

Dated 9 January 2020

**ENEL – SOCIETÀ PER AZIONI**

as Guarantor of the Notes issued by  
ENEL FINANCE INTERNATIONAL N.V.

**DEED OF GUARANTEE**

relating to  
€35,000,000,000  
Euro Medium Term Note Programme

**Linklaters**

Ref: L-279616

Linklaters Studio Legale Associato

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**This Deed of Guarantee** is made on 9 January 2020

**By:**

(1) **ENEL - SOCIETÀ PER AZIONI (“ENEL”)**

in favour of:

(2) **THE NOTEHOLDERS** (as defined in the Conditions (as defined below)) for the time being and from time to time of the Notes (as defined below) and the holders for the time being and from time to time of the Coupons (if any) appertaining to the Notes; and

(3) **THE RELEVANT ACCOUNT HOLDERS** (as defined below).

**Whereas:**

(A) ENEL and ENEL FINANCE INTERNATIONAL N.V. (the “**Issuer**”) have entered into an amended and restated programme agreement (the “**Programme Agreement**”, which expression includes the same as it may be amended and/or supplemented and/or restated from time to time) dated 9 January 2020 with the Dealers named therein under which the Issuer may, from time to time, issue Notes (such Notes as issued by the Issuer being “**Notes**”, such expression to include Definitive Bearer Notes, Notes represented by a Global Note and Definitive Registered Notes).

(B) Notes may be Bearer Notes or Registered Notes.

Each Tranche of Bearer Notes will initially be represented by a temporary bearer global note (each, a “**Temporary Global Note**”) or a permanent bearer global note (each, a “**Permanent Global Note**”). Each Temporary Global Note will either be exchangeable for interests in a Permanent Global Note or for Notes in definitive bearer form (“**Definitive Bearer Notes**”) (with, if applicable, Coupons), as indicated in the applicable Final Terms. Each Permanent Global Note will be exchangeable for Definitive Bearer Notes (with, if applicable, Coupons) only in accordance with its terms.

Registered Notes will initially be represented by a registered global note (a “**Registered Global Note**”) and, together with each Temporary Global Note, each Permanent Global Note, each Regulation S Global Note, the “**Global Notes**” and, each, a “**Global Note**”).

Interests in a Registered Global Note will be exchangeable for definitive Registered Notes (“**Definitive Registered Notes**”) only in accordance with its terms.

(C) Each Global Note may, after issue, be deposited with a depositary for one or more Clearing Systems (as defined in the Deed of Covenant (as defined below)) (together, the “**Relevant Clearing System**”). Upon any deposit of a Global Note, the Underlying Notes (as defined in the Deed of Covenant) represented by the Global Note will be credited to a securities account or securities accounts with the Relevant Clearing System. Any account holder with the Relevant Clearing System which has Underlying Notes credited to its securities account from time to time (each, a “**Relevant Account Holder**”) will, subject to and in accordance with the terms and conditions and operating procedures or management regulations of the Relevant Clearing System, be entitled to transfer the Underlying Notes and (subject to and upon payment being made by the Issuer in accordance with the terms of the relevant Global Note) will be entitled to receive payments from the Relevant Clearing System calculated by reference to the Underlying Notes credited to its securities account.

- (D) The Issuer and ENEL have, in relation to the Notes, entered into an amended and restated agency agreement (the “**Agency Agreement**”, which expression includes the same as it may be amended and/or supplemented and/or restated from time to time) dated 9 January 2020 with The Bank of New York Mellon, London Branch as principal paying and transfer agent and exchange agent (the “**Principal Paying Agent**”, which expression shall include any successor principal paying agent) and The Bank of New York Mellon SA/NV, Luxembourg Branch as registrar.
- (E) The Issuer has executed a Deed of Covenant on 9 January 2020 (the “**Deed of Covenant**”, which expression includes the same as it may be amended and/or supplemented and/or restated from time to time), relating to Global Notes.
- (F) ENEL has agreed to guarantee the payment of all sums expressed to be payable from time to time by the Issuer to the Beneficiaries (as defined below) in respect of (i) the Notes issued by the Issuer and/or (ii) the Deed of Covenant executed by the Issuer, on the terms and conditions contained herein.

**Now this Guarantee witnesses** as follows:

## **1 Interpretation**

### **1.1 Definitions**

In this Guarantee, the following expressions have the following meanings:

“**Beneficiaries**” means the Noteholders and the Relevant Account Holders and each a “**Beneficiary**”;

“**Conditions**” means, in relation to the Notes of any Series, the terms and conditions endorsed on or incorporated by reference into the Note or Notes constituting the Series, the terms and conditions being in or substantially in the form set out in Schedule 2 to the Agency Agreement or in such other form, having regard to the terms of the Notes of the relevant Series, as may be agreed between the Issuer, the Principal Paying Agent and the relevant Dealer, as modified and supplemented by the applicable Final Terms; and

“**person**” means any individual, company, corporation, firm partnership, joint venture, association, organisation, state or agency or a state or other entity whether or not having separate legal personality.

### **1.2 Other defined terms**

Unless otherwise defined herein or the context otherwise requires, terms defined in the Conditions have the same meanings in this Guarantee.

The provisions of this Guarantee shall apply to all Notes.

## **2 Guarantee and Indemnity**

### **2.1**

- (a) In relation to the Issuer and any Notes, any Coupons issued by it and in relation to the Deed of Covenant executed by the Issuer, ENEL as principal obligor hereby unconditionally and irrevocably guarantees by way of deed poll to each Beneficiary the due and punctual payment of all amounts due from time to time to such Beneficiary by the Issuer in respect of any such Note, Coupon or under the Deed

of Covenant in respect thereof, as the case may be, (including any premium or any other amounts of whatever nature or additional amounts which may become payable under any of the foregoing) when and as the same shall become due and payable in accordance with the terms thereof. In case of the failure of the Issuer punctually to make any such payment, ENEL hereby undertakes to cause such payment to be made punctually when and as the same shall become due and payable, whether at maturity, upon redemption by acceleration of maturity or otherwise, as if such payment were made by the Issuer in accordance with the terms thereof. ENEL hereby: (i) waives any requirement that any Beneficiary, in the event of any default of such payment by the Issuer, first makes demand upon or seeks to enforce remedies against the Issuer before seeking to enforce this Guarantee, (ii) agrees that its obligations under this Guarantee shall be unconditional and irrevocable irrespective of the validity, regularity or enforceability of such Notes, Coupons or the Deed of Covenant in respect thereof, the absence of any action to enforce the same, any waiver or consent by any Beneficiary with respect to any provisions thereof, the recovery of any judgment against the Issuer or any action to enforce the same, any consolidation, merger, conveyance or transfer by the Issuer or any other circumstance which might otherwise constitute a legal or equitable discharge or defence of a guarantor and (iii) covenants that this Guarantee will not be discharged except by complete performance of the obligations contained in all such Notes, Coupons, the Deed of Covenant and this Guarantee in respect thereof.

- (b) For so long as any Global Note is held on behalf of the Relevant Clearing System, each person (other than a Clearing System) who is for the time being a Relevant Account Holder shall be treated by ENEL as the holder of such nominal amount of such Notes for all purposes other than with respect to the payment of principal or interest on such nominal amount of Notes for which purpose: (i) in the case of a Temporary or Permanent Global Note, the bearer of the relevant Global Note shall be treated by ENEL as the holder of such Note in accordance with and subject to the terms of the relevant Global Note, and (ii) in the case of a Registered Global Note, the registered holder of the relevant Registered Global Note in accordance with and subject to the terms of the relevant Registered Global Note.
- (c) ENEL covenants in favour of each Relevant Account Holder that it will make all payments under this Guarantee in respect of the nominal amount of Notes for the time being shown in the records of any Relevant Clearing System as being held by the Relevant Account Holder and represented by a Global Note to, in the case of a Temporary or Permanent Global Note, the bearer of such Global Note, in the case of a Registered Global Note, to the registered holder of the Registered Global Note, in each case in accordance with the terms of this Guarantee and acknowledges that each Relevant Account Holder may take proceedings to enforce this covenant and any of the other rights which it has under this Guarantee directly against ENEL.
- (d) The Guarantor shall only be liable up to an amount which is the aggregate of 120 per cent. of the aggregate principal amount of any Tranche of the Notes which may be issued under the Programme (in each case as specified in the applicable Final Terms) and 120 per cent. of the interest on such Notes accrued but not paid as at any date on which the Guarantor's liability under the Notes falls to be determined. As at the date hereof, the aggregate nominal amount of the Notes that may be

issued and outstanding under the Programme is €35,000,000,000, subject to adjustment in future in accordance with Clause 13 of the Programme Agreement.

## **2.2 Status**

The obligations of ENEL under this Guarantee are direct, unconditional and (subject to the provisions of Condition 4) unsecured and unsubordinated obligations of ENEL and rank at least equally with all other outstanding unsecured and unsubordinated obligations of ENEL, present and future, other than obligations, if any, that are mandatorily preferred by statute or by operation of law.

## **2.3 Indemnity**

ENEL irrevocably and unconditionally agrees as a primary obligation to each Beneficiary that, if any sum referred to in Clause 2.1 is not recoverable from ENEL thereunder for any reason whatsoever (including, without limitation, by reason of any Note, any Coupon and/or the Deed of Covenant or the provision thereof being or becoming void, voidable, unenforceable or otherwise invalid or ineffective for any reason under any applicable law), then (notwithstanding that the same may have been known to such Beneficiary or any other person) ENEL will pay such sum by way of a full indemnity to such Beneficiary on demand against any loss incurred by it, in the manner and currency prescribed by the Conditions. This indemnity constitutes a separate and independent obligation from the other obligations under this Guarantee and shall give rise to a separate and independent cause of action.

## **3 Negative Pledge**

In relation to each Series of Notes, so long as any of the Notes of such Series remains outstanding (as defined in the Agency Agreement), ENEL will not create or have outstanding (other than by operation of law) any mortgage, lien, pledge or other charge upon the whole or any part of its assets or revenues, present or future, to secure any Indebtedness unless:

- (a) the same security shall forthwith be extended equally and rateably to the Notes and the Coupons of such Series; or
- (b) such other security as shall be approved by an Extraordinary Resolution (as defined in the Agency Agreement) of the Noteholders of such Series shall previously have been or shall forthwith be extended equally and rateably to the Notes and the Coupons of such Series.

As used herein, “**Indebtedness**” means any present or future indebtedness for borrowed money of ENEL which is in the form of, or represented by, bonds, notes, debentures or other securities and which is or are intended to be quoted, listed or ordinarily dealt in on any stock exchange, over-the-counter or other established securities market.

## **4 Preservation of Rights**

### **4.1 Continuing obligations**

The obligations of ENEL herein contained shall constitute and be continuing obligations notwithstanding any settlement of account or other matter or thing whatsoever and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the

Issuer's obligations under or in respect of any Note, any Coupon and/or the Deed of Covenant and shall continue in full force and effect until no sum remains payable under any Note, any Coupon and/or the Deed of Covenant, and all other actual or contingent obligations of the Issuer thereunder or in respect thereof have been satisfied, in full. Furthermore, these obligations of ENEL are additional to, and not instead of, any security or other guarantee or indemnity at any time existing in favour of a Beneficiary, whether from ENEL or otherwise.

#### **4.2 Obligations not discharged**

Without affecting any of the Issuer's obligations, ENEL will be liable under this Guarantee as if it were the sole principal debtor and not merely a surety. Accordingly, it will not be discharged, nor will its liability be affected, by anything which would not discharge it or affect its liability if it were the sole principal debtor. Neither the obligations of ENEL herein contained nor the rights, powers and remedies conferred upon the Beneficiaries by this Guarantee or by law shall be discharged, impaired or otherwise affected by:

- (a) the winding-up, dissolution, administration or reorganisation of the Issuer (including, without limitation, in relation to ENEL N.V., voluntary liquidation (*vereffening*), suspension of payments (*surseance van betaling*), bankruptcy (*faillissement*), or a composition with creditors (*akkoord*), fraudulent conveyance (*actio pauliana*), general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally) or any change in its status, function, control or ownership or that of any other person;
- (b) any of the obligations of the Issuer under or in respect of any Note, any Coupon and/or the Deed of Covenant being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (c) any time, waiver, consent or other indulgence being granted or agreed to be granted to the Issuer or any other person in respect of any of their obligations under or in respect of any Note, any Coupon and/or the Deed of Covenant;
- (d) any amendment to, or any variation, waiver or release of, any obligation of the Issuer under or in respect of any Note, any Coupon and/or the Deed of Covenant or any security or other guarantee or indemnity in respect thereof;
- (e) the making or absence of any demand on the Issuer or any other person for payment or the enforcement or absence of enforcement of any Note, any Coupon and/or the Deed of Covenant; or
- (f) any other act, event or omission which, but for this subclause, might operate to discharge, impair or otherwise affect the obligations expressed to be assumed by ENEL herein or any of the rights, powers or remedies conferred upon the Beneficiaries or any of them by this Guarantee or by law.

#### **4.3 Settlement Conditional**

Any settlement or discharge between ENEL and the Beneficiaries or any of them shall be conditional upon no payment to the Beneficiaries or any of them by the Issuer or any other person on the Issuer's behalf being avoided or reduced by virtue of any laws relating to bankruptcy, insolvency, liquidation or similar laws of general application for the time being in force and, in the event of any such payment being so avoided or reduced, the Beneficiaries shall be entitled to recover the amount by which such payment is so avoided

or reduced from ENEL subsequently as if such settlement or discharge had not occurred. Each Beneficiary may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

#### **4.4 Exercise of Rights**

No Beneficiary shall be obliged before exercising any of the rights, powers or remedies conferred upon it by this Guarantee or by law:

- (a) to make any demand of the Issuer save for the presentation of the relevant Note or Coupon;
- (b) to take any action or obtain judgment in any court against the Issuer; or
- (c) to make or file any claim or proof in a winding-up or dissolution of the Issuer (including, without limitation, in relation to ENEL N.V., voluntary liquidation (*vereffening*), suspension of payments (*surseance van betaling*), bankruptcy (*faillissement*), or a composition with creditors (*akkoord*), fraudulent conveyance (*actio pauliana*), general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally),

and (save as aforesaid) ENEL hereby expressly waives presentment, demand, protest and notice of dishonour in respect of each Note, Coupon and the Deed of Covenant.

#### **4.5 Deferral of Guarantor's rights**

ENEL agrees that, so long as any sums are or may be owed by the Issuer in respect of any Note, any Coupon and/or the Deed of Covenant or the Issuer is under any other actual or contingent obligation thereunder or in respect thereof, ENEL will not exercise any rights which ENEL may, at any time, have by reason of the performance by ENEL of its obligations hereunder:

- (a) to be indemnified by the Issuer; or
- (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Beneficiary against the Issuer in respect of amounts paid by ENEL under this Guarantee or any security enjoyed in connection with any Note, any Coupon and/or the Deed of Covenant by any Beneficiary.

ENEL agrees that, so long as any sums are or may be owed by the Issuer in respect of any Note, any Coupon and/or the Deed of Covenant or the Issuer is under any other actual or contingent obligation thereunder, ENEL shall not, after a claim has been made or by virtue of any payment or performance by it under this Guarantee:

- (i) claim, rank, prove or vote as a creditor of the Issuer or its respective estates in competition with any Beneficiary (or any trustee or agent on its behalf); or
- (ii) receive, claim or have the benefit of any payment, distribution or security from or on account of the Issuer, or exercise any right of set-off as against the Issuer.

#### **4.6 Appropriations**

ENEL agrees that, so long as any sums are or may be owed by the Issuer in respect of any Note, any Coupon and/or the Deed of Covenant or the Issuer is under any other actual or contingent obligation thereunder, each Beneficiary (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Beneficiary (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise), and ENEL shall not be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received from ENEL or on account of ENEL's liability under this Guarantee, without liability to pay interest on those moneys.

## **5 Deposit of Guarantee**

This Guarantee shall take effect as a Deed Poll for the benefit of the Beneficiaries from time to time. This Guarantee shall be deposited with and held by the Principal Paying Agent at its specified office until the date which is five years after all the obligations of the Issuer under or in respect of any Notes, any Coupons and the Deed of Covenant have been discharged in full. ENEL hereby acknowledges the right of every Beneficiary to the production of, and the right of every Beneficiary to obtain a copy of, this Guarantee.

## **6 Stamp Duties**

ENEL shall pay all stamp, registration and other taxes and duties (including any interest and penalties thereon or in connection therewith) which are payable upon or in connection with the execution and delivery of this Guarantee and any action taken by any Beneficiary to enforce the provisions of this Guarantee, and shall indemnify each Beneficiary against any documented claim, demand, action, liability, damages, cost, loss or expense (including, without limitation, documented legal fees and any applicable value added tax) which it incurs as a result or arising out of or in relation to any failure to pay or delay in paying any of the same.

## **7 Withholding or Deduction**

All payments by ENEL under this Guarantee will be made without withholding or deduction for or on account of any present or future taxes or duties of whatever nature imposed or levied by or on behalf of any Tax Jurisdiction unless such withholding or deduction is required by law. In such event, ENEL will pay such additional amounts as shall be necessary in order that the net amounts received by the Beneficiaries after such withholding or deduction shall equal the respective amounts which would otherwise have been receivable in the absence of such withholding or deduction; except that no such additional amounts shall be payable:

- (a) where the relevant Note or Coupon is presented for payment in any Tax Jurisdiction; or
- (b) where the relevant Beneficiary is liable for such taxes or duties by reason of his having some connection with a Tax Jurisdiction other than the mere holding of such Note, Coupon or Underlying Notes; or
- (c) more than 30 days after the Relevant Date except to the extent that the relevant Beneficiary would have been entitled to an additional amount on presenting the same for payment on such thirtieth day assuming that day to have been a Payment Day; or

- (d) where the relevant Beneficiary would be able to avoid such withholding or deduction by making a declaration or any other statement, including but not limited to a declaration of residence or non-residence, but fails to do so; or
- (e) to a non-Italian resident Noteholder, to the extent that the Noteholder is resident in a country which does not allow for a satisfactory exchange of information with the Italian authorities.

## **8 Currency Indemnity**

Any amount received or recovered in a currency other than that in which the relevant payment is expressed to be due (the “**Contractual Currency**”) (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution (or similar under the laws of Italy) of ENEL or otherwise) by any Beneficiary in respect of any sum expressed to be due to it from ENEL shall only constitute a discharge to ENEL to the extent of the amount in the Contractual Currency which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that amount in the Contractual Currency is less than the amount in the Contractual Currency expressed to be due to the recipient under any Note, any Coupon or the Deed of Covenant, ENEL shall indemnify it against any loss sustained by it as a result. In any event, ENEL shall indemnify the recipient against the cost of making any such purchase.

For the purposes of this Clause, it will be sufficient for the relevant Beneficiary to demonstrate that it would have suffered a loss had an actual purchase been made. These indemnities constitute a separate and independent obligation from ENEL’s other obligations, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Beneficiary and shall continue in full force and effect despite any other judgment, order, claim or proof for a liquidated amount in respect of any sum due under any Note, any Coupon or the Deed of Covenant or any other judgment or order.

## **9 Benefit of Guarantee**

### **9.1 Benefit**

This Guarantee shall enure to the benefit of each Beneficiary and its (and any subsequent) successors and assigns, each of which shall be entitled severally to enforce this Guarantee against ENEL.

### **9.2 Assignment**

ENEL shall not be entitled to assign or transfer all or any of its rights, benefits and obligations hereunder. Each Beneficiary shall be entitled to assign all or any of its rights and benefits hereunder.

## **10 Partial Invalidity**

If at any time any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

## **11 Notices**

### **11.1 Address for notices**

All notices, demands and other communications to ENEL hereunder shall be made in writing (by letter or email) and shall be sent to ENEL at:

To: ENEL - Società per Azioni

At: Viale Regina Margherita, 137-00198 Rome, Italy

Email: [capital.markets@enel.com](mailto:capital.markets@enel.com)

Attention: Alessandro Canta, Head of Finance & Insurance

or to such other address or email or for the attention of such other person or department as ENEL has notified to the Noteholders in the manner prescribed for the giving of notices in connection with the Notes.

### **11.2 Effectiveness**

Every notice, demand or other communication sent in accordance with Clause 11.1 shall be effective as follows:

- (a) if sent by letter, upon receipt by ENEL, and
- (b) if sent by email, when sent, subject to no delivery failure notification being received by the sender within 24 hours of the time of sending;

provided that any such notice, demand or other communication which would otherwise take effect after 4.00 p.m. (London time) on any particular day or on any particular day which is not a business day in the place of ENEL shall not take effect until 10.00 a.m. (London time) on the immediately succeeding business day in the place of ENEL.

## **12 Law and Jurisdiction**

### **12.1 Governing law**

This Guarantee and any non-contractual obligations arising out of or in connection with it, is governed by, and shall be construed in accordance with, English law.

### **12.2 Submission to jurisdiction**

The courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Guarantee and accordingly any legal action or proceedings arising out of or in connection with this Guarantee, including any legal action or proceedings relating to any non-contractual obligations which may arise out of or in connection with this Guarantee ("**Proceedings**"), may be brought in such courts. ENEL irrevocably submits to the exclusive jurisdiction of the courts of England and waives any objection to Proceedings in such courts whether on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum.

### **12.3 Appointment of process agent**

ENEL appoints Law Debenture Corporate Services Limited of 100 Wood Street, London, EC2V 7EX as its agent in England to receive service of process in any Proceedings in England based on this Guarantee. If for any reason such process agent ceases to act as

such or no longer has an address in England, ENEL agrees to appoint a substitute agent for service of process and to give notice to the Beneficiaries of such appointment in accordance with Condition 14.

**In witness** whereof, ENEL has caused this Deed of Guarantee to be duly executed the day and year first above mentioned.

**SIGNATORIES**

**EXECUTED as a DEED**

By ENEL - SOCIETÀ PER AZIONI

acting by

acting on the authority

of that company

in the presence of:

Witness:

Name:

Address: