

# MEMORANDUM OF UNDERSTANDING

BETWEEN

SOUTH DAKOTA INTERNATIONAL BUSINESS INSTITUTE

AND

SOUTH DAKOTA REGIONAL CENTER, INC.

This Memorandum of Understanding (the "Agreement") made and entered into as of the 15<sup>th</sup> day of January, 2008 by and between:

South Dakota International Business Institute/ Dairy Economic Development Region, a South Dakota state agency, and its successors and assigns ("SDIBI/DEDR"); and,

South Dakota Regional Center, Inc., an incorporated company organized under the laws of the State of South Dakota, and its successors and assigns ("SDRC INC").

WHEREAS, SDIBI is a state agency offering assistance to South Dakota exporters through a variety of programs designed to increase international commerce, and is charged with enhancing the South Dakota business climate, marketing South Dakota to businesses and investors, facilitating, promoting and creating commercial and business opportunities within South Dakota to contribute to the economic viability of and benefit the growth of the state;

WHEREAS, SDIBI is an approved and designated Regional Center recognized by the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Service ("USCIS") in accordance with the Immigrant Investor Pilot Program pursuant to section 203(b) (5) of the Immigration and Nationality Act, as amended, and the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102-395, section 610 as amended, and all applicable regulations promulgated there under, including 8 CFR section 204.6 (collectively referred to as the "Pilot Program Law"). Initial designation as a Regional Center was made in a letter dated April 8, 2004 and amendments thereof, to Joop Bollen, the director of SDIBI, from the legacy U.S. Immigration and Naturalization Service and USCIS, informing him of the SDIBI/DEDR appointment as a Regional Center the name which is later amended to SDRC;

EXHIBIT

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**WHEREAS**, SDIBI is in collaboration with Hanul Professional Law Corporation, for legal processing regarding compliance with U.S. immigration and nationality law as it relates to EB-5, Alien Entrepreneur investment project and to Regional Center Pilot Programs, and for the purpose of advising upon all transactional matters in connection with such a project;

**WHEREAS**, SDRC INC is organized for the purposes of creating an EB-5, Alien Entrepreneur investment project within SDIBI/DEDR and managing and operating it in connection with the Immigrant Investor Pilot Program Law; and,

**WHEREAS**, SDIBI's director will have amongst his/her principal duties and responsibilities the ongoing coordination, oversight and liaison with respect to those activities of the SDIBI/DEDR commercial enterprise in the recruitment, assistance, and involvement of immigrant investors through the EB-5 program. Pursuant to its responsibilities and obligations as a USCIS approved and designated Regional Center within the Immigrant Investor Pilot Program, SDIBI/DEDR desires to obtain assistance in the planning and management of the SDRC EB-5, Alien Entrepreneur investment project within SDIBI/DEDR and to assure the project's compliance with U.S. immigration law and regulations concerning investments within a regional center in the EB-5 visa preference category and, thereby, to have greater assurance of its compliance with regional center requirements.

**NOW THEREFORE**, in consideration of the mutual agreements, representations, and covenants contained herein, the parties agree as follows:

1. SDIBI/DEDR will promptly request that USCIS acknowledge SDIBI/DEDR designation of SDRC INC to assist in management, administration and overall compliance of the Alien Entrepreneur project organized by SDRC INC within SDIBI/DEDR with U.S. immigration laws and regulations controlling the investment process and participation in a regional center, and to report upon the activities of the project to SDIBI/DEDR and respond to SDIBI/DEDR inquiries about the project and assist SDIBI/DEDR to comply with its obligations as a regional center with respect to this project.
2. SDRC INC will provide support to SDIBI/DEDR including, but not limited to, providing investment-related and supporting documentation to prospective investors, supplying economic analysis and modeling reports on direct and indirect job creation (including the RIMS II multiplier tables that apply to the territory of the SDIBI/SDRC), defining investment opportunities within the SDIBI/DEDR projects, and assisting SDIBI/DEDR to comply with relevant regulatory or administrative requirements in support of individual petitions filed with USCIS by immigrant investors affiliated with the SDIBI/DEDR projects, such as providing area maps, valid unemployment data,



general economic data and demographics concerning the geographic area covered by the SDIBI/DEDR projects.

3. SDRC INC will further support SDIBI/DEDR compliance with regional center requirements by providing on a quarterly basis formal/written progress reports on its activities, overseas meetings and other relevant efforts within and outside the United States to promote investment in the SDIBI/DEDR projects through the EB-5 Alien Entrepreneur Regional Center Pilot Program. The Quarterly reports will set forth for the preceding quarter and year-to-date the number of investors, the status of alien investor capital (in escrow, transfers from escrow to the company) and activity of the company in furtherance of the project. The reports will also contain information distinguishing Investor Petitions "in preparation", "filed with USCIS", "approved by USCIS", "denied by USCIS", or "filed with USCIS office of Administrative Appeals".

4. SDRC INC will support the purpose and goals of SDIBI/DEDR by encouraging investment and employment creation within the Regional Center through marketing at emigration fairs and conferences with individual investors inside and outside the United States; maintaining a homepage to promote and describe the project; preparing a desirable business plan to encourage individual investments in the project within the Regional Center; establishing escrow accounts to assist orderly investment in the project; facilitating, on a fee basis, the preparation and submission of the I-526, Alien Entrepreneur petition and petitions for other immigration benefits to USCIS or the Department of State for individual investors; providing the primary entity and related entities to carry out the activities of the project; structuring the enterprise so that it creates requisite employment prior to the investors seeking removal of conditions; seeing to the timely completion and opening of the project; providing operating expertise and personnel to operate the project efficiently; and, if requested by individual investors, making referrals to advisors who may assist with issues arising from relocation by the investor and the investor's spouse and children to the United States.

5. SDRC INC agrees to promote investment in SDIBI/DEDR projects and to perform its obligations under this Agreement honestly, consistently and fairly in furtherance of its efforts to assist SDIBI/DEDR with the oversight and management of the Regional Center in connection with the SDIBI/DEDR projects.

6. SDRC INC will act in an independent capacity and not as officers or employees of SDIBI/DEDR or the State of South Dakota. SDRC INC shall indemnify, defend, and hold harmless SDIBI, SDIBI/SDRC, the State of South Dakota and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of SDRC INC acts and/or omissions performed under this Agreement.

7. This Agreement shall be governed by the laws of State of South Dakota.

8. The parties agree that this Agreement shall remain in full force and effect for a term of five (5) years.

9. This Agreement may be modified by written consent of the parties. This Agreement may not be cancelled except upon a material breach of its terms or material misrepresentation by a party which remains uncured for more than Fourteen (14) days after receipt of a Notice of Intent to Cancel that provides specific information justifying the cancellation.

10. SDIBI/DEDR will notify USCIS in writing within Thirty (30) days of any change in the designation of the principal representative of SDIBI/DEDR or the principal administrator to SDIBI or any significant change in or the termination of this Agreement with SDRC INC.

11. In the event of cancellation of this Agreement, SDIBI will provide USCIS a clear explanation as to how services and responsibilities of SDRC INC hereunder will be performed, and by whom, without interruption to the functioning of the Regional Center in connection with the SDIBI/DEDR projects or any affected alien investor in the SDIBI/DEDR projects.

12. Any Notice to be given by any party to the others shall be in writing and personally delivered or sent by U.S. registered mail, certified or overnight, as follows (or in such manner and to such address as designated in writing by any party):

For SDIBI:

South Dakota International Business Institute  
Joop Bollen  
Director  
1200 S Jay St.  
Aberdeen, SD 57401-7198 USA

For SDRC INC:

South Dakota Regional Center, Inc.  
James Park  
Director  
405 8th AVE., NW, Suite 330  
Aberdeen, SD 57401  
Phone#: 605-228-7043

13. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.



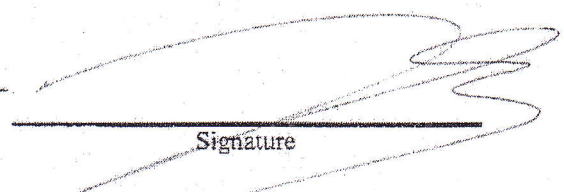
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be  
duly executed the date first written.

(Signature)

Signed by Authorized Signatory  
on behalf of

**SOUTH DAKOTA INTERNATIONAL  
BUSINESS INSTITUTE:**

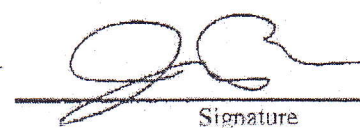
Name: *Joop Bollen*  
Title: *Director*

  
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Signature

Signed by Authorized Signatory  
on behalf of

**SOUTH DAKOTA REGIONAL  
CENTER, INC:**

Name: James J. Park  
Title: Director

  
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Signature