

EXERCISE**INTRODUCTION TO 363 SALES***Background*

Your client, Tempo Cycles, Inc., is in financial distress and is going to pursue a restructuring transaction. They haven't decided if they're going to file a Chapter 11 case or pursue an out-of-court transaction, but they do know they want to sell off some of their assets as part of the process.

They tell you the following:

- They'd like to do the asset sale as quickly as possible.
- They'd prefer to receive cash for the assets.
- Tempo's charter requires a supermajority of shareholders to approve an asset sale, and there are several large shareholders that are currently opposed to Tempo selling its assets.
- Some of Tempo's most important contracts have strict anti-assignment clauses that restrict the company's ability to transfer the agreements in asset sales.

The client would like to have a call with you to discuss their options.

Instructions

Come prepared to discuss what you'll tell the client, being sure to cover:

- What type of structure (i.e., a 363 sale, plan sale, or out-of-court asset sale) you'd recommend for the asset sale.
- The pros and cons of 363 sales, plan sales, and out-of-court asset sales, and in particular how those pros and cons relate to Tempo's situation.