

CONTINUITY AGREEMENT BETWEEN TWO SOLE PRACTITIONERS

(Practitioners are advised to consult their lawyers before entering into an agreement of this nature.)

THIS AGREEMENT is made the ____ day of _____ 20__, BETWEEN Mr/Ms_____ of _____ of the one part and Mr/Ms _____ of _____ of the other part.

WHEREAS Mr/Ms_____ is a Chartered Certified Accountant in sole practice under the name of _____ and WHEREAS Mr/Ms_____ is a Chartered Certified Accountant in sole practice under the name of _____

AND WHEREAS both parties desire to ensure that their respective practices continue in the event of the death or continuing incapacity of either of the parties on the terms and conditions hereinafter contained.

Whereby it is agreed as follows:

1. In this agreement unless the subject or content otherwise requires:
 - a) 'The Institute' means the Zambia Institute of Chartered Accountants.
 - b) ZICA means the Zambia Institute of Chartered Accountants.
 - c) 'Representative(s)' means in the case of a sole practitioner his/her wife/husband, Lawyer, Doctor, the executor(s) or any two or more such persons.
 - d) 'Continuing incapacity' means in relation to the sole practitioner that S/he has a written medical certificate from a properly qualified medical practitioner stating that he is unfit through illness, accident or otherwise from effectively carrying on his practice and is likely to be so incapacitated for a period of not less than _____ weeks.
 - e) 'Personal representative(s)' means the person(s) named as executor(s) in relation to the will of the Sole Practitioner or, in the case of intestacy, the person(s) who apply for the grant of letters of administration of his/her estate.
2. In the event of the continuing incapacity of either party (hereinafter called the 'incapacitated party') the other party (hereinafter called the 'managing party') shall, when requested to do so in writing by the incapacitated party or his representative(s), and on receipt of a medical certificate, manage the practice of the incapacitated party on the following terms and conditions:
 - a) The managing party shall carry on the practice under its existing name in a manner befitting the profession and shall take all reasonable steps to preserve the goodwill of the practice. The managing party shall have regard to the Regulations and Code of Ethics and Conduct of the Institute.

- b) The managing party shall be entitled with the consent of the incapacitated party or his representative(s) (which shall not unreasonably be withheld) to:
 - i. Operate the bank accounts of the practice
 - ii. Employ staff, whether his own or otherwise, to assist with the running of the practice
 - iii. Sign letters and other documents in the name of the incapacitated party.
- c) Meetings with clients and others relating to the practice shall not normally take place at the office of the managing party.
- d) The managing party shall:
 - i. Inform the Institute of his position with regard to the practice of the incapacitated party and shall place the managing party's name as manager on the letter heading of the practice
 - ii. Arrange that there is uninterrupted professional indemnity insurance cover and other necessary insurances and inform the insurers of the incapacitated party's professional indemnity policy of the arrangement and obtain any extra cover necessary for himself on behalf of the incapacitated party
 - iii. Notify the clients of the practice and other parties concerned that he will be managing the practice temporarily.
- e) The managing party shall keep all books of accounts and other records of the practice up to date. He shall also invoice clients of the incapacitated party in accordance with the usual procedures of the practice, and ensure that all relevant returns are submitted in respect of Tax and other matters.
- f) The managing party shall be remunerated by the practice for the work carried out at a rate agreeable to both parties (and their representatives). Also the managing party shall be reimbursed for any expenses reasonably incurred while managing the practice.
- g) Should the annual subscription of the incapacitated party become due (including fees for certificates and licences), the managing party shall inform the Institute of the arrangements and renew the subscription of the incapacitated party.
- h) The incapacitated party or his representative(s) may terminate the agreement by giving the managing party ___ months' notice in writing provided that the period of management shall not exceed a period of _____ months unless the managing party otherwise agrees.
- i) On the termination of its management the managing party shall hand over the practice to the incapacitated party or his representative(s) or to any other person as directed by the incapacitated party or his representative(s) and shall give all the necessary assistance to make the handover satisfactory.
- j) Should the agreement terminate in accordance with Sub-clause (h) above and the managing party has not been instructed by the incapacitated party or his representative(s) to whom the practice should be handed over, the managing party shall report this matter to the Institute and shall not then be held responsible for any liability resulting from the termination of the agreement.

3. In the event of the death of either party (hereinafter called the 'deceased party') the other party (hereinafter called the 'surviving party') shall, when requested to do so in writing by the personal representative(s) of the deceased party, manage the practice of the deceased party on the following terms and conditions:
 - a) The surviving party shall carry on the practice under the existing name.
 - b) The surviving party shall:
 - i. Inform the Institute of the surviving party's position with regard to the practice of the deceased party and shall place his own name as manager on the letter heading of the practice
 - ii. Arrange that there is uninterrupted professional indemnity insurance cover and other necessary insurances and inform the insurers of the deceased party's professional indemnity policy of the arrangement and obtain any extra cover necessary for the surviving party on behalf of the deceased party
 - iii. Notify the clients of the practice and other parties concerned that the surviving party will be managing the practice temporarily.
 - c) The personal representative(s) shall immediately authorise the surviving party to open and operate the necessary bank accounts in the name of the practice at its existing bank to enable the clients' businesses to continue and salaries and expenses of the practice to be paid pending the grant of probate of the Will of the deceased party or the grant of letters of administration.
 - d) The personal representative(s) shall make an arrangement with the bank for temporary overdrafts to enable the bank accounts to operate and for the overdrafts to be repaid out of the deceased party's estate when probate or letters of administration have been granted.
 - e) Prior to the grant of probate or letters of administration all moneys received by the practice shall be paid into the new accounts.
 - f) As soon as probate or letters of administration are granted the personal representative(s) shall register the same with the bank instructing that the accounts be placed under the surviving party's control and that bank charges or interest be debited to the office account.
 - g) Sub-clauses (a), (b)(ii) and (iii), (c), (e), (f), (h), (i) and (j) of Clause 2 above shall apply to this clause save with the substitution of the words 'personal representative(s)' for 'representative(s)', 'deceased party' for 'incapacitated party' and 'surviving party' for 'managing party'.
 - h) In the event of the period of management continuing for more than one year the surviving party shall report annually to the Institute.
 - i) The surviving party may apply to acquire the deceased party's practice if he so wishes as long as the personal representative(s) is/are independently advised on the transaction.
4. All questions or differences whatsoever arising between the parties or their respective representatives or personal representatives touching this agreement shall in the first instance be referred to the Institute.

5. This agreement may be terminated before Clause 2 or 3 comes into operation by either party giving ____ months' notice in writing to the other party.
6. Any variation of this management agreement must be by mutual consent, and be evidenced by a document signed by both parties or their representative(s) or personal representative(s).

AS WITNESS the hands of the parties the day and year first before written etc.

SIGNED by [or on behalf of]
[*Name of Appointer*]

IN THE PRESENCE of
[*Name of witness*]

SIGNED by [or on behalf of]
[*Name of Alternate*]

IN THE PRESENCE of
[*Name of witness*]