

# License Agreement – MsgSave 5

**IMPORTANT: READ THIS AGREEMENT CAREFULLY. THIS IS A LEGAL AGREEMENT BETWEEN SARCOPHAGUS LIMITED AND YOU (ACTING AS AN INDIVIDUAL OR, IF APPLICABLE, ON BEHALF OF THE INDIVIDUAL OR ENTITY ON WHOSE COMPUTER THE SOFTWARE IS INSTALLED). IF YOU CLICK THE “ACCEPT” OPTION OR INSTALL THE SOFTWARE PRODUCT ACCOMPANYING THIS AGREEMENT (THE “SOFTWARE”) YOU WILL BE BOUND BY THIS AGREEMENT. You are not required to accept these terms but, unless and until you do, you will not be authorised to use the Software.**

If you do not wish to agree to these terms, please do not download and install the software contact Sarcophagus for a refund of the purchase price.

**NOTICE: THE SOFTWARE MAY CONTAIN A “TIME OUT’ FEATURE THAT WILL RENDER THE SOFTWARE INOPERATIVE AT THE END OF THE TERM (AS DEFINED BELOW).**

## END USER SOFTWARE LICENSE AGREEMENT

### 1. License Grant; Related Provisions

#### a. Grant of License

SARCOPHAGUS LIMITED, subject to the terms and conditions of this Agreement, hereby grants to you a non-exclusive during the Term to use the Software only in executable or object code form solely for your personal or internal business purposes. This license authorises you to use the Software on or in conjunction with up to the number of computers specified by your order for the Software.

#### b. Limitations

You shall not, and shall not permit any third party to,

(i) duplicate the Software for any purpose other than as reasonably necessary to use the same as contemplated by this Agreement and for off-line archival and disaster recovery purposes;

(ii) publish the Software or use the same other than for the purposes described in Section 1.a of this Agreement;

(iii) except as expressly authorised by law, reverse engineer, disassemble, decompile, translate, reconstruct, transform or extract the Software or any portion of the Software (including without limitation any related malware signatures and malware detection routines);

(iv) except as expressly authorised by law, change, modify or otherwise alter the Software (including without limitation any related malware signatures and malware detection routines);

(v) transfer, pledge, rent, share or sublicense the Software;

(vi) grant any third party access to or use of the Software on a service bureau, timesharing, subscription service, rental or application service provider basis or otherwise; or

(vii) defeat or circumvent, attempt to defeat or circumvent, or authorise or assist any third party in defeating or circumventing controls on the installation or use of copies of the Software.

(viii) transfer licence/s from one computer to another unless a) the licensed computer has suffered a significant hardware failure b) the licensed computer is no longer intended to be used with that licence.

(xi) a licence must not be assigned to more than one computer.

### **c. Minor Updates**

SARCOPHAGUS LIMITED, from time to time during the Term, may provide minor updates to the Software and/or the malware signatures included therein (each, an "Update"). Minor updates will be deemed Software for all purposes under this Agreement. You acknowledge that you must routinely download and permit installation of minor updates in order to obtain maximum benefit from the Software.

## **2. Term; Termination**

### **a. Term**

The initial term of this Agreement will commence on the date you download or otherwise acquire the Software, and will continue

(i) for the term you specified in your order for the Software, or

(ii) if you purchased the Software on CD or other physical medium, on the Software package, or

(iii) if you received the Software in combination with other hardware or software, the term specified by your supplier. If renewal terms are available, SARCOPHAGUS LIMITED will provide notice offering you the opportunity to purchase renewals at the then-current renewal price. The initial term and any renewals purchased are referred to in this Agreement as the "*Term*".

### **b. Termination**

SARCOPHAGUS LIMITED, in addition to such other rights may be available at law or equity, shall be entitled to terminate this Agreement at any time without notice if you commit a material breach of this Agreement.

### **c. Effect of Termination**

On the expiration or termination of this Agreement, you will cease using the Software, SARCOPHAGUS LIMITED may cease making Updates available to you, and *the Software may cease functioning*. Sections 1.b, 3, 4, 5 and 6 will survive the expiration or termination of this Agreement.

## **3. Ownership**

SARCOPHAGUS LIMITED reserves all rights in the Software not expressly granted by this Agreement. All copyrights, trademarks and other conceivable intellectual property rights in and to the Software (including, but not limited to, malware signatures and other data files, images appearing in the Software and screen displays as well as any and all documentation relating to the Software) are owned by SARCOPHAGUS LIMITED or its licensors, and are protected by English and foreign copyright laws, international treaties and other applicable laws. Any copy of the Software you are allowed to make pursuant to this Agreement must contain the entire copyright and other notices included with the original copy of the Software.

## **4. Warranties**

### **a. General**

SARCOPHAGUS LIMITED warrants, that on delivery of the Software and for a period of thirty (30) days thereafter, that the Software will perform substantially in accordance with the applicable specifications. The foregoing warranty applies only to the Software as originally delivered, and does not apply to Updates. Your sole and exclusive remedy for breach of this Warranty is replacement of the Software or, at SARCOPHAGUS LIMITED' discretion a full or partial refund.

## **b. Beta Versions**

Notwithstanding the provisions of Section 4.a, THE PROVISIONS OF THIS SECTION 4.b APPLY IN PLACE OF SECTION 4.a IF (AND ONLY IF) THE SOFTWARE IS A "BETA TEST" VERSION. In view of the evaluation nature of Software, Software is provided on an "as is", "as available" basis, without warranty and without support or other services by SARCOPHAGUS LIMITED. YOU AGREE TO USE THE BETA SOFTWARE STRICTLY FOR THE PURPOSES OF EVALUATION AND TESTING, AND THAT YOUR RELIANCE ON THE AVAILABILITY OR ACCURACY OF THE BETA SOFTWARE SHALL BE ENTIRELY AT YOUR OWN RISK.

## **c. Disclaimer**

EXCEPT AS EXPRESSLY PROVIDED BY SECTION 4.a OF THIS AGREEMENT, SARCOPHAGUS LIMITED DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THE SOFTWARE, MEDIA AND ANY OTHER SUBJECT MATTER OF THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTY OF NONINFRINGEMENT. SARCOPHAGUS LIMITED DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE SOFTWARE WILL PROVIDE 100% PROTECTION. Some jurisdictions do not allow limitations on an implied warranty, so the above limitations may not apply to you. You may have other rights that vary from jurisdiction to jurisdiction.

## **5. Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SARCOPHAGUS LIMITED OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER, WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, DAMAGES INCURRED FOR LOSS OF BUSINESS PROFITS OR REVENUE, LOSS OF PRIVACY, LOSS OF USE OF ANY COMPUTER OR SOFTWARE INCLUDING THE SOFTWARE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS AGREEMENT OR THE SOFTWARE PROVIDED HEREUNDER, EVEN IF SARCOPHAGUS LIMITED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL SARCOPHAGUS LIMITED' LIABILITY RELATED TO THE SOFTWARE EXCEED THE LESSER OF THE FEES YOU ACTUALLY PAID FOR THE SOFTWARE AND SARCOPHAGUS LIMITED' SUGGESTED RETAIL PRICE FOR THE SOFTWARE AS OF THE DATE YOU RECEIVED IT. THE FOREGOING LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

Data loss can occur if the software is misused or due to third party software compatibility or bugs in the software. Therefore regular backups of the Outlook data files including PST files should be regularly performed to prevent loss of data.

Updates and recommendations are available on the website to prevent and resolve specific issues, refer to the notices section 6a.

## **6. Miscellaneous**

### **a. Notice**

SARCOPHAGUS LIMITED may deliver any notice to you via email or via our website from time to time. Any such notice will be deemed delivered on the date SARCOPHAGUS LIMITED first makes it available irrespective of when you actually receive it.

### **b. Privacy**

(i) You acknowledge that SARCOPHAGUS LIMITED collects certain information regarding the users of the Software, including certain personally identifiable information. You hereby consent to SARCOPHAGUS LIMITED' collection and use of such information, and agree that SARCOPHAGUS LIMITED' collection and use of such information will be governed by SARCOPHAGUS LIMITED' Privacy Policy, currently published at →[www.msgsave.com](http://www.msgsave.com) as SARCOPHAGUS LIMITED may revise the same from time to time.

(ii) BY PROCEEDING TO INSTALL THE SOFTWARE, YOU ACKNOWLEDGE AND ACCEPT THAT, UPON ITS INSTALLATION, THE SOFTWARE MAY COMMUNICATE CERTAIN BASIC USAGE AND LICENSE INFORMATION TO SARCOPHAGUS LIMITED TO HELP CONTROL LICENSING AND COMPILE GLOBAL STATISTICS CONCERNING USAGE OF THE SOFTWARE BY USERS (for example concerning the number of installations and unique users, the number of clicks which the software receives, the number of files archived by users, etc.). Such statistical information will not include any personally identifiable information regarding users.

### **c. Complete Agreement**

This Agreement constitutes the complete Agreement between the parties and supersedes all previous communications and representations or agreements, either oral or written, with respect to the subject matter hereof.

### **d. Amendments**

This Agreement may be subject to change without notice and the latest version will be available on [www.msgsave.com](http://www.msgsave.com) website.

### **e. Severability**

The parties desire and intend that all of the provisions of this Agreement be enforceable to the fullest extent permitted by law. If any provision of this Agreement or the application thereof to any person or circumstances is, to any extent, construed to be illegal, invalid or unenforceable, in whole or in part, then such provision will be construed in a manner to permit its enforceability under applicable law to the fullest extent permitted by law. In any case, the remaining terms of this Agreement or the application thereof to any person or circumstance, other than those that have been held illegal, invalid or unenforceable, will remain in full force and effect.

### **f. Governing Law**

This Agreement will be governed by British Law. The exclusive jurisdiction for any dispute will be courts sitting in the County of West Yorkshire, United Kingdom.

g. Upgrades are made available via the website and are normally chargeable except as defined in section 7.2

## **7. Software support**

The Software support contract is available as an option and is only provided on a per customer basis subject to satisfying all conditions in this agreement.

- a) The total number of software licences determines the cost of the contract.
- b) The costs are defined on the web site and will vary from time to time.
- c) The contract is for a minimum of 1 year and is payable in advance.
- d) Support will commence on the date the first support license was purchased.
- e) The customer shall pay for support for all software licenses purchased.
- f) The customer shall pay for support at the same time software licenses was purchased.
- g) The customer shall renew the support licence for each software licence on an annual basis.

### **7.1 Remedies**

Where there is no support contract the customer is only entitled to access the online support pages and no other forms of support will be provided.

If a customer does not have a valid support contract as defined in this agreement they can purchase a support contract at any time subject to paying the current fees based on the total number of software licences plus a 50% penalty charge.

### **7.2 Provision**

Minor upgrades may be provided free of charge as part of the support contract. The contract includes upgrades to new releases subject to a continuous support contract from the date of purchase of the first software licence.

Software support is provided for 30 days free of charge commencing from the date of the first software license purchased.

Support is provided via email or via the website. Incoming telephone calls are accepted but email is the primary method of communication. The company will use all reasonable endeavours to correct the software fault (or provide a temporary solution) as soon as reasonably possible. Correcting the fault cannot be guaranteed due to the number of external environments and the reliance on third party software and hardware. Software support does not cover third party software including fixes or security patches. The support contract will be terminated immediately without refund if the terms of this agreement are breached.