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# negotiate for **MUTUAL PROFIT**

by Jake Desyllas





### GUIDE 1.0

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## INTRODUCTION

*“Any business arrangement that is not profitable to the other fellow will in the end prove unprofitable for you. The bargain that yields mutual satisfaction is the only one that is apt to be repeated.”*

—B. C. Forbes

This guide is about how to negotiate in a voluntary relationship. The approach of win-win negotiation is appropriate for any situation in which you and another person freely seek some agreement. For all of us who don't initiate aggression, negotiation is the basis of all our relationships and the only way to get what we need from other people. We negotiate every day with family members, business contacts, friends, and romantic partners. This guide will help you to be conscious about your negotiations by giving you a framework of principles to use.



Some people imagine that to be a skillful negotiator, you have to be able to dominate the other side and somehow bully them into submission. This idea is based on the false premise that only one side of a negotiation can win, and the other must lose (hence it is referred to as win-lose negotiation).

The approach set forward in this guide allows both you and the person you are negotiating with to benefit. That's why it is called win-win. Two fundamental truths of economics make it possible to make a deal that benefits both sides: there is no fixed amount of wealth in the world, and each person values things differently. Win-win negotiation is a way of getting what you need from the people in your life while nurturing your relationships with them.

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Win-win negotiation is also the best way to minimize the risk of deals going wrong. You cannot rely on the legal system to enforce agreements. Using the court system is extremely expensive, stressful, and fraught with uncertainties. Making

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agreements that work for both sides massively reduces the risk of falling out. The power of win-win negotiation is that, by design, everyone has a vested interest in following through.

## ABOUT ME

When I became an entrepreneur, I realized two things about negotiation: firstly, I would have to negotiate every day; and secondly, I didn't have a clue what I was doing. So I read as much as I could on the subject. I learned some powerful principles from business-oriented books about negotiation, such as what determines negotiating strength and how high-value outcomes are created.

Although business negotiation books emphasize how important the people issue is in any negotiation, they often deal with communication quite superficially. Outside my business, I ran a psychology book club and podcast for many years, as I enjoy learning about psychology. I found the most useful techniques for communication in books about psychology.

This guide brings together the best insights on win-win negotiation from both business and psychology. I've only included ideas that I have tested and found useful in my own experience as a negotiator. Negotiation is an art that requires practice, and the ideas in this guide are only a starting point for you to practice yourself. However, you can use the framework to negotiate with anyone in your life. I have found the approach helpful in getting agreement on issues as small as arranging dinner and as big as multi-million dollar business deals.

## ABOUT THIS GUIDE

Negotiating win-win outcomes requires four different capabilities:

- 1. You need to have good people skills. How you relate to others is a vital aspect of negotiation. We'll look at constructive communication first, since it's arguably the most important skill in negotiating.**
- 2. You need a method to follow in order to reach your goal. In this guide I'll outline the best-practice method for win-win negotiation.**



3. **You need an understanding of the deep principles that underlie every negotiation. Two of the most powerful principles are presented in this guide. If you learn to apply them, you can become a negotiation ninja.**
4. **Lastly, it helps to have good habits about negotiating. At the end of the guide, I will suggest two of the habits that work best for me.**

## CONSTRUCTIVE COMMUNICATION

How you relate to others in negotiation is just as important as the substance of what you are negotiating. Your success in negotiation depends on your having the skills to empathize and communicate constructively with the other people involved. Without these skills, understanding of negotiation dynamics is useless. Therefore, communication is, in its own right, a vital part of every negotiation.

### NEGOTIATE GROUND RULES AND CONTENT

You are always undertaking two negotiations at the same time: one is the negotiation about how to negotiate (what the rules are) and the other is the negotiation about substance. The tricky thing is that the rules of how to negotiate are often unspoken: they tend to evolve unconsciously as you go. Often we rely on social conventions, habits, or patterns from our own past.

The key is to consciously negotiate about how to communicate with each other. This means agreeing how you are going to treat each other during the negotiation and what the ground rules are. If things go wrong, you need to stop arguing about the substance. Instead, start by getting agreement on how to talk about it first. For example, if communication breaks down, you can seek agreement on the principle

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that everyone should have a chance to speak. You can agree on ways to make that possible, for example, by taking turns to speak without interruptions.

These kinds of agreements are all about how you are going to negotiate, not about the substance of the argument. If you tackle that question first, you can get back to a productive negotiation. In the heat of the moment, I find it hard to remember that there are always two negotiations going on. However, when I do pursue both negotiations consciously, I always get better results.

## EMPATHY

The method of win-win negotiation depends on understanding the interests of the person that you are negotiating with. This understanding is a prerequisite to successful outcomes. You can only understand the other person's interests if you are able to empathize with them. You need to be able to see the negotiation from their eyes. This does not mean that you also have to sympathize with their interests, but you at least need to understand them.

Use the Active Listening technique to empathize with your negotiation partner. This means listening to all their concerns—not just what they want in the negotiation but also how they feel, what they think, and anything that seems important to them. Once they have gotten everything off their chest, you summarize what you have heard back to them in your own words. This is done without any agreement or disagreement from you, but simply to ensure and demonstrate that you fully understand and empathize with them.

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negotiation partner.

Active listening is a great way to gain a better understanding of the deeper interests that your partner is trying to satisfy in the negotiation. This is how you get past their specific positions in the negotiation to understand what they really need. If you communicate that your intention is to understand, not judge, you can ask questions to more fully understand where the person is coming from.





Start the process by truly listening, without interruption or argument, to everything that the other person has to say about what they want, think, and feel. Just listening to someone feels to them like a gift, but it is also extremely helpful to you as it gives you necessary information for the negotiation. Once they have the satisfaction of feeling truly listened to and understood, they are much more likely to be open to listening to you in turn.

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## COMMUNICATION

In order to facilitate win-win negotiation, you must communicate as peers, in an adult-to-adult style of conversation. This means avoiding getting drawn into any communication that has hidden undertones. For example, someone might say something in a way that seems to be telling you off, as if you were a child and they were a displeased parent. Or they might act like an angry child, and speak to you as if you were their unfair parent.

In his book *Games People Play*, psychologist Eric Berne describes how authentic communication can be undermined by such psychological games and provides lots of suggestions for how to avoid them. Sometimes bringing undertones to the surface by addressing them can improve communication by helping you understand the other person. In short, avoid getting sucked in, make all communication explicit, and bring the communication style back to straightforward, adult-to-adult dialogue.

You express your emotions the way an authentic person does: as a statement of fact about yourself, not as a negotiation ploy.

Communicating as peers does not mean that you cannot express your emotions or that you have to speak blandly, it means that emotions are expressed in a straightforward way. You express your emotions the way an authentic person does: as a statement of fact about yourself, not as a negotiation ploy.

If emotions are expressed, the key is to not let them escalate a dispute, and to avoid situations where people are so flooded with their feelings that they are not able to think rationally. You can go back to using active listening to acknowledge whatever is being expressed without agreeing





or escalating it. You can also slow the escalation by taking a break, especially if you or anyone else is feeling flooded and needs time to calm down.

## SPEAKING FOR YOURSELF

In win-win negotiation, communication is always more effective if you speak for yourself and not about the other person. There is a strong temptation to talk about what the other person is doing. For example, at times you might want to show them the error of their ways or tell them how unreasonable they are being. It's totally legitimate to be assertive about your needs and your boundaries, but the way you communicate assertiveness is crucial.

The key is to express your interests without blaming or shaming the other person. The psychologist Thomas Gordon describes a communication technique called “I-messages,” which is very useful in negotiation. An I-message communicates your concerns with a sentence that starts with “I” and not “you.” Messages that start with “you” put the listener on the defensive. For example, when someone hears, “You are being unreasonable,” they hear blame and shame, which primes them for conflict, not negotiation. However, you can express your needs while keeping it about yourself by simply saying something like, “I don’t want that.” Here’s a more detailed example: “If I were to agree to that suggestion, it would contradict many of my core values. I feel angry when I think about that.”

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The technique of speaking for yourself and not about the other person applies to requests as well. A request signifies that you are trying to meet your needs and does not suggest any judgment of what the other person should do. If you imply that someone ought to change their behavior, they will become defensive. However, if you request that they do something to help you (and demonstrate that you are willing to help them in turn) then you can engage them in a constructive way. Marshall Rosenberg’s book *Nonviolent Communication* has more suggestions about how to make requests that are framed in terms of meeting your needs and not in terms of demanding that the other person change.



# THE WIN-WIN NEGOTIATION METHOD

Every negotiation is different, but there are some important steps in achieving win-win outcomes. *Getting to Yes*, by Roger Fisher and William L. Ury, is widely considered the best book on the method of negotiation and it is certainly the best that I've read on the topic. I'll outline the most important steps of the method that Fisher and Ury suggest in their book, but I also recommend reading it. The method has three stages: reconciling interests, finding options for mutual gain, and using shared standards.

## RECONCILE INTERESTS, NOT POSITIONS

Win-win negotiation seeks to reconcile the interests of the people involved, instead of trying to reconcile negotiating positions.

A position is a specific demand. Positions are what people typically say they want. If someone says, "I want you to pay me \$2,000 for the work on this project," they are stating a position.

An interest is what a person really needs. It's the deeper requirement that their position is supposed to meet. If someone says, "I need to pay the bills. I need to make a profit," they are stating their interests.

Amateur negotiation takes place at the level of positions. The technical term for this is positional bargaining, which just means haggling. Instead, win-win negotiation takes place on a deeper level: the interests behind the positions. A principled negotiator tries to understand as much as he can about the needs that his negotiation partner is trying to meet. He also communicates his own needs or interests to his partner. Nobody commits to specific positions until they understand all the interests that those involved in the negotiation are trying to reconcile.

It's easy to get focused on conflicting interests, but it is useful to remember that you usually have many more shared interests in a negotiation than conflicting ones.

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For example, if you are negotiating a conflict with your spouse, you have many shared interests in working out the disagreement compared to the single conflicting interest. You both want to resolve any conflict amicably, you both want your spouse to be happy in the relationship, and so on.

Differences in interest are where the value lies.

There are also many interests on each side of a negotiation that are different but still complementary. Differences in interest are where the value lies, as we will see below in the section on principles.

## FIND OPTIONS FOR MUTUAL GAIN

Once you understand the interests of the people involved in the negotiation, you try to think of as many different ways to meet those interests as possible. Win-win negotiation requires you to be imaginative and find multiple options for mutual gain. You look at all the variables involved in the deal and see how they could be tweaked to meet the interests of everyone.

There are always lots of ways to gain value from a deal.

You try to find multiple ways to make everyone happy.

You need to look at all the options for mutual gain because there are always lots of ways to gain value from a deal. It's easy to get bogged down focusing on one issue (usually the price), but this stage in the process shows you that negotiations are multi-dimensional. Spending all your effort haggling over price is like squeezing one part of a balloon: you may push in a little, but you expand the balloon elsewhere. If you get a better deal on price but a worse deal on every other aspect of the negotiation, you gain nothing.

When I decided that I wanted to sell my business, I was fixed on receiving a certain price. As I learned more about the process of selling, I came to understand the importance of the other terms of agreement in that kind of deal. For example, would payment be in cash, shares, or options? How much would the buyer pay up front and how much after an earn-out period? How long would the earn-out period be? What performance

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targets would be included in the deal? Who would pay for ongoing indemnity insurance against previous work that my business had done? All these questions would have an impact on the value for me, so the benefit of the deal depended on all these things together, not just price alone.

By looking at all the variables in a negotiation, you can find many ways of having your own interests met, as well as those of the other side.

## USE SHARED STANDARDS

If you find yourself in a negotiation where one side says, “I want it to be like this,” and the other side says, “I want it to be like that,” then you’re in a contest of wills. Win-win negotiators avoid having a contest of wills. Instead, they look for external standards that everyone can agree on.

The idea is to find objective standards that you can use to resolve differences fairly. Some examples of objective standards are market prices, industry conventions, and external mediation. First, you agree what a fair method to resolve each difference would be, and then you simply apply the method to get your answer.

If you attempt to find shared standards on which you can resolve any differences in your negotiation, you will be far more likely to reach a solution that works well for both sides. You will also have avoided a contest of wills, and consequently you will be building trust and developing long-standing business relationships.

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## PRINCIPLES

Now that you have an overview of constructive communication and the basic method of negotiation, it’s time to give you some ninja capabilities. If you understand the deep principles that govern every negotiation, you can radically improve your outcomes. The two principles that I find most helpful to understand are what determines strength, and how value is generated.



## STRENGTH IN NEGOTIATION

In win-win negotiation, the strength of each negotiator is fundamentally determined by one thing: their best alternative. When you understand the consequences of this fact, you can negotiate from a position of strength to get what you want.

People negotiate because they want or need something. If the negotiation fails, everyone has to resort to their best alternative course of action to satisfy that need. What will you do if you can't reach an agreement? That option—good or bad—is your best alternative. The key point is that your best alternative is not the same as the other side's best alternative, and this is what determines each side's strength in the negotiation.

The strength of each negotiator is fundamentally determined by one thing: their best alternative.

The technical term for this concept is the Best Alternative to a Negotiated Agreement, or *BATNA*. Here is an example of how the BATNA principle works in practice. Some years after starting a business, I decided that I wanted to see if I could sell it. If I were not able to get a satisfactory deal, then my best alternative was to carry on running the business. This was not a bad alternative, because the business was highly profitable by that point. Therefore, I was in no hurry; I could continue making a profit and perhaps try to sell it to somebody else in the future. My best alternative was to carry on and keep my options open. Since I didn't have to sell, I had a strong negotiating position.

The potential buyers were from larger companies we had worked with for many years. They were interested in buying my business because they wanted to acquire the specialist capabilities that my niche consultancy offered. Their best alternative was to try to develop similar capabilities in-house, or perhaps to try to buy another business.

However, I knew from my experience in this sector that it would take a very long time to develop the capabilities in-house, with no guarantee that they would succeed. I also knew that there were no viable competitors in my niche sector available for purchase.



This meant that if the buyers wanted to acquire the capabilities that my business had, then they didn't have a strong alternative: they needed to buy us. This enabled me to be patient and relaxed during the negotiations. In time, they came to see the value of my business more from my perspective.

## HOW TO IMPROVE YOUR STRENGTH

There are two key things you can do to use this principle and improve your strength in a negotiation. Firstly, you can work to improve your best alternative before you negotiate. In the example above, I made my alternative strong by having a profitable business. An employee who gets job offers from other companies before negotiating for a raise at his current job is another example of someone with a strong alternative.

Secondly, you will be in a stronger negotiating position if you can legitimately influence your negotiation partner's best alternative to make it less preferable to them. For example, if you want to persuade customers to sign up to a long-term commitment to buy your services, you can make that option relatively cheaper than no commitment. Their best alternative to the long contract—to buy your services on a pay-as-you-go basis—becomes less preferable in comparison to the long term commitment that you want from them.

You don't necessarily have to reveal your best alternative in a negotiation in order to gain strength from it, although sometimes that can help. Whether to reveal it or keep it private is a tactical decision, but simply having a good alternative is the basis of your strength.

## THE SOURCE OF VALUE IN NEGOTIATION

The fact that each side in a negotiation wants different things is what makes it possible to reach outcomes where everyone is better off. It is not in spite of different interests that you reach win-win outcomes, it is because of them. A storekeeper wants some of a customer's money more than he wants to keep all of his inventory; a customer wants some of the inventory more than he wants to keep all of his money.

It is not in spite of different interests that you reach win-win outcomes, it is because of them.





You can create valuable outcomes for your negotiations by consciously maximizing the opportunity that different interests provide. As an example, imagine a start-up entrepreneur named Jane negotiating with a potential entry-level employee, Bill. Jane values Bill's skills and wants him to work for her, but she can't afford to offer him a high salary.

Although Bill might be able to get a higher salary elsewhere, there are many things apart from money that Bill values highly. If Bill wants to develop particular skills, Jane can make sure that his role allows him the experience to do that. If he values his independence at work, Jane can design his role in such a way that he has the freedom to direct his own work without being micromanaged. If Jane learns that Bill wants to cycle to work to save travel costs, then she can ask the building owner to allow him to use a spare room in the basement for secure cycle storage. If Bill doesn't want to wear a suit to work, she can create a relaxed work environment without senseless dress codes.

In this way, Jane can negotiate with Bill to make his overall experience of working for her so valuable to him that the fact he could earn a higher salary elsewhere doesn't matter.

## CREATE VALUABLE OUTCOMES

The technical term for this strategy in negotiation is “dovetailing interests.” You find a way to generate maximum value for both parties by reconciling different yet complementary interests. If you understand this principle, you can create brilliant outcomes to your negotiations. The two most powerful questions to ask yourself are:

- 1. What can you provide to the other person that is low-cost to you but would be valuable to them?**
- 2. What can they provide to you that is low-cost to them but would be valuable to you?**

The more creative and imaginative you can be in answering these questions, the more value you will create for both sides in the negotiation.





## GOOD HABITS

Now that you have an overview of the method and principles of win-win negotiation, I'd like to share a couple of habits that I have found it useful to adopt.

### WRITE IT DOWN

It might sound trivial, but writing things down is a very important habit for good negotiation. It is easy to assume that everyone involved in a negotiation will remember everything the same way, especially since agreements appear obvious in the moment. However, when nothing is in writing, memories diverge. This happens even when everyone acts in good faith. Your expectations of what happens next may be different from your negotiation partner's expectations, leading to misunderstanding.

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Your negotiations will run more smoothly if you take responsibility for writing things down each time you agree on something, rather than relying on memory. This does not have to be long-winded or formal. Even for major business negotiations, it's enough to send a short email after a discussion, saying something like, "It was great to see you. This is what I took from our discussion.... Is that your understanding too?"

You need a trusted place to store everything that you record about a negotiation. I collect and store all of the correspondence about a negotiation in one place, so that I can find it easily. For me, that place is the email trail: it contains both the emails sent back and forth agreeing on something and also my follow-up emails summarizing any face-to-face agreements made in meetings. In this way, I can track everything said about a negotiation and refer back to that paper trail. Email works for me, but as long as you have a trusted system, it doesn't matter what it is.

When you keep records like this, you are serving the interests of the negotiation itself, not just your own interest. You are making sure that everyone is on



the same page. Sometimes this feels tiresome, as it can seem like you are the personal assistant. You are taking responsibility for writing stuff down and acting as secretary to the whole negotiation process. So be it. By doing so, you are being really helpful. Most importantly, it's extremely useful for you.

If you encounter someone else who keeps records like this during your negotiation with them, it's a sign of real competence. It's a pleasure to do business with people who write things down. You can model that competence for others.

## ACCOUNTABILITY FOR COMMITMENTS

Your success as a negotiator will be far greater if you have a reputation of following through on your commitments. If you want people to do business with you, then you must be someone that can be trusted not to let things slip through the cracks. You can earn a reputation for reliability and accountability in all your relationships by ensuring that all your agreements are either kept or renegotiated—never forgotten or broken.

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If you make agreements in good faith, then following through is simply a question of how organized and in control of your life you are. To be in control, you need to develop your own set of personal productivity habits and your own system of managing commitments. I find David Allen's Getting Things Done (GTD) system, described in his book *Getting Things Done*, to be a very useful framework to build on. If you need to get better at staying on top of all your commitments, I recommend you check it out.

## CONCLUSION

Success in negotiation depends on how you relate to other people just as much as, if not more than, it depends on negotiating the content of the agreement. To make your relationship productive, always be conscious of the need to negotiate the ground rules for how you treat each other, as well as the substance in question. Use the technique of active listening to empathize with the other person. Keep a straightforward, peer-to-peer style of communication. If you do express emotions, do so as a matter of fact, not a negotiation ploy.



Use I-messages to speak for yourself and not about the other person.

You now have a three-step method to follow in order to reach win-win outcomes. Rather than committing to positions, start by understanding the interests of each person in the negotiation. Then find as many options for mutual gain as possible. Lastly, resolve any open questions with objective, shared standards.

Use your understanding of our two deep principles to develop ninja negotiating skills. The source of all strength in negotiation is the Best Alternative to a Negotiated Agreement. Therefore, create strong BATNAs to give yourself strength. Value is created in a negotiation by dovetailing differing yet complementary interests. so find out what would be low-cost to you and high-value to the other person (and vice versa) to create high value outcomes.

Lastly, practice good habits about negotiating. Don't rely on memories—write it down to avoid misunderstandings. Make sure that you either keep or renegotiate all of your agreements; never forget them or break them.

Win-win negotiation improves the lives of all those involved. It is the art of peaceful and constructive relationships, and as such it is the art of all interchange between free people.



## JAKE DESYLLAS

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<sup>2</sup> <http://www.amazon.com/Becoming-Entrepreneur-Freedom-Fulfillment-Business-ebook/dp/B00JLTUFSS>