

## **Agreement on Access to the Organized Short-Term Electricity Market** (hereinafter "**Agreement**")

entered into pursuant to Section 1746 (2) of Act No. 89/2012 Coll., the Civil Code, as amended, pursuant to Section 50 of Act No. 458/2000 Coll., on the Terms of Business and State Administration in the Energy Sectors and on amendments to other laws, as amended, and in compliance with the Regulation No. 408/2015 Coll., of Energy Regulatory Office, on the Electricity Market Rules, as amended.

### **Article 1** **Contracting Parties**

#### **a) OTE, a.s.**

with its registered seat in Prague 8 - Karlín, Sokolovská 192/79, postcode 186 00, Czech Republic, entered in the Commercial Register maintained by the Municipal Court in Prague,

Part B, Insert 7260,

represented by:

xxx, Chairman of the Board

xxx, Vice-chairman of the Board

Business Registration Number: 26463318

Tax Registration Number : CZ26463318

Bank account No. – fixed prices charged for the Market Operator's services:

19-5582760247/0100

Bank account No. – settlement account for the organized short-term electricity market and imbalances: 27-5868540207/0100

Bank account No. – settl. account for the day-ahead and intra-day electricity market in EUR: 43-1678260257/0100 (IBAN CZ91 0100 0000 4316 7826 0257)

2475281/0300 (IBAN CZ30 0300 1752 8101 1734 8983)

2108790891/2700 (IBAN CZ41 2700 0000 0021 0879 0891)

Bank account No. – financial security: 27-5868530287/0100

tel.: +420 234 686 100

Registration code issued by ACER: B0000106C.CZ

hereinafter **Market Operator**

#### **b) Company Name**

with its registered seat at (foreign address), entered in .....,

acting through the organizational unit (name of the organizational unit) .....

with its registered seat at .....,

entered in the Commercial Register maintained by the Municipal/Regional Court

in ....., Part ... , Insert ... ,

represented by:

(name of the head of the organizational unit)

Business Registration Number: .....

Tax Registration Number: .....

Bank information: .....

Account No.: .....

Electricity trading licence No. ....

Electricity market participant registration No. ....

Market participant registration code issued by ACER:.....  
hereinafter **Trader**

## **Article 2**

### **Definition of Terms**

- a) Terms and abbreviations used in this Agreement:
- i. Agency - Agency for the Cooperation of Energy Regulators,
  - ii. Civil Code – Act No. 89/2012 Coll., the Civil Code, as amended,
  - iii. CS OTE – central information system of the Market Operator,
  - iv. DM – day-ahead spot electricity market organized by the Market Operator,
  - v. Energy Act – Act No. 458/2000 Coll., on the Terms of Business and State Administration in the Energy Sectors and amendments to other laws, as amended,
  - vi. ERO – Energy Regulatory Office,
  - vii. Forthwith – within 3 business days,
  - viii. Business Terms – Business Terms of OTE, a.s. for the Power Sector,
  - ix. Market Rules - Regulation No. 408/2015 Coll., of Energy Regulatory Office,
  - x. on the Electricity Market Rules, as amended,
  - IM – intra-day electricity market organized by the Market Operator,
  - xi. Electricity Tax Act – Act No. 261/2007 Coll., on Stabilization of Public Finances, Part 47, as amended,
  - xii. REMIT - Regulation (EU) No. 1227/2011 of the European Parliament and of the Council of 25 October 2011 on whole energy market integrity and transparency,
  - xiii. REMIT Implementing Act - REMIT Implementing Act (EU) No. 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency,
  - xiv. Value Added Tax Act – Act No. 235/2004 Coll., on the Value Added Tax, as amended,
  - xv. Tax Code - Act No. 280/2009 Coll., Tax Code, as amended.
- b) Terms other than those listed above used in this Agreement are interpreted pursuant to the provisions of the Civil Code, the Energy Act, the Market Rules and other legal regulations.

## **Article 3**

### **Scope of Agreement**

- a) The Market Operator hereby undertakes under this Agreement to facilitate the Trader's participation in the organized short-term electricity market and to settle transactions executed thereof pursuant to the Market Rules and the Business Terms, whereas the Trader hereby undertakes to pay the price set forth in compliance with the Market Rules and, in the event of DM, in compliance with Appendix 3 to the Business Terms.
- b) An integral part of the Agreement herein are the Terms of Business approved by the ERO, which are attached hereto as Appendix 1 to this Agreement and are

also posted in the electronic form on [www.ote-cr.cz](http://www.ote-cr.cz). Access to the organized short-term electricity market includes, but is not limited to, the following activities of the Market Operator pursued for the Trader:

- i. Acceptance of bids submitted by the Trader,
  - ii. Confirmation of bids submitted by the Trader or, if applicable, stating reasons for non-acceptance,
  - iii. In the event of DM evaluation of submitted bids and their disclosure,
  - iv. In the event of IM acceptance of acceptance of the Trader,
  - v. In the event of IM confirmation of acceptance of acceptance of the Trader or, if applicable, confirmation of non-acceptance, including stating reasons for non-acceptance,
  - vi. In the event of IM ongoing disclosure of the results of trading for each specific Trader, such as traded volumes and prices of trades and the total sum of trades and average prices of transactions at separate trading hours that have taken place,
  - vii. Inclusion of the trades in the imbalance settlement system,
  - viii. Receipt and settlement of claims,
  - ix. Ensuring billing and settlement of the Trader's transactions on the organized short-term electricity market, whereas this settlement is comprised of
    - 1. In the event of DM – the multiple of traded volumes in the bids of the Trader and the achieved marginal price stipulated pursuant to the Business Terms,
    - 2. In the event of IM – the multiple of traded volume in the bids of the Trader and the price stipulated pursuant to the Business Terms.
  - x. Issuance of tax documents on behalf of the Trader.
- c) The Market Operator provides the records from the register of trade data on the electricity market organized by the Market Operator to the Trader and reports the trade data to the Agency pursuant to Article 6 of the REMIT Implementing Act.

#### **Article 4 Pricing**

- a) Prices charged for services provided by the Market Operator under Article 3 of this Agreement are governed by the relevant ERO Price Decision and paid by the Trader directly to the Market Operator in compliance with the procedures defined in the Market Rules, the ERO Price Decision, and the Business Terms, whereby in the event of any change in the respective ERO Price Decision, the newly stipulated price shall become effective as of the date of coming into force of the ERO Price Decision.
- b) The price for electricity traded on the short-term electricity market and method of its calculation are stipulated pursuant to the Market Rules and the Business Terms.

- c) The price charged for Service under Article 16 of this Agreement is determined in the relevant ERO's Price Decision. In the event of any change in the respective ERO's Price Decision, the newly stipulated price shall become effective as of the date of coming into force of the ERO's Price Decision. If the price is not determined by ERO's Price Decision, the price is stipulated in accordance with the Business Terms and is included in the price list published on OTE's website ([www.ote-cr.cz](http://www.ote-cr.cz)).

## **Article 5**

### **Rights and Obligations of the Parties**

- a) Rights and obligations of the Parties not included in this Agreement and the Business Terms are laid down by generally binding legal regulations.
- b) The Market Operator is obligated to facilitate the Trader's secure access to CS OTE in compliance with the provisions of the Business Terms.
- c) The Market Operator is obligated to provide the Trader with technical support for use of CS OTE through HelpDesk operated at business hours specified on the Market Operator's Web site.
- d) The Market Operator is obligated to notify the Trader about any change made to CS OTE within the time limits corresponding to the significance of the changes.
- e) The Trader is obligated to pay the prices charged by the Market Operator under Article 4 of this Agreement within time limits and in a manner set forth in this Agreement and in the Business Terms.
- f) In compliance with the Market Rules and the Business Terms, the Market Operator is obligated to ensure settlement of the Traders's transactions executed on the organized short-term electricity market, whereas
  - i. The Trader is obligated to pay the Market Operator amounts determined on the basis of the results of trading on the organized short-term electricity market in the event of resulting liability of the Trader,
  - ii. The Market Operator is obligated to pay the Trader amounts determined on the basis of the results of trading on the organized short-term electricity market in the event of resulting liability of the Market Operator.
- g) The Trader is obligated to notify the Market Operator about any insolvency proposals filed against it.
- h) The Trader acknowledges that to the date of signing of the agreement is not registered as an unreliable taxpayer of the Value Added Tax and even is not aware of any facts on the basis of which a tax administrator shall initiate proceedings of the registration as an unreliable taxpayer pursuant to the Value Added Tax Act. In compliance with the Business Terms the Trader shall notify the Market Operator about an initiation of proceeding and statement to be registered as an unreliable taxpayer pursuant to the Value Added Tax Act. In the event that the tax administrator decides to declare the Balance Responsible Party an unreliable taxpayer pursuant to the Value Added Tax Act, the relevant provisions of the Business Terms will apply.

## **Article 6**

### **Financial Security**

The method of determining financial security, permitted forms of financial security and conditions for using financial security are laid down in Part 7 of the Business Terms.

## **Article 7**

### **Terms of Payment and Billing**

- a) In compliance with the Business Terms, the Trader is obligated, within 10 days after this Agreement has come into force, to establish with its account maintained by a bank or its branch in the territory of the Czech Republic cash collection rights for the Market Operator and its accounts No. 19-5582760247/0100 and 27-5868540207/0100, possibly to the settlement accounts for the day-ahead spot electricity market in EUR listed under Article 1 of this Agreement, and to provide the Market Operator with proof of having established these rights.
- b) The Trader is obligated to hold in effect its bank account and cash collection rights established with its account for the Market Operator during the period of validity of the Agreement and until all financial liabilities arising from this Agreement are paid in compliance with the Business Terms.
- c) The Market Operator holds the rights to collect cash from the Trader's account with the aim to secure due payments from the Trader pursuant to Article 4 of this Agreement.
- d) In compliance with the Business Terms, daily settlement of the short-term electricity market represents payments subject to billing.
- e) Payments between the Market Operator and the Trader are executed through non-cash transfers.
- f) Settlement of payments for electricity purchased and sold by the Trader on the short-term electricity market organized by the Market Operator is billed once a month by issuing a tax document under the terms defined in Article 8 of this Agreement.
- g) Payment by the Market Operator or the Trader arising from the relevant tax document is not overdue if the billed amount is credited to the respective Party's account on the last day of the due date.
- h) In the event the Market Operator or the Trader is unable to make the payment by the due date or at the required amount, it is obligated to notify the other Party forthwith. Should such event occur, the right to charge late payment interest remains in effect pursuant to Article 10 of this Agreement.
- i) The statute of limitations for claims is 4 years.

## **Article 8**

### **Issuance of Tax Documents**

- a) The Parties have agreed that the Market Operator shall issue tax documents (hereinafter "documents") on behalf of the Trader in connection with supplies executed by the Trader under the terms of this Agreement.

- b) The subject matter of this Agreement includes no other supplies related, directly or indirectly, to issuing the documents, such as the obligation to file a relevant tax return, declare or pay the respective tax, keep record of the issued documents or retain and store the issued documents.
- c) The Trader authorizes the Market Operator by signing of this Agreement hereunder to issue all documents falling into the categories of documents specified under letter a) of this Article of the Agreement on behalf of the Trader, whereas the Market Operator acknowledges this authorization.
- d) The Trader hereby undertakes by signing of this Agreement hereunder to accept all documents specified under letter a) of this Article of the Agreement, issued by the Market Operator on behalf of the Trader, provided these documents comply with the relevant terms and conditions laid down by legal regulations, in particular the Value Added Tax Act and the Electricity Tax Act.
- e) The Trader hereby undertakes to provide the Market Operator duly and in a timely manner with all data required for issuing the relevant documents by the Market Operator under the terms of this Agreement.
- f) The Market Operator has no obligation to verify the accuracy of the data provided by the Trader for issuing of documents under the terms of this Agreement.
- g) The Market Operator is authorized to issue documents for the Trader under this Agreement in the electronic form complying with the relevant terms and conditions laid down by legal regulations, in particular the Value Added Tax Act and the Electricity Tax Act.
- h) The Market Operator is authorized to issue a single document complying with the relevant terms and conditions laid down by legal regulations, in particular the Value Added Tax Act and the Electricity Tax Act.
- i) The Market Operator hereby undertakes to issue the respective documents within 15 days after the end of the calendar month in which the relevant supply took place.
- j) The Market Operator hereby undertakes to issue the relevant documents in two counterparts. The Market Operator shall retain one counterpart of the document for its own needs, whereas it agrees to send the other counterpart of the document to the Trader on the day of issuing the first respective counterpart in the electronic form.
- k) The Trader hereby undertakes to review the accuracy of the data stated in the other counterpart of the issued document within 3 days after its receipt and to notify the Market Operator in writing about any found discrepancy within the same period.
- l) The Market Operator hereby undertakes to make a correction of the relevant document within 3 days after receipt of written notice about a discrepancy thereof by issuing a new document, unless agreed upon otherwise by both Parties. The provisions of this Article of this Agreement apply to issuing an amended document.
- m) The Market Operator hereby undertakes to issue no other documents on behalf of the Trader than the documents specified under letter a) of this Article of this Agreement.
- n) The Market Operator is not permitted to authorize a third party to issue documents without prior written agreement with the Trader.
- o) The Trader hereby undertakes to provide the Market Operator in writing with any data required for issuing documents under the terms of this Agreement, and also



data requested in writing by the Market Operator. The Trader agrees to provide the data requested by the Market Operator within 5 days after receipt of the written request.

- p) Basic data required for issuing documents under the terms of this Agreement include information on the Parties specified in Article 1 of this Agreement, whereas this information is deemed, for purposes of this Agreement, information provided by the Trader.
- q) The Trader is obligated to notify the Market Operator in writing about any change to the data provided by the Trader under this Article of this Agreement without undue delay but no later than within two calendar days after the end of the calendar month for which the documents are to be issued, and including the corrected data.
- r) To issue documents for the relevant calendar month, the Market Operator is authorized to use data known to it under this Article herein within 3 days after the end of the calendar month for which the documents are to be issued, unless agreed upon otherwise in writing by both Parties.
- s) The Market Operator is authorized to assign the respective documents its own registration number, starting always with the Trader's registration number in CS OTE. The Market Operator is not obligated to provide any other registration number in the document than the foregoing own assigned registration number.
- t) The Market Operator is authorized to use Exhibits listed in Appendix 3 to this Agreement for calculation of data provided in the document.
- u) Pursuant to the Value Added Tax Act, the Market Operator hereby agrees that documents issued on behalf of the Trader may be issued in the electronic form.
- v) Unless this Agreement explicitly stipulates otherwise for specific instances, the issued documents shall be deemed duly delivered if sent by electronic mail.
- w) The Market Operator holds no responsibility for any damage arising from stating incorrect or incomplete data in documents issued on behalf of the Trader in the event the Trader has provided the Market Operator with incorrect or incomplete data.
- x) The Market Operator is in no respect responsible for proper and timely issuance of documents under this Agreement in the event the Trader has not fulfilled its obligations arising from this Article of this Agreement.
- y) The Market Operator is in no respect responsible for declaration and payment of taxes by the Trader or for other obligations arising for the Trader from issuing the documents, directly or indirectly, including keeping files related to the issued documents or retaining and storing the issued documents.

## **Article 9 Claims**

Procedures for filing and settlement of claims, including all binding time limits, are defined in the Business Terms.

## **Article 10**

### **Late Payment Interest**

- a) For each started day of delay in fulfilling a financial liability under this Agreement, the creditor has the right to charge the defaulting Party late payment interest on the outstanding sum in the amount determined by generally binding legal regulations.
- b) In the event either Party pays late payment interest on an outstanding amount that has been invoiced erroneously, the respective Party shall be reimbursed for the late payment interest within 10 business days after the error has been documented.

## **Article 11**

### **Damage Liability and Settlement**

- a) Damage settlement is governed by the provisions of Sections 289 and the following Sections of the Civil Code, The Business Terms and arrangements between the Parties hereunder.
- b) The Parties hereby undertake to notify each other about any and all events that they believe may cause damage, and to make every effort to avert potential damage.
- c) Both the Market Operator and the Trader are entitled to claim settlement of damage inflicted on it as a result of the other Party's breach of obligations, even in the event the said breach of obligations is subject to contractual penalty. The harmed Party may claim damage settlement in excess of the contractual penalty.

## **Article 12**

### **Dispute Resolution**

- a) The Parties hereby agree to make every effort to reach an amicable settlement of any disputes arising from this Agreement.
- b) In the event the Parties fail to reach an amicable settlement of the dispute, either of the Parties may file a lawsuit with the regular court within the territorial jurisdiction of the Market Operator. This change in territorial jurisdiction has been agreed upon between the Parties pursuant to Section 89a) of the Civil Procedure Code, as amended.

## **Article 13**

### **Communication**

- a) In Appendix 2 to the Agreement, the Parties have determined persons authorized for communication in contractual matters who are authorized under this Agreement to negotiate in the area for which they have permission. The persons referred to in the registration data of the Trader in CS OTE are authorized to communicate in operation matters. Operations matters mean primarily provision of data on sale bids and purchase bids, financial security of



trades on the short-term electricity market, evaluation of the short-term electricity market, terms of payment and claims.

- b) A basis for change in contractual matters, including registered data about the Trader and its representatives, is provision of written documentation, which is understood as a registered letter or personal delivery. The time of delivery in this case is deemed the date of delivery of the documents by registered mail or the date of personal delivery and receipt by the Market Operator.
- c) A message referring to operations matters may be sent electronically (by e-mail) in a secure manner pursuant to the Business Terms. The time of delivery by e-mail is deemed the date of receipt of the e-mail.
- d) The Trader shall obtain security features for access to CS OTE in a manner defined in the Business Terms. A list of contact persons and CS OTE users, including their access rights is in Appendix 2 to this Agreement and in the registration data of the Trader in CS OTE.

#### **Article 14 Confidentiality**

- a) Both Parties hereby undertake to treat any and all information contained in this Agreement or made available to them under this Agreement as confidential and, therefore, shall keep it in secrecy, agree to use it for no other purposes than for performance of this Agreement, protect it from disclosure and not divulge it to any third party without prior written consent of the disclosing Party until the relevant information is in the public domain. The Parties shall not disclose the confidential information to any person other than their advisors and employees designated to fulfil their obligations under this Agreement. The confidentiality obligation does not apply to information accessible to the general public or information disclosure of which is warranted by a generally binding legal regulation.
- b) Should either of the Parties commit wilful breach of the confidentiality obligation under letter a) of this Article of this Agreement, it is obligated to pay the other Party a penalty of CZK 200,000 (two hundred thousand Czech crowns) for each breach of the confidentiality obligation.
- c) The Trader hereby acknowledges that the CS OTE supplier has been provided access to information ensuing from this Agreement, whereby the supplier also deems the information confidential. The Market Operator is responsible for the CS OTE supplier's compliance with the terms of information protection.

#### **Article 15 Term of Agreement**

- a) The condition of the Agreement conclusion is acceptance of its proposal by the other Party without any reservations, amendments, modifications or restrictions within 20 days of the date of dispatch of the other Party. The Agreement shall be in the written form with the signatures of authorized representatives hereof on the same document. These conditions apply for the conclusion of the amendments to this Agreement.

- b) This Agreement is entered into for an indeterminate period and shall come into force on the date of coming into effect of the Agreement on Settlement of Imbalances between the Trader and the Market Operator, but no sooner than on the date of signing by both Parties.
- c) In the event that the Agreement on settlement of imbalance in the electricity market terminates, this Agreement on access to the organized short-term electricity market terminates simultaneously.
- d) The Market Operator has the right to rescind the Agreement in the event it has rescinded the Agreement on Settlement of Imbalances between the Trader and the Market Operator.
- e) The Market Operator has the right to rescind the Agreement in the event the Trader is overdue with payment of any financial obligation under this Agreement, whereby the Market Operator has been unable to secure payment of the respective liability from the financial security, and the Trader has failed to settle the financial liability in an additional 24-hour time limit provided by the Market Operator along with notice about the option to rescind the Agreement. The date of payment is deemed the time of crediting the relevant amount to the Market Operator's account.
- f) Rescission must be submitted in the written form and comes into effect at its delivery to the other Party. Either Party may terminate the Agreement. The termination term runs for 1 month starting on the first day of the month following delivery of written notice to the other Party.
- g) In case of doubt about the delivery of the rescission or written notice sent by postal service, shall be deemed to have been delivered on the third business day following its dispatch, in case of delivery to address in another state, it is the fifteenth day following its dispatch.
- h) Furthermore, the Agreement may be terminated by mutual agreement between the Contracting Parties. The agreement on termination shall be in the written form.

## **(REMIT REPORTING)**

### **Article 16**

#### **Trade Data Reporting**

- a) The Market Operator undertakes to provide the Trader with the service of trade data reporting (hereinafter the “ **Service**”). This Service comprises reporting of trade data on behalf and on the account of the Trader to the Agency, detailing transactions executed on the short-term electricity market organized by the Market Operator, including matched and unmatched orders to trade, under the terms of this Agreement, Business Terms as amended and effective, REMIT and the REMIT Implementing Act (hereinafter “ **trade data reporting**”). The Trader hereby expressly agrees with reporting of trade data and data about the Trader to the Agency.
- b) This Service also includes a provision of records from the register of trade data on the on the electricity market organized by the Market Operator to the Trader, including matched and unmatched orders to trade under the terms of this Agreement, Business Terms, REMIT and the REMIT Implementing Act (hereinafter “**registration and provision of trade data from CS OTE**”).

- c) The Trader undertakes to pay the Market Operator for the Service the price determined in accordance with this Agreement and the Business Terms. If the price is not stipulated by ERO's Price Decision, the Market Operator is entitled to adjust the price charged for the Service up to once a year. The Market Operator shall notify the Trader about the price adjustment three months in advance. If the Trade does not agree with the adjusted price, the Trader has the right to terminate the Service. If the Trader does not terminate the Service within one month from the date of notification of the price adjustment, the Trader is deemed to agree with the price adjustment.
- d) The scope of Service does not include reporting of any trade data related to transactions executed outside the market organized by the Market Operator.
- e) Either of the Contracting Parties is authorised to terminate the Service. The period of notice is one month and it commences on the first day of the month following the delivery of written notice to the other Contracting Party. This shall be without prejudice to the obligation of the Market Operator to offer the Trader the conclusion of a Trade Data Reporting Agreement pursuant Article 6 the REMIT Implementing Act.
- f) The Trader is obligated to verify the completeness, accuracy and timeliness of trade data on the regular and continuous basis, using a method enabling remote access under the conditions set out in the Business Terms.
- g) The Trader undertakes to duly and timely provide the Market Operator all necessary data to the extent specified in the REMIT Implementing Act, which are necessary for ensuring the proper and timely Service by the Market Operator. The Trader is responsible for the completeness and accuracy of the data provided to the Market Operator.
- h) The Trader shall notify the Market Operator in writing without undue delay about any changes of the data provided to the Market Operator under the terms of this Agreement.
- i) The liability of the Market Operator and the Trader for accuracy and completeness of trade data and accurate and timely reporting of trade data is specified in this Agreement, the Business Terms and the REMIT Implementing Act.
- j) The Market Operator is not liable for any damage suffered by the Trader or third parties as a result of provision incorrect or incomplete data in fulfilling the trade data reporting obligation on behalf of the Trader under this Agreement if the Trader has provided the Market Operator with incorrect or incomplete data, or notified the Market Operator about any change in the data later than five calendar days before the reporting obligation became applicable, or if the Trader failed to verify the reported data as required under this Agreement.
- k) If a third person claims damage compensation from the Market Operator or imposes a sanction due to the provision of incorrect or incomplete data in fulfilling the trade data reporting obligation on behalf of the Trader pursuant to this Article of this Agreement, the Trader shall immediately relieve the Market Operator of such claim if the Trader has provided the Market Operator with incorrect or incomplete data or notified the Market Operator about any change

in the data later than five calendar days before the reporting obligation became applicable, or if the Trader failed to verify the reported data as required under this Agreement. If the Market Operator settles any such claim defined in the first sentence of this paragraph of this Article of this Agreement, the Trader shall compensate the Market Operator for the damage, including expenses incurred in the Market Operator's defence, if the Trader has provided the Market Operator with incorrect or incomplete data, or notified the Market Operator about any change in the data later than five calendar days before the reporting obligation became applicable, or if the Trader failed to verify the reported data as required under this Agreement. In such case, the Trader shall ensure compliance with the obligation to report trade data by itself or via another reporting entity different from the Market Operator.

- l) The Market Operator has the right to rescind the Service by delivering of written notice to the Trader if the Trader is overdue with payment of Service or the Trader fails to provide the correct or complete data pursuant to Article 1 of this Agreement or fails to timely notify the Market Operator about any change of the data under the provisions of this Agreement.
- m) The provision in the Article 16, letter a) of this Agreement shall cease to be effective on the date on which the Market Operator lost the right to access to the system of Agency. The rights and obligations under letter a) of this Article, of this Agreement shall cease to apply. In such case, the Market Operator shall continue a registration and provision of trade data from CS OTE under letter b) of this Article, of this Agreement.

**(RELATED TO THE PERMANENT ESTABLISHMENT  
FOR THE PURPOSES OF VAT)**

**Article 17**

**Place of Supply for Purposes of VAT**

I.

Statement of the Trader

- a) The Trader hereby declares that the organizational unit referred to in Article 1 of this Agreement is not a business establishment pursuant to the Value Added Tax Act, as amended. Furthermore, the Trader hereby declares that it has no other representation in the territory of the Czech Republic that may be deemed a business establishment and that no supply provided by the Operator is intended for the organizational unit or any other representation of the Trader in the Czech Republic.
- b) The Trader hereby undertakes to notify the Market Operator within 3 business days about any change in the line of business of the organizational unit that would result in setting up a business establishment and, furthermore, in the event any other establishment arises for the Trader in the territory of the Czech Republic. Should such event occur, relevant information must be provided in writing without undue delay, but no later than within 10 days following the date of setting up a business establishment of the Trader in the Czech Republic.
- c) The Trader hereby undertakes that in the event the relevant tax administration authorities deem its organizational unit or other representation in the Czech Republic a business establishment for purposes of value added tax and, as a

result, the Market Operator is required to pay additional tax and/or the tax administrator levies sanction or tax attribution thereof pursuant to relevant legal regulations, such as fines and penalties, tax increase, or late payment interest, due to erroneous value-added tax declaration, the Trader shall fully refund all such assessed and additionally assessed tax payments and reasonable expenses of the Market Operator arising from administrative proceedings related to the assessment and additional assessment, with the exception of the expenses arising from proceedings whereby the tax administrator has ordered the Market Operator to pay these expenses due to inactivity or breach of legal obligations by the Market Operator pursuant to Section 107 (6) of the Tax Code.

- d) The Trader shall make the refund based on written notice by the Market Operator and following submission of documentation on additional tax assessment and levying related sanctions and tax attribution by the tax administrator for the Market Operator, and documents proving that the Market Operator has paid the tax administrator the additionally assessed tax and related sanctions and tax attribution. The Trader shall make the refund without undue delay, no later than within one week after delivery of said notice and documentation listed above to the Trader regardless of whether the decision on additional tax assessment and other levied payments has become enforceable and legitimate. The Trader shall reimburse the Market Operator for the sanctions and tax attribution levied by the tax administrator due to late tax payment up to the amount of the sanctions and tax attribution in accordance with late tax payment by the substitute due date of payment of additionally assessed tax pursuant to Section 143 and the following Sections of the Tax Code.
- e) The obligation of the Trader to pay under the foregoing letter d) is in no way affected by whether the Market Operator has exercised statutory remedial measures against the decision on additional tax assessment and other levied payments, or not. In the event the decision hereof is cancelled or mitigated and the additionally assessed or levied payment in full or partially returned to the Market Operator or set off against another tax obligation the refund of which is not within the scope of the Trader's obligations under the foregoing Article, the Market Operator is obligated to reimburse the Trader the corresponding amount reduced by reasonable expenses incurred to exercise remedial measures that resulted in cancellation or mitigation of the relevant decision.

## II.

### Statement of the Market Operator

- a) In connection with a possible decision of the tax administrator on additional tax assessment due to the erroneous value added tax declaration described above, the Market Operator hereby undertakes to discuss with the Trader any use of statutory remedial actions against this decision of the tax administrator and related proper evidence so that the Market Operator may exercise the statutory remedies, if needed, within the given time limit.
- b) Furthermore, the Market Operator hereby undertakes that in the event it does not exercise any statutory remedies or in the event the decision on additional tax assessment due to the erroneous value added tax declaration will not be cancelled or mitigated as a result of exercising the statutory remedial actions, the Market Operator shall amend the tax documents pursuant to the Value Added Tax Act for the supplies executed by the Market Operator under this



Agreement to the Balance Responsible Party on which the tax administrator levied additional tax due to the erroneous value added tax declaration.

- c) In the event the tax administration authorities deem the organization unit or other representation of the Trader in the Czech Republic a business establishment for purposes of value added tax and, as a result, the Trader is subject to additional value added tax assessment for the supplies executed by the Trader under this Agreement on Settlement of Imbalances to the Market Operator, the Market Operator hereby undertakes to refund the additionally assessed tax to the Trader based on the amended tax documents issued by the Trader pursuant to the Value Added Tax Act and delivered to the Market Operator together with documents on additional tax assessment by the tax administrator.

## **Article 18**

### **Final Provisions**

- a) All rights and obligations of the Parties arising from this Agreement cease to apply as of the date of expiry of the Agreement, with the exception of the rights and obligations, which according to their type continue to persist the Agreement.
- b) The provisions pertaining to information protection, financial security, damage settlement, contractual penalties and dispute resolution remain in effect after the termination of this Agreement.
- c) The Parties hereby acknowledge that should any provision of this Agreement or its Appendices be deemed invalid in the future, then such provision shall not invalidate the other provisions of this Agreement. In such event the invalid provision of the Agreement shall be substituted with an enforceable provision, which will most closely correspond to the contents of the invalid provision.
- d) This Agreement can be modified and supplemented solely by attaching written Appendices numbered in a rising order and signed by authorized representatives of the Parties hereof in the same document. The other Party is obligated to provide an opinion on a draft Appendix within 20 days following its receipt. The Party which has sent the draft Appendix is bound by it for the same period.
- e) Legal relations between the Parties are governed by Czech law. The governing language of the Agreement is Czech.
- f) Legal relations between the Parties hereto are governed, aside from the provisions contained in the text of this Agreement, by the Business Terms. The Trader hereby acknowledges that the contents of the Business Terms are known to it. In the event any provision of this Agreement diverges from or contradicts the wording of the Business Terms, then the wording of the Agreement supersedes the wording of the Business Terms.
- g) Both Parties fully accept the integral parts of this Agreement, attached as the following Appendices:
  - i. Appendix 1 – Business Terms in the electronic form ([www.ote-cr.cz](http://www.ote-cr.cz))
  - ii. Appendix 2 – Persons authorized for communication in contractual and operations matters
  - iii. Appendix 3 – Exhibits of calculation formulas for data included in tax documents



- h) In the event any provision of this Agreement is superseded by new legislation, both Parties hereby undertake to substitute the affected provision of this Agreement with a new provision ensuing from the new legislation, or they shall agree upon a provision which will as closely as possible achieve the purpose intended by both Parties when drafting this Agreement. All other provisions of the Agreement shall remain unaffected.
- i) This Agreement has been executed in 2 counterparts of which each Party receives one original copy. The Business Terms are valid and binding for both Parties as of the day of approval by the Energy Regulatory Office and posting on the Web site [www.ote-cr.cz](http://www.ote-cr.cz). They are an integral part of this Agreement in the electronic form.
- j) The Parties hereby acknowledge they have read this Agreement in detail, agree with its contents and are not aware of any obstacles, third party claims or other legal defects that would prevent entering into this Agreement or render it invalid. In witness whereof, the authorized representatives of the Parties attach their signatures below.

Prague, date .....

Place, date .....

OTE, a.s.:

Company Name:

.....  
xxx  
Chairman of the Board

.....

.....  
xxx  
Vice-chairman of the Board

**Appendix 3: Persons authorized for communication in contractual and operations matters**  
**On behalf of the Trader:**

First Name	Surname	Telephone	Mobile phone	E-mail	Person in charge	Access to OTE's system	Commodity	Communication areas

**Notes:**

Person in charge has rights to administrate others persons accounts in OTE portal, e.g.: add new user, edit activity rights, manage certificates.

Communication area with OTE, please fill up for each person according to the following key: C - contractual, O - operational, I - invoicing, RM - risk management.

**On behalf of OTE, a.s.:**

First Name	Surname	Scope of Communication	Telephone	E-mail	Mobile phone
Zuzana	Stašková	Smluvní	+420 234 686 371	<a href="mailto:zstaskova@ote-cr.cz">zstaskova@ote-cr.cz</a>	+420 734 353 950
Jaroslav	Hodánek	Contractual, CS OTE	+420 234 686 255	<a href="mailto:jhodanek@ote-cr.cz">jhodanek@ote-cr.cz</a>	+420 605 296 771
Jakub	Šrom	Short-Term Market	+420 234 686 155	<a href="mailto:jšrom@ote-cr.cz">jšrom@ote-cr.cz</a>	+420 739 505 972
Ondřej	Záviský	Billing, Financial Security	+420 234 686 400	<a href="mailto:ozavisky@ote-cr.cz">ozavisky@ote-cr.cz</a>	+420 731 412 963

### Appendix 3: Exhibits of calculation formulas for data included in tax documents

#### Exhibit 1: VAT base and calculation – payment in EUR (exclusive of Electricity Tax)

In the event the offer price is quoted in EUR and payment is executed in EUR, the calculation procedure is as follows:

- VAT base in EUR is the price for electricity supply without VAT quoted in EUR;
- VAT in EUR is calculated in EUR from the VAT base quoted in EUR;
- The price for electricity supply without VAT quoted in EUR is converted using the exchange rate of the Czech National Bank valid on the date of electricity supply by the Trade
- VAT is calculated from the VAT base quoted in CZK

Calculation formula:

	EUR	CZK	Calculation
Offer price in EUR	30 000		
Tax in EUR	6 300		30 000*21%
Tax base in CZK		750 000	30 000*25,000
VAT in CZK		157 500	750 000*21%

CNB exchange rate on the date of supply: 25,000

#### Exhibit 2: VAT base and calculation – payment in EUR (inclusive of Electricity Tax)

In the event the offer price is quoted in EUR and payment is executed in EUR, the calculation procedure is as follows:

- The offer price quoted in EUR is converted using the exchange rate of the Czech National Bank valid on the date of electricity supply by the Trader;
- VAT base is the sum of the adjusted price for electricity supply without VAT quoted in CZK and the rate of Electricity Tax in CZK;
- VAT is calculated from the VAT base quoted in CZK.

Calculation formula:

	EUR	CZK	Calculation
Offer price in EUR	30 000		
Offer price in CZK		750 000	30 000*25,000
Electricity Tax in CZK		10 000	x MWh*28,30
VAT base in CZK		760 000	750 000 + 10 000
VAT in CZK		159 600	760 000*21%

CNB exchange rate on the date of supply: 25,000

**Exhibit 3:**  
**VAT base and calculation – payment in CZK (exclusive of Electricity Tax)**

In the event the offer price is quoted in EUR and payment is executed in CZK, the calculation procedure is as follows:

- The offer price quoted in EUR is converted using the exchange rate of the Market Operator's bank valid for the relevant supply;
- VAT base is the price (payment) for electricity supply without VAT quoted in CZK;
- VAT is calculated in CZK from the VAT base, exclusive of the VAT rate, quoted in CZK.

Calculation formula:

	EUR	CZK	Calculation
Offer price in EUR	30 000		
Tax base in CZK		735 000	30 000*24,500
VAT in CZK		154 350	735 000*21%
Total amount due in CZK		889 350	

Market Operator's bank exchange rate: 24,500

**Exhibit 4:**  
**VAT base and calculation – payment in CZK (inclusive of Electricity Tax)**

In the event the offer price is quoted in EUR and payment is executed in CZK, the calculation procedure is as follows:

- The offer price quoted in EUR is converted using the exchange rate of the Market Operator's bank valid for the relevant supply;
- VAT base is the sum of the price for electricity supply without VAT quoted in CZK and the Electricity Tax rate in CZK;
- VAT is calculated in CZK from the VAT base quoted in CZK.

Calculation formula:

	EUR	CZK	Calculation
Offer price in EUR	30 000		
Offer price in CZK		735 000	30 000*24,500
Electricity Tax in CZK		10 000	xMWh*28,30
Tax base in CZK		745 000	735 000 + 10 000
VAT in CZK		156 450	745 000*21%

Market Operator's bank exchange rate: 24,500

**Exhibit 5:**  
**VAT base and calculation – payment in CZK (exclusive of Electricity Tax)**

In the event the price of imbalance is quoted in CZK and payment is executed in CZK, the calculation procedure is as follows:

- VAT base is the price for imbalance in CZK;
- VAT is calculated in CZK from the VAT base quoted in CZK;
- VAT is rounded to hallers.

Calculation formula:

	EUR	CZK	Calculation
Price for imbalance in CZK		35 431,48	
VAT in CZK		7 440,611	35 431,48*21%
VAT in CZK - rounded		7 440,61	