

# Parts of an Agreement

1. **Preamble-** The first paragraph of the contract.
2. **Recitals-** Explain the background of the contract and why the parties are entering into the contract.
3. **Words of Agreement-** Words that state, for the record, that the parties have agreed to the terms of the contract.
4. **Definitions-** A shorthand way of referring to complex concepts to ensure that the same concept is said the same way throughout an agreement.
5. **Action Sections-** *where the action is* from the client's perspective. In this section, the parties
  - agree to perform the main subject matter of the contract
  - agree to pay consideration
  - set forth the term of the contract (if it applies)
  - list the closing date (if it applies)
  - list the closing deliveries (if it applies)

# Parts of an Agreement

6. **Other substantive business provisions** (EX: representations and warranties, covenants, rights, conditions, discretionary authority, and declarations)
7. **Endgame Provisions-** Set forth the business terms that govern the end of the parties' contractual relationship.
8. **General Provisions-** Tell the parties how to govern their relationship and administer the contract. EX: notice provisions, waiver of jury trial, and severability provisions.
9. **Signature Lines-** Concludes all parts of the contract.

# Introductory Provisions: Preamble, Recitals, and Words of Agreement



## INTRODUCTORY PROVISIONS

The first 3 provisions of a contract are introductory. Many drafters draft these provisions in a traditional style with a lot of verbose and legalese leaving the reader confused.

**TRADITIONAL:** This non-competition agreement, made this 16<sup>th</sup> day of March, 20xx, by and between ATTORNEY STAFFING ACQUISITION CO., a corporation organized under the laws of Delaware (hereinafter, The “Company”), and MARIA RODRIGUEZ, residing at 21 Melmartin Road, Chicago, Illinois 60606 (hereinafter, “the Executive”)

**REVISED:** Non-competition Agreement, dated as of March 16, 20xx, Between Attorney Staffing Acquisition Co., a Delaware corporation (the “Company”), and Maria Rodriguez (the “Executive”).

# Introductory Provisions: Preamble, Recitals, and Words of Agreement



## TRADITIONAL PROVISIONS

- Whereas, the Executive is the sole stockholder of the Seller and its President;
- Whereas, the Executive has extensive knowledge of the Seller's business, including, its client base and pool of temporary lawyers; and
- NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree:

## REVISED PROVISIONS

- The Executive is the sole stockholder of the Seller and its President.
- the Executive has extensive knowledge of the Seller's business, including, its client base and pool of temporary lawyers; and
- Accordingly, the parties agree as follows:

# Introductory Provisions: Preamble, Recitals, and Words of Agreement



## PREAMBLE

- This is the first paragraph of an agreement (also known as introductory paragraph) that identifies the agreement by stating its name, its date, and the parties.  
EX:       **ATTENDANCE AGREEMENT**, dated as of July 3, 20xx, between National Paralegal College, (“NPC”) and Must Pass (the “Student”).
- The name of the agreement is indented 5 spaces, and typed in all caps to make it conspicuous.
- **Dates:** Dates can be drafted in 2 ways: 1), dated July 6, 20xx or 2), dated *as of* July 6, 20xx.
- **Parties:** Avoid using the phrase “*by and between.*” Always ensure that you are using the proper name when identifying parties, especially corporations.

# Introductory Provisions: Preamble, Recitals, and Words of Agreement



## PREAMBLE: *Identifying the Parties*

- Using the wrong name on the agreement can bind the wrong party to the contract.
- If you are dealing with an entity, check its “organizational documents” such as the Articles of Incorporation to determine how the entity’s name is filed with the State. In most states, you can check the state “Secretary of State” website for this information.
- After an entity’s name, state what type of entity it is, along with its jurisdiction of organization.
- If you are dealing with an individual, make sure that you have the party’s full legal name, and not a nickname. If it is a married or divorced woman, verify if the last name was hyphenated, or if it was even changed at all after the marriage.

# Introductory Provisions: Preamble, Recitals, and Words of Agreement



**RECITALS-** Explain the background of the contract and why the parties are entering into the contract. Recitals follow the Preamble.

## **RECITAL GUIDELINES:**

1. Do not overuse recitals- use them only if they add something to the agreement.
2. Determine the content of the recitals by their purpose- Determine what you want to accomplish *before* you start writing.
3. If the agreement includes expansive recitals, they should tell a story.
4. When stating facts in the recitals that relate to the party's past relationship, make sure that they are accurate.
5. If the background surrounding the agreement is complicated, consider stating the facts in chronological order.

# Introductory Provisions: Preamble, Recitals, and Words of Agreement



## RECITAL GUIDELINES:

6. Do not put operative provisions in the recitals. EX: warranties, representations, covenants, and conditions belong *in the body* of the agreement, not the recitals.
7. Do not put information concerning the consideration in the recitals (*unless the consideration's adequacy is unclear*).
8. Draft recitals in a contemporary format- no unnecessary legalese  
EX: whereas, witnesseth
9. Avoid drafting the recitals as reciprocal statements of the parties.
10. If you define a term in the recitals, put the defined term inside quotation marks inside parentheses. EX: (the "Plaintiff").
11. Avoid using defined terms in the recitals if they are not defined in the preamble or recitals.



# Introductory Provisions: Preamble, Recitals, and Words of Agreement



- **WORDS OF AGREEMENT**- Follow the recitals. Also known as the “statement of consideration.” You are simply trying to say what the parties agree to, *without* unnecessary legalese and verbose:

## **TRADITIONAL:**

- 1) NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants hereinafter set forth, the Owner and Contractor hereby agree as follows:

***Or***

- 2) NOW, THEREFORE, in consideration of the mutual promises set forth in the Agreement, the parties agree as follows:

**REVISED:** Accordingly, the parties agree as follows:

# K.I.S.S. (Keep it Simple Students)



1. Therefore, Hence, Thence,  
Thus

2. Said

EX: Previously, said Defendant  
stated that he is not guilty.

3. Notwithstanding

4. Insurmountable

5. Curriculum vitae

6. Whereas

7. Succinct

EX: Please give a succinct  
overview of your qualifications.

8. Whether

1. So

2. The

3. Yet

4. Giant, vast, large

5. Resume

6. Simply leave it off, and start  
your sentence.

7. Brief

EX: Please give a brief  
overview of your  
qualifications

8. If

**QUIZ TIME!**