

MODEL AGREEMENT BETWEEN A SOLE PRACTITIONER AND A FIRM TO ENSURE CONTINUANCE OF THE SOLE PRACTITIONERS PRACTICE

(Members are advised to consult a solicitor before entering into an agreement of this nature).

THIS AGREEMENT is made the day of 200 BETWEEN

of

(hereinafter called "X") of the one part and

of

(hereinafter called "the firm") of the other part WHEREAS X is a Certified Public Accountant in sole practice under the name of

AND WHEREAS "X" 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 context otherwise requires:-

- (a) "representative(s)" means in the case of X-his wife Mrs. X his solicitor Mr. his doctor Dr. the executors or any other person nominated by X to be his representative under this Agreement.
- (b) "continuing incapacity" means in relation to X that 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.
- (c) "personal representative(s)" means that the persons named as executors in relation to the will of X or in the case of intestacy the persons who apply for the grant of letters of administration of his estate.

2. In the event of the continuing incapacity of X the firm shall when requested to do so in writing by X or his representative(s) and on receipt of a medical certificate shall manage the practice on the following terms and conditions:-

- (a) The firm shall with due care, skill and diligence carry on the practice under the practice's existing name in a manner befitting to the profession and shall take all reasonable steps to preserve the goodwill of the practice and shall carry on the practice in its then existing style.
- (b) Subject to the condition that all reasonable care and skill will be used the firm shall be entitled with the written consent of X or his representative(s) (which shall not unreasonably be withheld) to:-

- (i) operate the bank account 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 relating to the practice in the name of X.
- (c) Meetings with clients and others relating to the practice shall not normally take place at the office of the firm.
- (d) Within [] days of receipt of the request and medical certificate detailed at paragraph (a) above the firm shall:-
- (i) inform the Institute of Certified Public Accountants of the firm's position with regard to the practice of X.
 - (ii) inform the insurers of X's professional indemnity policy of the arrangement and obtain any extra cover necessary for the firm and other employees on behalf of X.
 - (iii) notify the clients of the practice and other parties concerned that the firm will be managing the practice temporarily
- (e) The firm shall maintain and keep all books of accounts and other records of the practice up to date. X and his representatives shall have reasonable access to the practice records during normal working hours.
- (f) The firm shall be remunerated for the work carried out for the practice at a rate agreeable to both parties. (In the event the firm and X and/or his representatives cannot reach agreement, the matter will be referred to [] who will determine a reasonable rate. Also the firm shall be reimbursed for any expenses reasonably incurred while managing the practice. Subject to the production on request of original receipts as evidence of expenditure reasonably incurred.
- (g) Should the subscription of X become due, the firm shall inform the Chief Executive of the Institute of Certified Public Accountants of the arrangements and renew X's subscription
- (h) X 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 the X or his representative(s) or to any other person as directed and shall give all the necessary assistance to make the handover satisfactory. With effect from the termination date, the firm will not hold himself out as an agent of the practice.
- (j) Should the agreement terminate in accordance with Sub-clause (h) above and the firm has not been instructed by X or his representative(s) to whom the practice should be handed over, the firm shall report this matter to the Institute of Certified Public Accountants and shall not then be held responsible for any liability resulting from the termination of the arrangement.
- 3.** In the event of the death of X the firm shall when requested to do so in writing by the personal representatives of X manage the practice on the following terms and conditions:-
- (a) The firm shall carry on the practice under the existing name.
 - (b) The firm shall inform the Institute of Certified Public Accountants of this agreement and shall place its name as manager on the letterheading 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 its existing bank to enable the practice business to continue and salaries and expenses to be paid pending the grant of probate of the WILL of X or the grant of letters of administration.
 - (d) The personal representatives shall make an arrangement with the bank of temporary overdrafts to enable the practice's bank accounts to operate and for the overdrafts to be repaid out of X's estate when probate or letters of administration have been granted.
 - (e) After the death of X and 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 practice's accounts be placed under the firm control and the 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 firm shall report annually to the Institute of Certified Public Accountants.
 - (i) The firm may acquire X's practice if it so wishes as long as the personal representative(s) are independently advised in connection with 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 the Administration Committee of the Institute of Certified Public Accountants.
- 5.** This agreement may be terminated before Clauses 2 or 3 come into operation by either party giving 3 months' notice in writing to the other party.

AS WITNESS

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