

DUDE SOLUTIONS, INC.

ONLINE SUBSCRIPTION AGREEMENT

This Online Subscription Agreement (this "Agreement") shall govern Subscriber's (as defined below) access and use of the Services (as defined below) provided by Dude Solutions, Inc. (together with its direct and indirect subsidiaries, collectively, "DSI"). BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING ACCEPTANCE, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR BY OTHERWISE ACCESSING AND USING THE SERVICES, YOU AGREE TO THE TERMS OF THIS AGREEMENT. AS A RESULT, PLEASE READ ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE ANY SERVICE.

Section 1.0 Definitions

As used in this Agreement, the following terms shall have the meanings set forth below:

1.1 "Account" means Subscriber's specific account where Subscriber subscribes to access and use Service(s).

1.2 "Account Users" means individual users specified by the Subscriber to access and use the Subscriber's Account.

1.3 "Applications" means the software-as-a-service (SaaS) enterprise asset management applications designed, developed, marketed and made available by DSI, which include, without limitation, the following functionality: enterprise workflow, communication, content and business process logic for facilities, technology, business operations, facility scheduling, building automation, safety planning, crisis management, geographic information systems, energy and transportation management.

1.4 "Confidential Information" means any non-public information and/or materials disclosed in writing or orally by a party under this Agreement (the "Disclosing Party") to the other party (the "Receiving Party"), which (i) is designated in writing as confidential at the time of disclosure, or (ii) with respect to non-public information disclosed orally, the Disclosing Party sends the Receiving Party a written notice to Receiving Party within 15 days after oral disclosure identifying the non-public information that was disclosed as its confidential information, including when, where, how and to whom such non-public information was disclosed. For avoidance of doubt, DSI's Confidential Information shall include the source code, data structure, algorithms and logic of the Applications and Services. Notwithstanding the foregoing, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a Third Party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

1.5 “Content” means all of the audio and visual information, documents, content, materials, products and/or software contained in, or made available through, the Services.

1.6 “Documentation” means the user documentation relating to the Services, including but not limited to descriptions of the functional, operational and design characteristics of the Services.

1.7 “Highly-Sensitive Personal Information” means an Account User’s (i) government-issued identification number (including social security number, driver’s license number or state-issued identified number), (ii) financial account number, credit card number, debit card number, credit report information, in each case with or without any required security code, access code, personal identification number or password that would permit access to such Account User’s financial account; and/or (iii) biometric data.

1.8 “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191) and all regulations promulgated thereunder (45 C.F.R. §§ 160-164), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act and all regulations promulgated thereunder, as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), as amended from time to time.

1.9 “Intellectual Property Rights” means all ideas, concepts, designs, drawings, packages, works of authorship, processes, methodologies, information, developments, materials, inventions, improvements, software, and all intellectual property rights worldwide arising under statutory or common law, including without limitation, all (i) patents and patent applications owned or licensable by a party hereto; (ii) rights associated with works of authorship, including copyrights, copyright applications, copyright registrations, mask work rights, mask work applications and mask work registrations; (iii) rights related to protection of trade secrets and Confidential Information; (iv) trademarks, trade names, service marks and logos; (v) any right analogous to those set forth in clauses (i) through (iv); and (vi) divisions, continuations, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing, hereafter filed, issued or acquired.

1.10 “Privacy Policy” means the DSI privacy policy, as amended from time-to-time, which can be viewed by clicking the “Privacy” hypertext link located on www.dudesolutions.com.

1.11 “Services” means each of the Application(s) subscribed to by Subscriber pursuant to this Agreement. Subscriber shall specify each of the Services that Subscriber shall subscribe to as part of its Account registration process.

1.12 “Subscriber” means the legal entity identified on the Account.

1.13 “Subscriber Data” means all data and information provided by or on behalf of Subscriber to a Service, including that which the Account Users input or upload to a Service.

1.14 “Subscription Fee” means, with respect to each Services subscription, the annual subscription fee invoiced to Subscriber by DSI prior to the Initial Term and each applicable Renewal Term for such Services subscription, which is required to be paid in order for Subscriber to be permitted to access and use the Services in such Services subscription.

1.15 “Third Party” means a party other than Subscriber or DSI.

Section 2.0 Use of the Service; Proprietary Rights

2.1 Use of Service.

(a) *Subscription.* Subject to the terms of this Agreement (including, without limitation, the responsibilities, limitations and restrictions set forth in this Section 2.1 and payment of the Subscription Fees required hereunder), DSI permit Subscriber's Account Users to access and use the Services during the Term, including access and use of all of the Content contained in or made available through the Services. Subscriber agrees that it shall use the Services solely for internal business purposes, and access and use of the Services shall be limited to Account Users.

(b) *Account Setup.* To subscribe to the Services, Subscriber must establish its Account, which may only be accessed and used by its authorized Account Users. To setup an Account User, Subscriber must provide DSI (and agree to maintain, promptly update and keep) true, accurate, current and complete information for such Account User. If Subscriber or any applicable Account User provides any information that is untrue, inaccurate, not current or incomplete, DSI has the right to immediately suspend or terminate Subscriber's Account and usage of the Services and refuse any and all future use. Each Account User must establish and maintain a personal, non-transferable password, which shall not be shared with, or used by, any other Third Party. Subscriber may transfer an Account User's right to access and use the Services to a new user only if such Account User becomes inactive and is unable to access the Services. Subscriber is also solely responsible for any and all activities that occur under its Account and ensuring that it exits or logs-off from its Account at the end of each session of use. Subscriber shall notify DSI immediately of any unauthorized use of its Account and/or any other breach of security of the Services that it suspects or becomes aware of.

(c) *Subscriber Responsibilities.* Subscriber shall: (i) take appropriate action to ensure that non-Account Users do not access or use the Services; (ii) ensure that all Account Users comply with all of the terms and conditions of this Agreement, including the limitations and restrictions set out in Section 2.1(d); (iii) be solely responsible for the accuracy, integrity, legality, reliability and appropriateness of all Subscriber Data created by Account Users using the Services; (iv) access and use the Services solely in compliance with the Documentation and all applicable local, state, federal, and foreign laws, rules, directives and regulations (including those relating to export, homeland security, anti-terrorism, data protection and privacy); (v) allow e-mail notifications generated by the Services on behalf of Subscriber's Account Users to be delivered to Subscriber's Account Users; and (vi) promptly update and upgrade its system as requested or required in order to ensure continued performance and compatibility with upgrades to the Services. Subscriber shall be responsible for any breach of this Agreement by Account Users and any access or Use of the Services by persons other than Account Users.

(d) *Limitations and Restrictions.* Subscriber agrees that it shall not, and shall not permit any Third Party to, directly or indirectly: (i) modify, alter, revise, decompile, disassemble, reverse engineer, create derivative works or attempt to derive the source code of any Service; (ii) assign, transfer, lease, rent, sublicense, distribute or otherwise make available any Service, in whole or in part, to any Third Party, including on a timesharing, software-as-a-service or other similar basis; (iii) access or use the Services to provide any service bureau services or any services on a similar basis; (iv) use any Service in a way not intended by DSI or for any unlawful purpose; (v) use any Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of Third Party privacy rights; (vi) attempt to tamper with, alter, disable, hinder, by-pass, override, or circumvent any security, reliability, integrity, accounting or other mechanism, restriction or requirement of the

Services; (vii) remove, obscure or alter any copyright, trademark, patent or proprietary notice affixed or displayed by or in the Services; (viii) perform load tests, network scans, penetration tests, ethical hacks or any other security auditing procedures on the Services; (ix) interfere with or disrupt the integrity or performance of the Services or the data contained therein; (x) access any Service in order to build a competitive product or service, copy any features, functions or graphics of any Service or monitor the availability and/or functionality of any Service for any benchmarking or competitive purposes; (xi) store, manipulate, analyze, reformat, print, and display the Content for personal use; (xii) upload or insert code, scripts, batch files or any other form of scripting or coding into the Services; and (xiii) store Highly-Sensitive Personal Information. Highly-Sensitive Personal Information should not be entered into the Services, as there are no data fields requesting this type of information. Personal sensitive or identifiable information should not be entered into the Services, as there are no data fields requesting such information. It is the Subscriber's responsibility to enforce this policy for fields beyond DSI's control such as a description or notes field. DSI reserves the right in the future to scan input data and block certain information such as social security numbers or credit card numbers

(e) *Additional Guidelines.* DSI reserves the right to establish or modify general practices and limits concerning use of the Services, including without limitation, the maximum number of days that Subscriber Data shall be retained by the Services and the maximum disk space that shall be allotted on DSI servers on Subscriber's behalf. DSI shall provide at least sixty (60) days' prior notice of any such modification. DSI also reserves the right to block IP addresses originating a Denial of Service (DoS) attack or IP addresses causing excessive amounts of data to be sent to DSI servers. DSI shall notify Subscriber should this condition exist and inform Subscriber of its action. Once blocked, an IP address shall not be able to access the Services and the block may be removed once DSI is satisfied corrective action has taken place to resolve the issue.

(f) *Third Party Software.* The Services may incorporate and/or embed software and other technology owned and controlled by Third Parties. Any such Third Party software or technology that is incorporated and/or embedded into any Service shall be provided to Subscriber on the license terms set forth this Agreement, unless additional or separate license terms apply as indicated by DSI. To the extent that the Services link to any Third Party website, application or service, the terms and conditions thereof shall govern Subscriber's rights with respect to such website, application or service, unless otherwise expressly provided DSI. DSI shall have no obligations or liability arising from Subscriber's access and use of such linked Third Party websites, applications and services.

2.2 Proprietary Rights.

(a) Subscriber acknowledges and agrees that (as between Subscriber and DSI) DSI retains all ownership right, title, and interest in and to the Applications, the Services, the Documentation and the Content, including without limitation all corrections, enhancements, improvements to, or derivative works thereof (collectively, "Derivative Works"), and in all Intellectual Property Rights therein or thereto. To the extent any Derivative Work is developed by DSI based upon ideas or suggestions submitted by Subscriber to DSI, Subscriber hereby irrevocably assigns all rights to modify or enhance the Applications and the Services using such ideas or suggestions or joint contributions to DSI, together with all Intellectual Property Rights related to such Derivative Works. Nothing contained in this Agreement shall be construed to convey to Subscriber (or to any party claiming through Subscriber) any Intellectual Property Rights in or to the Applications, the Services, the Documentation and the Content, other than the rights expressly set forth in this Agreement.

(b) DSI acknowledges and agrees that (as between Subscriber and DSI) Subscriber retains all ownership right, title, and interest in and to the Subscriber Data, including all Intellectual Property Rights therein or thereto. Notwithstanding the foregoing, Subscriber hereby grants DSI a non-exclusive, royalty-free license to display, distribute, transmit, publish and otherwise use the Subscriber Data to improve the Services and the performance of DSI, including without limitation, submitting and sublicensing the Subscriber Data to Third Parties for analytical purposes, provided that (i) such Third Parties have entered into a written agreement with DSI to maintain the confidentiality of the Subscriber Data and (ii) DSI shall not specifically identify the Subscriber Data as originating from Subscriber when providing the Subscriber Data to such Third Parties.

Section 3.0 DSI Responsibilities

3.1 Subscriber Data. DSI shall not edit or disclose any information regarding Subscriber's Account, including any Subscriber Data, without Subscriber's prior permission, except in accordance with this Agreement. Notwithstanding the foregoing, DSI is hereby permitted to provide certain statistical information (*e.g.*, usage, average costs or time values, or user traffic patterns) in aggregated and de-identified form to Third Parties or to other Application subscribers.

3.2 Support. During the Term DSI shall, as part of Subscriber's Subscription Fees, provide telephone and e-mail support ("Support Services") to Subscriber during the hours of 8:00 a.m. (Eastern time) to 6:00 p.m. (Eastern time), Monday through Friday, excluding holidays.

3.3 Availability. DSI shall use commercially reasonable efforts to make the Services available (i) 99.9% of the time during the hours of 6:00 a.m. (Eastern time) to 10:00 p.m. (Eastern time), Monday through Friday, excluding holidays ("Business Hours"), and (ii) 99.5% of the time, determined on a twenty-four (24) hours a day, seven (7) days a week basis. Availability shall be calculated on a monthly basis. For purposes of calculating availability, the Services shall not be deemed unavailable during any period arising from: (i) routine system maintenance that is performed weekly during non-Business Hours; (ii) scheduled downtime for extended system maintenance (of which DSI shall give at least 8 hours' prior notice and which DSI shall schedule to the extent reasonably practicable outside of Business Hours); and (iii) any unavailability caused by circumstances beyond DSI's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, non-DSI software or hardware, or denial of service attack.

3.4 Protection of Subscriber Data. DSI shall maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Subscriber Data. In addition, if Subscriber is a "Covered Entity" under HIPAA, DSI is Subscriber's "Business Associate" under HIPAA, and any Subscriber Data provided by Subscriber to DSI in their capacities as a Covered Entity and Business Associate, respectively, DSI and Subscriber shall enter into a Business Associate Agreement (the form of which shall be reasonably satisfactory to DSI).

Section 4.0 Third Party Interactions

4.1 Relationship to Third Parties. In connection with Subscriber's use of the Services, Subscriber may: (i) enter into correspondence with and/or participate in promotions of advertisers or sponsors showing their goods and/or services through the Services; (ii) purchase goods and/or services, including implementation, customization, content, forms, schedules, integration and other services; (iii)

exchange data, integrate, or interact between Subscriber's Account, the Services and a Third Party provider; (iv) be offered additional functionality within the user interface of the Services through use of the Services' application programming interface; and/or (v) be provided content, knowledge, subject matter expertise in the creation of forms, content and schedules. Any such activity, and any terms, conditions, warranties or representations associated with such activity, shall be solely between Subscriber and the applicable Third Party. DSI shall have no liability, obligation or responsibility for any such correspondence, purchase, promotion, data exchange, integration or interaction between Subscriber and any such Third Party.

4.2 **Ownership.** Subscriber is the owner of all Third Party content and data loaded into the Subscriber Account. As the owner, it is Subscriber's responsibility to make sure its meets its particular needs. DSI shall not comment, edit or advise Subscriber with respect to such Third Party content and data in any manner.

4.3 **No Warranty or Endorsement.** DSI does not warrant any Third Party providers or any of their products or services, whether or not such products or services are designated by DSI as "certified," "validated," "premier" and/or any other designation. DSI does not endorse any sites on the Internet which are linked through the Services. DSI is providing these links to Subscriber only as a matter of convenience, and in no event shall DSI be responsible for any content, products, or other materials on or available from such sites.

4.4 **Additional Terms.** The Disclaimer of Warranties (Section 7.1) and Limitation of Liability (Section 7.3) set forth herein shall apply to all Third Party interactions.

Section 5.0 Subscription Fees

5.1 **Subscription Fees.** Subscriber shall, on or before the commencement of the Initial Term of a Service subscription, pay to DSI the Subscription Fee for such Service subscription. Thereafter, DSI shall invoice Subscriber for each applicable Subscription Fee at least sixty (60) days prior to the commencement of the applicable Renewal Term. Unless Subscriber provides written notice of non-renewal in accordance with Section 6.1, Subscriber agrees to pay all Subscription Fees no later than thirty (30) days after the receipt of DSI's applicable invoice therefor. Subscriber is responsible for providing complete and accurate billing and contact information to DSI and notifying DSI of any changes to such information.

5.2 **Automatic Payments.** Subscriber shall, upon the written request from DSI, establish and maintain valid and updated credit card information or a valid ACH auto debit account (in each case, the "**Automatic Payment Method**"). Upon establishment of such Automatic Payment Method, DSI is hereby authorized to charge any applicable Subscription Fee using such Automatic Payment Method.

5.3 **Renewal Charges.** DSI maintains the right to increase Subscription Fees and other applicable fees and charges in connection with each Renewal Term.

5.4 **Taxes.** DSI's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Subscriber is responsible for paying all Taxes associated with its purchases hereunder. If DSI has the legal obligation to pay or collect Taxes for which Subscriber is responsible under this Section 5.4, DSI shall invoice Subscriber and Subscriber shall pay that amount unless Subscriber provides DSI with a valid tax exemption certificate authorized by the

appropriate taxing authority. Subscriber agrees to indemnify and hold DSI harmless from any encumbrance, fine, penalty or other expense which DSI may incur as a result of Subscriber's failure to pay any Taxes required hereunder. For clarity, DSI is solely responsible for taxes assessable against DSI based on its income, property and employees.

Section 6.0 Term and Termination

6.1 **Term.** This Agreement commences on the date Subscriber establishes its Account and continues until all Services subscriptions hereunder have expired or have been terminated (the "Term"). The initial term of each Services subscription shall be for a period of one (1) year (the "Initial Term"). Thereafter, each Services subscription shall automatically renew for successive one year periods (each, a "Renewal Term") unless either party has provided written notice of its intent to not renew such Services subscription not less than thirty (30) days prior to the expiration of the then-current Initial or Renewal Term applicable to such Services subscription.

6.2 **Termination for Breach.** DSI may terminate this Agreement prior to the expiration of the Term if Subscriber commits a material breach of this Agreement and fails to cure such breach within thirty (30) days after written notice of such breach is given by DSI; provided that if the breach involves a failure of Subscriber to pay any of the fees required under this Agreement, the cure period shall be reduced to ten (10) days. Without limiting the foregoing, in the event of a breach that gives rise to the right by DSI to terminate this Agreement, DSI may elect, as an interim measure, to terminate one or more of Subscriber's Services subscriptions and/or suspend its performance hereunder (including, without limitation, Subscriber's right to access and use the Services and the Account) until the breach is cured. DSI's exercise of its right to elect any interim measure shall be without prejudice to DSI's right to terminate this Agreement upon written notice to Subscriber.

6.3 **Termination for Convenience.** Subscriber may terminate this Agreement at any time for convenience by providing DSI forty-five (45) days' prior written notice to the following email address: clientsuccess@dudesolutions.com. Upon termination by Subscriber pursuant to this Section 6.3, Subscriber may request in writing and be granted a refund in an amount equal to: (i) the Subscription Fee prepaid by Subscriber for the one-year term during which such termination is effective, *multiplied by* (ii) the number of full months remaining in the applicable one-year term (determined based upon the effective date of termination) *divided by* twelve; provided, however, that if DSI receives Subscriber's written notice of termination pursuant to this Section 6.3 within the first sixty (60) days after the commencement of the Initial Term, DSI shall refund to Subscriber the entire Subscription Fee for the Initial Term. For avoidance of doubt, no refund shall be granted with respect to fees for training, import or project management, and/or other professional services. Upon termination of its Account, Subscriber's right to access its Account and use the Services immediately ceases.

6.4 **Effect of Termination.** Upon termination of this Agreement, (i) Subscriber's access and use of the Services shall automatically cease, and (ii) DSI shall have no obligation to maintain the Subscriber Data or to forward the Subscriber Data to Subscriber or any Third Party.

6.5 **Survival.** The following portions of this Agreement shall survive termination of this Agreement and continue in full force and effect: Sections 2.1(d), 2.2, 6.4, 7, 8 and 9. Termination of this Agreement, or any of the obligations hereunder, by either party shall be in addition to any other legal or equitable remedies available to such party, except to the extent that remedies are otherwise limited hereunder.

Section 7.0 Disclaimers and Indemnification

7.1 Disclaimer of Warranties. DSI AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES OR ANY CONTENT. DSI AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT: (I) THE USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (II) THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (III) ANY STORED DATA WILL BE ACCURATE OR RELIABLE; (IV) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; (V) ERRORS OR DEFECTS WILL BE CORRECTED; (VI) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICES AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS-IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY DSI AND ITS LICENSORS.

7.2 Indemnification.

(a) *Indemnity by DSI.* DSI shall defend, indemnify and hold harmless Subscriber from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by Subscriber, in connection with any Third Party claim (each, a "Claim") alleging that Subscriber's use of the Services as expressly permitted hereunder infringes upon any United States patent, copyright or trademark of such Third Party, or misappropriates the trade secret of such Third Party; provided that Subscriber (x) promptly gives DSI written notice of the Claim; (y) gives DSI sole control of the defense and settlement of the Claim; and (z) provides to DSI all reasonable assistance, at DSI's expense. If DSI receives information about an infringement or misappropriation claim related to the Services, DSI may in its sole discretion and at no cost to Subscriber: (i) modify the applicable Service(s) so that it no longer infringes or misappropriates, (ii) obtain a license for Subscriber's continued use of the applicable Service(s), or (iii) terminate the Subscriber's Account subscriptions for the applicable Service(s) upon prior written notice and refund to Subscriber any prepaid Subscription Fees covering the remainder of the term of the terminated Account subscriptions. Notwithstanding the foregoing, DSI shall have no liability or obligation with respect to any Claim that is based upon or arises out of (A) use of the applicable Service(s) in combination with any software or hardware not expressly authorized by DSI, (B) any modifications or configurations made to the applicable Service(s) by Subscriber without the prior written consent of DSI, and/or (C) any action taken by Subscriber relating to use of the applicable Service(s) that is not permitted under the terms of this Agreement. This Section 7.2(a) states Subscriber's exclusive remedy against DSI for any Claim of infringement or misappropriation of a Third Party's Intellectual Property Rights related to or arising from Subscriber's use of the Services.

(b) Subscriber shall defend, indemnify and hold harmless DSI from any loss, damage or expense (including reasonable attorneys' fees) awarded by a court of competent jurisdiction, or paid in accordance with a settlement agreement signed by DSI, in connection with any Claim alleging that the Subscriber Data, or Subscriber's use of the Services in breach of this Agreement, infringes upon any United States patent, copyright or trademark of such Third Party, or misappropriates the trade secret of

such Third Party; provided that DSI (x) promptly gives Subscriber written notice of the Claim; (y) gives Subscriber sole control of the defense and settlement of the Claim; and (z) provides to Subscriber all reasonable assistance, at Subscriber's expense. This Section 7.2(b) states DSI's exclusive remedy against Subscriber for any Claim of infringement of misappropriation of a Third Party's Intellectual Property Rights related to or arising from the Subscriber Data or Subscriber's use of the Services.

7.3 Limitation of Liability. IN NO EVENT SHALL DSI, IN THE AGGREGATE, BE LIABLE FOR DAMAGES TO SUBSCRIBER IN EXCESS OF THE AMOUNT OF SUBSCRIPTION FEES PAID BY SUBSCRIBER TO DSI PURSUANT TO THIS AGREEMENT DURING THE TWELVE MONTHS PRIOR TO THE LAST ACT OR OMISSION GIVING RISE TO THE LIABILITY. UNDER NO CIRCUMSTANCES SHALL DSI HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, OR CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF DSI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE.

SUBSCRIBER AGREES THAT DSI'S CRISISMANAGER AND SAFETY CENTER APPLICATIONS (COLLECTIVELY, "SAFETY APPS") IS A DOCUMENTATION TOOL ONLY, AND THAT EACH OF THE SAFETY APPS IS NOT INTENDED TO PROVIDE EMERGENCY SERVICES OR PROTOCOLS, PROCEDURES OR ACTION PLANS IN THE EVENT OF A CRISIS OR EMERGENCY. SUBSCRIBER FURTHER AGREES THAT IT SHALL BE SOLELY RESPONSIBLE FOR: (1) CREATING AND MAINTAINING ITS EMERGENCY ACTION PLAN WITHIN EACH RESPECTIVE SAFETY APP, (2) ENSURING THAT SUBSCRIBER'S EMPLOYEES, CONTRACTORS AND OTHER PERSONNEL ARE PROVIDED ACCESS TO ITS EMERGENCY ACTION PLAN WITHIN THE SAFETY APPS, AND (3) CONTACTING (E.G., CALLING 911) EMERGENCY SERVICES IN THE EVENT OF AN ACTUAL CRISIS OR EMERGENCY. DSI SHALL HAVE NO RESPONSIBILITY OR LIABILITY AS A RESULT OF THIS AGREEMENT AND/OR SUBSCRIBER'S USE OF THE SAFETY APPS FOR DECISIONS MADE OR ACTIONS TAKEN OR NOT TAKEN IN THE EVENT OF A CRISIS OR EMERGENCY.

Section 8.0 Confidentiality

8.1 Protection of Confidential Information. The Receiving Party agrees that it shall (i) hold the Disclosing Party's Confidential Information in strict confidence and shall use the same degree of care in protecting the confidentiality of the Disclosing Party's Confidential Information that it uses to protect its own Confidential Information, but in no event less than reasonable care, (ii) not use the Confidential Information of the Disclosing Party for any purpose not permitted by this Agreement; (iii) not copy any part of the Disclosing Party's Confidential Information except as expressly permitted by this Agreement, (iv) limit access to the Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

8.2 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party shall reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

8.3 **Remedies.** Recipient acknowledges that Disclosing Party would have no adequate remedy at law should Receiving Party breach its obligations relating to Confidential Information and agrees that Disclosing Party shall be entitled to enforce its rights by obtaining appropriate equitable relief, including without limitation a temporary restraining order and an injunction.

Section 9.0 Miscellaneous

9.1 **Authority.** Subscriber represents and warrants that: (i) it has full right, title and authority to enter into this Agreement; and (ii) this Agreement constitutes a legal, valid and binding obligation of Subscriber, enforceable against it in accordance with its terms.

9.2 **Acceptance of Privacy Policy.** All data and information provided by Subscriber through its use of the Services is subject to the Privacy Policy. By using the Services, Subscriber accepts and agrees to be bound and abide by the Privacy Policy.

9.3 **Governing Law.** This Agreement and any dispute arising out of or in connection with this Agreement shall be governed by and construed under the laws of the State of North Carolina, without regard to the principles of conflict of laws.

9.4 **Relationship of the Parties.** DSI is performing pursuant to this Agreement only as an independent contractor. DSI has the sole obligation to supervise, manage, contract, direct, procure, perform or cause to be performed its obligations set forth in this Agreement, except as otherwise agreed upon by the parties. Nothing set forth in this Agreement shall be construed to create the relationship of principal and agent between DSI and Subscriber. DSI shall not act or attempt to act or represent itself, directly or by implication, as an agent of Subscriber or its affiliates or in any manner assume or create, or attempt to assume or create, any obligation on behalf of, or in the name of, Subscriber or its affiliates.

9.5 **Waiver.** No failure or delay by either party in enforcing any of its rights under this Agreement shall be construed as a waiver of the right to subsequently enforce any of its rights, whether relating to the same or a subsequent matter.

9.6 **Assignment.** Subscriber shall have no right to transfer, assign or sublicense this Agreement or any of its rights, interests or obligations under this Agreement to any Third Party and any attempt to do so shall be null and void. DSI shall have the full ability to transfer, assign or sublicense this Agreement or any of its rights, interests or obligations under this Agreement.

9.7 **Force Majeure.** Subject to the limitations set forth below and except with respect to any payment obligations of Subscriber, neither party shall be held responsible for any delay or default, including any damages arising therefrom, due to any act of God, act of governmental entity or military authority, explosion, epidemic casualty, flood, riot or civil disturbance, war, sabotage, unavailability of or interruption or delay in telecommunications or Third Party services, failure of Third Party software, insurrections, any general slowdown or inoperability of the Internet (whether from a virus or other cause), or any other similar event that is beyond the reasonable control of such party (each, a "**Force Majeure Event**"). The occurrence of a Force Majeure Event shall not excuse the performance by a party unless that party promptly notifies the other party of the Force Majeure Event and promptly uses its best efforts to provide substitute performance or otherwise mitigate the force majeure condition.

9.8 **Notices.** Except as otherwise specified in this Agreement, all notices, instructions,

requests, authorizations, consents, demands and other communications hereunder shall be in writing and shall be delivered by one of the following means, with notice deemed given as indicated in parentheses: (a) by personal delivery (when actually delivered); (b) by overnight courier (upon written verification of receipt); (c) by certified or registered mail, return receipt requested (upon verification of receipt); or (d) solely with respect to notices to Subscriber, via electronic mail to the e-mail address maintained on Subscriber's Account. All notices to DSI shall be addressed as follows: Dude Solutions, Inc., 11000 Regency Parkway, Suite 110, Cary, NC 27518 Attn: Legal Operations, *with a copy to:* Robinson, Bradshaw & Hinson, P.A., 101 N. Tryon St., Suite 1900, Charlotte, NC 28246, Attn: Richard Dunn.

9.9 **Interpretation of Agreement.** The Section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties, and shall not affect in any way the meaning or interpretation of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

9.10 **No Third Party Beneficiaries.** No person or entity not a party to this Agreement will be deemed to be a third party beneficiary of this Agreement or any provision hereof.

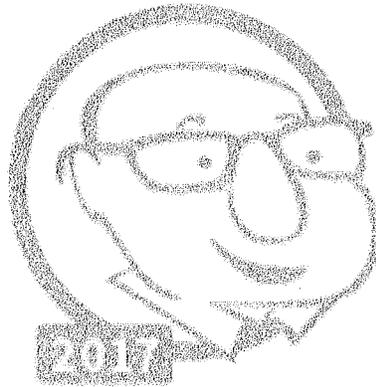
9.11 **Severability.** The invalidity of any portion of this Agreement shall not invalidate any other portion of this Agreement and, except for such invalid portion, this Agreement shall remain in full force and effect.

9.12 **Entire Agreement.** This Agreement is the entire agreement between Subscriber and DSI regarding Subscriber's use of the Service and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in any purchase order or in any other order documentation is void.

9.13 **Children Under the Age of 13.** Websites and/or online applications and services that are collecting information from children under the age of 13 are required to comply with Federal Trade Commission (FTC) Children's Online Privacy Protection Act (COPPA). Subscriber shall not submit, and shall ensure that its Account Users shall not submit, any information from children under the age of 13. DSI does not knowingly collect personal information from children under 13. If Subscriber believes DSI might have any information from or about a child under 13, please contact DSI at: notice@dudesolutions.com or by mail at the following address: Dude Solutions, Inc., 11000 Regency Parkway, Suite 110, Cary, NC 27518 Attn: Operations. If DSI learns it has collected or received personal information for a child under 13 without verification of parental consent, DSI shall delete such information.

9.14 **Modifications.** DSI may revise the terms of this Agreement from time-to-time and shall post the most current version of this Agreement on its website. If a revision meaningfully reduces Subscriber's rights, DSI shall notify Subscriber.

[Remainder of page intentionally left blank; signature page to follow]



IN WITNESS WHEREOF, the undersigned have executed this Agreement.

<Insert Organization Name>

Dude Solutions, Inc.

Signature

Signature

Print Name

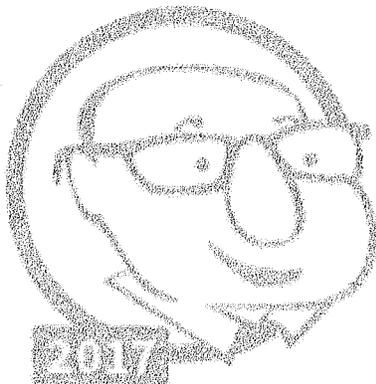
Print Name

Title

Title

Date Signed

Date Signed



PUBLIC EMPLOYER RISK MANAGEMENT ASSOCIATION

9 Cornell Road

Latham, New York 12110

**WORKERS' COMPENSATION & EMPLOYERS LIABILITY
PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by and between the Public Employer Risk Management Association, Inc., hereinafter referred to as "PERMA" and the

Town of Lysander

8220 Loop Road

Baldwinsville, NY 13027

referred to in this agreement as the "member", for the purpose of providing a risk management workers' compensation service program and statutory workers' compensation benefits for its employees.

The member desires to satisfy its statutory obligation to provide workers' compensation benefits through participation in PERMA, a workers' compensation group self-insurance program and risk management workers' compensation service program for local governments and other public employers and instrumentalities of the State of New York. PERMA is managed by Northeast Association Management, Inc. (NEAMI), a separate entity, which provides administrative, marketing and management services for PERMA, and manages all of its claims, pursuant to a contract with PERMA and subject to the direction of PERMA's Board of Directors. A copy of the contract between PERMA and NEAMI, including any attachments and revisions, will be provided to the member upon request.

The member and agrees to the following terms and conditions of membership:

1. **Term and Renewal.** The initial term of this Agreement will commence upon execution and will end on the expiration date of current coverage. The agreement will renew automatically for successive one year terms each year thereafter on the anniversary date of its commencement (the "Renewal Date"), unless (i) PERMA receives written notice from the member, at least 30 days prior to the Renewal Date, that it will not renew the Agreement, or (ii) PERMA receives written notice from the member, at least 30 days prior to the Renewal Date, that it reserves its right not to renew and PERMA receives written notice from the member, prior to the Renewal Date, that it will not renew the Agreement, or (iii) PERMA gives the member written notice at least 60 days prior to the Renewal Date that it will not renew the Agreement. An untimely notice that the member will not renew

volunteers to calculate coverage cost for voluntary coverage. PERMA reserves the right to audit these exposures at its discretion. PERMA may apply credits if there is a dual exposure for paid firefighters and volunteer firefighters protecting the same areas.

5. **Contributions** . The member agrees to pay a deposit contribution which is computed by the PERMA Underwriting Department utilizing rules which are similar, but not identical, to those outlined in the New York Compensation Insurance Rating Board Rating Manual and guidelines approved by the PERMA Board of Directors. The member will pay the deposit contribution within 15 days of the date of commencement, unless a payment plan is approved by PERMA. The member understands that its contribution may be adjusted as a result of increased benefit levels mandated by amendments to the New York Workers' Compensation Law or by mandated increases in Workers' Compensation Board assessments. The member agrees to execute necessary authorization forms permitting PERMA and its designee to obtain information and data required in determining the experience rating modification of the member. For qualified members who elect an alternative contribution program, the required contribution will be modified to meet the terms and conditions of the specific program as enumerated in a separate contract with the member.

6. **PERMA Advance Discount**. The Board of Directors will annually determine the amount of the maximum discount to be offered by PERMA. The discount for each member is determined individually by the PERMA underwriting department within the range approved by the PERMA Board of Directors.

7. **Excess Insurance**. PERMA will place and maintain excess insurance coverage with a qualified underwriter for specific loss limits stop loss insurance.

8. **Limit of Liability**. The member is not liable to PERMA, to other members of PERMA, to any claimant against PERMA, or to any claimant against another member of PERMA, except for payment of (i) the contributions required by this Agreement; and (ii) any fees or other amounts due as may be provided in a separate contract between the member and PERMA. PERMA, not the member, is liable to pay workers' compensation claims that are covered under the coverage agreement. The member agrees that the only assets from which a judgment against PERMA may be satisfied are the assets and property of PERMA. No member, officer or director of PERMA will be personally liable for any claim against PERMA.

If, in the determination of the Chair of the Workers' Compensation Board, or his or her designee, and based upon the available evidence, PERMA becomes insolvent, the member will be responsible for any outstanding compensation and medical benefits due, and penalties or assessments imposed, with respect to any of its employees' or beneficiaries' workers' compensation claims until those claims are closed and the obligations are satisfied, but the member will not be responsible for any additional contribution in order to pay the claims of any other member of PERMA, past, present or

10. Claims. PERMA, through its designated third-party administrator, will administer, service, settle, and pay any and all workers' compensation claims, as are defined in a certificate of coverage issued to the member, after the member provides notice of the injury in sufficient detail to prepare all required forms. PERMA will provide a defense if required, will contact injured employees as appropriate and will appear at necessary compensation hearings. PERMA will retain and supervise legal counsel at its expense, as may be necessary for the defense of any claim. The member will cooperate fully by supplying any information needed or helpful to defend such action. PERMA agrees to provide the member with a statement of claim, claims status and activities report within 10 days of the member's request for such information.

11. By-laws, Rules and Regulations of PERMA. The member agrees to abide by and is bound by the rules, regulations and bylaws which are adopted by the Board of Directors or members of PERMA. The member further agrees to abide by the terms and conditions of the coverage document which will be provided to the member annually upon renewal.

12. Termination of Coverage and Membership. This Agreement, including the member's workers' compensation coverage and membership in the program, may be terminated (a) by PERMA either (i) on 10 days' written notice for the member's failure or refusal to make any required payment, unless the member makes the required payment within 10 days of notice; or (ii) on 60 days' written notice for other cause, including but not limited to the member's failure to comply with the terms of this Agreement (other than the terms requiring the member to make payments), or the terms of the member's workers' compensation and/or employer's liability coverage agreement with PERMA, or the rules, regulations or by-laws of PERMA; or (b) by the member, 30 days after PERMA's receipt of written notice of cancellation. If the Agreement is terminated by PERMA for non-payment or is cancelled by the member, the member will be required to pay a short rate penalty upon termination. The short rate penalty will be computed using the New York Compensation Insurance Rating Board Short Rate Cancellation Table, including the procedure accompanying that table, unless amended by an alternative contribution contract. The final contribution will not be less than the minimum contribution set forth in the member's Workers' Compensation/Employer's Liability Agreement. Upon any termination of this Agreement other than a termination on the Renewal date, the terminating member will be required to pay the contributions earned, on a pro rata basis, through the date on which the termination is effective. The member's final contribution will not be less than the pro rata share of the minimum contribution under this Agreement.

13. Notice to the Parties. Notice by either party, as the case may be, shall be given by certified mail to PERMA at its address, 9 Cornell Road, Latham, New York 12212, and to the member at its address as set forth above.

14. Reporting and Retention Obligations. Notwithstanding any other provision of

STATE OF NEW YORK

5722--A

2017-2018 Regular Sessions

I N S E N A T E

April 26, 2017

Introduced by Sens. LARKIN, CROCI, LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to authorizing counties, cities, town, villages and school districts to extend or make permanent the granting of the exemption for Cold War veterans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subparagraph (iii) of paragraph (c) of subdivision 2 of
2 section 458-b of the real property tax law, as separately amended by
3 chapters 22 and 253 of the laws of 2016, is amended to read as follows:
4 (iii) The exemption provided by paragraph (a) of this subdivision
5 shall INITIALLY be granted for a period of ten years, AND MAY THEREAFTER
6 BE EXTENDED FOR AN ADDITIONAL PERIOD OF TEN YEARS OR BE MADE PERMANENT.
7 The commencement of such [ten year] EXEMPTION period shall be governed
8 pursuant to this subparagraph. Where a qualified owner owns qualifying
9 residential real property on the effective date of the local law or
10 resolution providing for such exemption, such [ten year] EXEMPTION peri-
11 od shall be measured from the assessment roll prepared pursuant to the
12 first taxable status date occurring on or after the effective date of
13 the local law or resolution providing for such exemption. Where a quali-
14 fied owner does not own qualifying residential real property on the
15 effective date of the local law or resolution providing for such
16 exemption, such [ten year] EXEMPTION period shall be measured from the
17 assessment roll prepared pursuant to the first taxable status date
18 occurring at least sixty days after the date of purchase of qualifying
19 residential real property; provided, however, that should the veteran
20 apply for and be granted an exemption on the assessment roll prepared
21 pursuant to a taxable status date occurring within sixty days after the

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD11180-02-7

1 date of purchase of residential real property, such [ten year] EXEMPTION
2 period shall be measured from the first assessment roll in which the
3 exemption occurs. If, before the expiration of such [ten year] EXEMPTION
4 period, such exempt property is sold and replaced with other residential
5 real property, such exemption may be granted pursuant to this subdivi-
6 sion for the unexpired portion of the [ten year] exemption period. Each
7 county, city, town or village may adopt a local law, and each school
8 district may adopt a resolution, to reduce the maximum exemption allow-
9 able in paragraphs (a) and (b) of this subdivision to six thousand
10 dollars, nine thousand dollars and thirty thousand dollars, respective-
11 ly, or four thousand dollars, six thousand dollars and twenty thousand
12 dollars, respectively. Each county, city, town, or village is also
13 authorized to adopt a local law, and each school district may adopt a
14 resolution, to increase the maximum exemption allowable in paragraphs
15 (a) and (b) of this subdivision to ten thousand dollars, fifteen thou-
16 sand dollars and fifty thousand dollars, respectively; twelve thousand
17 dollars, eighteen thousand dollars and sixty thousand dollars, respec-
18 tively; fourteen thousand dollars, twenty-one thousand dollars and
19 seventy thousand dollars, respectively; sixteen thousand dollars, twen-
20 ty-four thousand dollars and eighty thousand dollars, respectively;
21 eighteen thousand dollars, twenty-seven thousand dollars and ninety
22 thousand dollars, respectively; twenty thousand dollars, thirty thousand
23 dollars and one hundred thousand dollars, respectively; twenty-two thou-
24 sand dollars, thirty-three thousand dollars and one hundred ten thousand
25 dollars, respectively; twenty-four thousand dollars, thirty-six thousand
26 dollars and one hundred twenty thousand dollars, respectively; twenty-
27 six thousand dollars, thirty-nine thousand dollars, and one hundred
28 thirty thousand dollars, respectively; twenty-eight thousand dollars,
29 forty-two thousand dollars, and one hundred forty thousand dollars,
30 respectively; and thirty thousand dollars, forty-five thousand dollars
31 and one hundred fifty thousand dollars, respectively. In addition, a
32 county, city, town or village which is a "high-appreciation municipi-
33 pality" as defined in this subparagraph is authorized to adopt a local
34 law, and each school district which is within a high-appreciation muni-
35 cipality is authorized to adopt a resolution, to increase the maximum
36 exemption allowable in paragraphs (a) and (b) of this subdivision to
37 twenty-six thousand dollars, thirty-nine thousand dollars and one
38 hundred thirty thousand dollars, respectively; twenty-eight thousand
39 dollars, forty-two thousand dollars and one hundred forty thousand
40 dollars, respectively; thirty thousand dollars, forty-five thousand
41 dollars and one hundred fifty thousand dollars, respectively; thirty-two
42 thousand dollars, forty-eight thousand dollars and one hundred sixty
43 thousand dollars, respectively; thirty-four thousand dollars, fifty-one
44 thousand dollars and one hundred seventy thousand dollars, respectively;
45 thirty-six thousand dollars, fifty-four thousand dollars and one hundred
46 eighty thousand dollars, respectively; thirty-eight thousand dollars,
47 fifty-seven thousand dollars and one hundred ninety thousand dollars,
48 respectively; forty thousand dollars, sixty thousand dollars and two
49 hundred thousand dollars, respectively; forty-two thousand dollars,
50 sixty-three thousand dollars and two hundred ten thousand dollars,
51 respectively; forty-four thousand dollars, sixty-six thousand dollars
52 and two hundred twenty thousand dollars, respectively; forty-six thou-
53 sand dollars, sixty-nine thousand dollars and two hundred thirty thou-
54 sand dollars, respectively; forty-eight thousand dollars, seventy-two
55 thousand dollars and two hundred forty thousand dollars, respectively;
56 fifty thousand dollars, seventy-five thousand dollars and two hundred

1 fifty thousand dollars, respectively. For purposes of this subparagraph,
2 a "high-appreciation municipality" means: (A) a special assessing unit
3 that is a city, (B) a county for which the commissioner has established
4 a sales price differential factor for purposes of the STAR exemption
5 authorized by section four hundred twenty-five of this title in three
6 consecutive years, and (C) a city, town or village which is wholly or
7 partly located within such a county.

8 S 2. This act shall take effect immediately; provided however, that
9 the extension of the exemption granted pursuant to section 458-b of the
10 real property tax law for an additional period of ten years or to be
11 made permanent, as authorized by section one of this act, shall only
12 become effective in a county, city, town, village or school district, on
13 the first taxable status date occurring on or after the effective date
14 of a local law of resolution which authorizes such extension of such
15 exemption for the additional period of ten years or to be made perma-
16 nent, to qualified owners of qualifying real property within such coun-
17 ty, city, town, village or school district.