

Section 11 – Part 2

SLIDE 13 - Classification of Contracts (Cover Page)

SLIDE 14

Bilateral vs. unilateral – A bilateral contract is one in which both parties promise to perform their respective parts of an agreement in exchange for performance by the other party.

An example of a bilateral contract is an exclusive listing: the broker promises to exercise due diligence in the efforts to sell a property, and the seller promises to compensate the broker when and if the property sells.

In a unilateral contract, only one party promises to do something, provided the other party does something. The latter party is not obligated to perform any act, but the promising party must fulfill the promise if the other party chooses to perform.

An option is an example of a unilateral contract: in an option-to-buy, the party offering the option (optionor) promises to sell a property if the optionee decides to exercise the option. While the potential buyer does not have to buy, the owner must sell if the option is exercised.

SLIDE 15

Express vs. implied – An express contract is one in which all the terms and covenants of the agreement have been manifestly stated and agreed to by all parties, whether verbally or in writing.

An implied contract is an unstated or unintentional agreement that may be deemed to exist when the actions of any of the parties suggest the existence of an agreement.

SLIDE 16

Executed vs. Executory – An executed contract is one that has been fully performed and fulfilled: neither party bears any further obligation. A completed and expired lease contract is an executed contract: the landlord may re-possess the premises and the tenant has no further obligation to pay rent.

An executory contract is one in which performance is yet to be completed. A sales contract prior to closing is executory: while the parties have agreed to buy and sell, the buyer has yet to pay the seller and the seller has yet to deed the property to the buyer.

SLIDE 17

Formal vs. Informal – A contract may be Formal (**Written**) or it may be Informal (**Oral** or parol) contract. Certain oral contracts are valid and enforceable, others are not enforceable, even if valid. For example, most states require listing agreements, sales contracts, and leases exceeding one year to be in writing to be enforceable.