

SOFTWARE LICENSE AND NON-DISCLOSURE AGREEMENT

This SOFTWARE LICENSE AND NON-DISCLOSURE AGREEMENT (“Agreement”) is between Drake Software, LLC (“Drake”) and “Licensee” (as defined below).

PLEASE READ THIS CAREFULLY. This Agreement is effective immediately upon opening, installing or using the Software, whichever occurs first, and shall remain in force until terminated. Should this Agreement be terminated for any reason, including Drake’s terminating for Licensee’s failure to comply, Licensee shall destroy or return to Drake the original and any copies of the Software, including partial copies, in any and all forms, with a written statement that such destruction or return of the Software has been accomplished.

1. **Definitions:**

- a. Software – The applications produced by Drake for the commercial preparation of federal and state tax returns, scanning and storing documents, electronic filing of tax returns and processing of Bank Products (as defined below).
- b. License Fee – The fee paid by the Licensee for the use of the Software.
- c. Licensee -- The individual or entity that has or is responsible for remittance of payment of the License Fee to Drake and is responsible for compliance with this Agreement.
- d. Site - One (1) contiguous interconnected office space.
- e. Authorized User – Anyone at a Site whom the Licensee has authorized to use the Software and has retained responsibility for compliance with this Agreement.
- f. Desktop Application – The Software installed on a personal computer or local area network.
- g. Web Based Application – The Software hosted on Drake’s servers and computers, licensed by Site and hosted by Drake. Products included in this definition are Remote1040 and Drake Zero Multisite.
- h. Online Account – The account of the Licensee accessed via the web and hosted by Drake.
- i. Bank Products – Tax refund related settlement products, also known as “financial products,” including but not limited to refund transfers (also known as RACs, RTs, bonuses, etc.), refund loans, and any other products which facilitate the payment of tax preparation or other fees from the proceeds of taxpayers’ refunds and/or advance funds to taxpayer in anticipation of repayment from the proceeds of the tax refund.

- j. Approved Banking Partner – A provider of Bank Products which has been approved by Drake to facilitate and provide Bank Products to Licensees of the Software.
 - k. Software as a Service (“SAAS”) – A version of the Software licensed through a subscription service via the web and hosted by Drake, including but not limited to Drake Zero.
 - l. Evaluation Software – A version of the Software which is not for commercial purposes, but for the sole purpose of evaluating the prospect of licensing the Software.
 - m. Subscriber – A Licensee utilizing SAAS products.
 - n. EFIN – Electronic Filing Identification Number assigned by the Internal Revenue Service.
2. **Grant of License.** The Software is a proprietary product of Drake. It is licensed, not sold, and is licensed only on the condition that the Licensee agrees to the terms and conditions of this Agreement. In consideration of and upon receipt of payment of a License Fee by Licensee, Drake grants to Licensee a non-exclusive, nontransferable license to use the Software and any associated manuals and/or documentation under the terms and conditions of this Agreement.

3. **Conditions**

- a. Installation Limitations: A separate licensed copy of the Software must be purchased for each EFIN that transmits returns. Licensee shall limit the use of the Software to one Site per license. The license for use of a Desktop Application version of the Software must be registered to a particular Site and may only be used by Authorized Users primarily working out of such Site. The license for use of a Web Based Application version of the Software must be registered to a particular Site and may only be used by Authorized Users primarily working out of such Site. A Web Based Application may be accessed at any location by an Authorized User through use of such Authorized User’s Online Account access information. Upon request, Licensee agrees to provide to Drake complete records of the location of any Site, and the number of copies of the Software in use at that Site. This Agreement specifically prohibits access of the Software remotely from non- licensed Sites, with all remote usage requiring an additional license and Authorized User for each remote location outside the Site.
- b. Hosting: Utilizing a hosting service does not relieve Licensee of any of its obligations under this Agreement. Installing, uploading or otherwise using the Software to a server with remote access, including the Internet, will require a separate License for each Site accessing the Software. Drake reserves the right to

audit and approve any third party hosting service for compliance with this Agreement.

- c. Non-disclosure: LICENSEE SHALL NOT PROVIDE OR DISCLOSE OR OTHERWISE MAKE AVAILABLE THE SOFTWARE OR ANY PORTION THEREOF IN ANY FORM TO ANY THIRD PARTY. LICENSEE SHALL EXERCISE DUE DILIGENCE IN PROTECTING ALL OWNERSHIP RIGHTS AND TRADE SECRETS OF DRAKE. All pricing and other financial aspects of this license are CONFIDENTIAL and may not be shared with any third party except with the express written consent of Drake.
- d. Non-use of Drake Intellectual Property: Without the prior written consent of Drake, which Drake may withhold in its sole discretion, Licensee may not use for marketing, advertising or any other purpose the names "Drake," "Drake Software," any derivative thereof, any trademark or logo of Drake or any affiliate, or any other intellectual property or property rights of Drake.
- e. Restrictions on Use of Software: The Software may be used for the commercial preparation and filing of federal and state income tax returns and processing of Bank Products. ALL OTHER USES ARE EXPRESSLY PROHIBITED.
- f. Updates: Drake may notify Licensee of any enhancements or updates released by Drake for the Software licensed hereunder. Any such updates shall be subject to the terms of this Agreement and any other Drake terms, conditions and charges. ONLY REGISTERED LICENSEES WILL BE OFFERED ANY SUCH UPDATES. These updates will be provided via the Internet at no extra charge to Licensee through October 15, 2015.
- g. Trademarks/Copyrights/Trade Names: The Software is the sole and exclusive property of Drake, and may be protected by copyright, trade secret and other intellectual property laws. Any use of trademarks or trade names of Drake without Drake's express written consent is prohibited.

4. **Licensee Responsibilities**

- a. Licensee understands and agrees that all decisions regarding the tax treatment of items reflected on tax returns prepared by Licensee using the Software are made solely by Licensee and that use of the Software does not relieve Licensee of responsibility for the preparation, accuracy, content, and review of such returns.
- b. Licensee acknowledges that Licensee does not rely upon Drake for advice regarding the appropriate tax treatment of items reflected on returns prepared and/or processed using the Software. The Licensee will review any computations made by the Software and satisfy Licensee that those computations are correct.

- c. Licensee is responsible for the keying of all information accurately into the Software, including but not limited to direct deposit information as it pertains to taxpayers' data for receiving refunds.
- d. Licensee agrees to abide by and comply with all regulations and laws which pertain to the commercial preparation and electronic filing of tax returns, including but not limited to IRS Regulations, publications and other applicable laws.
- e. Licensee agrees not to utilize the Software or any of Drake's services for any illegal or fraudulent purpose, including but not limited to misrepresenting taxpayer information, falsely representing identities, or other illegal activity.
- f. Licensee is solely responsible for the backup and retention of all data, unless specifically accepted by Drake.
- g. Licensee agrees to provide Drake a copy of their EFIN assignment letter from the Internal Revenue Service prior to utilizing the electronic filing services of Drake.
- h. If Licensee participates in the DrakeHealth referral program ("DrakeHealth"), Licensee agrees to abide by all terms and conditions of DrakeHealth including the Guidelines published by Drake from time to time on the Drakesoftware.com website (<https://support.drakesoftware.com/Site/MyAccount/DrakeHealth.aspx>). Participating in DrakeHealth will include but not be limited to sending Licensee's unique URL to any third party, providing reports generated from the Software pertaining to the Affordable Care Act (ACA), DrakeHealth.com or Ehealth.com websites, qualifying for or receiving any payment of a referral fee from Drake, or otherwise benefitting from DrakeHealth. All other provisions of this agreement, including but not limited to Sections 7, 14,15, 16 and 17, apply to DrakeHealth. In addition, in order to qualify for any referral fee payment, Licensee must have a current licensed copy of the Software, and be in compliance with all provisions of this Agreement.

5. **Bank Products**

- a. Except as set forth in Subparagraph 5c. below, Licensee shall utilize an Approved Banking Partner to process all Bank Products for taxpayers served by Licensee Sites during the Term of this Agreement.
- b. Licensee understands and agrees that fees will be charged by Drake for returns with Bank Products. A transmission fee and a technology fee will be withheld for each funded Bank Product transmitted through Drake with an Approved Banking Partner, and will be deducted from the proceeds due to the taxpayer. These fees are subject to change without notice. Licensee agrees to obtain proper approval from the taxpayer for withholding these fees from the proceeds of the taxpayer's refund.

- c. Licensee may choose to process Bank Products with a provider who is not an Approved Banking Partner if and only if Licensee agrees to:
 - i. Communicate in writing the Licensee's intention not to utilize an Approved Banking Partner to process Bank Products prior to January 1, 2015 or at the time of purchase of the License if later.
 - ii. Pay a fee to Drake in an amount determined by Drake, for each tax return submitted with a Bank Product from a provider who is not an Approved Banking Partner, in an amount greater than amounts charged in 5(b). These fees are subject to change without notice.
 - iii. Select the "Bank Product Indicator" field in the Software prior to submitting the tax return for processing, as well as all other data which may be required by Drake in its discretion.
 - iv. Prepay to Drake a non-refundable amount determined by Drake, in a method prescribed by Drake, prior to transmitting returns to Drake. Any amount due in excess of this amount shall be calculated by multiplying the number of Bank Products times the amount determined by Drake in 5.c ii. above, or other per-return fee less the non-refundable pre-payment, but not less than zero.
- d. Additional charges, including a License Fee in a greater amount, may apply in Drake's discretion if Licensee chooses not to use an Approved Banking Partner.**

6. **Term and Termination**

- a. Term: The License granted under this Agreement is for tax year 2014 only. The ability to electronically file returns, access to web sites and other web based products related to the Software will expire on December 31st, 2015, although access to associated data may be available to Licensee upon request for an additional 30 days after expiration.
- b. Extension of Term: If Licensee purchases a License for tax year 2015 this Agreement will be extended for an additional year, subject to the terms and conditions of the tax year 2015 License Agreement.
- c. Termination for Cause: Drake may terminate Licensee's rights under this Agreement immediately and without notice if Licensee fails to comply with any term or condition. The License granted pursuant to this Agreement will immediately terminate and Licensee shall immediately uninstall the Software from all computer(s) and/or networks, return the Software to Drake and destroy

all backup copies. Any termination of this Agreement shall not affect Drake's rights hereunder, including suspension of access for Web Based Applications.

- d. **Other Termination:** Drake reserves the right to suspend or otherwise limit the use of the Software including but not limited to suspending electronic filing of tax returns by Licensee, if the Licensee or any of its affiliates are the subject(s) of an investigation or legal action by any regulatory authority, or at the direction of any governmental agency, legal authority or court order, or if Licensee commits or is alleged to have committed acts of fraud or abuse which may in Drake's sole discretion compromise the integrity and reputation of the IRS E-file program and/or Drake.
- e. This Agreement applies only to the 2014 version of the product(s) referenced herein and DOES NOT constitute an offer or in any way guarantee the availability, now or ever, of any other Drake products or versions to Licensee.
- f. **Support.** Drake reserves the right to limit support to the current tax year's Software, and to only current Licensees.

7. Representations of Licensee.

- a. Licensee will utilize the Software for the sole purpose of commercial preparation of federal and state tax returns and electronically filing tax returns for taxpayers. Any other use of this Software is EXPRESSLY PROHIBITED.
- b. Licensee will comply with all federal, state and other regulations.
- c. Licensee represents to Drake that the information provided to Drake by Licensee concerning the EFIN, firm name, contact name, address, and all other identifying information of Licensee is correct and accurate. Any changes to this information must be provided to Drake in writing within 30 days of changing.

8. Right to Change and Modify Software. Drake may in its discretion change any feature or aspect of the Software or services provided without prior notice to Licensee.

9. Evaluation Software. If Licensee is utilizing the Evaluation Software, all provisions of this Agreement will apply, except as modified by this section. The Evaluation Software will have certain limitations, including but not limited to the inability to electronically file or produce or process live tax returns. It is to be used for evaluation purposes only, and not for commercial purposes. To utilize the Software for commercial purposes, the Licensee must purchase a valid License.

10. Service Bureaus and Multi-Sites. If Licensee is providing services to multiple offices, including purchasing Software for those Sites, Licensee must execute Drake's Multi Site Agreement prior to this License being valid. Reselling, charging separate fees for the

Software or representing the authorization to sell the Software on behalf of Drake are all prohibited.

11. Web Based Applications and SAAS.

- a. Web Based Applications are subject to ALL TERMS of this agreement, including Site license restrictions, and may be subject to additional terms of use and service.
- b. SAAS is licensed as a subscription, and is not subject to Site license restrictions. . The following additional restrictions pertain to the use of SAAS ONLY, and SAAS may be subject to additional terms of use and service :
 - i. Subscriber acknowledges and accepts the terms and conditions of this Agreement by using the SAAS.
 - ii. In consideration of and upon receipt of payment of a subscription service fee by Subscriber, Drake grants to Subscriber a non-exclusive, nontransferable, limited license to use the SAAS at such time as it is generally available, solely as permitted by these terms. This Agreement does not grant Subscriber access to Drake's Software, data, or property other than for the purposes of using the SAAS.
 - iii. Subscriber agrees to pay a fee for each return activated, and all payments for returns purchased through the SAAS are NON-REFUNDABLE.
 - iv. Drake reserves the right to place limitations on the SAAS including access to the 1040 series of forms only.
 - v. Subscribing to the SAAS does not grant to Subscriber the right to use any other Drake products, including the Desktop Applications.
 - vi. Subscriber agrees not to provide access to the SAAS to any party other than those authorized to use the SAAS under the Subscriber's Online Account. Drake specifically prohibits access to the SAAS by more than one (1) EFIN. Subscriber will take reasonable precautions to safeguard Subscriber's password and keep it confidential. Subscriber agrees to use the SAAS only for lawful purposes. Subscriber is responsible for providing, at their expense, all necessary connections and equipment needed to access the SAAS. Subscriber must maintain the confidentiality of all assigned user names and IDs for the SAAS and Subscriber is responsible for all charges incurred under those user names and IDs, unless otherwise provided under these terms.
 - vii. The availability of the SAAS may be subject to interruption and delay due to causes beyond Drake's reasonable control.

12. **Pay Per Return.** If Licensee is using the Software under the Pay Per Return (PPR) option, Licensee agrees to pay a fee specified by Drake for each return activated. Licensees who choose the PPR option may convert to an unlimited package any time prior to the IRS accepting tax returns for the tax year by paying the maximum unlimited package price, less amounts paid for returns activated. The Licensee may convert to an unlimited package by purchasing 85 returns for a License at any time during the Term. These conversion terms are subject to change. Converting from the unlimited package to PPR is NOT ALLOWED.

13. **Refund Policy.** Licensee may elect to terminate this license prior to December 31, 2014 and receive a full refund with no penalty, provided Licensee returns all materials, undamaged, to Drake by REGISTERED MAIL within 30 days, with a written statement that Licensee has retained no copies of the Software, and has uninstalled all downloaded copies of the software, and that Licensee has not disclosed any of the materials to any third party whatsoever. After December 31, 2014, Licensee may request a refund within 72 hours or 3 business days of payment, provided Licensee has not electronically filed any tax returns with Drake. Drake will, in this case, refund the License Fee that Licensee has paid, less \$200.00 for shipping, handling and restocking. NO REFUND OF FEES WILL BE MADE if Licensee has activated, prepared or filed any returns. No other offer of refund is provided. Where return of materials is concerned for the purposes of a refund, TIME IS OF THE ESSENCE.

14. **Taxes and Fees**

- a. Customer agrees to pay for Software prior to receiving, installing or commercially using the Software, unless other payment arrangements are made, and agreed to in writing by Drake.
- b. Licensee grants to Drake an irrevocable right to offset unpaid Software License Fees with any and all fees collected by Drake remittable to Licensee. If Licensee does not comply with all terms of this Agreement, including payment of fees in a manner prescribed by Drake, Drake reserves the right to immediately cease offering all services and products to Licensee, including access to databases, e-filing systems and Software updates.
- c. All sales, use and other taxes are the responsibility of the Licensee, and Licensee agrees that Drake may, at its sole discretion, charge and collect applicable taxes and fees as part of the purchase.
- d. Applicable taxes are calculated on a product basis and are subject to variables determined by Drake, including Licensee's ship to address and Licensee potentially providing a tax exempt certificate to Drake.

15. **Privacy Policy** Licensee agrees to Drake's Privacy Policy, which is available on its website(s) and is subject to change. All notice of changes to Drake's Privacy Policy will be provided by posting revisions on the applicable Drake website. Licensee understands

that any suspected illegal or fraudulent activity will be reported to the appropriate governmental or law enforcement authorities.

16. **Indemnification of Drake.** Licensee hereby agrees to indemnify and hold Drake harmless from and against any and all liabilities, losses, costs, expense, damages, and deficiencies during the term of this Agreement, including, without limitation, court costs and reasonable attorney fees, which directly or indirectly arise out of, result from or relate to (i) any and all liabilities, obligations, or claims, whether accrued, absolute, contingent, or otherwise, which have as a basis the operation of Licensee, any and all accounts payable of Licensee, and any and all taxes levied or incurred, whether payable to a federal, state, local or other governmental authority; (ii) any and all loss, claim, cause of action, liability, cost, expenses, damage or deficiency due to any breach by Licensee of any of its representations, warranties, or covenants contained in this Agreement; and (iii) all actions, suits, proceedings, demands, assessments, judgment costs and expenses, including the cost and expense of successful collection from Licensee or its legal representative, successors, or assigns of any amount due Drake hereunder or resulting herefrom.
17. **Indemnification of Licensee.** Drake hereby agrees to indemnify and hold Licensee harmless from and against any and all liabilities, losses, costs, expense, damages, and deficiencies during the term of this Agreement, including, without limitation, court costs and reasonable attorney fees, which directly or indirectly arise out of, result from or relate to any and all liabilities, obligations, or claims, whether accrued, absolute, contingent, or otherwise, which have as a basis the intellectual property ownership of the Software. Licensee agrees to notify Drake of such claims in writing within 30 days of becoming aware of said claim.
18. **Representations and Warranties of Drake**
 - a. Drake represents and warrants that through October 15, 2015 (the “Warranty Period”) it has the authority and right to grant the Licensee use of the Software as described in this Agreement.
 - b. DRAKE MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL SUCH WARRANTIES BEING EXPRESSLY EXCLUDED. During the Warranty Period, Licensee shall promptly notify Drake in writing of any claimed deficiency and provide information sufficient to permit Drake to validate the deficiency. If a deficiency exists which breaches the warranty, Drake shall, at its sole discretion and within ninety (90) days: (i) correct the deficiency; or (ii) with Drake’s prior written authorization and upon Licensee's de-installation of the Software and return of all copies of the Software to Drake, refund any License Fee paid to Drake, whereupon this Agreement shall terminate. Drake will exercise due care in conforming the Software to the requirements of the Federal and State authorities; however, the Licensee acknowledges that income tax

preparation is subject to change and is of such complexity that the Software may have inherent defects.

- c. THE REMEDIES SET FORTH ABOVE ARE LICENSEE'S SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF THE WARRANTIES CONTAINED IN THIS AGREEMENT. DRAKE SHALL HAVE NO OTHER LIABILITY OR RESPONSIBILITY TO LICENSEE FOR DAMAGES OF ANY KIND, INCLUDING SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR RESULTING FROM THE USE OF THE SOFTWARE OR ANY PROGRAMS, SERVICES OR MATERIALS MADE AVAILABLE HEREUNDER OR THE USE OR MODIFICATION THEREOF. LICENSEE SHALL INDEMNIFY AND HOLD DRAKE HARMLESS AGAINST ANY CLAIM BY A THIRD PARTY RELATING TO LICENSEE'S USE OF THE SOFTWARE OR THE RESULTS THEREOF.
19. **Amendment, Modification and Waiver.** This Agreement may be modified, amended or supplemented by Drake without prior written notice or consent of Licensee. Drake reserves the right to change, modify or update this Agreement with NO PRIOR NOTICE by posting the revised agreement on its website located on the drakesoftware.com website (<http://www.drakesoftware.com/PDF/license2014.pdf>).
 20. **Governing Law.** This Agreement shall be construed under the laws of the State of North Carolina.
 21. **Arbitration.** Any controversy or claim arising out of, or relating to, this Agreement, or the making, performance, or interpretation thereof, other than a claim by Drake for injunctive or other equitable relief, shall be settled by a single arbitrator in the City of Franklin, North Carolina, in accordance with the Rules of the American Arbitration Association then existing. Any judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy. The arbitrator shall be experienced in software-related issues.
 22. **Other Products Provided by Drake.** Licensee understands that Drake may provide to Licensee other products and services other than Software, such as a preparer web site, on-line filing through www.1040.com, on-line research, Drake user forum, etc. Drake makes no guarantee as to delivery time or availability of such products and services. Licensee agrees to hold Drake harmless for any failure in providing or delivering these products and services, and Drake shall have no liability or responsibility to Licensee for damages of any kind, including special, indirect or consequential damages, arising out of or resulting from such other products or services provided to Licensee by Drake. Use of the forum and editorial control of content is at Drake's discretion. All Drake website content is controlled by Drake, including but not limited to the Drake Forums, Facebook, or other sites and Drake reserves the right to edit, delete, or withdraw access to support and public media websites at its sole discretion.

23. **Other Terms.**

- a. Supported systems are available in documentation and User manual for each Product. All Web Based Products require internet access.