

PARTNER TERMS AND CONDITIONS

These Terms are incorporated by reference into all Partner Agreements executed by Dbvisit and a Partner.

1 INTERPRETATION

1.1 **Definitions:** In these Terms, the following terms have the stated meaning:

Definition	Meaning
Agreement	the Partner Agreement and these Terms.
Brands	the Dbvisit and Dbvisit Standby brands and any other brands of Dbvisit which the parties agree that the Partner may use in order to conduct the Business.
Business	<ul style="list-style-type: none"> a the promotion and marketing of the Software; b making the Software available to Customers, whether via the cloud or other hosted environment, an online subscription service, direct download, or any other means agreed to in advance by Dbvisit; and c the provision of the Partner Services.
Confidential Information	the terms and conditions of the Agreement and any information that is not public knowledge and that is obtained from the other party in the course of, or in connection with, the Agreement. Dbvisit Confidential Information includes Dbvisit and Dbvisit Software, Inc Intellectual Property.
Customer	a person to whom the Partner makes the Software available and/or provides the Partner Services in accordance with the Agreement.
Customer Agreement	a written agreement between the Partner and the Customer under which the Partner is to make the Software available to the Customer.
Customer License	Dbvisit's standard form end user license agreement in respect of the Software between Dbvisit and/or Dbvisit Software, Inc and a Customer as updated and amended by Dbvisit from time to time.
Dbvisit	Dbvisit Software NZ Limited, company number 9205860
Distributor Agreement	a written agreement between Dbvisit or Dbvisit Software, Inc and a Value Added Distributor giving the Value Added Distributor a right to market, promote and sell the Software to the Partner in accordance with that agreement.

Documentation	a hard or electronic copy of the generally released documentation relating to the Software, as updated by Dbvisit from time to time.
End Date	12 months from the Start Date.
Fees	the fees payable by the Partner to Dbvisit under the Agreement in respect of the Software.
Force Majeure	an event that is beyond the reasonable control of a party, excluding a lack of funds or an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care.
Good Industry Practice	in relation to an undertaking, the exercise of that degree of skill and diligence which would reasonably be expected from an experienced operator engaging in the same or a similar undertaking.
Insolvency Event	<p>in relation to a party:</p> <ul style="list-style-type: none">a the party is, becomes, or is deemed by applicable legislation or a competent court having proper jurisdiction to be insolvent, liquidated or bankrupt;b the party makes an assignment for the benefit of, or makes any arrangement or composition with, its creditors;c the party goes into receivership or has an administrator, receiver, trustee and/or manager (including a statutory manager) appointed in respect of it or all or any of its property;d any resolution is passed or proceedings are commenced for the party's amalgamation with any person, bankruptcy or liquidation (except for a solvent amalgamation or reconstruction provided that, in the case of the Partner, it has obtained the prior written approval of Dbvisit for such amalgamation or reconstruction, such approval not to be unreasonably withheld by Dbvisit); ore a party ceases to trade or carry on business.
Intellectual Property Rights	includes copyright and all worldwide rights conferred under statute, common law or equity relating to inventions (including patents), registered or unregistered trade marks and designs, circuit layouts, data and databases, confidential information,

know-how, and all other rights resulting from intellectual activity, including any rights in any modification, enhancement, or derivative work. Intellectual Property has a consistent meaning.

Jurisdiction	the jurisdiction set out in the Partner Agreement.
Order	a written request by the Partner to Dbvisit or a Value Added Distributor to make the Software available to a Customer.
Partner	the party identified as the “Partner” in the Partner Agreement.
Partner Agreement	the written agreement between Dbvisit and the Partner giving the Partner the right to market, promote and make the Software available to customers of the Partner, and to provide Partner Services, in accordance with that agreement and these Terms.
Partner Discount	any discounts applicable to the Partner when transacting directly with Dbvisit, as set out in the Partner Agreement.
Partner Products	the partner products set out in the Partner Agreement.
Price Calculator	the price calculator in respect of the Software published at DbvisitConnect (or any successor website) and as varied by Dbvisit from time to time under clause 8.2.
Sales Tax	goods and services tax, value added tax, sales tax or equivalent tax payable under any applicable law.
Software	the Software set out in the Partner Agreement, as updated from time to time by notice to the Partner from Dbvisit.
Start Date	the date set out in the Partner Agreement.
Terms	these master partner terms and conditions.
Territory	the territory set out in the Partner Agreement.
Value Added Distributor	a distributor of Software in accordance with a Distributor Agreement.
Year	a 12 month period from the Start Date or the anniversary of that date.

1.2 Interpretation: In these Terms:

- a clause and other headings are for ease of reference only and do not affect the interpretation of these Terms;

- b none of the terms of the Agreement are to be read against a party by reason of the fact that the term was first proposed or drafted by that party;
- c words importing the singular include the plural and vice versa; and
- d a reference to:
 - i a **clause** is to a clause in the Agreement;
 - ii a **party** to the Agreement includes that party's permitted assigns;
 - iii **\$** and **dollars** is a reference to the currency listed in the Partner Agreement;
 - iv **personnel** includes officers, employees, agents and contractors, but a reference to Dbvisit personnel does not include the Partner;
 - v **including** and similar words do not imply any limit; and
 - vi a statute includes references to regulations, orders or notices made under or in connection with the statute or regulations and all amendments, replacements or other changes to any of them.

2 APPOINTMENT

- 2.1 **Right to conduct the Business:** Dbvisit grants to the Partner the non-exclusive, non-transferable right to conduct the Business in accordance with the Agreement.
- 2.2 **Territory:** If a Territory is set out in the Partner Agreement, the Partner must not conduct the Business outside the Territory (and must not make the Software available to any Customer outside the Territory).
- 2.3 **Bundling of Software:** If any Partner Products are set out in the Partner Agreement, the Partner must only market, promote and make the Software available to Customers as a bundled component of the Partner Products and, for the avoidance of doubt, must not market, promote, or make the Software available to Customers separately from the Partner Products.
- 2.4 **Status:** The Partner is an independent contractor. The Agreement does not create any other relationship between the parties, including agency, partnership, trust or joint venture except as expressly set out in the Agreement. The Agreement does not transfer or license any Intellectual Property to the Partner, except as expressly set out in the Agreement.
- 2.5 **Variation to the Software:** Dbvisit may add or remove a piece of software or a service from the scope of the Agreement at any time by notice in writing to the Partner. On receipt of such notice, the definition of Software in the Agreement will be deemed to be amended in accordance with the notice.

3 MARKETING AND PROMOTION

- 3.1 **General:** The Partner must:
 - a use its best efforts to conduct the Business in accordance with Good Industry Practice and all applicable laws, regulations, rules and professional codes of conduct or practice;

- b without limiting clause 3.1a, and other than any licenses, authorisations or consents necessary to avoid a claim that the Software infringes the Intellectual Property Rights of any third party, procure all licenses, authorisations and consents necessary for the Partner to conduct the Business;
- c use its best efforts to maximise sales of the Software; and
- d only use the Brands in accordance with any required standards of quality or service and any brand usage and marketing guidelines provided by Dbvisit from time to time.

3.2 Bi-annual marketing review: The parties must meet every 6 months to:

- a review the sales made by the Partner;
- b discuss opportunities and risks, the Partner's marketing plans, forecast sales and performance against any targets advised by Dbvisit to the Partner; and
- c discuss what assistance may be requested from Dbvisit to support those marketing plans.

4 ORDERS

4.1 Process: Where the Partner wishes to make the Software available to a Customer the Partner must place an Order with all details reasonably required of the applicable Customer and the applicable Software to Dbvisit or a Value Added Distributor.

4.2 Orders: If an Order is placed with Dbvisit, each Order may be accepted or rejected by Dbvisit within 5 Business Days of receipt. Orders placed with a Value Added Distributor will be governed by the terms of the agreement in place between the Partner and the Value Added Distributor at that time and the provisions of this clause 4 will not apply to that Order (for avoidance of doubt, the other provisions of the Agreement will apply in respect of any Software ordered via a Value Added Distributor).

4.3 Effect: If an Order placed with Dbvisit is accepted by Dbvisit, it becomes a binding contract for Dbvisit to allow the Partner to make the relevant Software available to the relevant Customer and for the Partner to pay the Fees in accordance with clause 8. Dbvisit may restrict or withhold a Customer's access to the Software (whether ordered from Dbvisit or from a Value Added Distributor) until Dbvisit and the Customer have entered into a Customer License.

5 DEMONSTRATION AND TRAINING LICENSE

5.1 Grant of license: Dbvisit grants the Partner a non-exclusive, non-transferable license for the term of the Agreement to use a single copy of the Software for the purposes of:

- a evaluating and testing the Software internally;
- b training the Partner's personnel in the integration, configuration and support of the Software;
- c training the Partner's personnel in the conduct of the Business; and
- d marketing and promoting the Software to potential Customers, in the context of a demo;

- e the license key should never be provided or visible in any way to any parties outside of the Partner organisation.

5.2 **Restriction:**

- a To avoid doubt, nothing in the Agreement grants the Partner the right to use the Software to compete with Dbvisit or Dbvisit Software, Inc, including using the Software to provide competing services to any person (together, the **Restricted Activity**).
- b The Partner must not purchase or access the Software outside of the Agreement for the purpose of performing the Restricted Activity.

5.3 **Limits on use:** The Partner must:

- a except to the extent necessary to operate its copy of the Software in the ordinary course under clause 5.1, not copy or distribute the Software or the Documentation in whole or in part in any visual or machine-readable form;
- b not reproduce, translate, modify, adapt, decompile, reverse-engineer, or sub-license the Software (or cause or permit any person to do so) or otherwise attempt to derive the Software's source code from object code, except to the extent expressly permitted by applicable law or treaty despite this limitation;
- c not sell, transfer, license, display, lease, assign or otherwise deal with or grant a security interest in the Software or the Partner's rights under the Agreement;
- d not attempt to undermine the security or integrity of Dbvisit's computing systems or networks, including any security or protection measures included in the Software by Dbvisit;
- e not merge all or any part of the Software with any other product, software or source code; and
- f notify Dbvisit immediately if it becomes aware of any circumstance which may suggest that any person may have unauthorized knowledge, possession or use of the Software.

6 **PARTNER OBLIGATIONS**

6.1 **Partner obligations:** In addition to complying with its other obligations in the Agreement, the Partner must:

- a work diligently to promote and protect Dbvisit's interests, enhance and maintain the reputation of the Software and Dbvisit, and act loyally and faithfully towards Dbvisit, including:
 - i representing the Software to Customers in the most favorable manner at every reasonable opportunity; and
 - ii maintaining good relationships with all of the Customers (including prospective Customers) in the Territory (if applicable);
- b comply with any reasonable guidance of Dbvisit in relation to the conduct of the Business;

- c observe and perform its obligations under a Customer Agreement, promptly enforce all terms of a Customer Agreement, and immediately notify Dbvisit of any breach of a Customer Agreement by either party;
- d maintain and employ appropriately qualified, experienced and skilled personnel to conduct the Business;
- e maintain places of business with facilities adequate for the display and demonstration of the Software in a professional manner;
- f maintain within its own organisation sufficient:
 - i technical skills to be able to offer a high standard of the Partner Services, including in the integration and configuration of the Software; and
 - ii technical and marketing expertise to conduct the Business and represent the Software;
- g thoroughly familiarise itself with the Software and any technical and operational data relating to the Software and/or Partner Services;
- h Perform the Partner Services in accordance with Good Industry Practice;
- i immediately notify Dbvisit where it reasonably suspects any breach of a Customer License by a Customer;
- j assist Dbvisit in any action or proceeding taken by Dbvisit to enforce the terms of a Customer License against a Customer, provided Dbvisit meets the reasonable costs of the Partner in doing so;
- k promptly notify Dbvisit where it reasonably suspects that Dbvisit's Intellectual Property Rights are being infringed, or are likely to be infringed, and provide all assistance reasonably requested by Dbvisit in relation to such breach or infringement;
- l not cause or permit anything which may damage or endanger any Intellectual Property of Dbvisit or assist or allow others to do so;
- m notify Dbvisit without delay of any proceeding or known intention to bring proceedings against the Partner and/or Dbvisit, including for breach or infringement of Intellectual Property Rights. Dbvisit has the sole right to take, defend or settle any proceeding for any alleged infringement of any Intellectual Property Right of any third party in relation to the Intellectual Property of Dbvisit. The Partner must provide Dbvisit with all reasonable assistance at Dbvisit's cost that Dbvisit considers necessary in conducting the defence of such a claim;
- n avoid entering into any arrangement which would result in a conflict of interest with its obligations under the Agreement; and

6.2 Partner records: The Partner must maintain complete and accurate written records of all information relating to its conduct of the Business, all Customer Agreements, details of all revenue received from

Customers, all dates of sale, and the names, addresses and contact details of all Customers, which may be required to enable Dbvisit or its authorized representative to verify any payment made by or to the Partner under or in connection with the Agreement, the Software and/or the Partner's compliance with the Agreement (including, to avoid doubt, its use of the Software). On request, the Partner must make available those records to Dbvisit, including allowing Dbvisit to copy those records.

6.3 **Audit:**

- a During the term of the Agreement and for a period of 1 year after its termination or expiry, Dbvisit or its authorized representative may, upon giving to the Partner at least 7 days' prior notice, audit, inspect and have access to, during normal business hours, the books and records of the Partner (including those referred to in clause 6.2) and make copies of those books and records. The Partner must, on request, provide any applicable information in an appropriate electronic format accessible by Dbvisit.
- b The Partner must co-operate, and must procure its personnel to co-operate, with Dbvisit or its authorized representative in respect of the audit, including by promptly providing:
 - i access and assistance to Dbvisit or its authorized representative (including access to its personnel, facilities, systems and records); and
 - ii any explanation, information and documentation that Dbvisit or its authorized representative may reasonably require in relation to the audit.
- c If an audit reveals any non-compliance with the Agreement the Partner must pay:
 - i any unpaid Fees plus any applicable interest under clause 8.8bi within 14 days of notice from Dbvisit; and
 - ii the costs of Dbvisit's audit.

7 **DBVISIT OBLIGATIONS AND REGISTRATION OF OPPORTUNITIES**

7.1 Dbvisit obligations: Dbvisit will provide to the Partner:

- a digital versions of all marketing materials prepared by Dbvisit and required by the Partner to enable the Partner to market and promote the Software to Customers and potential Customers;
- b remote technical sales support in respect of Customers and potential Customers as reasonably required until the End Date or the Partner is able to perform this function to a reasonable level without the assistance of Dbvisit (whichever is earlier); and
- c initial (web-based) training on how to market, promote, install and support the Software.

7.2 **Registration:** The Partner may register bona fide opportunities to make the Software available to Customers or potential Customers by sending an email with all relevant details (including the name of the Customer, license type, expected close date) to sales@dbvisit.com.

- 7.3 **Direct sales:** If a Partner has registered an opportunity in accordance with clause 7.2 in the previous 3 months and the subject of Registered Opportunity accesses the software directly from Dbvisit, Dbvisit will pay to the Partner within 10 Business Days of receipt an amount calculated as follows:

The Partner Discount x the amount received by Dbvisit for that sale of Software

- 7.4 **Sales by other Partners:** To avoid doubt, the provisions of clause 7.3 do not apply to any purchase of Software by Customers from any person other than Dbvisit, including any other partner of Dbvisit.
- 7.5 **Link:** During the term of the Agreement, provided that the Partner has provided Dbvisit with all required information, Dbvisit will list the Partner as a Dbvisit Partner partner on Dbvisit's website (including the relevant Territory, if applicable) and will include a link to the Partner's website.

8 FEES AND PAYMENT

- 8.1 **General:** If an Order is placed with Dbvisit, the Fees are payable by the Partner to Dbvisit in accordance with this clause 8. If an Order is placed with a Value Added Distributor then the fees payable by the Partner to the Value Added Distributor will be as set out in, and governed by, the terms of the agreement in place between the Partner and the Value Added Distributor at that time and the provisions of this clause 8 will not apply to that Order (for the avoidance of doubt, the other provisions of the Agreement will continue to apply in respect of Software ordered via a Value Added Distributor).

8.2 Price Calculator and Partner Discount:

- a Dbvisit will develop, maintain and make available a Price Calculator for the Software. Dbvisit may change the Price Calculator (including its underlying prices) or the Partner Discount from time to time, provided that the new prices and/or discount will only apply to Orders for Software placed after the effective date of the new Price Calculator and/or Partner Discount.
 - b Dbvisit may, at its discretion, offer special or discounted pricing and agree to changes in the prices calculated by the Price Calculator upon request, which will be available for a period and on terms specified by Dbvisit at its discretion.
- 8.3 **Fees:** Unless expressly agreed otherwise in writing by Dbvisit, the fees in respect of the Software will be as determined by the Price Calculator less the Partner Discount at the time the relevant Order for Software is accepted.
- 8.4 **Invoice:** Dbvisit will invoice the Partner for the Fees following the acceptance of an Order for Software in accordance with the price determined by the Price Calculator less the Partner Discount.
- 8.5 **Payment:** The Partner must pay all invoices issued by Dbvisit without set off or deduction within 30 days of the date of invoice.
- 8.6 **Partner free to set prices:** The Partner is free to set any amount payable to the Partner by Customers at its discretion, provided that it must always pay Dbvisit the Fees.
- 8.7 **Payment method:** The payment of any amount owed to Dbvisit must be made by way of electronic funds transfer or by credit card into a bank account nominated by Dbvisit from time to time, in cleared

funds without set off or deduction of any kind. For credit card payments Dbvisit will provide a URL that can be used to enter credit card payment details.

8.8 Failure to pay: If payment of any amount owed to Dbvisit is not received on the due date:

- a pending payment in full, Dbvisit may suspend its supply of the Software; or
- b Dbvisit may:
 - i charge interest on the overdue amounts. Interest will be calculated from the due date to the date of payment (both inclusive) at an annual percentage rate equal to the corporate overdraft reference rate (monthly charging cycle) applied by Dbvisit's primary trading bank as at the due date (or, if Dbvisit's primary trading bank ceases to quote such a rate, then the rate which in the opinion of the bank is equivalent to that rate in respect of similar overdraft accommodation expressed as a percentage) plus 5% per annum; and
 - ii recover all costs incurred in recovering overdue amounts and interest from the Partner, including the actual fees charged by its lawyers and any debt collection agency.

8.9 Sales Tax and deductions: All amounts payable under the Agreement (including the Fees) by the Partner:

- a do not include Sales Tax which, if applicable, must be paid by the Partner in addition to the Fees; and
- b must be paid gross without withholding or deduction of any kind. If the Partner is obliged to make any deduction or withholding on account of any tax, the amount payable to Dbvisit shall be grossed up to the extent necessary to ensure that, after such deduction or withholding, the amount received by Dbvisit remains unchanged from the amount originally invoiced by Dbvisit.

9 INTELLECTUAL PROPERTY

9.1 External Intellectual Property: The following Intellectual Property remains the property of the current owner:

- a Intellectual Property that existed prior to the date of the Partner Agreement; and
- b Intellectual Property that was developed independently of the Agreement.

9.2 Software: Despite clause 9.1, Dbvisit (and its licensors) owns all Intellectual Property Rights in the Software and the Documentation. Nothing in the Agreement (or an agreement between the Partner and Value Added Distributor) gives the Partner any interest in the Software or the Documentation. The Partner:

- a must not:
 - i remove or alter any copyright or proprietary notice from copies of the Software or the Documentation; or

- ii contest or dispute Dbvisit's ownership of the Intellectual Property Rights in the Software or the Documentation; and
 - b assigns to Dbvisit without reservation the copyright and all other rights in any modification, enhancement or derivative work made by the Partner (including its personnel).
- 9.3 **Feedback:** If the Partner or any Customer provides feedback, recommendations, contributions, or suggestions (together **Feedback**) about the Software or the Documentation, all Intellectual Property Rights in that Feedback, and any new material created or modification made to the Software or the Documentation as a result of that Feedback will be owned solely by Dbvisit.
- 9.4 **New Intellectual Property:** All new Intellectual Property created by Dbvisit in the course of providing the Software or any support of the Software will be owned solely by Dbvisit from the date it is created.
- 9.5 **Brands:** Dbvisit grants to the Partner a non-exclusive, non-transferable license for the duration of the Agreement to use the Brands as reasonably required in order to conduct the Business in accordance with the Agreement.
- 9.6 **Other documents:** The Partner has the right to use the documentation listed on www.dbvisit.com/docs in connection with the Business.

10 CONFIDENTIALITY

- 10.1 **Security:** Each party agrees that, unless it has the prior written consent of the other party, it must:
- a keep confidential at all times the Confidential Information of the other party;
 - b effect and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorized access or use; and
 - c ensure that any personnel or professional advisor to whom a party discloses the other party's Confidential Information are aware of, and comply with, the provisions of this clause.
- 10.2 **Exceptions:** Clause 10.1 does not apply to any disclosure of Confidential Information:
- a for the purpose of performing the Agreement or exercising a party's rights under the Agreement;
 - b required by law or the rules of any stock exchange;
 - c which is publicly available through no fault of the recipient or its personnel;
 - d which was rightfully received from a third party without restriction or without breach of the Agreement; or
 - e by Dbvisit if required as part of a bona fide sale of its business (assets or shares, whether in whole or in part) to a third party, provided that Dbvisit enters into a confidentiality agreement with the third party on terms no less restrictive than this clause 10.

11 WARRANTIES

- 11.1 **Software:** Dbvisit does not give any warranty to either the Partner or any Customer in respect of the Software or any support of the Software other than the warranties it makes directly to Customers in the Customer License. The Partner must not make any representation in respect of the Software or any support of the Software which is inconsistent with the Agreement or the Customer License, including that the Software will be exclusively licensed or made available to the Customer.
- 11.2 **No implied warranties:** To the maximum extent permitted by law, all other conditions, guarantees or warranties whether expressed or implied by statute or otherwise are expressly excluded and, to the extent that they cannot be excluded, liability for them is limited to \$5,000.00.
- 11.3 **Business purposes:** The Partner agrees and represents that it is acquiring the right to conduct the Business for the purpose of a business..

12 INDEMNITY

The Partner indemnifies Dbvisit from and against any claim, proceeding, damage, loss, liability, claim, cost and expense (including legal costs on a solicitor own client basis) suffered or incurred by Dbvisit resulting from:

- a the Partner Products (excluding the Software);
- b the Partner Services;
- c any use of the Software any support in the Software provided by Dbvisit by the Partner that is in breach of the Agreement;
- d any representation made by the Partner to a Customer in respect of the Software or any support of the Software provided by Dbvisit other than the representations set out in the Customer License or otherwise approved in writing by Dbvisit; or
- e any Customer Agreement.

13 LIABILITY

- 13.1 **Overall limit:** Dbvisit's maximum aggregate liability to the Partner under or in connection with the Agreement in any Year is limited to the total Fees paid by the Partner in the previous Year, which in the first Year of the Agreement is deemed to be the total Fees paid by the Partner from the date of the Agreement to the date of the first event giving rise to liability. The cap in this clause 13.1 includes the cap set out in clause 13.2.
- 13.2 **Excluded losses:** Neither party is liable to the other party under or in connection with the Agreement for any:
- a loss of profit, data, revenue, savings, business and/or goodwill; or
 - b consequential, indirect, incidental or special damage or loss of any kind.

13.3 **Unlimited liability:**

- a Clauses 13.1 and 13.2 do not apply to limit Dbvisit's liability under or in connection with the Agreement for:
 - i personal injury or death;
 - ii fraud or wilful default; or
 - iii breach of clause 10.
- b Clause 13.2 does not apply to limit the Partner's liability to pay:
 - i the Fees;
 - ii those matters stated in clauses 13.3ai to 13.3aiii; or
 - iii an amount under an indemnity in clause 12.

13.4 **No liability for the Partner's failure:** To the extent caused by the Partner failing to comply with its obligations under the Agreement, or by the negligence or misconduct of the Partner or its personnel, Dbvisit will not be responsible, liable, or held to be in breach of the Agreement for:

- a any failure to perform its obligations under the Agreement or otherwise;
- b any delay or deficiency in the Software or any support of the Software provided by Dbvisit; or
- c any loss or liability of the Partner arising out of any of the above.

13.5 **Mitigation:** Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with the Agreement.

13.6 **Time bar:** Neither party will be liable to the other for a claim under or in connection with the Agreement unless that claim is notified to the other party within 12 months of the date that the circumstances giving rise to the claim were reasonably discoverable to that party.

13.7 **Separate limitations:** Each limitation and exclusion of liability set out in this clause 13 is a separate limitation or exclusion and applies regardless of whether the liability arises in contract, tort (including negligence), breach of statutory duty or otherwise.

13.8 **Remedies cumulative:** The rights, powers and remedies provided in the Agreement are cumulative and not exclusive of any right, power or remedy provided by law or under the Agreement.

14 **TERM AND TERMINATION**

14.1 **Term:** Unless terminated earlier in accordance with its terms, the Agreement starts on the Start Date and continues until the End Date.

- 14.2 **Renewal:** Unless either party gives the other party notice 30 days prior to the End Date or the end of any subsequent term, the Agreement will automatically renew for a further period of 12 months from the date it was due to end.
- 14.3 **No fault termination:** Dbvisit may terminate the Agreement at any time for its convenience by 30 days' notice in writing to the Partner.
- 14.4 **Termination for cause:** Either party may, by notice to the other party, immediately terminate the Agreement if the other party:
- a breaches any material provision of the Agreement and the breach is not:
 - i remedied within 10 days of the receipt of the notice from the first party requiring it to remedy the breach; or
 - ii capable of being remedied;
 - b has suffered, or is likely to suffer (in the reasonable opinion of the terminating party), an Insolvency Event; or
 - c is unable to perform a material obligation under the Agreement for 30 days or more due to Force Majeure.
- 14.5 **Consequences of expiry or termination:**
- a Expiry or termination of the Agreement is without prejudice to the rights and obligations of the parties accrued up to and including the date of expiry or termination.
 - b On expiry or termination, the Partner must immediately:
 - i pay all amounts owing to Dbvisit under the Agreement up to the date of termination;
 - ii cease to conduct the Business;
 - iii subject to clause 14.5c, cease to use the Software, the Documentation, the Brands (if applicable) and all other Dbvisit Confidential Information;
 - iv return, destroy or erase (at Dbvisit's option) all copies of Dbvisit Intellectual Property in the Partner's possession (including the Software, the Documentation, and all signs, stationery, sales brochures, promotional and support materials supplied to or used by the Partner in relation to the conduct of the Business), and certify in writing its compliance with this clause 14.5biv; and
 - v deliver to Dbvisit, without restriction, a complete list of names, addresses, phone numbers and other available contact details for all Customers.
 - c Subject to clause 14.5d, the Agreement will continue in respect of Customer Agreements that are in force at the effective date of expiry or termination of the Agreement, provided that each

Customer Agreement must, to the extent that the Customer Agreement relates to the Software, end at the completion of its current term (i.e. it must not be renewed or extended).

- d Clause 14.5c will:
 - i not apply if Dbvisit terminated the Agreement under clause 14.4; and
 - ii cease to apply on notice from Dbvisit if the Partner fails to pay any Fees due and payable under the Agreement.
- e No compensation is payable by Dbvisit to the Partner as a result of termination of the Agreement for whatever reason.

14.6 Customer Licenses: On termination or expiry of the Agreement for any reason:

- a Dbvisit may (for the avoidance of doubt) enter into any agreement with a Customer directly in respect of the Software, the Partner Services or any services in respect of the Software provided by Dbvisit;
- b all Customer Licenses will continue despite any termination or expiry of the Agreement;
- c Dbvisit may introduce any Customer to a third party who may provide services similar to those previously received by the Customer in respect of the Software; and
- d the provisions of the Agreement will continue to apply to the extent necessary to give effect to this clause 14.6.

14.7 Survival: Clauses, which by their nature, are intended to survive termination or expiry of the Agreement, including clauses 9, 10, 11, 12 and 13, continue in force.

15 DISPUTE RESOLUTION

15.1 Good faith negotiations: Both parties must use their best efforts to resolve any dispute that may arise under, or in connection with, the Agreement through good faith negotiations.

15.2 Escalation: If the dispute cannot be settled within 14 days of the dispute arising, either party may escalate the dispute for resolution by their chief executives or equivalent officers.

15.3 Mediation: If a dispute is unable to be resolved under clause 15.2 within 14 days or a longer period agreed by the parties, either party may refer the dispute to mediation by notice to the other party, in which case:

- a the mediation will be conducted in the Jurisdiction by an independent mediator and at a fee agreed to by each party. Parties may attend by videoconference. The mediator's fee will be borne in equal proportions by the parties; and
- b if the parties cannot agree on the mediator and/or the mediator's fee within 7 days of the referral of the dispute to mediation, the mediator will be selected, and/or the mediator's fee will be decided, by the chairperson for the time being of LEADR.

15.4 **Obligations continue:** Despite the existence of a dispute and the operation of this clause 15, each party must to the extent practicable, continue to perform its obligations under the Agreement.

15.5 **Right to seek relief:** This clause does not affect either party's right to seek urgent interlocutory and/or injunctive relief from a court of competent jurisdiction.

16 GENERAL

16.1 **Conflicts between these Terms and the Partner Agreement:** If there is any conflict between a provision in these Terms and a provision in the Partner Agreement, the provision in the Partner Agreement prevails.

16.2 **Contracts Privity:** Nothing in the Agreement grants to a third party (including a Customer or end user of the Software, the Partner Services or any services in respect of the Software provided by Dbvisit) a right or benefit that is enforceable by that third party.

16.3 **Law:** The Agreement is governed by, and must be interpreted in accordance with, the laws of the Jurisdiction. Each party submits to the non-exclusive jurisdiction of the courts of the Jurisdiction in relation to any dispute connected with the Agreement.

16.4 **Force Majeure:** Neither party is liable to the other for any failure to perform its obligations under the Agreement to the extent caused by Force Majeure, provided that the affected party:

- a immediately notifies the other party and provides full information about the Force Majeure;
- b uses best endeavours to overcome the Force Majeure; and
- c continues to perform its obligations as far as practicable.

16.5 **Subcontracting and assignment:**

- a The Partner may not assign, subcontract or transfer any right or obligation under the Agreement, without the prior written approval of Dbvisit. The Partner remains liable for the performance of its obligations under the Agreement despite any approved assignment, subcontracting, or transfer.
- b Any change of control of the Partner is deemed to be an assignment for which Dbvisit's prior written approval is required under clause 16.5a. In this clause, change of control means any transfer of shares or other arrangement affecting the Partner or any member of its group which results in a change in the effective control of the Partner.

16.6 **Waiver:** To waive a right under the Agreement, that waiver must be in writing and signed by the waiving party.

16.7 **Notices:** A notice given by a party under the Agreement must be delivered via email to an email address notified by the other party for this purpose. If the notice is given under clause 14, a copy of that email must be immediately delivered (by hand or courier) to the Chief Executive or equivalent officer of the other party.

16.8 Severability:

- a If any provision of the Agreement is, or becomes, unenforceable, illegal or invalid for any reason, the relevant provision is deemed to be modified to the extent necessary to remedy the unenforceability, illegality or invalidity.
- b If modification under clause 16.8a is not possible, the provision will be treated for all purposes as severed from the Agreement without affecting the legality, enforceability or validity of any other provisions of the Agreement.

16.9 Variation: Any variation to the Agreement must be in writing and signed by both parties.

16.10 Entire Agreement: The Agreement and any Order set out everything agreed by the parties relating to the conduct of the Business and the Software and supersede and cancel anything discussed, exchanged or agreed before the Start Date. The parties have not relied on any representation, warranty or agreement relating to the subject matter of the Agreement that is not expressly set out in the Agreement, and no such representation, warranty or agreement has any effect from the Agreement's start.

16.11 Further acts: Each party must sign and deliver any document and do any act, matter and thing which is reasonably requested by the other party to carry out and give effect to the Agreement.

16.12 Counterparts: The Agreement may be signed in counterparts, each of which constitutes an original and all of which constitute the same agreement. A party may enter the Agreement by signing and sending (including by facsimile or email) a counterpart copy to the other party.