# Operating Agreement of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, LLC (the “Cooperative”)

*Note: This Operating Agreement is a bare-bones template for a small, member-managed LLC worker cooperative based in California. To that end, this agreement avoids “legalese” where possible, to make it user-friendly for cooperatives and other non-legal organizations that support them. This Agreement should be adapted to each cooperative’s unique context, and cooperative members are strongly encouraged to write a second document, called “Policies,” to supplement this Agreement. The “Policies” document should go into far greater detail about how members plan to manage the business, make decisions, handle finances, respond to change, navigate conflict, and so on. As stated in this Agreement below, a “Policies” document is technically incorporated into this Agreement. However, the content of such a document will vary greatly from cooperative to cooperative, and it may change quite often. Thus, we have avoided adding such content into this Agreement, in order to make this Agreement easy for cooperatives to adopt without substantial adaptation.*

*What follows are basic provisions necessary to (1) incorporate democratic practices of a workers cooperative, (2) avoid employee classification of members, (3) override default LLC statutory rules that would be inappropriate for a worker cooperative LLC, and (4) reiterate certain statutory rules that cannot be overridden. Note that provisions that are in [brackets] should be discussed among the Members and changed, if appropriate, before this Agreement is adopted. Additionally, the Managing Finances and Dissolution sections need to be reviewed by a tax attorney and/or accountant for compliance with partnership tax laws, and may require changes.*

This Operating Agreement of [COMPANY NAME] LLC, a California limited liability company (the “Cooperative”), is entered into effective as of [DATE] among the individuals on the initial signature page, and any other individuals who sign an additional signature page as members admitted in accordance with this Agreement (each a “Member” and collectively, the “Members”).

Members will develop a separate Policies document that is incorporated, as amended from time to time, into this Agreement by reference.

The Members intend for this Agreement, and not the California Revised Uniform Limited Liability Company Act default provisions, to govern the four “matters” referenced in Corp. Code section 17701.10(a):

(1) Relations among the members as members and between the members and the limited liability company.

(2) The rights and duties under this title of a person in the capacity of manager.

(3) The activities of the limited liability company and the conduct of those activities.

(4) The means and conditions for amending the operating agreement.

## Section 1: Purpose and Scope

1.1 Operations Based on Democratic Principles

Subject to the provisions of this Agreement and the Articles, the general purpose of the Cooperative is to provide sustainable livelihoods to its Members and to operate based on democratic principles. As a worker cooperative, the Members commit to the following:

1. **Equal voting power**. Each Member will have equal authority to govern and manage the cooperative, regardless of the Member’s capital account balance.
2. **Profit sharing based on work done.** The profits of the Cooperative should primarily be shared in proportion to work Members put into the Cooperative, not in proportion to ownership of the Cooperative or contributions of money to the Cooperativerelated activities, but the Members may authorize a different or additional scope of operations.
3. **Most or all workers are Members.** Rather than a typical business, with owners who profit off of the labor of non-owners, the Members will strive toward 100% worker ownership in the Cooperative.

1.2 Scope

The Cooperative’s initial scope of operations will be [ACTIVITIES OF COOPERATIVE] and all related activities, but the Members may authorize a different or additional scope of operations.

## Section 2: How Decisions are Made

### 2.1 General Principles

1. **Every Member Has One Vote:** During Member Meetings and in decisions requiring approval of Members, each Member has one vote and only one vote, regardless of the equity held in an individual’s capital account.
2. **Member-Managed:** The Cooperative will be managed by all the Members. Significant decisions falling outside the ordinary course of business will be made by all Members. Members may contract for certain administrative services from non-Members, but shall not give non-Members decision-making authority over the Cooperative’s management policies or governance. All Members are agents of the Cooperative and have the authority to enter into contracts on behalf of the Cooperative.
3. **Majority Vote:** Decisions concerning the management of the Company’s business will be made by all Members through a majority vote, unless otherwise provided in this Agreement or delegated to committees according to the procedures set forth in the Policies.
4. **Proposals:** All Members shall be invited and welcomed to bring Proposals to the Cooperative. A Proposal includes, but is not limited to, any request to change Cooperative policy, procedures, or processes, to engage in a new project, or to change the roles and positions of Members.
5. **Members are not Employees:** All Members shall participate in the profits, losses, and management of the Cooperative as equal co-owners and co-managers, and therefore no employment relationship is created between the Cooperative and the Members.

### 2.2 Where Decisions Are Made

1. **In a Member Meeting or Special Meeting**
   1. **Member Meetings:** Member Meetings are meetings of all Members. No action may be taken at a meeting of the Members without the consent of that number or percentage of the Members whose consent is required for such action under this Agreement.
      1. **Frequency.** Members shall have regular Member Meetings of all Members at least [monthly], as the Members may determine from time to time.
      2. **Notice.** Notice shall be given to all Members at least [24 hours] before a regular Members Meeting that will occur at its usual time and location. Notice shall be given no less than [three days] before a meeting that is to occur at a different time and place. Notice can be written or verbal, and it can be communicated via electronic transmission. No notice is necessary if all Members attend the meeting or if an absent Member consents to the meeting happening without them or subsequently consents to the decisions made at that meeting.
      3. **Virtual attendance.** Members may participate in a Member’s Meeting by telephone, online platform, or another similar mechanism.
   2. **Special Meetings**
      1. **Threshold.** Special meetings of the Members may be called by the greater of [one-third] or [two] of the Members.
      2. **Notice.** The Member requesting the Special Meeting shall provide notice to all Members at least 48 hours in advance, containing the time, place, and matter of the Special Meeting. Notice can be written or verbal, and it can be communicated via electronic transmission. No notice is necessary if all Members attend the meeting or if an absent Member consents to the meeting happening without them or subsequently consents to the decisions made at that meeting.
      3. **Virtual attendance.** Members may participate in a Special Meeting by telephone, online platform, or another similar mechanism.
2. **By Members Outside of a Meeting**. In the event that an opportunity or need arises, and [75%] of the Members agree that a Proposal needs to be considered quickly, then, if the Members are not in a meeting, the Members shall vote on a Proposal and the Proposal shall pass with the consent of [75%] of all Members.
3. **By Committee.** The Members may delegate the management of certain tasks and realms to committees comprised of Members, and those committees shall meet and make decisions separately from the Member meetings. Committees shall not have the authority to decide matters listed in 2.2(d), but may develop proposals on such matters to be decided by all Members.
4. **Matters Decided by All Members.** Decisions on the following matters can be made only in meetings of all Members, by a supermajority vote (an affirmative vote of [75%] of all Members) unless otherwise provided in the relevant section:
   1. Major decisions not in the ordinary course of business
   2. Admitting or removing members (Sections 2.3 and 3.2)
   3. Borrowing money or offering equity investments
   4. Profit distributions, allocations, capital contributions, and other financial policies under Section 5
   5. Decisions that affect the financial viability of the Cooperative
   6. Large expenses not in the ordinary course of business
   7. The disposition of all or a substantial part of the Cooperative’s assets not in the ordinary course of business
   8. Amendments to the Operating Agreement (Section 6)
   9. Changing the legal name, status, purpose, or mission of the Cooperative
   10. The dissolution, merger, or sale of the Cooperative (Section 7)

2.3 Joining the Cooperative

Members must approve the addition of a new Member to the Cooperative by a vote of [75%] of the Members. Upon signing this Agreement and paying any required Capital Contribution, the prospective Member shall be admitted as a Member.

## Section 3: Leaving the Cooperative

3.1 Voluntary Termination

Members may withdraw at any time, by giving written notice to the Cooperative and withdrawal is effective upon providing notice, unless the withdrawing member specifies a later withdrawal date.

3.2 Involuntary Termination

A Member may be terminated involuntarily if

1. The Member is voted out by [75%] of the other Members.
2. The Member has not worked for the Cooperative for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. A medical professional deems the Member mentally incapable of handling their own affairs.
4. A guardian or general conservator for the Member is appointed.
5. The Member dies.
   * 1. The deceased Member’s Capital Account shall be payable to the Member’s designated beneficiary as described in subsection 3 below. In the absence of a designated beneficiary, the Cooperative will absorb the deceased Member’s Capital Account.
6. Dissociation events under Cal. Corp. Code §17706.02(e) and (g) shall not cause termination.

3.3 Rights Upon Membership Termination

When a Member terminates their membership, voluntarily or involuntarily, the Member’s Capital Account becomes a loan to the Cooperative that is paid out to the Member according to the terms described in the Policies document. The terminated Member shall have no other rights to distribution or payment from the Cooperative, nor voting rights, nor any other rights of membership.

## Section 4: Transfers of Interest

No Member shall have the right to sell, transfer, pledge, encumber, or otherwise dispose of all or any part of their membership interest. This provision may only be amended by unanimous consent of the Members.

Section 5: Managing Finances

5.1 Cooperative Finances

Separate from this Operating Agreement, the Members shall adopt procedures to manage the Cooperative’s finances, including processes for deciding how and when to spend money, pay Members, and save money. However, the Members must adhere to the following rules, at minimum:

1. **Capital Contributions:** Every Member must make a contribution of capital to the Cooperative at the time of joining the Cooperative. The initial contribution amount is \_\_\_\_\_\_\_\_. This amount may be adjusted from time to time by members. Adjustments to the capital contribution and procedures regarding payment plans will be addressed in in the Policies document.
2. **Additional Capital Contributions:** [Members shall not be required to make additional capital contributions to the Cooperative.] *or* [Members may be required to made additional capital contributions as determined by [75%] of the Members, based upon a good faith determination that such contribution is necessary or advisable for effective functioning of the Cooperative.]
3. **Capital Accounting:** Every Member will have an accounting called the “Capital Account,” which will represent the value of the Member’s share of the Cooperative’s assets. Capital accounts will be increased by income allocation and contributions, and decreased by distributions and losses on a [quarterly] basis. Capital accounts will be maintained in accordance with the capital accounting rules of section 1.704(b)(2)(iv) of the Treasury Regulations.
4. **Taxes:** Unless the Cooperative Members agree and elect otherwise, the Cooperative shall be taxed as a partnership. The Members shall, individually, pay federal and state taxes on their share of business income, including quarterly self-employment tax, if necessary. Members acknowledge that they will need to pay taxes on business income that is allocated to their Capital Accounts, even if that income is not distributed to them directly.
5. **Sharing Profits in Proportion to Members’ Work, Not in Proportion to Ownership Share:** Unlike conventional businesses, the Cooperative shall not divide profits on the basis of each Member’s ownership share or percentage interest. Rather, the profits of the Cooperative shall be allocated among members on the basis of each member’s contribution of work, also known as “Patronage.” The Members will measure this Patronage based on (check one):

\_\_\_\_\_\_\_\_ The number of hours each Member works

\_\_\_\_\_\_\_\_ The dollar value of invoices directly attributable to each Member’s work

\_\_\_\_\_\_\_\_ The dollar value of compensation (also known as “guaranteed payments”) paid to each Member

\_\_\_\_\_\_\_\_ Other: Please describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Retaining Earnings and Making Distributions:** [Seventy-five percent] of net profits shall be distributed to Members on a [monthly] basis in the same manner that profits are allocated to Members in 5.1(e) above. Profits not distributed to Members will be allocated to Members’ Capital Accounts according to the profit allocation method in 5.1(e). On an annual basis, available cash shall be distributed to Members as a patronage dividend in the same manner that profits are allocated to Members in 5.1(e) above. Members shall determine what constitutes cash available for distribution, but the Cooperative shall distribute, at minimum, sufficient cash to cover Member tax obligations. The Cooperative shall not make distributions if doing so would leave the Cooperative unable to pay its obligations and liabilities.
2. **Sharing Losses:** When the Cooperative has losses, Members will share those losses equally. That means that losses are neither allocated in proportion to Patronage nor in proportion to percentage interest in the Cooperative. However, in no event shall Net Loss be allocated to any such Member if such allocation would reduce such Member’s Capital Account balance to less than zero, or increase the deficit of the Member’s Capital Account balance, at the end of the year. than a deficit amount equal to the amount such Member is deemed obligated to restore to its Capital Account pursuant to the next to last sentences of Treasury Regulations sections 1.704-2(g)(1) and (i)(5).
3. **Additional tax matters.** Except as otherwise provided in this Agreement, all items of Cooperative income, gain, loss, deduction and any other allocations not otherwise provided for shall be divided among the Members in the same proportions that they share profit or loss, as the case may be. If any Member unexpectedly receives any adjustment, allocation, or distribution as described in Treasury Regulation §1.704–1(b)(2)(ii)(d)(4) – (6) that causes a negative capital account balance, the Cooperative will allocate enough gross income or gain to bring the Member's Capital Account back to zero as quickly as possible. The Cooperative shall take into account any special allocation under this Section when calculating subsequent allocations of profits and losses, so that the net amount of allocations shall, to the extent possible, be equal to the net amount that would have been allocated if the unexpected adjustment, allocation, or distribution had not occurred. The provisions of this Section and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulations §§1.704–1(b) and 1.704–2 and shall be interpreted and applied in a manner consistent with those Regulations.
4. **Avoiding Non-Member Patronage:** As a worker cooperative, the Cooperative aims to allow most or all workers to become Members, and the Cooperative Members shall avoid profiting from the labor of non-Members. The Members shall not hire employees to do any more than [25%] of the work for any given year.
5. **Amendment to this Section:** Section 4 may only be amended by the consent of [75%] of the Members.

## Section 6: Amending the Operating Agreement

Unless a provision provides otherwise, this operating agreement may be amended in writing by the consent of [75%] of the Members, except that a paragraph describing a decision that must be made by unanimous consent cannot be changed without unanimous consent of the Members.

## Section 7: Dissolution

1. The Cooperative can be sold, dissolved, or reorganized with [select one]:
   1. \_\_\_\_\_ the unanimous consent of all Members.
   2. \_\_\_\_\_ the consent of 75% of the Members.
2. If the Cooperative is sold, dissolved, or liquidated for any other purpose, the Cooperative will liquidate the assets and allocate any net profit, net loss, and other items of income, gain, loss or deduction to the Members’ Capital Accounts according to Section 5 of this Agreement. The Cooperative will then make payments in the following priority order:
   1. Debts to non-Members: First, the Cooperative must pay off its debts to non-Members.
   2. Debts to Members: Second, the Cooperative must pay its debts to Members.
   3. Capital Accounts: Third, the Cooperative must pay each Member’s Capital Account balance at the date of distribution to each current Member.

## Section 8: Indemnification

**7.1 Mandatory Indemnification**. Subject to Section 7.2, the Company shall indemnify a Member from judgments, settlements, penalties, fines or expenses incurred in a proceeding to which an individual is a party because the individual is or was Member.

**7.2 Limitations on Indemnification**. The Company may not indemnify a Member from liability for:

1. The amount of a financial benefit received by a Member to which the Member is not entitled;
2. An intentional infliction of harm by the Member on the Company or its Members;
3. An intentional violation of criminal law by the Member;
4. An unlawful distribution by a Member.

## Section 9: Other Administrative Things

1. **Records required to be kept:** The Cooperative shall keep the following at its principal office and shall either make such information accessible to all Members or deliver it promptly upon a Member’s request:
   1. The original or a copy of its Articles and Operating Agreement as amended to date;
   2. Adequate and correct books and records of account for at least the current and past four fiscal years;
   3. A copy of the LLC’s federal, state, and local income tax returns for the six most recent fiscal years;
   4. Copies of the financial statements of the Cooperative for the six most recent fiscal years;
   5. Minutes of its meetings; and
   6. A record of its Members, past and present, providing their names, telephone number, email address, last known business or residence address, contribution and share in profits and losses of each Member, each Member’s designated beneficiary for the payment of the Capital Account after the Member’s death and for distributions after dissolution, membership dates, and the total number of hours worked during their membership.
2. **Reports:** Within 90 days after the end of each taxable year, the Cooperative shall send to each Member (1) the information necessary to complete federal and state income tax or information returns and (2) a copy of the Cooperative’s federal, state, and local income tax or information returns for the year.

## Section 10: Severability

If any provision of this Agreement is held by a court to be invalid or unenforceable, Members agree that the provision shall be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable, and the remaining provisions of this Agreement will not be affected or invalidated as a result.

# Signature Page to Operating Agreement for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, LLC

By signing below, the Members hereby agree to all of the terms and conditions in this Agreement.

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member 1

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member 2

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member 3

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member 4

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member 5

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Member 6

NOTES ABOUT POLICIES AND BEST PRACTICES

*The following is not part of the Operating Agreement, but consists of explanatory notes about certain Operating Agreement provisions, and suggestions to consider when developing the Cooperative’s “Policies” document.*

## Meeting Procedures

* **Frequency:** We included a minimum of two meetings of all Members per year, to indicate that all the Members are involved in governing the Cooperative. However, the Cooperative will likely to need to meet more often. If the Operating Agreement requires more frequent meetings, it will be important the Cooperative consistently meet that often, in order to avoid losing its liability protection (allowing someone to “pierce the limited liability shield”).
* **We removed the requirement for quorum at meetings:** This will be a small cooperative, and all decisions require the consent of at least a majority of the Membership, so a quorum requirement is likely not necessary. If you feel it would be useful to include one, we would recommend adding the following: **“**The minimum number of Members needed to be at a meeting to make decisions binding, or “quorum,” shall be the majority of the Membership.”
* **Assign facilitators and notetakers during meetings:** At the beginning of the meeting, we suggest a Facilitator and a Note Taker be appointed. The facilitation and note taking responsibilities can rotate from meeting to meeting. The Facilitator would be responsible for leading the group through predefined meeting procedures, keeping the discussions relevant to the topics on an agenda and highlighting the time available for the meeting. The Note Taker would take notes on the meeting, making sure to capture the decisions made at the meeting and recording the responsibilities assigned to Members. The Note Taker would provide the notes to the Administrator, for record-keeping purposes, and the Administrator would make the notes available to all Members.

## Administrative Matters

* **Creating Administrative Positions within the Cooperative:** At the first meeting of the year, the following positions could be appointed. Ideally, the following roles would rotate among the members.
  + **Administrator:** The Administrator would maintain records and provide notice of meetings and of any other matter requiring notice to Members.
  + **Cooperative Trustee:** The role of the Cooperative Trustee could include the following:
    - Developing familiarity with the rules, policies, and procedures in this Agreement and other policy documents of the Cooperative.
    - Monitoring the activities of the Cooperative and its Members to ensure that the Cooperative is adhering to its own policies.
    - Bringing to the Members’ attention any situation in which the Cooperative or any of its Members has deviated from policies, and to oversee the resolution of this problem – either by ensuring that the Cooperative or Member(s) become re-aligned with Cooperative policies, or that the Cooperative initiates a policy change to adapt to changed circumstances.
    - Reminding the Members of the purpose and values of the Cooperative and of the importance of adhering to its policies.
  + **Treasurer:** The Treasurer would ensure that the Cooperative keeps proper books and accounts, and shall prepare – or ask an accountant to prepare – financial reports for the Cooperative.
* **Fiscal Year:** We recommend stating the start and end date of the fiscal year in a policy manual, i.e. stating that the fiscal year runs from January 1 to December 31.

## Admitting New Members

* **Probationary Period:** As far as we understand, the Cooperative plans to forego the probationary period and bring on individuals as Members immediately. We recommend this, as a probationary period typically requires substantial training and supervision of the prospective Member, and the Cooperative would need to treat that individual as an employee. Instead, some kind of voluntary training through a nonprofit could be a prerequisite to joining the Cooperative.
* **Capital Contribution:** As mentioned in the “Managing Finances” section, a capital contribution is an important step to joining as a Member, since having a financial stake in the Cooperative is key to avoiding employee classification under immigration law. This can be structured to allow Members to purchase their equity shares over time, with a set amount of pay taken out for member equity every paycheck until the full share is paid. However, some amount should be paid on day one, and the Member should have full voting rights from the beginning, even if the Member has not paid their full share. Additionally, the amount taken out of the Member’s paycheck would still be taxable income because the Member is receiving something of value even though their take-home pay is reduced.
* **Other Steps to Becoming a Member:** The Members should decide if prospective Members should take any other steps in order to join the Cooperative, such as:
  + Provide a written request to become a Member
  + Sign an agreement acknowledging that the Member is not an employee and therefore not entitled to employee benefits
  + Receive a Membership Certificate

## Withdrawal of Members

* **Removal Procedures:** The Cooperative may require additional steps to take place before the involuntary removal of a Member, such as notice and the opportunity for a hearing.
* Sample language (version 1):

***3.1(b)******Notice and Hearing Rights.*** *Termination of a Member by vote under Section 3.1(a)(1) shall take effect immediately upon the vote, but shall remain effective only if all requirements of this Section \_\_\_\_ are subsequently fulfilled.*

*1. Notice of a vote to terminate under Section 3.1(a)(1) must be mailed or given to the terminated Member no later than [five] days after such vote and must inform the removed Member that he or she has [30] days from the vote to terminate to make a written request for a review of the vote to terminate.*

*2. If the terminated Member makes a written request for a review of the vote to terminate within thirty (30) days of such vote, then a meeting of at least [75%] of the Members shall be convened to review the termination. At such review meeting, the terminated Member shall be afforded a reasonable opportunity to address the Members present.*

*3. The Members do not, at or within 30 days of the review meeting, vote to reinstate the terminated Member to his or her previous status as a Member.*

*4. The absence of a positive vote to reinstate the terminated Member within 30 days of the review meeting shall be deemed a vote not to reinstate such Member.*

* Sample language (version 2):

***3.1(b) Notice and Hearing Rights.*** *No Member may be terminated except according to procedures satisfying the requirements of this section.*

*1. The Member must be given 15 days’ prior notice of termination and the reasons for the termination.*

*2. The Member shall have an opportunity to be heard, orally or in writing, not less than five days before the effective date of termination, in a meeting of the Members, at which at least [75%] of the Members are present.*

*3. Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the Member shown on the Cooperative’s records.*

* **Rights on Termination:** The Cooperative may adopt separate policies determining if or when interest that shall accrue on the loan, and any other rights of Members after termination.

## Financials and Tax

* **Provisions Governing Allocation and Distribution:** We have left out some of the complicated boilerplate language about partnership allocations and distributions, which is not legally required to be in an Operating Agreement and more or less restates the Internal Revenue Code and Treasury Regulations. The basic provisions we have provided outline general best practices and cooperative principles. However, you should consult with a tax attorney and/or an accountant as to whether it would be legally prudent to include more details about how accounting will be done in your Cooperative. Additionally, you should ask a tax attorney to review the procedure for distribution of assets at liquidation to ensure that it does not run afoul of IRS rules.

## Other Policies

* **Avoiding Non-Member Patronage:** Cooperatives should have policies in place that prevent Members from profiting off of Non-Member (employee) labor, and strive for most work to be done by Members. Most cooperative corporations prevent income earned by Non-Members to be distributed to Members. However, in an LLC that is taxed as a partnership, all income must be allocated to the Members. To prevent the Cooperative from becoming more like a conventional business, with owners profiting largely from the work of non-owners, we included a mechanism that prohibits the Cooperative from hiring employees to do more than 40% of the work. This is an optional provision, and the 40% amount can be changed as the Members see fit.
* **Conflict Resolution:** We did not include a section on conflict resolution (and none is required by law) because such practices will vary by cooperative and should be decided by the Members. Policies the Cooperative could consider include:
  + Designating a conflict resolution team
  + Requiring informal discussion and mediation before allowing a dispute to be taken to arbitration
  + Policies related to how the parties choose the mediator/arbitrator and share the costs of those services.