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| **ADR vs. Litigation** | | **Notes** |
|  | 1. **Is a “winner take all” solution preferable to a compromise?**   *Check if yes.* |  |
|  | 1. **Is there likely to be a legal principle or precedent at stake?**   *Check if yes.* |  |
|  | 1. **Is it important to maintain control over the outcome?**   *Check if yes, leave blank if maintaining control over the outcome isn’t high-importance for you.* |  |
|  | 1. **Is speed/timing of a resolution important to you?** Compare to the court docket in the most likely relevant jurisdiction(s).   *Check if yes.* |  |
|  | 1. **Is there a legal precedent or interpretation needed that will impact more than the immediate dispute and parties?** E.g. the interpretation of a relevant statute or regulation.   *Check if yes.* |  |
|  | 1. **Are there commercial opportunities that could be included in an ADR solution that would not be part of a litigated outcome?**   *Check if yes.* |  |
|  | 1. **Is discovery important to the resolution of the dispute?**   *Check if yes, leave blank if discovery isn’t expected to be needed or it is not expected to take much time.* |  |
|  | 1. **Does one party need discovery processes more than the other?**   *Check if yes.* |  |
|  | 1. **Is injunctive relief likely to be needed?**   *Check if yes.* |  |
|  | 1. **Is a local court order, an arbitral award, or a mediated settlement likely to be enforceable in this dispute?** Keep in mind New York Convention enforceability of arbitral awards and expanding the use of Singapore Convention on Mediation for mediated agreements?   *Check if yes.* |  |
|  | 1. **Would the opportunity to appeal be important in this dispute?**   *Check if yes.* |  |
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| **ADR VS. Litigation (cont.)** | | **Notes** |
|  | 1. **If litigated, would there likely be claims included that offer a windfall to one party?** E.g. punitive or treble damages.   *Check if yes.* |  |
|  | 1. *Write your own checklist items here* |  |
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