Unit 4 Outline

**Learning Objectives**

Study of this unit should enable the student to

* list commonly used contracts involving real estate;
* explain the elements of a valid contract;
* state the requirements of the statute of frauds;
* describe the ways in which a contract is discharged;
* identify and explain the purpose of the most common types of deed;
* describe important terms of residential and commercial leases; and
* explain the benefits of a ground lease.

**Unit Outline**

I. Overview

II. The Offer to Purchase—only one of the many contracts involved in the typical purchase of real estate

A. Elements of a Valid Contract

1. Parties with legal capacity to contract

2. Offer made by one party that is accepted by the other party; an offer returned with changes is a counteroffer

3. Lawful object to the contract

4. Some form of consideration

5. Agreement in writing, if required by statute of frauds

**Exercise 4-1**

B. Contract Terms—typical provisions of an offer to purchase

1. Date on which offer made

2. Name and marital status of offeror (buyer)

3. Identification of the property

4. Purchase price offered

5. Date of closing

6. Date buyer will take possession

7. Financing terms

8. Necessity for appraisal

9. Necessary inspections

10. Required disclosures

11. Fixtures included

12. Seller to provide clear title

13. Deadlines

14. Final walk-through

15. Liquidated damages

16. Dispute resolution

17. Escrow

18. Date on which offer will expire

19. Signature of offeror (buyer)

C. Contract Language—may be dictated by state law

D. Discharging a Contract

1. Performance

2. Rescission

3. Release

4. Novation

5. Reformation

6. Assignment

7. Breach, which could result in a suit for specific performance within period allowed by statute of limitations

III. Record Retention—as required by *USPAP* and the appraiser’s state

**Exercise 4-2**

IV. Transfer of Title

A. Requirements for a Valid Deed

1. Must be in writing

2. Must include description of parties

3. Grantor legally capable

4. Property adequately described

5. Granting clause

6. Signed by grantor

7. Delivered to and accepted by the grantee

B. Types of Deeds—written instruments that convey title

1. Grant deed, which has implied warranties

2. Quitclaim deed, which doesn’t guarantee grantor owns a conveyable interest

3. Warranty deed, which has express warranties

4. Bargain and sale deed, with no warranties

5. Trust deed, used as security instrument

6. Reconveyance deed, returns property to buyer after loan is repaid

7. Sheriff's deed, contains no warranties

8. Tax deed

C. Recordation

1. Acknowledgement—stamp or seal and signature of a person provided by law to verify the grantor's signature on a deed

2. Recording—notice of the transfer of title that places grantee in the chain of title to the described property

**Exercise 4-3**

V. Lease Agreements—lessor (landlord) transfers right of possession to lessee (tenant)

A. Fair Housing Laws—federal as well as state and could also involve local jurisdiction

B. Residential Leases—special requirements at time of transfer, such as lead-based paint disclosure, and statutory requirements for eviction

C. Commercial Leases

1. Gross lease

2. Escalator clause

3. Percentage lease

4. Net lease

D. Ground Leases

## Exercise 4-4

## Summary

# Review Questions