

[Notes about the drafting in this document:]

This draft adopts many of the recommendations of Kenneth A. Adams, *A Manual of Style for Contract Drafting* (3rd Ed.) (ABA 2013), in particular the parts of Chapter 3 of that book relating to language of obligation. That book explains that many traditional drafting usages are inconsistent with clear, modern, and effective drafting, and it recommends alternatives. Consequently, you may find that some usages that you use routinely in your contracts aren't present in this draft. For example:

- “*Shall*” and “*shall not*” are used only to assign a duty to a party that is the subject of the sentence in which that verb is used, not as a generic word to indicate what the parties intend to have happen. *See* MSCD §§ 3.44-82.
- Other verbs, such as “*will*,” are used to establish rules that govern things, events, and circumstances and their consequences (for example, how prorations and credits are to be calculated, or whether the agreement terminates and what the consequences of that are). *See* MSCD § 3.142.
- “*Notwithstanding —*” is avoided, particularly where there is a risk of creating exceptions to exceptions that may be difficult to follow.
- “*Provided, however, that —*” is avoided as potentially ambiguous, in favor of “*except —*” “*and —*” “*on condition that —*” or “*subject to the limitation that —,*” as appropriate. MSCD §§ 13.541-548.
- *Such, said, and the same* are avoided as pointing words.
- “*Herein,*” “*hereof,*” “*therein,*” “*thereof,*” etc. are avoided unless they substantially contribute to concision. “*Hereinafter*” is not used.
- Except in headings, “*covenant*” is avoided. MSCD §§ 3.130-134.
- “*Execute(d)*” is avoided in favor of “*sign(ed)*.”
- A number of lawyerisms are also avoided—for example:
 - in the event that → if
 - prior to → before
 - subsequent to → after
 - set forth → stated
 - pursuant to → “in accordance with,” “as authorized by,” or “under”
 - in order to/for → for
- There are no definitions in the recitals.