



## **The Art & Process of "The Deal"**

Your New Business Aircraft - From Purchase to Delivery  
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You've worked hard to reach this point. It is a career opportunity for you... for better or for worse. The presentation has been made to the top decision-makers. The proposal is to purchase a new...brand new...business aircraft. Yes, you have been involved in buying and operating "previously owned" aircraft in the past. In fact, the aircraft you are operating today has that lineage.

The Meeting drags on. You continue to await their decision. Then, the phone call comes. The Word... "Well, let's do it! You have complete responsibility for the deal. I'm counting on you to bring this off without a hitch. Please keep me posted. Good luck. By the way, when will we be taking delivery?"

You swallow hard... several times. Before this was merely a proposed project. But now, it's a real deal. What now? So many details, so little time, such great expectations, and so much personal peril. You know your career will hinge on how well the process goes, the time and timing involved, the quality of the final product and its initial performance, and last, and yes - but not least - the cost.

### **Getting Off on the Right Foot**

There are two approaches to negotiating and working with an airframe manufacturer; as partners or as adversaries. Our experience is that most airframe manufacturers prefer to, and are capable of, working with you to achieve your goals. After all, a happy customer is the best promotional tool they have.

However, you are responsible for more than your share of the deal. Not only must you take care of your end of the bargain, but you will also be supporting and monitoring theirs, too. After all, when you get it home... it is yours.

There are five basic things you can do that will make the entire experience better for you, your company, and your airframe manufacturer;

1. Plan ahead - Define deadlines and critical production way points. Be ready for each one.
2. Gather information - Talk with other operators of your aircraft, avionics, and other subsystems - particularly those people who have recently gone through the purchase and delivery process. Learn from their experiences and make that knowledge useful.



3. Communicate - You are the project's manager. One of your most important roles is to support and act as a liaison for your company administrative support folks (legal, contracts administration, purchasing, risk management, etc.). You are also responsible for tracking the configuration and production process. The most important rule to remember is... Get It In Writing. Paper lasts a lot longer than most people's memories.
4. Be there - Go personally or send empowered technical representatives to the factory during critical manufacturing and assembly times. The factory people usually welcome your participation early and often. They can help you identify the best times to come. It is easier and less expensive, for everyone, to spot and fix problems early.
5. Get practical administrative support - There are two kinds of lawyers in this world; the ones that will tell you what not to do and those that will tell you how to get it done. Find one of the latter breed within your corporate legal group to assist you in this project. Legal eagles can be your biggest allies or worst headaches. Pick them well.

### **The Aircraft Purchase Contract Negotiations**

The aircraft's manufacturer will probably present you with a lengthy Purchase Agreement. If the proposed contract does not come to you directly, insert yourself in the process. It is quite common, and expensive, to start with what the manufacturer is offering. Generally, the manufacturer will structure the first Agreement document so that prices, terms and conditions are all most favorable to them. Don't be offended. It's simply the start of the dance. But, your professional and executive staff at corporate headquarters don't structure aircraft deals for a living, so they are at a distinct disadvantage. So, my friend, you're it! Your work has only begun.

Since you will have to live with whatever is agreed upon between your company and the manufacturer, it is critical you involve yourself from the very start. We have found it quite helpful to make up a detailed list of the terms and conditions you require to make the deal successful for you.

### **Some Items on Your Hit List**

#### Make it your deal

A famous old Chinese philosopher once said, "He who speaks first, loses." Listen to what the manufacturer offers... remembering that everything is structured to be in their favor. From your perspective, everything is negotiable. Nothing is a given. So, think about the non-standard stuff. Get "outside the box". Be creative!

#### Timely delivery

Is it important that the aircraft be delivered by a certain date? Perhaps, this deal will be structured as a "tax free exchange" where timing is extremely critical. If so, put a financial penalty in the deal for late delivery. And, make it big and enforceable so that you get the manufacturer's attention.



Or will you incur special costs if the delivery is delayed, like increased charter expenses? Make certain the manufacturer understands the importance of punctuality and is willing to back it up with great performance or stiff financial penalties.

At the same time, you must do your share. Delays are not always the manufacturer's fault. If you don't respond to their deadlines for specifications they cannot be held accountable. Also, if you make late changes you can expect them to be done "off line." This means the aircraft will be completed per the original specification and then modified to your new specifications. You will be stunned by how expensive and time-consuming late changes are. Unfortunately, late changes also have a high probability of quality problems because of time pressures and less than ideal production conditions (it is a lot easier to put it in when the aircraft has plenty of bear metal showing than when you have to work around cabinets, et al).

#### Reliability

Is it important that the aircraft operate without a hitch during the first several months of operation? If so, you may want the aircraft manufacturer to provide you with a replacement aircraft in the event your new bird is down for substantial unscheduled maintenance or retrofit. If this is a new type aircraft to your operation, the acceptance inspection and test flights will be of extreme importance. You may choose to have a highly experienced "third party" be at your side to spot items which may escape your less experienced eye. More on this later. The point here is to help your manufacturer to REALLY stand behind their product.

#### Responsibility for product improvements

Between the time you order your aircraft and the time it comes off the production line there are apt to be product improvements. The most dramatic design alterations come in the form of Airworthiness Directives (ADs) and Mandatory Service Bulletins (SBs). Be sure your contract includes language that assures all ADs and Mandatory SBs are complied with at the time of delivery. You may want to look at other Recommended and Optional Service Bulletins to determine which ones you want done before you take the aircraft home.

How about new regulatory requirements which may be on the horizon? Perhaps it's possible that this aircraft will operate in the RVSM environment within the next ten (10) years. Further, the manufacturer may not have yet released the appropriate service bulletins. It might be a good idea to have them contractually commit to upgrade the aircraft, at minimum or no additional cost to you, when the technology is available. If Airworthiness Directives or desirable service bulletins are issued within the first three to five years of ownership, who is going to pay for them? If you cover this up front, in the contract, you won't have an open financial question later.

#### Price indexing

How much is this aircraft really going to cost? An aircraft in current production with a relatively short delivery lead-time (within twelve months) is not a problem. But, let's consider an aircraft which will be delivered three years from now. It may be priced in today's dollars, with an "escalator clause". It is possible to have separate provisions for



the airframe; power plants and avionics since they can each come from different vendors. It is very important to fully understand the financial impact of these clauses so that the "bean counters" in your organization know what the final price is likely to be. In any event, be sure to put a cap on these clauses. If deposits or progress payments are involved, there are a myriad of ways this can be handled to minimize both your cash flow requirements and your risk.

In addition, progress payments can be negotiable in their amount and timing. Since money has value over time, attempt to minimize and delay payments. The less you pay, the later you pay, the better for you and your company. Who gets to keep the interest on all deposits and progress payments is an important point, too. One option is to establish an interest bearing escrow account for those deposits and progress payments.

#### Bailout provisions

Things can change. They do all the time. We never like to think about this, but what happens if the requirement for this new aircraft goes away before it's delivered? Cover this, in writing, clearly, in your purchase agreement. Can you sell or assign your position? If not, what becomes of your deposit and progress payments? Covering "the down sides" through out "The Deal" is of critical importance.

The manufacturer can be expected to be a lot more flexible with an early change of heart than one three months prior to delivery. After all, their ability to find another buyer with exactly your equipment needs and aesthetic tastes may be limited.

A point to consider in negotiating the dissolution of the deal is price escalations that have occurred between the time of your contract and their current selling price. More than one customer has gladly moved to an earlier delivery position (your less expensive vacated spot?) with no reduction in their price.

#### Cabin design elements

You must get this right, the first time. The cost of change (in both down-time and dollars) is simply too high to do it twice. But how do you "nail it" if you have never operated this type of aircraft in the past? Talk at length with current operators of the same make and model aircraft you have on order. Discuss seating configurations, cabinetry, materials and amenities. For instance, ultra-suede headliners and side walls look great when the material is freshly groomed but it is a real pain to keep it that way. Ask those current operators what has worked well for them and what they would recommend if they were to be given your fresh start.

It has been very helpful to get your most frequent travelers and most important decision-makers involved in this process. If the same model of aircraft exists, arrange for you and your company members to spend some time in an aircraft that closely matches your intended layout. Carefully observe how they "interact" with the interior design elements. How much seat room is really needed? Will "leg lock" occur? What kind of materials will be the most practical, maintainable and enjoyable? Which optional cabin equipment will be of greatest value to your travelers?



The manufacturer's interior design specialists are very helpful here, but they can't make your decisions for you. The more time you spend in the interior (we're talking many HOURS), thinking through how things will really be used, the better your end result. Do not be surprised if you come up with some radical ideas ("Gee, we have never done it THAT way before!"). Much of your travelers' perceived value of the aircraft will be in the functionality of the interior appointments, so this should get as much attention as you give the flight deck.

### **Final Completion & Delivery**

#### The pain of time

This is the time where everything tends to get rushed. It may seem you are being forced into making compromises to "get this show on the road". It's very difficult, but you must find a way to take your time. Depending on the type and complexity of your aircraft, plan on a buffer of one-to-three weeks between the manufacturer's scheduled delivery date and your first passenger trip. Set yourself up to win. Over estimate delivery and start-up delays. At best you can be a hero by bringing the aircraft on line early. At worst, you will start operations on time.

The manufacturer wants to deliver; you want your new aircraft, your company's management is anxious to use their new steed. However, if it is not perfect now, it will never be right. So, take your time, be meticulous, and be prepared to go walk around the delivery center several times. Don't let the bastards wear you down. At this point in time, perfection should be your only objective.

#### Is it really new?

You are paying for a new aircraft. That sounds simple enough. But are you getting one? Does that sound like a strange question? The voice of experience echoes with... "Be wary, you of great faith!". As the aircraft is getting close to delivery, start looking at the logbooks and production records. Look for Yellow Tagged parts. This means a used part may be on your aircraft. If this sounds incredible, we agree. However, we have personally seen new aircraft with dozens of used parts installed as it comes off the production line. So, if you do find used parts on your aircraft you may want to have them replaced with Factory NEW parts.

New airplane, right? How about the major sub-assemblies provided by other companies (like APU's)... is everything NEW? For instance, are your engine times matched? If, during production flight test, an anomaly is discovered in one engine, they may replace it with a new one. This is a step in the right direction but now your engine times may be substantially out of synch. This can cause hassles and increased costs if the manufacturer doesn't bring them into line.

Since we are talking about buying a new aircraft, how about the repair of structural damage? "On a NEW aircraft?", you ask. Oh yes, it can and does happen during the manufacturing process. If your aircraft is damaged already, do you still want this particular serial number? Are you and your company prepared to refuse delivery of the aircraft...? REALLY? Is this possibility included in your original contract? If it is, your

grief gage will stay low. If not, your corporate lawyers will gain additional job security while your professional reputation dwindles (guilt by association).

### **Test & Acceptance Flights**

The time has finally arrived. It's gleaming as it sits poised on the ramp, ready to FLY. You have been to school, but this aircraft type is new to you. Everyone is all smiles as you stroll to the aircraft. The manufacturer has provided Flight Test crew members to accompany you on the Acceptance Flight. You are ready to go... right? Maybe yes... Maybe no. This is your best and last opportunity to get it right before you put the aircraft "on the line". This is one of the highest risk elements of the entire process.

#### Check everything

A detailed check list of every interior and exterior item will help to ensure a thorough and comprehensive checkout. This process takes, at a minimum, several hours, and commonly, many days. Patience, Patience, Patience. One can not be in a hurry, but this is exactly the time that you want to "get going". Being painfully meticulous during this process is very, very difficult for most of us. Additionally, this is not a time to "win friends and influence people". Your standards must be back to the "Perfection Level". This is your one and only opportunity to start this aircraft with a clean slate.

#### Been there, done that

It can be helpful to have the in-depth assistance of another business aviation professional that is very experienced with this type and model of aircraft. They should assist you with the construction of the checklist and the actual performance of the functional checks and test flights.

The acceptance flight test should not be rushed and should include at least two people acting in your behalf; one in the cockpit and one in the cabin. Obviously, you want to confirm everything works up front and the aircraft performs to the manufacturer's specifications (fuel flows, rate of climb, cruise speed, etc.). During the test flight take the aircraft to altitude for at least an hour to allow for cold soaking and maximum cabin pressure differential. While aloft, have your compatriot make certain all the drawers work and doors open and close as advertised now that the aircraft is fully inflated.

Your co-professional should be of great assistance when discussing the flight test findings with the aircraft's manufacturer. When anomalies are found, do you want the parts now on the aircraft to be repaired, or do you want new parts, components or systems? Things may get sticky and it will likely take longer than you want. The instant you utter the words, "It's OK. We will accept the aircraft." your leverage is drastically reduced. Thus, be sure, absolutely sure, that everything is, in fact OK, before you speak. We have even completed flight tests, believed everything was OK, but slept on it for a day or two, to carefully review all of our findings, before we said, "OK".

If you plan to do some pilot familiarization flights between the time of delivery and the first passenger trip consider doing them while at the factory's location. There are two



benefits to consider in doing this. First, most systems failures occur either early in their life cycle (infant mortality) or at the end of their normal service periods. Infant mortality usually occurs during the first 10-20 hours of flight. What better place to have a problem than right there at the factory. Even though you may have already paid for the aircraft it is still there where everyone can see it (including their bosses). The motivation will be to help you get it right... quickly.

Second, the factory may also be the training site. You can save instructor travel expenses by having them fly with you here rather than at home. And if you have questions about some avionics or other systems the instructor is not familiar with you have the factory experts available next door.

### **Final Thoughts**

The purchase of a new aircraft can be a very rewarding experience. It can also cost you your job and reputation. It's much easier to achieve the later than the former. If you get the best professional assistance you can afford, (legal, financial, operational) combined with the attention to detail a transaction of this magnitude deserves, you will be delighted with the result. You will know you have succeeded if you can leave the factory with a smile on your face and theirs.

Now it's time to deliver one for the boss!

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