

Before you sign: a short checklist

- 1 Have we put our own probability and timing on each payment, and are the buyer's key assurances written into the agreement?
- 2 Do any of our significant holders have interests that differ from the rest of the sellers?
- 3 For each milestone, do we know exactly what event triggers it, where, by when and by whom?
- 4 What exactly must the buyer do to pursue each milestone, and, at a minimum, has it promised not to take action intended to avoid or reduce a payment?
- 5 Have we read the net sales definition and every royalty reduction, and is there a floor?
- 6 What reports and audit rights will we have, and are they detailed enough to check the numbers?
- 7 Can the buyer hold back payments, and what happens if the program or the buyer changes hands?
- 8 Where and how will disputes be decided, and who has the right to bring them?
- 9 Who will represent the sellers, and is the expense fund large enough for a real dispute?
- 10 Do we know who receives each payment, how it is shared among our holders, and how it will be taxed?

QUESTIONS? CONTACT

Laurent Campo

Laurent Campo is a partner at PLG in Washington, D.C., where he advises on mergers and acquisitions and securities matters, including life sciences transactions. He can be reached at lcampo@potomaclaw.com.

This checklist is for general informational purposes and should not be construed to provide legal advice as to particular factual situations. Receipt or use of it does not create an attorney-client relationship with Potomac Law Group, PLLC (PLG) or any of its attorneys. The terms discussed and the law that governs them vary by transaction and change over time, so readers should consult counsel about their own circumstances. Attorney advertising.