

Contracts // Fall 2005
Professor Eric Goldman
Exercise #2

For exercise #2, I would like you to draft a “morals” clause for the contract between Cheetah and Acme. A morals clause describes objectionable behavior by Cheetah that creates remedies for Acme. Typically, these clauses turn on some violation of law or social norms, but they can also restrict behavior that degrades the value of a brand.

You should draft the language from the perspective of your client (client assignments are listed in Exhibit B). Please focus solely on a morals clause that gives Acme the right to terminate the contract or get damages from Cheetah. Do not draft any other bases for Acme’s termination or any remedies.

To help with your drafting, I have given you some example moral clauses in Exhibit A. As with any samples or forms, you should use these with caution. I am not including these examples because they are necessarily “good.” Instead, I include them as representative of the types of language typically used in these contexts. While you may find these clauses spur ideas and provide some ways to express those ideas, there is no “magic” behind these words. So, to draft your clause, I recommend that you think about what your client cares about and draft language—using plain English—to express those concerns.

You are welcome to use outside materials if you find that helpful (but I don’t expect you to do so). If you do use outside materials, please let me know the sources you relied upon when you submit your answer.

I don’t expect your clause to be lengthy. Use as many words as you need to express your thoughts, but I doubt you will need more than 200 words, and your clause cannot under any circumstance exceed 500 words. On the other hand, don’t be concerned if your clause is a short sentence—if you say everything you need to say in 25 words, then you are done and submit your exercise. Do a word count of your clause and include it in your paper.

If you have questions, please let me know. Otherwise, I look forward to your submission.

Exhibit A
Sample Morals Clauses

1. University Coach

The University may terminate the Coach in the following circumstances:

- situations in which the University determines that the best interests of the University and its intercollegiate football program require that the Coach no longer retain the position of Coach of the University's football team and the Coach does not accept reassignment of responsibilities;
- any conduct of the Coach in violation of any criminal statute of moral turpitude;
- a serious or intentional violation of any law, rule, regulation, constitutional provision, bylaw or interpretation of the University, the Big Kahuna Conference or the NCAA, which violation may, in the sole judgment of the University, include any serious violation which may result in the University being placed on probation by the Big Kahuna Conference or the NCAA and including any violation which may have occurred during prior employment of the employee at another NCAA member institution;
- a serious or intentional violation of any law, rule, regulation, constitutional provision, bylaw or interpretation of the University, the Big Kahuna Conference or the NCAA by a member of the football coaching staff or any other person under the Coach's supervision and direction, including student-athletes in the football program, which violation may, in the sole judgment of the University, reflect adversely upon the University or its athletic program, including any serious violation which may result in the University being placed on probation by the Big Kahuna Conference or the NCAA;
- conduct of the Coach seriously prejudicial to the best interests of the University or its athletic program or which violates the University's mission

2. Major League Baseball Player

The Club may terminate this contract if the Player shall at any time fail, refuse or neglect to conform his personal conduct to the standards of good citizenship and good sportsmanship or to keep himself in first-class condition or to obey the Club's training rules.

3. College Employee

Any serious act of misconduct by Employee, including (but not limited to) an act of dishonesty, theft or misappropriation of University property, moral turpitude, insubordination, or any act injuring, abusing, or endangering others.

4. Television Actor

The Actor shall not commit any act or do anything which might tend to bring Actor into public disrepute, contempt, scandal, or ridicule, or which might tend to reflect unfavorably on the Network, any sponsor of a program, any such sponsor's advertising agency, any stations

broadcasting or scheduled to broadcast a program, or any licensee of the Network, or to injure the success of any use of the Series or any program.

5. Professional Basketball Player

The player shall always be fully and neatly attired in public and at all times (on and off the basketball court) conduct himself in accordance with the highest standards of morality, honesty, fair play and sportsmanship and will not do anything which shall be detrimental to the Club, the League or professional sports generally or which shall subject any of these entities to ridicule or contempt.

6. Movie Actor

The Actor shall conduct himself with due regard to the public conventions and morals. The Actor shall not, either while rendering such services to the producer or in his private life, commit an offense involving moral turpitude under Federal, state or local laws or ordinances. The Actor shall not do or commit any act or thing that will tend to degrade him in society or bring him into public hatred, public disrepute, contempt, scorn, or ridicule, or that will tend to shock, insult or offend the community or public morals or decency or prejudice the producer of the motion picture, theatrical or radio industry in general.

7. Author

The Author shall not commit any act that indicates dishonesty or moral turpitude or that otherwise could materially injure the Publisher's reputation.

Exhibit B
Client Assignments

Representing Cheetah	Representing Acme
Alsteen	Miles
Brundage	Morgan
Bryar	Orihuela
Carroll	Peckham
Cochrane	Peterson
Comerford	Pinon
Fortune	Piper
Hayward	Pollnow
Helminiak	Preu
Jackson	Price
Jaspers	Schulman
Kellner	Shapiro
Key	Sheldon
Kilpatrick	Shyrock
Ko	Sturicz
Lagerwall	Templin
Macy	Teske
Marx	Torkelson
Mertz	Wishau

Note: the person to the right/left of your name will be your negotiation partner for Exercise #3. If you don't already know your negotiation partner, you should take this opportunity to get to know him or her!