

**Stream2Sea
Sub-Grant Agreement**

THIS AGREEMENT ("Agreement") by and between the Hardee County Industrial Development Authority (the "IDA"), a dependent special district and Stream2Sea, Incorporated ("Stream2Sea"), a privately held company, is set forth as follows:

RECITALS

WHEREAS, The Hardee County Economic Development Authority ("EDA"), an Independent Special District was created by the Florida Legislature to solicit rank and fund grants for economic development for and in the geographic boundaries of Hardee County, Florida; and

WHEREAS, The IDA, a dependent Special District was created by the Florida Legislature to foster and promote economic development in Hardee County, Florida, activated by resolutions 84-10 and 96-31 of the Hardee County Board of County Commissioners; and

WHEREAS, Stream2Sea, a new skincare cosmetic company, is dependent upon the availability and access to a manufacturing "fill-line"; and

WHEREAS, the EDA has previously funded, during the September 2013 funding cycle, a grant to the IDA to procure a facility to locate, create and operate a business development incubator/accelerator hereinafter referred to as "Innovation Place" (Attached as **Exhibit A** grant award agreement); and

WHEREAS, the "Innovation Place" facility has been acquired and sufficiently retrofitted to recruit and accommodate the development of businesses dependent upon a publicly owned, privately contracted "fill-line;" and

WHEREAS, the EDA has continued funding to the IDA to sustain the development of "Innovation Place", through a budgeted appropriation for the development of Stream2Sea (See **Exhibit A**); and

WHEREAS, the management of “fill-line” manufacturing requires specific training and certifications generally available in the private sector, necessitating private contractual management (To be contracted through RFP process); and

WHEREAS, the owner of Stream2Sea has previously demonstrated an ability to create and sustain jobs in Hardee County; and

WHEREAS, the “Innovation Place” project, inclusive of tenants funded by grants provided through the EDA to the IDA, has been ranked as a priority by the Cities and County elected officials and approved by the EDA and IDA members; and

WHEREAS, Stream2Sea has agreed to comply with certain conditions and deliver certain performance, including measurable job creation/retention and economic diversity in the local economy, in consideration for receiving these benefits; and

WHEREAS, the parties believe it is in the best public interest to enter into this Agreement for the reasons set forth above; and

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises herein, the parties agree as follows:

1. RECITALS:

The above stated recitals are hereby incorporated by reference.

2. IDA COMMITMENTS:

The IDA will facilitate the orderly development of Innovation Place and its tenants, including the management of the grant funds. The IDA agrees to provide funding consistent with the EDA grant agreement as follows:

- a. To provide funding to Stream2Sea consistent with the EDA approved budget in the amount of \$640,962.50.
- b. To make observations and recommendations for overall grant compliance and Stream2Sea development progress to the EDA.

- c. To work with the County Staff delegated administrative duties for the EDA.

At any time during the term of this agreement, the commitment to continue advanced funding by the IDA is conditioned upon sufficiency of EDA reimbursements, all as determined by the IDA in its sole and absolute discretion.

3. STREAM2SEA COMMITMENTS:

Stream2Sea agrees to adhere to EDA grant award requirements and further agrees as follows:

- a. Stream2Sea is committed to developing a positive atmosphere for the orderly development and job creation aspects of this agreement in Hardee County
- b. Bring business experience and knowledge of new product development and introduction into the market place.
- c. Provide for the employment of necessary personnel to effectuate the success of the Stream2Sea product line from production thru marketing.
- d. Co-operate and enter into agreements with the contracted fill-line operator to fill 100% of Stream2Sea product.
- e. Expend funding according to the budgeted appropriations.
- f. Stream2Sea, in conjunction with the fill-line shall create and maintain, in the aggregate, at least Ten ("10") new employment positions in Hardee County by June 30, 2016 (priority in hiring shall be given to Hardee County residents). These new positions shall have a cumulative wage average at least 20% above the state of Florida minimum wage rate for each period. The obligation of the company shall be to make its best efforts to maintain or increase employment levels in accordance with the following schedule:

- (1) 5 jobs by August 1, 2015
- (2) 7 jobs by December 31, 2015
- (3) 10 jobs by June 30, 2016

The number of jobs created by Stream2Sea shall include jobs created by the fill line contractor at a ratio equal to the Stream2Sea production units divided by the total production units of the fill line for any employment reporting period.

- g. Stream2Sea shall submit with each funding request, documentation substantiating the request as follows:
 1. Draw Advance – detailed description of manner in which funds are to be spent, in accordance with approved budget in grant award agreement. The initial advance shall be limited to operational and or capital expenditures expected to be incurred in the ensuing 30 day period. Subsequent advances may be considered on a case by case basis. No additional advance will occur without proof of expenditure of any previous advance.
 2. Draw Reimbursement- detailed description of expenditure by production of redacted receipts, invoices, canceled checks, bank statements, payroll records or any other information deemed necessary by the IDA.
 3. Stream2Sea shall maintain such records as are reasonably deemed necessary by the IDA and Hardee County auditors, or such other persons or entities designated by the IDA, to ensure proper accounting for the expenditure of funds provided under this Agreement and for the performance by each of them under this Agreement.

4. COMPLIANCE VERIFICATION

No later than 30 days from the end of each quarter, the combined employment of the fill-line and Stream2Sea shall be reported to the IDA office with redacted employment records, reflecting Hardee County employment reported to either the State Unemployment division (RT-6 form) or redacted form 941 quarterly report to the Social Security Administration/IRS; until such time the business or the IDA mutually agrees to terminate this requirement. In no event shall it continue beyond 60 months from the date of this agreement.

5. REMUNERATION OBLIGATION

a. JOB REQUIREMENTS

As set forth in Section 3.f. above, annually during the term of this Agreement, through December 31, 2020, Stream2Sea must deliver to the IDA an Annual Compliance Verification within 30 days demonstrating its Job Requirements have been met for the year just ended. The consequences to Stream2Sea of satisfying, failing to satisfy or exceeding its respective Job Requirements is as follows:

1. COMPLIANCE WITH JOB REQUIREMENTS

If an Annual Compliance Verification demonstrates that Stream2Sea's Job Requirement has been met for the year just ended, then Stream2Sea will be deemed to have met its obligations for such preceding year and no remuneration shall be due.

2. FAILURE TO MEET JOB REQUIREMENT

- a. If the cumulative Annual Compliance Verification of employment demonstrates that Stream2Sea's Job requirement has not been met for the year just ended, then the IDA may require Stream2Sea to pay remuneration in the amount of Two Thousand Five Hundred Dollars (\$2,500) per job for every employment position by which it is short that year.
- b. Any action, event or circumstance resulting in a failure to meet job creation requirements may; at the option of the IDA, result in demand for and legal action to require reimbursement of the grant funds according to the schedule as set forth in Exhibit B.
- c. Any outstanding remuneration obligation under this agreement shall be paid no later than December 31, 2020.

3. EXCEEDING JOB REQUIREMENT

Exceeding the job requirements is the objective of the grant program. Accelerated reduction in the remuneration obligation may be available upon demonstration of job creation in excess of the requirements in the sole and absolute discretion of the IDA.

4. CREDIT FOR EXTERNAL FUNDING

One of the IDA's primary objectives under this Agreement is to support the development of Innovation Place fill-line operation as an incubator for business and manufacturing in Hardee County, Florida. Procuring external funding independent from IDA/EDA funding directly benefits the County. External funding that result in additional capital investment or job creation may be used to accelerate reduction in the remuneration obligation as set forth in Exhibit B.

6. IDA INSPECTION RIGHTS

(a) DUTY TO MAINTAIN RECORDS/ RECORDS RETENTION

1. Stream2Sea shall maintain accounting and business records in accordance with this agreement for a period of five (5) years or until full and final resolution of all inspections, reviews or litigation matters, whichever time period is longer.
2. Appropriate "audit trails" for any ensuing reviews shall be maintained by Stream2Sea and the fill-line operator to provide accountability for updates and changes to personnel and financial systems. "Audit Trails" maintained by the subjects of inspections or reviews, will at a minimum, identify the changes made, the individual making the change and the date the change was made.

An adequate history of transactions shall be maintained by Stream2Sea to permit any inspection/review of the system by tracing the activities of individuals through the system.

Stream2Sea agrees that failure to maintain adequate “audit trails” and corresponding documentation shall create a presumption that compliance with this agreement was not met.

(b) ACCESS

Stream2Sea shall grant access to all paper and electronic records, books, documents, accounting procedures, practices or any other items relevant to the performance of this agreement to the IDA and auditors of the State of Florida and Hardee County, or such other persons or entities designated by the IDA in accordance with all applicable State and Federal laws, regulations or directives for the purposes of inspecting and reviewing such books and records.

Notwithstanding the foregoing, it is recognized that the purpose for which access is to be granted is to monitor compliance with the express obligations of Stream2Sea hereunder, and that it would severely adversely affect the very objectives of this Agreement if confidential, proprietary technical or business data were to be released or become available to the public as a result of any examination by or on behalf of the IDA or State. Accordingly, Stream2Sea may require, that the IDA and its representatives, to the extent permitted by law, follow protocols designed to protect such information as confidential pursuant to Florida Statute 288.075.

(c) LOCATION

Any such inspection or review shall be conducted at Stream2Sea’s principal place of business during normal business hours and at the IDA’s expense, provided all costs incurred by the IDA in conducting any such inspection or review shall be reimbursed by Stream2Sea as applicable, in the event such inspection or review reveals a material discrepancy in the compliance with this Agreement.

(d) REIMBURSEMENT

If any inspection or review reveals that Stream2Sea's reports for the applicable period are not accurate for such period and that additional amounts were owed to the IDA above what was paid or discharged with credits, then Stream2Sea shall resolve the deficiency within 30 days with the IDA.

(e) CORRECTIVE ACTION PLAN

If any inspection or review reveals any discrepancies or inadequacies which must be corrected to maintain compliance with this Agreement, Stream2Sea agrees within thirty (30) calendar days after its receipt of the findings, to propose and submit to the IDA a corrective action plan. The plan shall identify steps to correct such discrepancies or inadequacies, subject to the approval of the IDA.

Such party shall complete the corrective action approved by IDA within thirty (30) calendar days after the IDA approves the corrective action plan, at the sole cost of the applicable party.

7. REPORTS

Stream2Sea shall provide to the IDA periodic status reports in accordance with Innovation Place Policies and Procedures Manual, as adopted and amended from time to time. These reports shall be utilized by the IDA when reporting progress on the development of Innovation Place to the EDA or BOCC.

8. USE AND RETENTION OF LOCAL SUPPLIERS

Stream2Sea and direct subcontractors will use reasonable efforts to use qualified Hardee County, Florida-based suppliers to provide products and services under this Agreement, provided however, Stream2Sea and other subcontractors may in its sole discretion, select suppliers and contractors based on program needs, scientific criteria, and industry standards.

9. INDEMNITY AND HOLD HARMLESS

Stream2Sea shall defend, acquit, discharge, indemnify, release and hold harmless the IDA its employees, employees of The Hardee County Economic Development

Council, Inc., IDA officers, agents and assigns from any and all liability, claims, suits, actions and loss, arising from or otherwise associated with, its occupation and use of Innovation Place, whether the claim be in law or in equity or both, including but not limited to litigation costs and attorneys' fees.

10. DEFAULTS AND REMEDIES

Each of the following acts, omissions or occurrences of Stream2Sea shall constitute an act of default under this agreement:

a. **FAILURE TO ESTABLISH A BUSINESS**

If Stream2Sea fails to establish a sustainable business for the purposes and in accordance with the terms of this agreement, all funds distributed pursuant to this Agreement will be subject to an immediate refund to the IDA in accordance with the Schedule as set forth in Exhibit B.

b. **FAILURE TO PAY FOR JOB REQUIREMENT DEFICIT**

Stream to Sea as applicable, shall have sixty (60) days after receiving written notice from the IDA demanding payment of outstanding damages owed by such party under "Job Requirement" section of this agreement in which to pay such outstanding damages; provided, that if such damages are the subject of a good faith dispute, such period shall be extended until thirty (30) days after such dispute is resolved. If the responsible party does not pay after this period, all amounts that could potentially be claimed under Section 5.a.2.a. for such party's failure to meet its future job obligations shall become due and payable immediately on demand of the IDA.

c. **FAILURE TO PROVIDE VERIFICATION**

If after the end of a calendar year Stream2Sea fails to provide an Annual Compliance Verification by the deadline therefor, the IDA may make a good faith estimate, based on information available, of the Employment Positions at the Innovation Place, as applicable, as of December 31 of that year and, if the estimated Employment Positions fall short of the Job Requirement, the IDA may require corresponding remuneration in accordance with this agreement.

11. INTEREST ON OVERDUE PAYMENTS

Any overdue payment (Pursuant to Section 5.a. 2.a.), owed by Stream2Sea, shall accrue interest at 4% per annum.

12. GENERAL PROVISIONS

1. AUTHORITY

Each party represents that it has obtained all necessary authority to enter into this Agreement.

2. RELATIONSHIP OF PARTIES

The parties will perform their respective obligations under this Agreement as independent contractors and not as agents, employees, partners, joint ventures, or representatives of the other party. No party can make representations or commitments that bind any other party.

3. LIMITATION OF LIABILITY

In no event will any party be liable to any other party for any indirect, special, punitive, exemplary, incidental or consequential damages. This limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages.

4. TERM

The term of this Agreement commences on the Effective Date of the Agreement and continues until the later of December 31, 2020, or satisfaction of any remaining remuneration obligation, unless terminated earlier pursuant to the terms of this Agreement.

5. TERMINATION FOR CAUSE

Either party may terminate this Agreement for Cause upon thirty (30) days prior written notice to the other party. "Cause" is any failure to perform a material obligation under this Agreement within the specified time taking into consideration grace periods set forth herein; including a material breach of a Funding Condition. This Agreement may not be terminated if the alleged Cause is cured within the specified period.

6. DISPUTE RESOLUTION AND APPLICABLE LAW

a. INFORMAL MEETINGS

The parties' representatives will meet as needed to implement the terms of this Agreement and will make a good faith attempt to informally resolve any disputes.

b. MEDIATION

In the event a dispute arises under this agreement, either party may request the matter be mediated prior to filing suit in accordance with Florida law.

c. APPLICABLE LAW AND VENUE

This Agreement is made and entered into in the State of Florida, and this Agreement and all disputes arising out of or relating thereto shall be governed by the laws of the state of Florida, without regard to any otherwise applicable conflict of law rules or requirements that would require or permit the application of the law of another jurisdiction.

The parties agree that any action, suit, litigation or other proceeding arising out of or in any way relating to this Agreement, or the matters referred to herein, shall be commenced exclusively in the Circuit Court in and for Hardee County, Florida and hereby irrevocably and unconditionally consent to the exclusive jurisdiction of this court for the purpose of prosecuting and/or defending such litigation.

13. PUBLICITY

The parties agree to cooperate fully to coordinate with each other in connection with all press releases and publications regarding this Agreement.

14. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this agreement may be construed to be a waiver of the sovereign immunity of any government entity to suit.

15. MISCELLANEOUS PROVISIONS

1. COUNTERPARTS

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in establishing proof of this Agreement to produce or account for more than one such counterpart.

2. MERGER

This document constitutes the final entire agreement between the parties and supersedes any and all prior oral or written communication, representation or agreement relating to the subject matter of this Agreement.

3. SEVERABILITY

Any term in this Agreement prohibited by, or unlawful or unenforceable under, any applicable law or jurisdiction is void without invalidating the remaining terms of this said Agreement. However, where the provisions of any such applicable law may be waived, they are hereby waived by a party, as the case may be, to the fullest extent permitted by the law, and the affected terms are enforceable in accordance with the parties' original intent.

4. SURVIVAL OF PROMISES

Notwithstanding any expiration, termination or cancellation of this Agreement, the rights and obligations pertaining to payment or repayment of funds and/or remuneration obligation, confidentiality, disclaimers and limitation of liability, indemnification, and any other provision implying survivability will remain in effect after this Agreement ends.

5. BINDING EFFECT

This Agreement and all terms, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the parties and their

successors and assigns and shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns and all other agencies, departments, divisions, governmental entities, public corporations and other entities which shall be successors to each of the parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the parties hereto.

6. SUCCESSORS AND ASSIGNS

Stream2Sea may assign its rights and obligations under this Agreement, with written consent of the IDA which may not be unreasonably withheld.

7. FORCE MAJEURE

The parties shall not be required to perform any obligation under this Agreement or be liable or responsible for any loss or damage resulting from its failure to perform so long as performance is delayed by force majeure or acts of God, including but not limited to strikes, lockouts or labor shortages, embargo, riot, war, revolution, terrorism, rebellion, insurrection, flood, natural disaster, or interruption of utilities from external causes.

8. NOTICE

All notices, requests, demands and other communications will be in writing and will be deemed given and received (i) on the date of delivery when delivered by hand, (ii) on the following business day when sent by confirmed simultaneous telecopy or email, (iii) on the following business day when sent by receipted overnight courier, or (iv) three (3) business days after deposit in the United States Mail when mailed by registered or certified mail, return receipt requested, first class postage prepaid, as follows:

If to the IDA to:
William R. Lambert Jr. – Director
107 East Main Street
Wauchula, FL 33873
(863)773-4915 fax
bill.lambert@hardeemail.com
info@hardeemail.com

With Copy to:
Kenneth B. Evers
424 West Main Street
Wauchula, FL 33873
(866)547-4362 fax
office@hardeelaw.com

If to Stream2Sea to:
Autumn Blum

9. INTELLECTUAL PROPERTY RIGHTS

It is further understood that this Agreement does not grant the IDA any right to acquire intellectual property transferred to or developed by Stream2Sea.

10. INCUBATOR POLICIES AND PROCEDURES

The parties hereby agree to abide by the incubator policies and procedures adopted and amended from time to time. To the extent any provision of this agreement conflicts with any provision of the incubator policies and procedures, the provision of this agreement shall prevail.

11. ATTORNEYS' FEES

In any action or proceeding to enforce or interpret this agreement or any provision hereof, the prevailing party shall be entitled to an award of its reasonable attorneys' fees, including but not limited to bankruptcy and appellate proceedings.

12. EFFECTIVE DATE

The effective date of this agreement is October 1, 2014.

The parties have caused this Economic Development Agreement to be executed by their duly authorized representatives as of the date first specified above.

Hardee County Industrial Development Authority

By: Vanessa Hernandez, Chairperson

Stream2Sea, Inc.

By: Autumn Blum, President

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