



## **Virbela End-User License Agreement** **(Terms of Use)**

October 11, 2021

### **1. Acceptance of this EULA**

Thank you for visiting our website [www.virbela.com](http://www.virbela.com) (“**Our Site**”), and/or your interest in using Virbela’s virtual campus products and services, provided by eXp World Technologies, LLC d/b/a Virbela (“**Virbela**,” “**us**” “**we**” and “**our**”). By using our virtual campus products and services (including, without limitation, Virbela’s Open Campus\*, a private campus, or a Team Suites product) or using Our Site, you agree to be bound by this Virbela End-User License Agreement (“**EULA**”). Please read this EULA carefully.

This EULA constitutes a binding legal contract between you and Virbela and governs your use of all products and services as may be available through Our Site, our Virbela 3D virtual software and/or software delivered as services, our mobile application, and/or in any other forms or media developed and/or provided by or through Virbela (collectively with Our Site, the “**Services**”), and to those products as may be available to you through Virbela’s 3D virtual campus client application software for use with the Services (“**Products**”).

You may receive access to the Products and Services *via* a subscription set up by your Organization (defined below). Therefore, throughout this EULA, the term “you” and “your” means you as an individual user, and your Organization, if and when applicable.

Your use of the Services and Products is also subject to the Virbela End-User Privacy Policy (“**Privacy Policy**”), accessible at the following URL: [https://assets.virbela.com/legal/VirBELA\\_Privacy\\_Policy.pdf](https://assets.virbela.com/legal/VirBELA_Privacy_Policy.pdf), which covers how we collect, use, share, and store personal information of users. If you do not agree to or understand this EULA or our Privacy Policy, or any changes thereto, you are not authorized to use our Services or Products.

Notwithstanding any terms herein, please note that you may not use the Services to promote, facilitate or support residential or commercial brokerage services in the field of real estate, or real estate agent services (except in conducting real estate business authorized by, and in support of, one of the real estate companies owned by Virbela’s parent company). Please see Section 16 (Prohibited Use), part p), for additional details.

**\* See, also, Section 27- Guidelines Regarding Virbela’s Open Campus.**

### **2. Accounts and Passwords**

You must have an account with Virbela (“**User Account**”) to subscribe to any aspect of the Services, including any fee-based aspect of the Services (*e.g.*, Team Rooms or Private Campus) or free aspect of the Services (*e.g.*, **Open Campus**). Your User Account must be in your real name. You may register for a free aspect of the Services online, or subscribe to a fee-based aspect of the Services online. In all cases, you agree to: (1) provide true and accurate account information, (2) choose a strong and secure password; (3) keep your password secure and confidential; (4) not transfer, or attempt to transfer, your User Account or any registration or subscription thereunder, to any other party; (5) promptly report any breach of password confidentiality to Virbela; and (6) cancel and close your User Account when you will no longer continue using it. Virbela reserves the right to terminate or suspend your User Account upon reasonable belief that fraud or unauthorized activity has occurred on your User Account.

### **3. Access and Control by Subscribing Party**

If your access as an individual user to an aspect of the Services is under a subscription through an organization with whom you are employed, contracted with as an independent contractor, enrolled as a student, or otherwise affiliated (your “**Organization**”), then that subscribing party has the right to control your access to that aspect of the Services and to receive reports from Virbela (if available, at Virbela’s sole discretion) regarding your use of such aspect of the Services, including, without limitation, any and all data,

information, or material uploaded, provided, or shared using that aspect of the Services, and including information regarding your activity using that aspect of the Services.

#### **4. System Requirements**

Use of the Services requires hardware, software, and Internet access not provided by Virbela, and your ability to access and use the Services may be affected by the performance of these third party system components. You acknowledge and agree that such system components are your responsibility. Virbela shall not be liable for the functionality, connectivity, or performance of any third party system components or the compatibility of any third party system component with the Products or Services.

#### **5. Revisions**

Virbela reserves the right to revise any of the terms and conditions contained in this EULA and our Privacy Policy (including our policy on use of cookies) at any time and in our sole discretion by posting such revisions on Our Site and in the Virbela 3D virtual campus. The effective date of such revisions will be the date specified. It is your responsibility to regularly review this EULA and the Privacy Policy for any revisions. If you do not accept such revisions, you must immediately discontinue using Virbela's Products and Services. Your continued use of Virbela's Products and Services following the effective date of such revisions will signify your acceptance of such revisions. Virbela also reserves the right to patch, modify, update, upgrade, disable, suspend, or remove portions of the Products and Services at any time, such activities also being collectively referred to as "revisions." Such revisions may be implemented by Virbela without prior notice to you, and without obtaining additional consent from you. You are not guaranteed rights to any such revisions that may be offered or implemented by Virbela, unless otherwise expressly agreed upon in writing between you and Virbela.

#### **6. Age Requirements**

The Services are not intended for or designed to attract children under the age of thirteen (13). By using the Products or Services, you affirm that you are at least eighteen (18) years of age or the age of majority in your jurisdiction, or an emancipated minor and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this EULA, and to abide by and comply with this EULA.

#### **7. Grant of License**

Subject to your continuing compliance with this EULA, Virbela hereby grants you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to (a) install the Products for use in connection with the Services, and (b) use the Services.

#### **8. Payment**

For any fee-based aspect of the Services to which you initiate subscription, your order and applicable payment obligations will be notified to you through the Services online, or otherwise, as may be determined by Virbela. You agree to pay all applicable fees for use of the Products and Services. If you pay applicable Services fees by credit card, you will also provide Virbela with Personal Information (as such term is defined in the Virbela Privacy Policy) required for us to process the transaction ("**Transaction Information**"), and you shall update such Transaction Information from time to time as necessary to ensure that all such Transaction Information remains accurate. You authorize Virbela to retain and/or share your Transaction Information with third party financial institutions and payment processing firms, in accordance the Virbela Privacy Policy, for the sole purpose of processing your payments for the fee-based aspect of the Services to which you have subscribed.

Unless otherwise agreed upon in a separate agreement with you, Virbela, in its sole discretion, shall determine the fees it will charge for any aspect of the Products or Services and payment terms, and Virbela may, upon providing thirty (30) days prior written notice to you through the Services, or otherwise by email, amend such fees and/or payment terms applicable to the Products or Services. If you do not agree to any

such fee and/or payment term changes, you may terminate this Agreement or cancel the aspect of Services, as applicable as provided herein within such thirty (30) day period; otherwise all such changes shall thereafter be effective with respect to your User Account, and you agree that Virbela is authorized to charge your credit card for any such new fees applicable to the aspect of Services to which you have subscribed, on the next monthly, or other periodic payment cycle, as applicable.

For any fee-based aspect of the Services to which you subscribe, you also agree to pay us any applicable taxes in addition to the applicable subscription fees. Failure to pay these fees and taxes in accordance with your payment obligations will result in the termination or suspension of your paid Services, and potentially the referral of your User Account to a debt collection agency.

## 9. Termination and Nonrenewal of User Account

Except for any Organization, whose termination and/or non-renewal rights are specified in the Virbela Terms of Service, the following termination and non-renewal provisions apply:

- a) *By you*. You can terminate your User Account at any time for any reason by providing written notice to Virbela. You will continue to have access to the Services until the end of your billing cycle. Virbela will not issue refunds for any paid User Account that you terminate.
- b) *By us - without notice*. Virbela may terminate, restrict, or suspend your User Account, at any time and without notice, if we believe that the Services or Products are being used as follows: (i) in violation of applicable law, (ii) in any way harmful to other users, or (iii) in violation of the terms of this EULA, our Privacy Policy, or any other term or policy incorporated by reference into this EULA. Virbela will not issue refunds for any paid User Account we terminate for the foregoing reasons.
- c) *Our Right to Not Renew*. We reserve all rights to refrain from renewing any User Account or Organization subscription for any reason.

## 10. Notices

Except as otherwise expressly set forth in this EULA, all notices from Virbela to you under the EULA will be in writing sent by email or through the Services (e.g., a Virbela notification published in your User Account or displayed in an online session). All notices from you to Virbela shall be emailed to [info@Virbela.com](mailto:info@Virbela.com), except for legal notices, such as notices regarding copyright infringement assertions, which shall be sent to [legal@Virbela.com](mailto:legal@Virbela.com). Notices will be deemed to have been duly given (a) the day after it is sent, in the case of notices through email; and (b) the same day, in the case of notices through the Services.

## 11. User Generated Content

Our Services allow sharing of information in many ways, and any information and content that you share or post (your "**User Generated Content**") may be seen by others, including information you may share, upload or store in relation to your user profile (see, *also*, Section 21 below regarding the limits on liability for Virbela regarding User Generated Content). Where we have made settings available, we will honor the choices you make about who can see content or information (e.g., message content to your addressees, sharing content only to Virbela connections, restricting your profile visibility from search engines, or opting not to notify others of your Virbela profile update). We are not obligated to publish any User Generated Content on our Services and reserve the right to remove any User Generated Content deemed to be objectionable or in violation of this Agreement, in Virbela's sole discretion.

As between you and Virbela, you own the User Generated Content that you submit or post to the Services, and you are only granting Virbela, and our affiliates and licensees, the following non-exclusive license: A worldwide, transferable and sublicensable right to use, copy, modify, distribute, publish, and process, and

sublicense to our affiliates any User Generated Content that you provide through our Services and the services of others, without any further consent, notice and/or compensation to you or others, solely in order to provide the Services to you. You can remove User Generated Content from the Services by deleting it or by closing your User Account, except (a) to the extent you shared it with others as part of the Services and they copied, re-shared it or stored it and (b) for the reasonable time it takes us to remove from backup and other systems.

## **12. Intellectual Property Rights**

Virbela and its licensors own all right, title, and interest in the Products and Services, including without limitation all copyright, trademark, trade secret, and patent right, and reserves all such-intellectual property rights. Using our Products and Services does not give you any ownership in our Products and Services or the content or information made available through our Products and Services, and you are only permitted to use our Products and Services for the purposes authorized in this Agreement. Trademarks and logos used in connection with the Products and Services are the trademarks of their respective owners. Virbela and other Virbela trademarks, service marks, graphics, and logos used for our Services are trademarks or registered trademarks of Virbela. You are prohibited from using Virbela's trademarks for any purpose, including without limitation to suggest that you or your Organization are sponsored or endorsed by Virbela, without the prior written consent of Virbela.

## **13. Data Storage**

We may change or discontinue any of our Services, subject to this EULA. Virbela is not a storage service, and you agree that we have no obligation to store, maintain or provide you a copy of any User Generated Content that you or others provide through the Services, except to the extent required by applicable law and as noted in our Privacy Policy.

## **14. Other Content, Sites and Apps and Content Removal**

Others persons or entities may offer their own content, products, and services through our Services, and we are not responsible for that third-party content, products, or services. Your use of such third-party content, products, or services shared through our Services, is at your own risk. Virbela generally does not review and is not responsible for third-party content, products, or services provided through our Services. You are responsible for deciding if you want to access or use third-party content, products, and services (including, without limitation, apps or sites that link from our Services, if any). Third-party apps and sites have their own legal terms and privacy policies, and you may be giving others permission to use your information in ways we would not. You should carefully read the legal terms and privacy policies of any sites or apps linked from the Services before deciding whether to use those sites or apps. You also understand that Virbela does not, and has no obligation to, monitor, pre-screen or pre-approve, or evaluate the integrity of any third-party content, products, or services offered through our Services, but that Virbela shall nonetheless have the right, but not the obligation, in its sole discretion, to refuse, delete or remove any third-party content, products, or services that may be offered through the Services for any reason, including without limitation a violation of applicable law or any of this EULA.

## **15. Recordings**

You are responsible for compliance with all recording laws when and if you use any recording tools within the Services. In particular, a host can choose to record Virbela meetings and webinars. By using the Services, you grant consent for Virbela to store recordings for any or all Virbela meetings or webinars that you join. You will receive a notification when recording is enabled. If you do not consent to being recorded, you can choose to leave the meeting or webinar.

## **16. Prohibited Use**

You represent and warrant that you will not use the Services and/or Products for any of the following purposes or activities:

- a) conducting or supporting illegal activity of any type whatsoever, or using the Products or Services in violation of any applicable law or regulation, including without limitation laws relating to privacy and data security;
- b) transmitting or storing worms or viruses, ransomware, or any malicious code designed to access information without authorization, steal it, intercept it, or alter it, or for any other unauthorized or destructive purpose;
- c) threatening, defaming, slandering, libeling, harassing, abusing, impersonating, injuring or intimidating others;
- d) interfering with others' use of the Services;
- e) delivering spam or collecting information to deliver spam, or sending advertisements (for the avoidance of doubt, this will not prohibit any approved Organization from advertising in Virbela's 3D virtual campus, provided that such advertising is performed in accordance with our advertising guidelines, or otherwise in a manner that we expressly approve in writing; e.g., pasting a poster on a digital wall within a room in Virbela's 3D virtual campus);
- f) copying, reselling, reproducing, distributing, leasing, sublicensing, or otherwise transferring, the Products or Services or access thereto, or any reports or data generated therefrom;
- g) offering to enable, or enabling any third parties to use the Services or Products;
- h) commercially exploiting, decompiling, disassembling, reverse engineering or otherwise attempting to discover any source code contained on or in Services or the Products;
- i) displaying or publishing the Products or Services, including without limitation on any website or service, or using the Products or Services to create, develop, produce, or market a substantially similar product or service;
- j) making any modification, adaptation, improvement, enhancement, translation or derivative work from the Products or Services;
- k) disguising the origin of any content transmitted through Services or obscuring or misrepresenting your account identity on the Services;
- l) causing the launch of any automated system(s) that access the Services in a manner that sends more request messages to servers of the Services in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser (e.g., Denial-of-Service attack);
- m) data mining, scraping, crawling, redirecting, or compiling data for any purpose other than one authorized pursuant to this EULA;
- n) infringing or using any proprietary information or interfaces of the Products or Services or other intellectual property of the Products or Services for any reason not authorized by this EULA; or
- o) attempting to remove or obscure any proprietary notices on the Products or Services.
- p) promoting, facilitating or supporting residential or commercial brokerage services in the field of real estate, or real estate agent services (or analogous services, as may be the case outside of the United States, such as, for example, without limitation, "estate agent" services that facilitate residential or commercial property transactions), except for conducting real estate business directly authorized by, and in support of, one of the real estate companies owned by Virbela's parent company.

## 17. Warranties You Provide

You warrant and represent to Virbela that you: (a) are authorized to consent to the terms of this EULA, (b) are not infringing the intellectual property rights or violating the privacy of third parties whenever you provide User Generated Content on or through the Services, and (c) own or are fully authorized to transmit all such User Generated Content through the Services.

## **18. Indemnification**

You irrevocably agree to defend, indemnify, and hold harmless Virbela, its holding company, and its or their shareholders, officers, directors, members, managers, employees, independent contractors, licensors, agents, subsidiaries, and affiliates (collectively, the “**Virbela Parties**”), jointly, severally, and in any combination, from and against any and all losses, damages, costs, liabilities, assessments, expenses (including but not limited to all fees and charges of attorneys and other professionals, and all dispute resolution costs and litigation costs), and amounts paid in settlement (singularly, a “**Loss**” and collectively, “**Losses**”) by or on behalf of any Virbela Parties incurred in connection with any actual, threatened, pending, or completed claim, action, suit, mediation, arbitration, alternate dispute resolution process, investigation, administrative hearing, appeal, audit, or any other proceeding (collectively, “**Claims**”) made or brought against any Virbela Parties (including claims by governmental entities seeking to impose penal and/or civil sanctions) alleging any of the following: (a) your breach of this EULA; (b) your breach of the Privacy Policy; (c) your violation of applicable law; (d) that your User Generated Content or your use of the Services or Products, breaches any of your representations and warranties in this EULA; (e) any inaccuracy in any of your representations or warranties in this EULA; (f) any allegations that your User Generated Content violates the proprietary rights of a third-party; and (g) your use of the Products and Services.

This Section 18 (Indemnification) is a “stand-alone” indemnification provision in that it shall neither supersede nor be subordinate to the indemnification provision set forth in the Virbela Terms of Service.

## **19. Copyright Infringement Assertions**

If you have a "good faith" belief that third-party content provided on Virbela infringes your intellectual property rights, and you wish for Virbela to consider the alleged infringing content, you should provide the following information to us: (a) identify, with specificity, your protected work that you reasonably believe is being infringed upon; (b) identify the content that you reasonably believe is infringing upon your protected work, including sufficient information to allow Virbela to locate the alleged infringing content; (c) provide your contact information, including full name, mailing address, telephone number, and email address; (d) provide a written statement that you have a "good faith" belief that the use of the content in the manner complained of is not authorized by the copyright owner, its agent, or the law; (e) provide this statement: "I swear, under penalty of perjury, that the information in this notification and complaint is accurate and that I am the copyright owner, or am authorized to act on behalf of the copyright owner of an exclusive right that is infringed."; (f) provide your signature on the notification (or an electronic signature); (g) send your notification to our Designated Agent by both mail and e-mail to the following addresses:

eXp World Technologies, LLC d/b/a Virbela  
Attn: Designated Copyright Agent  
2219 Rimland Drive, Suite 301  
Bellingham, WA 98226  
Email: [legal@virbela.com](mailto:legal@virbela.com) and [info@virbela.com](mailto:info@virbela.com)

## **20. Warranty Disclaimer**

YOU AGREE THAT YOUR USE OF THE PRODUCTS AND SERVICES IS AND SHALL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, VIRBELA (ON BEHALF OF ITSELF AND THE VIRBELA PARTIES) DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, QUIET ENJOYMENT, AND NON-INFRINGEMENT, IN CONNECTION WITH THE PRODUCTS AND SERVICES AND YOUR USE OF THE PRODUCTS AND SERVICES AND OUR SITE. VIRBELA MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY, CURRENCY, OR COMPLETENESS OF THE PRODUCTS, SERVICES, OUR SITE, OR THE CONTENT

OF ANY SITES LINKED TO OUR SITE. THE PRODUCTS AND SERVICES ARE PROVIDED ON AN “AS IS” “AS AVAILABLE” BASIS. VIRBELA DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES WILL BE SECURE, UNINTERRUPTED, OR ERROR-FREE. YOU ACKNOWLEDGE THAT, DUE TO THE NATURE OF THE INTERNET, TRANSMISSIONS TO AND FROM THE SERVICES MAY BE INTERCEPTED BY THIRD PARTIES. THE VIRBELA PARTIES DO NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICES, AND THE VIRBELA PARTIES WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

#### **21. Limitation of Liability**

IN NO EVENT SHALL ANY OF THE VIRBELA PARTIES BE JOINTLY OR SEVERALLY LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM ANY OF THE FOLLOWING: (I) ACT BEYOND VIRBELA’S CONTROL; (II) ERRORS, MISTAKES, OR INACCURACIES OF THE PRODUCTS OR SERVICES; (III) LOSSES, PERSONAL INJURY, OR PROPERTY DAMAGE OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF VIRBELA’S PRODUCTS OR SERVICES; (IV) ANY UNAUTHORIZED ACCESS TO OR USE OF VIRBELA’S SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (V) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE PRODUCTS OR SERVICES; (VI) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH THE PRODUCTS OR SERVICES BY ANY THIRD PARTY; AND (VII) ANY LOSSES, PERSONAL INJURY, OR PROPERTY DAMAGE OF ANY NATURE WHATSOEVER RESULTING FROM YOUR USE OF ANY THIRD-PARTY CONTENT, PRODUCTS, OR SERVICES SHARED THROUGH OUR SERVICES; WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT VIRBELA, OR ANY OTHER PARTY, IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. YOU SPECIFICALLY ACKNOWLEDGE THAT THE VIRBELA PARTIES SHALL NOT BE LIABLE FOR USER GENERATED CONTENT (INCLUDING THE QUALITY, VERACITY, ACCURACY, AND/OR COMPLETELESS THEREOF), OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

#### **22. Severability/Waiver/Construction**

If a court of competent jurisdiction determines that any provision of this EULA is invalid or unenforceable for any reason, that provision shall be severed from this EULA (in that jurisdiction only) and the remainder of the EULA will continue in full force and effect. Delay or failure to enforce or insist on strict compliance with any of the provisions of this EULA will not constitute a waiver of that or any other provision or otherwise modify this EULA. Virbela’s waiver of any right related to this EULA must be express and in writing in order to be valid; any waiver by Virbela on one occasion will not waive any other right, constitute a continuing waiver, or waive that right on any other occasion. You should consult with your attorney before agreeing to the terms of this EULA. Your agreement to this EULA constitutes your affirmation that you have consulted with, or have had the opportunity to consult with, your attorney regarding this EULA. Therefore, no rule of construction or interpretation that disfavors the drafting party will apply to interpretation of this EULA.

#### **23. General Provisions**

This EULA, the Privacy Policy, and any additional terms or policies for use of the Products or Services provided to you in writing by Virbela (which terms and policies are hereby incorporated into this EULA by this reference), constitute the entire agreement between you and Virbela with respect to the subject matter contained herein. Any action related to this EULA or the Privacy Policy, and any documents incorporated by reference herein, will be governed by, construed and enforced in accordance with the substantive and procedural laws of the State of Delaware (without regard to its conflict of laws provisions), and to the extent

controlling, to the federal laws of the United States of America. By using the Products or Services you are agreeing to the terms of this EULA, and in doing so, you acknowledge and agree that any disputes, actions, claims or causes of action arising out of or in connection with this EULA or the Privacy Policy, and any documents incorporated by reference herein, shall be subject to the exclusive jurisdiction of the state and federal courts situated in New Castle County, Delaware. Virbela reserves the right to initiate litigation in any other appropriate forum as needed. This EULA and the Privacy Policy, and all documents incorporated by reference herein, have been prepared and are to be interpreted in the English (American) language. To the extent there is any conflict between the terms of this EULA and our Privacy Policy, one the one hand, and any additional terms or policies that are incorporated by reference herein, on the other hand, the terms of this EULA and our Privacy Policy are controlling. To the extent there is any conflict between the terms of this EULA and the terms of our Privacy Policy, the terms of our Privacy Policy are controlling.

## 24. Beta Services

- a) Access to Beta Services. Virbela may at its sole discretion and from time to time, offer access to services that are classified as a beta services, referring to services we are testing and learning from, which are pre-production and do not fall under our Virbela Service Level Agreement (also referred to herein as a “**Beta Service**”). A Beta Service may be a separate, stand-alone service, accessible apart from the currently available Virbela Services or may be a feature or functionality for existing Virbela Services. *Access to and use of a Beta Service may be subject to additional agreements.* Virbela makes no representations that a Beta Service will ever be made generally available and reserves the right to discontinue or modify a Beta Service at any time without notice. Any Beta Service provided by Virbela and any subsequent updates thereto are provided AS IS, and may contain bugs, errors or other defects. *Your use of a Beta Service is at your sole risk and without warranty of any kind, express or implied, including but not limited to the warranties of merchantability, fitness for a particular purpose and noninfringement.*
- b) Modification of Beta Services. Virbela is under no obligation to update or modify any version of any Virbela Service that is classified as a Beta Service. In the event, in its sole discretion, Virbela supplies any updates or modifications to the Beta Service, such updated Service shall be deemed subject to the terms and conditions of this Agreement unless otherwise expressly agreed upon by Virbela in writing.
- c) Termination of Beta Services. Unless otherwise expressly agreed upon by Virbela in writing, Virbela reserves the right to modify or terminate any Beta Service or your use/access to the Beta Service, or to limit your access to the Beta Service, at any time, in Virbela’s sole discretion, for any reason, with or without notice and without liability.
- d) Confidentiality of Beta Services. Unless otherwise expressly agreed upon between you and Virbela, you shall treat any Virbela Beta Service (and supporting software) you access as confidential information and you thus agree to exercise the same amount of diligence in preserving the secrecy of any information regarding the Beta Service, as the diligence you would use in preserving the secrecy of your own confidential information, but in no event less than reasonable diligence. Notwithstanding the above, information related to the Beta Service shall NOT be deemed to be confidential information if (a) the information is or becomes generally known/available to the public, except as the result of an unauthorized disclosure by you; (b) the information is already known by you, and is not subject to a separate non-disclosure commitment your part; (c) the information is independently developed by you, without the use of, or recourse to, our confidential information; (d) the information is approved for release by Virbela in writing; and/or (e) the information is independently received by you from a third party authorized to make such disclosure, without restriction on your disclosure.

## 25. Survival



The EULA remains effective for so long as your User Account remains active, or your Organization's subscription(s) remain active, whichever is longer. Upon expiration or termination of this EULA, the obligations which by their nature are intended to survive expiration or termination of the Agreement shall survive, including, without limitation, Sections 18 (Indemnification), 20 (Warranty Disclaimer), 21 (Limitation of Liability), 22 (Severability/Waiver/Construction), 23 (General Provisions), 28 (Customer Satisfaction), and 29 (Feedback).

## **26. Virbela Community Policies**

Virbela strives to provide a positive, stimulating and safe environment for encouraging collaboration. We believe that almost all of our users will naturally contribute to promoting such an environment, but as a reminder, here are some guidelines (not intended to be comprehensive) to keep in mind.

**No Bullying and/or Harassment** - Virbela allows users to speak freely on matters and people of public interest, but we strive to take action on reports of abusive, harassing, threatening, or defamatory behavior directed at individuals. Repeatedly targeting users with unwanted friend requests or messages is a form of harassment.

**Sharing, posting, or transmitting any material or communication that is designed to provoke, harass, upset, embarrass, or antagonize anyone** (including Virbela staff or other users), especially trolling, bullying, or intimidating, is strictly prohibited within any Service of Virbela;

**Do not impersonate** - Virbela requests users use their real names and account identities when using the Services. Users are prohibited from publishing the personal information of others without their consent. Claiming to be another person, creating a false presence for an organization or person, or creating multiple accounts undermines community and violates Virbela's EULA.

**No Hateful Speech** - Virbela does not permit use of the Services to disseminate hateful speech or to incite violence of any kind. While we encourage you to challenge ideas, institutions, events, and practices, Virbela does not permit individuals or groups to use the Services to attack others based on their race, ethnicity, national origin, religion, sex, gender, sexual orientation, familial status, disability or medical condition, or other protected class.

**Graphic Content** - Virbela can be a place where people turn to share their experiences and raise awareness about issues important to them. Sometimes, those experiences and issues involve graphic content that is of public interest or concern. In many instances, when people share this type of content, it is to condemn it. However, graphic images shared for sadistic effect or to celebrate or glorify violence will not be tolerated on our Services.

**Nudity** - Virbela has a strict policy against the sharing of pornographic content and any explicitly sexual content. We also impose limitations on the display of nudity.

**Intellectual Property** - Before sharing content on Virbela, please be sure you have the right to do so. We ask that you respect copyrights, trademarks, and other legal rights including, but not limited to, not conducting copyright infringement, trademark infringement, defamation, invasion of privacy, identity theft, hacking, stalking, fraud and the distribution of counterfeit software.

**Regulated Goods** - It is not permitted to complete transactions involving goods or services which violate any of the terms of this EULA, our Privacy Policy, or any other agreement you have with, or policy of, Virbela. It is not permitted to complete transactions involving goods or services which are illegal or are regulated goods including but not limited to drugs, firearms, and human/animal anatomy or blood, on our platform.

Phishing and Spam - We take the safety of our users seriously and work to prevent attempts to compromise their privacy or security. We also ask that you respect our other users by not contacting them for commercial purposes without their consent.

## 27. Guidelines Regarding Virbela's Open Campus

Virbela's **Open Campus** is a free virtual world offered by Virbela and is subject to these guidelines, in addition to all other the terms in this EULA as set forth above; provided, however, that these guidelines shall control.

- a) Prior Approval for Events: If you (including any organization to which you belong), wish to hold an event in the **Open Campus** involving a group size exceeding the number of simultaneous users associated with your Team Suites subscription, OR if you do not have a Team Suites subscription with Virbela and wish to hold an event involving more than 10 users, you must first seek and obtain prior written approval for such event from Virbela (and Virbela shall have sole discretion as to whether to grant such approval).
- b) Strict Adherence to Community Policies: Virbela reserves the right to suspend or terminate access to anyone to the **Open Campus**, or any part or scene of the **Open Campus**, at any time, for failure to adhere to the Community Policies at Section 26, or any terms in these guidelines or this EULA, or in the event such access overburdens Virbela's services (including staff or technical resources), at Virbela's sole discretion.
- c) Promotion of Events (e.g., via Social Media) for Open Campus: Virbela appreciates publicity from our customers and users, and we always strive to provide an outstanding experience. To this end, because **Open Campus** is a free service and requires adequate levels of Virbela resources to support, you agree that you will seek prior written approval from Virbela before promoting any events on our **Open Campus** in any media (including online social media), and you agree to cooperate with Virbela at our request to the extent we require such promotion to include information regarding limitations/restrictions and/or reference to our EULA, Terms of Use, or these guidelines.

## 28. Customer Satisfaction and Statistics for Service Improvement.

Notwithstanding anything else in this EULA, unless otherwise prohibited by applicable law, you agree that Virbela may conduct customer satisfaction related surveys (including, without limitation, requests for ratings and/or comments based on survey inquiries) by transmitting such surveys to you via contact information you provide to Virbela (e.g., via email or through the Services), for the purposes of improving our Services (the information you provide in response to such surveys also being referred to herein as "survey results"). You are not obligated to respond to such surveys; however, to the extent you do, you hereby grant Virbela a perpetual, irrevocable, royalty-free, transferable right and license to use, modify, reproduce, transmit, publish, display, delete, and/or distribute such survey results throughout the world in any media, provided that such survey results do not identify you (unless otherwise expressly agreed upon by you).

Notwithstanding anything to the contrary in this Agreement, Virbela may monitor your use of Services, and collect and compile Aggregated Service Statistics (as defined below). As between Virbela and you, all right, title, and interest in Aggregated Service Statistics, and all intellectual property rights therein, are owed by, and are retained solely by Virbela. You acknowledge that Virbela may compile Aggregated Service Statistics based on your use of the Services, and that Virbela may (i) make Aggregated Service Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Service Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Service Statistics do not identify you or your confidential information, unless otherwise expressly agreed upon by you. "Aggregated Service

Statistics” means data and information related to your use of the Services that is used by Virbela in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

**29. Feedback**

Any feedback that you provide to Virbela as a result of the testing and/or evaluation of Virbela Software or Virbela Services, including any Beta Service of Virbela, under this EULA may be used by Virbela to improve or enhance its products and, as such, you assign to Virbela, all right title and interest, in and to such feedback (unless otherwise expressly agreed upon in writing), and to the extent such feedback cannot be assigned to Virbela, you grant Virbela a non-exclusive perpetual, irrevocable, royalty-free, worldwide right and license to use and exploit such feedback without restriction. You additionally agree to treat such feedback regarding any Virbela Beta Service as confidential information in accordance with section 24 d) above.

**30. US Export/Import Laws and Regulations.**

You agree to comply with all US export/import laws and regulations with respect to use of the Service and you agree not to facilitate or enable use of the Service by any party that is either the target of UK, US, UN or EU financial sanctions or located or resident in a territory/country that is subject to comprehensive or extensive US, EU or UK economic sanctions.

*[END OF VIRBELA END-USER LICENSE AGREEMENT]*