

Hosting Terms

Definitions

In these Terms the following words shall have the following meanings unless otherwise expressly stated:

“Agreement”	means the licence agreement entered into between Agent and the Licensee;
“Duration”	means the period specified in Exhibit B of the Agreement;
“End User Licence Agreement”	means the agreement for the use of the Software (as amended by SnagR from time to time);
“Exhibit”	means the exhibits attached to the Agreement;
“Licence Terms”	means the licence terms available at www.snagr.co.uk ;
“Licensee”	means the party who has entered into an Agreement with Agent;
“Agent”	means a legal entity that has been authorised by SnagR to provide software support services (including without limitation, a partner, agent or authorised reseller);
“SnagR”	means SnagR Software Limited, company number 06712136, whose registered address is at 43 Pool Lane, Brocton, Stafford, ST17 0TY;
“Software”	means the software tool used in capturing and monitoring defects and inspections for development, construction, commissioning and safety;
“Terms”	means these hosting terms;
“Updates”	means updates, patches or upgrades to the Software made available by SnagR, but only where any of the aforementioned are made available by SnagR after the acceptance of the Software;
“Working Hours”	means between the hours of 09:00 and 17:00 at the location from which support under the Agreement is provided.

1. Interpretation

- 1.1. The headings contained in these Terms are for reference only and shall not affect its interpretation.
- 1.2. Words indicating the singular shall include the plural and vice versa.
- 1.3. The words and phrases “includes”, “including” or “in particular” (as well as any similar words or expressions) shall be without limitation to the generality of any preceding words and any

preceding words shall not be construed as being limited to a particular class where a wider interpretation of those words and phrases is possible. Furthermore (except where already stated) such words shall be deemed to be immediately followed by the words “without limitation”.

- 1.4. References to any statute or statutory provision shall include (i) any subordinate legislation made under it, and (ii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).
- 1.5. To the extent of any conflict or ambiguity between any of the provisions of these Terms the following decreasing order of precedence will apply:
 - 1.5.1. the Licence Terms;
 - 1.5.2. any terms contained in an Exhibit to the Agreement;
 - 1.5.3. the other terms and conditions of the Agreement;
 - 1.5.4. these Terms; and
 - 1.5.5. the End User Licence Agreement

2. Hosting

- 2.1. These Terms govern how the Software shall be hosted.
- 2.2. SnagR shall provide hosting services for the Duration.
- 2.3. Where SnagR is providing hosting services, SnagR's IT Staff shall be responsible for handling data issues like synchronisation problems caused by erroneous data (not network related issues) or setup and configuration issues like mistakes with importing data. Patches and bug fixes shall be applied by SnagR automatically outside of normal Working Hours where possible, where a bug-fix/patch is deemed necessary for operational consistency/stability.
- 2.4. Upgrades shall be applied by SnagR in a timely manner upon discussion and agreement with the Licensee so training and disruption potential can be addressed beforehand.
- 2.5. SnagR shall be responsible for the data backup strategy. SnagR's strategy is to use SQL Server with overnight full backups being persisted to Amazon S3.
- 2.6. When hosting, SnagR will use commercially reasonable efforts to maintain an average annual update.

3. Licensee Hosting

- 3.1. Where SnagR agrees that the Software may be hosted locally by the Licensee, the Licensee agreement to the terms and conditions are as follows:

Installation:

- 3.2. The Licensee will install the Software which is made available by SnagR, on the Licensee's server at the server location (**Server Location**) and will ensure that the Licensee's server meets the minimum specification requirements for such Software as advised by SnagR.

- 3.3. Licensee accepts that it is its responsibility to ensure server availability in respect of the Software, as SnagR will have no obligations with regard to the Licensee's server.

Access:

- 3.4. The Licensee shall provide SnagR with remote access to the Software at the Server Location, and where no such remote access is provided/the Licensee is unable to provide remote access, the Licensee accepts that SnagR shall not be liable to it for any issues/faults/updates relating to the Software.

4. Back-ups, Business Continuity & Anti-Virus Measures

- 4.1. Licensee will maintain at least for the Duration, business continuity and disaster recovery measures to reasonably mitigate against the risks and consequences associated with any non-availability or malfunction of the Software.

- 4.2. Licensee will provide a commercially reasonable backup procedure in respect of its systems, which includes at least its own daily data backups (including backups of any software and data which the Software interacts with, or may interact with), disaster recovery and business continuity and data restoration measures, including without limitation, in respect of any data corruption and data loss:

- a) (when the Licensee is responsible for hosting the Software), it has all its data backed up before installing, or implementing any Updates in respect of the Software;
- b) virus scanning using reasonable industry known software for such purposes (ensuring that this software is updated with the latest updates made available by such third party software licensors) in respect of its equipment and any software residing on such equipment; and
- c) implement reasonable firewall arrangements to safeguard its systems.

- 4.3. Where SnagR hosts the Software, SnagR will undertake a single daily backup of the data which the Licensee uploads to SnagR's server for use with the Software, and therefore if any data needs to be reloaded from the backup, then such backup will not contain any data which has been uploaded to SnagR's server between the previous daily backup up to the time of restoration. The Licensee acknowledges and accepts this risk.

5. General Provisions

Severability

- 5.1. If at any time any part of these Terms or a provision of these Terms becomes void or unenforceable under any applicable law it shall be deemed to be deleted (to the minimum extent necessary) from these Terms and the remaining provisions of these Terms shall continue unaffected.

Force Majeure

- 5.2. If either party (the "**Affected Party**") is prevented from complying with its obligations due to Force Majeure, it shall not be in breach of these Terms or otherwise liable to the other party (the "**Unaffected Party**") by reason of any delay in performance or non-performance of any of its obligations due to such events.
- 5.3. If such Force Majeure persists for a continued period of 30 days then the Unaffected Party shall be entitled whilst the Force Majeure persists, to terminate the Agreement immediately upon notice to the Affected Party.

Law and Jurisdiction

- 5.4. These Terms and any dispute or claim arising in connection with them shall be governed by the laws of England and shall be subject to the non-exclusive jurisdiction of the English Courts to which the parties irrevocably submit.

Successors Bound

- 5.5. These Terms shall be binding on the permitted assigns and successors in title of SnagR and assigns and successors in title of the Licensee.