

Agreement on Settlement of imbalances (hereinafter **“Agreement”**)

entered into pursuant to Section 269 (2) of Act No. 513/1991 Coll., the Commercial Code, as amended, pursuant to Section 50 of Act 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 Energy Regulatory Office Decree on the Electricity Market Rules, pricing policy related to activity of the Electricity Market Operator, and implementation of other provisions of the Energy Act, as amended.

Article 1 **Contracting Parties**

a) OTE, a.s.

with its registered seat in Prague 8 - Karlín, Sokolovská 192/79, postcode 186 00, entered in the Commercial Register maintained by the Municipal Court in Prague, Part B, Insert 7260,

represented by: Jaroslav Žákovčík, Manager for Contractual Relations

Business Registration Number (IČ): 26463318

Tax Registration Number (DIČ): CZ26463318

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

195582760247/0100

Bank account No. – settlement account for imbalances:

275868540207/0100

Bank account No. – settlement account for the organized short-term electricity market:

275868550237/0100

Bank account No. – financial security:

275868530287/0100

Tel.: +420 296 579 160

Fax: +420 296 579 180

hereinafter **“Market Operator”**

b) (Name of Company)

with its registered seat at (address),

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

Part ..., Insert,

represented by:

Business Registration Number (IČ):

Tax Registration Number (DIČ): CZ

Bank information:

Account No.:

Holder of electricity trading licence No., electricity distribution licence No.

....., electricity production licence No.

Tel:

Fax:

Electricity market participant registration No.:

hereinafter **“Subject of Settlement”**

Article 2 Definition of Terms

- a) Terms and abbreviations used in this Agreement:
- i. CS OTE – central information system of the Market Operator,
 - ii. 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,
 - iii. ERO – Energy Regulatory Office,
 - iv. Business Terms – Business Terms of OTE, a.s. for the power sector,
 - v. Market Rules – Energy Regulatory Office Decree on the Electricity Market Rules, pricing policy related to activity of the Electricity Market Operator, and implementation of other provisions of the Energy Act, as amended,
 - vi. Electricity Tax Act – Act No. 261/2007 Coll., on Stabilization of Public Finances, Part 47, as amended,
 - vii. Value Added Tax Act – Act No. 235/2004 Coll., on the Value Added Tax, as amended.
- b) Terms other than those listed above used in this Agreement are interpreted pursuant to the provisions of the Energy Act, Market Rules and other legal regulations.

Article 3 Scope of Agreement

The Market Operator hereby undertakes under this Agreement to carry out evaluation, billing and settlement of imbalances for the Subject of Settlement, based on evaluation of metered and negotiated supply and consumption of electricity, whereas the Subject of Settlement hereby undertakes to pay the regulated price. 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.

Article 4 Pricing of Services Provided by the Market Operator

Prices charged for services provided by the Market Operator under Article 3 of this Agreement are billed in compliance with the relevant ERO Price Decision and the procedures defined in the Market Rules, 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.

Article 5 Imbalance Electricity Pricing

Prices for imbalance electricity are determined in compliance with the Market Rules.

Article 6 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 Subject of Settlement's secure access to CS OTE in compliance with the provisions of the Business Terms.
- c) The Market Operator is obligated to provide the Subject of Settlement with technical support for use of CS OTE through Help Desk operated at business hours specified on the Market Operator's Web site.
- d) The Market Operator is obligated to notify the Subject of Settlement about any change made to CS OTE within the time limits corresponding to the significance of the changes.
- e) The Market Operator is obligated to pay the Subject of Settlement due amounts determined on the basis of evaluation and settlement in the event a liability of the Market Operator arises from settlement of imbalances. The method of evaluation and settlement is defined in the Market Rules and the Business Terms
- f) The Subject of Settlement is obligated to pay the Market Operator due amounts determined on the basis of evaluation and settlement in the event a liability of the Subject of Settlement arises from settlement of imbalances. The method of evaluation and settlement is defined in the Market Rules and the Business Terms.
- g) The Subject of Settlement is obligated to pay the price charged by the Market Operator under Articles 4 and 5 of this Agreement within time limits and in a manner set forth in this Agreement and in the Business Terms.
- h) The Subject of Settlement is obligated to notify the Market Operator about any insolvency proposals filed against it.

Article 7 Deposit and Financial Security

- a) The Subject of Settlement is obligated to provide a deposit worth CZK 5 million to the Market Operator within 10 days after this Agreement has come into force to cover financial obligations of the Subject of Settlement arising from this Agreement. The deposit shall be deposited into the Market Operator's account designated for financial security and maintained by the Market Operator's bank. The deposit is interest-bearing at a rate stipulated in the Business Terms.

- b) The Subject of Settlement shall not provide a deposit for the Market Operator under letter a) of this Article in the event the existing Agreement on Settlement of Imbalances between the Subject of Settlement and the Market Operator is modified or updated. In such event the already provided deposit applies to the modified or updated Agreement on Settlement of Imbalances.
- c) Unless agreed upon otherwise by both Parties, the deposit, or its remaining portion, shall be returned to the Subject of Settlement within 10 calendar days after settlement of all financial obligations of the Subject of Settlement to the Market Operator arising from this Agreement.
- d) The Subject of Settlement is obligated to replenish the deposit to the foregoing amount within 10 calendar days following the date of finding out the amount by which the deposit has been reduced.
- e) The Subject of Settlement hereby acknowledges that in the event of launching insolvency proceedings due to an act of bankruptcy or impending bankruptcy of the Subject of Settlement, the Market Operator is entitled to exercise the right of lien instrument defined under Section 175 and the following Sections of Act No. 40/1964 Coll., the Civil Code, as amended.
- f) The Subject of Settlement is obligated to properly fill out the Form for Determining Financial Security included in the Business Terms and attached hereto as Appendix 2 to this Agreement, and to notify the Market Operator in a manner laid down in the Business Terms about any change within three business days following the date of executing the change.
- g) 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.
- h) The Subject of Settlement is obligated to submit to the Market Operator proof of the provision of available financial security by the Subject of Settlement within 10 days after this Agreement has come into force. The Subject of Settlement is not required to provide this proof in the event of depositing cash serving as the available financial security into the Market Operator's bank account designated for financial security.

Article 8

Terms of Payment and Billing

- a) In compliance with the Business Terms, the Subject of Settlement 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. 195582760247/0100 and 275868540207/0100 and to provide the Market Operator with proof of having established these rights. The Market Operator holds the rights to collect cash from the Subject of Settlement's account with the aim to secure due payments from the Subject of Settlement pursuant to Articles 4 and 5 of this Agreement.
- b) In compliance with the Business Terms, daily settlement of imbalances for separate days of the month represents payments subject to billing.

- c) Settlement of payments for imbalances caused by the Subject of Settlement is billed once a month by issuing a tax document under the terms defined in Article 9 of this Agreement.
- d) Payment by the Market Operator or the Subject of Settlement 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.
- e) In the event the Market Operator or the Subject of Settlement 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 11 of this Agreement.

Article 9 Issuance of Tax Documents

- a) The Parties have agreed that the Market Operator shall issue tax documents (hereinafter **"documents"**) on behalf of the Subject of Settlement in connection with supplies executed by the Subject of Settlement 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 Subject of Settlement 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 Article 9 herein on behalf of the Subject of Settlement, whereas the Market Operator acknowledges this authorization.
- d) The Subject of Settlement hereby undertakes by signing of this Agreement hereunder to accept all documents specified under letter a) of Article 9 herein, issued by the Market Operator on behalf of the Subject of Settlement, 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 Subject of Settlement 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 Subject of Settlement for issuing of documents under the terms of this Agreement.
- g) The Market Operator is authorized to issue documents for the Subject of Settlement 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 Subject of Settlement on the day of issuing the first respective counterpart in the electronic form.
- k) The Subject of Settlement hereby undertakes to review the accuracy of the data stated in the other counterpart of the issued document within three 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 three 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 Subject of Settlement 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 Subject of Settlement.
- o) The Subject of Settlement 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 Subject of Settlement agrees to provide the data requested by the Market Operator within five 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 Subject of Settlement.
- q) The Subject of Settlement is obligated to notify the Market Operator in writing about any change to the data provided by the Subject of Settlement 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 three 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 Subject of Settlement'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) Pursuant to the Value Added Tax Act, the Market Operator hereby agrees that documents issued on behalf of the Subject of Settlement may be issued in the electronic form.
- u) Unless this Agreement explicitly stipulates otherwise for specific instances, the issued documents shall be deemed duly delivered if sent by electronic mail.
- v) The Market Operator holds no responsibility for any damage arising from stating incorrect or incomplete data in documents issued on behalf of the Subject of Settlement in the event the Subject of Settlement has provided the Market Operator with incorrect or incomplete data.
- w) The Market Operator is in no respect responsible for proper and timely issuance of documents under this Agreement in the event the Subject of Settlement has not fulfilled its obligations arising from this Article of this Agreement.
- x) The Market Operator is in no respect responsible for declaration and payment of taxes by the Subject of Settlement or for other obligations arising for the Subject of Settlement from issuing the documents, directly or indirectly, including keeping files related to the issued documents or retaining and storing the issued documents.

Article 10 Claims

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

Article 11 Late Payment Interest

- a) For each started day of delay in fulfilling a financial obligation under this Agreement, the creditor has the right to charge the defaulting Party late payment interest on the outstanding amount at the fixed rate of $(1M \text{ PRIBOR} + 2\%) / 360$, which is regularly set on the first business day of each calendar month of the year and stays in effect for the duration of the respective month.
- b) For purposes of this Agreement, 1M PRIBOR is defined as interest rate of a one-month deposit on the Prague Interbank Deposit Market. Its value is daily set by the Czech National Bank.
- c) 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 forthwith after the error has been documented.

Article 12 Damage Liability and Settlement

- a) Damage settlement is governed by the provisions of Sections 373 to 386 of the Commercial Code 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 Subject of Settlement 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.
- d) Pursuant to Section 25 (4), letter c) and letter d), and Section 24 (3), letter c) and letter d), a circumstance voiding liability (the provisions of Sections 352 to 354 of the Commercial Code) is not deemed an event whereby imbalance of the Subject of Settlement has resulted from curtailment or interruption of electricity supply by the distribution or transmission system operator.
- e) The Party affected by circumstances voiding its liability is obligated to notify the other Party in writing forthwith about such circumstances. At the other Party's request, the Party citing the circumstances voiding liability shall submit to the other Party evidence of the cited circumstances occurring.

Article 13 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.

Article 14 Communication

- a) In Appendix 3 to this Agreement, the Parties have designated persons authorized for communication in contractual and operations matters. Contractual matters mean primarily proposed changes to this Agreement, including its Appendices. Operations matters mean primarily provision of data on bilateral contracts, financial security of imbalances, evaluation of imbalances, terms of payment and claims. The persons authorized for communication stated in Appendix 3 are authorized under this Agreement to conduct joint negotiations within the scope of the matters they are authorized to handle. In the event the conclusions of such negotiations result in proposed change to the Agreement, it is deemed solely a proposal for change to the Agreement.
- b) A basis for change in contractual matters, including registered data about the Subject of Settlement 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, fax) in a secure manner pursuant to the Business Terms. The time of delivery by e-mail or fax is deemed the date of receipt of the e-mail or receipt of the automatic fax transmission confirmation.
- d) The Subject of Settlement shall obtain security features for access to CS OTE in a manner defined in the Business Terms. A list of access cards, including access rights for specific cards and persons authorized for communication on behalf of the Subject of Settlement, who are the cardholders, is part of Appendix 3 to this Agreement.

Article 15 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 Subject of Settlement 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 16 Term of Agreement

- a) This Agreement is entered into for an indeterminate period and shall come into force on the date of clearing the deposit and financial security under Article 7 of this Agreement and provision of a document on establishing the right to collect cash pursuant to Article 8 of this Agreement.
- b) The Market Operator has the right to rescind the Agreement in the event the Subject of Settlement has not paid or supplemented the deposit within the given period under Article 7, letter a) and d) of this Agreement, or has paid only a portion of the required amount.

- c) The Market Operator has the right to rescind the Agreement in the event the Subject of Settlement is overdue with payment of any financial obligation under this Agreement, whereby the Market Operator has been unable to secure payment of the respective obligation from the Subject of Settlement's financial security, and the Subject of Settlement has failed to settle the financial obligation in an additional minimum 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.
- d) Rescission must be submitted in the written form and comes into effect at its delivery to the other Party. In the event of doubt, rescission notice is deemed delivered on the third day after it was posted.
- e) Either Party may terminate the Agreement whereas the Market Operator is obligated to state the reason for termination. The termination term runs for one month starting on the first day of the month following delivery of written notice to the other Party.

Article 17 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 obligations contained in the provisions hereof, the nature of which warrants their survival of the Agreement.
- b) The provisions pertaining to information protection, deposit, financial security, damage settlement, contractual penalties and dispute resolution remain in effect after the termination of this Agreement pursuant to the provisions of Article 7 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. The other Party is obligated to provide an opinion on a draft Appendix within 14 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 Subject of Settlement 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)
 - ii. Appendix 2 – Form for Determining Financial Security
 - iii. Appendix 3 – Persons authorized for communication in contractual and operations matters
- 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 two 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. 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.:

(Name of Company):

.....
Jaroslav Žákovčik
Manager for Contractual Relations

.....
(name of Company Representative)

Persons authorized for communication in contractual and operations matters

First Name	Surname	Scope of Communication	Telephone	E-mail	Mobile phone	Signature specimen	Access card holder YES/NO	Access card number (ID USER)	Scope of access card authorization
On behalf of Subject of Settlement									
On behalf of OTE, a.s.									
Jiří	Fabian	CS OTE	+420 296579184	jfabian@ote-cr.cz	+420 605269059		YES	XXX	W
Jaroslav	Žákovčik	Contractual	+420 296579183	jzakovcik@ote-cr.cz	+420 605113331		YES	XXX	W
Michal	Ivánek	Billing and accounting	+420 296579195	mivanek@ote-cr.cz	+420 603165133		YES	XXX	W
Ondřej	Záviský	FS	+420 296579187	ozavisky@ote-cr.cz	+420 731412963		YES	XXX	W