

# Silver Trak Digital, Media Room and Website

## Terms of Service

*Modified: 2020*

This website together with any cloud-based products or portals are provided by Buff Dubs Pty Ltd – ABN 31 112 643 348 trading as Silver Trak Digital (referred to hereafter as “Silver Trak Digital”) operating Media Room. By accessing and using this website and/or cloud-based products you are deemed to have accepted these “terms”. Silver Trak Digital may at any time vary these terms and conditions by publishing the varied terms and conditions on this website.

This website contains information of a general nature about products and services offered by Silver Trak Digital. The supply of Silver Trak Digital products and services to you will be subject to Silver Trak Digital’s standard Terms of Trade available at: [Terms of Trade](#) and any subsequent conditions as may be applicable to the use of the Media Room portal.

### 1. Website Warranties

While Silver Trak Digital has been careful to ensure that the material on this website is accurate, Silver Trak Digital gives no warranty (express or implied) as to the accuracy, completeness or adequacy of that material, nor does Silver Trak Digital make any warranty that the material on this website does not infringe the intellectual property rights of any person.

Silver Trak Digital does not guarantee that the website will be continuously available or error free.

### 2. Copyright and Trade Marks

Copyright in the material on this website is owned or licensed by Silver Trak Digital. The trademarks appearing on this website are the trademarks of Silver Trak Digital or their respective owners. All intellectual property rights are reserved.

### 3. Links and third parties

Websites operated by third parties may link to this website. This website may also contain links to third party websites. Those third-party websites are not under Silver Trak Digital’s control. The inclusion on this website of any links to other sites does not imply that Silver Trak Digital endorses or has verified the content of those linked sites. Your use of material on any third-party website will be governed by the terms and conditions applicable to that website.

Silver Trak Digital gives no warranty (express or implied) as to the accuracy, completeness or adequacy of material on any third-party website, nor does Silver Trak Digital make any warranty that the material on any third party website does not infringe the intellectual property rights of any person.

Any dealings you have with third parties via this website are your responsibility.

### 4. Media Room Usage Terms.

- 4.1. [Cloud Products](#). These Terms govern our “Media Room” Cloud Based Product, related Support, and Additional Services. These Terms should be read in conjunction with Our Policies (including our [Privacy Policy](#), Terms of Trade, Sales Orders and/or Service Agreements.

- 4.2. Terms of Trade. All Products or Services provided by Silver Trak Digital are subject to standard Terms of Trade and may be subject to additional terms specific to that product as set forth in the respective Product-Specific Terms.

## 5. Media Room Account and Room Administration

- 5.1. Account Administrators hold unique privileges to establish policies and rules that apply across all projects associated within a designated room. One such critical policy is the assignment of Room (and subsequently "Project") security features. Media Room set-up establishes certain default parameters around "DRM", "Dynamic Watermarking", Ingest Watermarking and others. Disabling one or more of these features will affect all projects within the Room for all users. It is the Account Administrators sole responsibility to appropriately manage these security and other unique features. Silver Trak Digital holds no liability for decisions of Account Administrator in this regard.
- 5.2. Room Administrators. Through the Media Room product set-up, you may be able to specify certain End Users as Administrators, who will have important rights and controls over the use of Media Room and Your Accounts. This may include making Orders for Deliveries or Special Services (which may incur fees); live streaming, creating campaigns, deleting files or modifying End User permissions; and managing access to Your Data. You are responsible for whom you allow to become Administrators and any actions they take, including as described above. You agree that our responsibilities do not extend to the internal management or administration of Your Media Room projects. **Note: While deleted files remain in a suspended state for a period which may allow recovery Silver Trak Digital provides no guarantee that deleted file can be recovered and subsequently accepts no liability for your file deletions.**
- 5.3. Responsibility for End Users. Our "Media Room" Cloud Product allows Administrative level users to invite other users and assign permissions. Under this regime You are responsible for understanding the settings and controls you use and for controlling whom you allow to become an End User. You are responsible for compliance with these Terms by all End Users for the activities and any and all uploaded content and with compliance under any Australian Legislation surrounding online content (e.g., Broadcasters Act, 1992 or Online Safety Act 2015), whether or not such Users are from your organization or domain.
- 5.4. Credentials. You must require that all End Users keep their user IDs and passwords for Media Room strictly confidential and do not share such information with any unauthorized person. User IDs are granted to individual, named persons and may not be shared. You are responsible for any and all actions taken using End User Accounts and passwords, and you agree to immediately notify us of any unauthorized use of which you become aware.

## 6. Technical Support

- 6.1. Media Room is a robust, self-administrated, cloud based platform; if technical support is required client administrators can contact Silver Trak Digital via [mediaroom support](#) or contact to the customer service team (+612) 9007 5600 during business hours.
- 6.2. Alternatively if *out of hours* support is required client administrators can email [support@mediaroom.com.au](mailto:support@mediaroom.com.au) . Silver Trak Digital retains the right to determine the critical nature of the inquiry and defer any technical response until normal business hours. While efforts will be made to respond to inquiry in a timely fashion Silver Trak Digital accepts no liability for financial impact of response time, as outlined in clause 17 of these Terms.
- 6.3. In any case Silver Trak Digital accepts no responsibility for services provided by third parties either directly or indirectly supporting the Media Room platform, data storage or internet connectivity.

## 7. Media Room Access and Restrictions

- 7.1. Access to Media Room. Subject to these Terms and during the applicable subscription Term, you may access and use the Media Room for your business purposes in accordance with these Terms and the standard Terms of Trade. This includes the right, as part of your authorized use of Media Room, to download and use any related API links.
- 7.2. Administrator Access Nomination. A Media Room client Administration can assign access rights to additional parties (internal and external users) and can provide File upload access to external users through the “External User Upload Page” feature. It must be recognised and understood by all users that opening file upload via the cloud presents the opportunity for malware, phishing or virus to be hosted within the uploaded file(s). Media Room does not scan upload files before accepting such content into designated client room or project, but expects clients to hold responsibility for knowing the source user’s internal system security/server protocols and take necessary steps to ensure that uploaded files are free of harmful intrusions.
- 7.3. Support. During the Subscription Term, we will provide Support for the Product in accordance with Clause 6. above.

## 8. Security and data privacy policies.

- 8.1. Security. We implement security procedures designed to help protect Your Data from security attacks. It is important for Room Administrators to recognise that certain industry recommended security features have been enabled by default (e.g., DRM video security) disabling such features whether temporarily or permanently compromises the security of your video streams and is not recommended. Silver Trak Digital will not be held liable for any security breaches caused by such actions.
- 8.2. Virus and Malicious Software. Due to the Access capabilities of Media Room as outlined in clause 7.1 and 7.2 above Silver Trak Digital accepts no responsibility or liability for the intrusion of virus or other malicious threats.
- 8.3. Privacy. We collect certain data and information about you in connection with you and your End Users’ use of Media Room. We collect and use all such data and information in accordance with our [Privacy Policy](#) which you acknowledge.
- 8.4. Improving Cloud Products. We are always striving to improve the Cloud Products. In order to do so, we use analytics techniques to better understand how our Cloud Products are being used as outline in our [Privacy Policy](#).
- 8.5. Subpoenas. Nothing in these Terms prevents us from disclosing Your Data to the extent required by law, subpoenas or court orders, but we will use commercially reasonable efforts to notify you, where permitted to do so. Silver Trak Digital strives to balance your privacy rights with other legal requirements.

## 9. Terms that apply to Your Data.

- 9.1. Using Your Data. You retain all right, title and interest in and to Your Data in the form submitted to Media Room. Subject to these Terms, and solely to the extent necessary to provide the Media Room to you. You grant us access to your data to process, copy, export, and display solely to the extent that reformatting Your Data for display in a Cloud Based Product constitutes a modification or derivative work. We may also access your data accounts in order to respond to your support requests.

- 9.2. Your Data Compliance Obligations. You and your users of Media Room must comply at all times with these Terms, and all Laws. You represent and warrant that: (i) you have obtained all necessary rights, releases and permissions to submit all Your Data to this Cloud Product and to grant the rights granted to us in these Terms and (ii) Your Data and its submission and use as you authorize in these Terms will not violate (1) any Laws, (2) any third-party intellectual property, privacy, publicity or other rights, or (3) any of your or third-party policies or terms governing Your Data. Other than our express obligations under Section 4 (Our security and data privacy policies), we assume no responsibility or liability for Your Data, and you are solely responsible for Your Data and the consequences of submitting and using it with the Products.
- 9.3. Sensitive Data. You will not submit to your Media Room accounts any data that would be considered to be "Sensitive Data". You also acknowledge that we are not acting as your Business Associate or subcontractor. Notwithstanding any other provision to the contrary, we have no liability under these Terms for Sensitive Data.
- 9.4. Your Indemnity. You will defend, indemnify and hold harmless us (and our Affiliates, officers, directors, agents and employees) from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable legal fees and costs) resulting from any claim arising from or related to your breach of your obligations under this section 9.
- 9.5. Removals and Suspension. We have no obligation to monitor any content uploaded to the Media Room Cloud Services. However, if we deem such action necessary based on breach of these or standard Terms or Policies, we may (1) remove Your Data from the Cloud Products or (2) suspend your access to the Cloud Products. We will use reasonable efforts to provide you with advance notice of removals and suspensions unless we determine that your actions endanger the operation of our Cloud Product or other users. In such case we may suspend your access or remove Your Data immediately without notice. We have no liability to you or any related third parties for removing or deleting Your Data from or suspending your access to the Product for reasons as described above in this Section 7.5.

## **10. Additional Services.**

- 10.1. Additional Services. Subject to these Terms, you may purchase Additional Services that we will provide to you pursuant to the applicable Order. Additional Services may be subject to additional policies and terms as specified by us.

## **11. Billing, Renewals, and Payment.**

- 11.1. Monthly Plans. Except for No-Charge Products, Media Room is offered on a monthly subscription basis unless otherwise agreed in writing, based on monthly volume storage and billable transactions.
- 11.2. Monthly storage volume will be charge on all Assets contained within or uploaded to a Media Room account or Project within the billing month, regardless of whether an Asset is uploaded and removed within the same billing month.
- 11.3. Renewals. Except as otherwise specified in your Order, unless either party cancels the agreement, your subscription will automatically renew month-to-month. You will provide 30 days' notice in writing of non-renewal. Cancelling your subscription means that you will be charged for the next billing cycle constituted by the 30 days' notice.
- 11.4. Payment. You will pay all fees in accordance with your usage as listed on monthly invoice and subsequent usage report, by the due dates and in the currency specified in the Invoice. If a PO number is required in order for an invoice to be paid, then you must provide such PO number by emailing the PO number to [accounts@silvertrak.com.au](mailto:accounts@silvertrak.com.au), prior to the end of the billing period. Non

provision of required PO Number will not impact the payment due date, even if Invoice needs to be re-produced.

**12. Taxes.**

12.1. Taxes. Your fees under these Terms display current rate of GST and included in Invoice Total with respect to the Services provided. If you have obtained an exemption from relevant taxes, you may provide us with such exemption information, and we will use reasonable efforts to provide you with invoicing documents to enable you to obtain a refund or credit from the relevant revenue authority, if such a refund or credit is available.

**13. No contingencies on other products.** You acknowledge that Media Room services are separate to other Silver Trak Digital services and will not be affected by delivery, or perceived quality failures of the additional services. Payment obligations for any products or services are not contingent on the purchase or use of any of our other products.

**14. IP Rights in the Cloud Products and Feedback.** Media Room is made available on an access basis, and no ownership right is conveyed to you.

**15. Term and Termination.**

15.1. Term. These Terms are effective as of the Effective Date and continue on a month-to-month basis, unless otherwise agreed or terminated through breach of Terms or due notification.

15.2. Termination for Cause. Either party may terminate these Terms (including all related Orders) if the other party (a) fails to cure any material breach of these Terms within thirty (30) days after notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter).

15.3. Termination for Convenience. You may choose to stop using the Cloud Products and terminate these Terms (including all Orders) at any time for any reason upon 30 days' written notice to us.

15.4. Effects of Termination. Upon termination of these Terms Silver Trak Digital will remove your login and access rights to the product. Any residual data located on the cloud platform will be retained for 60 days from termination date and then deleted. Any request for data after the termination date and within the 60 days will constitute additional fees for access and retrieval. It is your responsibility to make sure to export Your Data using the functionality of Media Room during the applicable Subscription/Termination Term at applicable rate. **Silver Trak Digital will not be held responsible or liable for deletion of data after the outlined termination date and data retention period.**

**16. Non-Engagement During Dispute**

The Parties agree that, in the event of any actual or threatened legal dispute, claim, or proceeding between Silver Trak Digital and You (the Client), neither Party shall engage in, commence, or continue any business dealings, agreements, or transactions with the other Party for the duration of such dispute. This restriction shall remain in effect until the dispute is fully resolved by way of settlement, final court judgment, or withdrawal of the claim, unless otherwise agreed in writing by both Parties.

## 17. Warranties and Disclaimer.

- 17.1. Mutual Warranties. Each party represents and warrants that it has the legal power and authority to enter into these Terms.
- 17.2. Our Warranties. We warrant, for your benefit only, that we use commercially reasonable efforts to prevent introduction of viruses, Trojan horses or similar harmful materials into the Cloud Products (but we are not responsible nor liable for harmful materials submitted by you or your End Users) (the “**Performance Warranty**”).
- 17.3. Warranty Remedy. We will use commercially reasonable efforts, at no charge to you, to correct reported non-conformities with the Performance Warranty. If we determine corrections to be impracticable, either party may terminate the applicable Agreement.
- 17.4. WARRANTY DISCLAIMER. you agree that your use of the product or services shall be at your sole risk. to the fullest extent permitted by law Buff Dubs Pty Ltd, its owners or trading entities, its officers, directors, employees and agents disclaim all warranties, express or implied, in connection with the products and services and assumes no liability or responsibility for any (1) errors, mistakes, or inaccuracies of content, (2) personal injury or property damage, of any nature whatsoever, resulting from your access to and use of our product/services, (3) unauthorised access to or use of our secure servers, (4) interruptions or cessation of transmission to or from our services, (5) bugs, viruses, trojan horses, malware or the like which may be transmitted to or through our product/services by any third party, and/or (6) errors or omissions in any content or for any loss or damage of any kind incurred as a result of the use of any content posted, emailed, transmitted, or otherwise made available via the product or services. we cannot guarantee that our security procedures will be error-free, that transmissions of your data will always be secure or that unauthorized third parties will never be able to defeat our security measures or those of our third-party service providers. we will not be liable for delays, interruptions, service failures or other problems inherent in use of the internet and electronic communications or other systems outside our reasonable control.

## 18. Limitation of Liability.

- 18.1. YOU AGREE THAT NEITHER SILVER TRAK DIGITAL NOR ANY OF ITS RELATED COMPANIES, DIRECTORS, EMPLOYEES, AGENTS AND CONTRACTORS WILL BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT (INCLUDING CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES), INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR: LOSS OF PROFITS, LOSS OF CONFIDENTIAL INFORMATION OR OTHER INFORMATION OR DATA, HARM TO YOUR COMPUTER SYSTEM, HARM THAT RESULTS FROM YOUR ACCESS TO THE SERVICE OR SOFTWARE, BUSINESS INTERRUPTION, PERSONAL INJURY, LOSS OF PRIVACY, FAILURE TO MEET ANY DUTY, NEGLIGENCE, AND ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER, ARISING OUT OF THESE TERMS OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SOFTWARE OR THE SERVICE, AND YOU HEREBY WAIVE ANY CLAIMS WITH RESPECT THERETO, WHETHER BASED ON CONTRACTUAL, TORT OR OTHER

FOUNDATIONS, EVEN IF SILVER TRAK DIGITAL OR ANY OF ITS RELATED COMPANIES HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES.

18.2. Liability Cap. To the maximum extent permitted by law and despite any other provision of these Terms, the maximum liability of Silver Trak Digital and its related companies, directors, employees, agents and contractors that may result from or arise in connection with the use of this website (including without limitation the services provided by Media Room) or any third party website able to be accessed from this website or from the use of or reliance on any information, advice, opinion, representation, provided on or made available through this website not exceed the amount actually paid or payable by you to us under these terms in the one (1) month immediately preceding the claim.

19. **Publicity Rights.** You agree that we may identify you as a Silver Trak Digital customer in our promotional materials. If we do so, we will promptly stop upon your request sent to [sales@silvertrak.com.au](mailto:sales@silvertrak.com.au)

20. **Dispute Resolution.**

20.1. Informal Resolution. In the event of any controversy or claim arising out of or relating to these Terms, the parties will consult and negotiate with each other and, recognising their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach settlement within a period of sixty (60) days, either party may pursue relief. All negotiations pursuant to this Section 19.1 will be confidential unless otherwise agreed in writing.

20.2. Governing Law: Jurisdiction. These Terms will be governed by and construed in accordance with the applicable laws of the State of New South Wales, Australia and subject to the exclusive jurisdiction of the courts of that State.

20.3. Changes to these Terms. We may modify the terms and conditions of these Terms (including Our Policies) from time to time by posting the modified Terms on our website.

21. **Changes to the Cloud Products.** You acknowledge that Media Room is an on-line, subscription-based product, and that in order to provide improved customer experience we may make changes to the Product, and we may update the applicable Documentation accordingly.

22. **General Provisions.**

22.1. Force Majeure. Silver Trak Digital will not be liable to the other for any delay or failure to perform any obligation under these Terms if the delay or failure is due to events which are beyond its reasonable control, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by a government agency.

22.2. Conflicts. In event of any conflict between the main body of these Terms and either Our Policies or General Terms of Trade, Our Policies or Terms of Trade (as applicable) will control with respect to their subject matter.

22.3. Severability: If any provision of these Terms is determined to be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

27. **Definitions**

**“Additional Services”** means services listed on the Silver Trak Digital website including digitisation, post production, DCP, authoring, QC, DVD or other disc creation or replication, metadata, AI or storage (digital or physical) services.

**“Administrators”** mean the personnel designated by you who administer the Cloud Product (Media Room) to End Users.

**“Asset”** means any file or sealed package uploaded to a Media Room account or project

**“Cloud Products”** means our hosted or cloud-based solutions (currently designated as “Media Room”).

**“Documentation”** means our standard published documentation for the Use of Cloud Product, our standard Terms of Trade, Policies and any product/service specific terms of use.

**“End User”** means an individual you permit or invite to use the Cloud Products.

**“Laws”** means all applicable state, federal laws, regulations and conventions, including those related to data privacy and data transfer, international communications and the exportation of technical or personal data.

**“Order”** means any Sales Order/Purchase Order or direction you provide to and accepted by Silver Trak Digital for the commencement of Product or Services alongside documented pricing and Terms of Use.

**“Virus”** means any software introduced threat, be it malware, spyware, virus, trojan horse, crypto locker or any other foreign malicious software attack.

**“Our Deliverables”** means any materials, deliverables, modifications, derivative works or developments that we provide in connection with any Additional Services.

**“PO”** means a purchase order.

**“Product-Specific Terms”** means additional terms that apply to certain Products and Services.

**“Project”** means a specifically name category of Assets within a Media Room account

**“Sealed Package”** means a collection of files media or document related to an entity that will remain as a collection for download

**“Sensitive Data”** means any (i) categories of data as identified in the Privacy Act 1988 of Australian Law or any successor legislation under the Australian Privacy Principles; (ii) patient, medical or other protected health information; (iii) credit, debit or other payment card data; (iv) other information subject to regulation or protection under specific laws (or related rules or regulations); (v) driver’s license numbers or other government ID numbers; or (vi) any data similar to the foregoing that is protected under foreign or domestic laws or regulations.

**“Subscription Term”** means your permitted subscription period for a Cloud Product, as set forth in the applicable Order.

**“you”** means any user of the Media Room accessed through [www.xxxx].

**“Your Data”** means any data, content, code, video, images or other materials of any type that you (including any of your End Users) submit to Cloud Products. In this context, “submit” (and any similar term) includes submitting, uploading, transmitting or otherwise making available Your Data to or through the Cloud Products.

**“Your Materials”** means your materials, systems, personnel or other resources.

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