RULE 2 – LIABILITY OF THE EXCHANGE

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2.01 Reserved

Amended by the Special Regulatory Committee November 7, 2017; effective Trade Date December 1, 2017 [Rule 2.01 - deleted].

2.02 Reserved

Amended by the Special Regulatory Committee March 7, 2017; effective Trade Date March 23, 2017 [Rule 2.02 - deleted].

2.03 Exchange Liability

a. The Exchange shall not be liable to a Person for any loss, damage, cost, expense, or other liability or claim suffered by or made against them as a result of their use of some or all of the Trading System. By making use of the Trading System, such Persons expressly agree to accept all liability arising from their use of same.

b. The Exchange shall not be liable to a Person for any loss, damage, cost, expense, or other liability or claim arising from any failure of the Trading System or any negligent or reckless act or omission on the part of the Exchange, with the exception of liability for personal injury caused through an intentional or gross fault.

c. In the event any legal proceeding is brought by a third party against the Exchange which arises directly or indirectly from the use by a Person of the Trading System, such Person undertakes to hold the Exchange harmless in respect of, and to reimburse to the Exchange all costs related to same including all legal fees and expenses on a solicitor and own client basis.

d. The Exchange shall not be liable to a Person for any loss, damage, cost, expense or other liability or claim suffered by or made against such Person as a result of the non-availability of the Trading System or a decision of the Exchange to suspend, halt, or terminate trading in whole or in part.

e. Persons shall indemnify and save the Exchange harmless from and against all costs, including amounts paid to settle an action or to satisfy a judgment, legal and professional fees, expenses for attending trials, hearings and meetings, that the Exchange incurs in any civil, criminal or administrative action, suit, proceeding, investigation, inquiry, hearing, appeal, or review that is threatened or brought against the Exchange, or in respect of which the Exchange is compelled or requested to participate, in respect of any act committed or permitted by the Person.

f. Persons are not entitled to commence or carry on any proceeding against the Exchange, its shareholders, directors, officers, agents and/or employees, in respect of any act, omission, penalty or remedy imposed pursuant to the Rules of the Exchange. This section shall not restrict the right of such Persons to apply for a review of a direction, order or decision of the Exchange by a competent regulatory authority.

Amended by the Special Regulatory Committee November 7, 2017; effective Trade Date December 1, 2017 [2.03 a., b., c., d., e., and f.].

2.04 Disclaimer of Warranties

a. The agents, subcontractors and licensors of the Exchange, and the officers, directors, and employees of the Exchange, and its agents, subcontractors and licensors, shall have no liability to any licensee or any other person, under any written agreement or in relation to the use, performance, maintenance, or malfunction to the equipment, any licensed products, or the trading system or any components thereof, for any losses, or other damaged or injury, direct or indirect (including, but not limited to, consequential, incidental, and special damages and loss of profits, goodwill or contracts), which arising from negligence or breach of contract or otherwise, and whether or not such person (or any designee thereof) shall have been advised of or otherwise might have anticipated the possibility of such damages.

b. Aggregate Liability. In the event the limitation under sub-paragraph a. above is found by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, the entire aggregate liability of the Exchange, its agents, subcontractors and licensors, and the officers, directors, and employees of the Exchange and its agents, subcontractors and licensors whether pursuant to a written agreement or otherwise, shall not exceed $10,000.

c. Disclaimer of Warranties. The Exchange provides any licensed products, access to the interface, the equipment and any part or parts of the Trading System, on an “AS IS” basis. Except as specifically provided in any written agreement, the Exchange makes no, and hereby disclaims all, warranties, conditions, undertakings, terms or representations, expressed or implied by statute, common law or otherwise, in relation to any licensed products, equipment or any part or parts of the Trading System. The Exchange specifically disclaims all implied warranties of merchantability, fitness for a particular purpose and non-infringement. The Exchange further disclaims all warranties, implied or otherwise, relating to any third party materials.