

**NEGOTIATING THE  
“ACCURACY OF REPRESENTATIONS”  
CONDITION IN THE ACQUISITION OF A  
PRIVATELY HELD COMPANY**

**Richard E. Climan**  
Hogan Lovells US LLP  
Silicon Valley, CA  
(counsel for hypothetical target company)

**Joel I. Greenberg**  
Arnold & Porter LLP  
New York, NY  
(counsel for hypothetical buyer)

# THE “ACCURACY OF REPRESENTATIONS” CONDITION IN THE ACQUISITION OF A PRIVATELY HELD COMPANY

---

## Buyer’s proposed draft of “accuracy of representations” condition:

*Each of* Target’s representations and warranties is accurate *in all material respects* as of the date of this agreement, and will be accurate *in all material respects* as of the closing date....

## Target company’s proposed draft of “accuracy of representations” condition:

Target’s representations and warranties are accurate as of the date of this agreement and will be accurate as of the closing date, *except that this condition will be deemed satisfied if all inaccuracies in Target’s representations and warranties do not collectively give rise to a Material Adverse Effect on Target or its business.....*

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Negotiating the "Accuracy of Representations" Conditions in the Acquisition of a Privately Held Company

Also available as part of the eCourse

[More Mock Negotiation... Plus a Salute to the Strine Era in M&A](#)

First appeared as part of the conference materials for the  
15<sup>th</sup> Annual Mergers and Acquisitions Institute session

"More Mock Negotiation... Plus a Salute to the Strine Era in M&A"