

3049 DURATION

[A contract which specifies the period of its duration, terminates at the end of the period.]

[A contract which provides that it is to continue for an indefinite period continues for a reasonable time under the circumstances.]

[A contract which does not contain a termination date may be terminated at any time by either party upon reasonable notification to the other party.]

[A contract which provides that the contract is to continue for an indefinite period, but contains a limitation on whether the contract can be terminated, terminates on the happening of the event specified in the limitation.]

[A contract which does not contain a termination date, but which contains a limitation on whether the contract can be terminated, terminates on the happening of the event specified in the limitation.]

COMMENT

This instruction and comment were approved by the Committee in 1975 and revised in 2016.

Irish v. Dean, 39 Wis. 562 (1876); California Wine Ass'n v. Wisconsin Liquor Co. of Oshkosh, 20 Wis.2d 110, 124-25, 121 N.W.2d 308 (1963); Klug v. Flambeau Plastics Corp., 62 Wis.2d 141, 214 N.W.2d 281 (1974).

The fourth and fifth paragraphs are based on the decision in Klug v. Flambeau Plastics Corp., 62 Wis.2d 141, 214 N.W.2d 281 (1974). An example of an event that may trigger termination is "good cause."

The Wisconsin Supreme Court held in MS Real Estate Holdings, LLC v. Fox Family Trust, 2015 WI 49, 362 Wis.2d 258, 864 N.W.2d 83, that:

... Wisconsin courts do not favor perpetual contracts. We are "reluctant to interpret a contract as providing for a perpetual contractual right unless the intention of the contracting parties to provide for the same is clearly stated." Capital Investments, Inc. v. Whitehall Packing Co., Inc., 91 Wis.2d 178, 193, 280 N.W.2d 254 (1979). When the time that a contract is to endure is indefinite, this court will imply a reasonable time for the duration of the contract. Farley v.

Salow, 67 Wis.2d 393, 402, 227 N.W.2d 76 (1975). However, we do not require parties to express duration in temporal terms in order to avoid indefiniteness. Rather, parties are free to identify triggering events that give rise to termination of the contract in one form or another. Schneider v. Schneider, 132 Wis.2d 171, 389 N.W.2d 835 (1986).

Duration of Right of First Refusal Contracts. See MS Real Estate Holdings, LLC v. Fox Family Trust, supra. In that decision, the court said "a specified triggering event, though uncertain to occur, may render a right of first refusal contract sufficiently definite and establish the duration of the right."