



## **VirBELA Service Level Agreement**

Effective as of May 28, 2020

This VirBELA Service Level Agreement (“**SLA**”) governs the resolution of issues that may arise in connection with Customer’s use of the Subscription Services as defined in the VirBELA Terms of Service (“**Terms of Service**”). In the event of a conflict between the terms of this SLA and the Terms of Service, the terms and conditions of the Terms of Service apply, but only to the extent of such conflict. Defined terms, used but not otherwise defined herein, shall have that meaning as described in the Terms of Service.

1. **Types of Issues.** There are two types of issues, *i.e.*, Critical Issues and Non-Critical Issues.

- A “**Critical Issue**” is defined as one that causes the VirBELA Software or Subscription Services to be unavailable for over fifteen (15) consecutive minutes (*e.g.*, End-Users cannot log in or all End-Users cannot connect to the voice service). In order to declare a Critical Issue, Customer must verify that the VirBELA Software and/or the website is unavailable from a second local machine and a second, separate network.
- A “**Non-Critical Issue**” is defined as all other issues that are not Critical Issues, including, without limitation, service requests, support requests, requests for calls or meetings, functional issues with a VirBELA product or website, trouble tickets, new work requests, and so on. VirBELA will provide a commercially reasonable level of Non-Critical Issue technical support to Customer.

VirBELA will not provide support for Customer’s End-User related issues, which include, without limitation, an End-User’s inability to do any of the following: (a) utilize their microphone, (b) operate the VirBELA Software, and (c) navigate within the VirBELA Software. To obtain support for such matters, Customer’s End-Users must either consult with Customer and/or with Customer’s designated information technology professionals, at Customer’s or such respective End-User’s own expense. If Customer or its designated information technology professionals are unable to answer an End-User’s question or have identified a bug in the system, VirBELA personnel will assist in the matter. Requests for support should be submitted to [help@virbela.com](mailto:help@virbela.com) and a representative of VirBELA will respond promptly.

2. **Issue Submission.** Every issue must be submitted via electronic mail to [help@virbela.com](mailto:help@virbela.com). Any issue that is not submitted in this manner is not subject to response time or Service Credit for Downtime policies. The subject line for such submission must state either, “Critical Issue,” or “Non-Critical Issue,” as applicable.
3. **Critical-Issue and Non-Critical Issue Response.** VirBELA shall initially acknowledge and respond to any Critical Issue sent via electronic mail to [help@virbela.com](mailto:help@virbela.com), within that time period specified in the Service Level Table, below. If VirBELA has not acknowledged receipt of the report within the specified time after its submission, then Customer may escalate its submission by calling the emergency support number: +1 (866) 562-4550 ext. 1. If a representative does not answer, leave a brief message about the issue along with a contact number and email address. Within two (2) hours of VirBELA’s acknowledgment of a Critical Issue, VirBELA will provide the submitter with an update via electronic mail to the address from which the original support request was delivered. VirBELA will use best efforts to resolve Critical Issues as soon as possible. All Non-Critical Issues and support requests shall receive a response within one (1) business day of VirBELA’s receipt of the report.
4. **Support Hours.** VirBELA provides Critical Issue support between the hours of 7:00 a.m. to 11:00 p.m., US Pacific Time, seven days per week throughout the year (“**Critical Issue Support Times**”). VirBELA provides Non-Critical Issue support from 9:00 a.m. to 6:00 p.m. US Pacific Time, Monday through Friday, excluding California state holidays and United States federal holidays (“**Non-Critical Issue Support Times**”).



5. **Customized Support.** Should Customer choose to utilize the Subscription Services to provide and/or host a specialized event, VirBELA may provide event-based technical support during such event (“**Customized Support**”). Such requests for Customized Support require a minimum of two (2) weeks’ written notice and must be submitted to [help@virbela.com](mailto:help@virbela.com), ATTN: CUSTOMIZED SUPPORT. Customized support will be provided at the rate set forth in the Customer Order Form, and billed for a minimum of four (4) hours per event (regardless of whether the event conducted is less than four (4) hours). At least one VirBELA representative will be “in-world” for the event for the length of time requested in writing by Customer. Customer can reserve a specified number of hours in advance of the event or be billed for hours as they occur.
6. **Maintenance.** VirBELA performs planned systems maintenance periodically to ensure proper functioning and delivery of the Subscription Services (“**Routine Maintenance**”). Routine Maintenance occurs less than once a month and is generally performed on Monday or Wednesday between the hours of 8:00 p.m. to 12:00 a.m. US Pacific Time, although VirBELA shall use commercially reasonable efforts to schedule Routine Maintenance at a time that is convenient for Customer. Customer will be notified in advance of such Routine Maintenance, in writing, via normal e-mail communication channels, in the time frame specified under the definition of Scheduled Downtime, below.
7. **Uptime.** VirBELA shall use all reasonable commercial efforts, being no less than accepted industry standards in this regard, to ensure that the Subscription Services are available to Customer in accordance with its Service Commitment (as defined below).
8. **Definitions.** The following definitions shall apply to this VirBELA SLA:
  - “**Downtime**” means the Subscription Services are unavailable for normal use by all, or the majority of End-Users at a given time due to a failure solely in the VirBELA system. For example, End-Users are unable to log into the virtual environment or End-Users can log into the environment but the voice service is not available across the virtual world environment. Downtime is measured based on both the virtual world server logs and the voice server logs. Downtime excludes periods of Scheduled Downtime.
  - “**Monthly Uptime Percentage**” means the total number of minutes in the calendar month minus the total number of minutes of Downtime in the calendar month, divided by the total number of minutes in the calendar month, and expressed as a percentage.
  - “**Scheduled Downtime**” means those times where VirBELA notifies Customer of periods of Downtime five (5) days prior to the commencement of such Downtime. There will be no more than twelve (12) hours of Scheduled Downtime per calendar year. Scheduled Downtime is not considered Downtime for purposes of this VirBELA SLA and will not be counted towards any periods of Downtime.
  - “**Service Commitment**” means VirBELA will use commercially reasonable efforts to make the Subscription Services available with a Monthly Uptime Percentage, as described in the Service Level Table, below, during any monthly billing cycle.
  - “**Service Credits**” are use credits, measured in the form of time. Each Service Credit will be equal to one (1) day. Service Credits will only be given to Customers having a Private Campus subscription in instances where VirBELA fails to meet its Service Commitment for any particular billing cycle. Issuance of Service Credits are subject to satisfaction of each of those conditions set forth in [Section 9](#), below. One Service Credit will be issued for every fifteen (15) consecutive minutes of Downtime exceeding that allotted Downtime as contemplated under the Service Commitment. . Service Credits will be applied toward the billing cycle following satisfaction of the actions specified under [Section 9\(f\)](#), below. For example, if in July 2022 there are three occurrences of Downtime lasting fifteen consecutive minutes each, then subject to satisfaction of those conditions in [Section 9](#), Customer will be entitled to receive three (3) Service Credits. If



VirBELA concurs with Customer's Claim (defined below) in August 2022, then Customer's three (3) Service Credits will be applied in September 2022, resulting in Customer receiving three free days of use in September 2022. The invoice amount for September 2022 will correspondingly be reduced on a per diem basis calculated as follows:

- Step 1: total charges for September 2022 / number of days in September = per diem charges for September 2022; then
  - Step 2: number of days in September – number of Service Credits days = number of days that Customer is to pay; then
  - Step 3: per diem charges for September 2022 (from Step 1) \* number of days that Customer is to pay (from Step 2) = Customer's actual, reduced charges in September 2022.
- **"Service Level Table"** means the following table setting forth the service levels attributable to each of the Subscription Services:

SERVICE LEVEL TABLE		
<i>(Service Descriptions)</i>	<b>Service Level For Private Campus Subscriptions</b>	<b>Service Level For Team Suites and Private Meeting Spaces Subscriptions</b>
Critical Issue Response	Less than or equal to two (2) hours following receipt of report	Less than or equal to four (4) hours, but more than two (2) hours, following receipt of report
Non-Critical Issue Response	Less than or equal to four (4) hours following receipt of report	One (1) business day following receipt of report
Escalation support	Telephone escalation to customer support as described in this SLA	Telephone escalation to customer support as described in this SLA
Monthly Uptime Percentage	≥ 99%	≥ 95%
Service Credit	One (1) day credit for each fifteen (15) consecutive minutes of Downtime in excess of that permitted under the Service Commitment	Not applicable
Exclusions	SLA Exclusions, as defined below, apply	SLA Exclusions apply

- 9. Customer Must Request Service Credit.** Customer will receive a Service Credit if VirBELA fails to meet its Service Commitment during any billing cycle, provided that each of the following conditions are met:

- (a) Customer made a Critical Issue submission in accordance with Section 2, above, for each occurrence of a Critical Issue during the respective billing cycle;
- (b) Customer submits a claim (“**Claim**”) for a Service Credit to VirBELA via e-mail at [help@virbela.com](mailto:help@virbela.com) within thirty (30) days following VirBELA’s failure to meet the Service Commitment during any billing cycle;
- (c) The subject line of such Claim states the following, “SLA Credit Request”;
- (d) The Claim identifies the billing cycle to which you are claiming Service Credits together with the dates and times of each incident that you are claiming;
- (e) The Claim includes records that document your Critical Issue submissions, as provided in Section 9(a), above; and
- (f) VirBELA concurs with your Claim and agrees that it failed to meet its Service Commitment for the subject billing cycle.

**10. Service Credit Cap.** The maximum number of Service Credits Customer can receive during any twelve (12) consecutive month period shall be thirty (30) Service Credits (“**Service Credit Cap**”). If Service Credits are not able to be applied given the pending expiration of the Term of the Agreement, then we may, but shall have no obligation to, issue a Service Credit refund to the credit card used to pay for the billing cycle in which the Subscription Services did not meet the Service Commitment. Service Credits will be applicable and issued only if the credit amount for the applicable billing cycle is greater than one dollar (\$1 USD). If Customer has received thirty (30) Service Credits during any twelve (12) consecutive month period, and those conditions exist which would otherwise make Customer eligible for additional Service Credits but for the Service Credit Cap, then a “material breach” of the Agreement (as such term is used in Section 6(c) of the Terms of Service) will be deemed to exist, in which event Customer may, at Customer’s option, proceed to terminate the Agreement in accordance with Section 6(c) of the Agreement, except that, (a) the 30-day notice and cure period required by Section 6(c) of the Agreement will be deemed to have been satisfied, and (b) Customer’s written notice of termination shall specify the date of such termination, which date cannot be less than fifteen (15) days following delivery of its written termination notice to VirBELA.

**11. Uptime SLA Exclusions.** The Service Commitment does not apply to any unavailability, suspension, termination, or performance issues of the Subscription Services: (i) caused by factors outside of VirBELA’s reasonable control, including any force majeure event or Internet access or related problems beyond the physical boundary of VirBELA’s suite of equipment used to provide the Subscription Services; (ii) that resulted from any actions or inactions of Customer or any third parties; or (iii) that resulted from Customer’s equipment, software, or other technology and/or third-party equipment, software, or technology (other than third party equipment within our direct control); or (iv) arising from our suspension or termination of your right to use the Subscription Services in accordance with the Terms of Service (collectively, the “**SLA Exclusions**”). If your Subscription Services availability is adversely affected by factors outside of the VIRBELA system, whether in whole or in part, then VirBELA may withdraw Customer support as appropriate, considering such factors at our sole discretion.

*[END OF SERVICE LEVEL AGREEMENT]*