

## License Prices for the JOpt Product Family June 2017

DNA Evolutions GmbH offers software components for further integration into other software programmes such as ERP systems, CRM software, dispatch systems, field service management systems and many other applications. The idea is to use JOpt components to enhance such systems with planning and optimization capabilities. The JOpt product family comprises different components each suitable for the specific requirements of the final ready-to-run product compiled by the customer. Depending on the desired operation purpose particular JOpt product licenses are available for

- desktop programmes
- server applications
- internet portals

All software licenses in this price list will allow for using the software only in compliance with license and user agreements attached to this price list. By installing DNA Evolutions software or using the services provided by DNA Evolutions the applicable license terms, user agreements and general conditions are accepted. The software license will come with a license key and may depend on a hardware platform identifier on which the software is installed (e.g. the LAN card MacAddress). The prices given in this price list do not include any VAT.

### Software Licenses

JOpt.SDK and JOpt.NET are DNA Evolutions's most common software licenses for solving a variety of optimization problems. They are used as components and will have to be integrated into greater software programmes. JOpt.SDK and JOpt.NET components provide optimization functionality as part of an end product e.g. for transportation problems, field force planning, and similar applications. JOpt.SDK will be integrated into a Java end product by its powerful API. JOpt.NET has the same functionality but is designed for integration into .NET programmes. As seat licenses JOpt.SDK and JOpt.NET are used if the end product which is installed on single machines. If the end product is a server application for one company the JOpt Enterprise version is a good alternative to single seat licenses.

If customers want to design web solutions JOpt.ASP and JOpt.J2EE components are licenses which support web compatible applications.

## JOpt.SDK and JOpt.NET

Runtime license **per seat** as Java or .NET components:

Product	runtime licenses <b>per installation</b>
JOpt.SDK Enterprise	10,000 € + maintenance
JOpt.NET Enterprise	10,000 € + maintenance

Runtime licenses **as a company or server** installation (unlimited number of seats belonging to **one** company) as Java or .NET components:

Product	runtime licenses <b>per company installation</b> unlimited number of machines
JOpt.SDK Enterprise	20,000 € + maintenance
JOpt.NET Enterprise	20,000 € + maintenance

The seat versions (JOpt.SDK/JOpt.NET) will be sufficient where the end user software programme in which the JOpt component is integrated is used as one-seat application on one machine, e.g. typical desktop solutions for single user operation. If the end user application is operated as a server installation providing the application for a set of users within one company or if many independent one seat solutions are necessary for one company the enterprise version is offered as cost effective alternative to a set of one seat licenses.

## Licenses for Hosted ASP.NET or J2EE Applications

Customers or resellers who want to offer a web based application using JOpt software in web (internet) or intranet applications require the JOpt.ASP or JOpt.J2EE software license depending on the preferred technology stack. The application server license is restricted to one application/product that is offered by the service provider. This license is suitable when the service will be hosted by the service provider.

ASP and J2EE are full software version which will make use of multicore processing means for faster problem solving.

Product	runtime licenses <b>per service provider application</b> unlimited users
JOpt.J2EE	20,000 € + maintenance
JOpt.ASP	20,000 € + maintenance

## **Trial Licenses**

Customers may want to check the capabilities of JOpt before integrating it into their applications. DNA Evolutions offers a simple evaluation software which is restricted to small problems but is free of any license fees. This free version is limited to the sum of 12 resources and nodes. Those customers who want to try an unrestricted version may choose the official trial version JOpt.SDK.TV. This software is identical to the unlimited version of JOpt.SDK but expires after 6 weeks and comes with an e-mail support for setting up a first installation with JOpt.SDK (reference implementation).

<b>Product</b>	
<b>JOpt.SDK.TV - Java</b>	595 € (unlimited resources, 6 weeks duration, includes reference installation and e-mail support for your 1 <sup>st</sup> setup)
<b>JOpt. SDK.TV - .Net</b>	595 € (unlimited resources, 6 weeks duration, includes reference installation and e-mail support for your 1 <sup>st</sup> setup)
<b>JOpt.SDK.FV - Java</b>	free (restricted to 12 resources+nodes)
<b>JOpt. SDK.FV - .Net</b>	free (restricted to 12 resources+nodes)

## **Software Maintenance**

DNA Evolutions GmbH offers software maintenance service for its software licenses. The maintenance covers regular updates (typically twice per year) which allow the customer to take part in the software progress. The price for the first three months of maintenance is included in the license price. After this period the price is 18% of the software list price per year.

Maintenance is optional for seat licenses. Development, company or internet and reseller's kits licenses require the regular maintenance starting (three months) after purchasing the software license.

**License Agreement for Software Products between DNA Evolutions GmbH, Ulm/Germany (“DNA”), and Customer (“Licensee”) for the Products JOpt.SDK, JOpt.NET, JOpt.Enterprise, JOpt.J2EE, Jopt.ASP**

## 1. Scope

All licensed deliveries of the DNA products are subject to this agreement and are protected by national and international agreements for copyrights. None of the deliveries may be copied, transferred or distributed in electronic or any other way. Licensee may incorporate the DNA product library into licensee's product and, except for the internet application licenses JOpt.J2EE and JOpt.ASP, distribute it once to its customers solely as incorporated into licensee's product.

Licensee shall not distribute DNA software in products which can be used by licensee's customers as a software development kit or as components enabling licensee's customers to produce software for routing, scheduling or optimization purposes.

**Due to existing exclusive partner agreements on DNA's products JOpt.SDK, JOpt.NET, JOpt.Enterprise, JOpt.J2EE, JOpt.ASP licensee's products or using these products may not be used or licensed to customers working for or in the Field Service Industry (worldwide) and may not be licensed to end customers in the Grocery or Food Service branch (in the USA, Canada and Mexico). Should licensee intend to use or relicense one or more of these DNA's products in these particular branches, licensee is obliged to contact DNA in order to apply for a written approval for the requested end customer before using DNA's products.**

## 2. Terms

The term *software* determines all programmes, applets, data bases, operation systems, files or similar electronic data provided on a data storage or downloaded over the web, by e-mail or any other electronic way.

## 3. License

The software is licensed to the licensee but it is not sold. DNA holds all rights on the software if it was not explicitly transferred to the licensee. Except with respect to the rights granted in Section 1 regarding DNA product libraries, licensee shall not make any copies of the software or of parts of the software, rent, loan, sell, or in other way distribute unless for one single copy for back-up purposes.

## 4. Scope of the License

DNA grants the licensee a non-exclusive, non-transferable right to install and use a copy of the software for the sole purpose of incorporating the DNA product libraries into licensee's product. Except for JOpt.J2EE and JOpt.ASP licenses, the software may not be used in applications of licensee which can be accessed by the internet. The license is granted for an undetermined period of time. The licensee may terminate this agreement by destroying all copies of the programs. DNA has the right to terminate the right to use the programs if the licensee fails to comply with any of the terms of this agreement, in which case the licensee shall destroy all copies of the programs.

## 5. Limitations

The software may only be operated in the way described in the user manual. Except as permitted under Section 1 above, the licensee may not modify, change, extend, translate, decompile or reverse-engineer the software or parts of it. It is not allowed to make any copies of the software unless as granted in this agreement.

## 6. Disclosure

The licensee is obliged to prevent the software or any benchmark results from disclosure.

## **7. Disclaimer of Warranty**

DNA warrants that (i) it has the right to grant licensee the rights under this agreement; and (ii) the software will work in accordance with the user documentation. As licensee's sole and exclusive remedy and DNA's entire liability for any breach of the foregoing performance warranty, DNA will fix, provide a work around, or otherwise repair or replace the nonconforming software, or, if DNA is unable to do so, terminate the license for the software and return the fees paid to DNA for the nonconforming software.

Except for the foregoing warranties, the software is provided ,as is' without warranty of any kind. We further disclaim all warranties, express and implied, including without limitation, any implied warranties of merchantability, fitness for a particular purpose or non-infringement.

Except for the indemnification obligations of either party or either party's gross negligence or wilful misconduct in no event shall either party be liable for any indirect, incidental, special, punitive or consequential damages, or damages for loss of profits, revenue, data or data use, incurred any party, whether in an action in contract or tort, even if such party has been advised of the possibilities of such damages. Except for the indemnification obligations of either party or either party's gross negligence or wilful misconduct, each party's entire liability for damages hereunder shall in no event exceed the purchase price of the software.

## **8. Property Rights and Indemnification**

The software is protected by international copyright agreements. The licensee accepts that no intellectual property rights are transferred by this software and that all rights remain explicitly at DNA.

DNA shall defend, indemnify and hold licensee harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings ("Claims") made or brought against licensee by a third party alleging that use of the software as contemplated hereunder infringes the intellectual property rights of such third party, provided licensee (a) promptly gives written notice of the Claim to DNA; (b) gives DNA sole control of the defence and settlement of the Claim (provided that DNA may not settle any Claim unless it unconditionally releases licensee of all liability); and (c) provides to DNA, at DNA's cost, all reasonable assistance. DNA will, at its sole option and expense: (i) procure for licensee the right to continue using the software under the terms of this agreement; (ii) replace or modify the software to be non-infringing without material decrease in functionality; or (iii) if the foregoing options are not reasonably practicable, terminate the license for the infringing software and refund Licensee all pre-paid fees for the remainder of its subscription term after the date of termination. DNA shall have no liability for any Claim to the extent the Claim is based upon (i) the use of the software in combination with any other product, service or device not furnished, recommended or approved by DNA, if such Claim would have been avoided by the use of the software, without such product, service or device; or (ii) Licensee's use of the software other than in accordance with this Agreement.

## **9. Governing Law**

The validity, interpretation and performance of this agreement shall be governed by the laws of Germany. Place of jurisdiction shall be Germany.

## **10. Severability Clause**

The licensee agrees that this agreement is the complete agreement for the software and licenses, and this agreement supersedes all prior or contemporaneous agreements or representations. If any provision in this agreement is held invalid or unenforceable by a body of competent jurisdiction, such provision will be construed, limited or, if necessary, severed to the extent necessary to eliminate such invalidity or unenforceability. The parties agree to negotiate in good faith a valid, enforceable substitute provision that most nearly effects the parties original intent in entering into this Agreement or to provide an equitable adjustment in the event no such provision can be added. The other provisions of this agreement will remain in full force and effect.

## **License Agreement for the Demonstration Purposes or Demonstration Versions**

'We', 'us', and 'our' refers to DNA. 'You' and 'your' refers to the individual or entity that wishes to use the programs from DNA. 'Programs' refers to the software product, webservice or component you wish to download and use and program documentation. 'License' refers to your right to use the programs under the terms of this agreement.

DNA may provide special versions of the software products for demonstration purposes. These version are usually degraded in functionality and are provided only for demonstration of the functionality. We are willing to license the programs to you only upon the condition that you accept all of the terms contained in this agreement. If you are not willing to be bound by these terms, return all deliveries back to DNA and/or destroy any copies of the software and program documentation immediately and do not make any use of the programs. By installing the software you automatically confirm your acceptance to this licence agreement.

### **License Rights**

We grant you a nonexclusive, nontransferable limited license to use the program for your internal business operations, including the development and testing of applications, subject to the terms of this agreement and the program documentation. You may also distribute the program with your applications to your customers for demonstration purposes and subject to the terms of this agreement. We grant you a nonexclusive, nontransferable limited license to use the components only for the purpose of developing a single prototype of your application for your internal business operations, and not for any other purpose. If you want to use the application you develop using the components for any internal data processing or for any commercial or production purposes you must contact us, or an DNA reseller, to obtain the appropriate license. If you want to use the program or components for any purpose other than as expressly permitted under this agreement you must contact us, or an DNA reseller, to obtain the appropriate license. We may audit your use of the programs.

### **Ownership and Restrictions**

We retain all ownership and intellectual property rights in the programs. You may make a sufficient number of copies of the programs for the licensed use and one copy of the programs for backup purposes.

You may not:

- use the programs for any purpose other than as provided above;
- distribute the programs unless accompanied with your applications and for demonstration purposes only;
- charge your end users for use of the programs;
- continue to develop your application using the components after you have used it for any internal data processing, commercial or production purpose without securing an appropriate license from us, or an DNA reseller;
- remove or modify any program markings or any notice of our proprietary rights;
- use the programs to provide third party training on the content and/or functionality of the programs, except for training your licensed users;
- assign this agreement or give the programs, program access or an interest in the programs to any individual or entity except as provided under this agreement;
- cause or permit reverse engineering disassembly or decompilation of the programs;
- disclose results of any program benchmark tests without our prior consent; or,
- use any DNA name, trademark or logo without our prior consent.

### **Program Distribution**

We grant you a nonexclusive, nontransferable right to copy and distribute the programs to your end users provided that it is for demonstration purposes only and you do not charge your end users for use of the programs and provided your end users may only use the programs to run your applications for their business operations. Prior to distributing the programs you shall require your end users to execute an agreement binding them to terms consistent with those contained in this section and the sections of this agreement entitled 'License Rights', 'Ownership and Restrictions', 'Disclaimer of Warranties and Exclusive Remedies', 'No Technical Support', 'End of Agreement', 'Relationship Between the Parties'. You must also include a provision stating that your end users shall have no right to distribute the programs, and a provision specifying us as a third party beneficiary of the agreement. You are responsible for obtaining these agreements with your end users.

You agree to: (a) defend and indemnify us against all claims and damages caused by your distribution of the programs in breach of this agreement and/or failure to include the required contractual provisions in your end user agreement as stated above; (b) keep executed end user agreements and records of end user information including name, address, date of distribution and identity of programs distributed; (c) allow us to inspect your end user agreements and records upon request; and, (d) enforce the terms of your end user agreements so as to effect a timely cure of any end user breach, and to notify us of any breach of the terms.

### **Disclaimer of Warranty and Exclusive Remedies**

THE PROGRAMS ARE PROVIDED 'AS IS' WITHOUT WARRANTY OF ANY KIND. WE FURTHER DISCLAIM ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

IN NO EVENT SHALL WE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR DATA USE, INCURRED BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR ENTIRE LIABILITY FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED ONE HUNDRED (100) EUROS.

### **End of Agreement**

You may terminate this agreement by destroying all copies of the programs. We have the right to terminate your right to use the programs if you fail to comply with any of the terms of this agreement, in which case you shall destroy all copies of the programs.

### **No Technical Support**

Our technical support organization will not provide technical support, phone support, or updates to you for the programs licensed under this agreement unless technical support is acquired under a separate agreement with DNA.

### **Relationship Between the Parties**

The relationship between you and us is that of licensee/licensor. Neither party will represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other party, nor to represent the other party as agent, employee, franchisee, or in any other capacity. Nothing in this agreement shall be construed to limit either party's right to independently develop or distribute software that is functionally similar to the other party's products, so long as proprietary information of the other party is not included in such software.

### **Entire Agreement**

You agree that this agreement is the complete agreement for the programs and licenses, and this agreement supersedes all prior or contemporaneous agreements or representations. If any term of this agreement is found to be invalid or unenforceable, the remaining provisions will remain effective.

## **STANDARD TERMS AND CONDITIONS OF CONTRACT, LICENSING OR SERVICE**

### **1. Interpretation**

In this document the following words shall have the following meanings:

- *Conditions* means the terms and conditions of supply as set out in this document and any special terms and conditions agreed in writing with the Supplier;
- *Contract* means the Customer's purchase order and the Supplier's acceptance of it, or the Customer's acceptance of a statement of work, quotation, Internet website, or other document or electronic media describing the Goods, Software Licenses or Services to be provided (as the case may be) by the Supplier under Condition 2.2;
- *Customer* means the person, firm or company who makes contracts with, is licensed by, or purchases Services from the Supplier;
- *Document* includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disc or other device or record embodying information in any form;
- *Goods* means any goods or licensed software agreed in the Contract to be supplied by the Supplier to the Customer (including any part or parts of them);
- *Services* means the services agreed in the Contract to be supplied by the Supplier to the Customer, together with any other services which the Supplier provides, or agrees to provide to the Customer;
- *Supplier* means the respective contracting entity of DNA Evolutions GmbH;
- *VAT* means value added tax chargeable under German law for the time being and any similar additional tax.
- Headings in these Conditions shall not affect their interpretation.
- A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or reenactment and includes any subordinate legislation for the time being in force made under it.
- Words in the singular include the plural and in the plural include the singular.
- A reference to one gender includes a reference to the other gender.

### **2. Application of Conditions**

- 2.1 These Conditions shall apply to and be incorporated into the Contract and shall prevail over any inconsistent terms or conditions contained, or referred to in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing. Any variation to these Conditions and any representations about the Goods or Services to be delivered under the Contract shall have no effect unless expressly agreed in writing and signed by a duly authorised representative of the Supplier.
- 2.2 The Customer's purchase order, or the Customer's acceptance of a quotation for the provision of the Goods or Services (as the case may be) by the Supplier, constitutes an offer by the Customer to purchase the Goods, Licenses or Services (as the case may be) on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:
  - 2.2.1. By a written acknowledgement issued and executed by the Supplier; or
  - 2.2.2. (If earlier) by the Supplier starting to provide the Services or deliver the Goods to the Customer,
  - 2.2.3. When the Contract for the provision of the Goods or Services (as the case may be) shall be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.
- 2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with Condition 2.2. Any quotation is valid for a period of twenty-eight (28) days from its date, provided that the Supplier has not previously withdrawn it.
- 2.4 The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract. Nothing in this Condition shall exclude or limit the Supplier's liability for fraudulent misrepresentation.



- 2.5 Nothing in these Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Goods or Services (as the case may be), by virtue of any statute law or regulation.

### **3. Price and Payment**

- 3.1 The price for the Goods, Licenses or Services (as the case may be) shall be as set out in the Contract and is subject to any applicable charges and only where stated in the Contract is inclusive of VAT.
- 3.2 In respect of any Services, the Supplier shall endeavour to work within the Contract price but reserves the right to make charges based on the actual cost of the Services. If the Services cannot be completed within the authorised financial limit the Supplier shall notify the Customer as soon as possible and limit expenditure to the authorised amount pending further instructions from the Customer.
- 3.3 For all Contracts with a value over one thousand Euros (1,000€) the Supplier reserves the right to invoice one-third of the Contract price on acceptance of the Contract, which if so requested must be paid in accordance with the Supplier's normal payment terms and conditions as set out in this Condition. The balance of the Contract price will be invoiced on completion of the Contract or completion of report (as the case may be) and payment is due ten (10) days following the date of the invoice, unless stage payments or alternative arrangements have been agreed with the Customer, in writing, in advance. Interest may be charged, at the Supplier's discretion, at four (4) percent above the London Interbank Offered Rate (LIBOR) base rate, from time to time, on any part of the invoice unpaid after this time, or the time as agreed in writing with the Customer. The price for Services is due in advance in its entire annual amount on the 1st of January of the relevant year. The price will be invoiced by the Customer. The price is considered as paid at the moment of inscribing the amount in favour of the bank account set in invoice.
- 3.4 Without prejudice to any other rights of the Supplier, if the Customer shall fail to make payment in full in accordance with this Condition the Supplier shall be entitled to suspend this or any other Contract with the Customer and in such event the Customer shall not in any respect be released from its obligations to the Supplier under this or any other Contract. Alternatively the Supplier shall be entitled to terminate this Contract or any other Contract with the Customer in accordance with these Conditions and to claim damages from the Customer for this breach.
- 3.5 The Supplier is entitled to restrict and limit the usage of the Goods, Licenses and Services until the Supplier has received payment in full of all outstanding sums.

### **4. Supplier's Obligations and Liabilities**

- 4.1 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Contract, but where given, time limits, projected results and performance specifications quoted shall be best estimates only and time shall not be of the essence of the Contract. The Supplier shall use reasonable endeavours to provide the Services to the Customer in all material respects in accordance with the Contract. The Customer acknowledges that advice, information and results given by the Supplier to the Customer are given on the understanding that they are subject to normal experimental error and that the advice given or conclusions drawn are based on the evidence and methods and techniques known at the time.
- 4.2 Information or advice emanating from the Supplier is given after the exercise of all reasonable care in its compilation, preparation and issue, but is provided without liability in its application and use. Except in respect of death or personal injury caused by the Supplier's negligence or as expressly provided in these Conditions, the Customer acknowledges that the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the Supplier, its servants or agents or otherwise) which arise out of or in connection with the provision of the Goods or Services (as the case may be) under this Contract or their use by the Customer, and the entire liability of the Supplier under or in connection with the Contract shall not exceed the amount

of the Supplier's charges for the provision of the Goods or Services (as the case may be), except as expressly provided for in these Conditions.

- 4.3 The Supplier shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non arrival, or any other fault of the Customer.

## **5. Property**

- 5.1 All computer software supplied by the Supplier to the Customer pursuant to or in connection with the Contract shall be treated by the Customer as confidential and in any event shall be subject to a separate licensing agreement.
- 5.2 The software products, Licenses, or final product of any work developed or arising in the course of carrying out the Services under this Contract or Goods supplied shall not pass to the Customer until the Supplier has been paid in full for all Goods, Licenses or Services (as the case may be) provided. Further, if the Customer shall incorporate the Goods or Licenses into any other goods then the title in these goods shall also belong to the Supplier until the Supplier has received payment in full of all outstanding sums.

## **6. Termination**

- 6.1 Termination by the Customer can be effected only with the written consent of the Supplier and on terms which indemnify the Supplier against all loss.
- 6.2 The Supplier shall be at liberty (without prejudice to any other rights it may have) to terminate the Contract forthwith on giving notice in writing for any of the following reasons:
- 6.2.1. Non-payment by the Customer of any one or more invoices submitted by the Supplier;
- 6.2.2. A material breach of the Customer's express or implied obligations under the Contract and where such breach is remediable the Customer fails to remedy that breach within thirty (30) days of being notified by the Supplier in writing of the breach;
- 6.2.3. If a petition is made for the Customer's bankruptcy or a criminal bankrupt order is made against the Customer or if the Customer makes any composition or arrangement with or for the benefit of creditors or makes any conveyance or assignment for the benefit of creditors;
- 6.2.4. Where the Customer is a company, if any action is taken for or with a view to its winding up, or a petition is presented for an administration or winding up order against it or such an order is made, or it becomes insolvent or unable to pay its debts as they fall due, or an administrative receiver or receiver or manager of its undertaking is duly appointed by a creditor or by the court, or possession is taken of any of its property by an encumbrancer and in that event such termination shall not affect any rights which the Supplier may have against the Customer in consequence of the breach by the Customer; or.
- 6.2.5. If the Supplier is of the belief that the Customer is using the Goods, Licenses or Services (as the case may be) with fraudulent or criminal intent.
- 6.3 On termination of the Contract the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest (if applicable) and in respect of any Goods Licenses, or Services (as the case may be) supplied, but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt.
- 6.4 The accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

## **7. Force Majeur**

- 7.1 Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war or fire and the party shall be entitled to a reasonable extension of its obligations. In such an event the Supplier reserves the right to all sums owing for any Services of Goods supplied to the Customer up the date of such event.

## **8. Severance**

8.1 If any term or provision of these Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provision hereof shall continue in full force and effect as if these Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

**9. No Partnership or Agency**

9.1 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent for the other party for any purpose. No party shall have authority to act as agent for, and to bind, the other party in any way.

**10. Assignment**

10.1 The Customer shall not be entitled to assign its rights or obligations under any Contract with the Supplier without the prior written consent of the Supplier.

**11. Waiver**

11.1 Any waiver by the Supplier of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

**12. Governing Law and Jurisdiction**

12.1 The Contract to which these Conditions apply, unless otherwise stated, shall be governed by and construed in accordance with the Laws of Germany and the parties submit to the exclusive jurisdiction of the German courts.