

# NEW YORK SOCIAL EQUITY CANNABIS INVESTMENT FUND

## TERM SHEET SUMMARY

*This term sheet is a summary of the principal terms of the New York Social Equity Cannabis Investment Fund.*

*This term sheet is for information purposes only. The terms of this term sheet are not exhaustive and are not intended to be legally binding and are subject to the agreement and signing by all relevant parties of a detailed and legally binding limited partnership agreement.*

This Term Sheet describes the substantive contents of a Limited Partnership Agreement (the “LPA”) that will govern the operating terms and conditions of an investment fund named the New York Social Equity Cannabis Investment Fund (the “Fund”) that will be formed in cooperation and coordination with the Dormitory Authority of the State of New York (“DASNY”) for the purpose, among other things, of financing the initial build out of storefront conditional adult-use retail cannabis dispensaries in New York state (“Dispensaries”) as contemplated by Chapter 7-A of the Consolidated Laws (2021-2022 Regular Sessions) (the “NY Cannabis Law”) for operation by social equity licensees (“Social Equity Licensees”), as selected by New York State Cannabis Control Board (“CCB”) to obtain licenses to own and operate Dispensaries. A principal goal in the establishment of the Fund is to benefit communities and people disproportionately impacted by laws that punished the use of cannabis and the enforcement of such laws by promoting and facilitating social equity licensees to have access to the assets of the Fund, directly or indirectly, to acquire sufficient land, buildings and equipment to properly conduct the commercial activity for which they have been granted a license by the CCB (the “Public Policy Goal”). All references herein to “DASNY” shall mean, as appropriate and as the context requires, the Dormitory Authority of the State of New York or any subsidiary thereof (the “DASNY Subsidiary”), which subsidiary DASNY will establish to facilitate the creation and furtherance of the Program (as defined below).

The Fund’s LPA will be designed, as far as practicable, to mirror the general terms and conditions of LPAs typically utilized in the marketplace for traditional private credit/debt funds. Any variation from the traditional LPA, as necessary or appropriate, will be designed to address and reflect the particular purposes for which the Fund is being organized: namely to create a fund which facilitates the creation of Dispensaries in New York State (the “State”) in a manner that reflects the State’s desire, as articulated in the NY Cannabis Law, to further its goals of social equity and restorative justice for the benefit of persons who have been disproportionately impacted by the enforcement of anti-drug laws. The entirety of the program contemplated by the NY Cannabis Law that will be created by the New York State Office of Cannabis Management (“OCM”) and DASNY to effectuate the purposes of the NY Cannabis Law shall be referred to herein as the “Program.” The Program will be financed by the Fund in exchange for receipt of a non-recourse but collateralized repayment obligation from each Social Equity Licensee (the “Licensee Loan”). The Fund would be marketed as, and publicly described as, a debt fund or credit fund with a projected preferred rate of return. The LPA shall be subject to the prior written approval (or resolution) of the CCB, the board of directors of DASNY, the director of the Division of the Budget (the “Budget Director”) and the selection and retention of the General Partner of the Fund shall be made by DASNY in consultation with the OCM.

In addition to extending financing for the construction and equipping of the Dispensaries for the Program, the Fund shall, through use of DASNY as its agent, enter into the contracts for the design, construction and equipping of each of the Dispensaries as well as for the lease, and the sub-lease to the operators, of the Dispensaries.

The purpose of this Term Sheet is to provide an outline for how the Fund, as a funding mechanism for accessing private sector capital, will be operated in general and how the Fund will interface with DASNY and, where relevant, with OCM in effecting the purposes of the NY Cannabis Law and the Program. As background and as more fully explained below:

- New York State has appropriated \$50 million to the Program to effectuate the purposes of the NY Cannabis Law. This \$50 million appropriation will be used to finance the fixed capital costs (and other closely related ancillary costs) associated with establishing conditional adult use cannabis dispensaries as contemplated by the Program. Funds from this appropriation will be made available to DASNY, which DASNY anticipates depositing upon receipt into an escrow account at a New York bank (the “Escrow Account”) established for the benefit of the Program. It is further anticipated that disbursements will be made by DASNY from the Escrow Account from time to time to fund capital calls from the Fund and to otherwise effectuate the purposes of the Program.
- DASNY will be a Limited Partner (“LP”) investor in the Fund (the “NY State LP Investor Entity”).
- Approximately [\$] million of the \$50 million State appropriation cited above that is received by DASNY will likely be initially invested by DASNY in the Fund after its formation and spent by the Fund at the direction of DASNY during the early stages of implementing the Program and prior to the Fund being launched (the "Ramp Up Period"), primarily in the design and implementation of the Program and initiating the effort to identify and building out the Dispensaries as described below in "Ramp Up Period Investment" and “Management of the Fund – Relationship between and among DASNY, OCM and the Investment Adviser/Fund Manager”. The GP will be expected to invest no less than \$[ ] million in the Fund during the Ramp Up Period.
- After the Fund has been organized and becomes operational, the Fund will launch through initiation of its first capital call in an aggregate amount which will equal (i) all of the expenses of the Fund then incurred to date (including those covered by the [\$ million] (approximately) DASNY initial investment referred to above) and (ii) an additional amount sufficient enough to fund all of the Fund's anticipated operating expenses for the next 90 days and (iii) the lesser of \$[ ] million or [ ]% of the Fund assets (the “Reserve Amount”), which will be set aside and used by the Fund (in cooperation and coordination with DASNY ) to resolve any defaults and/or other non-performance by any of the Social Equity Licensees of the Dispensaries. Each of the then LPs in the Fund, including the NY State LP Investor Entity, will fund their pro rata share of the total capital call. A portion of the proceeds of the initial capital call will be used to repay DASNY the positive difference between the \$[ ] million it invested in the Fund before the initial capital call less the amount of its initial call obligation. (the “DASNY Net Repayment Amount”)
- The Fund will be managed on a day-to-day basis by the General Partner (the “General Partner” or “GP”) of the Fund, who will also retain an Investment Adviser/Fund Manager in accordance with the terms and conditions of the LPA. The GP will be in charge of, among other things, the management, administration and operations of the Fund and the Investment Adviser/Fund Manager will be in charge of advising the GP with respect to various financial and investment issues relating to the Fund. The GP, or an affiliate of the GP, shall serve as the sponsor of the Fund and the GP, as the only general partner of the Fund (which is a limited partnership), will be required to acknowledge that it is secondarily liable (after the Fund) for all expenses and obligations which the Fund may incur as a result of the Fund serving as the leaseholder under the Dispensary Leases.
- Any decisions to be made by the Fund of a nature that involves a matter of public policy (a “Public Policy Matter”) that is of interest to New York State will be made by a three (3) member Public Policy Committee of the Fund (“Public Policy Committee”), whose members will

consist of the Chair of the CCB, the Executive Director of the OCM and the President of DASNY (or their respective representatives).

- The Fund will be structured in a manner intended to reimburse the State over the life of the Fund for its \$50 million contribution and to provide a nominal return to the State for its investment.

## **TERM SHEET**

### **The Fund**

New York Social Equity Cannabis Investment Fund, a New York registered limited partnership. Parallel and other alternative investment vehicles required to meet the specific needs of investors and/or to address specific tax, legal, regulatory or similar considerations may be established provided they are controlled by the General Partner, are subject to substantially the same terms, conditions, oversight and limits applicable to the Fund and the Limited Partners thereof and are approved by the Public Policy Committee.

### **Fund Purpose**

To finance the establishment and development of Dispensaries in the State of New York for the benefit of Social Equity Licensees. The Fund shall have no other purpose other than to advance the Public Policy Goal.

### **Certain State Oversight of the Fund**

To provide appropriate oversight by the State of its investment in the Fund, and solely in connection therewith the GP and the Fund shall, to the extent allowable by the New York State Constitution, authorize the Comptroller of the State, or the Comptroller's legally authorized representatives (collectively, the "Comptroller") to access, examine, and/or audit the accounts and books of the Fund on an annual basis, including its receipts, disbursements, contracts, investments, and any other items directly relating to its financial standing. The GP shall cooperate with any such financial examination or financial audit and shall agree to cause its and the Fund's key personnel to be available to discuss the Fund and its activities at the time of the audit.

The GP shall agree to cause its and the Fund's key personnel to be available to discuss the Fund and its activities at the request of the Public Policy Committee.

Any real property subleased by the Fund to a Social Equity Licensee shall be at the same rental rate at which the Fund has leased such property.

The Fund shall not be authorized to borrow any money or to incur any indebtedness, including guarantees, except when approved in advance by the Public Policy Committee.

The Fund shall not be terminated prior to its Term (as defined below) without the prior consent of the DASNY, OCM and the Public Policy Committee.

The Fund shall establish a conflict-of-interest policy approved by the Public Policy Committee.

Any loan agreement that the Fund enters into with Social Equity Licensees shall be a fixed rate, non-recourse loan and shall allow prepayment of the debt without any penalty imposed by the Fund but will allow for the inclusion of a make-whole provision (which shall be the obligation of the Social Equity Licensee borrower and is intended to reimburse (or “make-whole”) the Fund for lost income that results from the Social Equity Licensee borrower selling or otherwise transferring its License prior to its payment in full of its loan to the Fund) and shall not, at the time that the non-recourse loan is entered into, exceed the prime lending rate plus 50% of the maximum interest rate specified under Section 14-a(1) of the New York Banking Law (the “NY Banking Law”), which rate is currently set at 16% per annum.

The Fund shall not accept more than \$200 million in total commitments over the course of its Term, including the State's contribution to the Fund, which shall not exceed \$50 million.

The Fund shall not take any equity positions in, or enter into revenue or profit-sharing agreements with, any Dispensary business or include any terms and conditions in any agreement with any such Dispensary business that provides for any such equity interest to be owned by the Fund; the Fund shall not include any excessive penalties or recourse terms within the loan agreements.

The selection of Limited Partners, and the number of Limited Partners so selected, shall be subject to the review of, and limits placed by, the Public Policy Committee.

The Fund shall be subject to any additional oversight requirements that DASNY may deem appropriate, in consultation with OCM or the CCB.

**General Partner**

To be determined: will include [NAME OF GENERAL PARTNER], a [FORM OF ENTITY], registered in [NAME OF JURISDICTION].

**Fund Manager**

To be retained by the GP and to be determined: will include [NAME OF MANAGER], a [FORM OF ENTITY], registered in [NAME OF JURISDICTION]. The Fund Manager shall be compensated by the General Partner from the General Partner Management Fees received.

**Limited Partners**

New York State and up to an additional ninety-five (95) “qualified purchasers” as defined in the Investment Company Act of 1940.

<b>Maximum Size</b>	The aggregate Commitments to the Fund and any parallel/alternate vehicles shall not exceed \$200 Million, with \$50 Million to be invested by New York State and \$150 Million to be invested by private sector investors.
<b>Currency</b>	The currency of the Fund will be U.S. Dollars.
<b>General Partner's Commitment</b>	The General Partner and its Affiliates shall make and maintain an aggregate Commitment by subscribing for an Interest equal to at least ____% (or \$_____) of the aggregate Commitments of the LPs, which GP commitment shall be fully funded by the GP as part of the initial capital call, as described below. At least \$[] million of the GP's aggregate Commitment shall be made during the Ramp Up Period. (See "Ramp Up Period" immediately below.)
<b>Ramp Up Period</b>	During the period after the Fund has been organized but before the completion of the initial capital call, DASNY shall invest \$[] million in the Fund and the GP shall invest \$[] million in the Fund, both for the purpose of facilitating the initial build out of the Dispensaries and related expenses. The Fund will spend the entirety of the \$[] million DASNY investment before any of the \$[] million GP investment is spent and no portion of the \$[] million GP investment will be spent by the Fund without prior consultation with OCM.
<b>Initial Closing Date</b>	The initial closing will occur on the date determined by the General Partner when the aggregate Commitments equal or exceed \$_____.
<b>Final Closing Date</b>	The Fund shall cease accepting Commitments on the date that is the earlier of (i) 24 months from the Initial Closing Date or (ii) when the Fund has received private sector commitments of \$150 million.
<b>Subsequent Closings</b>	Additional closings may occur at the discretion of the General Partner. Investors admitted after the Initial Closing Date will be treated as if they had invested in the Fund at the Initial Closing Date and will participate in all the Fund's investments and will pay their pro rata share of all drawdowns made prior to their admission.
<b>Term of the Fund</b>	The term of the Fund will be 10 years from the Final Closing Date, with a 2-year initial investment period that will be used to identify locations for the Dispensaries and to complete the physical build out of the sites where the Dispensaries will be located.
<b>Commitment Period</b>	The period from the Initial Closing Date to the second anniversary of the Initial Closing Date [and subject to a one-year extension by the General Partner with the prior consent of the Advisory Committee]. The Commitment Period may be terminated earlier if all Commitments have been drawn down and invested.
<b>Minimum LP Commitment</b>	\$5 million is the minimum required investment, with the Fund having the ability to make exceptions in a limited number of

appropriate circumstances. No LP investor will be permitted to invest in the Fund that is not a Qualified Purchaser.

**Investment Policy**

The objectives of the Fund are twofold: (i) to facilitate the creation of Dispensaries in the State in a manner that reflects the State's desire to further its goals of social equity and restorative justice for the benefit of social equity persons who have been disproportionately impacted by the enforcement of anti-drug laws and (ii) to provide an attractive, long-term investment return by investing in Licensee Loans to be entered into on behalf of the Fund by DASNY as agent. The fact that the NY State LP Investor Entity will not participate in any income earned by the Fund but will only be entitled to receive a return of its capital investment in the Fund will facilitate the accomplishment of the second objective by enhancing the returns to be earned by the other private sector LPs that invest in the Fund.

**Investment Restrictions**

The Fund shall only make investments if they are consistent with the Fund's Investment Policy, which shall limit the permissible investments to those specifically contemplated by the Program.

**Preferred Return**

Such amount as is equal to an annual rate of return of [8%] compounded annually and calculated daily on the Capital Contribution made a Limited Partner, calculated from the date of receipt of such Capital Contribution by the Fund and accrual of the Preferred Return until the date of distribution or deemed distribution to such Limited Partner. The NY State LP Investor Entity shall not be entitled to receive a Preferred Return.

**Distributions/Waterfall**

The amounts to be distributed to the LPs and the GP (collectively, the "Partners") shall be distributed as follows:

- (1) First, 100% to pay any direct costs incurred by the Fund, including fund management fees and servicing fees, due at the time of distribution
- (2) Second, 100% to replenish any Fund reserve fund deficiencies
- (3) third, 100% to such Partners (excluding the NY State LP Investor Entity) until the cumulative amount distributed to such Partners hereunder is equal to the Preferred Return for such Partners;
- (4) fourth, 100% to such Partners (excluding the NY State LP Investor Entity) until such Partners have received cumulative distributions equal to such Partner's aggregate Capital Contributions; and
- (5) fifth, 100% to the NY State LP Investor Entity until the NY State LP Investor Entity has received cumulative distributions equal to such NY State LP Investor Entity aggregate capital contributions and then an amount to the NY State LP Investor

that equals \_\_\_% of the NY State Investor's capital contribution.

**Distributions in Kind**

Only cash distributions may be made by the Fund, including the final distribution following the dissolution and winding up of the Fund.

**Funding Mechanics /  
Capital Calls**

Notice of a drawdown capital call will be given no less than 20 business days before it is due and specifying in reasonable detail the purposes of such drawdown.

As described above, OCM will make an initial loan to the Fund to finance the startup of the Program (including initial soft costs) and to begin the buildout of the Dispensaries, which will likely occur before the Fund has started to raise capital. These borrowed funds will be reimbursed in full to OCM as described immediately below.

Capital Calls by the Fund will follow the typical capital call process for a private debt fund. The GP will send funding notices to LPs and all LPs (including the NY State LP Investor Entity) will be required to fund their pro-rata portion of the capital call within 20 days, or as required by the funding notice. The proceeds of the initial capital call will be used by the Fund to (i) repay the DASNY Net Repayment Amount, (ii) pay all other then currently owed obligations and expenses of the Fund and (iii) provide the Fund with sufficient working capital and liquidity to pay for its operating activities on a current basis for the next 90 days and (iii) to fund the Reserve Amount. Private sector fundraising will be coordinated by the Fund's investment adviser/fund manager.

**Borrowing and  
Guarantees**

Except for the authority to incur the debt to be owed to OCM as described above in "Funding Mechanics/Capital Calls" above, the Fund shall not be authorized to borrow any money under any circumstances or to incur any other financial obligations or liabilities (including guarantees), except as specifically contemplated by, and approved for, the Program and as approved by the Public Policy Committee.

**General Partner  
Management Fee**

The GP's management fee shall equal []% of the total Fund Commitments. The Management Fee is payable from the date the Fund launches and completes its initial capital call and the GP has received additional commitments from private sector investors of at least \$\_\_\_\_\_ million to the earlier of (i) the last day of the Term of the Fund or (ii) the appointment of a liquidator for the Fund other than the General Partner. The Management Fee is payable in quarterly instalments in advance. The GP shall receive no Management Fee with respect to the State's capital commitment if the Fund is terminated before the completion of the initial capital call.

**Liability of the GP and  
Indemnification**

GP shall not be liable to the Fund or to any LP of the Fund for any act or omission, including any mistake or error in judgment, so long

as (i) the GP has acted in good faith and in the good faith belief that his/her actions were in the best interests of the Fund and within the scope of authority of the GP and (ii) such act or omission does not constitute fraud, breach of fiduciary duty, willful misconduct, bad faith, gross negligence or material violation of the Federal securities or commodities laws or a material violation of OFAC/AML or corrupt practices laws.

The GP, as the only general partner of the Fund (which is a limited partnership), will be secondarily liable (after the Fund) for all expenses and obligations which the Fund may incur as a result of the Fund serving as the leaseholder under the Dispensary Leases.

The Fund will indemnify and hold harmless the GP to the fullest extent permitted by law against all claims and judgments brought against the GP for any act or omission in his role of GP against losses or damages (including reasonable costs and expenses, including attorneys' fees) incurred by the GP on behalf of the Fund in connection with the Fund's business except in instances in which a court of competent jurisdiction has rendered a decision that such act or omission constituted fraud, breach of fiduciary duty, willful misconduct, bad faith, gross negligence or material violation of the Federal securities or commodities laws or a material violation of OFAC/AML or corrupt practices laws.

Advancement of indemnification expenses will be permitted for expenses reasonably incurred by the GP prior to the final disposition of the matter so long as the claim is not one bought by the Fund, or a majority of the LPs against the GP and the GP executes an undertaking to repay the Fund for any advanced expenses if it is determined later upon a final adjudication that the GP is not entitled to such indemnification.

The GP shall not be entitled to indemnification with respect to any claim brought or damages incurred relating to disputes between and among the GP, on the one hand, and the State, any employee or officer of the Fund, the Investment Adviser, the LP Advisory Committee or the Public Policy Advisory Committee, on the other hand.

**Early Termination of the Fund**

The Fund may not be terminated prior to the end of its Term without the prior consent of DASNY, OCM and the Public Policy Committee.

**Removal of the General Partner and/or Fund Manager for Cause**

The General Partner shall notify the LPs immediately upon the occurrence of any Removal Conduct. After Removal Conduct has occurred, the LPs by written notice approved by a Majority in Interest may elect to remove the General Partner.

“Removal Conduct” with respect to the General Partner, the Fund Manager and any of their respective Affiliates means any conduct or lack thereof amounting to: fraud, bad faith or willful misconduct; gross negligence or reckless disregard in relation to activities of the Fund; material breach of the LPA or breach of the applicable standard of care; material violation of securities, commodities, AML/OFAC or corrupt practice laws, rules or regulations in relation to the activities of the Fund; criminal conduct; any order, judgment or decree of any court, arbitral tribunal or regulatory authority which prohibits, prevents or materially impairs such person from carrying on its duties or performing its obligations with respect to the Fund; and insolvency, administration, dissolution, liquidation, involuntary reorganization, bankruptcy or suspension of payments.

Upon the removal of the General Partner and/or Fund Manager for Removal Conduct, the General Partner and/or the Fund Manager, as applicable, will not to be entitled to receive any further management or other fees. In respect of its Commitment, the removed General Partner shall be treated as a Limited Partner and it shall not be obliged to satisfy any additional capital calls, should the LPs elect to appoint a new general partner.

The GP, as a result of its removal or resignation, shall not be relieved of any liability to the Fund with respect to any acts or omissions occurring prior to such removal or resignation.

**Removal of the General Partner Without Cause**

The LPs may at any time remove and replace the General Partner by written notice approved by at least 75% in Interest of LPs with the prior consent of the Public Policy Committee. The GP, as a result of its removal or resignation, shall not be relieved of any liability to the Fund with respect to any acts or omissions occurring prior to such removal or resignation.

**Appointment of Replacement General Partner**

A Majority in Interest of the LPs with the prior consent of the Public Policy Committee may approve the appointment of a replacement general partner following the removal of the General Partner for cause or without cause.

**Limited Partner Giveback**

The Fund may require the LPs to return distributions to the Fund to the extent not previously returned in an amount sufficient to satisfy all or any portion of the indemnification and other obligations of the Fund, whether such obligations or liabilities arise before or after the last day of the term of the Fund or, with respect to any LP, before or after such LP’s withdrawal from the Fund.

Each LP’s aggregate liability under the giveback (excluding the NY State LP Investor Entity) is limited to an amount equal to the lesser of: (i) [30]% of all distributions received by such LP from the Fund; and (ii) [25]% of such LP’s Commitment (in each case excluding the NY State LP Invest Entity). The NY State LP Investor Entity’s

aggregate liability under the LP give back shall be limited to \_\_\_\_\_.

No Limited Partner shall be required to return to the Fund any amount distributed by the Fund to such Limited Partner after the earlier of: (i) the second anniversary of such distribution (unless notified by the General Partner that there are ongoing proceedings against the Fund); and (ii) the second anniversary of the end of the term of the Fund.

**Standard of Care**

Each of the General Partner and the Fund Manager shall manage and control the Fund and its business and affairs reasonably and in good faith and with care that an ordinarily prudent person in a like position would exercise under similar circumstances. When exercising any discretion, neither the General Partner nor the Fund Manager shall place its interests or those of its Affiliates ahead of those of the Fund or of the Investors.

**Conflicts of Interest**

The General Partner and the Fund Manager shall not (and shall ensure the Fund does not) directly or indirectly knowingly undertake any conduct constituting an actual or potential conflict of interest between (i) the Fund or any Licenseholder/Dispensary on the one hand and (ii) any other person on the other hand (including the Fund directly or indirectly entering into any investment, divestment or other business transaction with any person where a conflict may exist, whether or not on arm's length terms and conditions) without the prior written consent of the LP Advisory Committee.

Each of the General Partner and the Fund Manager must disclose all actual or material potential conflicts of interest of which it is aware to the LP Advisory Committee.

**Organizational Expenses**

The Fund shall pay or reimburse the General Partner and the Fund Manager for all fees and expenses reasonably and properly incurred by any of them in connection with the formation of the Fund, including travel, meals and lodging (but not including entertainment expenses or the costs of private air travel) related thereto and excluding the fees and expenses of any placement agent, up to the lower of \_\_\_% of aggregate Commitments and \$\_\_\_.

**Fund Expenses**

The Fund shall pay all of the Fund's pro rata share of the reasonable and properly incurred costs and expenses of the Fund (other than the General Partner Expenses) as follows:

- agency, loan servicing, construction and property management and other fees payable to DASNY;
- liquidation expenses of the Fund;
- sales, withholding, or other taxes, fees or similar government charges which may be assessed against the Fund;

- commissions, brokerage fees or similar charges incurred in connection with the purchase or sale of securities;
- costs and expenses of meeting with potential investors and of the LPs, the LP Advisory Committee and the Public Policy Committee;
- expenses associated with preparation of the Fund's financial statements, tax returns and Internal Revenue Service Forms;
- all fees, costs and expenses (including attorneys' fees) relating to litigation and threatened litigation, investigation or other proceeding involving the Fund, including indemnification expenses;
- interest expense for any credit facilities;
- fees, cost and expenses incurred by DASNY in connection with the implementation of the Program, including a servicing fee payable to DASNY;
- the Management Fee to the GP; and
- Organizational Expenses up to the cap described above under "Organizational Expenses."

**General Partner Expenses**

The General Partner agrees to assume and pay all normal operating expenses attributable to the Fund's activities, including, without limitation:

- all routine, recurring expenses incident to the activities of the General Partner or the Fund Manager on behalf of the Fund;
- compensation and benefits of the officers and employees of the General Partner and the Fund Manager;
- clerical, legal, accounting and support services performed by employees of the General Partner and the Fund Manager;
- any and all expenses incurred in maintaining the General Partner's or the Fund Manager's registration as an investment adviser;
- fees and expenses of the Fund's and General Partner's registered agent and for maintaining the Fund's and General Partner's registered office;
- costs and expenses of entertainment, including speaker fees, incurred in connection with conferences or meetings; and
- office space, furniture, computers, telephones, facilities, utilities, and communications.

**Limited Partner Transfers**

The LPs wishing to transfer their interest in the Fund will require the prior written consent of the General Partner which shall not to be unreasonably withheld where the transfer is to an Affiliate of the transferor; or certain conditions as specified in the LPA are met, including an undertaking to pay all of the Fund's and General Partner's expenses relating to the transfer, and the transfer not causing the Fund to become subject to any laws, regulations or taxation (including ERISA and the Bank Holding Company Act) to which the Fund, the General Partner or such Limited Partner is not subject but for such Transfer.

**General Partner Transfer**

The General Partner may not transfer any of its interest in the Fund without the prior written consent of the Public Policy Committee.

**Excused Limited Partners**

An LP will be excused from making a capital call when such an investment by the LP would cause (i) the specific LP to violate a law applicable to such LP, (ii) the Fund's assets to become ERISA "plan assets," (iii) the LP to violate an internal investment policy applicable to such LP if the LP had disclosed the terms of such internal investment policy to the GP when the LP purchased its LP interest in the Fund and (iv) the GP to conclude, its good faith discretion, that a continuation of such investment by the LP would cause a material adverse effect upon the Fund.

The remaining LPs will not be required to contribute an additional amount that exceeds the lesser of that Limited Partner's Remaining Commitment and [50]% of the total Capital Contributions that such Limited Partner was originally required to make.

**Defaulting Partners**

An LP shall be considered to be in default if the LP fails to make a capital call as requested by the GP pursuant to the capital call provisions of the LPA.

If an LP fails to make a capital call as required by the LPA, then the GP shall have the authority to (i) sell the LP's interest in the Fund to any person/entity that satisfies the eligibility requirements for investing in the Fund, (ii) impose an interest cost of 20% upon the LP that shall accrue until the capital call is satisfied by the LP, (iii) sell the portion of the LP's aggregate capital commitment that has not yet been called to any person who satisfies the eligibility requirements for investing in the Fund, (iv) prevent the defaulting LP from voting on any matter as to which the LP was otherwise entitled to vote and/or (v) commence legal proceedings against the LP to enforce the LP's obligation under the LPA to provide capital to the Fund as required by the capital call provision of the LPA.

**LP Advisory Committee**

The General Partner will establish an advisory committee of the Fund no later than by the Final Closing Date consisting of 5 members, with 1 member appointed on the recommendation of DASNY, 1 member appointed on the recommendation of the OCM and three (3) members to be appointed by the General Partner. The LP Advisory Committee shall be responsible for typical Advisory

Committee matters, such as addressing conflicts of interest or potential conflicts, approving any deviations from the terms of the LPA or matters (except for Public Policy Matters, as defined below) that are not addressed in the LPA, so long as such matters are not materially detrimental to the financial interests of the LP investors and resolving any disputes between DASNY/OCM and the Fund that are not addressed by the LPA. Any LP Advisory Committee member will be indemnified to the same extent as the GP.

The LP Advisory Committee shall have no role in the control, management or investment activities of the Fund. Meetings of the LP Advisory Committee will be held quarterly or as called by a majority of the LP Advisory Committee, by the General Partner or by DASNY or OCM. Committee members will not be compensated for serving on the LP Advisory Committee but will be reimbursed for expenses reasonably incurred.

Unanimous Written Consents will be permitted in lieu of meetings and majority vote required to approve all other actions. Members of the LP Advisory Committee will be entitled to the same level of indemnification as applicable to the GP. [The LP Advisory Committee shall be required to render a comprehensive report to the Governor and to the NY State Legislature no later than March 31 of each year with respect to its activities conducted during the previous calendar year.]

#### **Public Policy Committee**

The purpose of the Public Policy Committee is to advise the Fund and the Fund Manager with respect to Public Policy Matters that arise therewith that implicate the public policy goals/concerns that emanate from the Cannabis Act and its implementation and the Program generally, including to provide advice and direction to the Fund Manager where investment and credit matters implicating Public Policy Matters arise to ensure they are resolved in a manner consistent with the stated objectives of the Cannabis Act and the Program generally.

The Public Policy Committee will meet quarterly or more frequently where circumstances dictate. The Public Policy Committee members will not be compensated for their services but reasonably incurred expenses will be reimbursed. Committee members will be indemnified to the same extent as the GP and the LP Advisory Committee members.

The members of the Public Policy Committee shall consist of the following three (3) members: the Chair of the CCB, the Executive Director of the OCM and the President of DASNY (or their respective representatives).

The Public Policy Committee shall be responsible for the following:

- Review and approve of the Fund's investment policy statement and any changes thereto;
- Review and approve any changes to the use and distribution of the Fund's investment funds;
- Monitor the Fund's risk profile, investment activity, and performance.
- Review and approve the Fund's strategic plan, particularly those matters therein pertaining to the Fund's investor base and the establishment, management, and liquidation of investments by the Fund;
- Approve the maximum amount of projected return on investment to the LPs and the management fees and other compensation to the GP;
- Review and approve any changes or amendments to the Fund's organizational structure, the LPA, and Fund's agreements with its Fund Manager/Investment Adviser and other service providers to the Fund to ensure that any such changes are consistent with the Fund's public purpose;
- Take reasonable steps, at the direction of the office of OCM, to provide geographic equity and representation in establishing the Dispensaries for operation by Social Equity Licensees, to the extent practicable, in support of the public purpose of the Fund and, at the direction of the OCM, that the site selection for such Dispensaries comports with all applicable state laws and related rules and regulations governing the location of the Dispensaries;
- Confirm that any real property leases and loan agreements issued by or on behalf of the Fund shall be provided to social equity licensees, duly licensed pursuant to article two of the cannabis law.
- Amendments or modifications to the LPA regarding the distribution of funds to the NY State LP Investor Entity.
- Removal and replacement of DASNY as servicer/agent to the Fund if DASNY is replaced by a private sector service provider.
- Approval of an early voluntary wind-up of the Fund
- Establish qualifications public policy perspective applying to the Limited Partners that may invest in the Fund and monitor compliance with those requirements.

The Public Policy Committee will not be authorized to:

- Be involved in any Fund investment decisions.
- Participate in Fund distribution decisions.
- Be involved in any procurement of professional services, including but not limited to servicer, counsel, or accounting firms, other than requiring the Fund to confirm that the entity has not been deemed to be debarred or non-responsible vendor by the State or Federal government.
- Interface with LPs.
- Have any involvement with respect to any decisions regarding defaulting entities, except to assist in any coordination needed with OCM on identifying new licensee to be placed into dispensary.

**Relationship Between and Among DASNY, OCM and the Investment Adviser/Fund Manager**

Pursuant to statute, DASNY has been authorized to, inter alia, (i) identify the sites to be used as Dispensaries, (ii) with the approval of the OCM, negotiate and enter into leases and other ancillary agreements, which agreements may include leasehold mortgages (or similar instruments) if requested by DASNY (collectively, the “Dispensary Leases”) for such sites with the lessors thereof (the “Landlords”), with DASNY acting as agent for the Fund, which Fund shall be the leaseholder under the Dispensary Leases (the “Fund/Leaseholder”), (iii) manage the design and construction of the various sites, (iv) develop a standard form of sublease between the Fund/Leaseholder and the sublessees/owner-operators of the sites (the “Social Equity Licensees”), (v) provide, or supervise the provision of, property management services and other operational and administrative support services with respect to the Dispensaries after such Dispensaries open for business, (vi) provide loan servicing with respect to the loans to be made to the Social Equity Licensees described below and (vii) provide lease servicing with respect to the Dispensary Leases and related subleases to the Social Equity Licensees.

DASNY shall, as agent of and on behalf of, the Fund enter into fixed rate, non-recourse loan agreements with the Fund as lender (and other ancillary agreements and instruments) with Social Equity Licensees that operate the Dispensaries on terms and conditions that (i) are approved by OCM, (ii) contain no prepayment penalties, (iii) provide for a make-whole provision (which shall be the obligation of the Social Equity Licensee borrower and is intended to reimburse (or “make-whole”) the Fund for lost income that results from the Social Equity Licensee borrower selling or otherwise transferring its License prior to its payment in full of its loan to the Fund), (iv) do not, at the date that the loan is entered into, impose a rate of interest that exceeds the prime rate of interest (as published by the Wall Street Journal on such date), plus 50% of the interest rate

specified in Section 14a-(1) of the NY Banking Law, which interest rate is current fixed at 16% per cent per annum in such section of the Banking Law and (v) contain no terms or conditions that would permit the Fund, as lender, to own or enjoy the benefit of, directly or indirectly, any equity interest in the Social Equity Licensee's Dispensary business or to receive, directly or indirectly, any revenues or profits generated by such Dispensary business.

DASNY shall be entitled to indemnification by the Fund to the same extent that the Fund indemnifies the GP, the LP Advisory Committee and the Public Policy Advisory Committee and shall be paid an annual fee of \$\_\_\_ (payable quarterly) as compensation for the various services that it will provide to the Fund under the Program.

DASNY and OCM shall develop a plan for the continuous operation of the Dispensary in the event that a Social Equity Licensee (a) is unexpectedly removed "for cause" or (b) unexpectedly forfeits or relinquishes his/her right to hold a License.

### **DASNY Reporting Requirements**

DASNY shall prepare an annual report beginning on December 30, 2022, and annually thereafter, which report shall include, but not be limited to:

- The number of Dispensaries created with the assistance of DASNY pursuant to the Program;
- The geographic distribution of Dispensaries operated by licensed Social Equity businesses; and
- Any other such data and information, including information regarding one or more DASNY Subsidiaries created pursuant to the Program.

For the initial report, DASNY shall report on the process of the procurement and selection of the GP;

Each annual report shall be published on the DASNY's website and presented to the Governor, the Temporary President of the Senate and the Speaker of the Assembly, no later than December 30, 2022, and annually thereafter; and

DASNY shall submit a copy of the LPA between the Fund and DASNY, to the Governor, the Temporary President of the Senate, and the Speaker of the Assembly no later than 15 days after such agreement has been fully executed by DASNY and the GP.

### **Meetings of the Fund**

The Fund shall have a meeting of LPs at least once each year beginning in the year after the year of the Initial Closing Date. The General Partner shall call additional meetings upon receipt of request to do so approved by Investors representing at least [20]% of Commitments or upon a request from DASNY or OCM.

The General Partner shall give at least 60 days' advance written notice of any meeting to the Investors, together with a copy of the agenda therefor. A copy of the minutes and any materials distributed at the meeting will be made available to all Investors within [30] days after the meeting.

### **Confidentiality**

Investors will be subject to obligations of confidentiality in relation to the affairs of the Fund and its investments however they can disclose any such information to any other Investor or representative thereof; as may be required by any law, order, or regulations; in connection with an audit or examination by any governmental or regulatory authority; and to its employees and professional advisers.

### **Fund Reporting**

The General Partner shall keep at the address of the Fund, the Register and full and accurate accounts of the transactions of the Funds until the final liquidation of the Fund and for at least seven years thereafter.

The books, accounts and records of the Fund as of the end of each fiscal year shall be audited by an independent auditor of national standing.

Within 90 days of the end of each Fiscal Year the General Partner will provide to LPs a financial report audited by the Auditor as of the end of such Fiscal Year, prepared in compliance with GAAP, which shall include, among other things, (i) the audited financial statements of the Fund, (ii) confirmation that the amounts of Management Fee that has been distributed is correct, and (iii) each Limited Partner's closing capital account balance as of the end of such Fiscal Year.

Within 45 days of the end of each calendar quarter (commencing with the first full calendar quarter after the date of the first Drawdown) the General Partner will provide to LPs, an unaudited report as of the end of such quarter made up in compliance with GAAP.

The General Partner will also provide to each Limited Partner, together with the financial reports:

- any reporting on environmental, social and governance risks and opportunities in the Fund as deemed appropriate by the General Partner or as requested by such Limited Partner; and
  - a report on the status and performance of the Fund containing a confirmation of (i) the aggregate amount of the unreturned Capital Contribution and (ii) the Remaining Commitment, of such Limited Partner.
- Side Letters**
- At its discretion and with the prior notice to the Public Policy Committee, the GP shall be authorized to enter into "side letters" with individual LPs in the Fund (only to extent they are

in the best interest of the Fund and its purpose) that provide for certain additional rights and/or benefits to the LP signatories of such side letters that are not provided for in the LPA to all LPs.