

Liquidated Damages as Limitation of Liability

1. Purpose

This document sets forth the agreement between the Parties regarding the limitation of liability through the use of liquidated damages, whereby certain damages resulting from breaches of contract are predefined.

2. Definitions

- Parties:** Refers collectively to the signatories to this agreement.
- Liquidated Damages:** A predetermined amount of money agreed upon by the Parties as compensation for specific breaches of contract.
- Breach:** The failure to perform any obligation as set out in this agreement.

3. Agreement

The Parties hereby agree that, in the event of a breach identified in this section, liquidated damages shall constitute the sole and exclusive remedy, to the exclusion of all other claims (except for those that cannot be excluded by law).

- 3.1 Applicability:** Liquidated damages are applicable only to the following breaches:
 - Delay in delivery of goods or services;
 - Failure to meet agreed-upon milestones;
 - Breach of confidentiality obligations.
- 3.2 Amount:** For each breach as specified above, the party in default shall pay the non-breaching party an amount of \$ _____ per day, capped at a maximum of \$ _____.
- 3.3 Limitation of Liability:** Except for liabilities arising from gross negligence, wilful misconduct, or those that cannot be limited by law, the payment of liquidated damages as stipulated herein shall fully discharge the liable party from further claims for the relevant breach.

4. Acknowledgment

The Parties acknowledge that the amount of liquidated damages specified herein constitutes a reasonable estimate of anticipated damages and is not a penalty.

5. Miscellaneous

- This agreement is governed by the laws of _____ and any disputes will be resolved in the courts of _____.
- No modification of this agreement shall be valid unless in writing and signed by both Parties.

Party A – Authorized Signatory

Date: _____

Party B – Authorized Signatory

Date: _____

Important Notes:

- Liquidated damages must represent a fair estimate of actual loss and not function as a penalty.
- This clause typically does not apply to breaches involving gross negligence, wilful misconduct, or unlawful acts.
- Jurisdictions vary in accepting liquidated damages; legal counsel should review these provisions.

- Carefully define the breaches covered and the calculation of damages in the agreement.
- Review and update the amounts periodically to ensure continued reasonableness.