERED that a compliant amended and restated operating agreement, whether submitted by a Licensee proceeding to cure within thirty (30) days of the date of service the aforementioned deficiencies or presented in support of a Licensee's position in its contest of the board's findings, must satisfy each of the following criteria:

Sole Control and Voting Authority:

(a) that decision-making authority over material business matters rests with the qualifying justice-involved individual rather than being conditioned on the consent of specified non-qualifying minority members;

(b) the defined consent mechanism, and any functional equivalent that confers an individual minority veto, shall be removed or replaced with a structure tied to a genuine ownership-based majority, where the qualifying justice-involved individual shall hold not less than 51% of all voting (ownership) interests in the Licensee;

(c) the "Requisite Member Consent" mechanism, and any functionally equivalent provision conferring joint decision-making authority or an individual veto upon one or more non-qualifying minority members, shall be eliminated;

(d) the qualifying justice-involved individual shall possess the authority to appoint and remove managers and officers, such that no other person may exercise or have the ability to control the majority of voting rights or appoint or remove the majority of director seats or their equivalent or corporate officers or their equivalent on the governing body;

Proportionality and Economic Interest:

(e) the financial interest of the qualifying justice-involved individual, that is, the interest in the capital, assets, and profits and losses of the Licensee, shall be proportionate to the qualifying justice-involved individual's ownership interest, and shall be not less than 51%;

(f) the capital-return priority set forth in the Operating Agreement Section 4.2, and any other distribution mechanism that defers or diminishes the qualifying justice-involved individual's proportionate economic interest, shall be eliminated or restructured so that proportionality is maintained continuously during the four-year Conditional Period and not solely upon an eventual distribution or liquidation event;

Day-to-Day Operational Control:

(g) the qualifying justice-involved individual shall have the actual and unencumbered ability to direct the day-to-day business operations, vendor relationships, staffing, and strategic priorities of the Licensee, without being subject to the consent, veto, or override of any minority member;

(h) the qualifying justice-involved individual shall hold, or have ultimate authority over, the compliance and regulatory-reporting function of the Licensee, such that responsibility for the Licensee's interaction with the Board or the OCM does not rest with a minority member;

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(i) the annual budget process shall be amended so that the qualifying justice-involved individual retains final authority to adopt a budget that permits the Licensee to operate in compliance with applicable law, and so that no minority member may block the adoption of such a budget;

Transfer Rights:

(j) any provision subjecting transfers by justice-involved individuals to heightened or asymmetric restrictions shall be eliminated, subject in all cases to the prior written approval of the Board or the OCM as required by the Cannabis Law and regulations; and it is further

ORDERED that a Licensee proceeding to cure within thirty (30) days of the date of service, as set forth in Section VI above, shall submit to the Board and to the OCM: (i) a fully executed amended and restated operating agreement addressing each of the categories of deficiency identified herein and satisfying each of the criteria set forth above; (ii) an amended operating agreement Exhibit A reflecting corrected ownership and financial interest allocations consistent with the proportionality requirement; (iii) an updated organizational chart and capitalization table demonstrating the corrected control structure and the proportionality of ownership and financial interests; (iv) a written narrative identifying each amendment made and the regulatory provision it is intended to satisfy; and (v) a sworn statement from each member of the Licensee affirming that no side letter, side agreement, or other undisclosed arrangement exists, or will be entered into, that is inconsistent with the corrected control and proportionality structure required herein; and it is further

ORDERED that all submissions and requests required or permitted by this Declaratory Ruling, either through curing the deficiencies or contesting the Board's findings, or both, shall be provided concurrently to the Board and to the OCM, so that the Board and the OCM may review the submissions, pose any questions they deems appropriate, and, upon review, the Board shall issue such further resolution or ruling as the Board deems warranted; and it is further

ORDERED that the Licensee seeking to cure shall submit the amended and restated operating agreement and the supporting documentation required herein within thirty (30) days of the date of service of this Declaratory Ruling, consistent with the thirty (30) day notice and opportunity to cure provided under 9 NYCRR § 116.8(a); that the OCM, in its discretion, may grant a single extension of not more than thirty (30) additional days upon a written showing of good cause, including a detailed explanation of the need for additional time and a specific timeline for completion; and that, during such period, the OCM shall not initiate license action against the Licensee based solely upon the deficiencies identified herein; and it is further

ORDERED that a Licensee seeking to contest the Board's determinations shall, within seven (7) calendar days of the date of service of this Declaratory Ruling, communicate to the Board and the OCM a written request for an opportunity to present, which presentation shall be scheduled and conducted, and followed by any OCM written response, in the manner set forth in Section VI above; and it is further

ORDERED that, if the Licensee neither submits substantially compliant amendments nor timely requests an opportunity to present within the periods prescribed herein, or if, following the Licensee's pursuit of either path, the Board determines upon the complete record that the Licensee has not achieved compliance, the following administrative process shall apply: (i) the failure to maintain the ownership and control requirements of 9 NYCRR § 116.4 may be deemed a surrender of the license under 9 NYCRR § 116.3(a)(7) and § 116.8, following the thirty (30) day notice and opportunity to cure provided under § 116.8(a); (ii) the Board may impose civil penalties under Cannabis Law §§ 10(3-a) and 16, which may be assessed against any person found to have violated the Cannabis Law, whether or not licensed, including a True Party of Interest as defined

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in 9 NYCRR § 118.1(a)(105); and (iii) the Board may suspend or revoke the license under Cannabis Law § 10(3) and 9 NYCRR § 116.8. Any such penalty, suspension, or revocation shall be imposed only after notice and an opportunity to be heard, and the Licensee shall be afforded a hearing consistent with the Cannabis Law and the State Administrative Procedure Act before a final determination is made in that action, which determination shall be separately reviewable under Article 78 of the Civil Practice Law and Rules; and it is further

ORDERED that nothing in this Declaratory Ruling modifies, alters, or amends any rights or duties by the parties under New York Business Corporation Law, New York Limited Liability Company Law nor any other applicable law or statute. In the event an action arises between the parties, OCM remains a necessary party under 131-a as proscribed by law.

ORDERED that nothing in this Declaratory Ruling shall be construed to limit the authority of the Board or the OCM to take any action otherwise authorized by the Cannabis Law or its implementing regulations; and it is further

ORDERED that this Declaratory Ruling shall take effect immediately.

DRAFT