

Carve-out Provisions for Limitation of Liability Template

1. Purpose

This document provides sample carve-out provisions to be included in a Limitation of Liability clause, ensuring that certain liabilities are specifically excepted ("carved out") from the overall cap on liability within a contractual agreement.

2. Sample Language

Notwithstanding anything to the contrary in this Agreement, neither party's liability will be limited with respect to:

- a. Liability arising from gross negligence, willful misconduct, or fraud;
- b. Breach of confidentiality or data protection obligations;
- c. Infringement or misappropriation of intellectual property rights of the other party or any third party;
- d. Indemnification obligations explicitly set forth in this Agreement;
- e. Payment of fees due under this Agreement; and
- f. Any liability which cannot be excluded or limited by applicable law.

All other liabilities shall be subject to the limitation set forth in Section [X] (Limitation of Liability).

3. Notes

- Carve-out provisions define exceptions to broad limitations of liability within the contract.
- They are commonly negotiated points and may be subject to change based on the risk profile of the parties and the nature of the agreement.
- Legal review is recommended to ensure enforceability and alignment with current laws and regulations.
- Clearly specify to which obligations or actions the carve-outs apply for greater contractual clarity.
- Update contractual references (e.g., section numbers) as necessary to match your agreement.