

The background features a large, light grey brushstroke that curves across the top and left sides. On the right side, there is a complex arrangement of 3D cubes in various colors including shades of blue, green, orange, red, purple, and pink. The cubes are stacked and connected in a way that suggests a digital or architectural structure. The overall aesthetic is modern and professional.

# THE ADOBE LEGAL DEPARTMENT STYLE GUIDE

Guide for Clear Legal Writing and Enhanced Collaboration on Document Creation

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A Haiku for Users

Clear Legal Writing

Represents Brand

Delights Customers

Adobe Systems Incorporated

# ABOUT THIS STYLE GUIDE

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## WHEN

### DO I USE THIS STYLE GUIDE?

---

When you write as a member of an In-House Legal Department.

This document applies to all In-House Legal Department communication and documents, but has a special focus on transaction documents and other external-facing terms such as sales contracts.

## WHY

### SHOULD I USE THIS STYLE GUIDE?

---

Your writing represents your **Corporate Brand**.

In-House Legal Department writing should be accurate, complete, clear, and easy to read and understand.

In-House Legal Department documents should also be:

- consistent in format and style, regardless of who drafted the document; and
- prepared with maximum ease and efficiency.

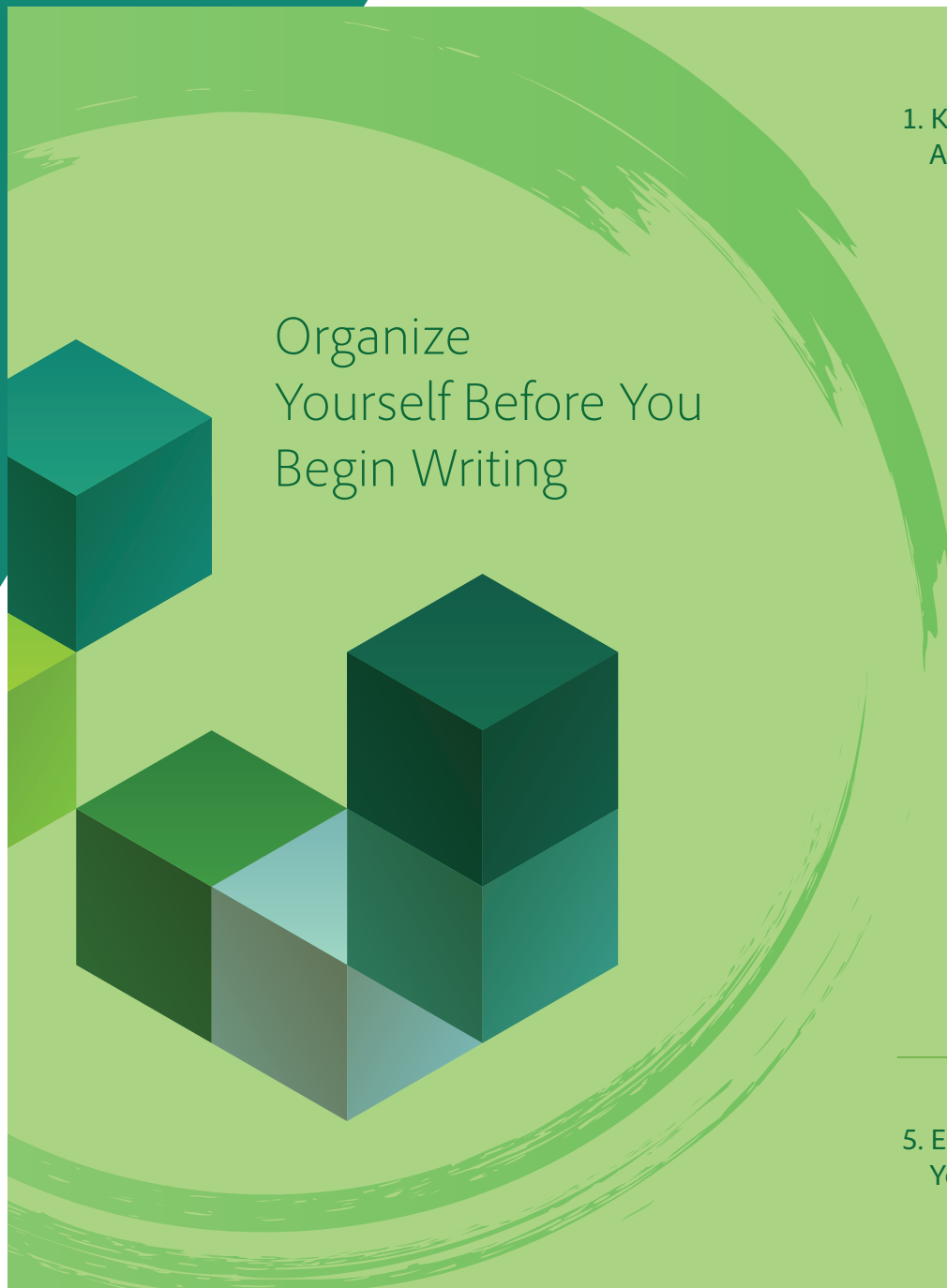
This Style Guide seeks to help you achieve these goals.

## WHAT

### DOES THIS STYLE GUIDE REQUIRE ME TO DO?

---

- Keep an open mind; maximize the use of technology and make an effort to learn new technology features, especially those in Microsoft Word.
- Write in plain English. Avoid legalese and archaic English.
- Use an approved document format when you work on a document
- Adopt consistent drafting conventions across all your documents.



## Organize Yourself Before You Begin Writing

### 1. Know Your Audience

- Who is your primary reader? Are there others?
  - What is the most important thing you want to tell the reader?
  - What other points do you need to make?
  - What is the document's purpose?
- 

### 2. Have a Plan: Organize Your Ideas and Make Your Point

- Decide on your main messages.
  - Put related materials together.
  - Seek to have each paragraph develop the main idea through a logical sequence.
  - Organize provisions in order of descending importance.
- 

### 3. Format Your Document so that it is Easy to Read

- Use informative headings that clearly signpost the main messages.
  - Break text into small units - use short sections, or subdivide longer ones.
  - Consider the use of tables, lists, and other graphic devices to explain difficult concepts.
- 

### 4. Write Clearly and Concisely

- Use short sentences.
  - Pay attention to your choice of words.
  - Refer to the rest of this Style Guide for more tips.
- 

### 5. Edit and Proofread Your Writing

As legal professionals, we tend to be concerned about text. However, document design has an important effect on the reader's ability to read, find, and use the information in a document too. We should, therefore, also care about how a document looks.

This section of the Style Guide sets out the basic design principles that the Adobe Legal Department believes will enhance the readability of documents like agreements.

### Corporate Logo

- At the top left corner of the first page, use Corporate Logo

### Line Spacing

- Use single-spaced lines

### Page Layout, White Space

- Portrait
- Alignment: Justified
- Margins: 0.75" all round
- Header from top: 0.75"
- Footer from bottom: 0.75"

### Font

#### Agreement Body, Clause Headers

- English and languages that use the Roman or Latin alphabet: Calibri; size 10
- Japanese: Ryo Clean; size 10
- Korean: Batang; size 10
- Simplified Chinese: SimSun; size 10
- Traditional Chinese: PMingLiU; size 10

#### Agreement Title, Segment Headers

- Same fonts as Agreement Body; size 12
- All capital letters

#### Footer, Foot Notes, Page Numbering

- Same fonts as Agreement Body; size 8

### Numbering, Cross-referencing

- Use the following numbering system:

```

1. AAA
  1.1 bbb
    (A) ccc
      (1) ddd
        (a) eee
  
```

- Do not use Roman numerals
- Use automatic numbering
- Use automatic cross-referencing (refer to **Function Guide for Selected Microsoft Word Features**)

### Page Numbers

- Located in the footer, in the middle of the page
- Page x of [number of pages]

### Table of Contents

- Consider including a table of contents if your document exceeds 10 pages

Genius is the ability to reduce the complicated to the simple.

- C.W. Ceram

Abbreviations

	US	Commonwealth Jurisdictions
for example	e.g.,	e.g.
that is to say	i.e.,	i.e.
et cetera	etc.	etc.

Ampersands (symbols that represent "and", such as "&", "+")

- Use "and" rather than an ampersand in text, unless it is part of a name. e.g., Marks & Spencer
- Okay to use in tables and diagrams.

Bold, Italics, Quotation Marks, Underlining

- Only use **bold** to:
  - give emphasis
  - highlight defined terms
  - highlight limitations and disclaimers in US documents.
- Only use underlining for web links.
- Only use *italics* for:
  - citing cases or legislation (in Commonwealth jurisdictions)
  - referencing other document titles
  - quoting other materials.

Capital Letters

- Do not use all capital letters for limitations and disclaimers; for US documents, emphasize the text in **bold** instead.
- Do not use a capital for "clause", "paragraph", "schedule", "annexure", "section", "regulation", or "article" etc. example of correct use: Under section 10
- Use a capital letter when a defined term is being used. e.g., ...install, implement, and use the Distributed Code on Customer Hardware.
- Use when a capital would be used in ordinary English usage. e.g., In a recent High Court case...

Contact Details

- No commas when the address is presented vertically. e.g., Adobe Systems Incorporated  
345 Park Avenue  
San Jose  
California 95110-2704  
USA
- Use commas after each address line when the address is presented horizontally. e.g., Adobe Systems Incorporated, 345 Park Avenue, San Jose, California 95110-2704, USA

Date Format

- Specify:
  - the day in numerical form
  - the month in alphabetical form
  - the year in numerical form.
- Use a cardinal rather than ordinal number (3 rather than 3<sup>rd</sup>).

✓	✗
8 Sept 2013	8/9/2013
Sept 8, 2013	9/8/2013
	8 <sup>th</sup> Sept 2013
	Sept 8 <sup>th</sup> , 2013

Headings

- Corporate documents use main headings (e.g., 3. PAYMENT) and clause headings (e.g., 3.1 Time for Payment).

WHY NO CAPITAL LETTERS FOR LIMITATIONS AND DISCLAIMERS:

The requirements in the US Uniform Commercial Code and other statutes for disclaimers and limitations to be made conspicuous are aimed at ensuring that affected parties are alerted to provisions that may curtail their rights. Ironically, using all capitals does not help to make the disclaimer or limitation easier to read. Capital letters strung together are a chore to read, and the reader is likely to skim over text in all capitals.

US drafting experts unanimously agree that using other styles like bolding the words meet the statutory requirements better.

No equivalent requirements exist in the Commonwealth jurisdictions like England and Australia.

WHY THE PRESCRIBED DATE FORMAT:

Different conventions exist around the world for date representation.

e.g., 8/9/2013 means August 9, 2013 in America, but 8 September 2013 in England, Australia, Singapore, and other parts of the world.

Spelling out the month eliminates potential ambiguity.



## Numbers

- Generally, write numbers under 11 as words (e.g., *two*) and numbers 11 and over as figures (e.g., *14*), except:
  - Use words for 11 and over when they:
    - start sentences (e.g., *Twenty customers*)
    - refer to an approximate figure (e.g., *hundreds of people*)
    - are a fraction not attached to a whole number (e.g., *a twentieth*).
  - Use figures for numbers under 11 when they:
    - include a decimal point, fraction, or percent sign
    - represent other precise quantities or are used with units of measurement, such as dates, volumes, weight, length, and page, section or chapter numbers
    - appear in sets of numerals some of which are higher than ten (e.g., *7, 12 and 23...*)
    - are presented in tables or graphs.
  - Use a combination of a numeral and a word for sums exceeding 999,999 (e.g., *1 million, 2 billion*).
- Do not double up with words and numerals (e.g., *two (2) times the amount*).
- Generally, use decimals (e.g., *12.5*), not fractions (e.g., *12 ½*).

## Punctuation

- Do not use an apostrophe to indicate a simple plural.  
e.g., *PDMs*, not *PDM's*
- Use a colon to introduce quoted material or a series of numbered or bullet points (not a combination of colon and dash).  
e.g.,  
Please send me details of all:  
(A) outstanding claims;  
(B) account receivables; and  
(C) accruals.

## References to Legislation

- A statute or other legislation should be referred to by its full and correct short title.
- In Commonwealth jurisdictions, the name and year of the statute are italicized, but the words "section" and "regulation" are not; do not use bolding or the terms "sub section" or "s." (as in "s.9").  
e.g., *section 7 of the Copyright Act 1968 (Cth)*
- In the US, the word "section" is abbreviated with "§".  
e.g., *The Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§ 78dd-1, et seq.*

## Space between Sentences

- Use a single space between sentences in a paragraph.

## Tables, Examples, Flowcharts

- Lengthy wording can be made more intelligible by giving an example.
- Tables may simplify a document's structure.
- Complex procedures are easier to comprehend if flowcharts set out their steps.

Think like a  
wise man but  
communicate  
the language  
of the people.

- W.B. Yeats

This section sets out the conventions that the Adobe Legal Department adopts in agreement templates.

### Parties

- The defined name of a party appears in bold, within quotation marks and parentheses. The quotation marks and parentheses are not in bold.
- Do not include "the" as part of the defined name.
- For strategic contracts or contracts of significant value, consider using a shortened form of the other party's name as the defined name. e.g., instead of "**Customer**", the defined name is "**XYZ**" (legal name).

### Background

- Recitals can help give the reader a quick idea of what the document is about.
- If you wish to include recitals, introduce them using the word **Background**.
- It is not necessary to introduce the recital sentences with "whereas" or other archaic terms.
- Terms in the **Background** need not be defined, as they will be defined under the "Definitions" section of the agreement.

### Agreed Terms

- The substantive clauses of a document follow the **Background** (if any) and commence with the words **Agreed Terms**.
- No other words are necessary or should be used to introduce the substantive or operative provisions of the document. e.g., you do not need to write "*NOW THEREFORE, in consideration of the premises and the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.*" or similar words.
- If your agreement consists of more than one document, state at the outset which documents form part of the agreement. e.g.,  
This agreement consists of the following parts:
  - (A) these agreed terms;
  - (B) the [Exhibits/Schedules]; and
  - (C) [insert name of document or link that is incorporated by reference].If there is any inconsistency between the above parts, the part listed later will prevail (to the extent of the inconsistency) over a part listed earlier.

If a contract lacks consideration, stating in the recitals that there is consideration is not going to change the fact that the contract lacks consideration.

## DEFINITIONS

## Minimize Definitions

- If you have only used a defined term two or three times, consider whether it is better to abandon the definition.
- Have you defined anything that is obvious? If so, omit the definition. e.g., Unless disparate documents constitute an agreement and a reader needs to locate these documents from different sources, there is no need to define "Agreement". If you are working on only one document and you use "this agreement", the latter cannot refer to any agreement other than the agreement that you are drafting.
- If there are more than just a few definitions (e.g., if your definitions exceed one page), consider putting the list of definitions in a schedule at the end, not at the beginning of the agreement.

## Formatting

In the  
"Definitions"  
section

- Defined word is in bold, within quotation marks. Do not bold the quotation marks.
- Each definition ends with a period/full stop.
- The word "the" does not form part of the definition as it may not be preceded by "the" in the text.
- Do not state "'X' shall mean...". Simply state "'X' means...".  
e.g., "**Fees**" means the fees and charges for the Products and Services, as set out in the Sales Order.

Within the  
agreement

First letter of defined term should be capitalized throughout.

## Abbreviations

Do not use both a word (or phrase) and an abbreviation as alternative defined terms.

✗ "Maintenance and Support" or "M&S" means...

✓ [Pick one and stick to it.]

## Circular Definitions

Check your definitions carefully to ensure they are not circular – a defined term should not refer to another defined term if the second defined term merely refers back to the first.

When  
something  
can be read  
without  
effort, great  
effort has  
gone into its  
writing.

– Enrique Jardiel  
Poncela

## DEFINITIONS

## Operative Provisions

Do not include operative provisions in definitions. Definitions should not contain substantive provisions which more properly belong in the substantive clauses of the agreement.

**X** **"Channel Entity"** means the third party with whom Customer places its order (including initial and true-up) for Products and Maintenance. With respect to Adobe Systems, the Channel Entity will be a fulfillment agent operating on Adobe Systems's behalf, and with respect to Adobe Ireland, the Channel Entity will be a channel entity selected by Customer.

**✓** **"Channel Entity"** means the third party with whom Customer places its order for Products and Maintenance, as set out in clause 2.1 (Channel Entity).

[Clause 2.1 then sets out the operative provisions relating to the Channel Entity.]

## Terms Defined within a Clause

Some operative provisions might also define a term. If this occurs, make sure there is a corresponding reference in the "Definitions" section, unless the definition is used only in the clause containing the operative provision and nowhere else in the agreement.

e.g.,

Operative clause

In the "Definitions" section

**4.4 Completion of Project**

The date for completion of the Project is 25 December 2013 ("**Completion Date**").

**"Completion Date"** has the meaning given to it in clause 4.4 (Completion of Project).

A man who uses a great many words to express his meaning is like a bad marksman who, instead of aiming a single stone at an object, takes up a handful and throws in hopes he may hit.

– Samuel Johnson

**INTERNAL  
CROSS-  
REFERENCE**

- When referring to another clause in the agreement, include the title of the clause.  
e.g., In addition to the modes of notification specified in clause 17.1 (Notices), notices by Distributor under this clause may be made by email.
- Refer to subsections simply by use of the word "clause" or "section" followed by the specific reference number (do not use "subsection" or "sub-clause").  
e.g., Under section 3.1(A), Customer must ...
- The first letter of the word "clause" or "section" should not be capitalized unless it begins a sentence.
- It is not necessary to add "of this agreement" or "hereof" after internal cross-references. However, if an agreement contains exhibits or schedules, and there are references in an exhibit or schedule to clauses in the main body and vice versa, you would want to clarify which sections you are referring to.  
e.g., section 3 of this schedule  
e.g., section 3 of the agreement
- The following is recommended for brevity and clarity:

X	✓	Rationale
section 2 and section 4	sections 2 and 4	It is not necessary to repeat the word "section", because there is no ambiguity that section 4 is being referenced.
section 7.3(A) (1) and (2)	sections 7.3(A) (1) and 7.3(A) (2)	Subsections should be reproduced in full so that it is unambiguous which subsection is being referenced.

Unless you specifically define "Section" or "Clause" in the "Definitions" section (and there is no need to), there is no reason to capitalize the first letter of "section" or "clause".

"Section" is regularly used in the US, while "clause" is more common in the Commonwealth jurisdictions like England and Australia.


## PARAGRAPHS WITHIN A CLAUSE

- The items in the list must be parallel in substance. Do not make a list like this:
  - (a) cake;
  - (b) milk;
  - (c) Shakespeare
- The items in the list must be parallel in grammar. Do not make a list like this ((a) and (b) are nouns, but (c) begins with a verb):
  - (a) governing law;
  - (b) forum; and
  - (c) ensuring that Customer complies with the law.
- A colon follows the introductory words.  
e.g., Adobe is entitled to:
- Each paragraph starts with a lower case letter and ends with a semi-colon if it is not a complete sentence.  
e.g., (a) refuse payment of any money due to Distributor;
- If each paragraph is a complete sentence, use a capital letter at the start and a period/full stop at the end.  
e.g.,  
Adobe will make payment of rebates only if Distributor performs all these obligations:
  - (a) Distributor must comply with the forecast, reporting and certification obligations set out in clause 5 (Forecast and Reporting).
  - (b) Distributor must make payment under clause 6 (Payment).
- For paragraphs that are not complete sentences, the second to last paragraph ends with "; and" or "; or".  
e.g.,
  - (a) refuse payment of any money due to Distributor;
  - (b) conduct an onsite audit under clause 7 (Audit); and
  - (c) terminate this agreement.
- If the last paragraph ends the clause, a full stop ends the paragraph.  
e.g.,
  - (a) refuse payment of any money due to Distributor; and
  - (b) conduct an onsite audit under clause 7 (Audit).
- If the clause continues after the last paragraph, a comma ends the paragraph, and the remaining text of the clause (not indented) follows.  
e.g.,  
Adobe represents and warrants that:
  - (a) it is authorized to enter into this agreement; and
  - (b) it has the necessary licenses and permits to perform its obligations under this agreement,  
but Adobe makes no other representations or warranties.
- If you have only used a defined term two or three times, consider whether it is better to abandon the definition.

Sometimes, the best way to present a clutter of conditions or exceptions, or other closely related ideas, is with an introductory clause followed by a list.

- "Exhibit" is more often used in the US, while "Schedule" is more widely used in the Commonwealth jurisdictions outside the US. Either is fine, as long as the same term is used consistently throughout a document.
- Exhibits/Schedules should be named consecutively using capital letters.  
e.g.,  
Exhibit A  
Exhibit B  
Schedule A  
Schedule B
- Use "Appendix" for 2nd level schedules, or add numbering to the Exhibit/Schedule letters.  
e.g.,  
Exhibit A-1  
Exhibit A-2  
Schedule A-1  
Schedule A-2  
Appendix 1 to Exhibit A  
Appendix 2 to Exhibit A  
Appendix 1 to Schedule A  
Appendix 2 to Schedule A

- Adobe's standard wording for the execution page is:  
"By signing below, each party acknowledges that it has carefully read and fully understood this agreement, and each agrees to be bound by the terms of this agreement. [This agreement will become effective on the Effective Date.]"
- If any e-signature software is used, insert the following clause in your agreement:  
"Each party may sign this agreement using an electronic or handwritten signature, which are of equal effect, whether on original or electronic copies."
- If the document is a deed, state:  
"Executed as a deed."  
(Do confirm that the applicable country's corporate law requirements for executing a deed are fulfilled before executing the deed.)
- Do not use archaic language like "IN WITNESS whereof the parties hereunto set their hands and seals the day and year first hereinbefore written" or similar words.



Outside Japan and the Asia Pacific regions, you can in fact use a shorter execution clause for agreements, such as "Executed as an agreement".

## Length

Use short sentences:

- About 20 words per sentence.
- Include only one idea.
- Break a long sentence down into manageable parts by using further numbering, bullets, tables, or lists.
- Rewrite your sentence if you need to use more than four numbering levels within a sentence.

## Active Voice

Prefer the active voice over the passive voice. Active voice means the subject of the verb performs the action.

X

The document was reviewed by Customer.

The Partner Program benefits are summarized in Table 1.

✓

Customer reviewed the document.

Table 1 summarizes the Partner Program benefits.

## Gaps between the Subject, the Verb, and the Object

Avoid wide gaps between the subject, the verb, and the object.

X

Customer may, at any time before 1 December 2013, terminate the agreement.

Partner, in addition to having to refund the rebates received from Adobe earlier, will have to return the Products to Adobe.

A claim, which in the case of X shall not exceed \$500, and in the case of Y shall not exceed \$1,000, may be filed with the Commissioner by any affected party.

✓

Customer may terminate the agreement at any time before 1 December 2013.

Partner must return the Products to Adobe, in addition to refunding the rebates received from Adobe earlier.

Any affected party may file a claim with the Commissioner. A claim must not exceed \$500 for X, or \$1,000 for Y.

### DID YOU KNOW?

Lengthy legal documents originate from the time when fees paid to officials of the English common law courts and lawyers were based on the overall length of documents!

Although we advocate the use of short sentences, clarity, not brevity, is the ultimate goal.

### ACTIVE VOICE:

The active voice is clearer, easier to read, and more concise than the passive voice. The active voice requires fewer words than the passive voice. With the active voice, you can usually tell who is doing what to whom.

### SENTENCE GAPS:

In seeking to understand a sentence, a reader's mind searches for the subject, verb, and object. If those three key elements are set out in that order, close together, near the front of the sentence, more often the reader will understand the meaning quickly.



Modifying Terms

Use simple sentences - put modifying terms close to the words they modify.

X

Children who are abused frequently are not protected.

All vehicles including saloons, hatchbacks and MPVs without a permit may not enter.

✓

Frequently, children who are abused are not protected.

Abused children are frequently not protected.

All vehicles without a permit, including saloons, hatchbacks and MPVs, may not enter.

Present Tense

Try to write in the present tense.

X

This agreement shall commence on the Effective Date.

✓

This agreement commences on the Effective Date.

Rhetorical Emphasis

Do not add rhetorical emphasis to provisions that already express the desired meaning.

X

Customer has no right whatsoever to claim against Adobe.

Adobe shall not be liable in any manner whatsoever to Customer.

Customer shall be wholly and fully responsible for all taxes.

Customer shall use the Products strictly in accordance with the Documentation.

Partner makes the following representations, each and every one of which is accurate as of the date of this agreement.

This agreement is governed in all respects by California law.

Adobe shall under no circumstances be liable for any incidental, indirect, special, consequential, or punitive damages.

This agreement will become effective if and only if Parent Company provides the guarantee described in clause 3 (Guarantee).

✓

Customer has no right ~~whatsoever~~ to claim against Adobe.

Adobe is not liable ~~in any manner whatsoever~~ to Customer.

Customer is ~~wholly and fully~~ responsible for all taxes.

Customer must use the Products ~~strictly~~ in accordance with the Documentation.

Partner makes the following representations, each ~~and every one of~~ which is accurate as of the date of this agreement.

This agreement is governed ~~in all respects~~ by California law.

Adobe ~~shall under no circumstances be~~ is not liable for any incidental, indirect, special, consequential, or punitive damages.

This agreement will become effective ~~if and only if~~ Parent Company provides the guarantee described in clause 3 (Guarantee).

A misplaced modifying term may alter the meaning of a sentence.

The present tense leads to simpler sentence structure and easier comprehension.

Rhetorical emphasis burdens your writing with extra words that add no value to your sentence. Remove these shackles from your writing.

## Above and Below

The words "above" and "below", when used in the sense of "section 3 below" or "clause 2 above" are unnecessary. Simply state "section 3 ([Header Title])" or "clause 2 ([Header Title])".

## And/or

Avoid using "and/or". If you find that using "and/or" in a provision offers significant economy, that is a sign that you should consider restructuring the provision.

- When "A and/or B" means "A or B":

X

Customer must submit this "true-up" report to Adobe each year, even if Customer's Product Penetration and/or EMT did not change.

Adobe makes no warranty about the reliability, availability and/or accuracy of the Service.

Upon Adobe's request and so that Adobe may ascertain the credit-worthiness of Distributor, Distributor must provide to Adobe, under confidentiality, quarterly audited financial statements including a balance sheet, income statement, statement of cash flow, relevant notes and/or references.

✓

Customer must submit this "true-up" report to Adobe each year, even if Customer's Product Penetration or EMT did not change.

Adobe makes no warranty about the reliability, availability, or accuracy of the Service.

To enable Adobe to ascertain the credit-worthiness of Distributor, Distributor must provide to Adobe, under confidentiality, any of these quarterly audited financial statements that Adobe may request: balance sheet, income statement, statement of cash flow, relevant notes, or references.

- When "A and/or B" means "A and B":

X

"Shrink-wrap Products" means Software Products that are boxed and shrink-wrapped, and includes Stocking Media and/or Documentation.

Customer must ensure that it maintains systems and/or procedures sufficient to ensure a complete and accurate record of the Enterprise Metric and number of copies of Software installed by the Enterprise.

"Distributor Trademarks" means the artwork, logos, and/or other images, trademarks, service marks, trade names or other identifying indicia of Distributor.

✓

"Shrink-wrap Products" means Software Products that are boxed and shrink-wrapped, and includes Stocking Media and Documentation.

Customer must ensure that it maintains systems and procedures sufficient to ensure a complete and accurate record of the Enterprise Metric and number of copies of Software installed by the Enterprise.

"Distributor Trademarks" means the artwork, logos, images, trademarks, service marks, trade names, and other identifying indicia of Distributor.

"And/or" is either superfluous or dangerously ambiguous. Judges across the globe universally condemn the use of "and/or". The very colourful language of disdain used includes statements like *"that Janus-faced verbal monstrosity, neither word nor phrase, the child of the brain of someone too lazy or too dull to express his precise meaning, or too dull to know what he did mean..."* (Employers' Mutual Liability Insurance Co. v Tollefsen 263 NW 376 at 377 (1935))

▪ **When "A and/or B" means A or B or both:**

**X** You may choose chocolate and/or vanilla.

**✓** You may choose chocolate or vanilla or both.

▪ **When it is not clear what "and/or" means:**

**X**

A, B, and/or C

---

Customer shall purchase A and/or B.

**?**

Could mean:

- one or all of A, B, and C; or
- one or more of A, B, and C

If either of the above is intended, state it as it is exactly described above, instead of using "A, B, and/or C".

---

Not clear which combination of "A and B" or "A or B" is mandatory.

Better stated as:  
 "Customer must purchase A or B and may purchase both."

Those who write clearly have readers; those who write obscurely have commentators.  
 - Albert Camus

## Archaic Words and Legalese

Avoid legalese or archaic English. Use everyday words.

X	✓
amidst	amid
amongst	among
aforementioned	that/these
as to	about, of, by, for, in
hereby	[omit; no need for replacement word]
herein	in this [agreement etc.]
hereinabove	above; or [omit and then cross-reference]
hereinbefore	above; or [omit and then cross-reference]
hereinafter	below; or [omit and then cross-reference]
hereto	[omit; no need for replacement word]
hereunder	under this, below this
in lieu of	Instead of
instant case	here, this case
inter alia	among other things
mutatis mutandis	with the necessary changes
pari passu	equally
per annum	per year, a year, annually
prima facie	on the face of it, it appears
said	the, this, that
same	it, them
set forth	set out, stated in, in
such	that, this, those, the
thereafter	later
therein	in it, in them, inside
thereof	of, from, because of that
thereto	about, to that or it
whilst	while

As the goal is to write clearly, we should choose words the reader will understand.

### Collective Nouns

In British English, it is fine to use either a plural verb or a singular verb after most collective nouns, whereas in American English, the verb following a collective noun is usually in the singular. Whichever approach you adopt, make sure the attendant pronoun that follows a verb and collective noun is consistent with the verb and collective pronoun.

e.g.,

Using a singular verb and pronoun

The committee **gives its** verdict.

Using a plural verb and pronoun

The committee **enjoy** cookies with **their** tea.

### Positive Expressions

Avoid multiple negatives.

X

It is not inconsistent.

I do not disagree.

✓

It is consistent.

I agree.

Collective nouns are singular in form but refer to a group of people, animals or objects. E.g., council, government, team, and organization.

Multiple negatives are distracting and cause the reader's mind to flip from "yes" to "no" to "yes" etc.

Relative Pronouns

- Use relative pronouns correctly.

Try to confine the use of "who" (for people), "which" (for things) to:	a describing clause (one that describes the person or thing you are referring to).
Use "that":	only in a defining clause (one that defines which person or thing you are referring to).

- Be careful in the use of commas with relative pronouns, as wrong use can skew the meaning significantly.

A defining clause	does not take a comma before the relative pronoun.
A describing clause	takes a comma before the relative pronoun.

- If your sentence is fine without "that" or "which"/"who", then omit it. (This is called the "zero relative". E.g., The man [that] I met carried an umbrella.)
- Applying the above guidelines:

Original Language

All the teachers who I met signed the record book which was on the table.
All the teachers, who I met, signed the record book, which was on the table.
All the teachers, who I met, signed the record book which was on the table.
All the teachers who I met signed the record book, which was on the table.

Meaning

Two defining clauses, implying there may be other teachers that the writer didn't meet, and other record books that were in other places.
Two describing clauses, implying the writer met all the teachers, and that there was just one record book.
One describing clause, then one defining clause, implying the writer met all the teachers, but there were other record books in other places.
One defining clause, then one describing clause, implying there may be other teachers that the writer didn't meet, but there was just one record book.

New Language

All the teachers I met signed the record book that was on the table.
All the teachers, who I met, signed the record book, which was on the table.
All the teachers, who I met, signed the record book that was on the table.
All the teachers I met signed the record book, which was on the table.

Words such as "who", "which", and "that" are relative pronouns.

Shall

- Do not use "shall".
- Alternatives to "shall":

Use

must
may
is entitled to
will

To mean

is required to
has discretion to; is permitted to
has a right to
a future contingency

e.g.,

"Shall" used in an ambiguous manner

All money owing by Customer....shall be repaid by 1 Decemler 2013.
Distributor's placement of orders for Promotion Products shall be deemed Distributor's unequivocal acceptance of the Promotion Terms.
Distributor shall be entitled to....
Adobe shall, if it chooses, pay shipping costs that it deems reasonable.

Possible meanings of "shall"

Mandatory
Declaratory
Having a right
Permissive

Using alternatives to "shall"

All money owing by Customer....must be repaid by 1 December 2013.
Distributor's placement of orders for Promotion Products is taken to be Distributor's unequivocal acceptance of the Promotion Terms.
Distributor is entitled to....
Adobe may, if it chooses, pay shipping costs that it deems reasonable.

The word "shall" is a notoriously ambiguous word, with different shades of meaning.

## Surplus Words

- Omit surplus words. Use shorter words or phrases.

X

✓

at that point in time	then
at the time at which	when
bring an action against	sue
by means of	by
by reason of	because of
by virtue of	by, under
contractual obligations	contract obligations
during such time as	while, during
for the purpose of	to
for the reason that	because
in accordance with	by, under
inasmuch as	since, because
in connection with	with, about, concerning
in favour of	for
in light of the fact that	because
in order to	to
in relation to	about, concerning
in respect of	about

X

✓

in the course of	during
in the event that	if
in the nature of	like
is binding upon	binds
is unable to	cannot
not less than	at least
on two separate occasions	twice
pertaining to	about
prior to	before
pursuant to	under, by, in accordance with
subsequent to	after
under the provisions of	under
terms and conditions	terms
we are agreeable to	we agree
whether or not	whether
with a view to	to
with regard to	on, about
with reference to	about, concerning

Compound constructions that use three or four words to do the work of one or two words drag your writing. Use a simple form instead.



- Avoid word-wasting idioms.

X

all claims whether at law or in equity
because of the fact that
despite the fact that
during the time that
for the period of
in many cases you will find
in some instances the parties can
insofar as ... is concerned
in the majority of instances, the court will
in the situation in which
than was formerly the case
that was a situation in which the court
the fact that he had lied
the fact that the defendant was very young may have influenced the jury
the question as to whether
there is no doubt but that
this is a topic that
until such time as

✓

all claims
because
although, even though
during, while
for
often you will find
sometimes the parties can
[omit it and start with the subject]
usually the court will
when
now
there the court
his lying
the defendant's youth may have influenced the jury
whether, the question whether
doubtless, no doubt
this topic
until

Don't use words too big for the subject. Don't say 'infinitely' when you mean 'very'. Otherwise you'll have no word left when you want to talk about something really infinite.

- C.S. Lewis

Synonyms

Use only the words you need and avoid repetition through the use of synonyms.

X

full and complete
goods and chattels
indemnify and hold harmless
null and void
save and except

✓

complete
goods
indemnify
void
except

Verbs

Do not turn verbs into nouns.

X

arrive at the conclusion
give a briefing
make an application
make a decision
make an objection
make provision for
perform an assessment
take into consideration

✓

conclude
brief
apply
decide
object
provide
assess
consider

Legal English reflects the mixture of languages that has produced the English language generally. For centuries following the Norman invasion, English remained the spoken language of the majority of England's population, but virtually all writing was in French or Latin.

e.g., "Null" comes from the Latin *nullus*, or from the Old French *nul*. "Void" comes from the old French *voide*. The pairing has virtually become one word, but strictly, though, "void" alone suffices.

## Gender-neutral Language

Generally, use gender-neutral language unless you are referring to a particular individual.

You can do so by:

- selecting neutral words

X workmen

✓ workers

X reasonable man

✓ reasonable person

- using "he or she" instead of "he" (but do not overuse)

- repeating the noun

X This can be a problem for the reader, but without this, he may have to look elsewhere.

✓ This can be a problem for the reader, but without this, ~~he~~ the reader may have to look elsewhere.

- dropping the pronoun

X The Prime Minister may, if he is of the view that...

✓ The Prime Minister may, if ~~he is~~ of the view that...

- using something other than a pronoun

X The committee member who abuses the authority of his position may be replaced.

✓ The committee member who abuses the authority of ~~his~~ the position may be replaced.

X An attorney who gives his undertaking to provide a document.

✓ An attorney who ~~gives his undertaking~~ undertakes to provide a document.

- writing in the plural

X The person who writes in plain English endears himself to the reader.

✓ People who write in plain English endear themselves to the reader.

- rephrasing

X Payments to board members must be approved by the relevant chairman in his capacity as responsible officer.

✓ As responsible officer, the relevant chair must approve payments to board members.

- using "they" with a singular noun

✓ Everyone has inherent dignity and the right to have their dignity respected and protected. (section 10 of the South African Constitution)

Don't use "he", "him", and "his" when talking about both men and women.

Using "he or she" may be clumsy, especially if you need to write it several times. "He/she" and "s(he)" do not look good and are hard to read aloud.

Eliminate provisos.

- **Provisos that attach a condition**

Used correctly, they attach a condition to a sentence. But “if” can be used just as well and sounds a lot better:

**X** Customer grants to Adobe and its Affiliates the non-exclusive, perpetual, worldwide right to use, copy, transmit, index, model, aggregate (including combination with similar data of other customers of Adobe and its Affiliates), publish, display, resell, and/or distribute anonymous information derived from Customer Data, or portions thereof (which information may include but is not limited to web browser, screen resolution, and mobile device type), provided that no such use(s) shall include any information that identifies Customer or its Customer Site visitors.

**✓** Customer grants Adobe and its Affiliates a non-exclusive, perpetual and worldwide licence to use, copy, transmit, index, model, aggregate, publish, display, resell, and distribute any non-personally identifiable information derived from Customer Data (or portions of it), if Customer or Customer Site visitors are not identified. This information may include web browser, screen resolution and mobile device type.

- **Provisos that include an exception or qualification**

If the proviso is really an exception or qualification, replace it with “except” or “but”:

**X** Customer may renew Maintenance and Support for the product, provided that Customer may not do so if Adobe has discontinued the product.

**✓** Customer may renew Maintenance and Support for the product, but only if Adobe has not discontinued the product.

- **Provisos that are independent statements**

If the proviso is really an independent statement, put it in a new sentence:

**X** Each party must pay its own legal costs for the preparation of this agreement, provided that the parties must bear equally any stamp duty on this agreement.

**✓** Each party must pay its own legal costs for the preparation of this agreement. The parties must bear equally any stamp duty on this agreement.

Sentences with “provided that” are usually difficult to understand. The provisos are often used incorrectly. They should be avoided.

- Provisos as conjunctive phrases

If the proviso is really a conjunctive phrase, use "and" instead of the proviso:

**X** **Customer Site(s)**: means the current and future website(s) and applications which are owned and operated by Customer, OR hosted or operated by a third party on Customer's behalf or by Adobe on Customer's behalf; provided that, in all cases, such websites and applications contain Customer's brand or logo AND Customer creates, maintains, controls, and is responsible for the relevant privacy policy and/or related disclosures displayed in or linked from such websites and applications.

**X** **"Taxes"** means any and all sales, use, excise, import or export, value added or similar tax, provided that tax based on Adobe's net income is excluded.

**✓** **"Customer Site"** means any current or future website or application which: (A) is owned and operated by Customer, or hosted or operated by a third party or Adobe on Customer's behalf; (B) contains Customer's brand or logo; and (C) contains a privacy policy for which Customer is responsible for enforcing.

**✓** **"Taxes"** means sales, use, excise, import, export, value added, or similar tax, and does not include tax based on Adobe's net income.

Whenever we  
can make 25  
words do the  
work of 50, we  
halve the area  
in which  
looseness and  
disorganization  
can flourish.

- Wilson Follett

### BIBLIOGRAPHY

- Adams Kenneth, *A Manual of Style for Contract Drafting* (3rd Edition) (American Bar Association Business Law Section)
- Adler Mark, *Clarity for Lawyers: Effective Legal Writing* (2nd Edition) (The Law Society)
- Aitken JK, Butt Peter, *The Elements of Drafting* (10th Edition) (Lawbook Co., Australia)
- Asprey Michele, *Plain Language for Lawyers* (4th Edition) (Federation Press)
- Burchfield, R.W., *Fowler's Modern English Usage* (Revised 3rd Edition) (Oxford University Press)
- Butt Peter, Castle Richard, *Modern Legal Drafting: A Guide to Using Clearer Language* (2nd Edition) (Cambridge University Press)
- Cutts Martin, *Oxford Guide to Plain English* (3rd Edition) (Oxford University Press)
- Garner Bryan, *Legal Writing in Plain English* (The University of Chicago Press)
- Garner Bryan, *Garner's Dictionary of Legal Usage* (Oxford University Press)
- Garner Bryan, *The Redbook: A Manual on Legal Style* (West, 2nd edition revised, 2006)
- Wydick Richard, *Plain English for Lawyers* (5th Edition) (Carolina Academic Press)

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Simplicity is  
the ultimate  
sophistication.

- Leonardo da Vinci