

## 2018 SOFTWARE LICENSE AND NON-DISCLOSURE AGREEMENT

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- 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. Licensee will review any computations made by the Software and satisfy Licensee that those computations and reporting are correct.
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- 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. **It is a violation of this Agreement AND applicable law for Licensee to falsely indicate to Drake that Licensee has obtained taxpayer's Code 26 CFR §301.7216 compliant “Consent to Disclose” or “Consent to Use” taxpayer data. Such violation will be grounds for immediate termination of this Agreement.**

- e. Licensee agrees not to utilize the Software or any of Drake's services for any illegal, fraudulent or otherwise improper purpose. These may include, but are not limited to misrepresenting taxpayer information, falsely representing identities, activities which may circumvent security measures, technical or regulatory requirements or other IRS or State non-compliant activities. If it is determined, at Drake's sole discretion, Licensee is non-compliant with this Section 4(e), or Licensee has attempted to misrepresent, mislead or otherwise provide false representation(s) as to its compliance with this or any other provision of this Agreement, Licensee shall forfeit all rights to use the Software or services of Drake provided in this Agreement, including but not limited to any rights to refunds of any monies paid to Drake.
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- h. Licensee shall be responsible for acquiring and maintaining an information technology infrastructure with sufficient capabilities to operate the Software and comply with all provisions of this Agreement.
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- b. Licensee understands and agrees that fees may be charged by Drake for returns with Bank Products. A transmission fee and a technology fee may be withheld for each funded Bank Product transmitted through Drake, and 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. Licensee understands and agrees Bank Product availability, related software pricing and fees may vary by State and are subject to change in accordance with regulatory requirements, at Drake's sole determination.

6. **Term and Termination.**

- a. The license granted under this Agreement is for tax year 2018 only. The ability to electronically file returns, access to web sites and other web based products related to the Software will expire on December 31, 2019, although access to associated data may be available to Licensee upon request for an additional thirty (30) days after expiration.
- b. Extension of Term: If Licensee purchases a license for tax year 2019, this Agreement will be extended for an additional year, subject to Licensee's compliance with the tax year 2019 License Agreement. Licensee acknowledges that use of the Software after October 15, 2019 may be subject to limitations in functionality or additional requirements, in Drake's sole discretion.
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- f. This Agreement applies only to the 2018 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.
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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, owner name, Contact, phone number, 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 thirty (30) days of changing.

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  - g. Licensee shall implement adequate safeguards to protect Taxpayer Data against unauthorized access. Licensee shall be responsible to secure usernames and passwords that allow access to Taxpayer Data.
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10. **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. Licensees who utilize the Web Based Applications are also subject to the following conditions:
    - i. Licensee acknowledges and accepts the terms and conditions of this Agreement by using the Web Based Applications.
    - ii. Drake reserves the right to place limitations on the Web Based Applications including access to the 1040 series of forms only.
    - iii. Licensing the Web Based Applications does not grant to Licensee the right to use any other Drake products not purchased and licensed separately including the Desktop Applications or SaaS.



- iv. Licensee agrees not to provide access to the Web Based Applications to any party other than those authorized to use the Web Based Applications under Licensee's Online Account. Licensee will take reasonable precautions to safeguard Licensee's password(s) and keep it confidential. Licensee agrees to use Web Based Applications only for lawful purposes. Licensee is responsible for providing, at their expense, all necessary connections and equipment needed to access the Web Based Applications. Licensee must maintain the confidentiality of all assigned user names and IDs for the Web Based Applications and Licensee is responsible for all actions, access and charges incurred under those user names and IDs, unless otherwise provided under these terms.
  - v. The availability of the Web Based Applications may be subject to interruption and delay due to causes beyond Drake's reasonable control.
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  - 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.
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  - iv. Subscribing to the SaaS does not grant to Subscriber the right to use any other Drake products, including the Desktop Applications or the Web Based Applications.
  - v. 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. Each SaaS license shall apply to only 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 actions, access and charges incurred under those user names and IDs, unless otherwise provided under these terms.

- vi. The availability of the SaaS may be subject to interruption and delay due to causes beyond Drake's reasonable control.
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- a. Licensee 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.
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20. **Governing Law.** This Agreement shall be construed under the laws of the State of North Carolina, and the state court for the county of Macon, and federal courts of the Western District, North Carolina shall have exclusive jurisdiction and shall be the only venues for any formal legal actions.
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 the Software, including but not limited to on-line filing through www.1040.com, on-line databases (OLDB), account management website (EOM), Drake user forum, electronic communication interfaces, Gruntworx tax workflow automation tools, mobile apps, SecureFilePro file transfer software, 7216 sample letters and similar tax resources, conversion software, accounting and payroll software, remission of transmittal fees paid to Drake on behalf of Licensee and remitted by Drake to Licensee, and the like. Drake makes no guarantee as to delivery time, functionality, security, reliability 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 monitored 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. Access to any on-line service is subject to Drake's Terms of Service located on the applicable Drake website.
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24. **Other Terms.**
- a. Supported systems are available in documentation and User manual for each Product, and are subject to change. All Web Based Products require internet access.

- b. In no event shall Drake be liable or responsible to Licensee for any failure or delay in performing any term of this Agreement when such failure or delay is caused by circumstances beyond its reasonable control.
- c. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, employment, or fiduciary relationship between the parties, and neither party shall have the right to contract for or bind the other in any manner whatsoever.
- d. Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement without Drake's prior written consent. Any purported assignment, delegation, or transfer in violation of this Section 24(d) is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.
- e. If any provision of this Agreement is invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision.
- f. This Agreement, together with Drake's Terms of Use and Privacy Policy, constitutes the sole and entire agreement of the parties and supersedes all understandings, representations, and warranties, both written and oral, with respect to the subject matter hereof.