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DRAFTING AGREEMENT FOR CHARTERING SHIP WORKS AT MODERN KENCANA PERKASA PT BATAM

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Abstract

Indonesia is a state of law. Because of the rule of law, all the actions of the people are regulated by laws and regulations. Referring to this matter, of course, it is clearly regulated regarding the rights and obligations of each legal subject. Both individuals and/or legal entities must always be on the lookout for situations in the future that can later harm themselves. Including the Company in carrying out its activities. As a preventive measure against the agreement as described above, the chartering service party is obliged to pay attention to a binding agreement that has legal force before carrying out a cooperation which according to the law of this country can be strong evidence if in the future things outside the agreement occur. Therefore, the author intends to assist companies in making agreements for the benefit of cooperation with partners.

Keywords: Law, Rights and Obligations, Aggrement, Patners

Introduction

Since the birth of the sovereign State of Indonesia, legal regulations complete with their causes and effects for the community have become the main determinants of the way of human life. As already regulated in the state constitution in the provisions of Article 1 paragraph (3) of the amendments to the 1945 Constitution, it is stated that "the State of Indonesia is a state of law". Because of the rule of law, all the actions of the people are regulated by laws and regulations. Contextually, the application of law as a matter that must be enforced fairly in a country aims to create a "prosperous state" by obeying the law and using the law as an effort to solve problems. If it is related to the above, the Indonesian state with a background as a state of law, of course, has clearly regulated the rights and obligations of each legal subject. Whether it's a legal person (individual) or legal entity. Because with the achievement of the fulfillment of rights and obligations in accordance with the portion, it is hoped that later it will achieve a legal ideal. The ideal of law or what is known as (Idee des Recht) recognizes three elements of teaching to achieve a prosperous state. Three elements which then become this principle must exist proportionally, namely the existence of legal certainty, justice, and the usefulness of the law itself. Legal certainty is an absolute requirement, if desired, so that the law can carry out its duties as well as possible. Each individual

must have their own interests, both for themselves, or among others. If personal interests will be easier to fulfill, but it is different when talking about interests between others where it is very likely that there will be a conflict between the rights and obligations of each individual. When the differences between these two interests meet, the law will create a balance between the two conditions that must be decided with a different portion of justice and then the law will grow with benefits that are in line with the ideals of the law, namely creating prosperity. Because without certainty, justice, and usefulness, the law cannot be a guide because it loses the substance of the existence of the law itself. In the Indonesian constitution, the division of law is divided into two, namely private law and public law. If private law refers to personal relationships between legal subjects, public law refers to what happens in society at large. In the concept of implementing this project, the author focuses on private law (civil law) which is enforced in Indonesia by referring to the Indonesian Civil Code. (Burgerlijk Wetboek voor Indonesië). Based on the Indonesian Civil Code (Burgerlijk Wetboek voor Indonesië) it is regulated in Book III Article 1313 that what is meant by an agreement is a legal act in which one or more people bind themselves to one or more people to do or not to do something concrete to then it will give birth to a right and obligation between the parties (which is usually called an engagement). The essence of the Agreement then becomes crucial and contains legal certainty because the substance of the matters regulated in the Agreement cannot be separated from the legal institutions in the laws and regulations of the State of Indonesia. With an agreement or contract made in writing or poured into a written document, it is hoped that this agreement or contract will later provide legal certainty for the parties and become a legal document if in the future there is a dispute to be referred as a reference in solving problems that occur because without an agreement or the contract of the parties in this case, especially the work partner, can be broken, for example; will be willing to be bound by other matters beyond the agreement of the other party. If it is correlated with the state of chartering services, today chartering services are a business field that is familiar to the public in general and construction business activists in particular. This can be seen from the continued increase in the number of companies engaged in this field. Relevant to this, at the beginning of a charter job, it begins with an agreement between the two parties which will later be poured into an agreement, which according to law can indeed be in the form of oral and/or written. But of course, as a legal subject, every person and/or legal entity must always be on guard for conditions in the future which can later harm themselves. As a preventive effort to overcome this problem related to the urgency of an agreement as described above, the chartering service party must pay attention to a binding agreement that has legal force before carrying out a cooperation which according to the law of this country can be strong evidence if things happen in the future. beyond what was agreed. As contained in the Indonesian Civil Code, the fourth book on evidence is regulated. PT Modern Kencana Perkasa is a company whose scope of activity is to carry out ship chartering services with a nominal value of work that is not small and the work space is quite complicated. Departing from this, it would be better if in collaborating with work partners have an agreement in the form of a work contract that regulates the legal relationship between the parties

and is poured into a written contract with more clarity and detail regarding matters containing important clauses during the implementation period. chartering work so that the boundaries of rights and obligations as well as responsibilities between parties are structured so that the juridical and economic functions of the Agreement can go hand in hand. Therefore, the author chooses to carry out the project and design a draft of the Ship Chartering Agreement in this Company because with the existence of an Agreement or Contract that will be made, it is hoped that each party can fulfill and carry out their rights and obligations properly based on what they have agreed. in the contract.

Method

The method that the author uses in this practical work activities are:

a. Observation or Observation

With observations made by the author and observations in the field, the author has the opportunity to see what is needed from the current situation in the company. In this observation and observation, the author also aims to assess how the work system in the company will be used as a practical work project in order to achieve the author's intention regarding writing a draft ship charter agreement which will later become the project output.

b. Interview

After conducting the observation and observation stage, the author also obtained other data from interviews with sources to obtain accurate data. In this case the author conducted an interview with the director of the company. The owner of the company is the author's target resource because it is hoped that this interview will have a good impact in the form of suggestions and input on the outputs that the author offers in the implementation of this practical work project. In addition, with this interview, the author hopes to exchange opinions with the company's director on matters regarding the director's wishes for the draft ship charter agreement later.

Discussion

At the stage of implementing the outputs of this project, the authors apply the outputs or outputs based on the results of the observations that the authors made while carrying out practical work at the company. The results of the analysis of the company's data and then related to solving the solutions needed by the company regarding legal knowledge in particular is the need for a draft form of ship chartering agreement. The output of the project is submitted to the management of the company for further research, after being approved, the author then prepares a draft of a certain agreement where in its manufacture most of the authors refer to Pancasila, the Civil Code that the author has studied during lectures.



PERJANJIAN BORONGAN PEKERJAAN KAPAL

NOMOR : masukkan nomor referensi/PBK/MKF-masukkan nama mitra teraja/pilih bulan masukkan tahun

Perjanjian ini dibuat pada hari ini, pilih hari, tanggal pilih tanggal, bulan pilih bulan, tahun masukkan tahun

ANTARA

1. Masukkan nama perusahaan beserta legalitas hukumnya : masukkan jabatan, yang beralamat di masukkan alamat lengkap, dalam hal ini bertindak untuk dan atas nama jabatannya yang selanjutnya disebut sebagai PIHAK PERTAMA.

DENGAN

2. Masukkan nama perusahaan beserta legalitas hukumnya : masukkan jabatan, yang berkedudukan di masukkan alamat lengkap, dalam hal ini bertindak dan atas nama jabatannya, yang selanjutnya disebut sebagai PIHAK KEDUA.

Kedua belah pihak dalam hal ini akan melakukan kerjasama berdasarkan ketentuan yang akan disepakati dalam perjanjian ini. Adapun hal-hal yang telah disepakati antara kedua belah pihak dibuat dengan mempertimbangkan hak dan kewajiban masing-masing pihak ditetapkan dan tertulis dalam 10 (sepuluh) pasal, sebagai berikut :

PASAL I

PENUNJUKAN

- 1. PIHAK PERTAMA menunjuk PIHAK KEDUA untuk melaksanakan pemborongan pekerjaan kapal masukkan nama kapal/proyek di masukkan nama tempat dan alamat lengkap.
2. PIHAK KEDUA sepakat untuk menerima penunjukan tersebut dan bersedia melaksanakan pemborongan pekerjaan kapal tersebut sesuai dengan spesifikasi pekerjaan yang terlampir dalam lampiran perjanjian ini.

BERKAS

1

Usang muka dalam hal ini ditetapkan sebesar masukkan jumlah persen dari harga kontrak borongan seperti yang tercantum dalam pasal IV yaitu sebesar masukkan jumlah uang (masukkan jumlah dalam huruf) dan akan dibayarkan PIHAK PERTAMA kepada PIHAK KEDUA paling lama 14 (empat belas) hari setelah penandatanganan Surat Perjanjian ini;

b. Pembayaran Lanjutan

Pembayaran lanjutan ditetapkan sebesar masukkan jumlah persentase (masukkan jumlah dalam huruf) persen dari harga kontrak borongan. Besarnya pembayaran tersebut adalah: masukkan jumlah uang (masukkan jumlah dalam huruf) yang akan dibayarkan PIHAK PERTAMA kepada PIHAK KEDUA apabila tahapan pekerjaan telah selesai sekitar masukkan jumlah persentase dari keseluruhan pekerjaan;

c. Pembayaran Pelunasan

Pembayaran pelunasan sebesar masukkan jumlah persentase dari harga kontrak. Besarnya pembayaran tersebut adalah: masukkan jumlah uang (masukkan jumlah dalam huruf) yang akan dibayarkan PIHAK PERTAMA kepada PIHAK KEDUA apabila pekerjaan telah selesai dilaksanakan PIHAK KEDUA dengan baik.

- 2. Pembayaran oleh PIHAK PERTAMA kepada PIHAK KEDUA tersebut dilaksanakan melalui Rekening PIHAK KEDUA pada masukkan nama dan alamat Bank dengan nomor rekening: masukkan nomor rekening tujuan.

PASAL VI

PERBENTAHAN

Perbentahan atau komunikasi dalam bentuk apapun yang mengacu kepada hal berkaitan dengan perjanjian ini harus dilakukan secara tertulis dan dianggap dikirimkan dengan benar jika dikirimkan melalui alamat korespondensi dan diantarakan langsung atau surat tercatat kepada pihak lainnya sesuai alamat berikut ini :

- 1. Berkenaan dengan PIHAK PERTAMA

Masukkan alamat korespondensi

BERKAS

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PASAL II

OBJEK PERJANJIAN

PIHAK KEDUA harus memastikan menyelesaikan pekerjaan yang diberikan (dalam hal ini dapat berbentuk perbaikan atau pembuatan kapal) dan bertanggung jawab hingga menyerahkan kapal kepada Pemilik Kapal sesuai dengan standar-standar konstruksi kelas satu yang diterapkan oleh galangan kapal internasional dan memenuhi persyaratan perjanjian ini dan semua undang-undang, keumuman, dan peraturan yang berlaku termasuk jika terdapat pekerjaan tambahan, (selanjutnya disebut sebagai "Pekerjaan").

PASAL III

RUANG LINGKUP PEKERJAAN

- 1. PIHAK KEDUA setuju sepenuhnya dan dengan sukses melaksanakan dan menyelesaikan pekerjaan sebagaimana telah dirincikan dalam lampiran perjanjian ini dan semua pekerjaan lain akan dilaksanakan berdasarkan atau berkaitan dengan perjanjian ini baik telah ditetapkan dalam lampiran-lampiran perjanjian ini atau dalam gambar apapun atau spesifikasi apapun atau dalam dokumen lain apapun yang mengacu atau berkaitan dengan perjanjian ini;

- 2. Dengan ini dipahami dan disepakati bahwa PIHAK PERTAMA akan menyediakan pasokan dengan biayanya sendiri sebagaimana ditetapkan dalam Lampiran. Dan PIHAK KEDUA harus menyediakan pasokan sebagaimana ditetapkan dalam lampiran termasuk semua Personal helem keselamatan, safety belts, dan peralatan pelindung lainnya sebagaimana diperlukan untuk melaksanakan pekerjaan.

PASAL IV

JANGKA WAKTU PELAKSANAAN

- 1. Pelaksanaan pekerjaan selambat-lambatnya dimulai pada masukkan jangka waktu setelah ditandatanganinya Surat Perjanjian ini dan PIHAK KEDUA harus sudah menyelesaikan pekerjaan tersebut secara keseluruhan (serta menyerahkannya jika dalam hal ini adalah

BERKAS

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- 2. Berkenaan dengan PIHAK KEDUA

Masukkan alamat korespondensi

PASAL VII

PENGALIHAN PELAKSANAAN PEKERJAAN

- 1. Pelaksanaan pekerjaan pemborongan ini yang perincian pekerjaannya akan dilampirkan dalam bagian lampiran Surat Perjanjian ini tidak dapat diakhiri atau dipindah tangankan atau diborekkan lagi kepada PIHAK KETIGA dengan alasan apapun;
2. Apabila PIHAK KEDUA melanggar kesepakatan sesuai pasal 7 ayat 1 tersebut di atas, maka PIHAK PERTAMA berhak membatalkan perjanjian ini secara sepihak, tanpa memberitahukan terlebih dulu kepada PIHAK KEDUA dengan tidak ada kompensasi ganti rugi;
3. Semua kerugian yang timbul akibat pembatalan perjanjian tersebut sepenuhnya menjadi tanggung jawab PIHAK KEDUA.

PASAL VIII

BEA MATERAI DAN PAJAK-PAJAK

Bea materai sebesar masukkan jumlah persentase %, (masukkan jumlah dalam huruf) persen dari harga kontrak borongan seperti yang tercantum dalam pasal V (lima) perjanjian ini dan pajak-pajak lainnya yang timbul akibat dikeluarkannya Surat Perjanjian ini sepenuhnya menjadi tanggungan PIHAK KEDUA.

PASAL IX

PENYELESAIAN PERSELISIHAN

Perjanjian ini akan diatur oleh dan ditafsirkan sesuai dengan Undang-Undang Republik Indonesia. Dengan jika terdapat permasalahan yang tidak diinginkan maka di kemudian hari maka;

- 1. Bawa apabila terjadi suatu perselisihan dalam pelaksanaan perjanjian ini, maka para pihak sepakat untuk terlebih dahulu mengambil jalur penyelesaian secara musyawarah

BERKAS

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- 2. Bawa apabila setelah dilakukan musyawarah dan tidak terdapat kata sepakat terkait penyelesaian tersebut, maka PARA PIHAK sepakat untuk menyelesaikannya melalui jalur hukum yang dalam hal ini dengan sepakat untuk memilih tempat kedudukan sesuai dengan domisili PIHAK PERTAMA yaitu di Pengadilan Negeri Batam.

PASAL X

PENUTUP

Surat Perjanjian ini mulai berlaku terhitung sejak ditandatangani oleh kedua belah pihak di masukkan nama tempat pada masukkan hari, masukkan tanggal, masukkan bulan, dan masukkan tahun, yang dibuat rangkap 7 (tujuh) yang berkekuatan hukum yang sama, dimana lembar pertama (asal) dan lembar kedua dibubuhi materai secukupnya.

Dibuat di : masukkan nama tempat
Tanggal : masukkan tanggal, bulan, dan tahun

PIHAK PERTAMA

PIHAK KEDUA

()

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BERKAS

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The output in the form of a draft of a shipbuilding charter agreement that has been completed and then submitted to the company for re-examination, then made some improvements to the substance of the agreement as a correction material from the company. The author makes revisions to the draft and then submits it back to the company. The improvement of the substance of the draft agreement has been well received, which means that from the future the agreement will be used in every collaboration with other parties. As long as the author carries out the implementation of practical work the author also helps some of the work given by the company in the form of:

- a. Archiving company documents;
- b. Assist in the management of BPJS Employees;
- c. Assist with administrative work;
- d. Assist in registering the company's NIB;
- e. Assist in the management of the company's latest deed.

Conclusion

After carrying out practical work to the implementation stage at PT Modern Kencana Perkasa, the conclusions that the author can draw are as follows:

1. PT Modern Kencana Perkasa is a company engaged in construction services with a scope of work including shipbuilding and ship repair (making new constructions, fabrications, ship modifications, and other special projects) that relates to other parties on a relatively large scale;
2. PT Modern Kencana Perkasa does not yet have an agreement in a concrete form;
3. Based on the conditions mentioned above, the author offers a solution in the form of a draft work agreement for shipbuilding;
4. With the ship charter agreement, the company is now safer regarding legal certainty regarding its rights and obligations.

Do not forget the author would like to express his gratitude to the parties who have been involved directly or indirectly in the implementation of this practical work. Both from the campus, companies, and others who cannot be mentioned one by one.

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