

3056 SALE OF GOODS: DELIVERY OR TENDER OF PERFORMANCE

A seller of goods or merchandise has the obligation to transfer and deliver the goods or merchandise; the obligation of the buyer is to accept and pay for the goods or merchandise in accordance with the contract.

The seller must put and hold goods or merchandise which conform to the terms of the contract at the buyer's disposition, and give the buyer any notification reasonably necessary to enable the buyer to take delivery.

Upon delivery, the buyer must stand ready to pay according to the terms of the contract. If the contract does not specify otherwise, payment may be by any means or manner currently used in the ordinary course of business, unless the seller demands payment in legal tender and provides an extension of time reasonably required by the buyer to procure payment.

The manner, time, and place of transfer and delivery are determined by the agreement of the parties, but must be at a reasonable hour. The goods or merchandise must be kept available for a period reasonably necessary to enable the buyer to take possession.

COMMENT

This instruction and comment were approved by the Committee in 1975. Editorial changes were made in 1993 to address gender references in the instruction. No substantive changes were made to the instruction.

Obligation: Shy v. Industrial Salvage Material Co., 264 Wis. 118, 58 N.W.2d 452 (1953); Wis. Stat. §§ 402.301, 402.511.

Payment: Alpirn v. Williams Steel & Supply Co., 199 F.2d 734 (7th Cir. 1952); Wis. Stat. §§ 402.511, 402.503.

Kept available: Wis. Stat. § 402.503.