



## **FUELCELL ENERGY, INC.**

### **Corporate Governance Principles**

The Board of Directors (the “Board”) of FuelCell Energy, Inc. (the “Company”) has adopted these principles to provide the framework for the governance and best practices of the Company.

#### **Role of the Board and Board Leadership**

The Board is committed to providing the highest standards of business conduct and integrity in its relationships with employees, customers, suppliers, and stockholders. The business and affairs of the Company are managed by and under the direction of the Board.

The Board and committees of the Board shall regularly engage with senior management to ensure management accountability, review management succession planning, approve the Company’s strategy and mission, execute the Company’s financial and strategic goals, oversee risk management, and review and approve executive compensation.

The Company has separated the roles of Chief Executive Officer (“CEO”) and Chairman of the Board, and the role of Chairman is held by an independent director. The Board believes that this leadership structure adheres to the Company’s commitment to monitor and oversee the Company’s compliance with sound principles of corporate governance, consistent with applicable laws and best practices.

The Company’s President and CEO shall be responsible for the general supervision of the affairs of the Company and carrying out the Company’s strategic goals. The independent Chairman shall serve as the principal representative of the Board and shall preside at all meetings of stockholders and at all meetings of the Board and its committees (except to the extent that such committees have chairs that are responsible for presiding at such meetings).

#### **Board Structure**

##### *Nominations and Voting*

The Environmental, Social, Governance and Nominating Committee recommends the persons to be nominated by the Board for election as Directors at the Annual Meeting of Stockholders and the persons to be elected by the Board to fill any vacancies on the Board.

##### *Size of the Board*

The Board determines the number of Board members provided that there be not fewer than three (3) nor greater than sixteen (16) members, as specified in the Company’s Amended and Restated By-Laws.

*Criteria for Composition of the Board*

The backgrounds and qualifications of the Directors considered as a group should provide a significant breadth of experience, knowledge, and abilities that shall assist the Board in fulfilling its responsibilities.

*Qualifications*

The Environmental, Social, Governance and Nominating Committee shall use the criteria set forth on Exhibit A to the Environmental, Social, Governance and Nominating Committee Charter to guide its selection process for Directors. The Environmental, Social, Governance and Nominating Committee is responsible for reviewing with the Board the requisite skills and criteria for new Board members as well as the composition of the Board as a whole.

*Continuing Education*

The Board shall be regularly updated on corporate governance matters, strategies, operations, and employee matters, as well as external trends and issues that affect the Company. The Company shall provide the Directors with continuing educational programs to provide the Directors with current information pertinent to their roles and service on the Board and Board committees.

*Self-Evaluation*

The Board and each of its committees shall conduct annual self-assessments, the results of which will be evaluated by the Environmental, Social, Governance and Nominating Committee and the full Board to determine whether the Board and its committees are functioning effectively.

Annual individual Director self-assessments shall be evaluated by the Chairman of the Board, who will provide feedback to each Director with valuable constructive comments in a manner designed to promote improved performance.

*Board Meetings*

As a matter of practice, the Board shall have no fewer than four scheduled meetings per year, one of which shall be held immediately after the Annual Meeting of Stockholders. Additional meetings shall be scheduled by the Board as needed.

*Conflicts of Interest*

Directors shall not have any conflicts of interest that would impair their ability to represent the interests of all the Company's stockholders and fulfill their responsibilities as Directors.

*Director Independence*

No less than two-thirds of the Board shall be considered independent directors as such term is defined in Nasdaq Marketplace Rule 5605(a)(2).

*Director Retirement*

No person who has attained the age of 75 years shall ordinarily be qualified for nomination, election, re-election or appointment to the Board. Accordingly, a director, upon attaining such age, shall retire from the Board on the date of the annual stockholder meeting that next follows his or her 75th birthday and not stand for re-election; provided, however, that the Board, on the recommendation of the Environmental, Social, Governance and Nominating Committee, may, for good cause shown, waive this retirement requirement as to any director if it deems such waiver to be in the best interests of the Company.

*Term Limits*

Neither the Board nor the Environmental, Social, Governance and Nominating Committee shall nominate for re-election any director that has completed 12 years of service as a director of the Company on or prior to the date of election to which such nomination relates; provided, however, that the Board, on the recommendation of the Environmental, Social, Governance and Nominating Committee, may exempt a director from this restriction provided that such director has not completed more than 20 years of service as a director of the Company on or prior to the date of election to which such nomination relates.

**Compensation of the Board**

The independent members of the Board shall be entitled to receive such reasonable compensation for attendance at meetings of the Board, for service on committees of the Board, or otherwise as from time to time may be fixed by the Board. The Compensation Committee shall perform periodic reviews of Director compensation.

**Management Succession**

The Company's Compensation Committee is responsible for reviewing the management succession program for the named executive officers and selected executives of the Company.

**Board Committees**

The Board has established the following committees:

- Audit, Finance and Risk Committee
- Compensation Committee
- Executive Committee
- Environmental, Social, Governance and Nominating Committee

The Board may delegate to any committee some or all of its powers except as prohibited by law, the Certificate of Incorporation of the Company, as amended, or the Amended and Restated By-Laws of the Company.

All members of the Environmental, Social, Governance and Nominating, Audit, Finance and Risk, and Compensation Committees are independent directors under the applicable Nasdaq Marketplace Rules.

## **Ethical Integrity**

### *Code of Ethics*

The Company must live by its core values, one of which is integrity. Having integrity means being honest, trustworthy, and truthful. In short, it's "doing the right thing" when conducting Company business. To act with integrity enhances the Company's ability to achieve its vision and business objectives. The Company's Code of Ethics provides a statement of certain fundamental principles and key policies and procedures that govern the conduct of the Company's business.

## **Financial Integrity**

### *Role of Audit, Finance and Risk Committee*

The purpose of the Audit, Finance and Risk Committee, in its capacity as a committee of the Board, is to oversee (i) management's conduct of the Company's financial reporting process, including reviewing the financial reports and other financial information provided by the Company and the Company's systems of internal accounting and financial controls, (ii) the Company's independent auditors' qualifications and independence and the audit and non-audit services provided to the Company, (iii) the performance of the Company's independent auditors, (iv) the qualifications and performance of any firm used to assist with management's assessment of internal controls, (v) the Company's financing proposals and to refer to the Board for approval when appropriate, and (vi) the Company's analysis and mitigation strategies for enterprise and capital markets risk management mitigation strategies and guidelines, reporting any findings or recommendations to the Board.

### *Role of Independent Auditors*

The Company's independent auditors conduct an independent review of the Company's financial reports, in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that the independent auditors plan and perform the audit to obtain reasonable assurance about whether the financial statements of the Company are free of material misstatement.

The choice of independent auditors shall be ratified by the stockholders of the Company at each Annual Meeting of Stockholders.

## **Stockholder Matters**

### *Annual Meeting of Stockholders*

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The Annual Meeting of the Stockholders (the “Annual Meeting”) of the Company shall be held on such date as shall be fixed by the Board, at such time and place within or outside of the State of Delaware as may be designated in the notice of meeting.

*Notice of Meeting*

A written notice stating the place, date, and hour of each meeting of the stockholders, and, in the case of a special meeting, the purposes for which the meeting is called, shall be given to each stockholder entitled to vote at such meeting.

*Voting and Proxies*

Stockholders are entitled to one vote for each share of stock entitled to vote owned by them according to the books of the Company, unless otherwise provided by law or by the Certificate of Incorporation of the Company, as amended. Stockholders may vote either in person or by written proxy.

**Stockholder Communications with Directors**

Stockholders may communicate with the Board, or any of the Company’s individual Directors, by sending their communications to the Board, or to any individual Director, at the following address:

FuelCell Energy, Inc. Board of Directors  
c/o Corporate Secretary  
3 Great Pasture Road  
Danbury, CT 06810

Alternatively, communications can be submitted electronically via the Company website at [www.fuelcellenergy.com](http://www.fuelcellenergy.com).

All stockholder communications received by the Company’s Corporate Secretary will be delivered to one or more members of the Board or, in the case of communications sent to an individual Director, to such Director.

## **Exhibit A**

### **FUELCELL ENERGY, INC.**

#### **Criteria for Nomination as Director**

##### **General Criteria**

1. Nominees should have a reputation for integrity, honesty, and adherence to high ethical standards.
2. Nominees should have demonstrated business acumen, experience, and ability to exercise sound judgments in matters that relate to the current and long-term objectives of the Company and should be willing and able to contribute positively to the decision-making process of the Company.
3. Nominees should have a commitment to understand the Company and its industry and to regularly attend and participate in meetings of the Board and its committees.
4. Nominees should have the interest and ability to understand the sometimes conflicting interests of the various constituencies of the Company, which include stockholders, employees, customers, governmental units, creditors, and the general public, and to act in the interests of all stockholders.
5. Nominees should not have, or appear to have, a conflict of interest that would impair the nominee's ability to represent the interests of all the Company's stockholders and to fulfill the responsibilities of a director.
6. Nominees shall not be discriminated against on the basis of race, religion, national origin, sex, sexual orientation, disability, or any other basis proscribed by law. The value of diversity on the Board should be considered.
7. Nominees should normally be able to serve for at least five years before reaching the age of 70.

##### **Application of Criteria to Existing Directors**

The re-nomination of existing directors should not be viewed as automatic, but should be based on continuing qualification under the criteria set forth above. In addition, the Environmental, Social, Governance and Nominating Committee shall consider the existing directors' performance on the Board and any committees, which shall include consideration of the extent to which the directors

undertook continuing director education.

**Criteria for Composition of the Board**

The backgrounds and qualifications of the directors considered as a group should provide a significant breadth of experience, knowledge, and abilities that shall assist the Board in fulfilling its responsibilities.

Amended December 10, 2021