**Decision Tree for Theory of Emergency Conditions**

| **Step** | **Question** | **Code** | **Answer** | **Sub-Code** | **Action** |
| --- | --- | --- | --- | --- | --- |
| 1 | Has a dispute arisen in a construction contract where the claimant invokes emergency conditions (e.g., force majeure, hardship)? | E1 | No | E1.1 | End process (No emergency conditions; proceed with normal arbitration or litigation). |
|  |  |  | Yes | E1.2 | Proceed to Step 2. |
| 2 | Does the construction contract contain an arbitration clause? | E2 | No | E2.1 | The dispute may need to be resolved through litigation or other methods. |
|  |  |  | Yes | E2.2 | Proceed to Step 3. |
| 3 | Does the arbitration clause cover disputes arise from emergency conditions or force majeure events? | E3 | No | E3.1 | The arbitration clause may not apply; consider judicial intervention or renegotiation. |
|  |  |  | Yes | E3.2 | Proceed to Step 4. |
| 4 | Has the claimant provided sufficient evidence that the emergency condition meets the contractual or legal definition (e.g., unforeseeability, impact on performance)? | E4 | No | E4.1 | The claim may not be valid; arbitration may proceed, but the emergency condition claim could be dismissed. |
|  |  |  | Yes | E4.2 | Proceed to Step 5. |
| 5 | Does the applicable law or contractual provision recognize the theory of emergency conditions as a valid defense or basis for modifying contractual obligations? | E5 | No | E5.1 | The claim may not succeed on the merits, but arbitration should still proceed to determine other aspects of the dispute. |
|  |  |  | Yes | E5.2 | Proceed to Step 6. |
| 6 | Has the claimant attempted to mitigate the effects of the emergency condition before seeking relief through arbitration? | E6 | No | E6.1 | The claimant’s failure to mitigate may weaken their case, but arbitration should still address the dispute. |
|  |  |  | Yes | E6.2 | Proceed to Step 7. |
| 7 | Does the arbitration clause or applicable arbitration rules allow the tribunal to grant relief or modify the contract based on emergency conditions? | E7 | No | E7.1 | The tribunal may proceed with arbitration but may be limited in granting specific relief related to the emergency conditions. |
|  |  |  | Yes | E7.2 | Proceed to Step 8. |
| 8 | Is the dispute ripe for arbitration, or are there preliminary issues (e.g., jurisdiction, admissibility) that need to be resolved? | E8 | Preliminary Issues Exist | E8.1 | Address preliminary issues first, then proceed with arbitration if appropriate. |
|  |  |  | Dispute is Ripe | E8.2 | The arbitration should proceed, considering the claim of emergency conditions. |

**Summary of Outcomes**

| **Step** | **Outcome** |
| --- | --- |
| **E1.1** | No emergency conditions; proceed with normal arbitration or litigation. |
| **E2.1** | The dispute may need to be resolved through litigation or other methods. |
| **E3.1** | The arbitration clause may not apply; consider judicial intervention or renegotiation. |
| **E4.1** | The claim may not be valid; arbitration may proceed, but the emergency condition claim could be dismissed. |
| **E5.1** | The claim may not succeed on the merits, but arbitration should still proceed to determine other aspects of the dispute. |
| **E6.1** | The claimant’s failure to mitigate may weaken their case, but arbitration should still address the dispute. |
| **E7.1** | The tribunal may proceed with arbitration but may be limited in granting specific relief related to the emergency conditions. |
| **E8.1** | Address preliminary issues first, then proceed with arbitration if appropriate. |
| **E8.2** | The arbitration should proceed, considering the claim of emergency conditions. |

**Key Features of the Redesigned Decision Tree**

1. **Step-by-Step Flow:** Each question leads to a clear action or next step.
2. **Action-Oriented:** Each decision point leads to a specific action (e.g., proceed to arbitration, consider litigation).
3. **Emergency Condition Classification:** The tree ensures that emergency conditions are properly evaluated based on contractual and legal definitions.
4. **Contractual Compliance:** Ensures remedies and arbitration align with the contract terms.
5. **Endpoints:** Clear endpoints are defined where the process concludes (e.g., arbitration proceeds, preliminary issues addressed).

**Decision Tree Summary**

This decision tree guides users through the process of determining whether a construction dispute, where the claimant invokes emergency conditions, should go to arbitration. It considers the presence and scope of the arbitration clause, the validity of the emergency condition claim, the legal recognition of such claims, and whether the dispute is ready for arbitration. The goal is to ensure that the dispute is appropriately resolved within the arbitration framework while considering the special circumstances presented by the emergency conditions.