

Agreement on settlement of imbalances (hereinafter Agreement)

concluded according to Article 269 (2) of Act no. 513/1991 Coll., Article 50 of Act no. 458/2000 Coll. (Energy Act), in the original wording and according to Decree of Energy Regulatory Office (hereinafter ERU) on Rules of the electricity market and the pricing policies for the activities of Electricity market operator, a.s. (hereinafter OTE) in the original wording.

Article 1 Contractual parties

a) Electricity market operator, a.s. (OTE)

Sokolovská street 192/79, 186 00 Prague 8,
company inscribed in Commercial Register, administered by Municipal court in Prague,
section B, insertion 7260,
represented by:

Ing. Jiří Šťastný, General manager

IČ (identification no.): 26463318

DIČ (taxpayer identification no.): CZ26463318

account no. – fixed prices for OTE activities: 195582760247/0100

account no. – settlement account of the imbalances: 275868540207/0100

account no. – settlement account of the organized short-term market:
275868550237/0100

account no. – account of the financial security: 275868530287/0100

tel.: +420 296 579 160

fax: +420 296 579 180

b) Company name

company Headquarters - address

company inscribed in Commercial register, administered by District court in,
section., insertion no....,

represented by:

IČ (identification no.):

DIČ (taxpayer identification no.): CZ

Banking connection:

account no.:

Holder of electricity generation license no., electricity distribution license
no., electricity trade license no.

tel.:

fax:

Market participant's registration number:

(hereinafter Subject of settlement)

Article 2

Term definition

- a) Terms as used in the Agreement shall be determined according to the provisions of Act no. 458/2000 Coll. in the original wording, ERU Decree on Rules of the electricity market and the pricing policies for the activities of Electricity market operator, a.s. (hereinafter OTE) in the original wording.
- b) Abbreviations and terms as used:
 - i. Business terms - OTE Business terms
 - ii. ERU - Energy Regulatory Office

Article 3

Subject of Agreement

Electricity market operator binds itself by this Agreement on settlement of imbalances (on the basis of the evaluation of real and contracted electricity supplies and take-offs) to implement for Subject of settlement evaluating, billing and settling of the imbalances and the Subject of settlement undertakes to settle the regulating price. Approved Business terms by OTE as per Annex no. 1 of the Agreement form an integral part of the Agreement.

Article 4

Prices of activities provided by OTE

Prices of activities provided by OTE according to Article 3 of the Agreement shall be invoiced on the basis of the respective valid price ERU decision resulting from ERU Decree on Rules of the electricity market and the pricing policies for the activities of Electricity market operator in the original wording. With the amendment of the given price ERU decision, the new price level shall only be valid as of the day on which the amended price decision comes into effect.

Article 5

Price of electricity in case of imbalances

Price of electricity in case of imbalances shall be determined in accordance with Decree (issued by ERU) on Rules of the electricity market and the pricing policies for the activities of Electricity market operator, a.s. (hereinafter OTE) in the original wording.

Article 6

Rights and obligations of the contractual parties

- a) Rights and obligations of the contractual parties non-stated in the Agreement or Business terms (as attached to the Agreement by Annex no. 1) shall be governed by generally binding legal regulations.
- b) OTE is obliged to pay to Subject of settlement for the invoiced imbalance adjusted by his extra-cost share, under deadlines and methods indicated in the Agreement in cases that a financial obligation arises for OTE from settlement of imbalances.
- c) Subject of settlement is obliged to settle the price according to Articles 4 and 5 of the Agreement to OTE under deadlines and methods indicated in the Agreement and Business terms.
- d) Subject of settlement is obliged to inform OTE on any petition in bankruptcy declared against him.

Article 7

Bank collateral and financial security

- a) Subject of settlement is obliged to deposit bank collateral of CZK 5 millions in favour of OTE by 10 days at the latest from the conclusion of the Agreement in order to ensure fulfillment of the obligations of Subject of settlement resulting from the Agreement. The collateral shall be deposited to the OTE account of financial security available with OTE bank. The interest from the collateral shall be determined by Business terms provisions (www.ote-cr.cz).
- b) If amending or updating of the existing Agreement on settlement of imbalances (between Subject of settlement and OTE) occurs, Subject of settlement shall not deposit any bank collateral according to Article 7, Letter a) in favour of OTE. In such a case, the collateral previously deposited shall automatically apply to the amended or updated Agreement on settlement of imbalances.
- c) If not agreed otherwise between the contractual parties, the collateral (or its remaining part) shall be refunded back to Subject of settlement by 10 calendar days at the latest after all financial obligations of Subject of settlement towards OTE resulting from the Agreement are settled.
- d) By 10 calendar days from the day on which Subject of settlement noticed an amount reducing the bank collateral, the latter is obliged to complete the above-mentioned collateral amount of CZK 5 millions by depositing the sum left.
- e) Subject of settlement states to be aware that in case of declaring the petition in bankruptcy against the same, OTE shall be entitled to apply the right of retention as defined in Article 175 and subsequently in Civil Procedure Code.
- f) Subject of settlement further is obliged to fill in properly 'Form for setting of financial security amount' which comes incorporated to Business terms - section 6 and which is attached to the Agreement by Annex no. 2. In a manner indicated in Business terms, Subject of settlement is further obliged to inform OTE on any relevant amendment by 3 working days as of the day on which such amendment occurred.

- g) Method for setting of the financial security and permitted forms of the same, as well as conditions for use of the financial security shall be governed by Business terms – section 7.
- h) By 10 days at the latest from the conclusion of the Agreement, Subject of settlement is obliged to provide OTE with a document evidencing release of the available financial security amount (of Subject of settlement). The document shall not required to be delivered to OTE in case that Subject of settlement deposits the due funds (the available financial security) to the OTE account of financial security.

Article 8

Payment conditions and billing

- a) In accordance with Business terms and by 10 days at the latest from the conclusion of the Agreement, Subject of settlement is obliged to arrange collection rights to his account with a bank or its branch located in the Czech Republic in favour of the OTE accounts no. 195582760247/0100 and 275868540207/0100 and to deliver the document evidencing the collection right arrangement in favour of OTE. OTE shall keep the collection rights to the account of Subject of settlement in order to ensure due payments from Subject of settlement resulting from Articles 4 and 5 of the Agreement.
- b) Daily settlement of imbalances as made out in accordance with Business terms for individual days of the respective month shall be handled by advance payments. For advance payment clearance, each month an aggregate invoice shall be made out (see Letter e) according to Article 21 (1), (11) and Article 26 (2) of Act no. 235/2004 Coll.
- c) OTE shall prepare for Subject of settlement relevant materials for issuing of invoices resulting from the Agreement. Detailed invoicing procedures shall be governed by Business terms (www.ote-cr.cz).
- d) Electricity supplied (or sourced) to the power system of the Czech Republic in order to cover the imbalance produced by Subject of settlement, shall be invoiced once in a month under conditions described thereafter.
- e) Based on results of the monthly clearance, an aggregate invoice shall be made out according to Article 26 (2) of Act no. 235/2004 Coll. Statement of received advance payments (acc. to Letter b) shall appear on the invoice.
- f) The last calendar day of the respective month for which the clearance is made shall be taken for the date of provision of a taxable supply, following the provisions of Article 21 (11) of Act no. 235/2004 Coll.
- g) Providing the invoice does not contain all requirements indicated in the Agreement, the contractual party (recipient of the invoice) shall be entitled to require the corrected invoice to be resent immediately.
- h) Value added tax (VAT) as rated by law shall be added to the invoiced amount.

- i) In case that claimed amounts (in accordance with Business terms) are used for imbalances settlement, the respective invoice shall be issued by OTE only after the claimed amounts are considered by OTE and so Subject of settlement shall be invoiced accordingly, following the provisions of Article 43 of Act no. 235/2004 Coll.

Article 9 Claims

- a) It is possible to claim values/amounts and procedures applied in connection with the activity of analyzing, clearance and settlement of imbalances as used by OTE according to the Agreement.
- b) Procedures to lodge a claim or to settle a claim including all binding deadlines shall be specified in Business terms.

Article 10 Delay charges

- a) In case of delay in fulfilling of financial obligations according to the Agreement, the affected contractual party shall be entitled to claim delay charges out of the due amount from the opposite contractual party being past its due date. The delay charge apply to each started day past the due date and it shall be set regularly on the first working day of each calendar month at the fixed amount of $(1M \text{ PRIBOR} + 2\%) / 360$ with the validity for one respective month.
- b) For the purposes of the Agreement, 1M PRIBOR shall be defined as interest rate of one-month deposit on Prague inter-banking deposit market. The interest rate is fixed by the Czech National Bank on a daily basis.

Article 11 Damage prevention and compensation for damage

- a) Compensation for damage is governed by the provisions of Articles 373 to 386 of Commercial Code as well as by further contractual agreements.
- b) OTE as well as Subject of settlement shall be entitled to claim the compensation for damage incurred to them by the other contractual party even in case of breach of an obligation governed by contractual penalty. The entitled contractual party shall have the right to enforce the compensation for damage exceeding the contractual penalty amount.
- c) This shall not be the case of the circumstance eliminating liability (provisions of Articles 352 to 354 of Commercial Code) if the imbalance of Subject of settlement is produced by limited or suspended power supply by the provider of the distribution or transmission electricity system according to Energy Act, Article 25 (4) Letter d) and Letter e) and Article 24 (3) Letter c) and Letter d).

- d) The party affected by the circumstances eliminating its liability shall be obliged to inform forthwith the other side on such circumstances in a written form. The contractual party claiming such circumstances shall submit on request the evidence that such circumstances occurred.
- e) The contractual parties pledge to keep informed each other on all facts believed to lead to any harm as well as to strive to avert any imminent damage.

Article 12

Resolution of disputes

- a) The contractual parties shall do their best to settle all possible disputes arising from the Agreement in a pacific manner.
- b) In case of any other than the pacific settlement, any of the contractual parties may bring a suit against the other side in the general court locally competent to OTE. This amendment of local court competence shall be a matter of arrangement between the two parties according to Article 89a) of Civil Procedure Code.

Article 13

Manner of communication

- a) In Annex no. 3, the contractual parties designated an authorized representative for communication in both the contractual and operational fields. The contractual field involves in particular propositions of amendments of the Agreement including its annexes. The operational field involves in particular data report on bilateral agreements, financial securing of imbalances, imbalances analysis, payment system and claims. Within the framework of the Agreement, the authorized representatives listed in Annex no. 3 shall be entitled to conduct joint negotiations in competent fields in accordance with Annex no. 3. Provided that suggestions on amendments of the Agreement arise from the conclusions of such negotiations, this shall only be a suggestion on the amendment of the Agreement.
- b) If the Agreement requires that the documents are to be delivered in a written way, the registered letter shall apply. If the message is passed through an electronic form (e-mail, fax), this communication channel must be safe according to Business terms. In case of e-mail or fax message, the delivery date shall be the day of receipt (of e-mail or fax message). In all other cases, the delivery date shall be the day of document delivery by registered mail or the day of receipt in person.
- c) Within the framework of the initial registration process, Subject of settlement shall be provided by OTE with access cards into the OTE information system. The list of access cards including access rights of the individual cards and authorized representatives (for communication of Subject of settlement) or holders of the respective cards shall be part of Annex no. 3 of the Agreement.

Article 14

Confidentiality

- a) The contractual parties mutually agree to protect and keep secret confidential information away from any third party. Unless with the prior written consent, none of the contractual parties shall not be allowed to disclose any information on the content of the Agreement (with the exception of information publicly issued) nor it shall be allowed to disclose any partial content to a third party. The contractual parties further agree to protect confidential information and facts being a part of the business secret of a third party entrusted by the third party to one of the contractual sides with the consent of further usage of such information. The commitment to keep information secret shall last within the duration of the reality relevant for the business secret or of the interest in keeping any confidential information secret. This commitment shall not apply to provision of information in case that this would be required by generally binding legal regulations.
- b) In case of a provable breach of the obligation according to Letter a) by one of the contractual parties, the other side shall be obliged to pay to the affected party and for each breach of the obligation for a penalty amounted at CZK 200 000 (in words two hundred thousand Czech crowns). This article shall not apply to the information duty resulting from generally binding regulations.
- c) Subject of settlement declares to be aware that the access to information resulting from the Agreement is further provided to the supplier of the OTE information system. The information system supplier shall consider all relevant information secret as well. OTE shall be responsible for the compliance with terms of information protection by the information system supplier.

Article 15

Validity and effective date

- a) This Agreement is concluded for an indefinite period of time and shall take effect on the day of signature by both contractual parties. The Agreement shall enter into force on the day of deposit of the bank collateral and of the financial security according to Article 7 as well as by delivery of the document evidencing arrangement of the collection rights according to Article no. 8 of the Agreement.
- b) OTE is entitled to withdraw from the Agreement provided Subject of settlement does not settle / complete the given collateral amount within the indicated time period according to Article 7 Letters a) and d) of the Agreement or the collateral is settled only partially.
- c) OTE is entitled to withdraw immediately from the Agreement, if Subject of settlement is past the due date with any financial obligation according to the Agreement and it was not possible for OTE to cover the respective obligation from the financial security of Subject of settlement. The provision of this article shall apply provided Subject of settlement does not settle his financial obligation in a 24-hour minimal extra time period provided by OTE accompanied by the OTE notice of withdrawal. The payment date shall be the day on which the OTE account is credited by the due amount.

- d) Each of the contractual parties is entitled to withdraw from the Agreement however OTE shall have to state the reason of such a withdrawal. The withdrawal notice period shall be 1 month and it shall start on the first day of the month following the delivery of the written withdrawal to the other party.

Article 16

Final provisions

- a) On the day of termination of this Agreement, all rights and obligations of the contractual parties arising from this Agreement shall be terminated with the exception of the obligations given in the respective provisions and meant to last even after the termination of the Agreement.
- b) The provisions on the protection of information, on bank collateral, financial security, compensation for damage, contractual penalty and resolution of disputes remain in force even after the effectivity of the Agreement is terminated with the respect to the provisions of Article 7 of the Agreement.
- c) The contractual parties state that, if, in future, any of the provisions of the Agreement or its annexes is found void, then the other provisions of the Agreement shall not be affected. Upon consideration of a void provision of the Agreement, the most proximate law provisions (to the void provision) shall apply.
- d) This Agreement may only be altered and completed by written annexes in ascending order signed by the authorized representatives of the contractual parties. The other contractual party must comment on any (annex) suggestion by 21 days from the day of the receipt of such a suggestion. During the 21-day period, the party that raised the suggestion shall remain bound by the same.
- e) Legal relations of both contractual parties shall be governed by the Czech law. The working language is the Czech language.
- f) Apart from the provisions within the text of this Agreement, all legal relations between both contractual parties shall also be governed by Business terms. Subject of settlement states to have got familiar with the content of Business terms. Providing that, within the text of the Agreement, there is a different or controversial provision with the Business terms wording, the different (controversial) provision shall be given priority to Business terms.
- g) Both contractual parties fully accept all integral parts of the Agreement coming under the following Annexes:
- i. Annex no. 1 – OTE Business terms in electronic form (www.ote-cr.cz)
 - ii. Annex no. 2 – Form for setting of the financial security amount
 - iii. Annex no. 3 – Authorized representatives for communication in the contractual and operational fields.
- h) If any provisions of the Agreement is replaced by a new legal regulation the contractual parties pledge to substitute the original text of the Agreement by the new provision resulting from the new legal regulation or, the contractual parties shall agree to use a provision being the most proximate to the purpose

of the original stipulation within the Agreement. The other provisions of the Agreement shall remain unchanged.

- i) The contractual parties hereby declare to have concluded the Agreement at their own free will and seriously, not under pressure or under other obviously disadvantageous conditions.
- j) The contractual parties declare to have studied in detail and understood the content of the Agreement and not to be aware of any barriers or claims of third parties nor of other legal defects that would make it impossible to conclude the Agreement or would lead to its nullity. To certify this, the authorized representatives of the contractual parties give their signatures.
- k) This Agreement is made out in duplicate, each contractual party shall receive one copy. Business terms shall enter into force and become binding for the contractual partners and for OTE on the day of approval by ERU and publication of Business terms on the following internet site: www.ote-cr.cz. Business terms in the electronic form shall be an integral part of the contractual relations.

In Prague, on

In....., on

Electricity market operator, a.s.:

Company name:

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Ing. Jiří Šťastný
General manager

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