

# **INTERBOLSA INSTRUMENT**

**DATED 30 JANUARY 2019**

**EDP – ENERGIAS DE PORTUGAL, S.A.  
as Issuer**

**in respect of**

**€1,000,000,000 Fixed to Reset Rate Subordinated Notes due 2079**

**ALLEN & OVERY**

**Allen & Overy LLP**

This Interbolsa Instrument (**Instrument**) is made on 30 January 2019 by EDP – Energias de Portugal, S.A. (the **Issuer**) **AS A DEED IN FAVOUR OF THE HOLDERS FROM TIME TO TIME**.

**Whereas:**

(A) The Issuer resolved to issue the €1,000,000,000 Fixed to Reset Rate Subordinated Notes due 2079 (the **Notes**).

(B) The Notes will be represented in dematerialised book-entry (*escriturais*) and nominative (*nominativas*) form in the denomination of €100,000 each.

**This Instrument witnesses and it is declared as follows:**

**1. INTERPRETATION**

1.1 In this Instrument capitalised words and expressions shall, unless otherwise defined above or otherwise required by the context, have the meanings and constructions ascribed to them in the terms and conditions of the Notes set out in Schedule 1 hereto (the **Conditions**).

1.2 In this Instrument, clause headings are inserted for convenience and ease of reference only and shall not affect the interpretation of this Instrument.

1.3 All references in this Instrument to the provisions of any statute shall be deemed to be references to that statute as from time to time modified, extended, amended or re-enacted.

1.4 The Schedule is part of this Instrument and have effect accordingly.

1.5 All references in this Instrument to an agreement, instrument or other document (including this Instrument) shall be construed as a reference to that agreement, instrument or document as the same may be amended, modified, varied, supplemented, replaced or novated from time to time.

**2. COVENANT TO PAY**

**2.1 Covenant to Pay**

The Issuer hereby covenants in favour of each Holder that it will, on any date when, pursuant to the Conditions, any amount becomes payable in respect of the Notes, or any of them, pay to the relevant Holders in accordance with the Rules, in euro and in immediately available funds, the amount so payable on that date.

**2.2 Good Discharge**

Each relevant Holder is entitled to receive payment of any amount due in respect of the Notes to which its Book Entry relates to with the exclusion of all other persons and any payment so made by the Issuer to such Holder in accordance with the Conditions and the Rules to such extent

shall be a good discharge to the Issuer and shall discharge the Issuer from all obligations in respect of each such Note.

### **3. FORM OF THE NOTES**

The Notes shall be transferable only in the denomination of €100,000 each and may only be held through the CVM.

Upon acceptance by Interbolsa of the Notes for entry into the CVM, the Notes will be held and traded only through a book-entry securities settlement system, and ownership of the Notes shall be shown in, and transfer of such ownership shall be perfected only through, individual securities accounts held by the Holders with Affiliate Members in accordance with the Rules (each an **Account**).

Neither any Holder nor any person claiming any beneficial interest in, or entitlement to, any Note may request or be entitled to receive a Note in physical certificated form.

### **4. EVIDENCE**

#### **4.1 Records Conclusive**

The Accounts shall, subject to the Rules and in the absence of manifest error, be conclusive evidence of the following:

- (i) the name of each relevant Holder;
- (ii) the principal amount of the Notes held in each Account;
- (iii) any amount due under the Notes paid to each relevant Holder (and any predecessor thereto or successor thereof) and the date, time and currency of each such payment;
- (iv) the transfer of any Notes and the date and time of each such transfer; and
- (v) the aggregate principal amount of Notes outstanding as at any time.

#### **4.2 Enforcement**

Each Holder may protect and enforce its rights arising out of this Instrument and/or the Notes only in respect of any Book Entry to which it is entitled in its own name, and shall be entitled to do so without using or obtaining any authority from any predecessor in title, unless otherwise agreed between the Holder and any predecessor in title.

#### **4.3 Issuer entitled to review the records of the CVM**

Any and all records of the CVM in respect of the Notes shall, upon the Issuer's request to Interbolsa, be made available to Issuer, subject to the limitations set out in the Rules.

## **5. STAMP DUTIES AND TAXES**

The Issuer will pay any stamp, issue, documentary or other similar taxes and duties, including without limitation interest and penalties, if any, payable in Portugal or the United Kingdom in respect of the creation, issue and offering of the Notes and the execution or delivery of this Instrument. The Issuer will also indemnify the Holders from and against all stamp, issue, documentary or other like taxes paid by any of them in any jurisdiction in connection with any action taken by or on behalf of the Holders to enforce the Issuer's obligations under this Instrument and the Notes.

## **6. COVENANT TO COMPLY WITH PROVISIONS**

The Issuer hereby covenants with the Holders and each of them that it will comply with and perform and observe all the provisions of this Instrument and the Conditions which are expressed to be binding on it. The Conditions shall be binding on the Issuer and the Holders. This Instrument shall be read and construed as one document with the Conditions.

## **7. AMENDMENT AND DISAPPLICATION OF THIS INSTRUMENT**

For so long as any Note remains outstanding, the Issuer may not amend, vary, terminate or suspend this Instrument or its obligations under it, unless such amendment, variation, termination or suspension shall have been approved by an Extraordinary Resolution (as defined in Schedule 1 to the Paying Agency Agreement dated 30 January 2019 in relation to the Notes), save that nothing in this Clause 7 shall prevent the Issuer from increasing or extending its obligations under this Instrument by way of supplement to it at any time. For the avoidance of doubt, the Issuer may only agree to any such amendment, variation, termination or suspension on material in this Clause 7 after obtaining all necessary corporate approvals.

## **8. ENFORCEABILITY**

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

## **9. GOVERNING LAW AND JURISDICTION**

### **9.1 Governing Law**

The Instrument and the Notes and any non-contractual obligations arising out of or in connection therewith are governed by, and shall be construed in accordance with English law. The form (*forma de representação*) and transfer of the Notes, creation of security over the Notes and the Interbolsa procedures for the exercise of rights under the Notes are governed by and shall be construed in accordance with Portuguese law.

## 9.2 Jurisdiction

- (a) Subject to clause 9.2(c), the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Instrument and the Notes (including any dispute as to their existence, validity, interpretation, performance, breach or termination or the consequences of their nullity and any dispute relating to any non-contractual obligations arising out of or in connection with the Instrument or the Notes) (a **Dispute**) and accordingly the Issuer submits to the exclusive jurisdiction of the English courts.
- (b) The Issuer irrevocably and unconditionally waives any objection to the English courts on the grounds that they are an inconvenient or inappropriate forum to settle any Disputes.
- (c) To the extent allowed by law, each of the Holders may, in respect of any Dispute or Disputes, take (i) proceedings against the Issuer in any other court with jurisdiction, and (ii) concurrent proceedings in any number of jurisdictions.

## 9.3 Agent for Service of Process

The Issuer irrevocably appoints The Law Debenture Corporate Services Limited at its registered office for the time being, currently Fifth Floor, 100 Wood Street, London EC2V 7EX as its agent in England to receive service of process in respect of any Dispute in England, and undertakes that, in the event of The Law Debenture Corporate Services Limited ceasing to act, it will appoint another person as its agent for service of process in England in respect of any Dispute. Nothing herein shall affect the right to serve process in any other manner permitted by law.

## SCHEDULE 1

### TERMS AND CONDITIONS OF THE NOTES

*The following, subject to alteration, as set out in Condition 11.2 and the Paying Agency Agreement, and except for paragraphs in italics, are the terms and conditions of the Notes.*

The issue of the €1,000,000,000 Fixed to Reset Rate Subordinated Notes due 2079 (the **Notes**) of EDP – Energias de Portugal, S.A. (the **Issuer**) was authorised by a resolution of the Executive Board of Directors on 8 January 2019. The Notes are evidenced by entries in the individual securities accounts opened by Holders with the Affiliate Members of Interbolsa (as defined in Condition 13). The statements in these Conditions include summaries of, and are subject to, the detailed provisions of a deed poll (the **Interbolsa Instrument**) dated 30 January 2019 relating to the Notes and made by the Issuer in favour of the Holders and a paying agency agreement (the **Paying Agency Agreement**) dated 30 January 2019 relating to the Notes between the Issuer, Deutsche Bank AG, London Branch as initial principal paying agent (the **Principal Paying Agent**, which expression shall include any successor thereto) and calculation agent (the **Calculation Agent**) and Deutsche Bank Aktiengesellschaft – Sucursal em Portugal as paying agent (the **Portuguese Paying Agent**, which expression shall include any successor thereto, and together with the Principal Paying Agent and any other paying agent as may be nominated under the Paying Agency Agreement from time to time, the **Paying Agents**). Copies of the Interbolsa Instrument and the Paying Agency Agreement are available for inspection during usual business hours at the specified offices of the Principal Paying Agent and the Portuguese Paying Agent. The Holders are entitled to the benefit of, are bound by, and are deemed to have notice of those provisions applicable to them of the Interbolsa Instrument and the Paying Agency Agreement.

#### 1. FORM, DENOMINATION AND TITLE

##### 1.1 Form and Principal Amount

The Notes will be represented in dematerialised book-entry (*escriturais*) and nominative (*nominativas*) form and are issued in the principal amount (the **Principal Amount**) of €100,000.

##### 1.2 Title

Title to the Notes held through Interbolsa will be evidenced by book entries in accordance with the provisions of the Portuguese Securities Code and the applicable CMVM regulations. Each person shown in the book-entry records of a financial institution, which is licensed to act as a financial intermediary and which is entitled to hold control accounts (each such institution an **Interbolsa Participant**), as having an interest in the Notes shall be the holder of the relevant Principal Amount of the Notes.

Title to the Notes held through Interbolsa is subject to compliance with all applicable rules, restrictions and requirements of Interbolsa, CMVM regulations and Portuguese law. No physical document of title will be issued in respect of the Notes.

The Notes will be registered in the relevant issue account of the Issuer with Interbolsa and will be held in control accounts opened by each Interbolsa Participant on behalf of the Holders. The control account of a given Interbolsa Participant will reflect at all times the aggregate Principal Amount of Notes held in the individual securities' accounts of the Holders with that Interbolsa Participant.

### 1.3 Holder absolute owner

The person or entity recorded in the book-entry registry of the Interbolsa Participants (the **Book-Entry Registry** and each such entry therein, a **Book Entry**) as the holder of any Note shall (except as otherwise required by law) be treated as its absolute owner for all purposes (whether or not it is overdue and regardless of any notice of ownership, trust or any other interest therein).

The Issuer and the Paying Agents may (to the fullest extent permitted by applicable laws) deem and treat the person or entity registered in the Book-Entry Registry as the holder of any Note and the absolute owner for all purposes. Proof of such registration is made by means of a certificate issued by the relevant Interbolsa Participant pursuant to article 78 of the Portuguese Securities Code.

### 1.4 Transfer of Notes

No Holder will be able to transfer Notes, or any interest therein, except in accordance with Portuguese laws and regulations. Notes may only be transferred in accordance with the applicable procedures established by the Portuguese Securities Code and the regulations issued by the CMVM or Interbolsa, as the case may be, and the relevant Interbolsa Participants through which the Notes are held.

## 2. STATUS AND SUBORDINATION

### 2.1 Status

The Notes constitute direct, unsecured and subordinated obligations of the Issuer and shall at all times rank *pari passu* and without any preference among themselves. The rights and claims of the Holders are subordinated as described in Condition 2.2.

### 2.2 Subordination

The claims of the Holders in respect of the Notes, including in respect of any claim to Deferred Interest Payments, will, in the event of the winding-up or insolvency of the Issuer (subject to and to the extent permitted by applicable law), rank:

- (a) junior to all Senior Obligations of the Issuer;
- (b) *pari passu* with each other and with the obligations of the Issuer in respect of any Parity Security; and
- (c) senior only to the Issuer's ordinary shares and any other class of share capital of the Issuer that ranks *pari passu* with ordinary shares (the **Issuer Shares**).

### 2.3 Set-off

To the extent and in the manner permitted by applicable law, no Holder may exercise, claim or plead any right of set-off, counterclaim, compensation or retention in respect of any amount owed to it by the Issuer in respect of, or arising from, the Notes and each Holder shall, by virtue of its holding of any Note, be deemed to have waived all such rights of set-off, counterclaim, compensation or retention.

### 3. INTEREST

#### 3.1 Interest

Each Note shall entitle the Holder thereof to receive interest in accordance with the provisions of this Condition 3.

#### 3.2 Rate of Interest

The Notes bear interest at the Rate of Interest on their Principal Amount. Subject to Condition 3.4, such interest shall be payable in arrear on 30 April of each year (each of such dates, an **Interest Payment Date**). The first payment (for the period from and including the Issue Date to but excluding 30 April 2019 and amounting to €1,108.60 per €100,000 in Principal Amount of Notes) shall be made on 30 April 2019.

**Rate of Interest** means:

- (a) from and including the Issue Date to but excluding 30 April 2024 (the **First Reset Date**), 4.496 per cent. per annum;
- (b) from and including the First Reset Date to but excluding 30 April 2029 (the **First Step-Up Date**), the relevant Reset Rate of Interest;
- (c) from and including the First Step-Up Date to but excluding the Second Step-Up Date, the relevant Reset Rate of Interest plus 0.25 per cent. per annum; and
- (d) from and including the Second Step-Up Date to but excluding the Maturity Date, the relevant Reset Rate of Interest plus 1.00 per cent. per annum,

each subject to any applicable increase pursuant to Condition 3.7.

**Second Step-Up Date** means: (A) if, at any time between the Issue Date and the 30th calendar day preceding the First Reset Date, the Issuer is assigned an issuer credit rating of “BBB-” or above by Standard & Poor’s and does not, on the 30th calendar day preceding the First Reset Date, have an issuer credit rating assigned to it of “BB+” (or such similar nomenclature then used by Standard & Poor’s) or below, 30 April 2044; and (B) otherwise 30 April 2039. Unless the Notes are redeemed on or prior to the First Reset Date pursuant to Condition 4, the Issuer will notify the Principal Paying Agent, the Calculation Agent and the Holders in accordance with Condition 9 that the Second Step-Up Date is either 30 April 2039 or 30 April 2044, as determined by this definition, by no later than the First Reset Date.

Interest payable per Note on the respective Interest Payment Date (the **Interest Amount**) shall be calculated by multiplying the Rate of Interest by the Principal Amount per Note and rounding the resulting figure to the nearest cent, with 0.5 or more of a cent being rounded upwards. If interest is to be calculated for a period of less than one year, it shall be calculated on the basis of the actual number of calendar days in the relevant period, from and including the date from which interest begins to accrue but excluding the date on which it falls due, divided by the actual number of days in the relevant year (365 or 366) in which such Interest Payment Date falls with the relevant year determined for this purpose as a calendar year beginning on and including 30 April in each year (30 April 2018 being the relevant beginning date for the first interest period from and including the Issue Date to but excluding 30 April 2019) and ending on and excluding 30 April of the following year.



### 3.3 Determination and publication of Reset Rate of Interest

The Reset Rate of Interest for each Reset Period will be determined by the Calculation Agent on the relevant Reset Determination Date and promptly notified by the Calculation Agent to the Issuer, the Principal Paying Agent and, if required by the rules of any stock exchange or other relevant authority on or by which the Notes are listed or admitted to trading from time to time, to be notified to such stock exchange or other authority and to the Holders in accordance with Condition 9 without undue delay, but, in any case, not later than the relevant Reset Date.

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the provisions of these Conditions, whether by the Reference Banks (or any of them) or the Calculation Agent will (in the absence of manifest error) be binding on the Issuer, the Calculation Agent, the Paying Agents and all Holders and (in the absence of negligence, wilful default or manifest error) no liability to the Issuer or the Holders will attach to the Reference Banks (or any of them) or the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

### 3.4 Interest deferral

The Issuer may determine in its sole discretion not to pay the whole or any part of the Interest Amount otherwise scheduled to be paid on an Interest Payment Date. Interest that the Issuer has elected not to pay shall not be due and payable and shall constitute a **Deferred Interest Payment**. The Issuer shall not have any obligation to pay interest on any Interest Payment Date and any such non-payment of interest shall not constitute a default of the Issuer or any other breach of its obligations under the Notes or for any other purpose.

Additional interest will accrue on each Deferred Interest Payment at the then applicable Rate of Interest, and from (and including) the date on which (but for such deferral) the Deferred Interest Payment would otherwise have been due to (but excluding) the date on which the Deferred Interest Payment is paid, and will be added to such Deferred Interest Payment (and thereafter accumulate additional interest accordingly) on each Interest Payment Date. Deferred Interest Payments (including any additional interest accrued thereon) will be payable in accordance with Condition 3.5.

If the Issuer decides not to pay the Interest Amount on an Interest Payment Date, the Issuer shall notify the Holders in accordance with Condition 9 and the Principal Paying Agent not less than five Business Days prior to such Interest Payment Date.

### 3.5 Payment of Deferred Interest Payments

- (a) The Issuer may settle outstanding Deferred Interest Payments (in whole or in part) at any time on the giving of at least 5 Business Days' prior notice to the Holders in accordance with Condition 9 (which notice shall be irrevocable and will oblige the Issuer to pay the relevant Deferred Interest Payments on the payment date specified in such notice).
- (b) Notwithstanding Condition 3.5(a), all outstanding Deferred Interest Payments must be settled (in whole and not in part) on a Payment Reference Date.

**Payment Reference Date** means the date which is the earlier of:

- (i) the date which is 10 Business Days following the occurrence of a Compulsory Payment Event;

- (ii) the next Interest Payment Date on which any interest is paid on the Notes;
- (iii) the Maturity Date or the calendar day on which the Notes are otherwise redeemed; and
- (iv) the calendar day on which an applicable legally binding resolution or order is made for the winding-up, dissolution or liquidation of the Issuer (other than for the purposes of or pursuant to an amalgamation, reorganisation or restructuring while solvent, where the continuing entity assumes substantially all of the assets and obligations of the Issuer).

If any Payment Reference Date would fall on a calendar day which is not a Business Day, the Payment Reference Date shall be postponed to the next calendar day which is a Business Day.

Each of the following is a **Compulsory Payment Event**:

- (A) the shareholders of the Issuer validly approve a proposal to pay a dividend, other distribution or payment on any Issuer Shares, other than any payment in kind using Issuer Shares;
- (B) the Issuer redeems, or the Issuer or any of its Subsidiaries purchases or otherwise acquires, any Issuer Shares for any consideration, except pursuant to the terms of any instrument which converts into Issuer Shares or in connection with the satisfaction by the Issuer of its obligations under any existing or future buy-back programme, share option or free share allocation plan or employee benefit plan or similar arrangement with or for the benefit of employees, officers, directors or consultants;
- (C) the Issuer or any of its Subsidiaries makes any payment of interest, dividend or other distribution or payment on any Parity Securities; and
- (D) the Issuer redeems, or the Issuer or any of its Subsidiaries purchases or otherwise acquires, any of the Notes or any Parity Securities for any consideration, except pursuant to the terms of any instrument which converts into Issuer Shares or Parity Securities,

provided that, in the case of (C) and (D) above, no Compulsory Payment Event will occur if: (x) the Issuer or any of its Subsidiaries are obliged under these Conditions or under the terms and conditions of such Parity Securities to make such payment, redemption, purchase or other acquisition; or (y) the Issuer or any of its Subsidiaries repurchases or otherwise acquires any Notes or any Parity Securities in an open-market tender offer or exchange offer at a consideration per Note or Parity Security below its respective par value.

### **3.6 Cessation of interest payments**

The Notes shall cease to bear interest from the day on which they are due for redemption. If the Issuer shall fail to redeem the Notes when due, the obligation to pay interest shall continue to accrue at the then applicable Rate of Interest on the outstanding Principal Amount of the Notes (and any Deferred Interest Payments) beyond the due date until (and excluding) the calendar day of actual redemption of the Notes.

### **3.7 Increase in Rate of Interest**

Unless an irrevocable notice to redeem the Notes has been given to Holders by the Issuer pursuant to Condition 4.3 on or before the 55th calendar day following the first occurrence of a Change of Control

Event, the Rate of Interest will increase once by 5.00 per cent. per annum with effect from (and including) the 55th calendar day following the date on which that Change of Control Event occurred. The occurrence of the Change of Control Event will be notified by the Issuer to the Holders in accordance with Condition 9 and to the Principal Paying Agent by no later than the 15th Business Day following the relevant Change of Control Event. For the avoidance of doubt, the Rate of Interest will not increase by reason of any subsequent Change of Control Event.

A **Change of Control Event** shall occur if a Change of Control results in a Rating Downgrade within the Change of Control Period.

A **Change of Control** shall be deemed to have occurred at each time (whether or not approved by the Executive Board of Directors or General and Supervisory Board) that any person (or persons) (**Relevant Person(s)**) acting in concert or any person or persons acting on behalf of any such Relevant Person(s), at any time directly or indirectly:

- (i) acquires, or becomes entitled to exercise, control over the Issuer; or
- (ii) acquires or owns, directly or indirectly, more than 50 per cent. of the issued voting share capital of the Issuer,

provided that the foregoing shall not include the control or ownership of issued voting share capital, exercisable by and/or owned by the Portuguese Republic, or by the Portuguese Republic and/or by any entity or entities (together or individually) controlled by the Portuguese Republic from time to time, or in respect of which the Portuguese Republic owns directly or indirectly more than 50 per cent. of the issued voting share capital. A Change of Control shall not be deemed to have occurred if the shareholders of the Relevant Person(s) are also, or immediately prior to the event which would otherwise constitute a Change of Control were, all of the shareholders of the Issuer.

**Change of Control Period** means the period ending 120 days after the Date of Announcement.

**Date of Announcement** means the date of the public announcement that a Change of Control has occurred.

**Investment Grade Rating** means a rating of at least 'BBB-' (or equivalent thereof) in the case of Standard & Poor's or a rating of at least 'BBB-' (or equivalent thereof) in the case of Fitch or a rating of at least 'Baa3' (or equivalent thereof) in the case of Moody's or the nearest equivalent in the case of any other Rating Agency.

**Investment Grade Securities** means Rated Securities which have an Investment Grade Rating from each Rating Agency that assigns a rating to such Rated Securities.

**Rated Securities** means: (a) the €600,000,000 1.875 per cent Notes due 13 October 2025 (ISIN XS1893621026), issued on 12 October 2018 by EDP Finance BV with the benefit of a keep well agreement from the Issuer; or (b) such other comparable long-term debt of the Issuer or any Subsidiary selected by the Issuer from time to time for the purpose of this definition which possesses a rating by any Rating Agency.

**Rating Downgrade** means either:

- (a) within the Change of Control Period:
  - (i) any rating assigned to the Rated Securities is withdrawn; or

- (ii) (if the Rated Securities are Investment Grade Securities as at the Date of Announcement), the Rated Securities cease to be Investment Grade Securities; or
- (iii) (if the rating assigned to the Rated Securities by any Rating Agency which is current at the Date of Announcement is below an Investment Grade Rating) that rating is lowered one full rating notch by any Rating Agency (for example from BB+ to BB by Standard & Poor's or Fitch and Ba1 to Ba2 by Moody's or such similar lowering of equivalent rating),

provided that no Rating Downgrade shall occur by virtue of a particular withdrawal of, or reduction in, rating unless the Rating Agency withdrawing or making the reduction in the rating announces or confirms that the withdrawal or reduction was the result, in whole or in part, of the relevant Change of Control; or

- (b) if at the time of the Date of Announcement there are no Rated Securities, either:
  - (i) the Issuer does not use all reasonable endeavours to obtain, within 45 days of the Date of Announcement, from a Rating Agency a rating for any Rated Securities; or
  - (ii) if the Issuer does use such endeavours, but, as a result of such Change of Control, at the expiry of the Change of Control Period there are still no Investment Grade Securities and the Rating Agency announces or confirms in writing that its declining to assign an Investment Grade Rating was the result, in whole or in part, of the relevant Change of Control.

### **3.8 Benchmark Event**

- (a) Notwithstanding the provisions above in this Condition 3, if, on or after 30 October 2023, the Issuer (in consultation with the Calculation Agent) determines that a Benchmark Event has occurred in relation to the Original Reference Rate (whether such occurrence is before, on or after 30 October 2023) when any Reset Rate of Interest (or any component part thereof) remains to be determined by reference to the Original Reference Rate, then the following provisions shall apply:

- (i) The Issuer shall use its reasonable endeavours to appoint an Independent Adviser, as soon as reasonably practicable, with a view to the Issuer and the Independent Adviser determining, no later than three Business Days prior to the relevant Reset Determination Date, a Successor Rate, failing which an Alternative Rate (in accordance with Condition 3.8(a)(ii) below) and, in either case, an Adjustment Spread if any (in accordance with Condition 3.8(a)(iii) below) and any Benchmark Amendments (in accordance with Condition 3.8(a)(iv) below).

An Independent Adviser appointed pursuant to this Condition 3.8 shall act in good faith as an expert and (in the absence of bad faith or fraud) shall have no liability whatsoever to the Issuer, the Calculation Agent, any Paying Agent or the Holders for any determination made by it or for any advice given to the Issuer in connection with to the operation of this Condition 3.8.

- (ii) If:
  - (A) the Issuer and the Independent Adviser agree that there is a Successor Rate, then such Successor Rate shall (subject to adjustment as provided in

Condition 3.8(a)(iii) below) subsequently be used in place of the Original Reference Rate as a component part of determining the relevant Reset Rate(s) of Interest for all future payments of interest on the Notes (subject to the subsequent further operation of this Condition 3.8); or

- (B) the Issuer and the Independent Adviser agree that there is no Successor Rate but that there is an Alternative Rate, then such Alternative Rate shall (subject to adjustment as provided in Condition 3.8(a)(iii) below) subsequently be used in place of the Original Reference Rate as a component part of determining the relevant Reset Rate(s) of Interest for all future payments of interest on the Notes (subject to the subsequent further operation of this Condition 3.8); or
  - (C) either (I) the Issuer is unable to appoint an Independent Adviser or (II) the Issuer and the Independent Adviser do not agree on the selection of a Successor Rate or an Alternative Rate prior to the Reset Determination Date relating to any applicable Reset Period, the fallback provisions set out in the definitions of Euro Swap Rate and Reset Reference Bank Rate in Condition 13 will continue to apply. For the avoidance of doubt, this Condition 3.8(a)(ii)(C) shall apply to the determination of the Reset Rate of Interest on the relevant Reset Determination Date only, and the Reset Rate of Interest applicable to any subsequent Reset Period(s) is subject to the subsequent operation of, and to adjustment as provided in, this Condition 3.8
- (iii) If the Issuer and the Independent Adviser agree (A) that an Adjustment Spread is required to be applied to the Successor Rate or the Alternative Rate (as the case may be) and (B) the quantum of, or a formula or methodology for determining, such Adjustment Spread, then such Adjustment Spread shall be applied to the Successor Rate or the Alternative Rate (as the case may be).
- (iv) If any Successor Rate, Alternative Rate or Adjustment Spread is determined in accordance with this Condition 3.8 and the Issuer and the Independent Adviser agree: (A) that amendments to these Conditions, the Interbolsa Agreement and/or the Paying Agency Agreement are necessary to ensure the proper operation of such Successor Rate, Alternative Rate and/or Adjustment Spread (such amendments, the **Benchmark Amendments**) and (B) the terms of the Benchmark Amendments, then the Issuer shall, subject to giving notice thereof in accordance with Condition 3.8(a)(v) below, without any requirement for the consent or approval of the Holders, vary these Conditions, the Interbolsa Agreement and/or the Paying Agency Agreement to give effect to such Benchmark Amendments with effect from the date specified in such notice.
- In connection with any such variation in accordance with this Condition 3.8(a)(iv), the Issuer shall comply with the rules of any stock exchange or other relevant authority on or by which the Notes are for the time being listed or admitted to trading.
- (v) Any Successor Rate, Alternative Rate, Adjustment Spread and the specific terms of any Benchmark Amendments, determined under this Condition 3.8 will be notified promptly by the Issuer to the Calculation Agent, the Paying Agents and, in accordance with Condition 9, the Holders. Such notice shall be irrevocable and shall

specify the effective date of the Benchmark Amendments, if any and will be binding on the Issuer, the Calculation Agent, the Paying Agents and the Holders.

- (vi) Without prejudice to the obligations of the Issuer under this Condition 3.8(a), the Original Reference Rate and the fallback provisions provided for in the definitions of Euro Swap Rate and Reset Reference Bank Rate in Condition 13 will continue to apply unless and until the Calculation Agent has been notified of the Successor Rate or the Alternative Rate (as the case may be), and any Adjustment Spread and Benchmark Amendments, in accordance with this Condition 3.8.

- (b) As used in this Condition 3.8:

**Adjustment Spread** means either a spread (which may be positive or negative), or the formula or methodology for calculating a spread, in either case, which the Independent Adviser acting in good faith determines is required to be applied to the Successor Rate or the Alternative Rate (as the case may be) to reduce or eliminate, to the extent reasonably practicable in the circumstances, any economic prejudice or benefit (as the case may be) to Holders as a result of the replacement of the Original Reference Rate with the Successor Rate or the Alternative Rate (as the case may be) and is the spread, formula or methodology which:

- (i) in the case of a Successor Rate, is formally recommended in relation to the replacement of the Original Reference Rate with the Successor Rate by any Relevant Nominating Body; or
- (ii) in the case of an Alternative Rate, or (where (i) above does not apply) in the case of a Successor Rate, the Independent Adviser determines is recognised or acknowledged as being the industry standard for over-the-counter derivative transactions which reference the Original Reference Rate, where such rate has been replaced by the Successor Rate or the Alternative Rate (as the case may be); or
- (iii) (if the Independent Adviser determines that neither (i) nor (ii) above applies) the Independent Adviser determines to be appropriate.

**Alternative Rate** means an alternative benchmark or screen rate which the Independent Adviser and the Issuer agree in accordance with this Condition 3.8 has replaced the Original Reference Rate in customary market usage in the international debt capital markets for the purposes of determining rates of interest (or the relevant component part thereof) for a 5 year period in euro.

**Benchmark Amendments** has the meaning specified in Condition (a)(iv).

**Benchmark Event** means:

- (i) the Original Reference Rate ceasing to exist, be administered or be published;
- (ii) the later of (A) the making of a public statement by the administrator of the Original Reference Rate that it will, on or before a specified date, cease publishing the Original Reference Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue publication of the Original Reference Rate) and (B) the date falling six months prior to the specified date referred to in (ii)(A) above;

- (iii) the making of a public statement by the supervisor of the administrator of the Original Reference Rate that the Original Reference Rate has been permanently or indefinitely discontinued;
- (iv) the later of (A) the making of a public statement by the supervisor of the administrator of the Original Reference Rate that the Original Reference Rate will, on or before a specified date, be permanently or indefinitely discontinued and (B) the date falling six months prior to the specified date referred to in (iv)(A) above;
- (v) the later of (A) the making of a public statement by the supervisor of the administrator of the Original Reference Rate that means the Original Reference Rate will be prohibited from being used or that its use will be subject to restrictions or adverse consequences, in each case on or before a specified date and (B) the date falling six months prior to the specified date referred to in (v)(A) above; and/or
- (vi) it has, or will prior to the next Reset Determination Date, become unlawful for the Issuer, the Calculation Agent, any Paying Agent or any other party to calculate any payments due to be made to any Holder using the Original Reference Rate.

**Independent Adviser** means an independent financial institution of international repute or an independent financial adviser with appropriate expertise appointed by the Issuer under Condition 3.8(a) at its own expense.

**Original Reference Rate** means the rate described in paragraph (i) of the definition of Euro Swap Rate in Condition 13.

**Relevant Nominating Body** means, in respect of the Original Reference Rate:

- (i) the central bank, reserve bank, monetary authority or any similar institution for the currency to which the Original Reference Rate relates, or any central bank or other supervisory authority which is responsible for supervising the administrator of the Original Reference Rate; or
- (ii) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (A) the central bank, reserve bank, monetary authority or any similar institution for the currency to which the Original Reference Rate relates, (B) any central bank or other supervisory authority which is responsible for supervising the administrator of the Original Reference Rate, (C) a group of the aforementioned central banks or other supervisory authorities, or (D) the Financial Stability Board or any part thereof.

**Successor Rate** means a successor to or replacement of the Original Reference Rate which is provided by law or regulation applicable to indebtedness denominated in the currency to which the Original Reference Rate relates and/or formally recommended by any Relevant Nominating Body.

## 4. REDEMPTION AND PURCHASE

### 4.1 Maturity

Unless redeemed earlier in accordance with these Conditions, the Notes will be redeemed on 30 April 2079 (the **Maturity Date**) at their Principal Amount, together with interest accrued up to (but excluding) the Maturity Date and any outstanding Deferred Interest Payments.

### 4.2 Early redemption at the option of the Issuer

The Issuer may redeem the Notes (in whole but not in part) on:

- (a) any Business Day from (and including) 30 January 2024 (the **First Call Date**) to (and including) the First Reset Date; or
- (b) any Interest Payment Date falling after the First Reset Date,

in each case at their Principal Amount, together with any interest accrued up to (but excluding) the Redemption Date and any outstanding Deferred Interest Payments, on the giving of not less than 30 and not more than 60 calendar days' irrevocable notice of redemption to the Holders in accordance with Condition 9 and to the Principal Paying Agent.

### 4.3 Early redemption due to a Gross-up Event or Change of Control Event

If a Gross-up Event or a Change of Control Event occurs, the Issuer may redeem the Notes (in whole but not in part) at their Principal Amount, plus any interest accrued up to (but excluding) the Redemption Date and any outstanding Deferred Interest Payments, on the giving of not less than 30 and not more than 60 calendar days' irrevocable notice of redemption to the Holders in accordance with Condition 9 and to the Principal Paying Agent.

In the case of a Gross-up Event:

- (a) no such notice of redemption may be given earlier than 90 calendar days prior to the earliest calendar day on which the Issuer would be for the first time obliged to pay the Additional Amounts in question on payments due in respect of the Notes were a payment in respect of the Notes then due; and
- (b) prior to the giving of any such notice of redemption, the Issuer shall deliver or procure that there is delivered to the Principal Paying Agent:
  - (i) a certificate signed by any two duly authorised representatives of the Issuer stating that the Issuer is entitled to effect such redemption and setting out a statement of facts showing that the conditions to the exercise of the right of the Issuer to redeem have been satisfied; and
  - (ii) an opinion of an independent legal adviser of recognised standing to the effect that the Issuer has or will become obliged to pay the Additional Amounts referred to in the definition of Gross-up Event.

**Gross-up Event** means that the Issuer has or will become obliged to pay Additional Amounts as a result of any change in, or amendment to, the laws (or any rules or regulations thereunder) of the Portuguese Republic or any political subdivision or any authority of or in the Portuguese Republic, or



any change in or amendment to any official interpretation or application of those laws or rules or regulations, provided that the relevant amendment, change or execution becomes effective on or after the Issue Date and provided further that the payment obligation cannot be avoided by the Issuer taking reasonable measures available to it.

In the case of a Change of Control Event, such notice of redemption may only be given simultaneously with or after a notification by the Issuer in accordance with Condition 9 that a Change of Control Event has occurred.

*If a Change of Control Event occurs in respect of which the Issuer intends to deliver a notice exercising its right to redeem the Notes, the Issuer intends (without thereby assuming a legal obligation) as soon as reasonably practicable following such Change of Control Event to make an offer to all holders of the Relevant Securities to repurchase their respective securities at the lower of:*

- (a) their respective market values; and*
- (b) their respective aggregate nominal amounts together with any distribution accrued until the day of completion of the repurchase.*

*The Issuer will make such tender offer in such a way as to ensure that the repurchase of any such Relevant Securities tendered to it will be effected prior to any redemption of the Securities.*

*“Relevant Securities” means any current or future indebtedness of the Issuer to Senior Creditors in the form of, or represented or evidenced by bonds, notes, debentures or other similar securities or instruments (or a guarantee, keep well agreement or support undertaking in respect thereof) which does not include protection for the holders thereof (for example, in the form of a put option) in the event of a change of control of the Issuer (however defined).*

*“Senior Creditors” means all unsubordinated creditors, present and future, of the Issuer and all subordinated creditors of the Issuer other than those whose claims (whether only in the event of the winding-up or insolvency of the Issuer or otherwise) rank, or are expressed to rank, pari passu with or junior to the claims of the Holders.*

#### **4.4 Early redemption due to a Tax Event or Rating Agency Event**

If a Tax Event or a Rating Agency Event occurs, the Issuer may redeem the Notes (in whole but not in part) at:

- (a) if such redemption occurs prior to the First Call Date, 101 per cent. of their Principal Amount, plus any interest accrued up to (but excluding) the Redemption Date and any outstanding Deferred Interest Payments; or
- (b) if such redemption occurs on or following the First Call Date, their Principal Amount plus any interest accrued up to (but excluding) the Redemption Date and any outstanding Deferred Interest Payments,

on the giving of not less than 30 and not more than 60 calendar days' irrevocable notice of redemption to the Holders in accordance with Condition 9 and to the Principal Paying Agent.

In the case of a Tax Event: (i) no such notice of redemption may be given earlier than 90 calendar days prior to the earliest calendar day on which payments by the Issuer on the Notes would no longer be fully deductible for Portuguese corporate income tax purposes were a payment in respect of the

Notes then due; and (ii) prior to the giving of any such notice of redemption, the Issuer shall obtain an opinion from an independent legal adviser or recognised independent tax counsel which states that a Tax Event has occurred and deliver it to the Principal Paying Agent for inspection by Holders during normal business hours.

A **Tax Event** will occur if, as a result of:

- (i) any amendment to, or change in, the laws (or any rules or regulations thereunder) of the Portuguese Republic or any political subdivision or any taxing authority thereof or therein, or the way in which the Notes are recorded in the consolidated financial statements of the Issuer due to a change or amendment in applicable accounting standards, which is enacted, promulgated, issued or otherwise becomes effective on or after the Issue Date; or
- (ii) any amendment to, or change in, an official and binding interpretation of any such laws, rules or regulations by any legislative body, court, governmental agency or regulatory authority (including the enactment of any legislation and the publication of any judicial decision or regulatory determination) which is enacted, promulgated, issued or otherwise becomes effective on or after the Issue Date; or
- (iii) any generally applicable official interpretation or pronouncement that provides for a position with respect to such laws or regulations that differs from the previous generally accepted position which is issued or announced on or after the Issue Date,

payments by the Issuer on the Notes would or will no longer be fully deductible by the Issuer for Portuguese corporate income tax purposes and such risk cannot be avoided by the Issuer taking reasonable measures available to it.

A **Rating Agency Event** shall occur if the Issuer has received confirmation from any Rating Agency that, due to any amendment to, clarification of, or change in the assessment criteria under its hybrid capital methodology or in the interpretation thereof, in each case occurring or becoming effective after the Issue Date, the Notes will no longer be eligible for the same or a higher amount of “equity credit” as was attributed to the Notes as at the Issue Date or, if equity credit is not assigned to the Notes by the relevant Rating Agency on the Issue Date, the date on which equity credit is assigned by such Rating Agency for the first time.

#### **4.5 Purchase of Notes**

The Issuer or any Subsidiary may, in compliance with applicable laws, at any time purchase Notes in the open market or otherwise and at any price. Such acquired Notes may be cancelled, held or resold.

In the event that the Issuer and/or any Subsidiary has, severally or jointly, purchased Notes equal to or in excess of 75 per cent. of the sum of the aggregate Principal Amount of the Notes issued at the Issue Date and the aggregate Principal Amount of any Notes issued pursuant to Condition 8 (a **Substantial Repurchase Event**), the Issuer may redeem the remaining Notes (in whole but not in part) at their Principal Amount, together with any interest accrued and outstanding up to (but excluding) the relevant Redemption Date and any outstanding Deferred Interest Payments, on the giving of not less than 30 and not more than 60 calendar days' irrevocable notice of redemption to the Holders in accordance with Condition 9 and to the Principal Paying Agent.

#### **4.6 No Holder right of redemption**

A Holder does not have the right to (a) require any Note to be declared due and payable (without prejudice to Condition 10) and/or (b) require the Issuer to redeem the Notes.

### **5. PAYMENTS**

#### **5.1 Payments in respect of Notes**

The Issuer undertakes to pay, as and when due, principal and interest as well as all other amounts payable on the Notes in euro. Payment of principal and interest in respect of the Notes will be (i) credited, according to the procedures and regulations of Interbolsa, by the Portuguese Paying Agent (acting on behalf of the Issuer) to the TARGET2 payment current accounts held (in the payment system of the Bank of Portugal or otherwise) by the Interbolsa Participants whose control accounts with Interbolsa are credited with such Notes and (ii) thereafter, credited by such Interbolsa Participants from the aforementioned payment current accounts to the accounts of the Holders or through Euroclear and Clearstream, Luxembourg to the accounts with Euroclear and Clearstream, Luxembourg of the beneficial owners of those Notes, in accordance with the rules and procedures of Interbolsa, Euroclear or Clearstream, Luxembourg, as the case may be. Payments to the Clearing System or to its order shall, to the extent of amounts so paid and provided the Notes are still held on behalf of the Clearing System, constitute the discharge of the Issuer from its corresponding obligations under the Notes.

#### **5.2 Payments subject to applicable laws**

Payments in respect of principal and interest on the Notes (including Deferred Interest Payments) are subject in all cases to (i) any fiscal or other laws and regulations applicable in the place of payment, but without prejudice to the provisions of Condition 6, and (ii) any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the **Code**) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or (without prejudice to the provisions of Condition 6) any law implementing an intergovernmental approach thereto.

#### **5.3 Payments on Business Days**

If the due date for payment of any amount in respect of any Note is not a Business Day, the holder shall not be entitled to payment of the amount due until the next succeeding Business Day and shall not be entitled to any further interest or other payment in respect of any such delay.

#### **5.4 Paying Agents**

The names of the Principal Paying Agent and the Portuguese Paying Agent and their specified offices are set out in Condition 13. The Issuer reserves the right at any time to vary or terminate the appointment of, and to appoint additional or other, paying agents provided that there will at all times be a paying agent in Portugal capable of making payment in respect of the Notes as contemplated by these terms and conditions of the Notes, the Paying Agency Agreement and applicable Portuguese laws and regulations.

Notice of any termination or appointment and of any changes in specified offices will be given to the Holders promptly by the Issuer in accordance with Condition 9.

## 6. TAXATION AND GROSS-UP

### 6.1 Additional Amounts

All amounts payable (whether in respect of principal, interest or otherwise) in respect of the Notes by the Issuer 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 the Relevant Jurisdiction, unless the deduction or withholding of such taxes or duties is required by law. In that event, the Issuer will pay such additional amounts (**Additional Amounts**) as shall be necessary in order that the net amounts receivable by Holders after such deduction or withholding shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes in the absence of such deduction or withholding; except that no such additional amounts shall be payable in respect of any payment in respect of any Note:

- (a) to, or to a third party on behalf of, a Holder or Beneficial Owner who is liable for such taxes or duties in respect of such Note by reason of having some connection with the Relevant Jurisdiction other than the mere holding of the Note; or
- (b) to, or to a third party on behalf of, a Holder or Beneficial Owner in respect of whom the information (which may include certificates) required in order to comply with Decree-Law 193/2005 of 7 November, and any implementing legislation, is not received on or earlier than the second Business Day prior to the Relevant Date, or which does not comply with the formalities in order to benefit from tax treaty benefits, when applicable; or
- (c) to, or to a third party on behalf of, a Holder or Beneficial Owner resident for tax purposes in the Relevant Jurisdiction, or a resident in a country, territory or region subject to a more favourable tax regime included in the list approved by Ministerial Order ("*Portaria*") no. 150/2004 of 13 February ("*Lista dos países, territórios e regiões com regimes de tributação privilegiada, claramente mais favoráveis*") as amended from time to time (**tax havens**), issued by the Portuguese Minister of Finance and Public Administration, with the exception of (i) central banks and governmental agencies as well as international institutions recognised by the Relevant Jurisdiction of those tax havens and (ii) tax havens which have a double taxation treaty in force or a tax information exchange agreement in force with Portugal, provided that all procedures and all information required under Decree-Law no. 193/2005 regarding (i) and (ii) above are complied with; or
- (d) to, or to a third party on behalf of, a Holder or Beneficial Owner who would have been able to avoid such withholding or deduction by presenting the relevant Note to another Paying Agent in a Member State of the European Union; or
- (e) to, or to a third party on behalf of, a Holder or Beneficial Owner, including, for the avoidance of doubt, to an undisclosed Beneficial Owner, who would not be liable for or subject to the withholding or deduction by making a declaration of non-residence or other similar claim for exemption to the relevant tax authority; or
- (f) to, or to a third party on behalf of: (i) a Portuguese resident legal entity subject to Portuguese corporation tax (with the exception of entities that benefit from an exemption from Portuguese withholding tax or from Portuguese income tax exemptions); or (ii) a non-resident legal person with a permanent establishment in Portugal to which the income or gains obtained from the Notes are attributable (with the exception of entities which benefit from a Portuguese withholding tax exemption); or

- (g) where such withholding or deduction is required pursuant to an agreement described in Section 1471(b) of the Code or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, any official interpretations thereof, or any law implementing an intergovernmental approach thereto.

**Beneficial Owner** means the holder of the Notes who is the effective beneficiary of the income attributable thereto.

The **Relevant Jurisdiction** means the Portuguese Republic or any political subdivision or any authority thereof or therein having power to tax or any other jurisdiction or any political subdivision or any authority thereof or therein having power to tax to which the Issuer becomes subject in respect of payments made by it of principal and interest on the Notes.

The **Relevant Date** means the date on which the payment first becomes due but, if the full amount of the money payable has not been received by the Portuguese Paying Agent on or before such due date, it means the date on which, the full amount of the money having been so received, notice to that effect has been duly given to the Holders by the Issuer in accordance with Condition 9.

## 6.2 References

Any reference in these Conditions to "principal amount" and/or "interest" (including in relation to any Deferred Interest Payments) in respect of the Notes shall be deemed also to refer to any Additional Amounts which may be payable under this Condition 6. Unless the context otherwise requires, any reference in these Conditions to "principal" shall include any redemption amount and any other amounts in the nature of principal payable pursuant to these Conditions and "interest" shall include all amounts payable pursuant to Condition 3 and any other amounts in the nature of interest payable pursuant to these Conditions (including Deferred Interest Payments and additional interest accrued on such Deferred Interest Payments).

## 7. PRESCRIPTION

Subject to Condition 6, claims for payment in respect of the Notes will become void unless such payment is claimed within 10 years (in the case of principal) and five years (in the case of interest) from the Relevant Date.

## 8. FURTHER ISSUES

The Issuer may from time to time, without the consent of the Holders, issue further notes having the same terms and conditions as those of the Notes in all respects (or in all respects except for the amount and date of the first payment of interest) so as to form a single series with the Notes and upon any such further issue of notes pursuant to this Condition 8 references in these Conditions to the "Notes" shall, unless the context otherwise requires, be deemed to include such further notes.

## 9. NOTICES

### 9.1 Notice to Holders

All notices regarding the Notes will be deemed to be validly given if delivered to the Clearing System for communication by it to the persons shown in its records as having interests therein. The Issuer shall also ensure that notices are duly given or published in a manner which complies with the rules and regulations of any stock exchange or other relevant authority on or by which the Notes are for the time being listed or admitted to trading.

## 9.2 Effectiveness of notices

Any notice referred to in Condition 9.1 will be deemed to have been validly given on the second Business Day after the date of such delivery to the Clearing System.

## 9.3 Notices from Holders

Notices to be given by any Holder may be given through the Clearing System in accordance with its standard rules and procedures.

## 10. EVENTS OF DEFAULT

If any of the events below (an **Event of Default**) occurs and is continuing then Holders holding not less than one quarter of the aggregate Principal Amount of the Notes then outstanding may, by written notice addressed to the Issuer, declare the Notes immediately due and payable, whereupon the Notes shall become immediately due and payable at their Principal Amount together with accrued interest thereon and any outstanding Deferred Interest Payments without further action or formality:

- (a) upon the initiation of, or consent to, the liquidation, winding-up or dissolution of the Issuer or if the Issuer admits in writing its inability to pay its debts as and when the same fall due; or
- (b) upon the application to any court (that remains undischarged for sixty days) for, or the making by any court of, an insolvency order against the Issuer; or
- (c) upon the appointment by any court of an insolvency administrator or other similar officer over all or any part of the Issuer's assets (that remains undischarged for sixty days); or
- (d) if default is made in the payment of any principal or interest amount that is due and payable in respect of the Notes or any of them and the default continues for a period of 30 days,

provided that no such event shall constitute an Event of Default if it is being contested in good faith by appropriate means by the Issuer and the Issuer has been advised by recognised independent legal advisers of good repute that it is reasonable to do so.

## 11. GOVERNING LAW AND JURISDICTION

### 11.1 Governing law

The Interbolsa Instrument, the Paying Agency Agreement and the Notes, and any non-contractual obligations arising out of or in connection with the Interbolsa Instrument, the Paying Agency Agreement or the Notes, are governed by and shall be construed in accordance with, English law, with the exception of Conditions 1 and 2 which shall be governed by Portuguese law. The form ("*forma de representação*") and transfer of the Notes, creation of security over the Notes and the Interbolsa procedures for the exercise of rights under the Notes are governed by and shall be construed in accordance with, Portuguese law.

### 11.2 Meetings

The Paying Agency Agreement contains provisions for convening meetings of the Holders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution (as defined in the Paying Agency Agreement) of a modification of the Notes or any provisions of the Paying Agency Agreement.

### 11.3 Jurisdiction

- (a) Subject to Condition 11.3(c), the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Notes (including any dispute as to their existence, validity, interpretation, performance, breach or termination or the consequences of their nullity and any dispute relating to any non-contractual obligations arising out of or in connection with the Notes) (a **Dispute**) and accordingly the Issuer submits to the exclusive jurisdiction of the English courts.
- (b) The Issuer irrevocably and unconditionally waives any objection to the English courts on the grounds that they are an inconvenient or inappropriate forum to settle any Dispute.
- (c) To the extent allowed by law, Holders may, in respect of any Dispute or Disputes, take (i) proceedings against the Issuer in any other court with jurisdiction, and (ii) concurrent proceedings in any number of jurisdictions.

### 11.4 Process Agent

The Issuer appoints The Law Debenture Corporate Services Limited at its registered office for the time being (being at the Issue Date at Fifth Floor, 100 Wood Street, London EC2V 7EX) as its agent for service of process in England in respect of any Dispute, and undertakes that, in the event of The Law Debenture Corporate Services Limited ceasing so to act, it will appoint another person as its agent for service of process in England in respect of any Dispute. Nothing herein shall affect the right to serve proceedings in any other manner permitted by law.

## 12. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

No person shall have any right to enforce any term or Condition in respect of any Note under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

## 13. DEFINITIONS AND INTERPRETATION

Unless the context otherwise requires, the following terms shall have the following meanings in these Conditions:

**Additional Amounts** has the meaning specified in Condition 6.1.

**Adjustment Spread** has the meaning specified in Condition 3.8.

**Affiliate Member of Interbolsa** means each financial institution which is licensed to act as a financial intermediary under the Portuguese Securities Code ("*Código dos Valores Mobiliários*") and which is entitled to hold control accounts with Interbolsa on behalf of their customers (and includes any depositary banks appointed by Euroclear and/or Clearstream, Luxembourg for the purpose of holding accounts on behalf of Euroclear and/or Clearstream, Luxembourg).

**Agent Bank** means an independent investment bank, commercial bank or stockbroker appointed by the Issuer;

**Alternative Rate** has the meaning specified in Condition 3.8.

**Benchmark Amendments** has the meaning specified in Condition 3.8(a)(iv).

**Benchmark Event** has the meaning specified in Condition 3.8.

**Book Entry** has the meaning specified in Condition 1.3.

**Book-Entry Registry** has the meaning specified in Condition 1.3.

**Business Day** means a day on which (a) commercial banks and foreign exchange markets are open for general business in London and Lisbon; and (b) TARGET2 is open.

**Calculation Agent** means Deutsche Bank AG, London Branch, or any successor entity.

**Change of Control** has the meaning specified in Condition 3.7.

**Change of Control Event** has the meaning specified in Condition 3.7.

**Change of Control Period** has the meaning specified in Condition 3.7.

**Clearing System** and **Interbolsa** mean Interbolsa – Sociedade Gestora de Sistemas de Liquidação e de Sistemas Centralizados de Valores Mobiliários, S.A., as operator of the CVM.

**CMVM** means the *Comissão do Mercado de Valores Mobiliários*, the Portuguese Securities Commission.

**Code** has the meaning specified in Condition 5.2.

**Compulsory Payment Event** has the meaning specified in Condition 3.5.

**Conditions** means these terms and conditions of the Notes.

**CVM** means the Central de Valores Mobiliários, the centralised securities system managed by Interbolsa.

**Date of Announcement** has the meaning specified in Condition 3.7.

**Deferred Interest Payment** has the meaning specified in Condition 3.4.

**Dispute** has the meaning specified in Condition 11.3(a).

**Euro Swap Rate** means, in relation to a Reset Period and the Reset Determination Date in relation to such Reset Period:

- (i) the annual mid-swap rate for euro swap transactions with a maturity of five years, expressed as a percentage, which appears on the Reset Screen Page as of 11:00 a.m. (Central European Time) on such Reset Determination Date; or
- (ii) if such rate does not appear on the Reset Screen Page on the relevant Reset Determination Date at approximately that time, the Reset Reference Bank Rate as determined by the Agent Bank on such Reset Determination Date,

subject in each case to Condition 3.8.

**Event of Default** has the meaning specified in Condition 10.



**Executive Board of Directors** means the executive board of directors of the Issuer.

**First Call Date** has the meaning specified in Condition 4.2(a).

**First Reset Date** has the meaning specified in Condition 3.2(a).

**First Step-Up Date** has the meaning specified in Condition 3.2(b).

**Fitch** means Fitch Ratings Ltd. (or any of its subsidiaries or any successor in business thereto from time to time).

**General and Supervisory Board** means the general and supervisory board of the Issuer.

**Gross-up Event** has the meaning specified in Condition 4.3.

**Holder** means a holder of Notes in accordance with the Rules.

**Independent Adviser** has the meaning specified in Condition 3.8.

**Interbolsa Instrument** has the meaning specified in the preamble to these Conditions.

**Interbolsa Participant** has the meaning specified in Condition 1.2.

**Interest Amount** has the meaning specified in Condition 3.2 and shall include any interest accrued on such Interest Amount pursuant to Condition 3.4.

**Interest Payment Date** has the meaning specified in Condition 3.2.

**Investment Grade Rating** has the meaning specified in Condition 3.7.

**Investment Grade Securities** has the meaning specified in Condition 3.7.

**Issue Date** means 30 January 2019.

**Issuer** means EDP – Energias de Portugal, S.A.

**Issuer Shares** has the meaning given to it in Condition 2.2.

**Maturity Date** has the meaning specified in Condition 4.1.

**Moody's** means Moody's Investors Service Limited (or any of its subsidiaries or any successor in business thereto from time to time).

**Notes** has the meaning specified in the preamble to these Conditions.

**Original Reference Rate** has the meaning specified in Condition 3.8.

**Parity Security** means: (i) any security issued by the Issuer which ranks, or is expressed to rank, *pari passu* with the Notes; and (ii) any security guaranteed by, or subject to the benefit of a keep well agreement or support undertaking entered into by, the Issuer where the Issuer's obligations under the relevant guarantee, keep well agreement or support undertaking rank *pari passu* with the Issuer's obligations under the Notes.

**Paying Agency Agreement** has the meaning specified in the preamble to these Conditions.

**Paying Agent** has the meaning specified in the preamble to these Conditions.

**Payment Reference Date** has the meaning given to it in Condition 3.5.

**Portuguese Paying Agent** means Deutsche Bank Aktiengesellschaft – Sucursal em Portugal with its specified office at Rua Castilho, 20, 1250-069 Lisbon, Portugal.

**Principal Amount** has the meaning specified in Condition 1.1.

**Principal Paying Agent** means Deutsche Bank AG, London Branch with its specified office at Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom.

**Rated Securities** has the meaning specified in Condition 3.7.

**Rate of Interest** has the meaning specified in Condition 3.2.

**Rating Agency** means: (a) for the purposes of Condition 3.7, Moody's, Standard & Poor's or Fitch or any other rating agency of equivalent international standing specified from time to time by the Issuer; and (b) for the purposes of Condition 4.4, any of Moody's, Standard & Poor's or Fitch.

**Rating Agency Event** has the meaning specified in Condition 4.4.

**Rating Downgrade** has the meaning specified in Condition 3.7.

**Redemption Date** means the day on which the Notes become due for redemption in accordance with these Conditions.

**Reference Banks** means five leading swap dealers in the Eurozone interbank market selected by the Agent Bank after consultation with the Issuer.

**Relevant Date** has the meaning specified in Condition 6.1.

**Relevant Jurisdiction** has the meaning specified in Condition 6.1.

**Relevant Nominating Body** has the meaning specified in Condition 3.8.

**Relevant Person** has the meaning specified in Condition 3.7.

**Reset Date** means the First Reset Date and each date that falls five, or a multiple of five, years following the First Reset Date.

**Reset Determination Date** means, in relation to any Reset Period, the second Business Day prior to the Reset Date on which such Reset Period commences.

**Reset Margin** means 4.287 per cent. per annum.

**Reset Period** means the period from and including the First Reset Date to but excluding the next Reset Date and each successive period from and including a Reset Date to but excluding the next succeeding Reset Date.

**Reset Rate of Interest** means, in relation to any Reset Period, the sum of the Euro Swap Rate in relation to that Reset Period (rounded to four decimal places, with 0.00005 being rounded down) and the Reset Margin, as determined by the Calculation Agent on the relevant Reset Determination Date.

**Reset Reference Bank Rate** means the percentage determined by the Agent Bank on the basis of the mid-market annual swap rate quotations provided by the Reference Banks at approximately 12:00 noon (Central European Time) on the relevant Reset Determination Date. For this purpose, the **mid-market annual swap rate** means the arithmetic mean of the bid and offered rates for the annual fixed leg, calculated on a 30/360 day count basis, of a fixed-for-floating euro interest rate swap transaction with a five-year term commencing on the first day of the relevant Reset Period and in an amount that is representative for a single transaction in the relevant market at the relevant time with an acknowledged dealer of good credit in the swap market, where the floating leg, calculated on an Actual/360 day count basis, is equivalent to 6-month Eurozone interbank offered rate (EURIBOR) (expressed as a percentage rate per annum). The Agent Bank will request the principal office of each of the Reference Banks to provide a quotation of its rate. If at least three quotations are provided, the applicable Reset Reference Bank Rate will be the arithmetic mean of the quotations, eliminating the highest quotation (or, in the event of equality, one of the highest) and the lowest quotation (or, in the event of equality, one of the lowest). If only two quotations are provided, the applicable Reset Reference Bank Rate will be the arithmetic mean of the quotations. If only one quotation is provided, the applicable Reset Reference Bank Rate will be the quotation provided. If no quotations are provided, the applicable Reset Reference Bank Rate shall be equal to the last Euro Swap Rate available on the Reset Screen Page as determined by the Calculation Agent.

**Reset Screen Page** means Reuters screen "ICESWAP2" or such other page as may replace it on that information service, or on such other equivalent information service as determined by the Calculation Agent, for the purpose of displaying the annual swap rates for euro swap transactions with a five-year maturity.

**Rules** means the legislation, rules, regulations and operating procedures from time to time applicable to or stipulated by Interbolsa in relation to the CVM.

**Second Step-Up Date** has the meaning specified in Condition 3.2.

**Senior Obligations** means all obligations of the Issuer (including any obligation assumed by the Issuer under any guarantee of, or any keep well agreement) other than the obligations of the Issuer in respect of any Parity Security or the Issuer Shares.

**Standard & Poor's** means S&P Global Ratings France SAS (or any of its subsidiaries or any successor in business thereto from time to time).

**Subsidiary** means an entity from time to time of which the Issuer (a) has the right to appoint the majority of the members of the board of directors or similar board or (b) owns directly or indirectly more than 50 per cent. of the share capital or similar right of ownership.

**Substantial Repurchase Event** has the meaning specified in Condition 4.5.

**Successor Rate** has the meaning specified in Condition 3.8.

**TARGET2** means the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET2) System.

**Tax Event** has the meaning specified in Condition 4.4.

**In witness whereof this Instrument has been executed and delivered as a deed on the date stated at the beginning.**

**EDP – ENERGIAS DE PORTUGAL, S.A.**

By:

By:

Authorised Signatories