

## LIMITED LIABILITY COMPANY AGREEMENT

This Limited Liability Company Agreement (this “**Agreement**”) of DS Royalties LLC, a Delaware limited liability company (the “**Company**”), is entered into as of September 17, 2018 by and among the Company, Royalty Exchange Inc., its managing member, and any other Person who, after the date hereof, becomes a Member in accordance with the terms of this Agreement (collectively, the “**Members**”). Unless otherwise noted or defined elsewhere in this Agreement, capitalized terms used in this Agreement have the meanings ascribed herein, as more fully set forth in Article X.

### ARTICLE I Organizational Matters

**Section 1.01 Name.** The name of the Company is DS Royalties LLC.

**Section 1.02 Principal Office.** The principal office of the Company is located at 1550 Larimer St. #769 Denver, CO 80202, or such other location as may from time to time be determined by the Manager. The Manager shall give prompt notice of any such change to each of the Members.

**Section 1.03 Registered Office; Registered Agent.** The registered office of the Company and the registered agent for service of process on the Company in the State of Delaware shall be that office and Person named in the Certificate of Formation or such other office (which need not be a place of business of the Company) or such other Person or Persons as the Manager may designate from time to time in the manner provided by the Delaware Act and Applicable Law.

**Section 1.04 Purposes; Powers.**

(a) The purposes of the Company are to own and manage the Acquired Interests, distribute Royalty Proceeds to the Members, and to engage in any and all activities necessary or incidental thereto.

(b) The Company shall have all the powers necessary or convenient to carry out the purposes for which it is formed, including the powers granted by the Delaware Act.

(c) The Company shall not have the power to issue additional Units or debt, or acquire any assets other than the Acquired Interests.

**Section 1.05 Term.** The term of the Company commenced on the date and time the Certificate of Formation was filed with the Secretary of State of the State of Delaware and shall continue in existence perpetually or until any earlier date when the Company is terminated in accordance with the provisions of this Agreement or as provided by law.

## ARTICLE II Members

**Section 2.01 Members.** The names, mailing addresses, and Units of the Members are set out in Schedule 1 attached hereto (the “**Members Schedule**”). The Manager shall maintain and update the Members Schedule upon the issuance or Transfer of any Units to any new or existing Member in accordance with this Agreement.

### **Section 2.02 Capital Contributions; Capital Accounts; No Withdrawals.**

(a) The Members have contributed to the Company the amounts, in the form of cash, property, services, or a promissory note or other obligation (as such amounts may be amended herein from time to time, the “**Capital Contributions**”) set out in the Members Schedule. No Member shall be required to make additional Capital Contributions to the Company and no Member may make Capital Contributions that will otherwise affect the ownership or distributions to be made to the other Members pursuant to this Agreement.

(b) The Company shall establish and maintain for each Member a separate capital account (a “**Capital Account**”) on its books and records in accordance with the provisions of Section 704(b) of the Code and Treasury Regulations Section 1.704-1(b)(2)(iv). Each Capital Account shall be (i) credited by such Member’s Capital Contributions to the Company and any profits allocated to such Member in accordance with Section 4.01 and (ii) debited by any distributions to such Member pursuant to Section 5.01(a) and any losses allocated to such Member in accordance with Section 4.01. For purposes of maintaining the Members’ Capital Accounts, profits and losses shall be determined in accordance with Treasury Regulation Section 1.704-1(b). The Capital Accounts shall be adjusted by the Manager upon the occurrence of an event described in Treasury Regulations Section 1.704-1(b)(2)(iv)(f)(5) in the manner described in Treasury Regulations Section 1.704-1(b)(2)(iv)(f)(5) and (g) if the Manager determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Members. In the event of a Transfer of any Unit in accordance with the terms of this Agreement, the Transferee shall succeed to the Capital Account of the Transferor to the extent it relates to the transferred Unit.

(c) No Member shall be entitled to withdraw any part of its Capital Account or to receive any distribution from the Company, except as otherwise provided in this Agreement.

### **Section 2.03 Admission of Additional Members.**

(a) Additional Members may be admitted from time to time in connection with a Transfer of Units, subject to compliance with the provisions of Article VI, and in either case, following compliance with the provisions of Section 2.03(b).

(b) In order for any Person not already a Member of the Company to be admitted as a Member, whether pursuant to an issuance or a Transfer (including a Permitted Transfer) of

Units, such Person shall have executed and delivered to the Company a written undertaking substantially in the form of the Joinder Agreement attached as Exhibit A (a “**Joinder Agreement**”). Upon the amendment of the Members Schedule by the Manager and the satisfaction of any other applicable conditions, including, if a condition, the receipt by the Company of payment for the issuance of the applicable Units, such Person shall be admitted as a Member, shall be a party hereto, shall be deemed listed as such on the books and records of the Company, and thereupon shall be issued his, her, or its Units. The Manager shall also adjust the Capital Accounts of the Members as necessary in accordance with Section 2.02.

#### **Section 2.04 No Withdrawal; Death of Member.**

(a) So long as a Member continues to hold any Unit, such Member shall not have the ability to withdraw as a Member prior to the dissolution and winding up of the Company and any such withdrawal or attempted withdrawal by a Member prior to the dissolution and winding up of the Company shall be null and void. As soon as any Member ceases to hold any Units, such Person shall no longer be a Member. A Member shall not cease to be a Member as a result of the bankruptcy of such Member or as a result of any other events specified in Section 18-304 of the Delaware Act.

(b) The death of any Member shall not cause the dissolution of the Company. In such event, the Company and its business shall be continued by the remaining Member or Members and the Units owned by the deceased Member shall be automatically Transferred to such Member’s executors, administrators, testamentary trustees, legatees, distributees, or beneficiaries, as applicable, as Permitted Transferees; provided, that any such Permitted Transferee shall be admitted as a Member only upon compliance with the provisions of Section 2.03(b).

#### **Section 2.05 Certification of Units.**

(a) The Units shall not be certificated.

(b) If certificates related to the issuances are issued, then in addition to any other legend required by Applicable Law, all certificates representing issued and outstanding Units shall bear a legend substantially in the following form:

THE UNITS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A LIMITED LIABILITY COMPANY AGREEMENT AMONG THE COMPANY AND ITS MEMBERS, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL EXECUTIVE OFFICE OF THE COMPANY. NO TRANSFER, SALE, ASSIGNMENT, GIFT, PLEDGE, ENCUMBRANCE, HYPOTHECATION, OR OTHER DISPOSITION OF THE UNITS REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH LIMITED LIABILITY COMPANY AGREEMENT.

THE UNITS REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS

AND MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, PLEDGED, HYPOTHECATED, OR OTHERWISE DISPOSED EXCEPT PURSUANT TO (A) A REGISTRATION STATEMENT EFFECTIVE UNDER SUCH ACT AND LAWS, OR (B) AN EXEMPTION FROM REGISTRATION THEREUNDER.

**Section 2.06 Meetings.**

- (a) Meetings of the Members may be called by the Manager.
- (b) Written notice stating the place, date, and time of the meeting and, in the case of a meeting of the Members not regularly scheduled, describing the purposes for which the meeting is called, shall be delivered not fewer than seven days before the date of the meeting to each Member, by or at the direction of the Manager or the Member(s) calling the meeting, as the case may be. The Members may hold meetings at the Company's principal office or at such other place, as the Manager or the Member(s) calling the meeting may designate in the notice for such meeting.
- (c) Any Member may participate in a meeting of the Members by means of conference telephone or other communications equipment by means of which all Persons participating in the meeting hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.
- (d) On any matter that is to be voted on by the Members, a Member may vote in person or by proxy, and such proxy may be granted in writing, by means of Electronic Transmission, or as otherwise permitted by Applicable Law. Every proxy shall be revocable in the discretion of the Member executing it unless otherwise provided in such proxy; provided, that such right to revocation shall not invalidate or otherwise affect actions taken under such proxy prior to such revocation.
- (e) The business to be conducted at such meeting need not be limited to the purpose described in the notice and can include other business to be conducted by the Members; provided, that the Members shall have been notified of the meeting in accordance with Section 2.06(b). Attendance of a Member at any meeting shall constitute a waiver of notice of such meeting, except where a Member attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.
- (f) A quorum of any meeting of the Members shall require the presence, whether in person or by proxy, of the Members holding a majority of the Units. Subject to Section 2.07, no action may be taken by the Members unless the appropriate quorum is present at a meeting.
- (g) Subject to Section 2.07 and any other provision of this Agreement or the Delaware Act requiring the vote, consent, or approval of a different percentage of the Units, no action may be taken by the Members at any meeting at which a quorum is present without the affirmative vote of the Members holding a majority of the Units.

**Section 2.07 Action Without Meeting.** Notwithstanding the provisions of Section 2.06, any matter that is to be voted on, consented to, or approved by Members may be taken without a meeting, without prior notice, and without a vote if consented to, in writing or by Electronic Transmission, by a Member or Members holding not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which each Member entitled to vote on the action is present and votes. A record shall be maintained by the Manager of each such action taken by written consent of a Member or Members.

### **ARTICLE III Management**

#### **Section 3.01 Management of the Company.**

(a) Subject to the provisions of Section 3.02 and except as otherwise provided by the Delaware Act, the business, property, and affairs of the Company shall be managed by the Manager. The actions of the Manager taken in accordance with the provisions of this Agreement shall bind the Company. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a duly adopted resolution expressly authorizing such action.

(b) The Manager shall not be paid for its services but shall be reimbursed for the Administrative Expenses. The Manager shall promptly notify the Members of (i) any increase in the aggregate annual Ongoing Administrative Expenses that increases the then-current aggregate annual Ongoing Administrative Expenses by more than 20%, and (ii) any Administrative Expense paid to a Related Party of the Manager.

**Section 3.02 Actions Requiring Approval of Members.** Without the written approval of Members holding a majority of the Units, the Company shall not, and shall not enter into any commitment to:

(a) Amend, modify, or waive any provisions of the Certificate of Formation or this Agreement in a way that has a negative disproportionate impact on a subset of the Members; provided that the Manager may, without the consent of the other Members, amend the Members Schedule following any redemption, repurchase, or Transfer of Units in accordance with this Agreement and make any other amendment in its discretion that do not otherwise have a negative disproportionate impact on a subset of the Members.

(b) Enter into or effect any transaction or series of related transactions involving the sale, exchange, or other disposition of all or part of the Acquired Interests.

**Section 3.03 Officers.** The Manager may appoint one or more individuals as officers of the Company (the “Officers”) as the Manager deems necessary or desirable to carry on the

business of the Company and may delegate to such Officers such power and authority as the Manager deems advisable. An Officer is not required to be a Member of the Company. Any individual may hold two or more offices of the Company. Each Officer shall hold office until his or her successor is designated by the Manager or until his or her earlier death, resignation, or removal. Any Officer may resign at any time upon written notice to the Manager. Any Officer may be removed by the Manager at any time, with or without cause. A vacancy in any office occurring because of death, resignation, removal, or otherwise may, but need not, be filled by the Manager.

**Section 3.04 Replacement and Resignation of Manager.** The Manager may resign at any time by delivering a written resignation to the Company, which resignation shall be effective upon receipt thereof unless it is specified to be effective at some other time or upon the occurrence of a particular event. Prior to the Manager's resignation, Manager may appoint an entity wholly owned by Manager as successor Manager. If the Manager resigns without appointing an entity wholly owned by Manager as successor Manager, a successor Manager shall be elected by the affirmative vote of the Members holding a majority of the Units. The resignation of the Manager shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member from the Company.

#### **ARTICLE IV Allocations**

**Section 4.01 Allocation of Profits and Losses.**

(a) The Company's profits and losses for each Fiscal Year will be allocated among the Members pro rata in accordance with their Units.

(b) Notwithstanding any other provision of this Agreement, (i) "partner nonrecourse deductions" (as defined in Treasury Regulations Section 1.704-2(i)), if any, of the Company shall be allocated for each Fiscal Year to the Member that bears the economic risk of loss within the meaning of Treasury Regulations Section 1.704-2(i) and "nonrecourse deductions" (as defined in Treasury Regulations Section 1.704-2(b)) and "excess nonrecourse liabilities" (as defined in Treasury Regulations Section 1.752-3(a)), if any, shall be allocated to and among the Members in accordance with their Units.

(c) This Agreement shall be deemed to include "qualified income offset," "minimum gain chargeback," and "partner nonrecourse debt minimum gain chargeback" provisions within the meaning of Treasury Regulations under Section 704(b) of the Code.

(d) All items of income, gain, loss, deduction, and credit of the Company shall be allocated among the Members for federal, state, and local income tax purposes consistent with the manner that the corresponding items are allocated among the Members pursuant to this section, except as may otherwise be provided herein or under the Code.

**ARTICLE V**  
**Distributions**

**Section 5.01 Distributions.**

(a) The Manager shall cause the Company to distribute the Royalty Proceeds, along with unaudited financial statements, to the Members no later than 30 days after Company receives a royalty payment. Distributions of available cash shall be made to the Members at the times and in the aggregate amounts determined by the Manager. Such distributions shall be paid to the Members pro rata in accordance with their respective Units.

(b) Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution to Members if such distribution would violate Section 18-607 of the Delaware Act or other Applicable Law.

**ARTICLE VI**  
**Transfers**

**Section 6.01 General Restrictions on Transfer.**

(a) Except as permitted pursuant to Section 6.02, no Member shall Transfer all or any portion of its Units in the Company, except with the written consent of Manager. No Transfer of Units to a Person not already a Member of the Company shall be deemed completed until the prospective Transferee is admitted as a Member of the Company in accordance with Section 2.03 hereof.

(b) Notwithstanding any other provision of this Agreement (including Section 6.02), each Member agrees that it will not Transfer all or any portion of its Unit in the Company, and the Company agrees that it shall not issue any Units:

(i) except as permitted under the Securities Act and other applicable federal or state securities or blue sky laws, and then, with respect to a Transfer of Units, only upon delivery to the Company of an opinion of counsel in form and substance satisfactory to the Company to the effect that such Transfer may be effected without registration under the Securities Act;

(ii) if such Transfer or issuance would cause the Company to be considered a “publicly traded partnership” under Section 7704(b) of the Code within the meaning of Treasury Regulation Section 1.7704-1(h)(1)(ii), including the look-through rule in Treasury Regulation Section 1.7704-1(h)(3);

(iii) if such Transfer or issuance would affect the Company’s existence or qualification as a limited liability company under the Delaware Act;

(iv) if such Transfer or issuance would cause the Company to lose its status as a partnership for federal income tax purposes;

(v) if such Transfer or issuance would cause the Company to be required to register as an investment company under the Investment Company Act of 1940, as amended; or

(vi) if such Transfer or issuance would cause the assets of the Company to be deemed "Plan Assets" as defined under the Employee Retirement Income Security Act of 1974 or its accompanying regulations or result in any "prohibited transaction" thereunder involving the Company.

(c) Any Transfer or attempted Transfer of any Unit in violation of this Agreement shall be null and void, no such Transfer shall be recorded on the Company's books, and the purported Transferee in any such Transfer shall not be treated (and the purported Transferor shall continue be treated) as the owner of such Unit for all purposes of this Agreement.

(d) Except as provided in Section 2.04(b), no Transfer (including a Permitted Transfer) of Units to a Person not already a Member of the Company shall be deemed completed until the prospective Transferee (including a Permitted Transferee) is admitted as a Member of the Company in accordance with Section 2.03(b) hereof.

(e) For the avoidance of doubt, any Transfer of a Unit permitted by this Agreement shall be deemed a sale, transfer, assignment, or other disposal of such Unit in its entirety as intended by the parties to such Transfer, and shall not be deemed a sale, transfer, assignment, or other disposal of any less than all of the rights and benefits described in the definition of the term "Unit," unless otherwise explicitly agreed to by the parties to such Transfer.

**Section 6.02 Permitted Transfers.** The provisions of Section 6.01(a) shall not apply to any Transfer by any Member of all or any portion of its Unit to any of the following (each, a "Permitted Transferee" and, any such Transfer to a Permitted Transferee, a "Permitted Transfer"): (i) Such Member's spouse, parent, siblings, descendants (including adoptive relationships and stepchildren), and the spouses of each such natural persons (collectively, "Family Members"); (ii) a trust under which the distribution of Units may be made only to such Member and/or any Family Member of such Member; (iii) a charitable remainder trust, the income from which will be paid to such Member during his life; (iv) a corporation, partnership, or limited liability company, the stockholders, partners, or members of which are only such Member and/or Family Members of such Member; or (v) by will or by the laws of intestate succession, to such Member's executors, administrators, testamentary trustees, legatees, distributees, or beneficiaries.



**ARTICLE VII**  
**No Personal Liability and Indemnification**

**Section 7.01 No Personal Liability: Members; Manager.**

(a) Except as otherwise provided in the Delaware Act, by Applicable Law, or expressly in this Agreement, no Member will be obligated personally for any debt, obligation, or liability of the Company or other Members, whether arising in contract, tort, or otherwise, solely by reason of being a Member.

(b) Except as otherwise provided in the Delaware Act, by Applicable Law, or expressly in this Agreement, no Manager will be obligated personally for any debt, obligation, or liability of the Company, whether arising in contract, tort, or otherwise, solely by reason of being a Manager.

**Section 7.02 Indemnification.**

(a) To the fullest extent permitted under the Delaware Act, any Covered Person (as defined in Section 7.02(c) below) shall be entitled to indemnification and reimbursement of reasonable expenses from the Company for and against any loss, damage, claim, or expense (including reasonable attorneys' fees) (collectively, "**Losses**") whatsoever incurred by the Covered Person relating to or arising out of any act or omission or alleged acts or omissions (whether or not constituting negligence) performed or omitted by any Covered Person on behalf of the Company; provided, however, that (i) any indemnity under this Section 7.02 shall be provided out of and to the extent of the Company assets only, and neither any Member or any other Person shall have any personal liability to contribute to such indemnity by the Company; (ii) such Covered Person acted in good faith and in a manner believed by such Covered Person to be in, or not opposed to, the best interests of the Company and, with respect to any criminal proceeding, had no reasonable cause to believe his conduct was unlawful; and (iii) such Covered Person's conduct did not constitute fraud or willful misconduct, in either case as determined by a final, nonappealable order of a court of competent jurisdiction.

(b) Upon receipt by the Company of a written undertaking by or on behalf of the Covered Person to repay such amounts if it is finally judicially determined that the Covered Person is not entitled to indemnification under this Section 7.02, the Company shall advance, to the extent reasonably required, each Covered Person for reasonable legal or other expenses (as incurred) of such Covered Person in connection with investigating, preparing to defend, or defending any claim, lawsuit, or other proceeding relating to any Losses for which such Covered Person may be indemnified pursuant to this Section 7.02.

(c) For purposes of this Section 7.02, "**Covered Person**" means (i) each Member; (ii) each Manager and Officer of the Company; and (iii) each officer, director, shareholder, partner,

manager, member, Affiliate, employee, agent, or representative of each Member and of each Manager.

## **ARTICLE VIII**

### **Accounting and Tax Matters**

**Section 8.01 Inspection Rights.** Upon reasonable notice from a Member, the Company shall afford the Member access during normal business hours to the corporate, financial, and similar records, reports, and documents of the Company, and shall permit the Member to examine such documents and make copies thereof.

**Section 8.02 Income Tax Status.** It is the intent of this Company and the Members that this Company shall be treated as a partnership for US, federal, state, and local income tax purposes. Neither the Manager nor any Member shall make an election for the Company to be classified as other than a partnership pursuant to Treasury Regulations Section 301.7701-3.

**Section 8.03 Tax Matters Member; Partnership Representative.**

(a) Appointment; Resignation. The Members hereby appoint the Manager as the “tax matters partner” (as defined in Section 6231 of the Code prior to its amendment by the Bipartisan Budget Act of 2015 (“BBA”)) (the “**Tax Matters Member**”), and, for tax years beginning on or after January 1, 2018, the “partnership representative” (as provided in Section 6223(a) of the Code, as amended by the BBA) (the “**Partnership Representative**”). The Tax Matters Member or Partnership Representative may resign at any time if there is another Member to act as the Tax Matters Member or Partnership Representative. In the event of the resignation of the Tax Matters Member or Partnership Representative, the Manager shall appoint a new Tax Matters Member or Partnership Representative. If the resignation of the Partnership Representative occurs prior to the effectiveness of the resignation under applicable Treasury Regulations or other administrative guidance, the resignation shall be effective upon the earliest date provided for in such Treasury Regulations.

(b) Tax Examinations and Audits. The Tax Matters Member and Partnership Representative are each authorized and required to represent the Company (at the Company’s expense) in connection with all examinations of the Company’s affairs by any federal, state, local, or foreign taxing authority, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. Each Member agrees that it will not treat any Company item inconsistently on such Member’s income tax return.

The Tax Matters Member and Partnership Representative shall each have sole authority to act on behalf of the Company in any such examinations and any resulting administrative or judicial proceedings, and shall have sole discretion to determine whether the Company (either on its own behalf or on behalf of the Members) will contest or continue to contest any tax deficiencies assessed or proposed to be assessed by any taxing authority.

(c) BBA Elections. The Company will not elect into the partnership audit procedures enacted under Section 1101 of the BBA (the “BBA Procedures”) for any tax year beginning before January 1, 2018, and, to the extent permitted by applicable law and regulations, the Partnership Representative on behalf of the Company will annually elect out of the BBA Procedures for tax years beginning on or after January 1, 2018 pursuant to Section 6221(b) of the Code, as amended by the BBA. For any year in which applicable law and regulations do not permit the Company to elect out of the BBA procedures, then within forty-five (45) days of any notice of final partnership adjustment, the Company will elect the alternative procedure under Section 6226 of the Code, as amended by the BBA, and furnish to the Internal Revenue Service and each Member (including former Members) during the year or years to which the notice of final partnership adjustment relates a statement of the Member’s share of any adjustment set forth in the notice of final partnership adjustment.

(d) Income Tax Elections. Except as otherwise provided herein, the Tax Matters Member and Partnership Representative shall have sole discretion to make any determination regarding income tax elections they deem advisable on behalf of the Company; provided, that the Tax Matters Member or Partnership Representative will make an election under Section 754 of the Code, if requested in writing by Manager.

#### **Section 8.04 Tax Returns.**

(a) At the expense of the Company, the Manager will cause the preparation and timely filing (including extensions) of all tax returns required to be filed by the Company pursuant to the Code as well as all other required tax returns in each jurisdiction in which the Company owns property or does business. As soon as reasonably possible after the end of each Fiscal Year, the Manager will deliver to each Member, Company information necessary for the preparation of such Member’s federal, state, and local income tax returns for such Fiscal Year.

(b) Each Member agrees that such Member shall not treat any Company item on such Member’s federal, state, foreign, or other income tax return inconsistently with the treatment of the item on the Company’s return.

### **ARTICLE IX Dissolution and Liquidation**

**Section 9.01 Events of Dissolution.** The Company shall be dissolved and its affairs wound up only upon the occurrence of any of the following events:

(a) The sale, exchange, involuntary conversion, or other disposition or Transfer of all or substantially all the assets of the Company; or

(b) The entry of a decree of judicial dissolution under § 18-802 of the Delaware Act.

**Section 9.02 Effectiveness of Dissolution.** Dissolution of the Company shall be effective on the day on which the event described in Section 9.01 occurs, but the Company shall not terminate until the winding up of the Company has been completed, the assets of the Company have been distributed as provided in Section 9.03, and the Certificate of Formation shall have been cancelled as provided in Section 9.04.

**Section 9.03 Liquidation.** If the Company is dissolved pursuant to Section 9.01, the Company shall be liquidated and its business and affairs wound up in accordance with the Delaware Act and the following provisions:

(a) The Manager, or another Person selected by the Manager, shall act as liquidator to wind up the Company (the “**Liquidator**”). The Liquidator shall have full power and authority to sell, assign, and encumber any or all of the Company’s assets and to wind up and liquidate the affairs of the Company in an orderly and business-like manner.

(b) As promptly as possible after dissolution and again after final liquidation, the Liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company’s assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable.

(c) The Liquidator shall liquidate the assets of the Company and distribute the proceeds of such liquidation in the following order of priority, unless otherwise required by mandatory provisions of Applicable Law:

(i) First, to the payment of the Company’s debts and liabilities to its creditors (including Members, if applicable) and the expenses of liquidation (including sales commissions incident to any sales of assets of the Company);

(ii) Second, to the establishment of and additions to reserves that are determined by the Manager to be reasonably necessary for any contingent unforeseen liabilities or obligations of the Company; and

(iii) Third, to the Members, on a pro rata basis, in accordance with the positive balances in their respective Capital Accounts, as determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the liquidation of the Company occurs.

**Section 9.04 Required Filings.** Upon completion of the winding up of the Company, the Liquidator shall make all necessary filings required by the Delaware Act.

**ARTICLE X**  
**Definitions**

**Section 10.01 Definitions.** Capitalized terms used herein and not otherwise defined shall have the meanings set forth in this Section 10.01:

(a) **“Acquired Interests”** means the Company’s right to receive payments calculated based on the gross amount of proceeds actually received by the Company on account of the Company’s ownership of certain royalty payments deriving from the Recordings.

(b) **“Administrative Expenses”** means the Company’s administrative expenses, including, but not limited to, those items listed on Schedule 2 hereto.

(c) **“Affiliate”** means, with respect to any Person, any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person. For purposes of this definition, “control” when used with respect to any specified Person, shall mean the power, direct or indirect, to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or partnership or other ownership interests, by contract, or otherwise; and the terms “controlling” and “controlled” shall have correlative meanings.

(d) **“Applicable Law”** means all applicable provisions of (i) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations, or orders of any Governmental Authority; (ii) any consents or approvals of any Governmental Authority; and (iii) any orders, decisions, advisory, or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

(e) **“Certificate of Formation”** means the certificate of formation filed with the Delaware Secretary of State on May 2, 2018 and amended on August 22, 2018.

(f) **“Code”** means the Internal Revenue Code of 1986, as amended.

(g) **“Delaware Act”** means the Delaware Limited Liability Company Act and any successor statute, as it may be amended from time to time.

(h) **“Electronic Transmission”** means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved, and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

(i) **“Fiscal Year”** means the calendar year, unless the Company is required or elects to have a taxable year other than the calendar year, in which case Fiscal Year shall be the period that conforms to its taxable year.

(j) **“Governmental Authority”** means any federal, state, local, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of law), or any arbitrator, court, or tribunal of competent jurisdiction.

(k) **“Lien”** means any mortgage, pledge, security interest, option, right of first offer, encumbrance, or other restriction or limitation of any nature whatsoever.

(l) **“Manager”** means, initially, Royalty Exchange Inc., or such other Member as may be designated or become the Manager pursuant to the terms of this Agreement.

(m) **“Membership Interest”** means an interest in the Company owned by a Member, including such Member’s rights to (i) receive a distributive share of Company assets and items of Company income, gain, loss, and deduction; (ii) vote, consent, or participate in any Member decisions provided in this Agreement and the Delaware Act; and (iii) receive any and all other benefits due to a Member under this Agreement and the Delaware Act. The Membership Interest of each Member will be stated as a percentage interest in the same proportion as the total Capital Contributions of such Member bears to the total Capital Contributions of all Members.

(n) **“Person”** means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

(o) **“Recordings”** means all sound recordings, films, and production credits made by and/or on behalf of Dire Straits and/or Mark Knopfler and/or John Illsley prior to August 31, 2000 or otherwise acquired by way of assignment, transfer, or license, including without limitation those listed in Schedule 3.

(p) **“Related Party”** means (i) each individual who is, or who has at any time been, an officer or director of the Manager; (ii) each member of the immediate family of each of the individuals referred to in clause (i) above; and (iii) any entity in which any one of the individuals referred to in clauses (i) and (ii) above holds (or in which more than one of such individuals collectively hold), beneficially or otherwise, a material voting, proprietary, equity or other financial interest.

(q) **“Royalty Proceeds”** means the gross amount of the proceeds actually received by the Company on account of the Company’s ownership of the Acquired Interests, less the Administrative Expenses.

(r) **“Securities Act”** means the Securities Act of 1933, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

(s) **“Transfer”** means to sell, transfer, assign, gift, pledge, encumber, hypothecate, or similarly dispose of, directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, or to enter into any contract, option, or other arrangement or understanding with respect to the sale, transfer, assignment, gift, pledge, encumbrance, hypothecation, or similar disposition of, any Membership Interests or any interest (including a beneficial interest) therein. “Transfer” when used as a noun shall have a correlative meaning.

(t) **“Transferor”** and **“Transferee”** mean a Person who makes or receives a Transfer, respectively.

(u) **“Units”** mean the units of ownership into which the Membership Interests are divided, which shall be uncertificated. Each Unit represents a right to 0.1% of the ownership of the Company. Unless otherwise provided in this Agreement, references in this Agreement to “Units” of a Member shall include all of that portion of such Membership Interest that is represented by or attributable to, or otherwise relates to, such Units. The rights and entitlements of the Units are set forth in this Agreement and the number of such Units that are outstanding and held by, or issued to, each Member is set forth opposite such Member’s name on Exhibit A.

## **ARTICLE XI Miscellaneous**

**Section 11.01 Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any jurisdiction).

**Section 11.02 Submission to Jurisdiction.** The parties hereby agree that any suit, action, or proceeding based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby, shall be brought in the federal courts of the United States of America or the courts of the State of Colorado, in each case located in the City and County of Denver. Each of the parties hereby irrevocably consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action, or proceeding.

**Section 11.03 Waiver of Jury Trial.** EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**Section 11.04 Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or

delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Nothing contained in this Section 11.04 shall diminish the waiver described in Section 11.03.

**Section 11.05 Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given:

- (a) when delivered by hand;
- (b) when received by the addressee if sent by a nationally recognized overnight courier;
- (c) on the date sent by facsimile or email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or
- (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 11.05):

If to the Company or Manager:  
1550 Larimer St. #769 Denver, CO 80202  
Attention: Matthew Smith  
Email: matt@royaltyexchange.com

with a copy to:  
Hogan & Lovells US LLP  
1601 Wewatta, Suite 900, Denver CO 80202  
Attention: Mr. Andrew McCormick  
Email: andrew.mccormick@Hoganlovells.com

If to a Member: To the Member's respective mailing address as set forth on the Members Schedule.

**Section 11.06 Remedies.** In the event of any actual or prospective breach or default by any party, the other parties shall be entitled to equitable relief, including remedies in the nature of injunction and specific performance, awarded by a court of competent jurisdiction (without being required to post a bond or other security or to establish any actual damages). In this regard, the parties acknowledge and agree that they will be irreparably damaged in the event



this Agreement is not specifically enforced, since (among other things) the Membership Interests are not readily marketable. All remedies hereunder are cumulative and not exclusive, may be exercised concurrently, and nothing herein shall be deemed to prohibit or limit any party from pursuing any other remedy or relief available at law or in equity for any actual or prospective breach or default, including recovery of damages. In addition, the parties hereby waive and renounce any defense to such equitable relief that an adequate remedy at law may exist.

**Section 11.07 Severability.** If any term or provision of this Agreement is held to be invalid, illegal, or unenforceable under Applicable Law in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**Section 11.08 Successors and Assigns.** Subject to the restrictions on Transfers set forth herein, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

**Section 11.09 Amendment.** This Agreement may be amended or modified by the Manager in its sole discretion subject to Section 3.02.

**Section 11.10 Headings.** The headings in this Agreement are inserted for convenience or reference only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision of this Agreement.

**Section 11.11 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

**Section 11.12 Entire Agreement.** This Agreement, together with the Certificate of Formation and all related Exhibits and Schedules, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

**Section 11.13 No Third-Party Beneficiaries.** Except as provided in Article VII, this Agreement is for the sole benefit of the parties hereto (and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns) and nothing herein, express or implied, is intended to or shall confer upon any other Person, including any creditor of the Company, any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

The parties have executed this Agreement as of the date first written above by their respective authorized officers.

The Company:

DS Royalties LLC, a Delaware limited liability company

By: Royalty Exchange Inc., a Delaware corporation, its Manager

By: \_\_\_\_\_  
Matthew Smith  
Chief Executive Officer

The Members:

Royalty Exchange Inc., a Delaware corporation

By: \_\_\_\_\_  
Matthew Smith  
Chief Executive Officer

FOR REVIEW ONLY

**EXHIBIT A  
FORM OF JOINDER AGREEMENT**

**JOINDER AGREEMENT**

Reference is hereby made to the Limited Liability Company Agreement, dated September 17, 2018, as amended from time to time (the “**LLC Agreement**”), between Royalty Exchange Inc., a Delaware corporation and DS Royalties LLC, a company organized under the laws of Delaware (the “**Company**”). Pursuant to and in accordance with Section 2.03 (b) of the LLC Agreement, the undersigned hereby acknowledges that it has received and reviewed a complete copy of the LLC Agreement and agrees that upon execution of this Joinder, such Person shall become a party to the LLC Agreement and shall be fully bound by, and subject to, all of the covenants, terms and conditions of the LLC Agreement as though an original party thereto and shall be deemed, and is hereby admitted as, a Member for all purposes thereof and entitled to all the rights incidental thereto.

Capitalized terms used herein without definition shall have the meanings ascribed thereto in the LLC Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of \_\_\_\_\_.

By: \_\_\_\_\_  
Name:  
Title:

FOR REVIEW ONLY

**SCHEDULE 1  
MEMBERS SCHEDULE**

<b>Member Name, Address, Email, and Fax</b>	<b>Capital Contribution</b>	<b>Membership Interest</b>
[MEMBER NAME] [ADDRESS] [EMAIL]	[AMOUNT/DESCRIPTION]	[PERCENTAGE]

FOR REVIEW ONLY

## Schedule 2

### **Administrative Expenses**

The Company expects to have administrative expenses in connection with offering Units to Members and purchasing the Acquired Interests (the “**Initial Administrative Expenses**”) and certain ongoing administrative expenses (the “**Ongoing Administrative Expenses**”). In each case, such expenses shall only include third-party costs and will not include any portion of the salaries or other costs of Manager in connection with such activities. Manager may elect to withhold estimated Ongoing Administrative Expenses from a Royalty Proceeds payment or advance and recoup the Ongoing Administrative Expenses on behalf Company at its discretion.

The Initial Administrative Expenses are expected to be approximately \$80,000 as follows:

- **Legal/Due Diligence Fees:** \$65,000 – attorney fees
- **Entity Registration Fees:** \$250 – Delaware doc prep and registration
- **Investor Verification Fees:** \$4,750 – VerifyInvestor.com
- **Securities Filing Fees:** \$5,000 – state Blue Sky registrations
- **Entity Management Fees:** \$5,000 – Carta.com (setup/initial annual fee)

The Ongoing Administrative Expenses are expected to be approximately \$40,000 per annum, or \$40.00 per Unit per annum:

- **Entity Tax and Filing Fees:** \$500 – Annual franchise tax fee and registered agent fees
- **Entity Management Fees:** \$5,000 – Annual Carta.com fee
- **Tax Preparation Fees:** \$2,500 – Accountant K-1 preparation
- **Accounting and Audit Fees:** \$32,000 – Monitoring of royalty accounts, invoicing, payment collection, and audits. \*This annual fee is for the services of the accountant who has extensive experience monitoring the Acquired Interests on behalf of the Counterparty during the term of the Management Agreements. Company intends to continue this relationship with the expectation that in the future Company may transition the accounting duties in-house or engage another accountant.

The Initial Administrative Expenses and Ongoing Expenses will reduce the overall return to investors.

## Schedule 3

### Recordings

#### SOUND RECORDINGS

All I Want Is You  
All That I Have In The World  
American Hero, An  
Angel of Mercy  
Annick  
Another Alibi  
Are We In trouble Now?  
As Low As It Gets  
Badges, Posters, Stickers, T-Shirts  
Baloney Again  
Batting For England  
Before You Say Too Much  
Bewildered  
Blues Stay Away From Me  
Boomtown (Variation's Louis' Favourite)  
Boy With Chinese Eyes  
Boys, Les  
Brats  
Bring It On  
Brothers In Arms  
Brothers In Arms (Live – On The Night)  
Bug, The  
Cal  
Calling Elvis  
Calling Elvis (Live – On The Night)  
Camerado  
Cannibals  
Ceilidh And The Northern Lights, The  
Ceilidh: Louis' Favourite, The/Billy's Tune  
Charles and Diana Documentary Piece One  
Charles and Diana Documentary Piece Two  
Cliffs Of Insanity, The  
Comfort (Theme From Comfort And Joy)  
Communique  
Darling Pretty  
Do America  
Done With Bonaparte  
Don't You Get It  
Down Day  
Down To The Waterline  
Drooling National  
Eastbound Train  
Espresso Love  
Espresso Love (Live - Alchemy)  
Fade To Black  
Father And Son  
Fear And Hatred  
Feel Like Going Home  
Finale - Last Exit To Brooklyn  
Fireswamp And The Rodents Of Unusual Size, The  
Fistful Of Ice Cream, A  
Flashing For Money  
Florin Dance  
Follow Me home  
Four In A Row  
Freeway Flyer  
Friends' Song, The  
Get Busy  
Going Home: Theme Of The Local Hero  
Going Home: Theme Of The Local Hero (Live - Alchemy)  
Golden Heart  
Gravy Train  
Guide My Sword  
Hand In Hand  
Happy Ending, A  
Hard Cases  
Heavy Fuel  
Heavy Fuel (Live – On The Night)  
He's The Man  
High Stakes  
Hooves Of Fire  
How Long  
Hypnotised  
I Think I Love You Too Much  
I Want To See The Moon  
I Will Never Love Again

If I Had You  
I'll See You In My Dreams  
I'm The Fool  
Imelda  
In A Secret Place  
In The Gallery  
In The Heartland  
Industrial Disease  
Irish Boy  
Irish Love  
Iron Hand  
It Never Rains  
It's Over  
Je Suis Desole  
Jimmy On The Central Line  
Joy  
Junkie Doll  
Just Instinct  
Just One Time  
Kingdom Come  
Lady Writer  
Last Exit To Brooklyn  
Last Laugh, The  
Let The River Flow  
Let's Dance  
Let's See You  
Lions  
Local Hero - Wild Theme  
Lonesome Wind Blues  
Long Highway  
Long Road, The  
Love And Guilt  
Love Idea, A  
Love Over Gold  
Love Over Gold (Live - Alchemy)  
Macho, El  
Man's Too Strong, The  
Meeting Under The Trees  
Metroland  
Metroland Theme (Instrumental)  
Millionaire Blues  
Mist Covered Mountains  
Money For Nothing  
Money For Nothing (Live – On The Night)  
Morning Ride  
My Claim To Fame  
My Parties  
Never Told A Soul  
New Laird, The  
News  
Next Time I'm In Town, The  
Night In The Summer Long Ago, A  
No Can Do  
Nobody's Got The Gun  
Northern Land  
On Every Street  
On Every Street (Live – On The Night)  
Once Upon A Time In The West  
Once Upon A Time in The West (Live - Alchemy)  
Once Upon A Time...Storybook Love  
One More Matinee  
One Way Gal  
One World  
Other Side Of The Moon, The  
Overnight Sensation  
Papermen  
Planet Of New Orleans  
Please Baby  
Poor Boy Blues  
Portobello Belle  
Portobello Belle (Live – Money For Nothing)  
Potato Picking  
Prairie Wedding  
Private Investigations  
Private Investigations (Live - Alchemy)  
Private Investigations (Live - On The Night)  
Railroad Worksong  
Reckoning, The  
Red Turns To Blue  
Relax  
Revenge  
Ride Across The River  
Riding On The Gravy Train  
Riot  
Road, The  
Robbie The Reindeer

Rocks And The Thunder, The  
Rocks And The Water, The  
Romeo And Juliet  
Romeo And Juliet (Live - Alchemy)  
Romeo And Juliet (Live - On The Night)  
Rudiger  
Run Me Down  
Sailing To Philadelphia  
Sands Of Nevada, The  
Say Too Much  
Secondary Waltz  
Secret Place, A/Where Will You Go  
Setting Me Up  
She Wants Everything  
She's Gone  
Shot At Glory, A  
Silvertown Blues  
Single Handed Sailor  
Six Blade Knife  
Skateway  
Smooching  
So Far Away  
Solid Rock  
Solid Rock (Live - Alchemy)  
Sons Of Scotland  
Sons Of Scotland - Quiet Theme  
So Soft Your Goodbye  
Southbound Again  
Speedway At Nazareth, The  
Star For Now  
Stargazer  
Storybook Love  
Stretching Out  
Sultans Of Swing  
Sultans Of Swing (Live - Alchemy)  
Sweet Dreams  
Sword Fight, The  
Tahitian Skies  
Tall Order Baby  
Tears  
Telegraph Road  
Telegraph Road (Live - Alchemy)  
Telegraph Road (Live) Remix

That's Where I Belong  
The Night Café  
The World Is Made Of Glass  
There'll Be Some Changes Made  
Think Fast  
Ticket To Heaven  
Training  
Tralala  
Tunnel Of Love  
Tunnel Of Love (Live - Alchemy)  
Twisting By The Pool  
Twisting By The Pool (Remix)  
Two Brothers and a Stranger  
Two Young Lovers  
Two Young Lovers (Live - Alchemy)  
Vic And Ray  
Victims  
Wag The Dog  
Waiting For Her  
Walk Of Life  
Walk Of Life (Live – On The Night)  
Wanderlust  
Water Of Love  
Way It Always Starts, The  
Weapon Of Prayer  
We're Going To War  
What Have I Got To Do  
What It Is  
What's The Matter Baby  
When It Comes To You  
Where Do You Think You're Going  
Where Will You Go/Secret Place, A  
Whistle Theme  
Who's Your Baby Now  
Why Worry  
Wild Theme  
Wild West End  
Will You Miss Me  
Words  
Working On It  
You And Your Friend  
You And Your Friend (Live – On The Night)  
Yakety Axe



Your Latest Trick

Your Own Sweet Way

Your Latest Trick (Live – On The Night)

## VIDEO RECORDINGS

Brothers In Arms - The Videosingles

Money For Nothing

Walk of Life

Brothers in Arms

Making Movies

Alchemy - Dire Straits Live

Sultans of Swing

Twisting by the Pool

Going Home: Theme of the Local Hero

The Videos

On The Night (Live)

On Every Street Promotional Videos (Calling Elvis, The Bug, Heavy Fuel)

## PRODUCTION CREDITS

### PRODUCTION TITLE

### RECORDING ARTIST

Love Over Gold

Dire Straits

Brothers In Arms

Dire Straits

Money For Nothing

Dire Straits

On The Night

Dire Straits

Local Hero

Mark Knopfler

The Princess Bride

Mark Knopfler

Infidels

Bob Dylan

Miracle

Willy Deville

Land of Dreams

Randy Newman

Neck and Neck

Chet Atkins and Mark Knopfler

Cal

Mark Knopfler

Last Exit To Brooklyn

Mark Knopfler

Knife

Aztec Camera

Missing...

The Notting Hillbillies

Break Every Rule

Tina Turner

Diamonds

K Wallis B and the Dark Shades of Night

Main Title Theme (Man With The Golden Arm)

K Wallis B and the Dark Shades of Night

Comfort and Joy

Mark Knopfler

Metroland

Mark Knopfler

Wag The Dog

Mark Knopfler

A Shot At Glory

Mark Knopfler

On Every Street

Dire Straits