

Techniques in Drafting Contracts

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ABSTRACT: At this time, it appears that there is a lack of discussion of various basic laws, such as civil law, commercial law, criminal law, constitutional law, contract law, and others. Our contract law still uses the regulations of the Dutch Colonial Government contained in Book III of the Civil Code. Book III of the Civil Code adheres to an open system, meaning that parties are free to enter into contracts with anyone, determine the terms, implementation and form of the contract, whether oral or written. This research aims to find out the principles and Pre-Drafting in contract design and the technical stages in contract design.

The research specifications are descriptive in nature using normative juridical research. The approach method used is a statutory approach. Data obtained through document study and analyzed using qualitative methods.

Based on the research results, the first is related to the principles in designing contracts, namely there are two legal principles that must be considered, namely: *beginnselen der contractsvrijheid* or party autonomy, and *pacta sunt servanda*. *Beginnselen der contractsvrijheid* or party autonomy, namely that the parties are free to agree on what they want, provided that it does not conflict with the law, public order and morality. Regarding pre-preparation of contracts, there are four things that must be considered by the parties, namely. Identity of the parties, initial research on related aspects, creation of an MOU, and negotiations. The second research result is that there must be stages in contract design, contract title, opening, related parties, recital, contents of the contract and closing.

KEYWORDS: Contract Planning.

A. INTRODUCTION

The era of reform is an era of change in the life of the nation and state. The era of reform has begun since 1998. The background of the birth of the reform era is the malfunctioning of the wheel of government in the life of the nation and state, especially in the fields of politics, economics, and law. So with the reform, the state administration wants to make radical changes (fundamental) in all three areas. In the field of law, directed to the establishment of new legislation and law enforcement (*law of enforcement*).

The purpose of the establishment of new legislation is to replace the old regulations which are a product of the Dutch East Indies government replaced with new regulations in accordance with the principles of democracy, a sense of justice, and legal culture of Indonesian society. In this reform era has produced many laws and regulations in accordance with the wishes of the people of Indonesia.

This can be seen in Law No. 22 of 1999 on Local Government, Law No. 25 of 1999 on financial balance between Central and Local Government, Law No. 28 of 1999 on the implementation of a clean and Free State from corruption, collusion, and nepotism, law No. 30 of 1999 on arbitration and out-of-court settlement of disputes. Law No. 41 of 1999 on Forestry, and others. The laws that were formed and made in this reform era, the most dominant are laws or laws that are sectoral, while the Basic Law (*basic law*) received less attention.

This is evident from the lack of discussion of various basic laws, such as Civil Law, Commercial Law, Criminal Law, Constitutional Law, contract law, and others. ¹Our contract law still uses the Dutch colonial government regulations contained in Book III of the Civil Code. Book III of the civil code adheres to an open system (*open system*), meaning that the parties are free to enter into contracts with anyone, determine the terms, implementation, and form of contracts, both oral and written.

In addition, it is recommended to conclude contracts that are well known in the Civil Code and outside the Civil Code. Contracts that have been regulated in the Civil Code, such as Sale and purchase, exchange, lease, civil partnership, grants, custody of goods, lending and borrowing, granting power of attorney, debt relief, profit-and-Loss Agreements, and peace. Various new contracts such as leasing, sale and rent, franchise, surrogate mother, production sharing, joint venture, and others. Although the contracts have been alive and thriving in society, but the rules in the form of law does not yet exist. It exists only in the form of ministerial regulations.

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The regulation is only limited to the regulations governing leasing, while other contracts have not received special arrangements. As a result of the lack of legal certainty about the contract, it will cause problems in the world of trade, which in this case is mainly uncertainty for the parties to the contract. In reality one party often makes the contract in standard form, while the other party will accept the contract because of their weak socioeconomic conditions. For this reason, in the future it will be necessary to have a law on contracts of a national nature, which replaces the old regulations. The law also gives a balanced position to the parties in fulfilling their rights and obligations. Although there is no specific and national contract law, the theoretical and empirical studies in this book are guided and focused on the Civil Code, legislation outside the Civil Code, and various other international agreements.

A contract is a written agreement, which means that the contract is considered as a narrower sense of an agreement. The agreement is enforced because there are differences contained in the agreement.² On a broader scale, a contract is an agreement between two parties who enter into an agreement in the contract agreement. So basically a contract is a relationship between the two parties, which contains an agreement issued to those who make it.

The contract is formed like a series of words that contain an agreement and an ability.³ In contracts, there is also the notion of contract law, contract of law. Contract law itself is a legal regulation in society or a series of legal rules that regulate various agreements that give rise to legal relations between the parties based on agreements so that legal consequences arise between the contract makers.⁴

The definition of contract law according to experts who have views on contract law is very much, one of them according to Salim H.S,⁵ that is, the definition of a contract or agreement is a law concerning the whole between the two parties that are interconnected, which is contained in the wishes of both parties in a written document in order to achieve a certain goal. Contract law is also known as complementary law. If the parties do not make their own arrangements on the agreement made then this is the role of the article in contract law.

Contract law has a very important role for the progress of the nation, especially in the era of globalization in the field of activities in the trade sector as well as international business transactions. With the impact of a trade agreement between world countries such as WTO, NAFTA, APEC, and others in the field of trade will accelerate economic globalization and international trade. With this cooperation, it is expected that economic globalization can support and give the effect of economic progress evenly and reduce the risk of poverty and ultimately countries around the world must open up, so that it will make it easier to conduct trade activities, not only playing locally but also on a wider scale, namely the international scale.

An open system or open system is a system adopted by the rules of contract law. Which is what is meant by an open system that everyone is free to enter into agreements, both regulated and unregulated. According to Article 1338 paragraph (1) of the Civil Code, all agreements that are legally made are valid for the laws that make them, as long as they do not conflict with decency and legal order. The provision in this article means that the parties are given a freedom to make or not to make an agreement, by determining the content of the agreement along with the terms of the form of the agreement can be done in writing or orally.

This Agreement shall be binding on one or more persons who make it. Based on these events until a relationship between two people called the alliance. So the agreement publishes an engagement event between the two parties concerned. Thus, the relationship between an alliance and an agreement constitutes an agreement that issues an alliance. The alliance became the source of the agreements made.

Based on this, a contract/agreement between the two parties can give rise to a legal relationship, whether written or oral. The agreement will also be a law or law binding on the parties to the agreement. Therefore, for those parties who have made an agreement and have agreed, the contents of the agreement must be adhered to and implemented.

Basically, an agreement starts from the existence of differences or inequalities for the parties, it is necessary to formulate a contractual relationship based on the negotiation process between the parties. With a negotiation process, the parties will try to make an agreement through the bargaining process. Because generally in an agreement it starts with the differences in the interests of each one that is tried to be found in an agreement. Through the agreement, the differences will be accommodated and framed with a set of laws that can be binding on the parties that make it up.

The characteristics of a legal contract can be seen in the existence of a mutual agreement (*mutual consent*) of the parties. It is this agreement that is characteristic in the creation of an agreement in the form of an intention that can be expressed to other parties. The law is the basis of business transactions and provides legal protection, therefore contract law is very important in a country's economy that has an impact on better human civilization. It is that all the agreements attached to such contracts are validly applicable to the parties making them which are based on the principle of *pacta sunt servanda*. When viewed from the conditions that must be met

¹ Salim HS, *Hukum Kontrak Teori dan Teknik Penyusunan Kontrak*, (Jakarta: Sinar Grafika, 2021), hlm. 1

² Darwin Effendi, *Efektifitas Memorandum Of Understanding (MoU) Dalam Pembuatan suatu Perjanjian di Bidang Pendidikan* (Yogyakarta: Universitas Atma Jaya, 2016) hlm.1.

³ Meriana Utama dan Arfiana Novera, *Dasar-dasar Hukum Kontrak dan Arbitrase*, cet. I. (Malang: Tunggal Mandiri, 2012), hlm. 5.

⁴ R. Subekti, *Hukum Perjanjian*, cet. 10. (Jakarta: Intermasa, 2012), hlm. 1.

⁵ Salim H.S, *Hukum Kontrak* (Jakarta: Sinar Grafika, 2011), hlm. .82

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in the principle of freedom of contract regulated in Article 1338 paragraph (3) of the Civil Code is the good faith of the parties. This good faith must be based on the propriety that is subject to the agreement, as well as carrying out all the actions that have been made by the parties. This principle implies that freedom in good faith provides limits to do as the parties wish or want so that the parties need to prioritize the good faith.⁶

In Article 1338 paragraph (3) of the Civil Code governing good faith determines that the agreement must be based on good faith. But this statement is very abstract. There is no meaning and measure of good faith in the Civil Code. So from this, it is necessary to find and trace the meaning and benchmark of good faith.

Based on the description above, the author is interested in researching about contract design techniques. Then the problems in this study are as follows :

1. What are the principles and pre-arrangements in contract planning?
2. What are the technical aspects of the contract?

B. RESEARCH METHODS

Research method is a process of procedures and principles in order to solve a problem to be investigated. Then in this study using the type of normative juridical research that is analyzed an existing rule. *Sui Generis* science or legal science is a science that has its own character and type and cannot be confused with other branches of science.

This study uses materials focused on legal materials only related to the subject matter raised so that it is in accordance with the *sui generis* character of the science of law. The research used in this journal is in the form of normative research.

Based on the opinion of I Made Pasek Diantha⁷ normative legal research has a function to provide juridical arguments when there is emptiness, ambiguity and conflict of norms that are able to examine a law so that a legal truth is found. This research is obtained from several sources of legal materials such as primary, secondary and tertiary legal materials which will be described as follows:

1. Primary Legal Materials. Namely, the main legal material, consisting of the 1945 Constitution, as well as the Civil Code.
2. Secondary Legal Materials. In this study consists of papers, law books, doctrines of scholars, law journals, and dictionaries law.
3. Tertiary Law Materials. Namely supporting legal materials such as the internet, as well as legal dictionaries.

In writing the above using techniques, namely through the study of literature (*study document*) with a card system (*card system*) that is, after obtaining all the materials to be used then made notes about things that are considered important for the research that will be used.⁸ The card system used in this study is a citation card to record the author's Name, page, book title, and cite things that are considered necessary, in order to answer the problem in this study. Primary, secondary and tertiary legal materials collected will be inventoried and clarified systematically in accordance with the problems to be discussed so that there is a scientific analysis.

This classification aims to facilitate the analysis of legal problem which became the object of research by elaborating between primary, secondary and tertiary legal materials which will then be systematically arranged. In this study using interpretation techniques, description techniques, and evaluation techniques. Technical description basic techniques to analyze and describe the results of this problem. Description means to describe the results of research to a position/condition of non-legal propositions or laws. Interpretation techniques are in the form of using types of interpretation in legal sciences such as grammatical, historical, systematic, teleological, contextual and so on. While the evaluation technique is an assessment of the regulations relating to the problem of researchers.

C. DISCUSSION

1. Principles and Pre-Arrangement in Contract Design

Contract law is a translation from English, namely *contract of law*, while in Dutch it is called the term *overeenscom - strecht*. Lawrence M. Friedman defined contract law as a set of laws that govern only certain aspects of the market and regulate certain types of agreements.⁹

The purpose of this mechanism is to protect the wishes/expectations that arise in the creation of consensus among the parties, such as in agreements of carriage, wealth, performance of services, and payment by money. Another definition argues that contract law is "A series of legal rules that govern various agreements and bonds between legal citizens."¹⁰

The definition of contract law listed in the Indonesian Encyclopedia examines it from the aspect of the scope of its regulation, namely the agreement and bond of legal citizens. Apparently, this definition equates the notion of contract (agreement) with agreement, where as between the two is different. The contract (agreement) is one of the sources of engagement, while the agreement is one of the conditions of validity of the contract, as provided for in Article 1320 of the Civil Code. Given the various weaknesses of the

⁶ Muhammad Sjaiful, *Karakteristik Asas Kebebasan Berkontrak dalam Perjanjian Berbasis Syariah. Jurnal Perspektif Hukum, Vol.15, No.1*, (Februari, 2015), hlm. 69.

⁷ I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*. (Jakarta: Prenada Media Group, 2017), hlm.12.

⁸ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*. (Jakarta: Raja Grafindo, 2016, Persada), hlm..13.

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definition above, the definition needs to be supplemented and refined. Thus, according to the author, that contract law is the totality of legal rules that govern the legal relationship between two or more parties based on an agreement to cause legal consequences. This definition is based on the opinion of Van Dunne, who not only examines the contract at a purely contractual level, but also should be noted previous acts.

Previous acts include the pre-contractual and post-contractual stages. Pre-contract is the stage of offer and acceptance, while post-contractual is the implementation of the agreement. A legal relationship is a relationship that gives rise to legal consequences. Legal consequences, namely the emergence of rights and obligations. The right is a pleasure, while the obligation is a burden. From the various definitions above, the elements listed in contract law can be stated, As stated in the following:

- a. There are rules. The rules of contract law can be divided into two types, namely written and unwritten. Written contract law rules are legal rules contained in legislation, treaties, and jurisprudence. While the legal rules of unwritten contracts are legal rules that arise, grow, and live in society. For example, annual sales, and so on. These legal concepts are derived from customary law.
- b. Subject of law another term of the subject of law is the *rechtsperson*. *Rechtsperson* is addressed as a supporter of the rights and obligations that are subject to law in the law contract are creditors and debtors. The creditor is the person who owes, while the debtor is the person who owes
- c. The existence of MERIT MERIT is what is the right of the creditor and the obligation of the debtor. Achievement consists of, giving something, doing something, and not doing something.
- d. The agreement in Article 1320 of the Civil Code determined four conditions for the validity of the agreement. One of them is consensus. An agreement is a rapprochement of statements of Will between the parties.
- e. Legal consequences any agreement made by the parties will have legal consequences. Legal consequences are the emergence of rights and obligations. A right is a pleasure and a duty is a burden.¹¹

As for the principles related to the design of contracts, there are two legal principles that must be considered, namely :

- a. *beginselen der contractsvrijheid* atau *party autonomy*, and
- b. *pacta sunt servanda*. *Beginselen der contractsvrijheid* or *party autonomy*, that is, the parties are free to pledge what they want, provided that it does not contradict the law, public order and decency. To avoid ambiguity of the parties intentions, the first step that must be taken is that company executives must explain as clearly as possible to those involved and in charge of carrying out the transaction. While the first obligation of a jurist is to communicate to his client about whether what he has formulated is in accordance with his client's wishes.¹²

Related to the pre-drafting of the contract, there are four things that must be considered by the parties. These four things should be an important element in the initial research of related aspects, making *Memoranda of Understanding* (MOU) and negotiations.¹³

a. Identification Of The Parties

The parties to the contract must be clearly identified, it is necessary to pay attention to the relevant laws and regulations, especially regarding their authority as a party to the contract in question, and what is the basis for their authority. In addition, it is also worth noting the requirements that must be met primarily in relation to acting as a representative of a legal entity. In practice it is usually specified in detail in the articles of association (AD), it is necessary to pay attention to what if the action is carried out by an authorized person or is carried out in excess of the authority granted.

b. Preliminary Research Related Aspects

Basically, the parties hope that the signed contract can accommodate all their wishes, so that what constitutes the nature of the contract is really clearly detailed. The drafting of the contract must explain the matters contained in the contract in question, the juridical consequences, as well as other possible alternatives. In the end, the compilers of the contract conclude the rights and obligations of each party, taking into account the relevant elements of payment, compensation,

c. Making Memorandum of Understanding (MOU)

Making of *Understanding* (MOU) is not actually known in conventional Indonesia, but in practice it often happens. MOU is considered simple and not formally prepared and MOU is considered as the opening of an agreement. MOU is a preliminary agreement in ari will other agreements. The reasons can be stated as follows:

- 1) The prospect is not yet clear to avoid the difficulties of canceling the MOU which is relatively easier to cancel.
- 2) The signing of the contract takes a long time, so the MOU will be valid for a while.
- 3) Doubts the parties and need time to think if signed a contract then temporarily made MOU. The characteristics of the MOU, namely :

⁹ Salim HS, op.cit., hlm. 3.

¹⁰ Ibid.

¹¹ Salim HS, op.cit., hlm. 4-5.

¹³ Ibid., hlm. 124-126.

¹² Ibid., hlm. 123.

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- a) short form of the subject,
- b) this is an advance, which will be followed by a detailed contract,
- c) time is limited, and
- d) it is usually not made formally and there is no obligation to force the existence of a detailed contract

Although the MOU recognized many benefits, but many parties doubt juridically.

d. Negotiations

- 1) The meaning of business Negotiation is a means for the parties to hold two-way communication designed to reach an agreement as a result of the existence of partieduan views on a matter and motivated by the similarity of interests between them.
- 2) Types of Negotiations There are two types of negotiations, namely the bargainer position and the hard position pricer (hard). *Position bargainer* (soft) is widely done in the family environment, among friends, and others. The goal is for good relations. This advantage quickly results in a deal, but contains a risk, which allows Sangam nang lose (*wis-lose*). While *hard poyo bargainer* (hard) anan mungkin mem impasse and due to the pressure, serta threat, especially he bumped into the situation when meeting hard negotiators fellow hard negotiators

By comparing these two patterns, the most effective is a combination of the two/the principled negotiation/interfeit style is negotiation, which adheres to a win-win pattern, namely being tough on problems. (*hard on the merits, soft on the people*). The fusion style emphasizes the importance of separation between people and problems, focusing attacks on problems, and not on people and relying on choices. This choice will be easily accepted if it is based on objective criteria, such as scientific judgment, legislation, and market value.

e. Stages Of Negotiations

There are two stages that must be carried out by negotiators in negotiating the contract, namely the preparation stage and the implementation stage. Preparatory stage, namely the stage before the negotiaisi. At this stage of preparation, a negotiator must do the following :

- 1) mastering the concept/design of business contracts in a comprehensive and detailed manner;
- 2) master knowledge of the industry of what is agreed;
- 3) master the laws and regulations that surround what is agreed;
- 4) understand exactly what there presented party wants and its position;
- 5) identify points that are potentially problematic or at issue;
- 6) anticipate what solutions from the points that have the potential to become problems and issues and discuss those solutions in advance with the parties represented;
- 7) cultivate self-confidence;
- 8) as far as possible ask the counter party for negotiations to be conducted in the office or in a place chosen negotiator;

Things that negotiators must do in the implementation phase, namely:¹⁴

- 1) as far as possible lead the negotiations;
- 2) knowing well who is faced and measuring strength by asking various things;
- 3) determine what is to be achieved in negotiations;
- 4) ask the *counterpart* to benotified in advance what a is his desire. As far as possible start from the beginning of the draft concept of business contracts. After that, just put forward what the negotiator wants this action is intended to identify posin points in business contracts where the parties differ in views in addition it is also intended for bargaining chips in the subsequent negotiation process;
- 5) solve easy points to solve first or post pone complicated things to solve;
- 6) provide logical arguments and analogies to explain the position / view;
- 7) playing on emotions: when emotions should rise and when they should subside. Dilute the situation when it becomes tense, for example, by making a joke or getting out of the negotiation room;
- 8) if there are unresolved points, do not rush and get stuck to solve;
- 9) not to take decisions on points that need to be directed by the parties represented before consulting;
- 10) if there is time, do not complete the negotiation in one meeting;
- 11) record everything agreed and pour in the business contract with *a mark-up*. If the eleven things are done by The Negotiator well, then the contract made by the parties will provide legal certainty and justice for both parties, because the substance of the contract has been formulated with the negotiators.

2. The Stages Of The Contract

One of the decisive stages in making the contract, namely the stage of drafting the contract. The preparation of this contract needs accuracy and foresight from the parties and Notaries. Because, if wrong in the making of the contract it will cause problems in the implementation. There are five stages in the preparation of contracts in Indonesia, as stated below.

¹⁴ *Ibid.*

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1) Creation of the first draft, which includes: ¹⁵

a) Contract Title

In the contract, it must be taken into account the conformity of the content with the title as well as the legal provisions that govern it, so that possible misunderstandings can be avoided.

b) Opening

It usually contains the date of drawing up the contract.

c) Parties to the contract

It should be noted if the party is a private person as well as a legal entity, especially his authority to perform legal acts in the field of contracts.

d) Racital

That is the official explanation / background of the occurrence of a contract.

e) Content of the contract

The part that is the core of the contract. Which contains what is wanted, Rights, and obligations including dispute resolution options.

f) Cover

Contains the procedure for ratification of a contract. While in the USA, the draft contract contains the following.

1) Part racital, namely the official explanation / background of the occurrence of a contract.

2) *Consideration*, which contains about achievement.

3) *Warranties and representation*.

4) *Risk allocation*.

5) *Dates and term*.

6) *Boillerplate*.

7) Signature

8) Exchange draft contracts with each other.

9) Done the final solution.

10) Conclusion with the signing of the contract by each party

Meanwhile, regarding the arrangement and anatomy of the contract, it can be classified into three parts, namely the introduction, content, and closing. These three things are explained below.

a. Introduction Section

In the introductory part is divided into three subsections.

1) *description of the instrument*.

This subsection contains the following three points, namely, the designation or name of the contract and its subsequent mention (abbreviation) made, the date of the contract drawn up and signed, and the place where the contract was drawn up and signed.

2) Subsection inclusion of the identity of the parties (*caption*).

In this subsection, the identity of the parties to the contract and those who signed the contract are indicated. There are three things to note about the identity of the parties, namely :

a) the parties must be clearly stated;

b) the person who signs must be mentioned in what capacity;

c) definition of the parties involved in the contract.

3) Explanatory subsection. In this subsection is given an explanation of why the parties said the contract (often called the premise section).

b. Section Contents

There are four things listed in the contents section.

1) Definition (clause *definition*)

In this clause, various definitions for the purposes of the contract are usually included. This definition applies only to such contracts and may have the meaning of a general sense. The definition clause is important in order to streamline subsequent clauses because there is no need for repetition.

2) *operative language*

Transaction clauses are clauses that contain transactions that will be carried out. For example, in the sale and purchase of assets, it must be regulated about the object to be purchased and the payment. Similarly, with a joint venture contract, it is necessary to regulate the agreement of the parties to the contract.

¹⁵ *Ibid.*, hlm. 127-128

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3) Specific clauses

Specific clauses govern the specifics of a transaction. This means that the clause is not contained in the contract with different sanctions.

4) General provisions clause

General provisions clauses are clauses that are often found in various trade contracts and other contracts. This clause, among others, regulates legal domicile, dispute resolution, choice of law, notification, the entirety of the agreement, and others.¹⁶

c. Closing Part

There are two things in the closing section, namely:

- 1) *The closing words subsection*, the closing words usually explain that the agreement is made and signed by the parties who have the capacity for it. Or the parties restate that they will be bound by the content of the contract.
- 2) The signature placement room section is where the parties sign an agreement or contract by mentioning the name of the party involved in the contract, the clear name of the person signing and the position of the person signing.

D. CLOSING

At the end of this paper may the details of the thoughts below can be used as an after thought to solve the problem as follows:

1. As for the principles related to the design of contracts, there are two legal principles that must be considered, namely: *beginselen der contractsvrijheid* or *party autonomy*, and *pacta sunt servanda*. *Beginselen der contractsvrijheid* or *party autonomy*, that is, the parties are free to do what they want, provided that it does not contradict the law, public order and decency. Related to the pre-drafting of the contract, there are four things that must be considered by the parties, namely. The identity of the parties, preliminary research related aspects, making MOU, and negotiations.
2. There are five stages in the preparation of a contract in Indonesia, as stated, namely, the creation of a first draft, which includes, the title of the contract that contains must pay attention to the conformity of the contents with the title and the legal provisions governing it, so that possible misunderstandings can be avoided. Then, the Preamble usually contains the date of making the contract. Then, the parties to the contract, meaning it needs to be considered if the parties are individuals and legal entities. especially his authority to perform legal acts in the field of contracts. Then Racital is the official explanation / background of the occurrence of a contract. Then the content of the contract is the part that is the core of the contract. Which contains what is desired, rights, and obligations including dispute resolution options and final closing. Contains the procedure for ratification of a contract.

This contract design technique should be clearly stated through legislation in order to provide legal certainty and fairness for the parties to the contract.

REFERENCES

Book

- 1) Darwin, Effendi. *The effectiveness of the Memorandum of Understanding (MoU) in making an agreement in the field of Education*. Yogyakarta: Atma Jaya University, 2016
- 2) I Made, Pasek Diantha. *Normative legal research methodology in the justification of legal theory*. London: Prenada Media Group, 2017
- 3) Meriana, Main and Arfiana, Novera. *Fundamentals of Contract Law and Arbitration*, cet. I. Malang; Tunggal Mandiri, 2012.
- 4) Muhammad, Sjaiful. *Characteristics of the principle of freedom of contract in Sharia-based agreements. Journal Of Legal Perspectives*. Vol.15, No.1, February, 2015
- 5) R, Subekti. *Law Of Treaties*. cet. 10. Jakarta: Intermasa, 2012
- 6) Salim HS. *Contract law Theory and techniques of contract drafting*. Jakarta: Sinar Grafika, 2021
- 7) Soerjono, Soekanto and Sri Mamudji. *Normative Legal Research*. Jakarta: Raja Grafindo, 2016, Persada



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¹⁶ *Ibid.*, hlm. 129-130.