

SWARM NETWORK CONSTITUTION

Version: SNC- 2020.03

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I. Name

Swarm Network.

II. Purposes

A. General purposes.

1. The Swarm Network is a group of persons joining to support the development of a digital infrastructure designed to foster the emerging digital securities economy (the “Platform”).
2. The Swarm Network aims to build and maintain an open infrastructure for digital securities and a financial marketplace that is globally accessible, free and trustworthy for its participants (“Participants”).
3. The Swarm Network supports base layer research, development and education to bring decentralized, open-source protocols and tools to the world of finance, empowering developers to produce next generation decentralized financial services applications.

B. Specific purposes.

1. To equitably balance the respective interests of all Participants and, to this end, define and refine Platform policies accordingly.
2. To act as a decentralized governance body to manage the lawful development and maintenance of the Platform compliant with the Purposes set forth in this Article I.
3. To build tools and infrastructure that support adherence to applicable laws and regulations with respect to the issuance of digital securities on the Platform as well as trading such digital securities on third-party or decentralized exchanges.

III. Powers

The Swarm Network shall have the following powers: (a) raise funds and apply for, invite, obtain, collect and receive contributions (including in-kind contributions of tangible or intangible property), grants, subscriptions, fees and otherwise; (b) engage any person or organization to assist in the attainment of the Purposes; (c) define and administer Platform rules and policies; and (d) do all such other lawful things as shall further attainment of the Purposes including prohibiting the use of the Platform by any person to ensure adherence to the Purposes.

IV. Swarm Network Governance

A. Members' rights. The Swarm Network shall be governed by its Members (defined in Article V) and the Swarm Council (defined in Article VIII).

B. Purpose of Governance Actions. The will of the Swarm Network shall be prosecuted through the execution of Governance Actions (defined in Article VI).

C. Members with special responsibilities. The Members may decide, via Governance Action, to delegate certain governance-related functions to subgroups of Members ("Designated Members") temporarily or permanently.

V. Membership

A. Members.

1. A Member of the Swarm Network is a person that:
 - a) is a competent, natural person of at least eighteen years of age or a juridical person expressly represented with respect to all Swarm Network matters by a duly-appointed, competent and authorized agent who is a natural person of at least eighteen years of age;
 - b) lawfully owns SWM tokens (defined below in Article V.2); and
 - c) has a registered and validated identity on the Platform ("Swarm Investor Pass"). Validation must be performed by a qualification provider certified by the Swarm Council and published under <https://ballots.swarmnetwork.org>.

2. SWM tokens are the 100,000,000 ERC20-based tokens with the token contract under 0x3505f494c3f0fed0b594e01fa41dd3967645ca39 created on Aug 30, 2019.

3. For purposes of this Article V, competence means possessing mental legal capacity as defined in sections 810, 811, 812 and 813 of the California Probate Code, Part 17.

B. Designated Members. Designated Members will be specified within the Governance Action in which they are designated as such.

VI. Governance Actions

Governance Actions direct the Swarm Council, Members, Designated Members, Participants or other third parties to perform certain tasks or activities for the benefit of the Swarm Network, Platform and Participants and to fulfill the Purposes. Governance Actions shall be decided by referendum as set forth in Article VII. No Governance Action shall violate the Purposes of the Swarm Network or the laws of any applicable jurisdiction.

VII. Governance Action Voting Process

Before a Governance Action can be executed a specific proposal for the Governance Action (“Governance Action Proposal” or “GAP”) must be balloted and a referendum must be taken on the ballot according to the procedures described in this Article VII.

A. Creation.

1. A GAP may be initiated by any Member. The Member initiating the GAP is the “Ballot Sponsor.”

2. A GAP may be initiated through a majority vote of the Swarm Council. Such a GAP shall be designated a “Swarm Council GAP.” One of the Swarm Council members voting in the affirmative to initiate the Swarm Council GAP shall serve as its Ballot Sponsor. Any Member may petition the Swarm Council to sponsor a GAP.

3. A GAP may also be initiated as part of the enactment and execution of a prior Governance Action. The Ballot Sponsor for such a proposal shall be the Ballot Sponsor of the preceding Governance Action. If the Ballot Sponsor for the preceding Governance Action is unable or unwilling to serve as the Ballot Sponsor for the subsequent GAP, the Swarm Council must appoint a replacement Ballot Sponsor. If no suitable Ballot Sponsor replacement is identified by the Swarm Council a member of the Swarm Council shall serve as the Ballot Sponsor.

B. Balloting.

1. Ballot Sponsors are required to deposit or “stake” a minimum of two hundred fifty (250) SWM tokens to enable the GAP to be balloted and enter the Swarm Network Voting Queue (“Voting Queue”).

2. GABs that have been balloted are “Governance Action Ballots” or “GABs.” While a GAB is in the Voting Queue any Member may second the GAB any number of times by adding additional deposits of SWM tokens, toward the GAB. A member that seconds a GAB is a “Ballot Supporter.” SWM tokens that have been staked to a GAB by the Ballot Sponsor or Ballot Supporters constitute the “GAB stake.”

3. At a fixed interval of two months (the “Voting Interval”) the GABs in the Voting Queue with the five greatest GAB stakes are elevated for a referendum. The GAB stakes associated with elevated GABs are locked for fifteen (15) days and then returned to the Ballot Sponsors and Ballot Supporters.

4. The Swarm Council, or its designee, shall maintain a record of the GABs elevated to a referendum for each Voting Interval. There shall be six Voting Intervals within each calendar year and they shall be numbered sequentially within each year according to the following convention: “VI,” a period punctuation mark, calendar year in which the Voting Interval occurs, a period punctuation mark and the interval number. Thus, the sixth Voting Interval in 2020 shall be designated “VI.2020.06” and the third Voting Interval in 2024 shall be designated “VI.2024.03.”

5. Notwithstanding Article VII.B.3, if at the end of a Voting Interval there are two or more GABs eligible for elevation to a referendum that present Governance Actions that would conflict with one another if enacted only the GAB with the greatest GAB stake shall be elevated to a referendum. The determination whether two or more GABs present conflicting Governance Actions shall be made by the Swarm Council through a majority vote. A GAB creating a conflict that does not have the greatest GAB stake at the end of the Voting Interval shall not be elevated to a referendum, shall be removed from the Voting Queue and shall constitute a “Failed GAB.”

6. If a GAB is disqualified pursuant to Article VII.B.5 at the end of a Voting Interval, the GAB with the next greatest GAB stake in the Voting Queue shall be taking its place in the Voting Queue. However, any GAB elevated pursuant to this paragraph VII.B.6 shall be subject to Article VII.B.5 and the forfeiture provisions of Article VII.B.9.

7. If a GAB does not qualify for a referendum after the passage of three full Voting Intervals after the end of the Voting Interval in which it entered the Voting Queue, it shall constitute a Failed GAB and it shall be removed from the Voting Queue.

8. Any ballot canceled or vetoed by the Swarm Council pursuant to Article VIII.E shall constitute a Failed GAB unless Pre-Clearance was obtained by the Ballot Sponsor pursuant to Article VII.C.3.

9. The Ballot Sponsor and Ballot Supporters of any Failed GAB shall forfeit to the Swarm Treasury the SWM tokens they have staked toward the Failed GAB.

10. Swarm Council GABs are exempt from the staking requirements described in Article VII.B.1.

11. Swarm Council GAPs shall be balloted and elevated for a referendum automatically and shall bypass the Voting Queue.

C. GAB requirements.

1. Procedural Requirements. A GAB must be created according to the procedures listed at <https://ballots.swarmnetwork.org> or any other source designated by the Swarm Council which adequately informs the Members of the procedures for creating a GAB.

2. Substantive Requirements.

a) A GAB must:

- i. concisely and cogently describe the Governance Action;
- ii. describe the purpose and rationale for the Governance Action and its intended outcomes;
- iii. identify the specific uses for which Swarm Treasury funds may be expended to support the Governance Action; and
- iv. be written in English.

b) With respect to a Governance Action requiring the expenditure of Swarm Treasury funds the GAB must:

- i. articulate and establish an accountability framework that measures the performance of the Governance Action;
- ii. provide an auditing procedure to account for expenditures; and
- iii. provide a method for reporting the audit and performance results to the Swarm Network and the Swarm Council.

3. Pre-Clearance. A Member may petition the Swarm Council for confirmation that a GAP, if balloted, would meet the requirements set forth in Article VII.C.2. Pre-Clearance shall be granted if the Swarm Council finds through an affirmative vote that the requirements of Article VII.C.2 are satisfied.

D. Ballot Types and Approval.

- a) Up/Down Ballots: Up/Down Ballots contain a single option to be voted on by the Members. Voting options include "Adopt," "Reject," and "Abstain." An Up/Down ballot is adopted when the Adopt votes outnumber the Reject votes at the end of the Voting Period.
- b) Multi-Option Ballots: Multi-Option Ballots contain multiple options to be voted on by the Members, including "Adopt Option 1," ..., "Adopt Option n,", "Reject" and "Abstain." A Member can only select one of the voting options on the ballot. A vote for Reject is a vote against all options on the ballot. A vote for Pass is a vote to abstain from adopting any of the options and rejecting any of the options. Option X is approved when the votes for "Adopt Option X" outnumber the votes for "Reject " at the end of the Voting Period.

E. Public Display and Voting Period.

- 1. GABs shall be published for public display at <https://voting.swarmnetwork.org> or another public channel designated by the Swarm Council.
- 2. GABs shall be publicly-displayed for a period of seven consecutive days.
- 3. Voting on a GAB shall take place during the public display period ("Voting Period").
- 4. The Swarm Council, through a majority approval, may set a different Voting Period for any GAB.

F. Voting Rights.

- 1. Each SWM token grants its holder the right to cast one vote in any referendum.
- 2. Members, only, are allowed to take part in the Governance Action Voting Process.

G. Voting Protocol.

1. Members may vote in a referendum on a GAB at any time during the Voting Period.
2. Members are free to change their votes at any time during the Voting Period.
3. A Member may delegate her voting rights to any other Member, in whole or in part.
4. A Member may not delegate her voting rights to a person who is not a Member.

H. Approval.

1. Each SWM token grants its holder the right to cast one vote in any referendum.
2. A quorum is the minimum number of votes that are required to be cast by the Members to make the proceedings of a referendum effective.
3. For purposes of Article VII.H.2, the minimum number of votes is determined by reference to the percentage of all outstanding SWM tokens held by Members.
4. Outstanding SWM tokens shall mean the 100,000,000 SWM tokens described in Article V.A.2 less the number of such SWM tokens held in the Swarm Treasury and less the number of such SWM tokens known to be destroyed (i.e., burned) or otherwise invalidated (such invalidation to be determined by the Swarm Council via a consensus vote of its members).
5. With respect to any referendum the date for measuring outstanding SWM tokens under Article V.II.F.4 shall be the end of the day on the day preceding the start of the Voting Period for such referendum.
6. Votes cast by Members via delegation, as provided by Article VII.E, are included in the minimum number of votes for determining whether a quorum exists for a referendum.

7. Votes cast for “Pass” are included in the minimum number of votes for determining whether a quorum exists for a referendum.

8. With each SWM token representing the right to cast one vote, as set forth in Article VII.F.1, a quorum for a referendum exists if the number of votes cast in such referendum represent 1% of the outstanding SWM tokens.

9. If a quorum for a referendum is not reached no Governance Action may be taken and it shall constitute a failed Governance Action.

I. Enactment Period.

1. All approved Governance Actions have an associated enactment delay (the “Enactment Period”). The Enactment Period is the period between the date a Voting Period ends and the date a Governance Action is operative. The Enactment Period is fixed at seven days for Up/Down Ballots and Multi-Criteria Ballots. For Approval ballots the Enactment Period can be set according to the terms of the GAB. The Swarm Council may, in its discretion and in support of the Purposes, set a different Enactment Period for any type of approved Governance Action.

2. During the Enactment Period the Swarm Council shall perform a final review of the approved Governance Action (pursuant to its Powers under Article VIII.E) and prepare any procedures, or take such action as is necessary, to execute the Governance Action.

VIII. Swarm Council

A. Duties.

1. Initiate sensible GABs.
2. Ensure that all GABs are compliant with the Purposes.
3. Administer funding for Governance Actions.
4. Help prevent use of the Platform for illicit purposes.

B. Structure.

1. The Swarm Council shall consist of five natural persons who are Members or are agents for Members who are not natural persons. The Swarm Council may expand to a maximum of nine Members, with the addition of two new Members upon each expansion. Expansion decisions shall be made by GAB or by a unanimous vote of the Swarm Council.

C. Appointment and vacancy.

1. Each Member of the Swarm Council shall be elected via an Approval Ballot.

2. Any Member may nominate another Member to fill a vacant seat on the Swarm Council via a GAB (“Nomination GAB”) but such nominee shall be subject to the eligibility requirements set forth in Article VIII.D. The remaining Members holding seats on the Swarm Council shall determine whether a nominee is eligible to hold a seat on the Swarm Council. If there are no Members remaining on the Swarm Council to review the eligibility of a nominee for a vacant seat proof of the nominee’s eligibility must be included in the Nomination GAB.

3. No specific Voting Period shall be set for filling a vacancy on the Swarm Council, rather, voting will occur on a continuous basis. All Members are free to signal their approval of any of the registered candidates. On the date a seat on the Swarm Council becomes vacant a tally shall be taken to determine the Nomination GAB with the greatest GAB stake. The nominee identified in such Nomination GAB shall fill the vacant seat on the Swarm Council.

4. After an election via GAB, all unsuccessful Nomination GABs, except for the unsuccessful Nomination GABs with the three greatest GAB stakes, are removed from the Voting Queue. A Nomination GAB so removed shall constitute a Failed GAB and Article VII.B shall apply to the GAB stakes associated with such Failed GAB. The unsuccessful Nomination GABs with three greatest GAB stakes remain in the Voting Queue (along with their respective GAB stakes, which are not forfeit) for purposes of filling future vacant seats on the Swarm Council.

5. If the Voting Queue does not contain any Nomination GABs when a seat becomes vacant the seat shall remain vacant until filled through the approval of a Nomination GAB.

D. Eligibility. Only Members are eligible to serve on the Swarm Council and the Member must hold at least 50,000 SWM tokens for the duration of her tenure on the Swarm Council to maintain eligibility to serve. If a Member fails at any time to maintain eligibility to serve during her term under this Article VIII.D she shall be allowed seven days to reacquire her eligibility to serve on the Swarm Council. If eligibility is not so reacquired the Member shall be automatically removed from the Swarm Council and the process for filling a vacant seat pursuant to Article VIII.C shall commence.

E. Powers. The Swarm Council may: (a) administer funds held in the Treasury (defined in Article IX) as directed through approved Governance Action; (b) through a majority vote, cancel any Ballot, referendum or Governance Action that in its judgment does not (i) meet the requirements set forth in Article VII.A or (ii) violates the laws of any applicable jurisdiction; and (c) at its discretion and in response to exigent circumstances expedite voting on a referendum by shortening the Public Display period or expedite the date a Governance Action becomes operative by shortening the Enactment Period.

F. Compensation. Members of the Swarm Council may be compensated from the Swarm Treasury. Such compensation shall be approved through the Governance Action Voting Process per Article VII.

G. Term. Members of Swarm Council shall serve for a fixed term of twelve months unless specified differently at the time of nomination and election.

H. Resignation and removal.

1. Any Member may resign from the Swarm Council at any time earlier than the end of her term by giving written notice to the Swarm Council or the Swarm Network. Such resignation shall take effect at the time specified therein.

2. A Member may be removed from the Swarm Council with or without cause through approval of a GAB proposing such removal.

I. Dissolution. The Swarm Council may be dissolved only through approval of a GAB. A dissolution ballot may not be vetoed or canceled by the Swarm Council.

J. Indemnification. To the fullest extent possible under the laws of any applicable jurisdiction, the Swarm Network, its Members and its agents shall indemnify and hold harmless any Member who serves or has served on the Swarm Council against expenses actually and necessarily incurred by such Member in connection with the defense of any action, suit, or proceeding in such applicable jurisdiction in which that Member is made a party by reason of being or having been a Member of the Swarm Council.

IX. Swarm Treasury

A. Funds. The Swarm Network's Treasury funds consist of the wallets listed under <https://treasury.swarm.fund> and any additional amounts that accrue to the Treasury pursuant to Article III deposited into any address or account as designated by the Swarm Council.

B. Allowable expenditures. Any amounts held or obtained by the Swarm Network shall only be used to advance the Purposes of the Swarm Network.

X. Amendments

A. Proposal only by Members. Any Member may propose an amendment to this Swarm Network Constitution through the Governance Action Voting Process set forth in Article VII.

B. Up/Down Ballot Requirement. GABs proposing an amendment to this Swarm Network Constitution must take the form of an Up/Down Ballot. No other type of ballot may be used to amend the Swarm Network Constitution.

C. Approval. A ballot for a referendum on an amendment to the Swarm Network Constitution is approved when the votes for "Adopt" outnumber the votes for "Reject " at the end of the Voting Period and a quorum of the number of votes cast in such a ballot represent a minimum of 10% of the outstanding SWM tokens. If a quorum for an amendment ballot is not reached no Governance Action on the amendment is taken and it shall constitute a failed Governance Action.

D. Version numbering. Each time this Swarm Network Constitution is amended the version number shall be updated. Versions shall be numbered according to the year in which they are made and the number of amendments made during such year. Thus, the version number for fifth amendment adopted in calendar year 2020 shall be “SNC-2020.05,” the version number for the second amendment adopted in calendar year 2022 shall be “SNC-2022.02,” and the version number for the fourteenth amendment adopted in calendar year 2025 shall be “SNC-2025.14.” Each new version of this Swarm Network Constitution shall describe the date it was adopted.

E. Archival. The Swarm Council or its designee shall for posterity maintain a record of all versions of the Swarm Network Constitution.