

ICA's Legal Forms for Democratic Corporations



Membership Agreement



Sample Membership Agreement

The by-laws and articles of incorporation are a democratic corporation's core governing documents. They determine how power, money, and information flow through a firm. There are a number of related documents and contracts that co-ops need to have on hand to conduct business, however. ICA's legal forms are designed to provide you with a template that you can use for your particular business. For a complete treatment of this and other related issues, see the ICA publication *The Democratic Corporation: ICA's Model By-Laws*.

The **membership agreement** is the contract between the individual worker owners and the co-op. It's the document workers sign when they buy their membership share and is the legal mechanism that takes someone from being a worker to being a worker-owner.

It is NOT an employment contract, but rather spells out the financial relationship between workers and the co-op. It specifies:

- That the member agrees to follow the rules in the by-laws;
- How much the membership share will cost;
- How profits in the corporation will be distributed;
- How and on what schedule these profits will be distributed;
- The limitations on selling the membership share.

In most cases this membership agreement can simply be filled out and used as is. However, the offer and sale of membership shares requires careful attention to federal and state securities law and to other state laws regarding stock purchase agreements. We recommend that you consult local legal counsel in adapting this membership application and agreement to your needs. To download a version of this document that can be edited, visit the ICA Resource Library (www.ica-group.org).

It is best practice to distribute a copy of the firm's articles of incorporation, by-laws, the firm's operating rules, a list of current directors, and a short summary of the firm's business strategy and current financial position with the membership agreement.

MEMBERSHIP APPLICATION AND AGREEMENT

[ABC, Inc.]

Name of Applicant: _____

Address of Applicant: _____

Date of Application: _____

1. **Membership.** I hereby apply to be a Member of [ABC, Inc.] (hereinafter, the “Corporation”), a corporation incorporated and doing business under the laws of the State of _____ and operating on a cooperative basis.

2. **Articles & Bylaws.** I acknowledge receipt of a copy of the Articles of Incorporation (hereinafter the “Articles”) and the bylaws (hereinafter the “Bylaws”) of the Corporation. I agree to abide by the provisions of the Articles and Bylaws and hereby approve and ratify the Articles and Bylaws. Capitalized terms used in this agreement have the same meaning as in the Bylaws.

3. **Membership Share.** I agree to pay to the Corporation a Membership Fee of _____ dollars (\$_____) as consideration for receipt of a Membership Share, issued to me by the Corporation in accordance with the Articles and Bylaws. I understand that my Membership Share is not transferable, and I agree not to sell, assign any interest in, or otherwise transfer my Membership Share, except as provided herein.

4. **Membership Eligibility and Voting.** I agree to patronize the Corporation through provision of my labor and, during the period of my Membership, to satisfy the eligibility criteria for Members determined in accordance with the Articles and Bylaws. I understand that I will be entitled to one vote in any matter requiring voting by Members.

5. **Patronage Allocations.** I understand that the Corporation may allocate a portion of its annual net income or loss to the Members and that I will receive such allocations, if any, on the basis of patronage and at the discretion of the Board of Directors. In any proportions determined by the Board of Directors, such allocations may be in cash or in the form of Written Notices of Allocation credited to my Internal Capital Account and redeemed in cash at a future date.

6. **Distributions & Losses.** I understand that my Membership Fee and any Written Notices of Allocation are subject to loss and will be repaid to me only in such amounts, at such times, and in accordance with terms as determined by the Board of Directors pursuant to the Articles and Bylaws.

7. **Termination.** I agree that, upon the voluntary or involuntary termination of my employment and Membership in the Corporation, I will transfer my Membership Share back to the Corporation for the consideration, if any, determined in accordance with the Articles and Bylaws. I understand that allocations of annual net income and loss to the Members may increase or decrease the consideration that I will receive for my Membership Share upon termination. I understand that such consideration may be paid over a period of time determined by the Board of Directors in accordance with the Articles and Bylaws.

8. **Taxation.** I agree to include in my taxable income the stated dollar amount of any Qualified Written Notices of Allocation that I receive and to satisfy any federal and state income tax obligations imposed on those amounts under the tax laws.

9. **Operating Rules.** [Optional] I acknowledge receipt of the Operating Rules of the Corporation and agree to adhere to all policies contained therein.

10. **Withdrawal.** I understand that I may at any time withdraw my labor and terminate my Membership in the Corporation; provided, however, that I agree to be bound by any terms and conditions in the Articles, the Bylaws, the Operating Rules, or this agreement.

Accepted and agreed to:

[Name of APPLICANT]

DATE

The foregoing application and agreement is hereby accepted on behalf of [ABC, Inc.] by the undersigned duly authorized officer, subject to the terms and conditions hereof.

[ABC, Inc.]

BY:

[Name], President, [ABC, Inc.]

DATE