

Agreement on the access to the organized short-term electricity market (hereinafter Agreement)

Concluded under 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. (hereinafter 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

represented by:

IČ (Identification no.):

DIČ (Taxpayer identification no.): CZ.....

Banking connection:

account no.:

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

no....., electricity generation license no.....

tel.:

fax:

Market participant's registration number:

(hereinafter Trader)

Article 2

Term definition

Terms as used in the Agreement shall be determined according to the provisions of Act no. 458/2000 Coll. (Energy Act) in the original wording, and the 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.

Terms as used:

- i. Business terms – OTE Business terms
- ii. PPS – transmission system operator
- iii. DT – the day-ahead electricity market organized by OTE
- iv. VDT – the intra-day electricity market organized by OTE for Subjects of settlement
- v. 'forthwith' - the 'forthwith' clause according to this Agreement shall mean 'by 3 days at the latest'

Article 3

Subject of the Agreement

The Electricity market operator binds itself by this Agreement on the access to the organized short-term electricity market to provide Trader with the access to the short-term electricity market and to settle realized business transactions according to the Rules of the electricity market and Trader undertakes to settle the price settled by the Rules of the electricity market. Approved OTE Business terms form an integral part of the Agreement. The access to the organized short-term electricity market involves exertion of the following OTE activities in favour of Trader:

- i. reception of Trader's supply/demand,
- ii. confirmation of the acceptance of Trader's supply/demand, or justification of non-acceptance,
- iii. in case of DT - evaluation of the delivered supplies/demands with subsequent publication,
- iv. in case of VDT - reception of Trader's acceptance,
- v. in case of VDT - reception confirmation of Trader's acceptance, or confirmation of Trader's non-acceptance (including justification of such a non-acceptance),
- vi. in case of VDT – periodical publication of the trading results per each individual Trader namely – traded volumes as well as trading prices, and overall amount of traded volumes and average trading prices per individual hours traded so far,
- vii. application of the trading results into the system of imbalance settlement,
- viii. reception and solution of possible claims,

- ix. provision of clearance and financial settlement of Trader's business transactions on the organized short-term electricity market. In case of DT, the financial settlement shall be equal to the product of accepted Trader's supplies/demands and marginal price as reached with the respect to the convention stating that accepted supply shall mean a payment by OTE and accepted demand shall mean a payment by Trader. In case of VDT, the financial settlement shall be equal to the product of accepted Trader's supplies/demands and prices offered or demanded.
- x. issuance of the respective document for an invoice make-out,
- xi. make-out of the invoice for a different taxpayer

Article 4

Price

Prices of the activities provided by OTE according to Article 3 of the Agreement are charged on the basis of the respective valid price ERU decision arising from the ERU decree on Rules of the electricity market and the pricing policies for the activities of Electricity market operator, a.s. 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.

- b) The price of the electricity traded on the short-term market and the method of its calculation shall be governed according to Business terms attached to the Agreement by Annex no. 1.

Article 5

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) Trader is obliged to pay to OTE for the price of the activities rendered within the Agreement.
- c) Trader is obliged to make the contractual advance payments to OTE. The advance payments amount shall be dependent on the trading results on DT and VDT and according to the Agreement and Business terms.
- d) Trader is obliged to make payments to OTE in amounts determined on the basis of monthly analyses. The method of the monthly analysis shall be governed by Business terms.
- e) According to Business terms, OTE is obliged to ensure financial clearance of the organized short-term market. The clearance shall be independent of real electricity values.

- f) According to Business terms, OTE is obliged to make the contractual advance payments to Trader. The advance payments amount shall arise from the trading results on DT and VDT.
- g) OTE is obliged to make payments to Trader in amounts determined on the basis of monthly analyses. The method of the monthly analysis and clearance shall be governed by Business terms.

Article 6

Financial security

- a) The method of setting of the financial security amount, permitted forms of the financial security and conditions for use of the same shall be governed by sections 5 and 7 of Business terms (www.ote-cr.cz).

Article 7

Payment terms and billing

- a) According to Business terms and by 10 days at the latest from the conclusion of the Agreement, Trader 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 275868550237/0100 and to deliver to OTE a document evidencing the existence of the collection rights. OTE shall keep the collection rights to the respective account in order to ensure due payments from Trader arising from Article 4 of the Agreement.
- b) Daily short-term market clearance as performed in accordance with Business terms per individual days of the respective month shall be handled by advance payments. Each month, an aggregate invoice shall be made out for the advance payment clearance according to Article 21 (1), Article 21 (11) and Article 26 (2) of Act no. 235/2004 Coll., see Letter e).
- c) OTE shall prepare for Trader relevant materials for issuing of invoices resulting from this Agreement. Detailed invoicing procedures shall be governed by Business terms.
- d) Electricity purchased and sold by Trader on the short-term electricity market organized by OTE shall be invoiced once in a month under conditions described thereafter.
- e) Based on results of the monthly clearance, an aggregate invoice shall be issued according to Article 26 (2) of Act no. 235/2004 Coll. Statement of received advance payments (acc. to Letter b) will 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 the 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.

Article 8

Claims

- a) It is possible to claim values/procedures applied in connection with organizing of the short-term electricity market 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 9

Delay charge

- a) In case of a 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 shall 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 the 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 10

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 Trader 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) 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 of the other contractual party the evidence that such circumstances occurred.
- d) Contractual parties hereby 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 11

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 a pacific dispute settlement, any of the contractual parties may bring a suit against the other side in the general court locally competent to OTE. The amendment of local court competence shall be a matter of arrangement between the two contractual parties according to Article 89a) of Civil Procedure Code.

Article 12

Communication

- a) In Annex no. 2, the contractual parties designated authorized representatives 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 supplies and demands, financial securing of business transactions on the short-term market, short-term market analysis, payment system and claims. Within the framework of the Agreement, the authorized representatives listed in Annex no. 2 shall be entitled to conduct joint negotiations in competent fields in accordance with Annex no. 2. Provided that suggestions on amendment of the Agreement arise from the conclusions of such negotiations, this shall only be a suggestion on the amendment of the Agreement. The authorized representatives destined for the mentioned negotiations shall not be entitled to conduct further negotiations on amendment or cancellation of the Agreement.
- b) If the Agreement requires that relevant documents are to be delivered in a written way, 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 registration process, OTE shall provide Trader with access cards to enter the OTE information system. The list of the 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. 2 of the Agreement.

Article 13

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 parties 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 a contractual 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) Trader declares to be aware that the access to information arising from the Agreement is further accorded 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 the terms of information protection by the information system supplier.

Article 14

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 come into force on the effective date of Agreement on imbalance settlement between Trader and OTE, however only after the day of signature by both contractual parties.
- b) OTE is entitled to withdraw from the Agreement, provided it had previously withdrawn from Agreement on imbalance settlement between Trader and OTE.
- c) OTE is entitled to withdraw immediately from the Agreement, if Trader 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 Trader's financial security. The provision of this article shall apply, provided Trader does not settle his financial obligation in a 24-hour minimal extra time period provided by OTE accompanied by respective notice of the OTE 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 delivery of the written withdrawal notice to the other contractual party.

Article 15

Final provisions

- a) On the day of termination of the Agreement, all rights and obligations of the contractual parties arising from the Agreement shall be terminated with the exception of the obligations given in the respective provisions and meant to last after the termination of the Agreement.
- b) The provisions on confidentiality, financial security, compensation for damage, contractual penalties and resolution of disputes shall remain in force even after the effectivity of the Agreement is terminated.
- c) The contractual parties state that if, in future, any of the provisions of the Agreement or its annexes is found void, 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 be applied.
- d) The 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 30 days as of the day of the receipt of such a suggestion. During the 30-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 the Agreement, all legal relations between both contractual parties shall also be governed by Business terms. Trader 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 – Authorized representatives for communication in the contractual and operational fields
- h) If any of the provisions of the Agreement is replaced by a new legal regulation, the contractual parties pledge to substitute the original text by the new provision resulting from the new legal regulation or, the contractual parties shall agree to apply 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) The 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 (Traders) as well as for OTE on the day of approval by ERU and by 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

OTE - Electricity market operator, a.s.:

Company name:

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Ing. Jiří Šťastný
General manager

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