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TECHNOLOGY AND LIFE SCIENCES TRANSACTIONS

AI Collaborations – From Strategic License to Strategic Acquisition

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Artificial intelligence (AI) continues to reshape healthcare delivery, particularly in diagnostics, imaging, and care coordination. For established healthcare platforms seeking to integrate innovative capabilities, effective transactions are not always single-step acquisitions. Phased relationships, beginning with commercial alignment and structured with the potential for full-scale integration, can provide a disciplined path to innovation.

For technology and life sciences transactions counsel, this raises a critical question: How can parties structure an initial collaboration to accelerate deployment while preserving long-term strategic optionality?

Phase I: Exclusive Commercial Alignment With Strategic Investment

In the healthcare sector, initial alignment frequently takes the form of an exclusive or field-limited license coupled with a minority equity investment. This structure enables a healthcare platform to secure access to differentiated technology, influence product development, and evaluate performance in a live clinical setting while mitigating integration and regulatory risk.

The effectiveness of this model turns on careful coordination in drafting foundational agreements.

Exclusivity

Exclusivity must be defined with intent and precision. In healthcare technology transactions, scope may be tied to specialty, site of care, modality, patient population, geography, or some combination of the foregoing. Performance milestones often are incorporated to ensure continued development and commercialization progress. Overly broad exclusivity may constrain a developer's growth and create valuation tension; overly narrow drafting may undermine the strategic value of the arrangement. The objective is to balance long-term alignment with

operational flexibility. Of course, in an AI context, parties need to address whether exclusivity extends to future model iterations, retrained versions, or algorithmic enhancements; consideration must be given to the dynamic nature of machine learning systems.

Intellectual Property and Data Rights

Healthcare collaborations frequently involve a convergence of technology developers and data-rich platform organizations. Clear delineation of background intellectual property, derivative works, algorithm improvements, and data usage rights is essential. Platforms typically seek rights to deploy and refine technology across their networks and express concerns around the control and use of their data; developers seek to preserve core intellectual property ownership and the integrity of their models having been trained with partner data. Sophisticated collaborators increasingly distinguish between ownership of model weights, fine tuned models, embeddings, and generated outputs. Platforms also may be concerned with limiting use of their input data to improve only customer specific instances rather than also generalized models. These provisions must be drafted with careful attention to the Health Insurance Portability and Accountability Act of 1996, state privacy regimes, cybersecurity obligations, and evolving regulatory scrutiny of AI-enabled tools.

Several intellectual property questions are distinctive in the AI context. First, where a party's product is a layer built on a third-party foundation model (commonly referred to as a "wrapper"), the scope of any exclusivity grant requires careful scrutiny. The underlying model weights may remain owned and broadly licensed by the third-party foundation model provider. What a wrapper may practically protect is the specific configuration, fine-tuning, and proprietary data contributed by the parties; however, it likely cannot fence off the foundational capabilities beneath. Exclusivity in this context protects differentiation, not the underlying foundation model.

Second, ownership of AI-generated output remains legally unsettled, and third-party platform terms of use continue to shift in ways that increase that uncertainty. Current copyright doctrine in most jurisdictions requires human authorship; outputs produced autonomously by a model may provide no copyright protection at all. In practice, many organizations treat proprietary prompts, fine-tuning approaches, retrieval architectures, and workflow integrations as confidential know how rather than relying on copyright protections in the outputs themselves. This approach can be effective, but trade secret protection is contingent on maintaining secrecy and on contractual controls that prevent disclosure. Strategic agreements governing AI development should address both the allocation of any rights that do arise as well as the confidentiality obligations, access controls, and use and disclosure restrictions necessary to sustain appropriate trade secret protection.

Third, background intellectual property carries additional complexity when applied to AI development. A developer's model may incorporate vast quantities of third-party content,

potentially including works subject to copyright claims or contested licensing. Training data provenance and any unlicensed works used in the development or subsequent retraining of a model represent material and ongoing diligence considerations. Parties collaborating on the development or deployment of a model should conduct appropriate diligence into training data lineage and should seek representations, warranties, and indemnities addressing third-party intellectual property infringement claims flowing from the model's underlying composition.

Investment and Governance

A minority equity investment can accompany the commercial arrangement, aligning incentives and providing capital for continued development. Effectively structured governance rights, such as board observation rights, information rights, and other protective provisions, can provide strategic visibility without creating unintended control or regulatory implications. Coordination between the commercial agreement and the investment documents is critical, particularly with respect to transfer restrictions and change-of-control provisions. Moreover, AI governance may extend to oversight of model validation, change management processes, and any regulatory filings associated with algorithm modifications.

At this stage, sophisticated parties also frequently incorporate structural mechanisms that preserve a potential path to acquisition while maintaining flexibility for both parties.

Phase II: Commercialization Proving Grounds

The initial commercial phase often functions as live diligence. The healthcare platform gains insight into clinical adoption, workflow integration, model performance, regulatory positioning, and scalability. This operational visibility informs valuation and integration planning should the relationship mature. This phase can also serve as a period to assess real world performance drift, explainability, robustness across diverse cohorts, and the sufficiency of monitoring systems required for ongoing compliance.

To preserve optionality for a transition toward a future acquisition, parties often incorporate structural tools with respect to equity, such as rights of first refusal or first offer, exclusive negotiation periods, call options, prealigned valuation frameworks, or some combination of the foregoing. Drag-along and tag-along rights associated with the equity may also be calibrated with a future acquisition scenario in mind. These mechanisms should be drafted with attention to enforceability and regulatory constraints. Early coordination among corporate, regulatory, and competition counsel can materially affect downstream optionality.

Phase III: Acquisition and Integration

If the collaboration demonstrates sustained strategic value, a full acquisition may enable a

deeper operational integration and broader commercialization as well as enhance the platform's market differentiation.

At this stage, issues addressed during the initial licensing phase assume heightened importance. Clear chain of title for intellectual property, documented rights to data and improvements, regulatory compliance history, and alignment across commercial agreements are central to confirmatory diligence. Particular scrutiny is given to training data lineage, model documentation, audit trails demonstrating controlled updates, and explainability materials required for U.S. Food and Drug Administration or equivalent regulatory submissions. Retention and incentive arrangements for founders, developers, and technical personnel often become critical to preserving innovation postclosing.

If lifecycle planning is embedded in the original agreements, the acquisition process typically becomes more efficient. Change-of-control consequences are understood, equity positions are aligned, and commercial rights do not require fundamental restructuring. The transaction can therefore focus on valuation, integration strategy, and long-term growth.

Deliberate Deal Architecture

As technology-enabled innovation continues to transform healthcare delivery, staged collaborations are likely to remain a defining feature of strategic transactions. A phased approach, beginning with commercial alignment and investment while preserving a clear path to integration, allows organizations to validate technology in practice before committing to full-scale acquisition.

For technology and life sciences transactions counsel, the task is not merely to document a license or negotiate a purchase agreement. It is to architect a relationship that accommodates immediate commercialization and future strategic flexibility within a highly regulated environment. Thoughtful lifecycle structuring at the outset can materially shape the trajectory, and ultimate success, of the deal. As AI becomes more deeply embedded in clinical workflows, deal architecture increasingly must anticipate issues, such as ongoing model governance, regulatory obligations tied to adaptive algorithms, and safeguards around the responsible use of patient derived data — all core components of strategic value and risk.

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