

BUSINESS CONTINUANCE AGREEMENT

THIS AGREEMENT is made the -----day of ---- BETWEEN ----- (hereinafter called "X") ofand ----- of (hereinafter called "Y"). WHEREAS X -----is a Chartered Accountant intending to practice solely under the name of AND WHEREAS Y is a Chartered Accountant in sole practice under the name of AND WHEREAS both parties desire to ensure that their respective practices continue in the event of death or continuing incapacity on the terms and conditions hereafter contained.

Whereby it is agreed as follows:-

1. In this agreement unless subject or content otherwise requires:-
 - (a) "the institute" means the Institute of Chartered Accountants of Jamaica.
 - (b) "representative(s)" means in the case of X - executors appointed by (his/ her) Will.
 - (c) "representative(s)" means in the case of Y – executors appointed by (his/her) Will.
 - (d) "continuing incapacity" means in relation to X or Y that X or Y 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 representatives" means the persons named as executors in relation to the will of X or Y or, in the case of intestacy, the persons who applies 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, shall manage the practice on the following terms and conditions:-

- (a) The managing party shall carry on the practice under its existing name in a manner befitting to the profession and shall take all reasonable steps to preserve the goodwill of the practice.
- (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.
 - (ii) Inform the insurers of the incapacitated party's professional indemnity policy of the arrangement and obtain any extra cover necessary for himself and other employees on behalf of the incapacitated party.
 - (iii) Notify the clients of the practice and other parties concerned that he/she 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.
- (f) The managing party shall be remunerated for the work carried out from the practice at a rate agreeable to both parties. Also, the managing party shall be reimbursed for any expenses reasonably incurred while managing the practice.
- (g) Should the subscription of the incapacitated party become due, the managing party shall inform the Secretary of 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 1 month notice in writing provided that the period of management shall not exceed a period of 3 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 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 representatives of the deceased party manage the practice on the following terms and conditions:-
- (a) The surviving party shall carry on the practice under the existing name.
 - (b) The surviving party shall inform the Institute of this agreement and shall place his name as manager on the letter heading of the practice and shall arrange that there is uninterrupted professional indemnity insurance cover and other necessary insurances.
 - (c) The personal representatives shall immediately authorise the surviving party to open and operate the necessary accounts in the name of the practice at his existing bank to enable the clients’ business to continue and salaries and expenses 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 representatives shall make an arrangement with the bank for temporary overdrafts to enable the bank accounts to operate and for the

overdraft 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 being granted, 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 accounts.
 - (g) Sub-clauses (a), (b)(ii) and (iii), (c), (d), (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 surviving party shall report annually to the Institute.
 - (i) The surviving party may acquire the deceased party's practice if he so wishes as long as the personal representatives are independently advised on the transaction.
4. All questions or differences whatsoever arising between the parties or their respective representative(s) touching this agreement shall in the first instance be referred to Professional Standards.
5. This agreement may be terminated before Clauses 2 or 3 come into operation by either party giving -----months' notice in writing to the other party.

Dated the day of .

Signed by:

Name Witness

Signature Signature

Name Witness

Signature

Signature