

## CONTINUITY AGREEMENT BETWEEN A SOLE PRACTITIONER AND A FIRM

(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/Mrs \_\_\_\_\_ of \_\_\_\_\_ of the one part and \_\_\_\_\_ of \_\_\_\_\_ (hereinafter called 'the firm') of the other part WHEREAS Mr/Mrs \_\_\_\_\_ is a Chartered Accountant in sole practice under the name of \_\_\_\_\_

AND WHEREAS Mr/Mrs \_\_\_\_\_ desires to ensure that his practice continues in the event of his death or continuing incapacity 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 the Sole Practitioner, the firm shall, when requested to do so in writing by the Sole Practitioner or his/her representative(s), and on receipt of a medical certificate, manage the practice of Sole Practitioner on the following terms and conditions:
  - a) The firm 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 firm shall have regard to the Regulations and Code of Ethics and Conduct of the Institute.
  - b) The firm shall be entitled with the consent of Sole Practitioner or his representative(s) (which shall not unreasonably be withheld) to:
    - i. Operate the bank accounts of the practice

- ii. Employ staff, whether its own or otherwise, to assist with the running of the practice
    - iii. Sign letters and other documents in the name of Sole Practitioner.
  - c) Meetings with clients and others relating to the practice shall not normally take place at the office of the firm.
  - d) The firm shall:
    - i. Inform the Institute of the firm's position with regard to the practice of Sole Practitioner and shall place the firm'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 Sole Practitioner's professional indemnity policy of the arrangement and obtain any extra cover necessary for the firm on behalf of Sole Practitioner
    - iii. Notify the clients of the practice and other parties concerned that the firm will be managing the practice temporarily.
  - e) The firm shall keep all books of accounts and other records of the practice up to date. It shall also invoice clients of Sole Practitioner 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 firm shall be remunerated by the practice for the work carried out at a rate agreeable to both parties (and their representatives). Also the firm shall be reimbursed for any expenses reasonably incurred while managing the practice.
  - g) Should the annual subscription of Sole Practitioner become due (including fees for certificates and licences), the firm shall inform the Institute of the arrangements and renew Sole Practitioner's subscription.
  - h) Sole Practitioner or his representative(s) may terminate the agreement by giving the firm \_\_\_\_ months' notice in writing provided that the period of management shall not exceed a period of \_\_\_\_ months unless the firm otherwise agrees.
  - i) On the termination of its management the firm shall hand over the practice to Sole Practitioner or his representative(s) or to any other person as directed by Sole Practitioner 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 firm has not been instructed by Sole Practitioner or his representative(s) to whom the practice should be handed over, the firm 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 Sole Practitioner, the firm shall, when requested to do so in writing by the personal representative(s) of Sole Practitioner, manage the practice of Sole Practitioner on the following terms and conditions:
- a) The firm shall carry on the practice under the existing name.
  - b) The firm shall:

- i. Inform the Institute of the firm's position with regard to the practice of Sole Practitioner and shall place the firm'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 Sole Practitioner's professional indemnity policy of the arrangement and obtain any extra cover necessary for the firm on behalf of Sole Practitioner
  - iii. Notify the clients of the practice and other parties concerned that the firm will be managing the practice temporarily.
- c) The personal representative(s) shall immediately authorise the firm 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 Sole Practitioner 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 Sole Practitioner'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 firm'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)'.
  - h) In the event of the period of management continuing for more than one year the firm shall report annually to the Institute.
  - i) The firm may apply to acquire Sole Practitioner's practice if it 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 the firm and Sole Practitioner or his 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*]

