

**STATE OF FLORIDA  
OFFICE OF THE GOVERNOR  
QUICK ACTION CLOSING FUND AGREEMENT**

**AGREEMENT**

THIS AGREEMENT (OT09-036) ("Agreement") is made and entered into this 8<sup>th</sup> day of October, 2008, by and between the State of Florida, Executive Office of the Governor's Office of Tourism, Trade, and Economic Development, hereinafter referred to as "OTTED," and Palm Coast Data, LLC, hereinafter referred to as the "Closing Fund Awardee," pursuant to Section 288.1088, Florida Statutes. JM

OTTED has determined that the Closing Fund Awardee has met all of the requirements necessary to become certified to participate in the Quick Action Closing Fund (Closing Fund) and that all statutorily required reviews and approvals have been obtained pursuant to Section 288.1088, Florida Statutes, and

The General Project Overview and the Quick Action Closing Fund Attachment submitted by the Closing Fund Awardee to Enterprise Florida, Inc., including any attachments, and other supporting documentation, are attached hereto and incorporated as an integral part of this Agreement, and will be referred to as "Exhibit A."

**This Agreement is neither a general obligation of the State of Florida, nor is it backed by the full faith and credit of the State of Florida. Payment of Closing Fund Awards are conditioned on and subject to specific annual appropriations by the Florida Legislature of funds sufficient to pay amounts authorized in Section 288.1088, Florida Statutes, and**

In consideration for the mutual promises and agreements contained herein, and other valuable and good consideration, OTTED and the Closing Fund Awardee agree as follow:

**1.0 PARTIES:** The parties and their respective addresses for purposes of this Agreement are as follows:

STATE OF FLORIDA  
OFFICE OF THE GOVERNOR  
OFFICE OF TOURISM, TRADE, AND ECONOMIC DEVELOPMENT  
THE CAPITOL, SUITE 2001  
TALLAHASSEE, FLORIDA 32399-0001  
FAX NUMBER: (850) 487-3014

PALM COAST DATA, LLC  
11 COMMERCE BOULEVARD  
PALM COAST, FLORIDA 32164  
FAX NUMBER:  
EMAIL: TASHLER.MIKE@PALMCOASTD.COM

**2.0 ADMINISTRATORS:**

The State's Closing Fund Agreement administrator is:

Wynnelle Wilson, Chief Analyst for Policy & Incentives

The Closing Fund Awardee Agreement administrator is

Mike Taschler, Executive Vice President

All approvals and notifications referenced in this Agreement must be obtained in writing from the parties' agreement administrators or their duly authorized designees.

**3.0 TERM:** The term of this Agreement shall commence upon the date of execution of this Agreement, and continue through December 31, 2014 unless terminated prior to that time as provided for in this Agreement. The record-keeping and audit-related obligations (Paragraphs 7.0(f) and 19.0) of the Closing Fund Awardee shall survive any termination or expiration of this Agreement for a period of five (5) years.

**4.0 CLOSING FUND AWARDEE DESCRIPTION:**

(a) The Closing Fund Awardee is or will be an operating unit of Palm Coast Data LLC. It is identified by the FEID number of EIN 02-0543850, and for unemployment compensation purposes under the unit name(s) of Palm Coast Data, LLC; account number(s), ██████0640.

(b) The Closing Fund Awardee understands and agrees that the requirements in Paragraphs 7.0, 9.0, 10.0 and 19.0 of this Agreement pertain only to the Project described in Paragraph 5.0(a) of this Agreement ("Project") for the business unit described in Paragraph 4.0(a) of this Agreement.

**5.0 PROJECT DESCRIPTION AND AWARD CONDITIONS:**

(a) The Project will include the retention and expansion of its Palm Coast, Florida facilities, employment, and operations, as described in "Exhibit A."

(b) The "Award Conditions" for the payment of \$3,000,000 ("Closing Fund Award") shall be met when the following have occurred:

- (1) Execution of this Closing Fund Agreement with OTTED by November 30, 2008;
- (2) Public announcement of the Closing Fund Awardee's intention to remain and expand in Palm Coast, Florida;
- (3) Documentation of the retention of at least 1,000 full-time equivalent jobs in Palm Coast, Florida, but as many as 80 of which may be temporarily located in Volusia County, Florida (the jobs located in Volusia County are intended to eventually be moved to Palm Coast, Florida, but the moving of such jobs is not a condition for the payment of the Closing Fund Award);

(4) Documentation of the creation of at least an additional 50 net new, full-time equivalent Florida jobs in Palm Coast, after the date this Closing Fund Award is Certified (September 10, 2008); and

(5) Closure on the purchase of the land and facilities for the Project, or execution of a Facility Lease with the City of Palm Coast for the Palm Coast "City Hall" located at 2 Commerce Boulevard, and the execution of a contract for the renovation of said facility.

Certification that these conditions have been met and supporting documentation shall be submitted to OTTED for verification of the aforementioned conditions. Verification must be complete to OTTED's satisfaction prior to the disbursement of the payment. To receive payment, the conditions specified in Paragraph 5.0(b) above are expected to be met by March 31, 2009; however, this date may be extended to no later than June 15, 2009, with the express written approval of OTTED.

(c) In order to remain qualified for the Closing Fund award payment authorized in this Agreement and to avoid sanctions, the Closing Fund Awardee must meet the conditions specified below:

(1) Create, and maintain, at least 700 net new, full-time equivalent jobs in Palm Coast, Florida, over and above the retained Base Period jobs, by December 31, 2011 (which shall include the 50 new jobs referenced in paragraph 5.0(b)(4), in accordance with the schedule specified in the QTI Tax Refund Agreement for this Project.

The Base Period for this Project's jobs will be the average number of full-time equivalent jobs for twelve months prior to the approval of the Closing Fund Award, but not less than 1,000 full-time equivalent jobs;

(2) The average annual wage of project jobs specified in Paragraph 5.0(b)(3) and (c)(1) above will be at least \$29,530, excluding benefits; and

(3) The Closing Fund Awardee must make a total capital investment in facilities and equipment (which may include equipment moved from other of the Closing Awardee's locations outside of Florida) of at least \$27,300,000 by December 31, 2011. Documentation of this investment must be presented to OTTED or its agent by March 31, 2012.

(d) The Closing Fund Awardee may make a one-time election to extend the job creation and investment performance schedule by one year. This election must be communicated to OTTED, and approved by OTTED, in writing. Exercising this option shall result in a one-year extension of the term of the performance requirements and sanctions.

**6.0 NOTICES:** All notices pertaining to this Agreement are in effect upon receipt by OTTED, shall be in writing and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile transmission may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth above for the respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

**7.0 DUTIES OF THE CLOSING FUND AWARDEE:** The Closing Fund Awardee agrees that to qualify and remain qualified for the Closing Fund Award payment authorized herein, the Closing Fund Awardee must:

(a) Undertake the Project and meet all of the Award Conditions as specified in Paragraphs 5.0(b) and (c) of this Agreement.

(b) Submit its request for the Closing Fund Award payment authorized in Section 9.0 of this Agreement in a letter format and clearly state that it certifies each of the specific

requirements in Paragraph 5.0(b) of this Agreement have been met, and provide supporting documentation acceptable to OTTED.

(c) Submit annual certification of its employment and annual average wage payments using a Qualified Target Industry Tax Refund (QTI) Claim application or alternate equivalent documentation acceptable to OTTED, every State of Florida fiscal year by January 31 of said year. The QTI claim application or alternate equivalent documentation must be submitted annually through January 31, 2014.

(d) Certify and submit documentation that at least 80 percent of the total investment specified in Paragraph 5.0(c)(3) has been made in the facility and related equipment in Palm Coast, Florida as of December 31, 2011, and continues to be located in Palm Coast, Florida as of December 31, 2013.

(e) Notify OTTED in writing of any material developments that impact the implementation or operation of this Agreement or the Project that this Agreement covers. Such material developments will include, but not be limited to: announcements with regard to the Project, cancellation of the Project, or change in ownership of the Closing Fund Awardee.

(f) Maintain personnel and financial records and reports related to the jobs, wages, and cumulative investment that are the subject of this Agreement and submit reports to OTTED as requested.

**8.0 LIABILITY AND INDEMNIFICATION:** OTTED will not assume any liability for the acts, omissions to act, or negligence of the Closing Fund Awardee, its agents, servants, or employees; nor will the Closing Fund Awardee exclude liability for its own acts, omissions to act, or negligence to OTTED. In addition, the Closing Fund Awardee agrees to be responsible

for any injury or property damage resulting from any activities conducted by the Closing Fund Awardee.

To the extent permitted by law, the Closing Fund Awardee agrees to indemnify and hold OTTED harmless from and against any and all claims or demands for damages resulting from personal injury, including death or damage to property, arising out of any activities performed under this Agreement and will investigate all claims at its own expense. However, neither OTTED nor any agency or subdivision of the State of Florida waives any defense of sovereign immunity or increases the limits of its liability upon entering into this contractual relationship.

**9.0 DUTIES OF OTTED:** OTTED agrees that the Closing Fund Awardee will be eligible to receive a total amount of THREE MILLION DOLLARS (\$3,000,000) from the Quick Action Closing Fund contingent upon meeting the requirements established in Paragraph 5.0(b) of this Agreement. The payment will be paid within 30 days of verification by OTTED, or OTTED's designee, that the Closing Fund Awardee has met the conditions in Paragraph 5.0(b) of this Agreement, for the Project specified in Paragraph 5.0(a) of this Agreement.

**10.0 TERMINATION AND SANCTIONS:**

(a) This Agreement may be terminated by OTTED upon failure of the Closing Fund Awardee to comply with any material term or condition of this Agreement or a decision by the Closing Fund Awardee either not to proceed with the Project defined in Paragraph 5.0(a) of this Agreement or to proceed with that Project in a location outside of Palm Coast, Florida.

(b) A termination will result in the loss of eligibility for receipt of the Closing Fund Award payment previously authorized. If the Closing Fund Award has been paid, the

Closing Fund Awardee may be required to repay the grant amount and a penalty, as outlined below in (d), (e), (f) and (g) of this section.

(c) Notwithstanding Paragraphs (a) and (b) above, in the event that OTTED fails to pay the Closing Fund Awardee a Closing Fund Award payment, to which the Closing Fund Awardee is entitled under this Agreement, as a result of insufficient state funds or for any reason whatsoever, the Closing Fund Awardee shall have the right to terminate this Agreement and may retain any Closing Fund Award payment that is not subject to conditions/sanctions under Paragraphs (d), (e), (f) or (g) of this Section and was previously paid or awarded to the Closing Fund Awardee by OTTED under this Agreement.

(d) In any year in which the actual number of jobs for a job creation or maintenance phase scheduled in Paragraph 5.0(b)(3) and (c)(1) of this Agreement falls below 80 percent of the number of jobs so scheduled, the Closing Fund Awardee shall repay an amount equal to one-fifth of the Closing Fund Award payment plus interest on the amount repaid. If in any year the actual number of jobs is at least 80 percent of the number of jobs scheduled in Paragraph 5.0(c)(1) of this Agreement, but less than the required number of jobs, the Closing Fund Awardee shall repay a pro rated share of one-fifth of the Closing Fund Award payment plus interest, as determined in Paragraph 10.0(g), on the amount repaid.

(e) In any year the average wage falls below the average wage agreed to in Paragraph 5.0(c)(2) of this Agreement, the Closing Fund Awardee shall repay one-fifth of the Closing Fund Award plus interest, as determined in Paragraph 10.0(g), on the amount repaid.

(f) If the capital investment for the Project specified in Paragraph 5.0(a) of this Agreement has not reached 80 percent of the investment scheduled in Paragraph 5.0(c)(3) of this Agreement by the date specified in Paragraph 5.0(c)(3) of this Agreement, the Closing Fund



Awardee shall repay a prorated share of the Closing Fund Award payment plus interest, as determined in Paragraph 10.0(g), on the amount repaid.

(g) The interest rate shall be determined by the average interest rate received by the State on mid-term investments at the time payment is due.

(h) In no year shall the amount required to be repaid exceed the larger of the individual amounts determined in Paragraphs 10.0(d), (e), or (f), and total cumulative payments shall never exceed the value of the total award plus interest as determined in Paragraph 10.0.

(i) Any required repayment, interest and/or penalty, is due to OTTED within sixty (60) days of receipt of written notice from OTTED.

(j) Upon reasonable notice to the Closing Fund Awardee, (i.e., at least 72 hours), OTTED, or its designated agent, may conduct on site visits of the Palm Coast, Florida facility during normal business hours to verify the Closing Fund Awardee's investment, employment, wage records, and other records related to the payment and performance conditions of this Agreement.

**11.0 INDEPENDENT CAPACITY OF THE CLOSING FUND AWARDEE:** The parties agree that the Closing Fund Awardee, its officers, agents, and employees, in performance of this Agreement, will act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. The Closing Fund Awardee is not entitled to accrue any benefits of State employment, including retirement benefits and any other rights or privileges connected with employment. The Closing Fund Awardee agrees to take such steps as may be necessary to ensure that each subcontractor of the Closing Fund Awardee will be deemed to be an independent contractor and will not be considered or permitted to be an agent of the State.

The Closing Fund Awardee has no authority to, and shall not pledge the State's credit or make OTTED a guarantor of payment or surety for any contract, debt, obligation, judgment lien, or any form of indebtedness.

**12.0 LEGAL REQUIREMENTS:**

(a) This Agreement is executed and entered into in the State of Florida, and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Each party will perform its obligations in accordance with the terms and conditions of this Agreement. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Leon County, Florida, applying Florida law.

(b) If any term or provision of this Agreement is found to be illegal and unenforceable, the remainder of this Agreement will remain in full force and effect and such term or provision will be deemed stricken.

**13.0 PUBLIC ENTITY CRIMES:** The Closing Fund Awardee affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes, and that at no time has the Closing Fund Awardee been convicted of a Public Entity Crime. The Closing Fund Awardee agrees that it shall not violate such law and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

**14.0 UNAUTHORIZED ALIENS:** OTTED will consider the employment of unauthorized aliens, by any contractor or subcontractor (if the status of such unauthorized alien is known to such contractor or subcontractor), as described by Section 274A(e) of the Immigration and Nationalization Act, cause for termination of this Agreement.

**15.0 NON-DISCRIMINATION:** The Closing Fund Awardee will not discriminate against any employee employed in the performance of this Agreement, or against any applicant

for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex.

The Closing Fund Awardee shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The Closing Fund Awardee shall insert a similar provision in all subcontracts for services by this Agreement.

The Closing Fund Awardee affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes, and that at no time has the Closing Fund Awardee been placed on the Discriminatory Vendor List. The Closing Fund Awardee further agrees that it shall not violate such law and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

**16.0 ATTORNEY FEES:** Unless authorized by law and agreed to in writing by OTTED, OTTED will not be liable to pay attorney fees, interest, or cost of collection.

**17.0 TRAVEL:** There shall be no reimbursement of travel expenses exceeding the all-inclusive funds allocated in this Closing Fund Agreement.

**18.0 PRESERVATION OF REMEDIES:** No delay or omission to exercise any right, power, or remedy accruing to either party upon breach or default by either party under this Agreement, will impair any such right, power or remedy of either party; nor will such delay or omission be construed as a waiver of any breach or default or any similar breach or default.

**19.0 ACCOUNTING AND AUDITS:** The Closing Fund Awardee agrees:

(a) To maintain books, records, documents and other evidence according to generally accepted accounting principles, procedures, and practices that sufficiently and properly reflect all costs of any nature expended in the performance of this Agreement, and retain said copies for a period of five (5) years after termination of the conclusion of this Agreement. If any litigation, claim, negotiation, audit or other action involving the records has been started before

the expiration of the five (5) years, the records shall be retained until completion of the action and resolution of all issues which arise from it.

(b) To make the books, records, documents and other evidence available for inspection, review, or audit by state personnel of the Office of the Auditor General, Department of Financial Services, or other state personnel authorized by OTTED. Copies of the reporting package required by this Agreement shall be submitted by or on behalf of the recipient to OTTED and the State of Florida Auditor General.

(c) To include the aforementioned audit and record keeping requirements and the provisions contained in "Exhibit B" in contracts and sub-contracts entered into by the Closing Fund Awardee with any party for work required in the performance of this Agreement.

**20.0 PUBLIC RECORDS:** The Closing Fund Awardee must allow public access to all public records made or received by the Closing Fund Awardee in conjunction with the Closing Fund Award payment subject to the provisions of Chapter 119, Florida Statutes, except materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals to receive funding that are received, generated, ascertained, or discovered by OTTED, as exempted in Section 288.9520, Florida Statutes, or as exempted under Sections 288.075 or 288.1067, Florida Statutes. Refusal of the Closing Fund Awardee to allow access to records as provided in this Agreement shall constitute grounds for unilateral cancellation of this Agreement.

The Closing Fund Awardee must make publicly available, upon request, the following information: the name of the business, the amount of the Closing fund Award payment, the

number of actual new full-time equivalent jobs created, and the amount of capital investment completed.

**21.0 LOBBYING:** Payments obtained under this Agreement may not be used for the purpose of lobbying the Legislature, the judicial branch, or a state agency, pursuant to Section 216.347, Florida Statutes.


**22.0 NON-ASSIGNMENT:** Neither party may assign, sublicense, nor otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld. Any assignment, sublicense, or transfer occurring will be null and void; provided, however that OTTED will at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Closing Fund Awardee. In the event that OTTED approves transfer of the Closing Fund Awardee's obligations, the Closing Fund Awardee remains responsible for all work performed and all expenses incurred in connection with this Agreement.

**23.0 ENTIRE AGREEMENT:** This instrument embodies the entire agreement of the parties. There are no provisions, terms, condition, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous communication, representation, or agreement, either verbal or written, between the parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of the Closing Fund Awardee and the authorized agent of OTTED.



**DUPLICATE ORIGINALS:** This Agreement is executed in duplicate originals.

In Witness whereof, OTTED and the Closing Fund Awardee have caused this Agreement to be executed and delivered by their duly authorized representatives.

**STATE OF FLORIDA  
OFFICE OF TOURISM, TRADE,  
AND ECONOMIC DEVELOPMENT**

  
\_\_\_\_\_  
AUTHORIZED SIGNATURE                      Date      10/8/08



TITLE:                      Director

WITNESSES:  
  
\_\_\_\_\_  
  
\_\_\_\_\_

**PALM COAST DATA, LLC**

  
\_\_\_\_\_  
AUTHORIZED SIGNATURE                      Date      10/8/08

TITLE:                      Pres.

WITNESSES:  
  
\_\_\_\_\_  
  
\_\_\_\_\_ 10/8/08

**List of Exhibits:**

- Exhibit A: General Project Overview, Quick Action Closing Fund Attachment, and supporting documentation.**
- Exhibit B: Special Audit Requirements**
- Exhibit C: Criteria for Measurement of Achievement of Terms for New Full-time Equivalent Jobs and Average Annual Wage**

**STATE OF FLORIDA  
OFFICE OF THE GOVERNOR  
QUICK ACTION CLOSING FUND AGREEMENT**

**AMENDMENT NUMBER 1**

This First Amendment to OTTED Agreement OT09-036 is made and entered into this 5 day of May, 2010, by and between the State of Florida, Executive Office of the Governor's Office of Tourism, Trade, and Economic Development, hereinafter referred to as "OTTED," and Palm Coast Data, LLC, hereinafter referred to as "Closing Fund Awardee," pursuant to Section 288.1088, Florida Statutes. OTTED and the Closing Fund Awardee are sometimes also hereinafter referred to as a "Party" and collectively as the "Parties."

This Amendment is entered into for the purpose of modifying the Agreement as requested by the Closing Fund Awardee and consistent with OTTED policy. The Parties wish to amend the Agreement to ensure that the terms of the Agreement comply with current law and OTTED office procedures. The number of jobs to be created and the funding amount the Closing Fund Awardee is eligible to receive shall remain the same as initially agreed upon.

The Enterprise Florida, Inc. Quick Action Closing Fund Request for Consideration and the Closing Fund Awardee documentation, including any attachments, submitted in lieu of an application, are attached hereto and incorporated as an integral part of this agreement, and will be referred to as "Exhibit 1."

In consideration of the mutual promises and agreements contained herein, the Parties agree to amend the Agreement as follows:

1. Section 2.0 is hereby deleted and replaced by the following:

**2.0 ADMINISTRATORS:**

The State's Closing Fund Agreement administrator is:

Timothy E. Proctor, Chief Analyst

The Closing Fund Awardee Agreement administrator is:

T. MICHAEL TASCHLER, EVP/COO

All approvals and notifications referenced in this Agreement must be obtained in writing from the parties' agreement administrators or their duly authorized designees.

2. Section 3.0 is hereby deleted and replaced by the following:

3.0 **TERM:** The term of this Agreement shall commence upon the date of execution of this Agreement, and continue through June 30, 2016, for all terms except for the record-keeping and audit-related obligations (Paragraphs 7.0(f) and 19.0), unless terminated prior to that time as provided for in this Agreement. The record-keeping and audit-related obligations (Paragraphs 7.0(f) and 19.0) of the Closing Fund Awardee shall continue through June 30, 2021, unless terminated prior to that time as provided for in this Agreement.

3. Paragraphs 5.0(c) and 5.0(d) are hereby deleted and replaced by the following:

**5.0 PROJECT DESCRIPTION AND AWARD CONDITIONS:**

(c) In order to remain qualified for the Closing Fund award payment authorized in this Agreement and to avoid sanctions, the Closing Fund Awardee must meet the conditions below:

(1) Creation and maintenance of at least 1700 net new project jobs by December 31, 2012. (The first phase consisted of the creation of at least 50 net new full-time equivalent project jobs and the retention of 1,000 existing jobs in Flagler County, Florida, fully



implemented and confirmed as of March 30, 2009; the second phase, consisting of the creation of at least an additional 150 new project jobs for a cumulative total of at least 200 new full-time equivalent project jobs in Florida, fully implemented by December 31, 2010; the third phase, consisting of the creation of at least an additional 300 new project jobs for a cumulative total of at least 500 new full-time equivalent project jobs in Florida, fully implemented by December 31, 2011; and, the fourth and final phase consisting of the creation of at least an additional 200 new project jobs for a cumulative total of at least 700 new full-time equivalent project jobs in Florida, fully implemented by December 31, 2012. Throughout each of the phases and for two years after the last phase, or until December 31, 2014, the retained 1,000 project jobs must be maintained and each phase of new jobs are to be maintained for each following phase.);

(2) The Base Period for this project's jobs remains September 1, 2007 through August 31, 2008;

(3) The average annual wage of project jobs specified in Paragraph 5.0(c)(1) above will remain at least \$29,530, excluding benefits; and

(4) The Closing Fund Awardee must invest a total of at least \$27,300,000 in the new facility by December 31, 2012, and maintain that investment for an additional two (2) years, until December 31, 2014. Documentation of this investment must be presented to OTTED or its agent by January 31, 2013, and continue to be presented to OTTED each year thereafter until January 31, 2015.

(d) The Closing Fund Awardee has made a one-time election to extend the job creation and investment schedule by one year. Execution of this Amendment eliminates the Closing Fund Awardee's eligibility for another extension of the term of the performance requirements and sanctions.

**4. Paragraphs 7.0(c) and 7.0(d) are hereby deleted and replaced by the following:**

(c) Submit annual certification of its employment and annual average wage payment using a Qualified Target Industry Tax Refund (QTI) Claim application or alternate equivalent documentation acceptable to OTTED, every State of Florida fiscal year by January 31 of said year. The QTI claim application or alternate equivalent documentation must be submitted annually through January 31, 2015.

(d) Certify and submit documentation that at least 80 percent of the total investment specified in Paragraph 5.0(c)(4) has been made in the facility in Flagler County, Florida as of December 31, 2012, and continues to be located in Flagler County, Florida as of December 31, 2014.

**5. Paragraph 10.0(f) is hereby deleted and replaced by the following:**

(f) If the capital investment for the project specified in Paragraph 5.0(a) of the Agreement has not reached 80 percent of the investment scheduled in Paragraph 5.0(c)(4) of this Amendment by the periods specified in Paragraph 5.0(c)(4) of this Amendment, the Closing Fund Awardee shall repay a prorated share of the Closing Fund Award payment plus interest, as determined in Paragraph 10.0(g) of the Agreement, on the amount repaid.

**6. This Amendment is not intended to increase the maximum amount that may be paid to the Closing Fund Awardee under the original Agreement.**

**7. The Parties reaffirm all portions of Exhibit 1 not in conflict with this Amendment. Performance in accordance with this Amendment will be considered performance of the Agreement.**

**DUPLICATE ORIGINALS:** This Agreement is executed in duplicate originals.

In Witness whereof, OTTED and the Closing Fund Awardee have caused this agreement to be executed and delivered by their duly authorized representatives.


**STATE OF FLORIDA  
OFFICE OF TOURISM, TRADE,  
AND ECONOMIC DEVELOPMENT**

 5-5-10  
AUTHORIZED SIGNATURE Date

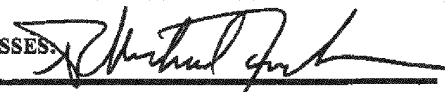

TITLE: Deputy Director

WITNESSES:  
  


**PALM COAST DATA, LLC**

 4/12/10  
AUTHORIZED SIGNATURE Date

TITLE: President

WITNESSES:  
  


**List of Exhibits:**

- Exhibit 1** Original Quick Action Closing Fund Agreement
- Exhibit 2** Special Audit Requirements
- Exhibit 3:** Criteria for Measurement of Achievement of Terms for New Full-time Equivalent Jobs and Average Annual Wage (where applicable)