

This quick reference guide provides a summary of the three most recent years of data from the 2026 SRS Acquiom M&A Deal Terms Study, which analyzes more than 2,300 private-target acquisitions (\$569B+) that closed from 2020–2025 for which SRS Acquiom provided professional services. Download the full 2026 M&A Deal Terms Study at srsacquiom.com/2026dts

STUDY YEAR	2023	2024	2025
FINANCIAL TERMS AND PROVISIONS			
Closing Consideration Trends, Consideration Type			
All cash.....	59%	58%	51%
Cash + management rollover.....	16%	18%	21%
All stock.....	6%	7%	8%
Cash/Stock combo.....	20%	17%	20%
Simultaneous Sign and Close			
Yes.....	37%	41%	43%
No.....	63%	59%	57%
Management Carveouts: Frequency and Size			
Deals including a management carveout.....	6.0%	5.0%	4.3%
Median size as a % of transaction value.....	6.8%	12.7%	9.2%
Treatment of Options			
Contribution and acceleration ¹			
Full acceleration of vesting.....	8%	14%	9%
Optionholders contribute to escrow.....	36%	41%	35%
Assumption of options by buyer, options assumed.....	22%	15%	13%
Post-Closing Purchase Price Adjustments ("PPA")			
Included in consideration mechanics section of agreement.....	86%	82%	84%
Included in indemnification section of agreement.....	6%	10%	9%
Adjustment metrics			
Working capital.....	88%	87%	88%
Cash.....	96%	92%	96%
Debt.....	96%	94%	96%
Other.....	15%	19%	15%
Net assets (liabilities).....	1%	1%	1%
Adjustment excludes tax-related items, yes.....	85%	86%	89%
Methodology for preparation of closing balance sheet			
GAAP.....	15%	19%	19%
GAAP consistent with past practices.....	36%	37%	32%
Specified methodology/Worksheet.....	35%	35%	39%
Silent.....	5%	2%	3%
Other.....	8%	7%	7%
Separate PPA escrows			
Deals with PPA escrow (All deals).....	70%	78%	72%
Deals with PPA escrow (No RWI identified).....	57%	66%	53%
Deals with PPA escrow (RWI identified).....	88%	91%	89%
PPA escrow median size as a % of transaction value.....	1.00%	0.98%	0.97%
Earnouts (Non-Life Science Deals)			
Earnout included.....	33%	22%	24%
Earnout metrics²			
Revenue.....	65%	65%	69%
Earnings / EBITDA.....	21%	13%	21%
Other.....	24%	22%	23%
Median earnout potential as a % of closing payment.....	34%	31%	34%
Earnout length³			
1 year or less.....	19%	24%	23%
>1 year.....	80%	76%	77%
Earnouts (Non-Life Sciences Deals): Diligence Standards and Acceleration			
Commercially Reasonable Efforts (CRE).....	21%	10%	16%
"Buyer shall take no action...primary purpose...".....	90%	90%	82%
Reporting requirements.....	93%	90%	93%
Earnout accelerates on change in control, Included.....	23%	39%	24%
PERVASIVE QUALIFIERS			
Definition of Material Adverse Effect ("MAE")			
Use of "prospects," included.....	11%	11%	10%
Forward-looking MAE details			
"Could be".....	12%	10%	10%
"Would be".....	86%	86%	88%
Other ⁴	2%	4%	2%
Carveout frequency			
Economic conditions.....	99%	98%	98%
War or terrorism.....	96%	99%	97%
Changes in law.....	96%	92%	94%
Knowledge Standards			
Knowledge definition details, actual.....	4%	6%	4%
Knowledge definition details, constructive.....	96%	93%	95%

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.

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

SRS Acquiom MarketStandard is a proprietary database of over 4,900 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	2023	2024	2025
SELLER'S REPRESENTATIONS, WARRANTIES, AND COVENANTS			
"No Undisclosed Liabilities" Representation, Party Favored by Definition			
Buyer.....	81%	81%	78%
Seller.....	19%	19%	22%
Representation is knowledge qualified.....	1.6%	1.9%	1.6%
"Compliance with Laws" Representation⁵			
Covers past and present compliance.....	97%	98%	97%
Includes notice of violation.....	91%	90%	85%
"10b-5" and "Full Disclosure" Representations			
Inclusion of reps			
"10b-5" rep only.....	17%	10%	9%
Both "10b-5" and "full disclosure" reps.....	1%	1%	3%
Neither rep.....	81%	89%	88%
Neither rep (subset: No RWI identified).....	75%	85%	82%
"No Other Representations" and "Non-Reliance" Clauses			
Inclusion of reps, all deals			
"No other reps" only.....	15%	14%	14%
"Non-reliance" only.....	4%	3%	2%
Both.....	60%	68%	67%
Neither.....	21%	16%	17%
Covenants: Seller's Duty to Notify Buyer of Pre-Closing Breaches⁶			
Breaches of representations and warranties			
Seller permitted to update buyer.....	0%	1%	0%
Express duty to notify buyer.....	65%	53%	54%
No express duty to notify buyer.....	35%	47%	46%
Breaches of covenants			
No express duty to notify buyer.....	41%	52%	49%
Express duty to notify buyer.....	59%	48%	51%
CLOSING CONDITIONS			
Accuracy of Seller's Representations: When Must They Be Accurate?			
Timing			
At signing only.....	0%	1%	0%
At closing only.....	18%	28%	29%
Both.....	82%	71%	71%
Materiality at signing			
MAE.....	43%	54%	52%
"In all material respects".....	46%	41%	44%
"In all respects".....	11%	4%	4%
Materiality at closing			
MAE.....	48%	62%	59%
"In all material respects".....	47%	34%	39%
"In all respects".....	6%	5%	2%
Accuracy of Seller's Representations (Materiality): MAE Qualifier with Capitalization Representation Carveout			
Carveouts applies, at signing.....	98%	95%	97%
Carveouts applies, at closing.....	95%	95%	98%
Accuracy of Seller's Representations (Materiality): Materiality Scrape			
Included as of signing.....	91%	96%	93%
Included as of closing.....	92%	94%	95%
"Material Adverse Change" Condition			
Stand-alone condition only.....	41%	42%	35%
Back-door condition only.....	7%	4%	5%
Both.....	50%	51%	54%
Neither.....	2%	4%	5%
"No Legal Proceedings" Condition			
Condition included.....	94%	95%	94%
Government legal proceedings only.....	11%	8%	9%
Any legal proceeding.....	83%	87%	85%
Appraisal Rights Condition (Mergers)			
Appraisal rights condition included, yes.....	61%	56%	58%
Drafting details (deals including condition)			
Appraisal rights "not available to" % of shareholders.....	1%	4%	4%
Appraisal rights "not exercised by" % of shareholders.....	38%	42%	35%
Appraisal rights "neither available to nor exercised by" % of shareholders.....	17%	18%	18%
Minimum shareholder approval only.....	44%	37%	44%

⁵ 99% of 2025 and 2024 deals and 100% of 2023 deals included this representation.

⁶ Sample excludes "sign-and-close" deals.

DILIGENCE

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	2023	2024	2025
INDEMNIFICATION			
General Survival of Sellers' Representations and Warranties			
Survival of sellers' general reps: No RWI identified.....	88%	82%	89%
Survival of sellers' general reps: RWI identified.....	64%	46%	43%
Stand-Alone Indemnities: Frequency			
Taxes.....	90%	86%	86%
Accuracy of closing certificates.....	72%	65%	75%
Transaction expenses.....	56%	57%	54%
Capitalization.....	71%	73%	70%
Litigation.....	69%	72%	68%
Fraud and willful misrepresentation.....	49%	56%	65%
"Sandbagging"			
Pro-sandbagging provision included.....	46%	50%	50%
Anti-sandbagging provision included.....	2%	2%	1%
"Materiality Scrape" Inclusion			
Materiality qualifiers disregarded.....	85%	86%	83%
For determining breach only.....	9%	15%	10%
For determining damages only.....	19%	11%	19%
For determining breach and damages.....	57%	61%	54%
Reductions Against Buyer's Indemnification Claims: Provisions Included			
Reduction for insurance proceeds.....	85%	83%	88%
Reduction for tax benefits.....	19%	17%	15%
Buyer required to mitigate losses.....	58%	57%	61%
General Survival Period/Time to Assert Claims: Survival Period			
<12 months.....	14%	21%	18%
12 months.....	37%	31%	34%
>12 to <18 months.....	12%	11%	13%
18 months.....	30%	27%	26%
>18 months.....	7%	9%	9%
Second-Level Survival			
Group of "fundamental representations"			
Statute of limitations.....	46%	42%	49%
Reps survive "indefinitely".....	0%	0%	0%
Silent/Unspecified.....	0%	0%	0%
4 years or less.....	34%	19%	17%
>4 years.....	30%	39%	34%
Tax representations			
Statute of limitations.....	79%	80%	78%
Reps survive "indefinitely".....	0%	0%	0%
Silent/Unspecified.....	0%	0%	1%
1 year or less.....	2%	1%	1%
>1 year.....	18%	18%	20%
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.....	97%	97%	98%
Reps survive "indefinitely".....	3%	3%	2%
Basket: Definitions, Frequency, All Deals			
No basket.....	19%	22%	28%
Deductible.....	41%	39%	32%
First-dollar.....	39%	39%	40%
Combination.....	1%	0%	1%
Basket Size as a % of Transaction Value			
0.5% or less.....	61%	59%	55%
>0.5% to 1%.....	29%	31%	32%
>1%.....	10%	10%	12%
Baskets: General Coverage			
Breaches of sellers' reps and warranties.....	99%	97%	97%
Breaches of sellers' covenants.....	4%	3%	5%
Other indemnity claims.....	12%	10%	10%

STUDY YEAR	2023	2024	2025
Baskets: Eligible Claim Threshold			
Threshold included, year-over-year.....	28%	28%	25%
Caps, as a % of Transaction Value: All Deals			
Median.....	10.0%	10.0%	10.0%
Average.....	10.1%	11.1%	13.2%
Caps, as a % of Transaction Value: No RWI Identified			
Median.....	11.8%	10.0%	10.0%
Average.....	13.1%	14.5%	15.3%
Caps, as a % of Transaction Value: RWI Identified			
Median.....	0.4%	0.35%	0.5%
Average.....	2.9%	2.9%	7.9%
Indemnification Escrows/Holdbacks Size, as a % of Transaction Value: All Deals			
Median.....	9.4%	9.0%	10.0%
Average.....	8.1%	7.8%	8.8%
Indemnification Escrows/Holdbacks Size, as a % of Transaction Value: No RWI Identified			
Median.....	10.0%	10.0%	10.0%
Average.....	10.8%	10.9%	11.3%
Indemnification Escrows/Holdbacks Size, as a % of Transaction Value: RWI Identified			
Median.....	0.5%	0.35%	0.5%
Average.....	2.0%	1.4%	2.2%
Expense Fund⁷ Sizes			
Deals without earnouts			
All deals.....	\$ 194,000	\$ 227,000	\$ 256,000
Deals with RWI identified.....	\$ 318,000	\$ 320,000	\$ 341,000
Deals with \$750m+ transaction value.....	\$ 822,000	\$ 692,000	\$ 727,000
Deals with earnouts/milestones			
All deals.....	\$ 332,000	\$ 337,000	\$ 281,000
Deals with RWI identified.....	\$ 390,000	\$ 394,000	\$ 265,000
Deals with \$750m+ transaction value.....	\$ 1,151,000	\$ 668,000	\$ 1,301,000
Life Sciences Deals.....	\$ 418,000	\$ 471,000	\$ 549,000
Indemnification as Exclusive Remedy for Breach			
Indemnification as exclusive remedy*			
Non-exclusive remedy.....	0%	0%	1%
Exclusive remedy.....	97%	92%	92%
DISPUTE RESOLUTION			
Waivers			
Legal representation conflict waiver ⁸ included.....	63%	70%	67%
Alternative Dispute Resolution (ADR) Inclusion			
Alternative Dispute Resolution (ADR): Who Pays Arbitration Expense			
Determined by arbitrator.....	15%	33%	22%
Evenly split.....	7%	7%	11%
Expenses apportioned.....	3%	7%	5%
Loser pays.....	50%	38%	38%
Silent.....	25%	16%	25%
TERMINATION FEES			
Termination Fees: Who Pays			
Buyer.....	7%	18%	14%
Seller.....	2%	2%	1%
Two-way.....	2%	2%	2%
No fee.....	89%	79%	83%
Termination Fees, as a % of Transaction Value			
Paid by buyer:			
Median.....	4.1%	5.3%	5.0%
Average.....	3.8%	5.5%	8.2%

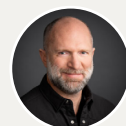
7 Funds established at closing to fund post-closing expenses.

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 2026 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.

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