



Office of Immigration

**Office of Immigration**  
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## BUSINESS IMPACT ESCROW AGREEMENT

### BETWEEN:

\_\_\_\_\_  
(Hereinafter referred to as the "Applicant")

OF THE FIRST PART;

AND:

**ISLAND INVESTMENT DEVELOPMENT INC.**  
(Hereinafter referred to as "IIDI")

OF THE SECOND PART.

### WHEREAS:

- A. The Applicant, if required by IIDI, will have visited PEI and participated in an interview with a representative of IIDI;
- B. The Applicant has provided evidence satisfactory to IIDI that the Applicant has available an equity investment of not less than \$150,000 to invest in an Eligible Business;
- C. The Applicant shall, prior to nomination by IIDI for Canadian Permanent Resident Status, pay to IIDI the sum of Two Hundred Thousand Dollars (\$200,000) (the "Deposit"), to be held in escrow by IIDI;
- D. The Deposit, and refund thereof, shall be allocated as follows:
  - 1. \$150,000 of the Deposit shall be associated with those terms and conditions of this Agreement relating to the Applicant's investment and operational role in the Business, such as is reflected in the IIDI approved Business Plan, as defined at Section "1" herein (the "Business Portion"); and
  - 2. \$50,000 of the Deposit shall be associated with those terms and conditions of this Agreement relating to the Applicant's settlement and residency in PEI (the "Residency Portion");
- E. Notwithstanding allocation of the Deposit in Recital "D", IIDI shall refund the Deposit to the Applicant if the Applicant has satisfied all the terms and conditions under this Agreement.
- F. Any refund of Deposit made under this Agreement shall be without interest, and less extraordinary costs (over and above normal processing expenses) incurred by IIDI in processing the Applicant's application for refund.
- G. Failure to satisfy all the terms and conditions of this Agreement may result in the forfeiture by the Applicant of the Deposit; and
- H. The Applicant and IIDI have agreed on the terms hereinafter set forth with respect to the application by the Applicant for nomination for Canadian Permanent Resident Status.

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**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the respective covenants, agreements, of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party), the parties agree as follows:

1. Wherever used in this Agreement, unless the context otherwise requires, the following words and terms will have the indicated meanings and grammatical variations of such words and terms will have corresponding meanings:
  - a) "Active and Ongoing Management" means the active and ongoing role by the Applicant in the Business as described in Section "6" of this Agreement and in the criteria set out in Schedule "E" of this Agreement;
  - b) "Agreement" means this Business Impact Escrow Agreement;
  - c) "Applicant" means the person named in the First Part;
  - d) "Business" means an Eligible Business in which the Applicant agrees to make the Investment by way of the investment in the Business, the purchase of a Business, or the start-up by the Applicant of a new Business;
  - e) "Business Plan" means a detailed plan submitted by the Applicant in accordance with the criteria set out in Schedule "B" of this Agreement and without restricting of the foregoing, means a plan describing the nature and amount of the Investment, the role of the Applicant in, and nature and operation of the Business;
  - f) "Business Portion" means that portion of the Deposit, in the amount of \$150,000, associated with those terms and conditions of this Agreement relating to the Applicant's Investment and operational role in the Business, such as is reflected in the IIDI approved Business Plan;
  - g) "Canadian Permanent Resident Status" means a designation given to an immigrant by IRCC;
  - h) "IRCC" means Immigration, Refugees and Citizenship Canada;
  - i) "Commencement Date" means the date the Applicant makes the Investment in the Business in accordance with the terms and conditions of this Agreement;
  - j) "Deposit" means the amount of \$200,000 paid by the Applicant to IIDI to be held in escrow until the Deposit is forfeited by or refunded to the Applicant in accordance with all of the terms and conditions of this Agreement;
  - k) "Eligible Business" means the type of business, which is not ineligible and satisfies the criteria set out in Schedule "A" of this Agreement;
  - l) "IIDI" means Island Investment Development Inc.;
  - m) "Investment" means an equity investment by the Applicant of not less than \$150,000 in a Business;
  - n) "Investment Agreement" means the Applicant's plan for Investment in the Business in accordance with the criteria set out in Schedule "D";
  - o) "Landing" means the date the Applicant arrives in PEI;
  - p) "Operating Expenses" means those expenses of the Business calculated in accordance with Canadian Generally Accepted Accounting Principles, excluding the purchase of capital assets, the amortization of capital assets, out-of-country travel in excess of \$10,000, the payment of non-arm's length wages, wages deemed to not be comparable to industry standards in PEI (comparable figures to be provided by Service Canada if there is a dispute) and any items deemed to be personal in nature by IIDI, in its sole discretion;
  - q) "PEI" means the province of Prince Edward Island;
  - r) "PEI PNP" means the Prince Edward Island Provincial Nominee Program;
  - s) "Purchase and Sale Agreement" means an agreement executed by the Applicant to purchase all of the Business in accordance with the criteria set out in Schedule "F";

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- t) "Residency Portion" means that portion of the Deposit, in the amount of \$50,000, associated with those terms and conditions of this Agreement relating to the Applicant's settlement and residency in PEI; and
  - u) "Settlement Plan" means a detailed plan submitted by the Applicant to IIDI describing the Applicant's and if applicable the Applicant's family's plan for settlement in PEI, in accordance with the criteria set out in Schedule "C".
2. IIDI shall, upon the Applicant completing the application process for the PEI PNP, including but not limited to the execution of this Agreement and the payment of the Deposit to IIDI, nominate the Applicant for Canadian Permanent Resident Status.
  3. Should the Applicant be declined Canadian Permanent Resident Status by IRCC or subsequent to their nomination for Canadian Permanent Resident Status choose to withdraw their application prior to receiving Canadian Permanent Resident Status, IIDI shall refund the Deposit without interest, and less extraordinary costs (over and above normal processing expenses) incurred by IIDI.

#### TERMS and CONDITIONS

4. The Applicant agrees to comply with the following:
  - i. The Applicant shall physically present themselves at the IIDI office located in Charlottetown within 30 days of landing in Canada;
  - ii. The Applicant shall inform IIDI of the Commencement Date of the Business, as well as the Business' fiscal year end date;
  - iii. The Applicant, if and when requested by IIDI, shall submit in writing a progress report (the "Report") after Landing in PEI. If IIDI requests a Report after the Commencement Date, the Report shall include such information as IIDI shall reasonably require, and without limiting the generality of the foregoing, may include internal financial statements of the Business, a detailed description of the activities of the Business to date, bank statements of the Business and tax information of the Business. Should the Applicant not have commenced their business at the time the Report is requested by IIDI, the Report must address to IIDI's sole satisfaction, the research performed to date to locate an Eligible Business, any preliminary information respecting Investment in the Business, the Investment, if any, by the Applicant to date in the Business, and, if applicable, an explanation by the Applicant on why they have yet to comply with the Business Plan, the Investment Agreement, or if applicable, the Purchase and Sale Agreement for the Business. The Applicant shall provide the Report within 30 days of any written request by IIDI. Once IIDI has reviewed the Report, the Applicant may, if required by IIDI in its absolute discretion, be required to attend at the office for a formal review of the Report.
5. The Applicant also agrees to comply with all of the following terms and conditions:
  - a) Prior to the Commencement Date, the Applicant must submit a Business Plan and have it approved by IIDI. Once approved by IIDI, any material variance from the Business Plan by the Applicant or Business must be approved in writing by IIDI;
  - b) The Applicant shall make the Investment in the Business in accordance with the Business Plan (the Commencement Date) within two (2) years from Landing in PEI;
  - c) The Applicant's Business must have incurred at least \$75,000 in Operating Expenses in the twelve month period from the Commencement Date as shown in the financial statements of the Business. The financial statements of the Business must be prepared in accordance with Canadian Generally Accepted Accounting Principles to a minimum "review engagement" basis by a professional accountant (CA, CPA, CGA, or CMA);
  - d) The Applicant shall maintain the Investment in the Business, for a continuous period of at least one calendar year from the Commencement Date. The Business shall submit, if requested in writing by IIDI, any information about the business requested, and without limiting the generality of the foregoing, all financial statements for the first fiscal year of the Business prepared in accordance with Canadian Generally Accepted Accounting Principles on a

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 Date \_\_\_\_\_/\_\_\_\_\_

“review engagement” basis by a professional accountant (CA, CPA, CGA, or CMA). All information requested must be submitted to IIDI within 30 days of the request;

- e) The Applicant shall not transfer directly or indirectly voting control nor sell any part of its interest, beneficial or otherwise, in the Business without the prior written consent of IIDI for a period of one (1) year from the Commencement Date; and
- 6. The Applicant agrees to provide Active and Ongoing Management of the Business from within PEI. Compliance by the Applicant with this condition will be deemed to have occurred if:
  - i. The Applicant has submitted a formal Settlement Plan which has been reviewed and approved by IIDI. The Applicant shall comply with the Settlement Plan as approved and all other terms and conditions of this Agreement;
  - ii. The Applicant provides evidence satisfactory to IIDI that the Applicant and their family members have resided in and maintained a residence in PEI for one (1) year from the Commencement Date. Evidence determining that an Applicant has resided in and maintained a residence in PEI includes, but is not limited to, the following:
    - a. documentation indicating that a dwelling has been owned or leased and occupied by the Applicant;
    - b. rental receipts or property tax records;
    - c. utility bills;
    - d. registration of a spouse or any children at an educational or daycare facility in PEI;
    - e. membership to clubs, or any community involvement;
    - f. T4 data;
    - g. the applicant’s Canada Revenue Agency Notice of Assessment; and
    - h. documentation confirming that the Applicant is physically present in PEI for not less 183 days in a calendar year.
  - iii. The Applicant provides, to IIDI’s satisfaction, such other documentation or information as requested by IIDI and such other information as may be described in Schedule “E”.

#### DEPOSIT

IIDI is permitted to accept only a limited number of applicants each year for the PEI PNP. The Applicant acknowledges that its acceptance into the PEI PNP prevents IIDI from offering the Applicant’s PEI PNP position to another applicant. For that reason, the Applicant agrees that the Applicant’s failure to comply with the terms and conditions of this Agreement entitles IIDI to withhold the entirety of the Applicant’s Deposit as liquidated damages if IIDI determines the Applicant has not complied with all of the terms and conditions of this Agreement within one (1) year of the Commencement Date, notwithstanding partial refund of the Residency Portion of the Deposit provided in accordance with subsection “8 (b)”.

- 7. Any partial or full refund of the Business Portion or Residency Portion of the Deposit made in accordance with Section “8”, or any other section of this Agreement, shall be without interest and less extraordinary costs (over and above normal processing expenses) incurred by IIDI in processing this application for refund.
- 8. The Applicant must comply with all of the terms and conditions set forth in this Agreement to obtain refund of the Deposit, as follows:
  - a) To obtain refund of the Business Portion of the Deposit the Applicant shall, not less than one (1) year after the Commencement Date, provide such evidence as may be required by IIDI to confirm the Applicant has complied with all terms and conditions of this Agreement relating to the Applicant’s Investment and operational role in the Business, such as is reflected in the IIDI approved Business Plan, to the satisfaction of IIDI.
  - b) To obtain a partial refund of the Residency Portion of the Deposit, in the amount of Twenty Five Thousand Dollars (\$25,000), the Applicant shall, not less than six months after Landing, provide such evidence as may be required by IIDI to confirm the Applicant has complied for a full six (6) month period with all terms and conditions of this Agreement relating to the Applicant’s settlement and residency in PEI, and in particular provide the following:

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Date \_\_\_\_\_/\_\_\_\_\_

- i. The Applicant has submitted a formal Settlement Plan which has been reviewed and approved by IIDI. The Applicant shall comply with the Settlement Plan as approved and all other terms and conditions of this Agreement;
  - ii. The Applicant provides evidence satisfactory to IIDI that the Applicant and their family members have resided in and maintained a residence in PEI for six (6) months from the date of Landing. Evidence determining that an Applicant has resided in and maintained a residence in PEI includes, but is not limited to, the following:
    - a. documentation indicating that a dwelling has been owned or leased and occupied by the Applicant;
    - b. rental receipts or property tax records;
    - c. utility bills;
    - d. registration of a spouse or any children at an educational or daycare facility in PEI;
    - e. membership to clubs, or any community involvement;
    - f. T4 data;
    - g. the applicant's Canada Revenue Agency Notice of Assessment; and
    - h. documentation confirming that the Applicant is physically present in PEI for not less 183 days in a calendar year.
- c) To obtain a full refund of the Residency Portion of the Deposit, in the amount of Fifty Thousand Dollars (\$50,000), the Applicant shall, not less than one (1) year after Landing, provide such evidence as may be required by IIDI to confirm the Applicant has complied for a full twelve month period with all terms and conditions of this Agreement relating to the Applicant's settlement and residency in PEI, and in particular provide the following:
- i. The Applicant has submitted a formal Settlement Plan which has been reviewed and approved by IIDI. The Applicant shall comply with the Settlement Plan as approved and all other terms and conditions of this Agreement;
  - ii. The Applicant provides evidence satisfactory to IIDI that the Applicant and their family members have resided in and maintained a residence in PEI for one (1) year from the date of Landing. Evidence determining that an Applicant has resided in and maintained a residence in PEI includes, but is not limited to, the following:
    - a. documentation indicating that a dwelling has been owned or leased and occupied by the Applicant;
    - b. rental receipts or property tax records;
    - c. utility bills;
    - d. registration of a spouse or any children at an educational or daycare facility in PEI;
    - e. membership to clubs, or any community involvement;
    - f. T4 data;
    - g. the applicant's Canada Revenue Agency Notice of Assessment; and
    - h. documentation confirming that the Applicant is physically present in PEI for not less 183 days in a calendar year.
- d) In the event the Applicant has received a partial refund in accordance with subsection "8 (b)" of this Agreement, full refund of the Residency Portion of the Deposit under subsection "8 (c)" shall consist of Twenty Five Thousand Dollars (\$25,000).
- e) **The Applicant must direct their request for refund of the Deposit pursuant to subsection "8 (a), (b), or (c)" to IIDI in writing. Refunds will not be issued automatically.**
9. IIDI shall refund the Deposit or the balance remaining thereof to the Applicant after IIDI has received the request for the refund of the Deposit and the Applicant has complied with all of the terms and conditions of this Agreement.
10. The Applicant agrees that, notwithstanding any other provision of this Agreement, that the Deposit shall be retained by IIDI as liquidated damages and become the property of IIDI in the event the Applicant has not made an application for refund of Deposit within 36 months of the Landing in PEI.

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Date \_\_\_\_\_/\_\_\_\_\_

## GENERAL PROVISIONS

11. The Applicant is responsible to inform IIDI of any change in their email address, mailing address, telephone number or any other relevant contact information. If IIDI is unable to contact the Applicant or if the Applicant fails to respond to information requests, IIDI will view the non-response by the Applicant as failing to comply with the terms and conditions of this Agreement.
12. The Applicant shall not encumber in any way all or any portion of the Deposit during the term of this Agreement, and without limiting the generality of the foregoing, the Applicant shall not give security over all or any portion of the Deposit.
13. The Applicant shall participate in and complete evaluation surveys of the PEI PNP. These evaluation surveys will occur on a yearly basis until the fifth anniversary of this agreement.
14. Unless otherwise indicated, all dollar amounts in this Agreement are expressed in Canadian Dollars.
15. Time shall be of the essence of this Agreement.
16. No amendment or waiver of any provision of this Agreement shall be binding on any party unless consented to in writing by such party.
17. This Agreement is governed by the laws of the Province of Prince Edward Island.
18. This Agreement enures to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns.
19. The division of this Agreement into articles and sections is for convenience of reference only and shall not affect the interpretation or construction of this Agreement.

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be

signed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**SIGNED, SEALED and DELIVERED**

in the presence of:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
APPLICANT

\_\_\_\_\_  
**ISLAND INVESTMENT DEVELOPMENT INC.**

\_\_\_\_\_  
Per: \_\_\_\_\_

Initials \_\_\_\_\_/\_\_\_\_\_

Date \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

## LIST OF SCHEDULES

1. Schedule "A" – Eligible Business
2. Schedule "B" – Business Plan
3. Schedule "C" – Settlement Plan Criteria
4. Schedule "D" – Investment Agreement
5. Schedule "E" – Active and Ongoing Management
6. Schedule "F" – Purchase and Sale Agreement

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## **SCHEDULE "A" - Eligible Business**

The PEI PNP will consider applications under the Business Impact Category that meet the following business criteria:

- The Business must be a for-profit corporation incorporated under the Companies Act of Prince Edward Island or the Canada Business Corporations Act and operated for the primary purpose of earning profits from active income through the provision of products/services.
- The Business must have good potential for sustained commercial viability.
- The Business must have assets with a book value of not less than \$150,000 CAD which are actively used for the business. Businesses will also be considered if they have assets with a fair market value of \$150,000 CAD as valued by a certified appraiser or have received a valuation for their business from a professional accountant stating a value greater than \$150,000 CAD.
- The Business must have the potential to create significant economic benefits to Prince Edward Island by contributing to one or more of the following:
  - Increasing value-added manufacturing, processing or primary resource activity
  - Increasing exports of goods or services
  - Increasing destination tourism, tourism attractions, tourism fixed roof accommodations
  - Increasing research and development/technology commercialization
  - Increasing technology, skills and specialized know-how to the province
  - Servicing an underserved local or regional market
  - Diversifying retail and restaurant investment (PEI PNP office reserves the right to limit to 25% of the overall early allocation of Business Impact Category nominations to this type of investment.)

### **Ineligible Business**

Applications will NOT be considered for the following types of businesses:

- Bed and breakfasts, hobby farms and home-based businesses
- Pay day loan, cheque cashing, money changing and cash machine businesses
- Pawnbrokers
- Sale of used goods (excluding collectibles, or where the business provides value-added services such as repairs, refurbishing, or recycling)
- Real estate development/brokerage, insurance brokerage or business brokerage
- Franchise operations, unless pre-authorized by the PEI PNP office
- Start-ups under the Partial Ownership Stream
- Businesses started for the sole purpose of gaining access to permanent residency through immigration
- Professional practices
- Financial services
- Consulting services
- Any other type of business that by association would tend to bring the program or the Government of Prince Edward Island into disrepute.

This list of ineligible sectors are meant to serve as an indicator only for those industries either outside of the current scope of PEI's priorities or deemed to be not in the best interests of PEI as a whole. Recognizing these priorities may change over time due to the changing nature of our economic conditions, the PEI PNP office reserves the right to make additions or deletions to these ineligible sectors.

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## **SCHEDULE "B" - Business Plan**

The Business Plan shall include, but is not limited to the following:

- Company overview;
- Products/services offered, Industry analysis & competitive landscape;
- Marketing plan;
- Operational plan;
- Role and Responsibility of the Applicant within the proposed business;
- Management team & staffing;
- Historical financial statements; and
- Projected financial statements prepared by a qualified accountant (CA, CPA, CGA, CMA)

IIDI reserves the right to amend the requirements for inclusion in the Business Plan and to request such further documentation as it deems appropriate from time to time.

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### **SCHEDULE "C" - Settlement Plan Criteria**

The Settlement Plan shall include (if applicable), but is not limited to, the following:

- Travel plans (airline, port of entry in Canada, proposed Landing date);
- Proposed timeline for transition of Applicant to Canada;
- Proposed employment;
- Proposed accommodations;
- Financial statements of Applicant (i.e. available funds for settlement, bank account statements, nature an amount of investment in any other assets owned by the Applicant); and
- Names and relationships of any family members intending to reside in PEI with the Applicant and their proposed landing date.

IIDI reserves the right to amend the requirements for inclusion in the Settlement Plan and to request such further documentation as it deems appropriate from time to time.

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#### **SCHEDULE "D" - Investment Agreement**

The Investment Agreement shall include, but is not limited to, the following:

- Confirmation that the Business is not operated primarily for the purpose of deriving investment income such as interest, dividends and/or capital gains;
- The proposed amount of the Investment in the Business;
- The number, class and conditions of the shares being purchased (if applicable);
- Confirmation that the Investment is not less than 33 1/3% of the equity in a PEI business or make an equity investment in the business of at least \$1,000,000;
- Confirmation that the Applicant provides or will provide active and ongoing management of the business from within PEI; and
- Timeframes for the Investment.

IIDI reserves the right to amend the requirements for inclusion in the Investment Agreement and to request such further documentation as it deems appropriate from time to time.

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### **SCHEDULE "E" - Active and Ongoing Management**

"Active and Ongoing Management" may be determined by examining business documents, conducting site visits, compliance with Section "6" of this Agreement, as well as telephone calls and in person interviews with the Applicant by PEI PNP officers.

IIDI may request any of the following information as proof of the Applicants Active and Ongoing Management:

- City/municipal business licenses (registration)
- Trade licenses
- Vendor's permits
- Business incorporation documents
- Partnership agreements
- Loan/business agreements
- Agreement of Purchase and Sale
- Articles of incorporation
- Shareholder's report and minute book
- Shareholder's certificates
- Financial statements
- HST/GST/ PST registration numbers
- CRA taxation number
- Cancelled cheques
- Lease or ownership of a business premise
- Receipts and invoices for equipment, leasehold improvements, vehicles and inventory
- Statement of net worth
- Deeds, land registration
- Insurance policies
- Photos of the interior and exterior of the business
- Other evidence accepted as proof of management
- Letters from partners attesting to the entrepreneur's role and responsibilities
- Evidence of business contracts, registrations and purchase orders signed by the entrepreneur
- Business correspondence signed by the entrepreneur
- Proof of involvement in significant business decisions

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#### **SCHEDULE "F" - Purchase and Sale Agreement**

The Purchase and Sale Agreement outlines the details of the proposed investment between the Applicant and the Vendor of the business and must include as a minimum the following information:

- Confirmation that the Business being acquired is not operated primarily for the purpose of deriving investment income such as interest, dividends and/or capital gains;
- Purchase price for the Business;
- The number, class and conditions of the shares being purchased (if applicable);
- Complete list of the assets of the Business to be purchased;
- Timelines for the purchase of the Business;
- Confirmation the purchase price is for the whole Business, not a part of the Business;
- Detailed description of the activities and interests of the Business.

IIDI reserves the right to amend the requirements for inclusion in the Purchase and Sale Agreement and to request such further documentation as it deems appropriate from time to time.

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Date\_\_\_\_\_/\_\_\_\_\_

DATED

BETWEEN:

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OF THE FIRST PART;

AND:

ISLAND INVESTMENT DEVELOPMENT INC.

OF THE SECOND PART.

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ESCROW AGREEMENT

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Initials \_\_\_\_\_/\_\_\_\_\_

Date \_\_\_\_\_/\_\_\_\_\_