CONTINGENT LIABILITY.

WE CAN'T REMOVE ALL YOUR BUSINESS RISKS, BUT WE CAN HELP YOU PLAN FOR THEM.

Let's imagine for a moment that you and a friend start a business together. To get the business off the ground, you receive funding from the bank in the form of a business loan, an overdraft facility and asset finance. As owners, both you and your partner take personal responsibility for the credit facilities by signing a suretyship agreement.

But what happens if your business partner suddenly passes away?

Firstly, there'd be a change in the level of security in respect of the credit facilities. Should you decide that the business continue with the existing credit facilities, your business will have to be reassessed and would still need to meet the lending requirements which may not be possible due to the loss of your business partner. If the business does not qualify for the continuation of the credit facilities, the outstanding amounts will need to be repaid.

It is very likely that in terms of the suretyship agreement, the lender, your bank in this case, can claim the full amount owing on the credit facilities. Worse still, the claim can be against the business and both owners jointly and severally, including the estate of your deceased business partner. What this means is that your business and the owners are personally liable to repay the full amount outstanding. Furthermore, the claim against you and your business partner's estate is not in proportion to your ownership, so even if one owner holds 90% and the other only 10%, you are both liable for the full amount.

THE RISKS TO THE BUSINESS:

1. Cash reserves and business assets can be liquidated.
2. Together with the disruption of losing an owner, the business may lose the ability to continue trading as a going concern.
3. Your livelihood as the owner, and those of your employees and anyone else dependant on the success of the business will be at risk.

THE RISKS TO THE OWNER:

1. For both owners, there's the risk of having to liquidate personal assets to raise the cash needed to settle the outstanding business debt.
2. For you, as the surviving owner, you risk the loss of the business as a means to support your family.
3. For your deceased business partner, his or her estate will be devalued by the business closure and personal assets may be lost, which could be devastating for any surviving dependents.

At Liberty, we're in it with you, and your business. So, talk to us about structuring a plan to settle business debt in the event of the death of an owner.

Prepared by Liberty's Legal Marketing Specialists.