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https://www.100test.com/kao_ti2020/251/2021_2022_ContractLa_c92_251854.htm If we agree to something in dealing with the other party, the law of contracts is involved. For example, suppose we want to have a new machine built and installed by one of the firms which builds special equipment, the law of contracts forms an unseen back0drop for our attempts to acquire the machine. It is unlikely that we would have occasion to use these legal principles in a court action. but it might happen, and the best way to prevent the occurrence is to observe the following principles when the contract is formed and carried out.Agreement A contract is based upon an agreement--an offer and an acceptance To form the basis of a contract the offer and acceptance must be made with a serious intent to enter into a contractContracts must be entered into voluntarily and intentionally to be valid, This is, neither party is allowed to force the other into agreement. to do so is duress. Neither may one party persuade the other by false statements, for such is the basis of fraud. And it is just as truly fraud if the truth is concealed from one person by other. Of course, we are not all equally susceptible to being defrauded. You and I as engineers would be less likely to be frauded on an engineering contract than would a shoe vendor, for instance. Closely akin to fraud is an agreement which takes advantage of others mistake. This does not mean a mistake as to value (for example, paying $995 for a refrigerator which you later find could have been purchased for $600). You are stuck with your bad bargain

in such a transaction. And it does not mean a mistake in the interpretation of the contract terms the parties are held to the legal meaning, and if the terms were not understood, they should have been changed. The type of mistake in which the law tends to protect the loser is more like this: Suppose we receive three bids on a machine that was estimated to cost $100,000. Two companies submit proposals at $110,000 and $105,000 and the Gray Machinery Company bids $60,000. Quite apparently someone at the Gray Company goofed. or maybe they have a way of doing the job which is greatly superior to that of their competitors. Either way, it seems reasonable that we should investigate before agreeing. In fact, if we merely accept the proposal, we may find ourselves without legal backing. In court cases on this question there seems to be a substantial tendency to relieve the unfortunate hider, for this question is far from settled law. Of course, there is a contrary argument Gray should be more careful with offers to enter into contracts.Competency The parties to a contract must be competent to contract. If one of the parties is insane or a minor or is a corporation not chartered to do this kind of work, that party may be able to lawfully avoid performance of the contract. This seems somewhat unlikely in an engineering contract, but then improbable happenings are the stuff of which many law cases are made.Consideration Each contract must involve consideration that is, what you get for what you give. The law usually does not concern itself with equating the value of the consideration exchanged. It is satisfied if the bargain was made freely and certain other conditions

were met. That which is given as consideration must meet four requirements however: 1. It must have value -- that is, it cannot be completely devoid of value to the person receiving it. 2. It must be lawful, courts rarely uphold bargain to violate the law. 3. It must be possible. An agreement to do the impossible is more fantasy than contract. 4. It must be present or future. Past consideration is similar to a sunk cost. It cannot be used to support a present contract.Form The required form of contracts depends upon their nature that is, certain kinds of contracts must be written to be enforceable. The categories of contracts required to be in writing are set forth in the particular states statue of frauds. Briefly, contracts of this nature with which we are most likely to be involved are: (1) surety contracts in the nature of "If he doesnt pay, I will", (2) contracts involving real estate, (3) contracts which cannot be performed in one year -- for example, an agreement to work for another for two years, and (4) certain types of sales contracts. This last type requires a little more explanation. It refers to sales contracts involving a price above five hundred dollars. To be enforceable, such contracts must be in writing, the buyer must take part or all of the goods involved, or the buyer must make part or entire payment. In other words, there are three ways to satisfy the statute of frauds in a sales contract.Mutuality If either person is not bound by the terms of a contract, then neither is the other. Those who write contracts occasionally make the error of writing one in such a way that one party has an opening or a "loophole" while the other seems tightly bound. It is comforting to note that one has a way out if the contract proves unfortunate.

However, if the opening is there for one party to escape, the other has a right to use the same opening and there in legal effect no contract.