

## **EDF Trading Japan KK – General Terms of Business (English)**

### **1. Application**

- 1.1 If any agreement to which EDF Trading Japan KK is a Party specifies that the EDFTJ General Terms of Business apply, then, subject to Clause 1.2, the provisions set out herein shall be incorporated into that agreement.
- 1.2 If an agreement specifically disappplies or amends any provision of these EDFTJ General Terms of Business, the relevant provision shall not apply or shall be amended (as applicable) accordingly.
- 1.3 For the purposes of these EDFTJ General Terms of Business, an agreement to which these EDFTJ General Terms of Business apply is an “**Agreement**”.

### **2. General Undertakings of the parties**

Each Party to an Agreement undertakes and represents the following to the other party:

- 2.1 to comply with all applicable laws and regulations;
- 2.2 to notify the other Party in writing of any change of control;
- 2.3 that the signing and the entering into the Agreement to which it is a party (and any associated agreement to which it is a party, such as a credit support document) and the carrying out of the transactions contemplated therein, will not violate any provision of its constitutional documents;
- 2.4 that it has the power and is authorised to execute and perform its obligations under the Agreement to which it is a party (and any associated agreement to which it is a party, such as a credit support document) and has taken all necessary action to authorise that execution, performance and its entry into the Agreement;
- 2.5 that no reason for termination of the Agreement with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under the Agreement;
- 2.6 that it has all governmental and regulatory authorisations, approvals, registrations and consents necessary for it to legally perform its obligations under the Agreement and any credit support document to which it is a party;
- 2.7 that it has negotiated, entered into and signed the Agreement (and any associated agreement or document to which it is a party, such as a credit support document) as principal, and not as agent or in any other capacity, fiduciary or otherwise;
- 2.8 that it is acting for its own account (and not as advisor, agent, broker or in any other capacity, fiduciary or otherwise), has made its own independent decision to enter into the Agreement and as to whether the Agreement is appropriate or proper for it based upon its own judgement, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of the Agreement;
- 2.9 that the other Party is not acting as its fiduciary or adviser;
- 2.10 that it is not relying upon any representation made by the other Party other than those expressly set forth in the Agreement or any credit support document to which it is a party; and
- 2.11 that it is not insolvent, and there are no pending or threatened legal or administrative proceedings to which it is a party which to the best of its knowledge would materially adversely affect its ability to perform under the Agreement (or any associated agreement to which it is a party, such as a credit support document), such that it could become insolvent.

### **3. Confidentiality**

- 3.1 Without the prior consent of the other Party in writing, neither Party to an Agreement (a “**Receiving Party**”) shall disclose to a third party or use for any purpose other than performance of obligations under the Agreement:
  - 3.1.1 the existence or content of the Agreement;
  - 3.1.2 information about trade secrets of the other Party (the “**Disclosing Party**”);
  - 3.1.3 information disclosed by the Disclosing Party through documents or other tangible items which the Disclosing Party has identified as confidential (provided, however, that if confidential information is provided orally, that only applies if notice is subsequently given either in writing or via email specifying the information concerned and stating that it is confidential, no later than fourteen days from the date of disclosure), collectively “**Confidential Information**”.
- 3.2 For the purposes of Clause 3.1 (above), disclosure to a “third party” excludes disclosure to officers, employees and dispatched workers of the Receiving Party or any of its affiliates who have a “need to know” for the purpose of performing the Agreement, and other external experts who have confidentiality obligations under the law such as attorneys-at-law who assist the Receiving Party in relation to the Agreement.
- 3.3 Information that the Receiving Party proves falls under any of the following is not Confidential Information:
  - 3.3.1 information that is already in the public domain at the time of its disclosure by the Disclosing Party, or comes into the public domain after its disclosure by the Disclosing Party through no fault of the Receiving Party;
  - 3.3.2 information already in the possession of the Receiving Party;
  - 3.3.3 information developed independently by the Receiving Party without reference to the Confidential Information; and
  - 3.3.4 information lawfully obtained by the Receiving Party without any obligation of confidentiality from a third party lawfully entitled to possess it.
- 3.4 Upon a request from a public agency such as a court of law, administrative agency or commodity exchange, the Confidential Information may be disclosed on the condition that advance notice of the pending disclosure stating the requesting authority and the contents of the information is given to the Disclosing Party; however, if it is impossible to give such advance notice due to an emergency or unavoidable reason, it will be sufficient to give notice immediately after the disclosure.
- 3.5 In respect of Confidential Information disclosed under an Agreement, this Clause 3 will apply to that Confidential Information for a period of one year after the expiration or termination of that Agreement.

#### 4. Exclusion of Antisocial Forces

- 4.1 Each of the Parties to an Agreement represents and warrants that itself, its officers and employees, its agents and intermediaries, and its major investors do not and will not constitute an Anti-Social Force or fall under any of the following items:
  - 4.1.1 it has a relationship whereby it is recognized that an Anti-Social Force controls its management;
  - 4.1.2 it has a relationship whereby it is recognized that an Anti-Social Force is substantially involved in its management;
  - 4.1.3 it has a relationship whereby it is deemed to be unjustly using an Anti-Social Force for the purpose of acquiring wrongful gains for itself or a third party, or for causing damage to a third party;
  - 4.1.4 it has a relationship where it is deemed to be involved in the provision of funds or granting of benefits to an Anti-Social Force; or
  - 4.1.5 its officer or any person substantially involved in its management has a relationship with an Anti-Social Force that is socially reprehensible.
- 4.2 “**Anti-Social Forces**” as used in this Clause 4 means persons or entities that fall under any of the following:
  - 4.2.1 organized crime group (organized crime group as defined in Article 2, item (ii) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Law No. 77, 1991, the “**Organized Crime Group Countermeasures Act**”);
  - 4.2.2 organized crime group member (organized crime group member as defined in Article 2, item (vi) of the Organized Crime Group Countermeasures Act;
  - 4.2.3 quasi-member of an organized crime group (person who has a relationship with an organized crime group other than an organized crime group member, who is likely to commit unlawful violent acts under the influence of an organized crime group, or cooperate or become involved in the maintenance or operation of an organized crime group by supplying funds or weapons to the organized crime group or its members, hereinafter the same);
  - 4.2.4 company related to an organized crime group (a company where an organized crime group member is substantially involved in its management, or a company that is managed by a quasi member of an organized crime group or a former organized crime group member, which actively cooperates or is involved in the maintenance or operation of an organized crime group and provides funds to an organized crime group, or cooperates in the maintenance or operation of an organized crime group by actively using an organized crime group in the execution of business);
  - 4.2.5 corporate racketeer (a corporate racketeer and others who are likely to engage in unlawful acts of violence in pursuit of illicit benefits from companies, and pose a threat to the safety of civil life);
  - 4.2.6 group engaging in criminal activities under the pretext of conducting social campaigns (a group of people who are likely to engage in an unlawful act or acts of violence in pursuit of illicit benefits under the pretext of conducting social or political activities, or advocating the same, and pose a threat to the safety of civil life);
  - 4.2.7 organized crime group specialized in intellectual crimes (a group or individual that forms the structural core of illegal activities, who uses its influence in the context of a relationship with an organized crime group or financial connections with an organized crime group); or
  - 4.2.8 a person described in any of the preceding items who has a relationship with a Party that falls under any of the following:
    - 4.2.8.1 is recognized as controlling the management of that Party’s business or company;
    - 4.2.8.2 is recognized as being substantially involved in the management of that Party’s business or company,
    - 4.2.8.3 is recognized that that Party is using any person described in the preceding items for the purpose of gaining illicit benefits for itself, its company, or a third party, or for the purpose of causing damage to a third party,
    - 4.2.8.4 is recognized that that Party is providing funds or is involved in the provision of benefits to any person described in the preceding items, or
    - 4.2.8.5 is recognized that an officer of that Party or a person substantially involved in that Party’s management has a relationship that is socially reprehensible with any person described in the preceding items.
- 4.3 Each of the Parties represents and warrants that it does not engage in or cause a third party to engage in any activities that fall under the following:
  - 4.3.1 the act of making violent demands;
  - 4.3.2 the act of making unreasonable demands exceeding legal responsibilities;
  - 4.3.3 the act of using threatening behaviour or violence in relation to a transaction under the Agreement (a “**Transaction Concerned**”);
  - 4.3.4 the act of spreading rumours, using fraudulent means or force to harm the reputation or credibility of the other Party, or obstruct the business of the other Party; or
  - 4.3.5 other acts that are equivalent to any of the preceding items.
- 4.4 In the event that either Party becomes aware of a violation by that Party of any of the stipulations given in the provisions of Clauses 4.1 or 4.3 hereof, it shall promptly inform the other Party to that effect.
- 4.5 Notwithstanding anything to the contrary contained herein, in the event the other Party violates provisions of Clauses 4.1, 4.3 or 4.4, either of the Parties may immediately terminate the Transaction Concerned and all agreements relating to the Transaction Concerned immediately without any obligation to follow any other procedures or provide compensation for any damage.
- 4.6 Either Party may claim damages from the other Party for any damage incurred as a result of the other Party’s violation of this Clause 4.

## 5. Anti-Corruption

Each Party to an Agreement represents and warrants that:

- 5.1 it is in compliance with the provisions of the Unfair Competition Prevention Act of Japan, the UK Bribery Act 2010, the U.S. Foreign Corrupt Practices Act of 1977, the applicable country legislation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the UK Modern Slavery Act 2015, the UK Proceeds of Crime Act 2002, and the Criminal Finances Act 2017 (“**Anti-Corruption Laws**”) throughout the term of this Master Agreement;
- 5.2 it does not engage in any activity, practice or conduct which would constitute an offence under any Anti-Corruption Laws;
- 5.3 it has established and maintains in place such policies and procedures as are adequate to ensure compliance with the Anti-Corruption Laws; and
- 5.4 it will promptly report to the other Party any actual or suspected breach of any Anti-Corruption Laws in connection with the performance of the Agreement, or any act or omission that would put the other Party in actual or suspected breach of any Anti-Corruption Laws.

It is agreed that either Party may terminate each Agreement (or any associated agreement, or both) to which this Clause 5 applies with immediate effect if at any time it becomes aware that the other Party’s performance of the Agreement has involved any act or omission that is penalised or prohibited under the Anti-Corruption Laws.

## 6. Sanctions

- 6.1 Notwithstanding anything to the contrary stated or implied in any Agreement, each Party represents and warrants that performance under each Agreement will comply with the economic sanctions administered or enforced by the U.S. Department of Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union and Her Majesty’s Treasury (any one a “**Sanctions Law**” and collectively, the “**Sanctions Laws**”).
- 6.2 The Parties further agree to cooperate pursuant to the relevant Agreement in such a manner as to ensure that no Party, or any of its affiliates, is placed in a position of non-compliance with any Sanctions Law.
- 6.3 If any Sanctions Law fully or partly prevents a Party from performing its obligations (“**Sanctioned Obligations**”) under an Agreement because performance of the Sanctioned Obligations would constitute a violation of, be inconsistent with or expose that party to a punitive measure under one or more Sanctions Laws, then no breach or default of the Agreement on the part of that Party shall be deemed to have occurred and the Party shall be released from performance of the Sanctioned Obligations for the period of time and to the extent mandated by the applicable Sanctions Laws.
- 6.4 Neither Party shall be liable to the other Party for damages of any kind resulting from non-performance of the Sanctioned Obligations but if, at the time a Sanctions Law prevents a Party from paying or receiving money to or from the other Party, an obligation to pay money has already accrued between the Parties for delivery or otherwise in respect of the period prior to the effectiveness of the Sanctions Law, the obligation to pay any such accrued amounts is to be suspended until such

time as payments may lawfully be made in respect of the Sanctioned Obligations or after the relevant Sanctions Law ceases to apply.

- 6.5 Where a Party has been prevented from performing the Sanctioned Obligations for ten days or more, either Party may terminate the relevant Agreement if permitted by the applicable Sanctions Laws, with the terminating Party only required to send notice of termination to the extent permissible and consistent with the applicable Sanctions Laws. Such termination shall be without prejudice to the accrued rights and obligations of the Parties up to the date of termination (including, without limitation, the obligation to pay accrued amounts), but neither Party shall have any liability whatsoever to the other in respect of the remaining delivery under the Agreement beyond the date of termination.

## 7. General right to terminate for insolvency

Any agreement can be terminated by a Party if the following occurs in respect of the other Party (the “**Insolvent Party**”):

- 7.1 a petition for seizure, provisional seizure, provisional disposition, or public auction is filed by or against the Insolvent Party; or
- 7.2 there are reasonable grounds to believe that the Insolvent Party is likely to become insolvent as the Insolvent Party’s financial condition has deteriorated and has not been remedied within 14 business days following written notice; or
- 7.3 a petition for bankruptcy, civil rehabilitation, corporate reorganisation or the commencement of special liquidation proceedings has been filed by or against the Insolvent Party; or
- 7.4 the Insolvent Party resolves its dissolution; or
- 7.5 the Insolvent Party is subject to a suspension of payments.

## 8. Jurisdiction and Governing Law

In respect of any Agreement to which these EDFTJ General Terms of Business apply:

- 8.1 Any litigation concerning will be brought exclusively in the Tokyo District Court, and the Parties hereby submit to the jurisdiction of such court.
- 8.2 The Agreement is governed by and to be interpreted in accordance with the laws of Japan.
- 8.3 This Clause 8 shall survive the termination or expiry of the Agreement.

## 9. Notices

Any notice or other communication to be given under or in connection to any Agreement is to be in writing and signed by or on behalf of the Party giving it and may be served by sending it by email, courier, ordinary mail or recorded delivery to the address and for the attention of the relevant Party.

## 10. Language

These EDFTJ General Terms of business are prepared in English and Japanese, and if there is any discrepancy between those versions, the English version will prevail.