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## FORCE MAJEURE

Checklist before invoking a Force Majeure clause:

1. Contractual term: Is there a Force Majeure Clause in the Contract;
2. Event: Has there been an event falling within the definition of the Force Majeure Clause in the contract or is the wording wide enough to include this event;
3. Causation: Was the event directly causal to the inability to fulfill the contract or was it another collateral reason such as Government legislation;
4. Notice: Do you have to give Notice of the Force Majeure event and what form must this notice take and when do you have to give it;
5. Mitigation: Is there a duty to mitigate the loss or damages or inability to perform the contract by eg finding another source of product etc;
6. Damages/Renegotiation: Does the Force Majeure event entitle you to seek or claim damages or does the contract entitle or require you to renegotiate the ambit of performance;
7. Arbitration/Litigation: In the event that there is no Force Majeure clause or the parties are still in dispute, what is the mode of Dispute Resolution under the Contract;
8. Insurance: Do either of the parties have insurance over this matter or does this fall within the ambit of the insurance policy.

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