

DRAFT

Dated [●] 2020

ENEL – Società per Azioni

as Issuer

and

BNY Mellon Corporate Trustee Services Limited

as Trustee

and

The Bank of New York Mellon, London Branch

as Agent Bank and Principal Paying Agent

SUPPLEMENTAL AGENCY AGREEMENT

relating to the €750,000,000 Perpetual 8.5 Year Non-Call Capital Securities (formerly the
€750,000,000 8.5 Year Non-Call Capital Securities due 2081)

Ref L-298704

Linklaters Studio Legale Associato

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This Supplemental Agency Agreement is made in London on [●] between:

- (1) ENEL – Società per Azioni (the “Issuer”);
- (2) BNY Mellon Corporate Trustee Services Limited (the “Trustee”); and
- (3) The Bank of New York Mellon, London Branch (the “Principal Paying Agent” and, together with any additional paying agents appointed pursuant to Clause 22.1, the “Paying Agents”, and the “Agent Bank”).

WHEREAS:

- (A) Reference is made to the Agency Agreement dated 24 May 2018 (as modified and/or amended and restated and/or supplemented from time to time) (the “Original Agency Agreement”) relating to the €750,000,000 8.5 Year Non-Call Capital Securities due 2081 (the “Securities”).
- (B) On [●] [●] 2020, a meeting of the holders of the Securities approved certain amendments to the Conditions of the Securities (the “2020 Amendments Resolution”) and to amend accordingly – *inter alia* – the Original Agency Agreement. Therefore, this Supplemental Agency Agreement is being entered into in order to make consequential modifications to the terms of the Original Agency Agreement pursuant to such amendments to the Conditions of the Securities. The Trustee, the Principal Paying Agent and the Agent Bank are entering into this Supplemental Agency Agreement in accordance with the instructions of the holders of the Securities given pursuant to the 2020 Amendments Resolution (and with respect to the Principal Paying Agent and the Agent Bank pursuant to the instructions of the Issuer given pursuant to the 2020 Amendments Resolution).
- (C) On the date hereof the Trustee also entered into a Supplemental Trust Deed in order for the amendments to the Conditions of the Securities to take effect.

1 Interpretation

- 1.1 Words and expressions defined in the Original Agency Agreement and not otherwise defined in this Agreement shall have the same meanings when used in this Agreement.

2 Amendments to the Original Agency Agreement

The Original Agency Agreement is hereby modified as follows:

- 2.1 Any reference to “€750,000,000 8.5 Year Non-Call Capital Securities due 2081” in the Original Agency Agreement is hereby deleted and replaced by reference to “€750,000,000 Perpetual 8.5 Year Non-Call Capital Securities”.
- 2.2 The first paragraph of Clause 7 (“Trustee’s Requirements Regarding Paying Agents”) of the Original Agency Agreement shall be amended as follows, where the text set out below in blue (“*blue text*”) shall be considered as being added and the text in red strikethrough below (“~~red strikethrough text~~”) shall be considered as being deleted:

“At any time after an *event which results in the occurrence of a Liquidation Event Date*~~Event of Default shall have occurred or the Securities shall otherwise have become due and repayable~~ or if there is failure to make payment of any amount in respect of any Security *when due* or the Trustee shall have received any money which it proposes to pay under clause 9 of the Trust Deed to the Securityholders and/or Couponholders, the Trustee may:”

- 2.3** Clause 20.11 (“**Trustee’s Requirements Regarding Paying Agents**”) of the Original Agency Agreement shall be amended as follows, where the text set out below in blue (“*blue text*”) shall be considered as being added and the text in red strikethrough below (“*red strikethrough text*”) shall be considered as being deleted:

“No Agent shall be under any obligation to monitor or supervise, enquire about or satisfy itself as to the functions or act of any of the parties and shall be entitled to assume, in the absence of express notice in writing to the contrary, that each other party is properly performing and complying with its obligations under the documents to which it is party and that no ~~Event of Default~~ event which results in the occurrence of a Liquidation Event Date has occurred.”

3 Incorporation of Original Agency Agreement and Continuation of Original Agency Agreement

3.1 Incorporation of Original Agency Agreement

This Agreement shall be read as one with the Original Agency Agreement so that all references therein and in this Original Agency Agreement to “this Agreement”, “these presents”, “this Agency Agreement” or “the Agency Agreement” shall be deemed to refer to the Original Agency Agreement as amended and supplemented by this Supplemental Agency Agreement.

3.2 Continuation of Original Agency Agreement

Save as amended and supplemented for the purposes of the 2020 Amendments Resolution by this Agreement, the provisions of the Original Agency Agreement shall continue in full force and effect.

3.3 Securityholders’ rights and remedies

Nothing in this Supplemental Agency Agreement shall constitute or be construed as a waiver or release of any other right or remedy of any of the Trustee, the Securityholders or the Issuer under the Original Agency Agreement, or the Securities, nor otherwise prejudice any right or remedy of any of the Trustee, the Securityholders or the Issuer under the Original Agency Agreement or the Securities.

4 Costs and indemnities

Clause 18.1 of the Original Agency Agreement is incorporated into the agreement and shall apply *mutatis mutandis* to any acts of the Principal Paying Agent and the Agent Bank relating to or in connection with this Supplemental Agency Agreement or the 2020 Amendments Resolution.

5 Counterparts

This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement and any party may enter into this Agreement by executing a counterpart.

6 Governing Law and Submission to Jurisdiction

- 6.1** This Agreement and any non-contractual obligations arising out of or in connection with this Agreement are governed by, and shall be construed in accordance with, the laws of England.

- 6.2** The Parties agree that the courts of England are to have jurisdiction to settle any dispute which may arise out of or in connection with this Agreement (including any dispute relating to any non-contractual obligations arising out of or in connection with this Agreement) (the “**Proceedings**”) and accordingly submits to the exclusive jurisdiction of the English courts.
- 6.3** The Parties waive any objection to the courts of England on the grounds that they are an inconvenient or inappropriate forum.
- 6.4** The Issuer irrevocably and unconditionally appoints Law Debenture Corporate Services Limited at its registered office at 100 Wood Street, London EC2V 7EX for the time being as its agent for service of process in England in respect of any Proceedings and undertakes that in the event of it ceasing so to act it will appoint such other person as the Trustee may approve as its agent for that purpose.
- 6.5** The Issuer:
- 6.5.1** agrees to procure that, so long as any of the Securities remain liable to prescription, there shall be in force an appointment of such a person approved by the Trustee with an office in London with authority to accept service as aforesaid;
 - 6.5.2** agrees that failure by any such person to give notice of such service of process to the Issuer shall not impair the validity of such service or of any judgment based thereon; and
 - 6.5.3** agrees that nothing in this Agreement shall affect the right to serve process in any other manner permitted by law.

7 Third Party Rights

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of any person which exists apart from that Act.

Signatories

The Issuer

ENEL – Società per Azioni

By:

The Trustee

signed for and on behalf of

BNY Mellon Corporate Trustee Services Limited

By:

Name:

Title:

The Principal Paying Agent and the Agent Bank

Signed for and on behalf of

The Bank of New York Mellon, London Branch

By:

Name:

Title: