

This quick reference guide provides a summary of the three most recent years of data from the 2025 SRS Acquiom M&A Deal Terms Study, which analyzes more than 2,200 private-target acquisitions (\$505B) that closed from 2019–2024 for which SRS Acquiom provided professional services. Download the full 2025 M&A Deal Terms Study at srsacquiom.com/2025dts/

SRS Acquiom MarketStandard is a proprietary database of over 4,400 private-target M&A deals, designed to help deal parties determine “what’s market,” and allows you to dynamically filter, sort, and explore over 150 attributes with five different filters for real-time negotiating knowledge.

Gain access: srsacquiom.com/marketstandard

| STUDY YEAR | 2022 | 2023 | 2024 |
|---|-------|-------|-------|
| FINANCIAL TERMS AND PROVISIONS | | | |
| Closing Consideration Trends, Consideration Type | | | |
| All cash..... | 73% | 74% | 77% |
| All stock..... | 4% | 6% | 6% |
| Cash/Stock combination..... | 23% | 20% | 17% |
| Simultaneous Sign and Close | | | |
| Yes | 35% | 37% | 41% |
| No | 65% | 63% | 59% |
| Management Carveouts: Frequency and Size | | | |
| Deals including a management carveout..... | 3.6% | 6.0% | 5.1% |
| Median size as a % of transaction value | 10.0% | 6.8% | 12.7% |
| Treatment of Options | | | |
| Contribution and acceleration ¹ | | | |
| Full acceleration of vesting | 13% | 8% | 14% |
| Optionholders contribute to escrow | 52% | 36% | 42% |
| Assumption of options by buyer, options assumed..... | 14% | 22% | 14% |
| Post-Closing Purchase Price Adjustments (“PPA”) | | | |
| Included in consideration mechanics section of agreement | 86% | 86% | 82% |
| Included in indemnification section of agreement..... | 9% | 6% | 10% |
| Adjustment metrics | | | |
| Working capital..... | 85% | 88% | 85% |
| Cash..... | 86% | 96% | 85% |
| Debt..... | 92% | 96% | 92% |
| Other | 18% | 15% | 17% |
| Net assets (liabilities) | 2% | 1% | 2% |
| Adjustment excludes tax-related items, yes | 82% | 85% | 86% |
| Methodology for preparation of closing balance sheet | | | |
| GAAP | 9% | 15% | 19% |
| GAAP consistent with past practices..... | 54% | 37% | 37% |
| Specified Methodology/Worksheet..... | 26% | 34% | 35% |
| Silent..... | 3% | 5% | 2% |
| Other | 8% | 8% | 7% |
| Separate PPA escrows | | | |
| Deals with PPA escrow (all deals) | 73% | 70% | 78% |
| Deals with PPA escrow (no RWI identified) | 56% | 57% | 66% |
| Deals with PPA escrow (RWI identified)..... | 93% | 88% | 91% |
| PPA escrow median size as % of transaction value..... | 0.87% | 1.00% | 0.98% |
| Earnouts (Non-life science deals) | | | |
| Earnout included..... | 21% | 33% | 22% |
| Earnout metrics ² | | | |
| Revenue..... | 62% | 95% | 65% |
| Earnings/EBITDA | 22% | 23% | 13% |
| Other | 22% | 24% | 22% |
| Median earnout potential as % of closing payment..... | 30% | 34% | 31% |
| Earnout length ³ | | | |
| 1 year or less..... | 30% | 19% | 24% |
| >1 year | 69% | 80% | 76% |
| Earnouts (Non-life sciences deals): Diligence Standards and Acceleration | | | |
| Commercially Reasonable Efforts (CRE)..... | 29% | 21% | 10% |
| “Buyer shall take no action the primary purpose...” | 85% | 90% | 90% |
| Reporting Requirements | 90% | 93% | 90% |
| Earnout accelerates on change in control, Included..... | 30% | 23% | 39% |
| PERVASIVE QUALIFIERS | | | |
| Definition of Material Adverse Effect (“MAE”) | | | |
| Use of “prospects”, included..... | 9% | 10% | 10% |
| Forward-looking MAE details | | | |
| “Could be” | 11% | 12% | 10% |
| “Would be”..... | 87% | 86% | 86% |
| Other ⁴ | 2% | 2% | 4% |
| Carveout frequency | | | |
| War or terrorism | 97% | 96% | 99% |
| Economic conditions..... | 97% | 99% | 98% |
| Industry conditions..... | 94% | 92% | 92% |
| Knowledge Standards | | | |
| Knowledge definition details, actual | 5% | 4% | 6% |
| Knowledge definition details, constructive..... | 94% | 96% | 93% |

1 Excludes deals where optionholders received no consideration.

2 Earnouts can include more than one metric, such as a combination of revenue and earnings.

3 Measured by the date the latest earnout period ends.

* Remainder of 100% total is Silent.

| STUDY YEAR | 2022 | 2023 | 2024 |
|--|------|------|------|
| SELLER’S REPRESENTATIONS, WARRANTIES, AND COVENANTS | | | |
| “No Undisclosed Liabilities” Representation, Party Favored by Definition | | | |
| Buyer | 69% | 81% | 81% |
| Seller | 31% | 19% | 19% |
| Representation is knowledge qualified..... | 1.2% | 1.6% | 1.9% |
| “Compliance with Laws” Representation⁵ | | | |
| Covers past and present compliance..... | 96% | 97% | 98% |
| Includes notice of violation..... | 89% | 91% | 90% |
| “10b-5” and “Full Disclosure” Representations | | | |
| Inclusion of reps | | | |
| “10b-5” rep only..... | 13% | 17% | 10% |
| Both “10b-5” and “full disclosure” reps..... | 2% | 1% | 1% |
| Neither rep..... | 85% | 81% | 89% |
| Neither rep (subset: No RWI identified)..... | 80% | 75% | 85% |
| “No Other Representations” and “Non-Reliance” Clauses | | | |
| Inclusion of reps, all deals | | | |
| “No other reps” only | 17% | 15% | 14% |
| “Non-reliance” only | 3% | 4% | 3% |
| Both | 65% | 60% | 68% |
| Neither | 15% | 21% | 16% |
| Covenants: Seller’s Duty to Notify Buyer of Pre-Closing Breaches⁶ | | | |
| Breaches of representations and warranties | | | |
| Seller permitted to update buyer | 2% | 0% | 1% |
| Express duty to notify buyer..... | 64% | 65% | 53% |
| No express duty to notify buyer..... | 34% | 35% | 47% |
| Breaches of covenants | | | |
| No express duty to notify buyer..... | 40% | 41% | 52% |
| Express duty to notify buyer..... | 60% | 59% | 48% |
| CLOSING CONDITIONS | | | |
| Accuracy of Seller’s Representations: When Must They Be Accurate? | | | |
| Timing | | | |
| At signing only..... | 1% | 0% | 1% |
| At closing only..... | 29% | 18% | 29% |
| Both | 70% | 82% | 71% |
| Materiality at signing | | | |
| MAE | 49% | 43% | 54% |
| “In all material respects”..... | 47% | 46% | 41% |
| “In all respects”..... | 4% | 11% | 4% |
| Materiality at closing | | | |
| MAE | 56% | 48% | 62% |
| “In all material respects” | 40% | 47% | 34% |
| “In all respects”..... | 3% | 6% | 5% |
| Accuracy of Seller’s Representations (Materiality): MAE Qualifier with Capitalization Representation Carveout | | | |
| Carveouts applies, at signing..... | 95% | 98% | 94% |
| Carveouts applies, at closing..... | 95% | 95% | 95% |
| Accuracy of Seller’s Representations (Materiality): Materiality Scrape | | | |
| Included as of signing | 98% | 91% | 96% |
| Included as of closing..... | 96% | 92% | 94% |
| “Material Adverse Change” Condition | | | |
| Stand-alone condition only..... | 32% | 41% | 42% |
| Back-door condition only..... | 6% | 7% | 4% |
| Both | 59% | 50% | 51% |
| Neither | 3% | 2% | 4% |
| “No Legal Proceedings” Condition | | | |
| Condition included..... | 97% | 94% | 95% |
| Government legal proceedings only..... | 12% | 11% | 8% |
| Any legal proceeding | 85% | 83% | 87% |
| Appraisal Rights Condition (Mergers) | | | |
| Appraisal rights condition included, yes..... | 64% | 61% | 56% |
| Drafting details (deals including condition) | | | |
| Appraisal rights “not available to” % of shareholders | 7% | 1% | 4% |
| Appraisal rights “not exercised by” % of shareholders..... | 37% | 38% | 42% |
| Appraisal rights “neither available to nor exercised by” % of shareholders | 23% | 17% | 18% |
| Minimum shareholder approval only..... | 33% | 44% | 37% |

4 Definitions in the “Other” category used a combination of “could” and “would” or some other forward-looking standard.

5 99% of 2024 and 2022 deals and 100% of 2023 deals included this representation.

6 Sample excludes “sign-and-close” deals.



DILIGENCE

- Virtual Data Room

CLOSING

- M&A Paying Agent
- M&A Escrow Agent
- Digital Shareholder Solicitation

POST-CLOSING

- Shareholder Representation

DEAL DASHBOARD

- Deal Dashboard™

- Administrative/Facility Agent
- Collateral/Security Agent
- Successor Agent
- Sub-Agent
- Escrow Agent

| STUDY YEAR | 2022 | 2023 | 2024 |
|---|------|------|------|
| INDEMNIFICATION | | | |
| General Survival of Seller's Representations and Warranties | | | |
| Survival of seller's general reps: No RWI Identified..... | 89% | 88% | 82% |
| Survival of seller's general reps: RWI Identified..... | 49% | 64% | 46% |
| Stand-Alone Indemnities: Frequency | | | |
| Taxes..... | 84% | 90% | 86% |
| Accuracy of closing certificates..... | 63% | 72% | 65% |
| Transaction expenses..... | 55% | 56% | 57% |
| Payments to dissenting shareholders..... | 51% | 49% | 55% |
| Litigation..... | 66% | 69% | 72% |
| Fraud and willful misrepresentation..... | 48% | 49% | 56% |
| "Sandbagging" ⁷ | | | |
| Pro-sandbagging provision included..... | 47% | 46% | 50% |
| Anti-sandbagging provision included..... | 2% | 2% | 2% |
| "Materiality Scrape" Inclusion | | | |
| Materiality qualifiers disregarded..... | 82% | 85% | 86% |
| For determining breach only..... | 11% | 9% | 15% |
| For determining damages only..... | 18% | 19% | 11% |
| For determining breach and damages..... | 53% | 57% | 60% |
| Reductions Against Buyer's Indemnification Claims: Provisions Included | | | |
| Reduction for insurance proceeds..... | 85% | 86% | 83% |
| Reduction for tax benefits..... | 24% | 19% | 17% |
| Buyer required to mitigate losses..... | 54% | 57% | 57% |
| General Survival Period/Time to Assert Claims: Survival Period | | | |
| <12 months..... | 16% | 14% | 21% |
| 12 months..... | 37% | 37% | 31% |
| >12 to <18 months..... | 15% | 12% | 11% |
| 18 months..... | 25% | 30% | 27% |
| >18 months..... | 7% | 7% | 9% |
| Second-Level Survival | | | |
| Group of "fundamental representations" | | | |
| Statute of limitations..... | 46% | 44% | 41% |
| Reps survive "indefinitely"..... | 0% | 0% | 0% |
| Silent/Unspecified..... | 0% | 0% | 0% |
| 1 year or less..... | 2% | 3% | 1% |
| >1 year..... | 45% | 49% | 54% |
| Tax representations | | | |
| Statute of limitations..... | 82% | 79% | 80% |
| Reps survive "indefinitely"..... | 0% | 0% | 0% |
| Silent/Unspecified..... | 1% | 0% | 0% |
| 1 year or less..... | 1% | 2% | 1% |
| >1 year..... | 14% | 18% | 18% |
| Survival/Time to Assert Claims: Carveouts to General Survival Period | | | |
| Survival of "fundamental" reps when carved out from the general survival period (mergers only): | | | |
| Reps survive for a defined period..... | 94% | 97% | 97% |
| Reps survive "indefinitely"..... | 6% | 3% | 3% |
| Basket: Definitions, Frequency, All Deals | | | |
| No basket..... | 18% | 19% | 22% |
| Deductible..... | 42% | 41% | 38% |
| First-dollar..... | 39% | 39% | 39% |
| Combination..... | 1% | 1% | 0% |
| Basket Size as a % of Transaction Value | | | |
| 0.5% or less..... | 57% | 61% | 59% |
| >0.5% to 1%..... | 33% | 29% | 31% |
| >1%..... | 10% | 10% | 10% |
| Baskets: General Coverage | | | |
| Breaches of sellers reps and warranties..... | 98% | 99% | 97% |
| Breaches of sellers covenants..... | 4% | 4% | 3% |
| Other indemnity claims..... | 10% | 12% | 10% |

7 Funds established at closing to fund post-closing expenses.
 8 A provision allowing Seller's pre-closing counsel to represent the selling shareholders post-closing in matters relating to the acquisition.
 * Remainder of 100% total is Silent.
 See Page 4 of the 2025 SRS Acquiom M&A Deal Terms Study for additional information about our data and the study and how they relate to the ABA Private Target Deal Points Study.

| STUDY YEAR | 2022 | 2023 | 2024 |
|---|-------|-------|-------|
| Baskets: Eligible Claim Threshold | | | |
| Threshold included, year-over-year..... | 29% | 28% | 28% |
| Caps, as a % of Transaction Value: All Deals | | | |
| Median..... | 10.0% | 10.0% | 10.0% |
| Average..... | 13.0% | 10.1% | 11.1% |
| Caps, as a % of Transaction Value: No RWI Identified | | | |
| Median..... | 10.0% | 11.7% | 10.0% |
| Average..... | 15.5% | 13.0% | 14.6% |
| Caps, as a % of Transaction Value: RWI Identified | | | |
| Median..... | 0.5% | 0.4% | 0.35% |
| Average..... | 5.7% | 2.9% | 2.9% |
| Indemnification Escrows/Holdbacks Size, as a % of Transaction Value: All Deals | | | |
| Median..... | 10.0% | 9.5% | 10.0% |
| Average..... | 8.7% | 8.1% | 8.0% |
| Indemnification Escrows/Holdbacks Size, as a % of Transaction Value: No RWI Identified | | | |
| Median..... | 10.0% | 10.0% | 10.0% |
| Average..... | 11.4% | 10.7% | 10.9% |
| Indemnification Escrows/Holdbacks Size, as a % of Transaction Value: RWI Identified | | | |
| Median..... | 0.5% | 0.5% | 0.35% |
| Average..... | 1.2% | 2.0% | 1.4% |
| Expense Fund⁷ Sizes, as a % of Transaction Value | | | |
| Median post-closing expense fund size..... | 0.25% | 0.25% | 0.22% |
| Average post-closing expense fund size..... | 0.53% | 0.49% | 0.36% |
| Indemnification as Exclusive Remedy for Breach | | | |
| Indemnification as exclusive remedy ⁸ | | | |
| Non-exclusive remedy..... | 3% | 0% | 0% |
| Exclusive remedy..... | 91% | 97% | 92% |
| Carveouts to exclusive remedy | | | |
| Equitable remedies..... | 94% | 97% | 94% |
| Fraud..... | 85% | 75% | 71% |
| Intentional misrepresentation..... | 17% | 11% | 4% |
| "Willful" breach of covenants..... | 8% | 6% | 3% |
| Breach of covenants..... | 2% | 1% | 4% |
| "Intentional" breach of covenants..... | 1% | 2% | 0% |
| DISPUTE RESOLUTION | | | |
| Waivers | | | |
| Legal representation conflict waiver ⁸ included..... | 70.3% | 63.0% | 69.8% |
| Alternative Dispute Resolution (ADR) Inclusion..... | 18.9% | 16.5% | 16.5% |
| Alternative Dispute Resolution (ADR): Who Pays Arbitration Expense | | | |
| Determined by arbitrator..... | 22% | 15% | 33% |
| Evenly split..... | 6% | 7% | 7% |
| Expenses apportioned..... | 9% | 3% | 7% |
| Loser pays..... | 43% | 50% | 38% |
| Silent..... | 21% | 25% | 16% |
| TERMINATION FEES | | | |
| Termination Fees: Who Pays | | | |
| Buyer..... | 12% | 7% | 18% |
| Seller..... | <1% | 2% | 2% |
| Two-way..... | 1% | 2% | 2% |
| No fee..... | 87% | 89% | 79% |
| Termination Fees, as a % of Transaction Value | | | |
| Paid by buyer: | | | |
| Median..... | 5.0% | 4.1% | 5.3% |
| Average..... | 6.2% | 3.8% | 5.5% |

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