

Limitation of Liability

- 1 Except for indemnity obligations as set forth in Indemnification, and except for breach of confidentiality obligations as set forth in Confidential Information, and except with respect to liability for bodily injury (including death) and damage to tangible personal property (not including data), and notwithstanding anything else to the contrary, the liability of dinCloud, its subsidiaries and affiliates, and their respective officers, directors, shareholders, employees and agents, for direct damages for any and all claims arising out of this agreement, including, without limitation, claims based in contract, in tort (including but not limited to gross negligence and strict liability), at law or in equity shall not exceed the money paid to dinCloud for services under the applicable Service Order during the three (3) month period preceding the event giving rise to the claim. This limitation of liability is cumulative and not per-incident (i.e., the existence of two or more claims will not enlarge this limit).
- 2 Except for indemnity obligations as set forth in Indemnification, and except for breach of confidentiality obligations as set forth in Confidential Information, in no event shall either Party, its subsidiaries or affiliates, or their respective officers, directors, shareholders, employees or agents be liable to the other for any punitive, incidental, special, indirect, or consequential damages, including, but not limited to, loss of use, loss of data, loss of business and loss of profits (other than with respect to the payments owing to service provider) arising under or in connection with this agreement, even if such Party has been advised of the possibility of such damages.
- 3 Neither party will be liable to the other party or to any third party for any incidental, consequential, or special damages of any kind or nature, including without limitation, lost profits, loss of data, or frustration of business expectations. This provision applies whether arising out of a party's breach of contract; breach of any warranty, negligence or otherwise, even if a party has been advised of the possibility of such loss or damage. Neither party will assert any such claim against the other or its affiliates or subsidiary companies of their respective officers, directors, employees or agents. dinCloud's maximum liability for any claim whatsoever is limited to the amount paid by client during the three (3) month immediate preceding the cause giving rise to the claim, if any. No claim may be brought against dinCloud more than six (6) months after the accrual of the claim.