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Exclusion of Damages. Kinetic shall not be liable for any direct, indirect, consequential, special, incidental, or other damages, including but not limited to damages for lost profits, interruption of business, lost or corrupted data or programs, system crashes, or diversion of system or other resources, arising out of or relating to this Agreement or the performance, quality, results, use of, or inability to use the KETL Administrative Client or any support, advice, products, or services which are or should have been provided to you, even if Kinetic has been advised of the possibility of such damages.

Technical Protection. The KETL Administrative Client may contain technical protections that restrict use to certain equipment, to a single personal computer or workstation, or to a certain time period, and may provide other restrictions, all of which shall be consistent with the License. Kinetic shall not be liable for any damages incurred as a result of such technical protections or the failure of the KETL Administrative Client to operate outside the scope of the License.

No Third Party Claims. Kinetic shall not be liable for any claim asserted against you by any other party, including but not limited to claims for infringement of copyright or other intellectual property rights.

Time to File Action. No action arising under or relating to this Agreement, to the KETL Administrative Client, or to any support, advice, products, or services which are or should have been provided to you, may be filed more than one year after the cause of action accrues.

Applicability. Some jurisdictions do not permit the exclusion or limitation of implied warranties or consequential damages, so some of the above exclusions or limitations may not apply to you.

Termination for Breach. Kinetic may terminate the License with or without cause at any time immediately and without notice if you materially breach any term of this Agreement or infringe any of Kinetic's rights in the KETL Administrative Client.

Termination without Breach. Kinetic may terminate the License upon ten days written notice if Kinetic believes that your use of the KETL Administrative Client may infringe any third party rights. If such termination occurs within 24 months of your first installation of the KETL Administrative Client, Kinetic will provide you a modified, non-infringing version of the KETL Administrative Client and reinstate the License.

Duties on Termination. Immediately upon termination of the License, you must stop using the KETL Administrative Client and destroy all copies of the KETL Administrative Client within your possession, custody, or control.

No Assignment. You may not assign, sublicense, or otherwise transfer the License or any other rights arising under this Agreement. Any purported transfer in violation of this paragraph shall be void.

Enforcement Costs. You agree to reimburse Kinetic for all costs, including reasonable attorney's fees, incurred to enforce any of Kinetic's rights under this Agreement or in the KETL Administrative Client or to defend any claims you assert unsuccessfully against Kinetic.

Severability. Any provision of this Agreement which is held to be unenforceable as written shall be enforced to the fullest extent permissible and shall not affect the validity of any other provision of this Agreement.

Governing Law and Forum. This Agreement shall be governed by and construed in accordance with the laws in the State of California and the United States of America. All disputes arising under this Agreement or in connection with the KETL Administrative Client shall be resolved in the state or federal courts serving San Francisco County, California, except that actions for infringement of intellectual property rights may be brought in any court of competent jurisdiction.

Entire Agreement. This document states the complete, final, and exclusive agreement concerning your possession, operation, copying, distribution, and other use of the KETL Administrative Client and supersedes all earlier oral or written agreements, proposals, marketing materials, representations, promises, and other communications between you and Kinetic. The terms of this Agreement may only be amended, waived, or supplemented by a later writing signed by you and Kinetic.

Additional Information. If you have questions or desire additional information about the KETL Administrative Client, Kinetic, or Kinetic's software use or privacy policies, please contact us at (415) 358-5100.