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The Deal Terms Sheet Has Changed: What LMM Sellers Need to Know Before They Negotiate

The purchase price is always the headline number. In 2026, the structure underneath it — how and when a seller actually gets paid, and what they're on the hook for afterward — is where deals are increasingly won or lost.

Owners fixate on the multiple, and I understand why — it's the number that gets repeated at dinner parties. But two sellers can agree on the same headline multiple and walk away with very different outcomes because the terms beneath that number determine how much of it they actually collect and when. Those terms have shifted meaningfully over the past year, and most owners haven't caught up.

Earnouts have gone from occasional to standard

Earnout provisions — where a portion of the purchase price is contingent on the business hitting performance targets after closing — now appear in 29% of all lower-middle-market deals under $50 million. For the smallest deals, under $25 million, that climbs to 35%[1]. A structure that once signaled a valuation disagreement is now simply part of how deals get done.

"An earnout is only as good as its definitions. Vague performance metrics, ambiguous EBITDA language, and losing control over the business post-close are where sellers give back the value they thought they'd locked in."

That's the risk worth understanding before you sign an LOI: an earnout that isn't tightly defined can quietly cost a seller as much as it was meant to bridge.

RWI is quietly replacing the escrow

Representation and warranty insurance, once mostly reserved for larger deals, is now described by advisors as a standard tool in the lower middle market[2]. It shifts the risk of a breach in seller representations off a large post-closing escrow and onto an insurance policy — which means less of a seller's proceeds sit in limbo for 12 to 24 months after closing.

WHERE LMM DEAL TERMS ARE MOVING — Earnouts in deals under $50M: 29%. Earnouts in deals under $25M: 35%. RWI: increasingly standard, replacing large escrow holdbacks. Private equity buyer involvement: 11% of LMM deals, and rising. Source: SRS Acquiom 2026 Lower Middle-Market M&A Deals Report; CLA 2026 LMM Predictions.

Not every deal at this size qualifies for RWI yet, but more do each year — it's worth raising early in a process rather than discovering late that it was an option.

Indemnification is still where deals are won or lost

Unlike RWI and earnouts, indemnification provisions remain highly customized on a deal-by-deal basis in the LMM — there's no real market standard. That cuts both ways: it means there's real room to negotiate, but it also means sellers without experienced counsel at the table can end up with terms that look fine on paper and prove costly eighteen months later. The same is true of working capital adjustments, which remain one of the most common sources of unexpected reductions in proceeds at closing, usually because the target wasn't clearly benchmarked early in the process.

Buy-and-build is outperforming new platform launches

On the buy side, add-on acquisitions to existing platforms are outperforming fresh platform investments in 2026[3]. That matters to sellers because it means many of the "PE buyers" showing up at the table today are actually operating companies backed by a fund — not the fund itself — with their own integration timelines and cultural priorities.

Who's sitting across the table has changed

Private equity involvement is roughly 11% of LMM deals and is growing, but independent sponsors and family offices are increasingly competing hardest for founder-led businesses, differentiating on speed and sector focus rather than sheer capital. Knowing which type of buyer you're negotiating with changes how you should think about rollover equity, earnout terms, and how much post-close involvement you're willing to accept.

What this means for owners thinking about 2026 or 2027

The multiple you negotiate is only half the outcome. The other half is decided in the definitions section of the purchase agreement — how the earnout is measured, whether RWI is on the table, how working capital is benchmarked, and who actually holds the indemnification risk. Owners who treat structure as a negotiation, not boilerplate, consistently walk away with more of the number they thought they'd agreed to.

The multiple is the headline. The structure is the story.

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