

## **FUELCELL ENERGY, INC.**

### **Compensation Committee Charter**

#### **A. Purpose**

The Board of Directors (the “Board”) of FuelCell Energy, Inc. (the “Company”) has established the Compensation Committee (the “Committee”) and has adopted this Charter to reflect the Company's commitment to "best practices" and to keep the Board informed of changes in applicable legal and regulatory requirements relating to Committee functions and the Company's compensation and human resource activities.

The Committee is responsible for reviewing and approving all compensation plans, policies and programs of the Company to compensate the executive officers and the independent directors of the Board in a reasonable and cost-effective manner. The Committee's overall objectives are to ensure the attraction and retention of superior talent, to motivate the performance of the Company's executive officers in the achievement of the Company's business objectives and to align the interests of the executive officers and directors with the long-term interests of the Company's shareholders.

#### **B. Composition/Membership**

The Committee shall consist of no less than three independent members of the Board. The Board, upon recommendation from the Company's Nominating and Corporate Governance Committee, shall elect the chairman and other members of the Committee on an annual basis at the first meeting of the Board, held in conjunction with the annual meeting of shareholders or as necessary to fill vacancies in the interim.

Vacancies on the Committee shall be filled only by a majority vote of the entire Board; consequently, removal of a Committee member requires a majority vote of the entire Board.

#### **C. Member Qualification/Independence**

In selecting members of the Committee, the Board will determine that each member has the appropriate qualifications, independence and interest to carry out his or her duties and responsibilities. A member's prior service experience, attributes, or skills on the Committee or a compensation committee of another public company or service with a public company which involved executive compensation matters shall also be considered.

Each member of the Committee shall meet the criteria to qualify as an independent director within the meaning of the Nasdaq Rules (as amended from time to time), an “outside director” within the meaning of Section 162(m) of the Internal Revenue Code of 1986, as amended (the “Code”), and as a “non-employee director” within the meaning of Rule 16b-3(b)(3)(i) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

**D. Committee Meetings**

The Committee shall meet as often as required to fulfill its responsibilities as set forth in this Charter and will meet no less than four times a year, with such additional meetings, as the Chair of the Committee deems necessary. The Committee shall meet periodically in executive session without Company management present. The Committee may meet in person or telephonically. The Chair or his or her designee shall preside over all meetings of the Committee. The Committee shall report to the Board at the next regularly scheduled meeting of the Board.

**E. Principal Functions**

The Committee shall be responsible for the following:

1. Reviewing and approving the Company's compensation philosophy and guidelines.
2. Developing, and updating as necessary, a general compensation policy and structure for the Chief Executive Officer (the "CEO"), the executive officers, and the independent members of the Board, which considers business and financial objectives, industry and market pay practices and/or such other information as may be deemed appropriate.
3. Annually reviewing and approving the compensation (salary, bonus, incentives and other compensation) of the executive officers of the Company, excluding the CEO, and any individuals who may be offered or promoted to an executive officer position with the Company.
4. The Chair of the Committee, in consultation with the Chair of the Board, shall lead the Board in the development of a yearly CEO evaluation and the discussion of the evaluation with the CEO.
5. Annually reviewing and recommending the compensation (salary, bonus, incentives and other compensation) of the CEO to the independent members of the Board for approval.
6. Reviewing and approving annual corporate performance goals and objectives prior to the plan year relevant to the compensation of the executive officers of the Company, evaluating their performance in light of the goals and objectives and making adjustments to their salary, bonus and incentive compensation with the overall objective to align executive compensation with Company performance.
7. Reviewing and recommending all employment (including offer letters), retention and severance and change-in-control agreements for any executive officers of the Company for approval by the independent members of the Board.

8. Reviewing and recommending the compensation (annual retainer, committee fees and other compensation (including equity compensation)) of the independent members of the Board to the full Board for approval.
9. Acting on behalf of the Board in administering compensation plans, approved by the Board and/or the shareholders of the Company, in a manner consistent with the terms of such plans, including, but not limited to: the Equity Incentive Plan; the Management Incentive Plan; the Employee Stock Purchase Plan; and, the FuelCell Energy, Inc. Capital Accumulation Plan.
10. Periodically, reviewing, developing, and approving the Company policy for the granting of stock options, restricted stock, stock units and other equity awards.
11. Reviewing and making recommendations to the Board with respect to new or material changes to existing compensation plans, including incentive and/or equity-based plans.
12. Reviewing and making recommendations to the Board on changes in major benefit programs available to the executive officers of the Company.
13. Reviewing with management the management succession program for the Named Executive Officers and selected executives of the Company.
14. Reviewing the Company's policies, programs, and initiatives for diversity and inclusion, and providing guidance to the Board and management, as appropriate.
15. Periodically retaining an independent compensation consultant to perform a competitive market analysis of the Company's executive compensation program to determine whether the compensation arrangements provide an appropriate level of compensation to the executive officers and whether they fulfill the Company's recruitment, incentive, and retention objectives. Prior to hiring or obtaining advice from an advisor, the Committee shall consider all factors relevant to the advisor's independence from management in accordance with the applicable Nasdaq Listing rules.
16. Reviewing and obtaining confirmation that compensation and perquisites are administered in compliance with applicable laws and are appropriately disclosed in the Company's definitive proxy materials in connection with the annual meeting of shareholders.
17. Complying with the compensation reporting requirements of the SEC, including, without limitation, the Committee's preparation of an annual report on executive compensation for inclusion in the Company's definitive proxy materials in accordance with the applicable rules and regulations of the SEC. The Committee shall review and discuss the Compensation Discussion and Analysis ("CD&A") with management, prior to filing the Company's annual proxy statement. The Committee shall recommend to the Board whether the CD&A shall be included in the Company's annual proxy statement and

Annual Report on Form 10-K and prepare and execute the Compensation Committee Report as required by the applicable rules and regulations of the SEC.

18. Forming and delegating authority to subcommittees of the Committee as it deems appropriate.
19. Overseeing the Company's compliance with the applicable rules and regulations of the SEC regarding stockholder approval of certain matters, including advisory votes on executive compensation and the frequency of such votes, and the requirements under the rules of the Nasdaq that, with limited exceptions, shareholders approve equity compensation plans. Reviewing the results of the Company's most recent advisory vote on executive compensation and any implications. Overseeing engagement and communication with shareholders and proxy advisory firms on executive compensation matters.
20. Monitoring the Company's compliance with the requirements under the Sarbanes-Oxley Act of 2002 relating to loans to executive officers and directors, and with all other applicable laws affecting employee compensation and benefits.
21. Reviewing the Company's compensation programs, policies and practices on a periodic basis to determine whether such programs, policies, or practices create risks that are reasonable likely to have a material adverse effect on the Company, and coordinating the monitoring and mitigation of any compensation-related risks with the Board's overall risk oversight responsibilities.
22. Performing such other activities as the Committee deems appropriate, as may be assigned to the Committee, from time to time, by the Board and/or Chair of the Board consistent with this Charter, the Company's By Laws and applicable laws and regulations.

***F. Procedures***

1. The CEO of the Company shall not be present during voting or deliberations of the Committee regarding his or her compensation.
2. The Committee, in its sole discretion, has the authority to retain, terminate, compensate, and provide oversight of the work of outside advisors, including compensation consultants, legal counsel, and other experts and advisors, as it determines appropriate to assist in the full performance of its functions and to set the terms and conditions of such advisor's retention. The Company shall also provide for appropriate funding, as determined by the Committee, for payment of reasonable compensation to such advisors. To the extent that the Committee engages outside compensation consultants, legal counsel, or other experts or advisors, the Committee will document and disclose, as may be required, the selection process, fees paid, and services rendered by such advisors in accordance with applicable laws and regulations. In selecting any compensation, legal counsel or other expert or advisor, the Committee will take appropriate precautions to

establish the independence of such consultants or advisors and ensure that no conflicts of interest exist. Specifically, the Committee will select, or receive advice from, any such advisor only after taking into consideration the factors set forth in Exchange Act Rule 10C-1(b)(4) and the Nasdaq Exchange Listing Standards.

3. The Committee shall review and reassess the adequacy of this Charter on an annual basis and recommend changes to the Board for approval.
4. Each Committee member shall undertake an annual self-assessment to evaluate how well the Committee has fulfilled its purpose during the previous year. Self-assessment findings will be reported to Nominating and Corporate Governance Committee and to the full Board for review.

***G. Quorum***

A majority of the members of the Committee shall constitute a quorum.

***H. Reporting***

The Chair of the Committee shall report to the Board at the next regularly scheduled meeting of the Board, the deliberations, actions and recommendations of the Committee since the last Board meeting.

***I. Minutes***

Minutes will be kept of each meeting of the Committee and any action taken by unanimous consent, and will be made available to each member of the Board.

***J. Disclosure of Charter***

This Charter will be made publicly available on the Company's website [www.fce.com](http://www.fce.com) as may be required by applicable law or regulations or the direction of the Board or Nominating and Corporate Governance Committee.