

QUICK REFERENCE TO CATEGORIES OF CONTRACT LANGUAGE
from Kenneth A. Adams' *A Manual of Style for Contract Drafting*

<u>Language of</u>	<u>Aff/ Neg</u>	<u>Present/ Future</u>	<u>Verb</u>	<u>Verb Tense</u>	<u>Example</u>
Agreement			agree		The parties therefore <i>agree</i> as follows:
Performance	aff	present	hereby + verb		Acme <i>hereby</i> purchases
	neg	present	is not + verb		The Buyer <i>is not</i> assuming any Excluded Liabilities
		future	will be deemed		Acme <i>will be deemed</i> to have hired the Contractor . . .
Obligation			shall		Acme <i>shall</i> purchase the shares from Doe.
			must		[Obligation is imposed on someone other than subject of sentence] The Closing <i>must</i> take place at Acme's office.
			shall cause		[If the subject is an instrumentality of a party] Parent <i>shall cause</i> Sub to sell the Widget Assets . . .
Discretion	aff		may		[Has discretion to, is permitted to, or is authorized to] Indemnified Party <i>may</i> at its expense retain separate counsel.
	aff		might		[Instead of <i>may</i> to convey possibility]
	aff		shall permit		[When cooperation is required] Widgetco <i>shall permit</i> Acme's representatives to inspect Widgetco's financial records.
	neg		is not required to		[To convey absence of obligation] Acme <i>is not required</i> to replace the Widget equipment.
Prohibition			shall not		X <i>shall not</i> modify the Equipment without Acme's prior consent.
			must not		[Means is not required to; use in same place as <i>must</i> for obligations]
			is not entitled to		[Another party is not subject to an obligation] Smith <i>is not entitled</i> to serve on Acme's board of directors.
			no party may		[Use <i>may</i> for negative collective noun] Neither party may assign any of its rights.

QUICK REFERENCE TO CATEGORIES OF CONTRACT LANGUAGE (continued)

<u>Language of</u>	<u>Aff/ Neg</u>	<u>Present/ Future</u>	<u>Verb</u>	<u>Verb Tense</u>	<u>Example</u>
Policy		either		present	New York law <i>governs</i> this agreement. This agreement <i>terminates</i> on December 31, 2019.
		future	will	future	[Uncertain future events] Any attempted transfer of Shares in violation of this agreement <i>will be</i> void.
Declaration			states		[Party with knowledge asserts that a fact is accurate] Acme <i>states</i> that the Equipment is listed on Schedule A.
			acknowledges		[Declaring party can't challenge accuracy of a fact] Investor <i>acknowledges</i> receiving a copy of each SEC document.
Belief			believe		[Use to state legal opinion regarding agreement or facts] The parties <i>believe</i> that this agreement complies § 409A.
Intention			intend		[For an outcome the parties intend, but a court will ultimately decide] The parties <i>intend</i> that X be an independent contractor.
Recommendation			recommend		[To point out provision to weaker party] Company <i>recommends</i> participant consult his attorney about . . .
Conditions	<u>Clause Type</u>		<u>Verb</u>	<u>Verb Tense</u>	<u>Example</u>
	Conditional			present	If X <i>receives</i> a Violation Notice, it shall promptly notify Acme.
	Matrix		will		[Use <i>will</i> if verb would be in present tense absent condition] If Jones ceases to be employed, the Option <i>will</i> terminate.
Language of Policy	Closing condition		<i>that</i> -clause + verb	present: present-perfect:	Buyer's obligations are subject to the following conditions: that Acme's statements of fact <i>are</i> accurate that Buyer <i>has received</i> an opinion of counsel
Language of Obligation			to + infinitive, must		<i>To be</i> reimbursed, Acme <i>must</i> submit to Widgetco . . .