

CONTRACT DRAFTING WITH KEN ADAMS

Program Director
Kenneth A. Adams
*Author, A Manual of Style for
Contract Drafting*

*“Ken’s enthusiasm ‘brings life’ to what
could otherwise be a dry topic.”*

Caron Ferguson Eagan, Nova Scotia Barrister’s Society

Develop and further refine your drafting skills with Ken Adams - a leading authority on contract language.

ONLINE WEBINARS

In **five, 60-minute online sessions**, you’ll get insight and advice on how to handle the most commonly made drafting errors and refine your drafting skills.

Register for the whole series or choose one or several individual sessions.

Topics include:

- Session 1: **The Front and Back of the Contract**
November 18, 2020 (12 p.m. – 1 p.m. EST)
- Session 2: **The Body of the Contract – Categories of Contract Language**
November 25, 2020 (12 p.m. – 1 p.m. EST)
- Session 3: **Ambiguity, Vagueness & Defined Terms in Contract Language**
December 2, 2020 (12 p.m. – 1 p.m. EST)
- Session 4: **Selected Usages – Problematic Words and Phrases in Contracts**
December 9, 2020 (12 p.m. – 1 p.m. EST)
- Session 5: **Drafting as Writing; Layout and Typography in Contracts**
December 16, 2020 (12 p.m. – 1 p.m. EST)

Can’t make a date? Registration includes 120-day access to the course.

Register today at:
[osgoodepd.ca/
contractdrafting](https://osgoodepd.ca/contractdrafting)



“Ken’s passion about the subject is very obvious and contagious. This is one of Osgoode’s best offerings.”

G. Cruz, Counsel, CUMIS Group Limited.

Program Director



Kenneth A. Adams

is the leading authority on contract language.

According to *The Lawyers Weekly*, “In the world of contract drafting, Ken Adams is the guru.” Ken’s book, *A Manual of Style for Contract Drafting* is one of the ABA’s best-selling titles and has become an essential resource for contract drafters. He gives public and in-house seminars in the US, Canada and internationally. Ken also frequently acts as a consultant and expert witness.

From 2006 to 2012, Ken was a lecturer in law at the University of Pennsylvania Law School, where he taught the school’s first course on contract drafting. As part of its Legal Rebels project, in 2009 the ABA Journal named Ken one of 50 leading innovators in the legal profession. In 2014, the Legal Writing Institute awarded Ken the Golden Pen Award “to recognize his exemplary work in contract drafting.” The Golden Pen Award honors those who make significant contributions to advance the cause of better legal writing.

After graduating from the University of Pennsylvania Law School, Ken practiced corporate law at major law firms in the U.S. and Europe. His website and blog are www.adamsdrafting.com

Who Should Attend

- In-house Counsel
- Business lawyers
- Government counsel
- Corporate solicitors
- Business professionals
- Contract Managers and Administrators
- Senior executives and Managers
- Law Clerks
- Paralegals
- Legal professionals who regularly interpret, draft or negotiate contracts

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Agenda

Online Webinars

November 18, 2020 • 12:00 – 1:00 p.m. EST

SESSION ONE: THE FRONT AND BACK OF THE CONTRACT

Often overlooked by contract drafters, the front and back of a contract sets the framework, structures and defines the contract.

With an emphasis on the practical – using sample contract excerpts as examples – this session will focus on what you should include and exclude in these critical sections of a contract. The title, introductory clause, recitals, lead-in, concluding clause, and signature blocks will be explored.

Other topics include:

- Confusing and redundant titles and terminology
- When and how to effectively use capital letters
- Appreciating the purpose and use of the front/back sections of a contract
- Implications of unclear terms and definitions
- The defined term – “The Agreement”
- When and how to use a table of contents, and index of defined terms

November 25, 2020 • 12:00 – 1:00 p.m. EST

SESSION 2: THE BODY OF THE CONTRACT – CATEGORIES OF CONTRACT LANGUAGE

Awkward verb use makes contracts harder to read and can result in confusion. Confusion often leads to disputes. In this session, you'll learn how to eliminate this confusion by understanding categories of contract language. The body of the contract contains the provisions that the parties are agreeing to, and each clause or sentence can serve a number of purposes. Each purpose requires its own category of language, and each category raises its own issues of usage.

Mastering the categories is essential to

control your drafting. This session will further demonstrate how any given contract provision falls within one of several categories of contract language, each with its own recommended verb use.

Specific topics include:

- Language of performance
- Language of obligation
- Language of discretion
- Language of prohibition
- Language of policy
- Expressing conditions
- Language of declaration
- The use of ‘shall’ and ‘may’ in restrictive relative clauses

December 2, 2020 • 12:00 – 1:00 p.m. EST

SESSION 3: AMBIGUITY, VAGUENESS & DEFINED TERMS IN CONTRACT LANGUAGE

Drafting a clear and concise contract is the drafter's ultimate goal. Uncertainty, or lengthy, complicated and confusing terminology can result in misunderstandings and contracts that don't clearly express the intent of the parties.

In this session, Ken will address the efficient use of defined terms and explore the different forms of ambiguity along with how to avoid them when drafting. Specific topics include:

- Understanding the two kinds of definitions
- Role of the definition section
- Proper use of defined terms to ensure consistency and clarity
- How vagueness can be an essential drafting tool
- Ambiguity of the part vs. the whole
- Strategic use of modifiers, including ‘that’ and ‘which’

December 9, 2020 • 12:00 – 1:00 p.m. EST

SESSION 4: SELECTED USAGES – PROBLEMATIC WORDS AND PHRASES IN CONTRACTS

It's not what you say in a contract, but how to express it clearly and effectively. Many contracts are drafted using common words,

phrases and provisions that are problematic and misinterpreted. During this session, Ken will take a deep dive and discuss these problematic words and phrases, the misconceptions surrounding them, and provide options that are more concise and less prone to confusion.

Specific contentious and hot button provisions, words and phrases addressed, include:

- Efforts provisions – what's the difference between ‘best’ vs. ‘reasonable’?
- ‘Indemnification’ vs. ‘hold harmless’
- ‘Represents and warrants’
- ‘Notwithstanding’ vs. ‘subject to’
- ‘Including but not limited to’; ‘including without limitation’
- Challenges with select phrases: ‘time is of the essence’; ‘material adverse change’; ‘best efforts’
- Clarity in damages provisions

December 16, 2020 • 12:00 – 1:00 p.m. EST

SESSION 5: DRAFTING AS WRITING – LAYOUT AND TYPOGRAPHY

Contract prose and layout may be limited and stylized, but clear and efficient drafting requires a decent grasp of general principles of good writing. Further, how a contract is formatted and arranged has a significant impact on its readability.

In this session Ken explores the principles of clear writing that apply to contract drafting, as well as issues relating to document design.

Specific concepts discussed:

- Drafting as writing: top tips
- What language to avoid: gender-specific language; lawyerisms; wordy phrases
- Grammar fundamentals: placement of subject, verb and object
- Subdividing contract text
- Redundancy and elaboration

The last portion of the session will demonstrate the cumulative effect of the approaches to contract language explored during the series. Extracts from sample contracts, both before and after being redrafted consistent with Ken's recommendations, will be explored.

Registration Details

ONLINE WEBINARS

Sessions 1 to 5 (fee per delegate)
\$199 plus HST per session

Newly Licensed (2017 – Present)
\$99.50 plus HST

Special bundle pricing for all five webinars
\$895 plus HST

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Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



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”
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Thought provoking as always. Excellent course. Very practical and useful.
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Heather Babcock-Cormier, The Regional Municipality of York