EUROPEAN
COMMISSION

Brussels, XXX
[…](2024) XXX draft

COMMISSION IMPLEMENTING REGULATION (EU) …/...

of XXX

specifying the pre-qualification and award criteria for auctions for the deployment of energy from renewable sources

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COMMISSION IMPLEMENTING REGULATION (EU) …/...

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specifying the pre-qualification and award criteria for auctions for the deployment of energy from renewable sources

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 ([1]), and in particular Article 26(3) thereof,

Whereas:

(1) Regulation (EU) 2024/1735 lays down measures to scale up the Union's manufacturing capacity for net-zero technologies and their key components. Those measures should increase the competitiveness of the net-zero technology sector, attract investments, and improve market access for clean technologies in the Union. Among those rules, Article 26 of Regulation (EU) 2024/1735 supports the aim of developing and maintaining an industrial basis for the deployment of renewable energy technologies to secure the Union's energy supply and avoid dependencies for the supply of these technologies. To this end, it requires Member States to apply certain non-price criteria to at least 30% of the volume auctioned per year per Member State or alternatively to at least 6 Gigawatt per year per Member State for the deployment of energy from the renewable sources using the renewable energy technologies listed in Article 4(1), points (a) to (j) of that Regulation. Article 26 of Regulation (EU) 2024/1735 introduces the requirement to apply certain non-price criteria as pre-qualification criteria, while for other criteria Member States enjoy flexibility to decide in their auction design whether to apply them as pre-qualification or award criteria or as a combination of both type of criteria.

(2) The rules specifying the pre-qualification or award criteria that should be included in auctions to deploy energy from certain renewable sources[2] aim to facilitate the design and application of the criteria laid down in Article 26 of Regulation (EU) 2024/1735 and ensure uniformity across the Union, while providing sufficient flexibility to Member States. Harmonised implementation of the criteria should reduce transaction costs for economic operators and Member States and avoid fragmentation of the internal market in accordance with the principle of Union added value. This should be done while allowing for sufficient flexibility for Member States to adapt their application of the pre-qualification or award criteria to the structure and planning of

([1]) OJ L 2024/1735, 28.6.20244.

([2]) The technologies covered are solar technologies, including photovoltaic (PV), solar thermal electric and solar thermal technologies; onshore wind and offshore renewable technologies; heat pumps and geothermal energy technologies; hydrogen technologies, including electrolysers and fuel cells, where used for the production of renewable energy; sustainable biogas and biomethane technologies; sustainable alternative fuels technologies which are renewable fuels technologies.

their respective auction systems, their specific characteristics and other considerations linked to the other public policy objectives, in line with the principle of subsidiarity. The application of these criteria in renewable energy auctions should not undermine the core objectives of the auction in terms of rapid, efficient and sustainable renewable energy deployment and should ensure a competitive bidding process and legal certainty. This Regulation specifies the pre-qualification or award criteria that should be included in auctions to deploy energy from certain renewable source to ensure that these criteria are designed and applied in an objective, transparent and non-discriminatory manner without leading to a disproportionate increase in costs.

(3) The criterion related to responsible business conduct should ensure that activities carried out by companies are aligned with the needs of society and nature. Building on the relevant international standards framework, such as the United Nations' Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, the OECD Due Diligence Guidance for Responsible Business Conduct, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) and relevant Union legislation on corporate sustainability due diligence ([3]), in particular Directive (EU) 2024/1760 of the European Parliament and of the Council([4]) as well as Directive (EU) 2022/2464 of the European Parliament and of the Council([5]) and Commission Delegated Regulation (EU) 2023/2772 ([6]), the introduction of a pre-qualification criterion on responsible business conduct in renewable energy auctions should go beyond the due diligence requirements in existing Union legislation that mainly only require reporting from companies by introducing a requirement to comply with the core elements of due diligence. To avoid putting an excessive bureaucratic burden, Small and Medium Enterprises (SMEs) and renewable energy communities should not be required to comply with this additional obligation. Bidders should also be required to publicly communicate on the actions taken to do so. The assessment of compliance with the responsible business conduct criterion should be based on the core elements of due diligence, as laid down in Annex I to Delegated Regulation (EU) 2023/2772 ([7]).

(4) Ensuring a high level of cybersecurity and data security in energy generation installations is crucial for maintaining security of energy supply and critical energy

([3]) In particular the Corporate Sustainability Due Diligence Directive, Directive (EU) 2024/1760 on corporate sustainability due diligence, as well as Directive (EU) 2022/2464 on the Corporate Sustainability Reporting Directive, including the Delegated Regulation (EU) 2023/2772 as regards sustainability reporting standards, in particular paragraph 61.

([4]) Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 (OJ L, 2024/1760, 5.7.2024, ELI: http://data.europa.eu/eli/dir/2024/1760/oj).

([5]) Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15, ELI: http://data.europa.eu/eli/dir/2022/2464/oj).

([6]) Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards (OJ L, 2023/2772, 22.12.2023, ELI: http://data.europa.eu/eli/reg_del/2023/2772/oj).

([7]) Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards, Annex I, paragraph 61.

infrastructure. Cybersecurity risks in the energy sector may adversely affect the confidentiality of information processed in the construction and operation of renewable energy installations and may impact the ability of the operator to retain operational control of the installation. Renewable energy installations face a large set of potential cybersecurity risks linked to the supply chain, such as severe and unexpected corruption of the supply chain, the unavailability of information and communication technology (ICT) products, services or processes in the supply chain or cyberattacks initiated by actors in the supply chain, including by highly sophisticated and persistent malicious state and criminal actors. To ensure that all bidders duly address cybersecurity and data security risks, auctions for the deployment of energy from renewable sources should include pre-qualification criteria requiring them to implement cybersecurity risk management measures and ensure those measures are applicable to ICT products or services provided by their suppliers. The storage and processing of data related to the operation of renewable energy installations in jurisdictions outside the European Economic Area can generate threats to the security of the installations and to the overall system. An extra level of data protection is necessary to ensure the security of the installation and of the overall system in cases when the bidder is subject to the jurisdiction of a third country requiring the bidder to report information on software or hardware vulnerabilities to authorities of that third country prior to their being known to be exploited. An extra level of data protection is also necessary where, according to a public statement on behalf of the Union or its Member States threat actors operating out of the territory of that third country have carried out malicious cyber activities or campaigns. In such cases bidders should provide a substantiated cybersecurity plan outlining the technical, operational and organisational measures to ensure that data used for or generated in their business activities related to the auction are stored and processed in the European Economic Area (EEA) and not transferred outside the EEA. It is important that an operator established in the EEA maintains operational control of the installation to ensure appropriate oversight and enforcement of EU law with a view to guaranteeing the security of the installation and of the overall system.

(5) The inclusion of criteria to ensure the bidder's ability to deliver the project are key to ensuring that bidders and their bids are credible, have the necessary technical knowledge, experience and financial and economic capability, and have a realistic business and technical plan to complete the project fully and on time, respecting the different specifications and non-price criteria requirements included in the auction. It is thus appropriate to require bidders to provide specific documentation and evidence. These criteria should also take into account the project costs, its risks, the project capacity, the maturity of the technology, the degree of innovation required by the auction and other relevant market conditions. This is particularly relevant as imposing excessive requirements, for instance, for smaller projects may limit artificially competition and exclude smaller players that would otherwise be able to participate in the auction. Instead, for larger projects, which involve higher risks, it may be necessary to impose stricter conditions to ensure that the projects can be delivered fully and on time, while still guaranteeing a competitive bidding process.

(6) In accordance with Article 26, (1) of Regulation (EU) 2024/1735 Member States must include pre-qualification criteria or award criteria to assess the auction's sustainability and resilience contribution. Article 25 of Regulation (EU) 2024/1735 requires contracting authorities and contracting entities to apply in certain public procurement procedures minimum mandatory requirements regarding environmental sustainability and certain mandatory requirements to assess the tender's resilience contribution. Both

public procurement procedures and auctions for deploying renewable energy sources contribute to the Union's resilience. Public undertakings operating in the energy sector that are contracting entities in accordance with Article 4 of Directive 2014/25/EU are subject to Article 25 of Regulation (EU) 2024/1735 when procuring net-zero technologies listed in Article 4(1), points (a) to (k), of Regulation (EU) 2024/1735. At the same time, they may also participate as bidders in renewable energy auctions subject to Article 26 of Regulation (EU) 2024/1735. Recital 81 of Regulation (EU) 2024/1735 recalls the importance of ensuring that the sustainability and resilience requirements are applied in a way that ensures fair and equal competition among market players regardless of their ownership structure. In order to ensure such fair and equal competition, for the purposes of assessing resilience and environmental sustainability requirements, public undertakings participating in renewable energy auctions pursuant to Article 26 should be subject only to the rules laid down in Article 26. The rules set out in Article 25 should apply to the procurement of the net zero technologies, except where such procurement is used to carry out projects awarded in the context of renewable energy auctions subject to Article 26. ([8])

(7) The specific choice of type of criteria to assess the auction's sustainability and resilience contribution (pre-qualification or award criteria) falls within the remit of the relevant authorities designing the specific auction. However, the relevant authorities should ensure that the choice of type of criteria does not result in any negative impacts on the competitive nature of the bidding process and does not unduly slow down the deployment of renewable energy technologies.

(8) The assessment of the auctions' contribution to resilience should aim to ensure Union access to a secure and sustainable energy supply by (i) reducing current dependencies and avoiding new strategic dependencies on single third countries for the supply of net-zero renewable energy technologies and their main specific components, and (ii) enhancing the Union's manufacturing capacity of these technologies and components. This should be done without jeopardising the achievement of the binding Union target on renewable energy for 2030 laid down in Article 3(1) of Directive (EU) 2018/2001 ([9]). When deciding whether to apply resilience as a pre-qualification or award criterion to net-zero technologies or their main specific components, the relevant authorities should take into account the Union's level of dependency on a third country for that net-zero technology or its main specific component, the availability of alternative sources of supply and the impact that applying resilience as a pre-qualification criterion instead of an award criterion could have on the supply of that main specific component. In cases where resilience is used as an award criterion in auctions, the relevant authorities should aim to maximise the impact of the resilience criterion on the diversification of the Union's supply away from a country on which the Union is excessively dependent by awarding a higher number of points to bidders that ensure appropriate diversification of their sources of supply and present a lower content of net-zero technologies or their main specific components from a third country on which the Union is excessively dependent.

([8]) These companies would still be subject to the general public procurement framework applicable to them.

([9]) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82), amended by Directive (EU) 2023/2413 of the European Parliament and the Council of 18 October 2023.

(9) To address dependencies of the Union on a single third country supplying more than 50% of a specific net-zero technology or its components or at least 40% in certain circumstances, and to promote supply diversification, Member States' relevant authorities should limit participation to relevant auctions or award points based on requirements linked to the origin of the final product and a certain number of main specific components laid down in Implementing Regulation […] that originate in a third country on which the Union is excessively dependent. Furthermore, it is appropriate to limit the origin of certain key strategic components given their technology value and their central role in security of energy supply and in the supply chain of specific net zero technologies. These requirements provide for a practical and objectively verifiable methodology to assess the resilience of net-zero technologies and their main specific components that are part of an auction. It is appropriate to set the specific requirements for the different technologies and their main specific components taking into account their specific circumstances and characteristics, such as the availability of alternative sources of supply, sufficient manufacturing capacity globally, the level of maturity and deployment rate of the technology, the impact of diversification on supply chains and overall costs. In the case of PV technologies final products (solar photovoltaic systems) and PV modules, non-preferential rules of origin laid down in Regulation […] provide that PV cells (HS 8541 42) are classified in the same tariff heading as PV modules (HS8541 43), thus meaning that the assembly of PV cells or equivalent components into PV modules would not change the origin of the module. For this reason, it is appropriate to refer to the assembly of the solar photovoltaic system and of the PV module, rather than to their origin, as a reference for the contribution to resilience of those specific manufacturing steps.

(10) For certain main specific components the level of dependency on a single third country may be so high that a strict application of the resilience criterion would endanger the security of supply of that component. In such cases it is appropriate that the relevant authorities retain some flexibility in setting the exact threshold of main specific components which may originate from that third country on which there is excessive dependency.

(11) Member States' relevant authorities should also assess the resilience contribution of auctions for onshore wind technologies, offshore wind technologies and electrolysers, even in the absence of a single third country supplying more than 50% of these technologies or their components or at least 40% in certain circumstances, given that for these technologies there is a significant risk of increased dependency on imports from the People's Republic of China, which may threaten the Union's security of supply. This is so given the current and projected global and the Union's supply and demand trends for these technologies, and the fact that the People's Republic of China's production capacity exceeds 50% of global production ([10]) and its projected production significantly exceeds its domestic targets and foreseeable demand.

(12) Article 26 (2) of Regulation (EU) 2024/1735 indicates that the auction's sustainability contribution can be assessed by introducing criteria related to environmental sustainability going beyond the minimum requirements in applicable law, innovation or energy system integration.

(13) Regulation (EU) 2024/1735 provides for the inclusion of considerations related to environmental sustainability both in certain public procurement procedures and in

([10]) IEA, Energy Technology Perspectives 2024

certain auctions to deploy renewable energy sources. The Regulation gives the Commission implementing powers to establish guiding principles for contracting authorities and contracting entities to specify technical specifications, requirements and contract performance conditions related to environmental sustainability for public contracts. It can also further specify the environmental sustainability criteria that may be used in auctions to deploy renewable energy sources. The former will be laid down in an implementing regulation to be adopted following Article 25, paragraph 5 of Regulation (EU) 2024/1735, while the latter were established in the present Regulation. The two acts aim to achieve the same goal to increase the environmental sustainability of net-zero technologies and reducing their impact on the environment. However, the approach of the two Regulations and their content differ in order to take into account (i) the difference in the procedures pertaining to public procurement and auctions to deploy renewable energy sources; (ii) the different scope in terms of net-zero technologies covered; (iii) and the difference in the type of authorities that are in charge of these different procedures and in the volumes that are deployed through them.

(14) The carbon footprint of renewable energy technologies is one of the relevant criteria that Member States' relevant authorities can introduce in auctions to assess their contribution to environmental sustainability. For this criterion to be objective, transparent and non-discriminatory, the carbon footprint of the net-zero technology should be measured and assessed on a life cycle basis. It is also appropriate to harmonise the methods for assessing life cycle carbon footprints in order to reduce margins for assumptions and improve the comparability of results, which is necessary to enable an effective contribution to environmental sustainability. When Union law provides a method for assessing the carbon footprint of a given net-zero technology, Member States should use it in their national auctions for the deployment of energy from renewable energy using that technology.

(15) In order to improve the comparability of results when using carbon footprint as a criterion in auctions, it is necessary to further specify design parameters for that criterion, notably in terms of methodology and quality requirements of data.

(16) The Environmental Footprint method ([11]) empowers bidders to measure and communicate their environmental performance and enables them to compete during the auctions based on reliable environmental information. The Environmental Footprint methods provide detailed instructions on how to model and calculate the environmental impact of products and organisations, building on existing, internationally accepted practices, indicators and rules.

(17) Whenever possible, the use of real data should be prioritised by bidders and relevant national authorities. Where a default value is used in the carbon footprint methodology and bidders assert that the default value does not reflect the reality of their project, the assessment should allow the bidder to demonstrate their actual emissions.

([11]) Commission Recommendation (EU) 2021/2279 of 15 December 2021 on the use of the Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 471, 30.12.2021, p. 1, ELI: http://data.europa.eu/eli/reco/2021/2279/oj)

(18) Transitioning to a circular economy is a key element of the European Green Deal, as set out in the circular economy action plan ([12]).

(19) Auctions for net-zero technologies can contribute to this transition by setting pre-qualification criteria or award criteria related to circularity. If authorities decide to do so, they should set criteria on recyclability, ease of repair and maintenance or ease of upgrading, reuse, remanufacturing and refurbishment of products, or on the use or content of recycled materials, including critical raw materials, referring to one or more relevant product parameters set out in Annex I to Regulation (EU) 2024/1781 of the European Parliament and of the Council ([13]).

(20) Biodiversity loss and ecosystem collapse are among the biggest threats facing humanity. The Union has put in place legal frameworks, strategies and action plans to protect nature and restore habitats and species, such as the Biodiversity Strategy for 2030 ([14]) and Regulation (EU) 2024/1991 of the European Parliament and of the Council ([15]). Climate breakdown induces the loss of biodiversity globally and biodiversity loss aggravates climate change, they are thus inextricably linked, as recent studies have confirmed. Biodiversity and healthy ecosystems are fundamental to climate-resilient development.

(21) Net-zero technologies can have negative and positive impacts on biodiversity. It is appropriate to design criteria in auctions that help maintain the diversity of species, ecosystems and their reproductive capacity. Negative impacts are mostly local and can include habitat loss or deterioration as well as disturbance of species, including through noise and collisions. Positive impacts can include climate change mitigation, reductions in air pollution and landscape interventions that benefit wildlife. Pre-qualification or award criteria, or both, that address biodiversity impact have the potential to promote synergies between net-zero technologies and biodiversity. Transparent monitoring of the impact of projects on biodiversity should be done throughout the lifetime of a project and adaptive measures be taken where necessary.

(22) Where the relevant authorities include the biodiversity impact of net-zero technologies as an award criterion, the criterion should require net-positive contributions to biodiversity. Examples of measures that address net-positive contributions to biodiversity could include restoration or re-establishment of habitats, measures to improve the habitats of species and increase their populations or measures to reduce pressure from other activities on the environment.

(23) Energy efficiency is crucial for the achievement of the Union's ambitious goals for the reduction of greenhouse gas emissions by at least 55% by 2030 compared to 1990, as set out in the Fit for 55 package. In addition, energy efficiency also constitutes a key

([12]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A new Circular Economy Action Plan For a cleaner and more competitive Europe, COM/2020/98 final.

([13]) Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC (OJ L, 2024/1781, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1781/oj).

([14]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – EU Biodiversity Strategy for 2030, Bringing nature back into our lives, COM/2020/380 final.

([15]) Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869 (OJ L, 2024/1991, 29.7.2024, ELI: http://data.europa.eu/eli/reg/2024/1991/oj).

factor in decreasing energy prices and improving the resilience of the Union's supply of energy, thereby enabling both a just and safe green transition.

(24) Auctions can contribute towards energy efficiency by including, at the stage of assessment of the sustainability contribution, pre-qualification or award criteria that identify the products whose energy efficiency will be assessed and, for each product, the applicable assessment methodology. The criteria should be set, where applicable, in accordance with Article 7(2) of Regulation (EU) 2017/1369 of the European Parliament and of the Council ([16]) or the energy efficiency benchmarks specified in the implementing measures adopted under Directive 2009/125/EC of the European Parliament and of the Council ([17]).

(25) Sustainable water management is important for the Union's resilience, and structural mismanagement of water has resulted in the degradation and pollution of this finite resource and of water-related ecosystems. Directive 2000/60/EC of the European Parliament and of the Council ([18]) established an integrated model for water quality management, and the Union's water policy aims to provide Europeans with access to good quality and sufficient water, guarantee the good status of all water bodies across Europe as well as secure sufficient, balanced and equitable water availability for all water using sectors, including industry. Some net-zero technologies have an impact on water during their use phase by using water or discharging waste water into water bodies. It may therefore be relevant to design water-related non-price environmental sustainability criteria in auctions for such technologies.

(26) The reduction of pollution is another key element of the European Green Deal, as set out in the Zero Pollution Action Plan. The plan sets out the target of reducing air, water and soil pollution to levels no longer considered harmful to health and natural ecosystems and that respect the boundaries our planet can cope with. Auctions for net-zero technologies can help reduce pollutants by setting pre-qualification criteria or award criteria on pollution levels. If the relevant authorities decide to use such criteria, relevant methodologies, thresholds and compliance mechanisms should be defined in accordance with and based on Union law, where available, and taking into account as applicable the criteria laid down in Appendix C to Commission Delegated Regulation (EU) 2023/2486 ([19]).

([16]) Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1, ELI: http://data.europa.eu/eli/reg/2017/1369/oj).

([17]) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (recast) (OJ L 285, 31.10.2009, p. 10, ELI: http://data.europa.eu/eli/dir/2009/125/oj).

([18]) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1., ELI: http://data.europa.eu/eli/dir/2000/60/oj)

([19]) Commission Delegated Regulation (EU) 2023/2486 of 27 June 2023 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to the sustainable use and protection of water and marine resources, to the transition to a circular economy, to pollution prevention and control, or to the protection and restoration of biodiversity and ecosystems and for determining whether that economic activity causes no significant harm to any of the other environmental objectives and amending Commission Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities (OJ L, 2023/2486, 21.11.2023, ELI: http://data.europa.eu/eli/reg_del/2023/2486/oj).

(27) Innovation is key to competitiveness, economic growth and the fast deployment of renewable energy. Directive (EU) 2018/2001 seeks to promote innovation in renewable energy deployment by setting an indicative target for innovative renewable energy technology of at least 5% of newly installed renewable energy capacity by 2030. The integration of innovation criteria into auction design should promote the development of entirely new solutions or the improvement of solutions that go beyond the state-of-the-art. This will create a robust framework that drives the adoption of cutting-edge technologies, ensuring a sustainable and competitive path towards climate neutrality.

(28) When using innovation as a pre-qualification or award criterion in auctions, it is appropriate to distinguish between two types of auctions. First, the most common types of auctions are those that do not specifically focus on innovation as the main driver for the auction, but whose main objective is the deployment of renewable energy sources. While these auctions do not aim to promote innovation per se, certain elements that reward innovation can be added in the auction design as award or pre-qualification criteria. A second smaller subset of auctions can be referred to as pure innovation auctions, whose main objective is the promotion of innovation linked to the future deployment of renewable energy sources, such as wave, tidal energy projects or kite-borne wind turbine projects.

(29) In both types of auctions where innovation is included as pre-qualification or award criterion, the relevant authorities should always assess the candidate projects contribution to a minimum level of improvement in key performance indicators to ensure that the project delivers solutions, technologies or improvements that go beyond the state of the art already available on the market and relative to the subject of the auction. The choice of the key performance indicators against which innovation will be compared to state-of-the-art solutions and technologies depends on the public policy objective pursued by Member States. This can include, for example, key performance indicators measuring improvements in the energy generation efficiency of the technology, recyclability, flexibility of the solution or technology to promote energy system integration, lower dependency on raw materials, longevity of the technology, lower environmental impact or other key performance indicators depending on the specific public objective pursued by the inclusion of the innovation non-price criterion.

(30) In pure innovation auctions, the introduction of pre-qualification criteria to assess innovation should also take into account the maturity of the proposed solutions or technologies in order to guarantee that the candidate project meets the tender objectives and the proposed innovations are not at such an early stage of development that they will not materialise. For auctions that do not focus specifically on innovation, the relevant authorities should also be allowed to require a certain level of maturity of the bidding projects in order to avoid receiving offers at very early stages of development that are unlikely to fulfil the objectives of the auction.

(31) Knowledge dissemination of the latest innovative developments is essential to further spur innovation, in particular for pure innovation auctions. Member States' relevant authorities should include as a pre-qualification or award criteria the need to disseminate the results of the winning project through conferences, publication, open access repositories or free/open-source software and whenever relevant operational data provided adequate confidentiality measures are put in place. Similarly, they should require the winning bid to commit to, on a timely basis, making available licences for research results of aided research and development projects, which are

protected by intellectual property rights, at a market price and on a non-exclusive and non-discriminatory basis for use by interested parties in the EEA. For auctions that do not focus specifically on innovation, Member States' relevant authorities should be allowed to include as pre-qualification or award criteria these type of knowledge dissemination requirements.

(32) With the introduction of new variable renewable energy installations, the electricity system faces specific challenges such as the need to address grid congestion issues while maintaining grid stability. These needs are typically addressed through redispatching and other solutions that entail a cost for the system. The introduction of energy system integration as a non-price criterion in renewable energy auctions can alleviate these system costs by addressing the impact on the system of operating the renewable energy project. Nevertheless, energy system needs cannot be addressed only through non-price criteria in renewable energy auctions and require systemic solutions, including regulatory aspects, market signals or network tariffs.

(33) Non-price criteria for energy system integration should be designed in a way that allows all technologies and solutions that can help address the identified system needs to participate. If duly justified on the basis of the identified system needs or allowed in Union legislation, auctions should also focus on one or more technologies or solutions. These technologies or solutions could be included in the investments envisaged in the bidding project or sourced through a contract with a third party as long as they constitute a new investment. This possibility will allow bidders to select the most cost-effective solutions. Assessing the contribution to a system need of different technologies and solutions may require modelling tools that allow authorities to estimate the impact on the energy system of scenarios with and without the bidding project in an objective and non-discriminatory manner. Alternative approaches could focus either on objective and verifiable variables that serve as proxies for general system needs or as proxies for the contribution of specific technologies. However, these alternative approaches run the risk of underestimating the potential impact of the candidate project on the system.

(34) When including energy system integration as a criterion in their auction design, the relevant authorities should assess the contribution of bidding projects to system needs, based on three key parameters. First, the authorities should check the contribution of bidding projects to electricity system needs from a temporal perspective. Variations in renewable generation and electricity demand can lead to grid imbalances at any given time. These imbalances can be addressed through a wide range of solutions, including energy storage and demand response. In the framework of auctions for the deployment of energy from renewable sources, the use of assets that allow modulating generation, grid feed-in or consumption of the bidding projects contributes to addressing system needs by providing temporal flexibility. This can be achieved for instance through the combination of several renewable generation technologies, the combination of generation assets and electricity storage assets or the combination of generation assets and demand assets or solutions that can increase or reduce electricity demand when required.

(35) Second, the relevant authorities should check the bidding project's contribution to establishing connections across energy carriers by transferring renewable energy from one energy carrier to another through energy conversion assets, as this is one of the key dimensions of energy system integration. Connections across energy carriers refer in particular to the conversion of renewable electricity into a different energy carrier, such as heat or hydrogen, for consumption in a demand sector that does not directly

consume electricity. In this way, the gradual decarbonisation of the electricity system to which the bidding project contributes can enable the decarbonisation of demand sectors that do not use electricity, such as heat in some residential or industrial buildings or hydrogen in some industrial processes. Connections across energy carriers therefore contribute to the energy system's needs for achieving decarbonisation when it is the most cost-efficient pathway. In addition, energy conversion assets that establish these connections across energy carriers, such as electrolysers or heat generation and storage facilities, also help address temporal flexibility needs in the electricity sector.

(36) Third, the relevant authorities should check the bidding project's contribution to electricity system needs from a locational perspective. Interaction between grid topology and the location of generation and consumption assets often leads to grid congestion issues and lower use of renewable energy. An optimal location of new renewable energy generation projects and of the grid connection point can therefore help alleviate grid congestion issues and is of crucial importance for electricity system needs. Auctions can therefore limit participation to projects located in predefined areas where they can help reduce grid congestion or attribute points to bidding projects on the basis of their locational impact.

(37) To ensure the effectiveness of the criteria specified in this Regulation in renewable energy auctions, Member States' relevant authorities should lay down a methodology for assessing the non-price criteria specified in this Regulation, introduce appropriate monitoring mechanisms and guarantees to ensure compliance with such criteria and appropriate penalties in case of non-compliance. These guarantees and penalties should be set at a level that balances the need to ensure competitive bidding while dissuading companies from bidding without a firm intention of realising the project and meeting the project specifications. The level of guarantees and penalties should be designed in such a way that it will be more costly for the bidders not to meet the auction specifications than to bear the cost and not meet them.

(38) For some criteria, it may be necessary to demonstrate compliance throughout the lifetime of the project, for instance the contribution to energy system integration, cybersecurity or environmental sustainability may require permanent monitoring. It is appropriate to introduce harmonised rules on the timing of the verification of such compliance. All bidders in an auction should commit themselves to complying with all auction requirements and specifications included in their offer when they submit their bid. Demonstration of actual compliance with the requirements resulting from the different non-price criteria and other auction requirements can take place at different points in time, which should be defined by Member States' relevant authorities where relevant.

(39) Bidders should provide specific documentation to prove compliance with certain non-price criteria. To prove compliance with the pre-qualification criteria on responsible business conduct in auctions for renewable energy sources, Member States' relevant authorities should require third-party assured statements on due diligence. To demonstrate effective implementation of cybersecurity risk management measures, the bidder should submit a cybersecurity plan and update it on a regular basis. Where relevant, authorities may require bidders and their suppliers to undergo regular security audits carried out by independent third parties and present the results of these audits on a regular basis.

(40) This Regulation is without prejudice to Article 4 of Directive (EU) 2018/2001 and Articles 107 and 108 Treaty on the Functioning of the European Union, and to the Union's international obligations. Member States' relevant authorities should introduce pre-qualification or award criteria in auctions for the deployment of energy from renewable sources in accordance with the Union's international obligations and in compliance with the relevant requirement for the imposition of restrictive measures on grounds of security and public order. Such criteria should also comply with and not go beyond Union law and be consistent with commitments made under trade and investment agreements to which the Union or Member States are parties and trade and investment arrangements to which the Union or Member State adhere.

(41) The measures provided for in this Regulation are in accordance with the opinion of the Energy Union Committee,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject matter, definitions and general principles

Article 1
Subject matter

1. This Regulation lays down specifications for the criteria laid down in Article 26 of Regulation (EU) 2024/1735.

Article 2
Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) 'due diligence' means a process whereby companies identify, prevent, mitigate and account for how they address the environmental and social negative impacts resulting from their business activities related to the auction; these include negative impacts connected with the company's own operations and its upstream and downstream value chain, including through its products or services, as well as through its business relationships;

(2) 'network and information system' means network and information systems as defined in Article 6, point 1 of Directive (EU) 2022/2555;

(3) 'security of network and information systems' means security of network and information systems as defined in Article 6, point (2) of Directive (EU) 2022/2555;

(4) 'operational control' means the authority to introduce and implement operating policies that govern day-to-day activities, processes and resources to ensure the smooth functioning of an installation, and in particular of its network and information systems;

(5) 'Assembling' of a PV module means the integration and interconnection of a series of PV cells or equivalent components as listed in Implementing Regulation […] into a single unit.

(6) 'carbon footprint' means the sum of greenhouse gas emissions and greenhouse gas removals in a product system, considering all relevant activities within the spatial and temporal boundary of the system, expressed as carbon dioxide equivalents

assessed based on 100-year time horizon global warming potentials and calculated based on a life cycle assessment study using the single impact category of climate change;

(7) 'circular economy' means an economic system whereby the value of products, materials and other resources in the economy is maintained for as long as possible, enhancing their efficient use in production and consumption, thereby reducing the environmental impact of their use, minimising waste and the release of hazardous substances at all stages of their life cycle, including through the application of the waste hierarchy;

(8) 'biodiversity impact' means any change in biodiversity such as in the abundance or distribution of species or distribution, structure and functions of habitats and ecosystems as a direct or indirect effect of net-zero technologies along their life cycle;

(9) 'energy efficiency' means the ratio of output of energy in proportion to the input of energy in the case of energy-generating products and the conversion efficiency as the ratio of the output of energy in proportion to the input of energy in the case of energy-converting and energy storage products;

(10) 'pollution' means pollution as defined in Article 3, point (2) of Directive 2010/75/EU([20]) and, for water-related pollution, as defined in Article 2(33) of Directive 2000/60/EC[21];

(11) 'temporal flexibility' means the ability of market participants to adapt generation, grid feed-in and consumption patterns to contribute to system needs across the relevant time frames, generally by reacting to market signals, in particular in the electricity sector;

(12) 'locational impact' means the ability of market participants to help address the needs of the electricity system based on the selection of the site and the grid connection point;

(13) 'connection across energy carriers' means the ability of market participants to transfer energy from one energy carrier to another through energy conversion assets.

Article 3

General principles

Non-price criteria in auctions pursuant to Article 26(1) of Regulation (EU) 2024/1735 shall comply with the following general principles:

a) they shall be defined and evaluated in an objective, transparent and non-discriminatory manner, taking into account the potential contribution of each technology to the policy objectives pursued;

([20]) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (recast), OJ L 334, 17.12.2010, p. 17.

([21]) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1, ELI: http://data.europa.eu/eli/dir/2000/60/oj)

b) they shall reflect the market maturity of the technologies addressed and shall be designed by involving relevant interested market participants, including developers, manufacturers, civil society and experts, in the different non-price criteria included in the auction;

c) they shall contribute to the rapid, efficient and sustainable deployment of renewable energy in a competitive manner, attract private investment and provide benefits such as investment certainty;

d) they shall ensure a competitive bidding process and avoid creating insurmountable and unjustified entry barriers and disproportionate costs, while dissuading companies without a firm intention of realising the project and meeting the project specifications from bidding;

e) they shall be applied in accordance with Union law and the commitments of the Union pursuant to international trade and investment agreements;

f) they shall use assessment methods provided for in Union legislation for that net-zero technology, where available.

CHAPTER II

Mandatory pre-qualification criteria

Article 4
Responsible business conduct

1. Pre-qualification criteria related to responsible business conduct shall require bidders to comply, in their business activities related to the auction, with the core elements of due diligence set out in each of the sub-points of point 61(a) to (e) of Annex I to Delegated Regulation (EU) 2023/2772 ([22]).

2. The relevant authorities shall require bidders to publicly communicate on their responsible business conduct by means of a public statement that covers at least the parameters listed under point 61(a) to (e) of Annex I to Delegated Regulation (EU) 2023/2772

3. Bidders that qualify as micro, small and medium-sized enterprises as defined in Article 3(1)(2) and (3) of Directive 2013/34/EU of the European Parliament and of the Council ([23]) and as renewable energy communities as defined in Article 2(16) of Directive (EU) 2018/2001 ([24]) shall only be required to report, in their business

([22]) Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards, OJ L, 2023/2772, 22.12.2023.

([23]) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19, ELI: http://data.europa.eu/eli/dir/2013/34/oj).

([24]) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast), OJ L 328 21.12.2018, p. 82.

activities related to the auction, on the core elements of due diligence set out in point 61 (c) and (d) of Annex I to Delegated Regulation (EU) 2023/2772 and shall not be required to comply with those core elements or with paragraph 2 of this Article.

Article 5

Cybersecurity and data security (pre-qualification criteria)

1. Pre-qualification criteria related to cybersecurity and data security shall require bidders to:

   a) take appropriate and proportionate technical, operational and organisational measures that reflect the principles of security by design and by default to ensure the security of the renewable energy installation's network and information systems including, where relevant, measures listed in Article 21(2) of Directive (EU) 2022/2555 ([25]);

   b) where the bidder is subject to the jurisdiction of a third country requiring the bidder to report information on software or hardware vulnerabilities to authorities of that third country prior to their being known to be exploited or where, according to a public statement on behalf of the Union or its Member States, threat actors operating out of the territory of that third country have carried out malicious cyber activities or campaigns, present a cybersecurity plan outlining how the bidder guarantees the security of the installation and of the overall system and more specifically take the necessary technical, operational and organisational measures to ensure that data used for or generated in their business activities related to the auction are stored in and not transferred outside the European Economic Area.

   c) ensure and demonstrate, where the bidder relies on suppliers for the supply of ICT products used in the renewable energy installation or ICT services related to its operation, that the suppliers take the measures referred to in points a) and b);

   d) ensure that an operator established in the European Economic Area maintains operational control of the installation.

Article 6

Ability to deliver the project fully and on time

1. Pre-qualification criteria related to the ability to deliver the project fully and on time shall require bidders to provide the following:

   a) documentation to identify the bidder or bidders in the case of a bidding consortium;

([25]) Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148, OJ L 333, 27.12.2022, p. 80–152.

b) documentation showing compliance with the applicable laws, including any relevant permits that are required to build and operate the project;

c) documentation on the company's financial and economic situation proving their financial capability to complete the project and face potential liabilities rather than filing for bankruptcy or avoiding facing these liabilities through other means, such as requirements on minimum net worth or long-term debt ratings;

d) a description of the project in accordance with the requirements included in the auction specifications;

e) information about service providers, suppliers and any other contractors relevant to the project, such as the manufacturer of the renewable energy equipment;

f) evidence of the technical feasibility, knowledge and experience to complete the project, including evidence of past experience in completing similar projects;

g) a timetable for the construction and operation of the project, including the dates of all relevant intermediate steps leading to project completion.

2. The requirements in paragraph 1 of this article shall be modulated depending on the project costs, the project risks, the project capacity, the maturity of the technology, the degree of innovation required by the auction and other relevant market conditions.

CHAPTER III

Resilience contribution

Article 7
Resilience contribution

1. Where the Commission, at the time of the publication of an auction within the scope of Article 26 of Regulation (EU) 2024/1735, has determined in accordance with Article 29(2) of that Regulation that more than 50% of the supply within the Union of the net-zero technologies listed in points (a) to (f) of this subparagraph originates in a single third country, or that the supply within the Union of the net-zero technologies listed in points (a) to (f) of this subparagraph originating in a single third country has increased by at least 10 percentage points on average for two consecutive years and reaches at least 40% of the supply within the Union, the relevant authorities shall allow participation in the auction or award points only to bids that fulfil the following requirements:

a. for PV technologies, net-zero technologies that are part of the bid shall not contain the final product listed in Implementing Regulation […] assembled in that third country and more than four main specific components listed in Implementing Regulation […] originating in that third country. The PV inverters shall not originate and the PV modules shall not be assembled in that third country.

b. for onshore wind technologies, net-zero technologies that are part of the bid shall not contain the final product and more than three main specific components listed in Implementing Regulation […] originating in that third

country. Direct drive generator and gearbox drivetrain shall not originate in that third country.

c. for offshore wind technologies, net-zero technologies that are part of the bid shall not contain the final product and more than four main specific components listed in Implementing Regulation […] originating in that third country. Direct drive generator and gearbox drivetrain shall not originate in that third country.

d. for electrolysers, net-zero technologies that are part of the bid shall not contain the final product and more than two main specific components listed in Implementing Regulation […] originating in that third country. The stack shall not originate in that third country.

e. for heat pump technologies, net-zero technologies that are part of the bid shall not contain the final product and more than one main specific component listed in Implementing Regulation […] originating in that third country.

f. for all the net-zero technologies falling under the scope of Article 26 of Regulation (EU) 2024/1735 other than those listed in points (a) to (e), net-zero technologies that are part of the bid shall not contain the final product listed in Implementing Regulation […] originating in that third country.

Where the Commission, at the time of the publication of the relevant auction, has determined in accordance with Article 29(2) of Regulation (EU) 2024/1735 that, in addition to the conditions mentioned in the first subparagraph, more than 85% of the supply within the Union of one or more main specific components originate in a single third country, Member States shall limit participation in the auction or award points only to bids using, for at least one of those main specific components, no more than 85% of that component measured in terms of number originating in that third country.

2. Where the Commission, at the time of the publication of the relevant auction has not determined in accordance with Article 29(2) of Regulation (EU) 2024/1735 that more than 50% of the supply of a specific net-zero technology, or more than 40% with two consecutive years of increase by at least 10 percentage points on average, but has determined that more than 50% of the supply of one or more main specific components of that net-zero technology within the Union originates in a single third country or the supply within the Union of one or more main specific components of that net-zero technology originating in a single third country has increased by at least 10 percentage points on average for two consecutive years and reaches at least 40% of the supply within the Union, the relevant authorities shall limit participation in the auction or award points only to bids using no more than 50% in terms of number of components of those main specific components included in the net-zero technologies that are part of the bid originating in that third country.

Where more than 85% of the supply of one or more main specific components of a net-zero technology within the Union originates in a single third country, the relevant authorities may limit participation in the auction or award points to bids using up to 85% in terms of number of components of those main specific components originating in that third country.

3. For onshore wind technologies, offshore wind technologies and electrolysers, even where the Commission, at the time of the publication of the auctions, has not determined in accordance with Article 29(2) of Regulation (EU) 2024/1735 that

more than 50% of the supply within the Union of a specific net-zero technology, or more than 40% with two consecutive years of increase by at least 10 percentage points on average, originates in a single third country, the relevant authorities shall apply the resilience criterion by allowing participation in the auction or award points only to bids for which at least 75% of the net-zero technologies that are part of the bid fulfil the requirements set in paragraph 1, letters (b) to (d), and paragraph 2, with respect to final products and main specific components originating or assembled in the People's Republic of China.

CHAPTER IV

Sustainability contribution

Article 8

Environmental sustainability – carbon footprint

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of a carbon footprint criterion, the relevant authorities shall include a pre-qualification or award criterion or a combination of both and indicate the net-zero technologies (among the ones listed in Article 1(2)) whose carbon footprint has to be assessed and, for each net-zero technology, the applicable carbon footprint assessment methodology.

2. Bidders shall be required to calculate the carbon footprint using life cycle assessment methods provided for in Union law that specifically addresses the net-zero technologies at stake, where available.

3. If Union legislation does not provide for a carbon footprint assessment method relevant to the specific net-zero technology, bidders shall be required to calculate the carbon footprint using the latest Product Environmental Footprint Category Rules developed in collaboration with the Commission in accordance with Recommendation (EU) 2021/2279.

4. If no Product Environmental Footprint Category Rules are available, bidders shall be required to calculate the carbon footprint using the latest version of the Product Environmental Footprint method, in accordance with Recommendation (EU) 2021/2279.

5. If there is no Environmental Footprint-compliant data, bidders shall be allowed to apply adaptations to the Product Environmental Footprint method by making reference to other data sets, provided that the following conditions are met:

   (a) those data sets are compliant with the International Reference Life Cycle Data system format referred to in Section 4 of Annex 1 to Recommendation (EU) 2021/2279, regardless of the methods used to obtain the life cycle impact assessment results or emission factors;

   (b) the nomenclature of the elementary flows is consistently aligned with the Environmental Footprint reference package used in the rest of the model.

   If the Product Environmental Footprint method cannot be applied and alternative data sets to Environmental Footprint-compliant data cannot be used, the relevant

authorities shall require bidders to use the relevant latest version of standard ISO 14067:2018 as appropriate.

The relevant authorities shall define and publish functional units, system boundaries and assumptions used to calculate the carbon footprint and oblige the bidders to report their calculations in a transparent manner. If not specified in the methodology used, national authorities shall define and disclose modelling and data quality requirements for primary data, secondary data and databases used. The relevant authorities shall require the use of consistent and representative data.

6. For carbon footprint methodologies not covered by paragraph 2 of this article, the carbon footprint assessment shall at least cover greenhouse gas emissions due to the following life cycle phases of the relevant net-zero technologies:

   (i) extracting, producing, processing and transporting resources;

   (ii) manufacturing processes;

   (iii) electricity/energy used for those processes;

   (iv) transport of the components and final product;

   (v) installation, operation and maintenance;

   (vi) decommissioning and end of life.

7. For carbon footprint methodologies not covered by paragraph 2, bidders shall be allowed to demonstrate their actual emissions for the purpose of calculating the carbon footprint of their project participating in the auction, instead of using a default value.

Article 9

Environmental sustainability – circular economy

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of circular economy criteria, as pre-qualification criteria or award criteria or a combination of both, the relevant authorities shall take into account the contribution of the projects participating in the auction to one or more of the following parameters, provided they constitute a substantial part of the environmental impact of the product:

   – Recyclability of products, referring to one or more relevant product parameters as set out in point d) of Annex I to Regulation (EU) 2024/1781;

   – ease of repair and maintenance or ease of upgrading, reuse, remanufacturing and refurbishment of products, referring to one or more relevant product parameters as set out in points b), c) and e) of Annex I to Regulation (EU) 2024/1781;

   – use or content of recycled materials in products, including critical raw materials.

2. In defining circular economy criteria referred to in paragraph 1, the relevant authorities shall make use of methods provided for in Union legislation specifically addressing the net-zero technologies in the scope of this implementing regulation, where available. If no such methods are provided or referred to in Union legislation, the relevant authorities shall use methods set out in international standards.

Article 10

Environmental sustainability – biodiversity impact

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of criteria related to the biodiversity impact of the operation of the net-zero technologies, the relevant authorities shall include pre-qualification criteria or award criteria or a combination of both to assess the project's contribution to improving the biodiversity impact of net-zero technologies during their installation, operation and decommissioning phases as laid down in paragraphs 2 and 3.

2. Where the relevant authorities include the biodiversity impact of net-zero technologies as a pre-qualification criterion, the criterion shall include the following elements:

    a) the presence of a system to monitor the positive and negative biodiversity impacts of the installation during the installation, operation and decommissioning phase.

    b) A commitment to implement adaptative solutions to mitigate potential negative impacts on biodiversity as identified under environmental assessments performed if relevant pursuant to Directive 2011/92/EU of the European Parliament and of the Council ([26]) and/ or Council Directive 92/43/EEC ([27]) and under point a) of this paragraph and ensure the effectiveness of solutions to contribute positively to biodiversity if such solutions are deployed.

    The system referred to in point (a) of the first subparagraph shall monitor the impacts on land, above land, in soils, in water, at the sea floor, above the sea floor, above the sea surface, including noise and pollution, as relevant with a view to the technology at stake.

    The data and information collected by the system referred to in point (a) of the first subparagraph shall be shared at least with the scientific community and public authorities unless it is commercially sensitive information.

3. Where the relevant authorities include the biodiversity impact of net-zero technologies as an award criterion, the criterion shall require net-positive contributions to biodiversity[28], when identified as relevant by the public authority, in one or several of the following areas:

    a) the conservation of habitats or species, or both, under Council Directive 92/43/EEC ([29]);

([26]) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1, ELI: http://data.europa.eu/eli/dir/2011/92/oj).

([27]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: http://data.europa.eu/eli/dir/1992/43/oj).

([28]) Net-positive contributions to biodiversity are additional conservation/restoration outcomes beyond offsetting measures, i.e. measures designed to compensate for residual, unavoidable, adverse biodiversity impacts arising from the project after appropriate prevention and mitigation measures have been taken.

([29]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: http://data.europa.eu/eli/dir/1992/43/oj).

b) the conservation of wild birds, including their habitats, under Directive 2009/147/EC of the European Parliament and of the Council ([30]);

c) the restoration of ecosystems under Regulation (EU) 2024/1991;

d) for offshore installations, the achievement of good environmental status under Directive 2008/56/EC of the European Parliament and of the Council ([31]);

e) the achievement of good water status under Directive 2000/60/EC.

The measures to fulfil this criterion may take place onsite or offsite.

Article 11

Environmental sustainability – energy efficiency

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of energy efficiency criteria, the relevant authorities shall include a pre-qualification or award criterion or a combination of both that identifies the products whose energy efficiency is assessed and, for each product, the applicable assessment methodology. Energy efficiency shall be measured and assessed based on the methods for the product concerned provided for in Union legislation, where available.

2. Where a product is covered by a delegated act adopted under Regulation (EU) 2017/1369, Directive 2010/30/EU of the European Parliament and of the Council ([32]) or by a related Commission implementing act, the criterion referred to in paragraph 1 shall comply with the criterion laid down in Article 7(2) of that Regulation (EU) 2017/1369.

3. Where a product not covered under paragraph 2 is covered by an implementing measure under Directive 2009/125/EC, the criterion shall refer to products that comply with energy efficiency benchmarks specified in that implementing measure.

4. Where a product is not covered under paragraph 2 or 3, energy efficiency shall be measured and assessed based on other methods provided for in Union legislation, where available.

5. Where Union legislation does not provide for relevant methods and paragraph 4 does not apply, energy efficiency shall be measured and assessed based on international standards.

Article 12

Environmental sustainability – efficient water use and solutions avoiding water pollution

(30) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7, ELI: http://data.europa.eu/eli/dir/2009/147/oj).

(31) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19, ELI: http://data.europa.eu/eli/dir/2008/56/oj).

(32) Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (OJ L 153, 18.6.2010, p. 1, ELI: http://data.europa.eu/eli/dir/2010/30/oj).

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of water-related criteria, the relevant authorities shall include pre-qualification criteria or award criteria or a combination of both to assess the project operation's contribution to preserving and, where applicable, improving the status of water bodies.

2. Where the relevant authorities include the water-related impact of net-zero technologies as a pre-qualification criterion, the criterion shall include the following elements:

   a) the presence of a system to monitor the positive and negative impacts on water of the installation;

   b) the commitment to implementing adaptative solutions to avoid negative impacts on water status and ensure the effectiveness of solutions to generate positive impacts, where applicable, and contribute to preserve or achieve good water status as demonstrated by the monitoring system referred to in point a);

3. Where the relevant authorities include the water-related impact of net-zero technologies as an award criterion, the criterion shall require positive contributions to achieve or maintain good water quality and quantity under Directive 2000/60/EC.

Article 13

Environmental sustainability – pollution

When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of pollution-related criteria, the relevant authorities shall include pre-qualification criteria or award criteria or a combination of both to assess the project's contribution to reducing pollution other than from greenhouse gases during installation and operation. Relevant methodologies, thresholds and compliance mechanisms shall be defined in accordance with and based on Union law, if available, and taking into account as applicable the criteria laid down in Appendix C to Delegated Regulation (EU) 2023/2486.

Article 14

Sustainability contribution: innovation

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of innovation criteria, the relevant authorities shall distinguish, where relevant, between:

   a) pure innovation auctions specifically focused on the promotion of new technologies or solutions and

   b) auctions that do not specifically focus on innovation as the main driver for the auction.

   In both types of auctions, the use of innovation pre-qualification or award criteria shall introduce a requirement for all projects to meet a minimum level of improvement in key performance indicators which goes beyond the state of the art of technologies and solutions that are already on the market and relative to the subject matter of the auction they are participating in.

2. In addition to the requirements in paragraph 1, second subparagraph, the contribution of auctions referred to in point (a) of paragraph 1 to innovation by means of pre-

qualification criteria shall be assessed by introducing a requirement for all projects to have a certain level of maturity. For this type of auctions, the relevant authorities shall include additional requirements pertaining to knowledge dissemination practices of innovative project results or licensing practices for research results and development projects, which are protected by intellectual property rights at a market price and on non-exclusive and non-discriminatory basis for use by interested parties in the EEA.

3. In addition to the requirements in paragraph 1, second subparagraph, the contribution of auctions referred to in point (b) of paragraph 1 to innovation by means of pre-qualification may be assessed by introducing a requirement for all projects to have a certain level of maturity. For this type of auctions, the relevant authorities may also include additional requirements pertaining to knowledge dissemination practices of innovative project results or licensing practices for further research results and developments projects, which are protected by intellectual property rights at a market price and on non-exclusive and non-discriminatory basis for use by interested parties in the EEA.

4. The level of maturity of the innovation proposed in the auction referred to in paragraphs 2 and 3 shall be assessed, where relevant, by means of credible and established methods such as the reference to a technology readiness level.

Article 15

Sustainability contribution: Energy system integration

1. When assessing the auction's sustainability contribution referred to in Article 26(1), point (b), of Regulation (EU) 2024/1735 by means of energy system integration criteria, the relevant authorities shall take into account the contribution of the participating projects to system needs resulting from their operation, based on temporal flexibility, locational impact and connections across energy carriers, under the conditions laid down in paragraphs 2, 3 and 4.

2. The participating project's temporal flexibility shall be assessed with regard to the solutions proposed, either as new investments or procured through third parties, in particular in the form of a combination of several renewable generation technologies, a combination of generation assets and electricity storage assets, or a combination of generation assets and demand assets or solutions. Unless duly justified, this assessment shall not exclude any technology that can contribute to address the identified system needs.

3. The participating project's locational impact on system needs shall be assessed with regard to the combination of their relevant features, including their temporal generation profile or their generation capacity, and the selection of the site and of the grid connection point.

4. The participating project's ability to creating connections across energy carriers shall be assessed with regard to their capacity to transfer renewable energy from one energy carrier to another, and in particular whether they include a combination of generation assets and energy conversion assets.

CHAPTER V

Assessment and compliance with the criteria

Article 16

Assessment of the auctions' pre-qualification or award criteria and compliance aspects

1. The relevant authorities shall lay down a transparent, objective and non-discriminatory methodology to assess bids against the selected non-price criteria, in particular through a quantitative assessment of the criteria based on a scoring method set up and published in advance of the bidding process. Where a quantitative assessment is not possible, a qualitative assessment of non-price criteria may be provided for if justified by the public policy objectives pursued and if it is designed in a way that mitigates both the administrative burden and the risk of legal challenges. The methodology for the assessment of the bids shall be designed following consultation and collaboration with stakeholders and experts. The scoring for a given aspect may also be set by reference to the highest bidder for that particular non-price criterion when the relevant authorities do not have enough information to set the scoring upfront. In that case, measures shall be put in place to limit strategic bidding.

2. All bidders to the auction shall, at the moment of the bid, commit to complying with the auction requirements and specifications included in their offer. The relevant authorities shall decide at which point in time bidders are required to demonstrate compliance with the non-price criteria, which may take place at different points in time throughout the lifetime of the project, as relevant.

3. With the exception of bidders that qualify as micro, small and medium-sized enterprises, as defined in Article 3(1), (2) and (3) of Directive 2013/34/EU of the European Parliament and of the Council, and as renewable energy communities as defined in Article 2(16) of Directive (EU) 2018/2001, compliance with the criteria referred to in Article 4 shall be assessed by requiring bidders to present with their bid relevant supporting statements assured by independent third parties. Bidders subject to sustainability reporting under Directive 2013/34/EU ([33]) may refer to such reports.

4. Compliance with the criteria referred to in Article 5 shall be assessed by requiring bidders to present together with their bid a cybersecurity plan of the bidding project and update it on a regular basis during the implementation of the project.

5. Compliance with the criteria referred to in Article 7 shall be assessed by requiring bidders to provide customs documentation in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council, where available, and other relevant documents demonstrating the origin of the net-zero technology or its main specific components, including invoices or any other means.

6. The relevant authorities using non-price criteria shall put in place appropriate monitoring mechanisms, including appropriate resources, to ensure they are complied with. Member States shall use that information to review the non-price criteria requirements for future renewable energy auctions.

([33]) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.6.2013, p. 19–76.

7. The relevant authorities shall require bidders to submit appropriate guarantees to ensure compliance with the criteria covered by this Regulation set in the auction specifications, such as bid bonds, completion bonds and performance bonds.

8. In setting the level of guarantees referred to in paragraph 7, the relevant authorities shall also take into account considerations such as the project costs, the project risks, the project capacity, the value of this capacity for the energy system, the maturity of the technology, the degree of innovation required by the auction, other relevant market conditions and the nature of the infringement. The level of guarantees shall be sufficiently high to deter bidding strategies from pursuing the non-respect of non-price criteria.

Article 17

Penalties

1. The relevant authorities shall establish penalties for non-compliance with the criteria covered by this Regulation. Those penalties may take different forms, such as lump sum penalties, daily penalties, reductions or the removal of support, or exclusion from participating in future auction rounds.

3. In setting the level of penalties referred to in paragraphs 1, the relevant authorities shall also take into account considerations such as the project costs, the project risks, the project capacity, the value of this capacity for the energy system, the maturity of the technology, the degree of innovation required by the auction, other relevant market conditions and the nature of the infringement. The level of penalties shall be sufficiently high to deter bidding strategies from pursuing the non-respect of non-price criteria.

CHAPTER VI

Final provisions

Article 18

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

On behalf of the President

[Position]